

IV. NEW AND GLOBAL + OLD APPROACH PRODUCT LEGISLATION:

A. Standard questionnaire to be filled for each sector individually:

Sector: ATEX

1. Harmonisation of laws including technical regulations

1.1. Legal basis

- **References (and copies) of the publication of acts and decrees transposing Directive(s) into the national legislation of your country:**

“Directive 94/9/EC of 23 March 1994 On The Approximation of The Laws of The Member States Concerning Equipment And Protective Systems Intended For Use In Potentially Explosive Atmospheres” was transposed by the Regulation Atex (94/9/EC) published in the Official Gazette No. 24919, dated 27.10.2002.

The regulation, which was already transposed and put into force, has been sent to the Commission for review. The regulation was revised considering the Commission’s comments. The exchange of opinion process is continuing.

- **Date of entry into application of the national measures transposing the Directive:**

The Regulation on ATEX (94/9/EC) was entered into force on 31 December 2003.

- **If not yet transposed, please indicate the state of play, expected timing, steps to be undertaken, difficulties encountered (if any):**

N/A

1.2. Responsible authority

- **Name and contact details of the competent authority (government, ministry, department, service) and person(s) in charge of transposing the Directive into national legislation**

Ministry of Industry and Trade
DG for Industry
EU Harmonization Division

1.3. Notified bodies

- **Has your country the intention to notify conformity assessment bodies for the Directive? If so, could you already identify these bodies (name, and contact details) and indicate the conformity tasks (products and modules) that they will be entitled to perform**

No application has been received so far. However, it should be noted that, as Turkey’s conformity assessment bodies already notified to the Commission have not been allocated

identification numbers since the end of 2003, other potential notified bodies are reluctant to apply.

2. Implementation

2.1. Participation in Standing Committee and Experts' Group

- **Name, function and contact details of the representatives (and their alternates, if any) of your country's governmental authorities designated or to be designated to represent your country in the meetings of the standing committee and experts' group established under the Directive:**

The meetings of Working Group of ATEX are attended since its meeting on 8-9 July 2004.

Ministry of Industry and Trade
DG for Industry
Machinery Division

2.2. Implementing structure

- ***Responsible authority central/local:***
Name and contact details of the competent authority (government ministry, department, service) and person(s) in charge of implementing the provisions of the Directive in the territory of your country:

Ministry of Industry and Trade
DG for Industry

Note: 600 personnel employed in 81 provincial directorates carry out market surveillance of all products falling under Regulations which the Ministry of Industry and Trade is responsible for implementation, including 94/9/EC.

- ***Implementation:***
 - **Explain how implementation of the Directive in your country will be ensured (monitoring and control tools: market surveillance and others**
 - **Explain how market surveillance is carried out and on which basis**
 - **Resources available: specify the number and qualification of personnel designated for market surveillance activities (divided in office staff/field personnel)**
 - **Cost: What budget will be provided for market surveillance activities? How will this be financed?**

The market surveillance under 94/9/EC is carried out pursuant to the provisions of the "Law No. 4703 on Preparation and Implementation of Technical Legislation on Products"(hereinafter referred to as Law No.4703) (published in the Official Gazette No. 24459, dated 11 July 2001), the "Regulation No. 2001/3529 on Market Surveillance of Products"(published in the Official Gazette No. 24643, dated 17 January 2002) and the

“Regulation on Procedures and Principles for Market Surveillance to be Performed by the Ministry of Industry and Trade” (published in the Official Gazette No. 25103, dated 9 May 2003).

A budget of approximately 200,000 Euros has been allocated for the costs of testing under market surveillance activities of the DG for Industry of MIT for all directives (namely; Noise Emission, Gas Emission, LVD, EMC, MD, Lifts, ATEX, Motor Vehicles) for 2006. All other costs (travel, daily allowances, training, etc.) are paid out from the budget of MIT.

Personnel expenses of the provincial directorates are allocated from the budget of these directorates.

- ***Methods of enforcement:***
 - **What means/methods will be available in your country for enforcing compliance with the Directive(s)?**
 - **Which are the reactive methods available?**
 - **Rights of the authority: What are the powers of the authority?**
 - **Penalties: which will be the penalties applicable to violation of the national implementing measures?**

All actions are taken and penalties are applied (including administrative fines, withdrawal from the market and disposal of product, granting time limit for remedying the nonconformity, informing the public through media of the nonconforming products as well as of the manufacturer) according to the provisions of Law No. 4703, the “Regulation no. 2001/3529 on Market Surveillance of Products” and the “Regulation on Procedures and Principles for Market Surveillance to be performed by the Ministry of Industry and Trade”. In each case, such actions and penalties are applied considering the level of nonconformity and the principle of proportionality.

The personnel in charge of market surveillance is authorized to make examinations on the product, review the documents and/or conformity marking, make physical examination, take samples for testing.

In order to provide an effective implementation of the Regulation, there is a sub-committee under Technical Committee on Electric and Electronic Industry (ELTEK), in which the private and public sector representatives participate.

For raising awareness among the consumers and manufacturers, cooperation is established between the MIT and NGOs.

3. Calibration, metrology, standards, testing, certification, conformity assessment, accreditation and market surveillance

Please provide information on the relevant regimes for the products in this sector:

- **Short description and**

- **Further evolution.**

Calibration:

The testing instruments and equipment used in conformity assessment activities by conformity assessment bodies and testing laboratories serving equipment and protective systems intended for use in potentially explosive atmospheres industry are calibrated at regular intervals.

The major calibration bodies in Turkey are Turkish Standards Institute (TSE) and National Metrology Institute (UME).

There are 21 calibration laboratories listed below, which are accredited under the scope of calibration activities by TÜRKAİ.

1. Turkish Standards Institute Metrology and Calibration Department
2. Egemet Kalibrasyon-Ölçüm Ticaret Ltd. Şti. Calibration Laboratory
3. Elimko Elektronik İmalat ve Kontrol Ticaret Limited Şirketi – Temperature Calibration Laboratory
4. Turkish Standards Institute Quality Campus – Metrology and Calibration Directorate
5. Anadolu Kalibrasyon Mühendislik ve Petrol Ürünleri Pazarlama San. ve Tic. Ltd. Şti. – Calibration Laboratory
6. Simkal Kalibrasyon ve Danışmanlık San. ve Tic. Ltd. Şti. – Calibration Center
7. Profilo Telra Elektronik Sanayi ve Ticaret A.Ş.- Calibration Laboratory
8. Pakkens Calibration Laboratory
9. Esdaş Elektronik Sistemler Destek San. ve Tic.A.Ş. Calibration Laboratory
10. Baykon Endüstriyel Kontrol Sistemleri A.Ş. Calibration Laboratory
11. Otoyol Sanayi A.Ş. Calibration Center
12. Ums Uzmanlar Metroloji Servisi Müh. Müş. Mümes. San ve Tic. Ltd. Şti. Ankara Calibration Laboratory
13. Heraeus Electro-Nite Termoteknik San. ve Tic. A.Ş. Calibration Laboratory
14. Uzmanlar Metroloji Servisi Sanayi ve Ticaret Ltd. Şti. Istanbul Calibration Laboratory
15. Uzmanlar Kalibrasyon Servisi Sanayi ve Ticaret Ltd. Şti. Calibration Laboratory
16. Mcm Kalibrasyon Hizmetleri Teknik Dan. Paz. Ltd. Şti.

17. Kal-Met Kalibrasyon Ticaret Limited Şirketi Calibration Laboratory
18. Metav Makine Sanayi ve Ticaret Limited Şirketi Calibration Laboratories
19. Markal Kalibrasyon ve Danışmanlık Hizmetleri San. Ve Tic. Ltd. Şti.
20. Emre Müşavirlik Kalibrasyon Turizm ve Dış Ticaret Ltd. Şti.
21. Turkish Air Forces Command, 3rd Air Forces Completion and maintenance Center Command Calibration Center

Metrology:

METROLOGY STRUCTURE IN TURKEY

Scientific Metrology : TÜBİTAK National Metrology Institute

Legal Metrology : MIT – DG for Measurements and Standards

Industrial Metrology : Accredited Calibration Laboratories

Standards:

The Turkish Standards Institute (TSE) is an independent, non-governmental and public organisation, which is responsible for drawing up standards for all kinds of products and services.

The harmonized European standards are transposed and published as national standards by Turkish Standards Institute.

- The number of EN standards under ATEX is 51.
- All of these EN standards have been transposed and published as Turkish standards.

Conformity Assessment:

Based on its inventory of the conformity assessment bodies made during 2002 by MIT in their field of responsibility, the Ministry still considers these conformity assessment bodies to cover the needs of the Turkish market, except for testing of explosives for civil use. There are around 1200 public service laboratories in Turkey, all areas included. Some organisations have very advanced laboratories, like the Istanbul Technical University. A lot of testing laboratories exist in the private sector and big exporting companies often have their own laboratories.

Some Notified Bodies established in the Member States have already representations and operate in Turkey.

In order to ensure transparency and independency of NBs to be designated by the MIT, there was a need to announce the application, assessment and designation procedures and the criteria for the NBs and CABs on the directive basis to the candidate bodies.

The “Communiqué on the Basic Criteria for Appointment of Conformity Assessment Bodies for the Products Covered by ATEX” has been published in the Official Gazette No. 25103, dated 9 May 2003.

According to the above-mentioned criteria, CABs wishing to be appointed by the Ministry as a notified body should meet the following requirements:

- The requirements laid down in the Regulation No. 2001/3531 on Conformity Assessment and Notified bodies, which is an implementing Regulation of the Law No. 4703 and published in the Turkish Official Gazette No. 24643, dated 17 January 2002.
- Minimum criteria set out in the Annex of the related directive for notified bodies,

Communiqué covers;

- Technical and administrative criteria to be met by CABs (no additional criteria other than those mentioned in the Directive, reference to EN 45000 series)
- Application procedure (where to apply, accompanying documents for application)
- Evaluation procedure
- Designation
- Duties and responsibilities of CABs

Ministry signed a Protocol with TÜRKAK (Turkish Accreditation Agency) on 18.4.2003.

- According to this Protocol, TÜRKAK makes all necessary assessment for designation.
- Upon the positive assessment report of TÜRKAK, the MIT makes the final decision to notify the candidate body to the Commission.

Accreditation:

TÜRKAK is the sole national accreditation body established by Law no. 4457 to assess competence, against internationally recognized standards of organizations that provide certification, testing, inspection and calibration services

TÜRKAK has a management system fully compatible with ISO/IEC 17011

TÜRKAK has 4 operational sections responsible for the following accreditation activities:

- Accreditation of Laboratories (ISO/IEC 17025)
- Accreditation of Systems Certification Bodies (EN 45012 / ISO/IEC G 66)
- Accreditation of Product Certification and Inspection Bodies (EN 45011 / ISO 17020)
- Accreditation of Personnel Certification Bodies (SO/IEC 17024)

TÜRKAK is a full member of EA since 2003. It takes part in EA technical committees and General Assemblies regularly

TÜRKAK applied to EA to join MLAs for testing labs, calibration labs, inspection bodies and system certification bodies in 2005.

EA Peer-evaluation of TÜRKAK took place in January 2006 and revealed satisfactory results.

It is estimated that TÜRKAK is going to join above-mentioned EA MLAs in mid 2006

Number of Accreditations and its operational sections given by TÜRKAK are listed below (as of 31 January 2006):

Testing Laboratories:	32
Calibration Laboratories:	21
ISO 9001 Certification:	14
ISO 14011 Certification:	5
Personnel Certification:	2
Product Certification:	2
<u>Inspection:</u>	<u>13</u>
TOTAL:	89

Market Surveillance:

Since its establishment, MIT has been carrying out market surveillance activities according to its national legislation with its inspectors at 81 provincial directorates.

The “Law no. 3143 on the Organization and Tasks of Ministry of Industry and Trade” issued in 1985 constitutes current organizational structure of MIT. Since 1985, market controls on almost all industrial products such as pressure equipment, measuring instruments, construction products have been performed by MIT according to national legislation.

The experience gained by MIT since 1985 has contributed to MIT’s adaptation to the requirements of the market surveillance system foreseen by the New Approach Directives.

According to the 'Regulation on Procedures and Principles for Market Surveillance to be Performed by the MIT', a Coordination Commission was established in order to ensure co-ordination among different DGs and provincial directorates concerning market surveillance. The Commission, which makes the general policy of the MIT, consists of the Director Generals of the DG for Industry, DG for Measurement and Standards, DG for Protection of Consumers and Competition and DG for EU Coordination, the first Legal Consultant of the Ministry, Head of Data Processing Department and meets every three months under the presidency of the Undersecretary of the Ministry.

Between the years 2003-2005 which were regarded as a transition period, MIT performed market surveillance in the form of providing information to the manufacturers about the new system. By the end of this transition period, MIT has started to impose sanctions within the context of market surveillance activities.

The total number of inspectors	: 670
DG for industry	: 25
DG for measurement and standards	: 25
DG for consumer protection and competition	: 20
Provincial directorates	: 600

Training Activities for Inspectors:

In order to improve the competency of inspectors, further trainings for were held within the framework of some EU projects in additional to the in-house training performed by MIT:

- Support to the Turkish CABs and the MIT in the implementation of the new approach directives on Machinery, LVD, EMC and Pressure Vessels (2003)
- Twinning for MS
- General training for 418 inspectors
- TAIEX for MS
- General training for 20 inspectors
- Training on ATEX for 20 inspectors

No Market Surveillance activity has been carried out under 94/9/EC so far, however MIT has necessary infrastructure, which can be improved through training.

Testing Laboratories for Market Surveillance:

There are currently no laboratories owned by MIT.

An inventory survey has been carried out to determine competent laboratories to render testing services.

The laboratories of TSE in Izmir and the Flameproof Testing Station of the Ministry of Energy and Natural Resources are the potential testing laboratories for market surveillance purposes.

Further evolution:

The Regulation on ATEX (94/9/EC) has been prepared fully considering the original Directive 94/9/EC and made national piece of legislation.

All of the EN standards under the Regulation have been transposed.

Standardization activities under the Regulations are also followed closely. Necessary measures have been taken to transpose the harmonized EN standards as well as amendments thereto and new standards into national standards.

The meetings of the Working Group of ATEX are attended. By this virtue, any amendments to the Directive are closely followed to update the Regulation in coordination with the Member States.

The activities of the Sub-Committee under Technical Committee on Electric and Electronic Industry formed by private and public sector representatives will increasingly continue.

The provincial organization of the Ministry consisting of 81 provincial directorates is intended to perform effective market surveillance. In this context, there are 670 personnel (mostly engineers) including those employed at the headquarters.

The meetings of ADCO Group of ATEX will be attended to establish useful cooperation with Member States regarding market surveillance practices in the Member States. Our intention is to become a member of the systems and organizations as soon as possible to ensure fast information exchange with the Member States.

For raising awareness, informative seminars as well as cooperation with the NGO's will continue.