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## *Invitation to Workshop*

by Prof. Dr. Thomas Wilrich, University of Applied Science Munich, German Attorney at Law  
on behalf of BAM Federal Institute of Materials Research and Testing (Berlin)

EU-Twinning Project AZ07/PCA/TR03 “Strengthening of Standardisation, Metrology,  
Conformity Assessment and Accreditation in SASMP – Standards Agency Azerbaijan”

# **Technical Harmonisation, Product Safety and Product Liability Law in Europe**

*Thursday and Friday 16<sup>th</sup> and 17<sup>th</sup> of April 2009  
in the State Agency for Standardisation, Metrology and Patents (SASMP), Baku  
Conference Room 301*

The Partnership and Cooperation Agreement between the EU and the Republic of Azerbaijan of 1996 covers the economic cooperation regarding trade in goods and services, standards and conformity assessment and consumer protection (Art. 45, 50 and 66 of Chapter 5). Legislative work forms a major part in these cooperation areas. The approximation of laws shall extend in particular to protection of health and life of humans, consumer protection, technical rules and standards (Art. 43 of Chapter 4).

Azerbaijan wants to join the World Trade Organization (WTO). The “Work towards WTO accession on commercially viable terms” is part of the EU/Azerbaijan Action Plan of 2006. This includes transposing the Agreement on Technical Barriers to Trade (TBT-Agreement).

The goal of this workshop is

- to summarize the requirements of the WTO TBT-Agreement and the European Legislation on Technical Harmonization, Product Safety and Product Liability,
- to recall the current legislative status in Azerbaijan and
- to discuss the implementation of a legal system in Azerbaijan in line with the WTO TBT-requirements and European Law.

### **16<sup>th</sup> April 2009:**

9:45 Welcome by Mr. *Sabig Abdullayev*, Director International Relations Division SASMP

10:00 WTO-TBT Law and its impact on Technical Regulation and Product Safety

10:45 The European Law Part 1 – The basics on Technical Regulation

- Common/Single European Market and free movement of goods
- Distinction between Product Safety Law and Industrial/Worker Safety Law
- Technical Harmonisation and Mutual Recognition: *The new EC-Regulation 764/2008/EC*
- New Approach and Global Approach
- Common Framework for Products: *The new Commission-Decision 768/2008/EC*
- Transposition of Directives and Total Harmonisation
- Essential Safety Requirements in Directives and Technical Specifications in Standards



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- Self-responsibility of manufacturers – EC Declaration of conformity – CE marking
  - Obligations of other economic operators: importer – distributor (wholesaler – retailer)
  - Harmonised Standards and their presumption of conformity
  - Conformity Assessment/Notified Bodies/Accreditation: *The new Regulation 765/2008/EC*

12:30 Lunch-Break

14:00 The European Law Part 2 – The basics on General Product Safety

- Distinction between Product Safety and Product Liability Law
- The European General Product Safety Directive (GPSD)
- What is a consumer product?
- What is foreseeable misuse of products?
- Special requirements for consumer products
- Market Surveillance (Bodies and Activities): The new Regulation 765/2008/EC
- Safeguard clause, RAPEX (System for the rapid exchange of information on dangerous consumer products) and ICSMS (internet-supported information and communication system for the pan-European market surveillance of technical products)

16:00 End of first day

## **17<sup>th</sup> April 2009:**

10:00 The EC-Legislation on defective products (Product Liability Directive)

- The scope: What products are covered?
- What is with components, construction products and agricultural products?
- The obligation: Strict liability for damages (without fault)
- When is a product defective?
- Defect of product *versus* fault of the injured person
- Who is obliged: Producer, importer and sometimes distributor (wholesaler – retailer)?
- Who has the burden of proof: Who has to prove what?
- Exceptions from the liability, expiration and limitation period
- The relationship of the strict liability according to the Directive to the general civil law
- Overview on other European legislation on protection of consumers' economic and legal interests:
  - Sale of consumer products and associates guarantees
  - Legal redress and the settlement of disputes
  - Unfair terms in consumer contracts

12:30 End of Workshop