



Report on the 11th & 12th AdCo-CPD meetings

June 8th 2012 (Limassol, Cyprus) & November 14th (Nicosia, Cyprus)

On June 8th and on November 14th 2012, the 11th & 12th Administrative Cooperation Group for the Construction Products Directive (AdCo-CPD) meetings took place in Limassol and Nicosia - Cyprus, respectively. Representatives from 14 Member States, as well as from Commission, the Council of European Producers of Materials for Construction (CEPMC) and the Group of Notified Bodies for CPD (GNB-CPD) participated at the meeting.

The AdCo-CPD Members were informed that the proposals for a Regulation on Market Surveillance of non-Food Products and for the revision of the Directive on General Product Safety, are being under progressive discussions at the SANCO Committee. The purpose of the new proposal for a Regulation on Market Surveillance of non-Food Products, which will cover also the construction products, is according to the political commitment to establish a uniform market surveillance legislation. The critical issue referred in the proposal of the Regulation, will be the risk assessment. Market Surveillance Authorities actions and measures will depend on risk analysis. The Commission is committed to deliver the proposal by the end of this year.

On-going activities are carried out for the establishment of a Market Surveillance Coordination Body (associated with the AdCo groups for market surveillance) which will examine horizontal issues. The meeting for the subject was organised last April. A Technical Secretariat, in order to coordinate issues regarding the AdCo-CPD work (e.g. to enable the notification of the national market surveillance programs, to keep an update list of Market Surveillance Authorities at the CIRCABC network etc.) was considered to be launched in 2013. A relative decision, that will take into account the reform of the Unit in the Commission, or whether the European Market Surveillance Forum (described in the proposal for a Regulation on Market Surveillance of Non-food Products) will become the umbrella body for AdCos, is expected soon.

GNB-CPD presented EC Certificates under CPD and asked for any comments from AdCo-CPD Members. Examples of EC Certificates of Conformity under CPR were estimated to be available from October 2012. GNB also presented comments and issues discussed at the GNB CPR conference and the October Advisory Group Meeting. Regarding the question

whether NBs should be checking CE Marking, reference was made to EN45011, that the certification body shall require that a supplier does not use its product certification in such a manner as to bring the certification body into disrepute and does not make any statement regarding its product certification which the certification body may consider misleading or unauthorized. GNB stated that the DoP is the means to market a product; the CE certificate is a «private» act between NB and manufacturer, but in voluntary marking the certificate is a guarantee of conformity. The Commission stated that the area for voluntary marks is very limited. GNB also expressed the NBs concern regarding the issue of existing certificates. Certificates will remain valid until the product or production control changes, and NANDO will retain the notifications for the CPD until their validity ends.

Denmark presented the Danish risk assessment project. The Commission recommended the attention on the results because the results are opinion based and adjustments may be needed. However, Commission commented that the Danish approach to risk assessment is very interesting and important and encouraged Denmark to continue the work on the project. Denmark presented the results of a questionnaire for elucidating the perception of risk in Member States, and the calculation method used for the risk assessment project.

Presentation of the web-based market surveillance and information exchange system (ICSMS) and its functions took place for the participants at the meeting. For 2013 a substantial increase of resources for ICSMS is provided to overcome previous framework shortcomings, since ICSMS will have a formal and a fundamental part of market surveillance. Further development of ICSMS for new input mask for construction products will be exploited.

Members expressed concerns regarding the 7th Basic Requirement included in Annex I of CPR for the Sustainable use of natural resources which is not yet included in the European harmonised standards. Immediate action was recommended in order to achieve uniform implementation. The Commission pointed out that comprehensive discussion on the subject must take place before decision due to the legal questions arising - such as that sustainability refers to works but CPR relates to products. GNB-CPD stated that according to discussions with CEN, new European harmonised standards which include all seven Basic Requirements of CPR, will start to be available by the end of 2013 or beginning of 2014.

Results of a questionnaire about exceptions due to CPR (Article 5a) were presented by Austria. A discussion arose about the definition of “individually manufactured”. For clarification an additional questionnaire for assessing the criteria on which the Market Surveillance Authorities regard as preconditions or impediments for an “individually manufactured” product according to CPR Article 5a, was distributed. The feedback from the questionnaire showed that certain limits should apply; such products must be very “unique” and used in only one project; a valid question was if anyone could name such a product. The conclusion was that based on the different views expressed on the issue, the discussion must continue. Clarification is needed - clear guidance should be given from the Standing Committee on Construction.

Furthermore, the results of a questionnaire about the measures taken from the Market Surveillance Authorities for products not complying with the Regulation (EU) 305/2011 (CPR) were presented by Cyprus. Four cases were investigated, with relative uniform answers. In the case though, of CE Marking and/or DoP not available from the economic operator, the actions from the Market Surveillance Authorities according to the results of the questionnaire, may vary. Thus, some Market Surveillance Authorities would serve the economic operator a notice to conform, while others would take restrictive measures (to prohibit or restrict the product's being made available on the market, to withdraw it from the market or to recall it). The Commission stated that there is a uniform approach in the EU fora, that the first step is to ask the economic operator to take appropriate actions, and if the economic operator does not, then to enforce sanctions. Moreover, the issue of whether the extend of deviation of laboratory results from the values of technical characteristics declared should be taken into account was discussed. The majority of the answers showed that this parameter is taken into account in the decision of the Market Surveillance Authorities to take action or not; Concerns were also raised on the uniformity of actions between Member States.

Moreover, reference was made to a questionnaire regarding the management of the non-compliant construction products already incorporated in the construction works. The conclusion was that Market Surveillance Authority deals only with the marketing of products. Actions for non-compliant construction products already incorporated in the construction works are taken by the Building Control Authority.

The issue of sampling of construction products was also presented during the discussions. The hENs have no reference regarding the sampling procedure and the adequate samples for market surveillance purposes. The implications of using sampling techniques based on common statistical methods were presented (e.g. extremely large size of sample associated with increased cost of the check). In order to achieve a uniform implementation of hEN's with a uniform approach from the Market Surveillance Authorities, the inclusion of sampling procedures for market surveillance purposes in the hENs should be examined. The philosophy of CPR and the hENs, the legal problems for testing and the need to go to solutions to serve the practical needs were discussed. CEN will be contacted to discuss further the issue.

Norway presented the progress of the joint market surveillance initiative on EPS products. The surveillance, involving checking of the accompanied documents and/or lab testing of products, took place from April to November 2012 in 11 Member States (Austria, Cyprus, Denmark, Ireland, Finland, Germany, Latvia, Lithuania, the Netherlands, Norway and Sweden). The effort gave many positive elements, such as good cooperation between the MSAs and the exchange of views and experience. It was concluded that there is a need for better preparation in order to create common rules/principles and to discuss more the details of the effort. The Commission reaffirmed the support to these experiences and underlined the importance of establishing common rules and procedures for increasing efficiency.

The AdCo Members were also informed for a number of cases of false certificates. The Commission noted that the mechanism to report false certificates is to inform the Commission and the Member State involved (with the relative Notified Body). Actions against Notified bodies are a Member State's concern; the Commission will make an inquiry or begin infringement procedures in the case where the Member State does not take measures.

Cyprus presented the importance of the Quality Management system in a Market Surveillance Authority based on the experience of the certification under ISO 9001 of the Technical Services of the Ministry of Interior of Cyprus as the competent Authority for Market Surveillance for construction products. Quality Management system provides standardization of procedures and minimization of mistakes and increases efficiency.

National market surveillance programs were reported by a number of Members. The need for exchange of such information for collaboration between the Member States in solving common problems was emphasized.

In addition, discussions took place regarding proposals for joint market surveillance initiative for 2013, for the issue of used construction products (e.g. from demolition) and the responsibilities of the involved economic operators, examples of DoPs from the fenestration market and the obligations of the importers.

For 2013, Belgium and the Netherlands will take over a co-chairmanship of AdCo-CPD. The first meeting for 2013 (March/April) will take place in Brussels, and the next meeting (October) in the Netherlands.

MINISTRY OF INTERIOR
CYPRUS

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