

Building & Construction news

Revision of the construction products directive

The die is cast now. After years of speculations and request for revising the construction products directive (CPD), the European Commission has taken the steps to adopt a new legislative text.

1. Conclusions....20 years later

As a reminder this legislation was adopted on 1 December 1988. Its main aim was to ensure a free European internal market by abolishing the numerous technical barriers to trade through harmonization of product performance declarations. Those harmonized declaration of performance were related to six essential requirements : mechanical resistance & stability; fire safety; hygiene, health & environment; safety in-use, protection against noise; energy saving & thermal insulation. The exact harmonized testing methods and classes of performance were then to be established through European standards (CEN or EOTA). All products in line with the legislation were to bear a CE mark.

Twenty years later the outcome is mitigated as was highlighted by the stakeholders consultation launched by the Commission in 2006. Here below you will find some conclusions.

First, harmonization has only been partially achieved. Whilst standards and classification systems related to fire are organized for most applications, the same cannot be said for other essentials requirements such as for instance dangerous substances where actually the work has only just begun in CEN TC 351. Although the opinion is not univer-

sally shared, it was felt that the work of EOTA was even more unsatisfactory than the cumbersome CEN standardization process. Technical agreements initially conceived as a fast track to standardization, would actually take similar time to standards development and involve significant costs for industry.

In general, the meaning of CE marking was badly understood. It is neither a quality mark nor a safety mark (as is the case for other new approach directives). Another conclusion, after 20 years National marks are still proliferating.

Another hint that harmonization was not fully reach are the exemptions granted to some Member States such as the UK. Finally, criticisms were made against a system felt to be too complex.

2. A new start?

The new regulation intends to remedy to those issues and to create a new start for construction products. It is not really a revolution although some interesting innovations have been included in the proposed text.

So first, this regulation – the choice of the legislative instrument is not innocent- aims at clarifying earlier concepts and truly create conditions for a single market in construction.

A regulation is applied as such in National legislations- in principle no more leeway for interpretation in the Member States.

There will be one common technical language based on testing, calculation and other means through European harmonized standards and technical agreements. The product essential characteristics and the construction works “basic require-

ments” (former essential requirements) shall be expressed in this language. Whilst the policy decision remains National, it will not be possible anymore for a Member State to impose additional testing or specific National standards, when the requirements by the National legislator are related to these basic requirements and an European standard/technical agreement exists. Nothing new you will say from a principle point of view, but practice had shown otherwise. There is a clear intention by the Commission to put the Member States back in the “right path” by setting this red flag in the ground.

The use of particular vocabulary reminds the difference between the construction product regulation and other “New Approach Directive”. CE marking under this regulation shall mean that information provided on the performance/fitness for use of the product in the construction work is in line with the common technical language based on appropriate testing, which is different from CE marking under the other New Approach Directive, which means : “this product is safe”. It was also made clear that the revision of the framework for New Approach directives would not have impact whatsoever on the specific meaning CE marking has under this Construction Product Regulation. It is also clear that the organization of EOTA shall be critically reviewed in order to improve efficiency. European Technical agreements should be focused on innovative products. The bulk of standardization should be undertaken by CEN and CENELEC.

An interesting development is the introduction of the “Technical File”, which allows test results to be shared along a supply chain.

Another important new concept is the possibility to make a declaration of conformity either for stating a certain performance of the product as in the old CPD but also to declare the fitness for a specific use (e.g. : "this product is suitable for fire doors in schools in Andalusia").

Overall, even if not dramatic, true improvements were made in the regulation.

The main point of concern in the proposed revision was the project by the Commission to reduce the number of Attestation of Conformity levels, which would increase the cost for industry without bring additional benefits. This was unanimously denounced by industry during the consultation and will be reconsidered by the Commission.

3. Next steps

After the consultation organized in the end of June, the Commission has now submitted the text to inter-service consultation. The text should be adopted by the Commission by the end of November. The proposal then becomes public and shall be submitted for adoption to the Parliament and Council. It will be important to follow-up closely the process at this time as it will then become clear if the "coup the force" of the Commission gets through or if a strong opposition by Member States will turn it into an empty shell.

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Regulated Substances update

Work on regulated dangerous substances is only at its beginning, but it will most certainly become the hot topic in construction products in the near future. As a reminder, the EC

has mandated CEN TC 351 more than two years ago in order to develop harmonized measurement/test standards on the emission performance of regulated dangerous substances. This work could of course not begin in earnest until the Commission Expert Group on Dangerous Substances had established a list of those substances, which was done in October last year. Following this CEN TC 351 launched an enquiry to product Technical Committees on 30 November 2006. The low rate of response has slowed down the development of a first inventory and generally the advance of the TC. It is of vital for industry to identify which substances are relevant for their applications and also what are the existing test methods. This has been reminded recently by the **EuPC** Task Force on Regulated Dangerous Substances whose role is to monitor both harmonization activities and initiatives by the legislator (mainly through the Expert Group on Dangerous Substances) on this subject. It is also clear that the legislator will shortly develop concepts for an harmonized approach and a set of criteria for regulating dangerous substances.

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Reach and construction products

Whilst the overlap between the construction product directive and REACH is limited, it is clear that one should in the future use the information already generated for getting the CE mark as input the REACH process and therefore avoid unnecessary costs such as double testing and double reporting. In order to ensure this, the EuPC Task Force on regulated dangerous

substances has initiated a work on harmonizing nomenclatures under CE marking and those necessary for the REACH information flow (use descriptor systems). Other issues related to the use of substances are dealt with in the **EuPC** raw materials committee.

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News from Europe

The European Commission is aware of the concerns surrounding the administrative burdens which result from EU legislation, therefore the European Commission launched an Online Consultation, which offers you the opportunity to contribute directly to improving the quality of legislation. This Online Consultation is part of the "Action Programme for reducing administrative burdens in the European Union" launched in 2007 (-25% by 2012). This Programme is meant to identify and suppress unnecessary administrative burdens. It will not undermine the underlying objectives of EU law. There are indeed many cases where information obligations are indispensable, inter alia, for reasons to do with the protection of public health, protection of workers' rights or the environment or the need to protect EU financial interests and ensuring sound financial management. This Online Consultation has been created for businesses. It targets their concerns and aims to collect contributions that will help the EU to design more efficient business legislation. This website does not aim at receiving complaints from private citizens and cannot cater for contributions concerning private administrative issues.

EuPC Upcoming events

16	October 2007	REACH Workshop for Extrusion	Brussels, EuPC Centre
18	October 2007	Raw Materials Committee Meeting	Brussels, EuPC offices
24-31	October 2007	K2007	Düsseldorf, Germany
6	November 207	HSE Committee Meeting	Brussels, EuPC offices
3	December 2007	EuPC TF regulated dangerous substances	Brussels, EuPC offices
3	December 2007	Building & Construction Plenary	Brussels, EuPC offices
4	December 2007	Steering Committee Meeting	Brussels, EuPC offices
24-25	January 2007	EuPC fire WG	Brussels, EuPC offices