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Directorate-General

INDUSTRY

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COMMUNICATION OF THE COMMISSION

WITH REGARD TO THE

INTERPRETATIVE DOCUMENTS

OF

COUNCIL DIRECTIVE 89/106/EEC

CONTENTS

- General introduction to the 6 interpretative documents (IDs)
- ID No 1 : Mechanical resistance and stability
- ID No 2 : Safety in case of fire
- ID No 3 : Hygiene, health and the environment
- ID No 4 : Safety in use
- ID No 5 : Protection against noise
- ID No 6 : Energy economy and heat retention

General introduction to the 6 Interpretative Documents

1. The Construction Products Directive (89/106/EEC)⁽¹⁾ sets out in Articles 3 and 12 that Interpretative Documents give concrete form to the Essential Requirements referred to in Annex I of the same Directive interpreted in accordance with the preamble to that Annex.

Article 12(3) lays down that the Interpretative Documents, after the opinion of the Standing Committee for Construction has been solicited, shall be published in the Official Journal of the European Communities, series C.

2. The principal objective of the Interpretative Documents (IDs) is to establish the link between the Essential Requirements and the mandates which the Commission gives to European standardisation bodies to establish harmonized standards and to the European Organisation for Technical Approvals to establish Guidelines for European Technical Approvals. In order that this can be achieved the following aspects have to be taken into account :

- harmonisation of terminology and the basic technical concepts or identification of the need for such harmonization
- indication of classes or levels for each Essential Requirement, in so far as is necessary and possible
- indication of the methods of correlation between classes or levels and the technical specifications⁽²⁾
- use as a reference for the establishment of harmonized standards and guidelines for European Technical Approvals.

3. Even if the Construction Products Directive (CPD) lays down in an exhaustive way the essential requirements applicable to the works, it does not require Member States to impose them in the works; in other words the Member States remain free to regulate or not the construction works.

Nevertheless, if they regulate those works, and regulations have an impact on the construction products, Member States must comply with the provisions of the Directive and, in consequence, adapt their national regulations; therefore they cannot impose essential requirements applicable to the works other than those laid down in the Directive and they can permit the placing on the market of construction products intended by the manufacturer to be incorporated in the works only if they are fit for use.

(1) O.J. No L 40 of 11.2.89.

(2) For the purposes of the CPD the term "technical specifications" means standards and technical approvals.

A construction product is fit for the intended use when it permits the works in which it is incorporated to satisfy the applicable essential requirements; a construction product is presumed to be fit for its intended use if it bears the CE marking which attests the conformity of the construction product to technical specifications (harmonized standards, European Technical Approvals, national technical specifications recognized through Community procedures - art. 4(2)(c).

Harmonized standards for construction products and guidelines for European Technical Approvals are established on the basis of mandates given to the standards organisations and EOTA; these mandates are established by reference to the Interpretative Documents in which the relevance to the essential requirements applicable to the works, in relation to products, has been taken into account.

4. The case of the recognition of national technical specifications, in so far as a harmonized standard does not exist (Articles 4(2)(c) and 4(3) of the CPD), is not explicitly dealt with in the structure and terminology of this first edition of the IDs. Nevertheless, if the case arises, the arrangements contained in the IDs would apply to the recognition of national technical specifications under Article 12(2)(c) of the CPD, as far as their application is relevant, taking into account the essential requirements, the type of construction product in question and its intended use.
5. Within the framework of the implementation of the CPD, the IDs also represent a reference for the assessment of a construction product in the two following cases:
 - Article 4(4) of the Directive (assessment of the fitness for use by an approved laboratory, in the case where a manufacturer has not applied, or has applied only in part, the existing technical specifications)
 - Article 9(2) of the Directive (assessment of the fitness for use given in a European Technical Approval, carried out by approval bodies acting jointly within EOTA when Guidelines for European Technical Approvals do not, or not yet, exist).
6. The Interpretative Documents are of an evolutive nature and they are therefore capable of further development. In fact, they are based on a combination of:
 - the essential requirements as they are developed in Annex I to the Directive.
 - the knowledge of existing national regulations applicable to the works, including in the field of public procurement, taking into account possible differences in geographical or climatic conditions or in ways of life as well as possible different levels of protection (Article 3(2)) which could render necessary the establishment of classes or levels of requirement and/or of performance.

- the state of the art concerning construction products existing at the time of their establishment.
- the intended use of construction products.

These different elements may evolve.

As the essential requirements are expressed in terms of objectives, the understanding given in the Interpretative Documents at a certain moment could evolve due mainly to technological development and the state of the art. These evolutive elements may, therefore, justify the adaptation of Interpretative documents and affect the understanding of the essential requirements.

A Member State may request the revision of one or more Interpretative Documents in order to accommodate proposed additional regulatory requirements for the performance of construction works within the scope of the Essential Requirements. Such requests will be dealt with as a matter of high priority by the Commission and the Standing Committee without prejudice to the process of formal notification under Directive 83/189/EEC.

7. In the present interpretative documents classes or levels of performances have been established in the Interpretative Document No 2 (Safety in case of fire).

The Directive lays down that classes or levels of requirements and/or of performance, when necessary, can also be determined outside of the Interpretative documents.

As far as the presence of dangerous substances in construction products is concerned, classes and/or levels of performance which technical specifications will refer to, shall allow the levels of protection needed by the works to be guaranteed, taking into account the purpose of the works.

8. As the purpose of the Directive is to eliminate obstacles to trade coming from existing legal, regulatory or administrative provisions, the technical specifications deriving from the Directive should take fully into account the justifiable technical traditions in Member States. This means that technical specifications should not hinder or prevent the use of construction products which enable works to conform to the essential requirements and which are in use in the Member States.