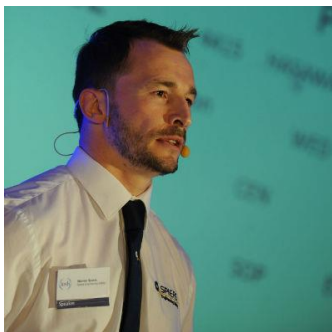


Article Title: Brexit and The Machinery Directive - 'Game of Change'



Warren Spiers, Managing Director at Spiers Engineering Safety, looks at the possible changes that may come, following our exit from the EU.

Synopsis:

The machine safety industry should be watching the Brexit process with baited breath. Nobody truly knows what the outcome will be. In fact, all we know is that our relationship with the EU will never be the same again and in this 'game of change' nobody knows the outcomes for sure. The purpose of this article is to explore the changes that could occur to The Machinery Directive and the machine safety industry.

As a professional in machine safety and as a machine safety consultancy business owner responsible for the livelihood not just of my own family, but also of the families of our employees, I am keenly focussed on what contingencies I might want to put in place to protect us all from the effects of the Brexit process on The Machinery Directive UK implementations, i.e. The Supply of Machinery Regulations 2008 (amended 2011). These contingencies can only be considered if we make some assumptions about the possible outcomes and this is particularly hard to do whilst the UK government is in the middle of a monumental bluff to divert and distract the EU away from our true strengths and weaknesses.

Some observers, and certainly some MPs who are hostile to the Brexit process, are trying to weaken the UK government's hand as an indirect way of bolstering the status quo. I, for one, resent this strategy given the fact that the ultimate democratic process, i.e. a referendum, has been fought and a clear decision made by the UK people to leave the EU.

All these situational factors affect the probabilities that will be placed on each piece of the puzzle in the 'game of change'. The possible scenarios for change are constructs of many of these puzzle pieces. Many of the possible outcomes are linked together as a cascading effect with a common cause. Others are simply made more or less likely but by no means definite in each scenario. For the purpose of brevity and ease we have referenced the 4 scenarios of Brexit identified by the Financial Times in a recent article.

The possible scenarios that could come out of the Brexit process according to the Financial Times article, "Four scenarios: how Brexit process could unfold" are as follows:

1. Hostile divorce
2. Clean break
3. Amicable transition
4. Change of heart

More detail on what these scenarios entail in general can be found on the Financial Times Website - <https://www.ft.com/content/5ec21720-49c1-11e6-8d68-72e9211e86ab>

Some notes are made below on what I believe the effects of this type of Brexit would have on the Machinery Directive and the machine safety industry more broadly.

Hostile Divorce

We predict that this will lead to a gloves off battle of trade and tariffs that will focus on hotspots with large political influence. For example, car manufacture, farming, fishing and all immediately derived products i.e. butter, milk, cheese, bread, fish etc. We don't expect that machinery will qualify as a politically sensitive subject and you may, with a reasonable mind, conclude that it is not likely will be affected by excessive tariffs etc.

However, at times negotiations and political whims are not obviously rational to the observer. And therefore we cannot rule out the possibility of machinery becoming collateral damage in a game of political football during the negotiations.

So, if machinery were to become the 'football' what is the worst likely outcome? Well, you might think we can just drop CE marking off the 'never again' cliff and move on. However, if you are planning on selling machines in to the EU that's never going to be a sensible thing to do. What if you're not selling equipment? Well, if you're planning on moving any around between sites from time to time (as often happens in large multi-site manufacturers these days) then you'll still be disappointed to know that ignoring CE marking in the UK would severely hamper your ability to 'freely' move your assets around within your business.

What about manufacturing machine for use within the UK? Well, in this scenario we will have to tear up the Supply of Machinery Regulations 2008 and effectively put a death nail in to CE marking in the UK. This is because the CE marking 'brand' is an EU asset. They won't be pleased to share it. So we will need a UK safety mark. Remember the KITE mark? Don't be surprised to see it make a comeback.

So, when it comes to drafting the laws around this, shall we reinvent the wheel or use the wheel? Well, if you take a look at countries exporting to the EU you will notice that their arrangements look familiar. The codification strategy of the EU has been replicated in countries such as Australia, Turkey and even to some degree in China.

If it isn't broken, then don't fix it. If it is broken, fix the broken bit and keep the bit that works. That's incremental improvement, or in other words, evolution. So, get your keyboard shortcuts ready for a master class in ctrl+C and ctrl+V style law drafting. In this scenario, I am sure somebody is going to be paid a vast amount of money to wear out the ctrl button in the next few years.

Clean Break

Let's be honest, this just isn't going to happen. We have too many ties in the supply chain and too many competing interests to just walk away with our fingers in our ears and our eyes closed. However, in theory, this would result in the complete cessation of all CE marking activities with the implementation of a UK safety mark e.g. Kite mark. You're still just replacing one burden, sorry I meant mechanism, with another.

Amicable Transition

Let's just be friends and share our toys.... Almost as unlikely as the clean break, but not quite. The only way this will happen is if one side or the other completely capitulates during the negotiations. Despite this, let's give it some thought. Well, we could have a memorandum of understanding (like Norway, Switzerland, Iceland and Lichtenstein do) to be in the EEA, but not in the political union. This would mean pretty much nothing changes for those exporting to the EU, but domestically we wouldn't need to enforce CE marking or the Work Equipment Directive (PUWER). However, we had PUWER before the EU even thought about writing the Work Equipment Directive and if we tear up CE marking we know the UK will implement a copy and paste version of the same overnight.

Change of Heart

This scenario is not even worth talking about at this point.

We're getting out, let's look forward and be positive advocates of the UK stiff upper lip that we inherited from our forbearers.

What is the most likely outcome of Brexit for the machinery Directive and the Machine Safety industry?

The machinery Directive requires that a conformity assessment procedure be followed. If you remove the context and whittle it down to its core it is simply requiring that a procedure be followed and the manufacturer/authorised representative stand by that process and its outcomes to take responsibility for any harm caused due to its shortcomings.

So my opinion, for what it is worth, is that the UK are perfectly capable of implementing a similar procedure through our own law making and we may have to call it something different but it will bear a striking resemblance to what is in place now.

And finally (just to throw a curve ball in) regardless of the procedure, it is the British Standards which define 'state of the art' in engineering design for machines. These standards will continue to carry weight long after the death of CE marking in the UK, should it finally occur. All change, no change!

So, to all of you whom share an interest in the machinery safety industry, I'll see you on the other side! I hear the grass is greener :o)

Spiers Engineering Safety offers a range of training courses, covering Machine Safety (<https://www.spierssafety.co.uk/machine-safety-training.php>), PUWER (<https://www.spierssafety.co.uk/PUWER-Training-Course.php>) and CE marking machinery (<https://www.spierssafety.co.uk/ce-marking-machinery-training-course.php>)