

## Eurobrief September 2009

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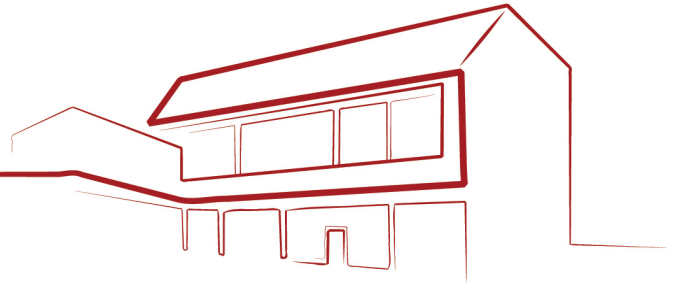
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## EDITORIAL

### ETS: ECOFYS recommends clinker benchmark in cement industry

September 2009 - On 10 September 2009 ECOFYS, the consultant appointed by the European Commission to study benchmarks for the purpose of allocating free allowances, recommended the adoption, in the cement industry, of the EU-wide clinker benchmark supported by CEMBUREAU. Looking at the possibility to benchmark clinker or cement, ECOFYS opted for the first solution mainly on the ground of workability.

This solution is supported broadly by the European cement industry, but it is not unanimous. To a substantial majority of CEMBUREAU Members and cement companies operating in Europe, it is evident that Annex I to the revised Directive on Emission Trading, just like its predecessor, applies only to installations producing clinker. The National Allocation Plans in the first - trial - and the 2nd period, up to end 2012, have only applied to clinker producing installations. The clinker benchmark must thus be seen as one more step along a continued and well established



approach.

Could it be argued that this solution would remove the incentive to diminish CO<sub>2</sub> intensity through the reduction of the clinker factor? CEMBUREAU does not think it would be the case. The reduction of the clinker factor, through replacing clinker by additions such as slag and fly ash, had started before the urge to reduce CO<sub>2</sub> emissions had appeared and it has since progressed at a constant pace even in those years, since 2005, when free allowances were allocated to cover clinker production. A producer receiving free allowances to cover its clinker production will always have an interest to reduce its CO<sub>2</sub> emissions per tonne of cement and either use the allowances to increase its production in order to respond to increased demand or sell them.

With the clinker benchmark the cement industry will also have its future in its own hands. The benchmark will be defined for a relatively long time - at least 2020 - during which the economy may fluctuate and the availability of substitutes as well. With the present economic crisis and fall in steel production, for example, there is less slag to go around and, in the future, dependency on a scarce resource could obviously become a serious threat.

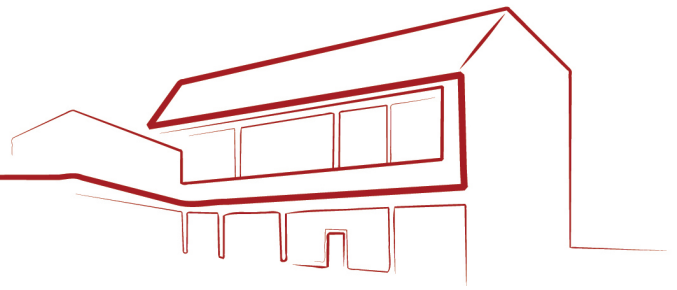
Finally, the proposed solution makes sense as it creates a level playing field in which all cement producers can compete in the market place with no regional disadvantage to producers located in parts of Europe where clinker substitutes or additions are not available.

## EU EMISSIONS TRADING SCHEME

### Poland and Estonia win NAP appeal

The Court of First Instance has ruled that the European Commission exceeded its powers of review of National Allocation Plans (NAPs) of Estonia and Poland. The Court has therefore annulled decisions made by the Commission limiting the number of EU allowances the two countries receive between 2008 and 2012. As a result, the Commission will have to restart negotiations with both Member States on their NAPs.

The Commission has yet to decide whether to make an appeal to the European Court of Justice. It has two months to take up this option. Six other Eastern European Member States - Bulgaria, Romania, Lithuania, Latvia, Hungary and the Czech Republic - have filed similar lawsuits against the Commission's NAP decisions. These cases are, as yet, in the early stages.



## EU EMISSIONS TRADING SCHEME

### 164 sectors vulnerable to carbon leakage

The European Commission has released its draft list of sectors at risk of carbon leakage. This would entail 164 sectors and sub-sectors free carbon allowances from 2013 onwards according to stringent benchmarks.

Commission draft decision is now under 3 months Parliament and Council scrutiny. The Council, the Commission and Parliament are expected to come to a provisional decision before the Copenhagen Climate Conference. The Commission is expected to adopt a final Regulation on the issue on 30 December 2009. The 164 sectors and sub sectors on the list account for around a quarter of total EU ETS emissions and just over three-quarters of manufacturing emissions covered by the scheme. The lists of sectors at risk of carbon leakage will be re-assessed in the light of the outcome of any international agreement. (See *Eurobrief 178 editorial*)

## EU EMISSIONS TRADING SCHEME

### Swedish Environment Minister speaks to Environment Committee

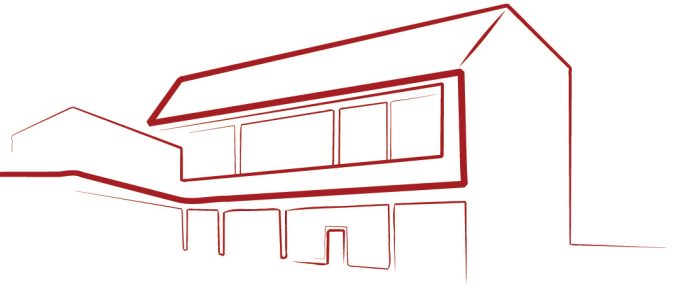
The Swedish Environment Minister, Andreas Carlgren, spoke to the European Parliament's Environment Committee at the beginning of September, asking it to continue to push for a 30% global reduction in carbon emissions. He warned, however, that the measures planned by developing countries are still a long way from what the Intergovernmental Panel on Climate Change (IPCC) has deemed necessary in order to keep to the two-degree target.

The Minister moreover urged the Parliament to find sources of financial and technical support for developing countries to reduce their emissions, including immediate funding from the EU via aid. Carlgren's speech was echoed on 9 September by Commission Vice-President Margot Wallström, who gave a speech on low carbon technology, urging emissions cuts of 25%-40%.

## ENVIRONMENT

### France, UK and Germany low-carbon front runners

France, the UK and Germany are front-runners in the transition to a low-carbon economy according to a new report produced by the London-based not-for-profit organisation E3G and the Australian Climate Institute. The report focused on the G20 countries, which together account for around 75% of world GDP and nearly 70% of greenhouse gas emissions.



The report found that European countries were ahead of the rest of the G20 in preparing for a low-carbon world, though it conceded that this was in part due to structural economic changes in the 1990s. According to the report, the US has the potential to become a front-runner in the transition to a low carbon world, but has been held up by a relatively carbon-intensive infrastructure. Japan was reported to be losing leadership over the transition, while South Korea was reported to be making increasing efforts to alter its energy consumption patterns.

## ENVIRONMENT

### 'No decision' on climate change portfolio

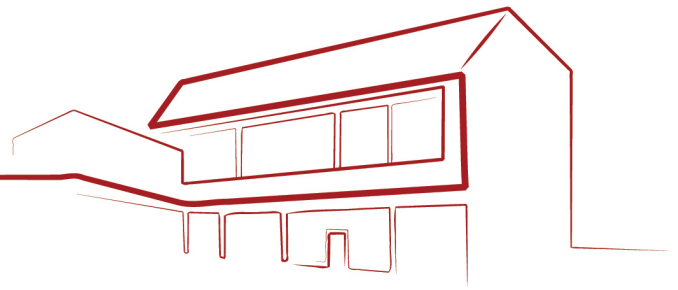
President Barroso told Green MEPs on 9 September that no decision had been made on whether DG Environment's climate policy portfolio would be transferred to a new European Commission department on energy. He was responding to rumours that the promised new DG Energy would be responsible for climate policy under the direction of a new Commissioner for Climate and Energy. Denmark is in the running for the prestigious new post, with Climate Minister Connie Hedegaard being one of the favourites for the new post.

## ENVIRONMENT

### Sweden to prioritise climate change negotiations

In an address to the European Parliament's ITRE Committee in the first week of September, Sweden's Deputy Prime Minister and Minister for Industry, Maud Olofsson, spoke of the need to 'send a clear message to the international climate negotiations in December in Copenhagen'. Particularly important, she stressed, would be reaching an agreement with the European Parliament on the energy efficiency package. The energy efficiency package consists of the Energy Performance of Buildings Directive (2002/91/EC), the Energy Labelling Directive (92/75/EEC) and the Tyre Labelling Regulation and was drawn up in order to legislate for a more carbon efficient economy.

The Deputy Prime Minister also emphasised that an 'eco-efficient' economy would 'address both the economic crisis and the climate challenge at the same time'. In addition, she spoke about the need to ensure secure gas supplies to Europe in order to prevent disruption to the European economy.



## BUILDINGS & BUILDING MATERIALS

### EPBD: working party examining amendments

The Working Party on Energy has met a number of times this month to discuss proposed amendments to Directive 2002/91/EC on the energy performance of buildings.

The Commission has proposed that the Directive's scope be extended in order to cover buildings that are less than 1000m<sup>2</sup>. As approximately 70% of buildings in the EU are under 1000m<sup>2</sup>, this would create new energy performance requirements for the majority of buildings in Europe.

There is general consensus on the need for stricter regulations on energy consumption in buildings. Certain details, however, remain to be negotiated. For example, the Council agrees that ambitious targets for public buildings are needed, but prefers the wording 'low-energy buildings' to 'zero-energy buildings'. Political agreement on this proposal is expected before the December Energy Council (07/12/09).

CEMBUREAU remains opposed to minimum requirements for building components. The initial holistic approach of the EPBD should be maintained, i.e., the energy performance of the building as a whole during its entire life cycle. Sub optimisation of the whole performance of the building in terms of energy efficiency and use of resources can occur by setting minimum performance targets at the level of components.

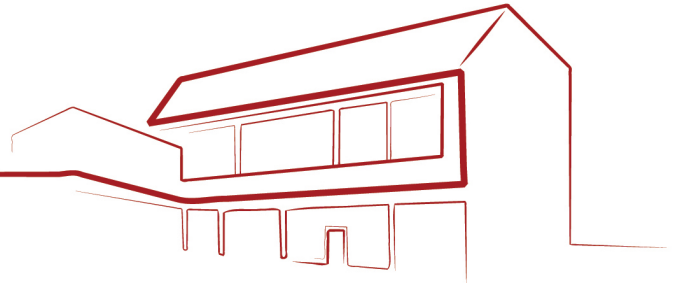
## HEALTH AND SAFETY

### Amendment to REACH test methods regulation published

The first amendment to the Regulation on test methods for chemicals under REACH (Reg 440/2008) has been published in the European Union (EU)'s Official Journal. The European Parliament and the Council both adopted the Commission proposal without changes. The Regulation was modified to add four new test methods and update two existing ones, including a new in vitro test method designed to reduce the number of animals used in testing chemicals for skin irritation, specifically rabbits which are most commonly used. The Regulation also sets standards for determining whether certain substances are hazardous to human health and the environment. Legislation on cosmetics, detergents and biocides also makes use of the test methods in this regulation.

The Regulation can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:220:0001:0094:EN:PDF>



## HEALTH AND SAFETY

### REACH - ECHA calls for information on chemical toxicity

The European Chemicals Agency (ECHA) has made a call for information on the reproductive toxicity of a specific chemical substance in September. According to ECHA, the aim of the call is to receive relevant data with a view to making sure that animal testing is carried out only as a last resort. This is the first time that this type of public consultation, which is foreseen by the REACH Regulation, has been made. In this instance, the registration concerns a new substance with a complex and variable composition that cannot be made public by ECHA.

However, this UVCB (Substances of Unknown or Variable Composition, Complex reaction products or Biological Materials) substance bears the generic chemical name "hydrogenated oligomerisation product including dimmers and trimers, of tetradec-1-ene and alkene".

The request for information can be found here:

[http://echa.europa.eu/consultations/test\\_proposals/test\\_prop\\_cons\\_en.asp](http://echa.europa.eu/consultations/test_proposals/test_prop_cons_en.asp)

## HEALTH AND SAFETY

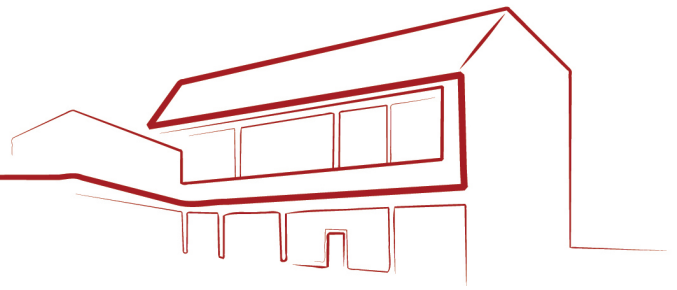
### REACH - Tools to help firms submit C&L notifications to be made available

The European Chemicals Agency (ECHA) has said that further IT tools to help companies submit classification and labelling (C&L) notifications are expected to be available in February or March next year. Although companies can currently submit notifications now using IUCLID 5.1 (see previous article), ECHA has suggested that companies should wait until the new IT tools are available. One of these will be a new version of IUCLID (5.2) which will include a classification, labelling and packaging (CLP) notification template for the creation of dossiers.

## HEALTH AND SAFETY

### REACH - Industry to see proposed SDS changes before end of year

Industry is likely to be able to see the text of agreed changes to Safety Data Sheet (SDS) requirements before the end of the year, according to ECHA. Although the Regulation is likely to be published in February or March 2010, the text should be available for scrutiny by industry in November. SDS requirements are laid down in Annex II of REACH. A draft EU Regulation designed to align these requirements with the CLP Regulation will be presented to the REACH Regulatory Committee on 20 October, and, if approved, will likely see the Regulation published



early next year. The proposals retain the same 16 sections that are in the current version of Annex II, but include new mandatory sub-sections. CEMBUREAU is working on a number of activities related to the CLP Regulation and the review of Annex II of REACH on SDS. For example, CEMBUREAU is currently preparing the classification of Portland cement clinker and Portland cement according to CLP, updating the SDS template for cement clinker and cement once Annex II of REACH on the SDS has been updated, and notifying the harmonised classification of clinker to ECHA on behalf of the CEMBUREAU membership. CEMBUREAU will also propose a timing to start using the new classification for cement (prior to 1 June 2015).

## HEALTH AND SAFETY

### REACH - Concern over confidentiality of ECHA information

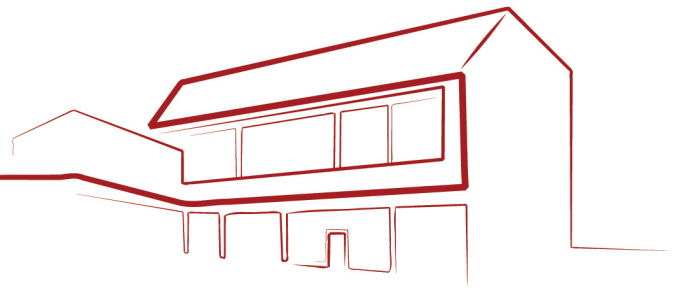
Concerns regarding the confidentiality of information submitted by companies in REACH IT and REACH Information Portal for Enforcement were raised during ECHA's board meeting in September. Alain Perroy, Director General of CEFIC, said that it was the responsibility of ECHA and the Board of Management to ensure that confidential information received by the agency was not disclosed, and pointed out that the commercial damage caused by such a leak could potentially be huge. Mr Perroy warned that any weakness of the security aspects of REACH IT and REACH Information Portal could not be tolerated, and that ECHA should carry out audits of Competent Authorities on their compliance to security requirements. While ECHA insists that damage caused to third parties as a result of a security breach of REACH IT should be borne by the Member State authority responsible, some national authorities have expressed concern that this leaves them open to huge potential liability. Mr Perroy suggested that ECHA and national authorities should sit down and assess the responsibility they can both take, and then enter into adapted agreements that reflect each particular situation.

## HEALTH AND SAFETY

### Verheugen warns against ECHA budget cut

European Commission Vice President and Enterprise and Industry Commissioner Günther Verheugen has warned against cutting the European Chemicals Agency (ECHA)'s budget. He told Parliament's Environment Committee that the proposal from EU Member States to cut the budget from €30 million to €25.3 would undermine REACH.

ECHA is expected to make up the shortfall in its budget via fees from chemical registrations, which will start to be collected in autumn 2010. Until then, however, if the budget cuts go ahead, the agency has warned that the implementation of the REACH regulation could be affected. The



European Parliament's budget committee is expected to back the Commission and Environment Committee's position when it meets on 8 October.

## WASTE

### Establishment of waste implementation agency discussed

A second informal stakeholder meeting to discuss the creation of an EU waste implementation agency was held earlier this month. At the meeting, Member States acknowledged that there were "serious problems" in law implementation across many parts of Europe and agreed that this was something that should be addressed. Issues to be addressed include updating and clarifying EU legislation, guidance for enforcement and waste management, the coordination of Member State programmes, the assessment and monitoring of waste management plans and waste prevention plans and data gathering on separate collection and recycling and recovery.

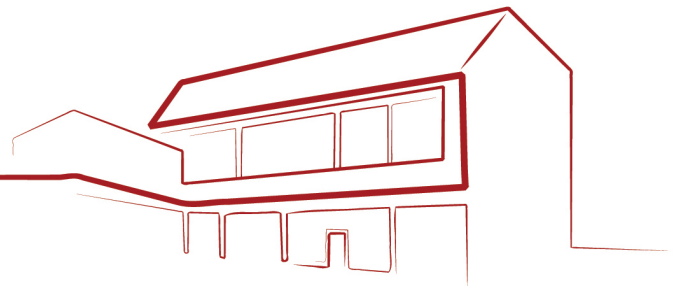
The establishment of an EU waste implementation agency, however, is just one of several options currently on the table. Other possible solutions include giving these activities to existing Commission offices, or establishing an IMPEL-type network. The pros and cons of each option will be considered. A consultancy report is due to be published in November, which will examine other possible options. The agency would support EU states in areas such as landfills and waste shipments.

## WASTE

### Commission action to annul shipments of waste regulation dismissed

The European Court of Justice has dismissed a Commission request to annul Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ 2006 L 190, p. 1) on account of the fact that it is based solely on Article 175(1) EC and not on Articles 175(1) and 133 EC. Establishing Article 175(1) EC as the sole legal basis for the contested Regulation is significant as it restricts the competence of the EU, and confers competence on the Member States in the area of regulating exports and imports of waste.

The Commission claimed that the choice of Article 175 as the sole legal basis would inevitably lead to a distortion of competition on external markets between undertakings established in Member States and give rise to disturbances in the internal Community market. The ECJ ruled, however, that as the contested regulation was aimed primarily at protecting human health and the environment against the potentially adverse effects of cross-border shipments of waste, it was correctly based on Article 175(1) EC. In dismissing the action, the ECJ ordered the Commission



to pay the costs. (See Eurobrief 150).

The Judgement can be found here:

[http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-411/06&datefs=&datefe=&nomusuel=&domaine=&mts=&resmax=100](http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-411/06&datefs=&datefe=&nomusuel=&domaine=&mts=&resmax=100)

## CEMBUREAU

### CEMBUREAU industry open week / 23 September - 4 October

CEMBUREAU has launched its Cement Industry Open Week, which will run from 23 September until 4 October. Events are being held across Europe in order to highlight the role played by concrete in relation to sustainable construction.

As part of the Cement Industry Open Week, CEMBUREAU, together with EUPAVE, the European Concrete Paving Association, organised a visit of an ongoing reconstruction over 3 km of the E40 motorway from Brussels to Ostend. Christian Caestecker, head of the Flemish Agency for Roads and Traffic, Anne-SÃ©verine Poupeleer, Project Manager of the worksite and working for the Flemish Agency for Roads and Traffic, and Luc Rens, Managing Director of EUPAVE highlighted the invaluable role of concrete and its contribution to sustainable road transport.

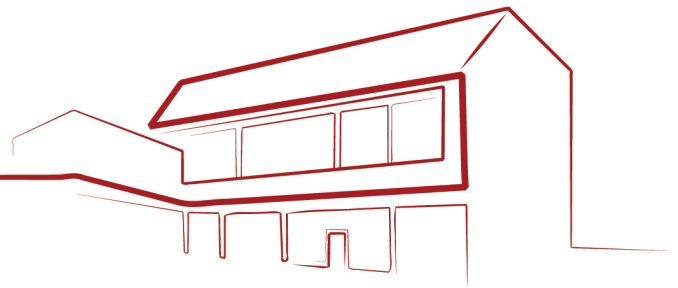
A major emitter of CO<sub>2</sub> in Europe and in the world is traffic. In the EU, CO<sub>2</sub> emissions from transport amount to 28% of total CO<sub>2</sub> emissions and, while those of industry are decreasing, these are on the increase. In France the Normandy bridge across the Seine estuary, a gateway between Northern and Southern France as well as to the West coast, a project completed in 1987, allows a reduction of travel time of 20 minutes for cars, 25 minutes for lorries, leading to an average gain of time of 300 000 hrs and a saving of about 3500 tonnes of oil equivalent each year, with the corresponding reduction of CO<sub>2</sub> emissions. Even if traffic growth is disregarded, the total CO<sub>2</sub> saving over a service life of 50 years is significant.

On this occasion, EUPAVE released its first publication "Concrete Roads: a Smart and Sustainable Choice". This brochure draws on international experience to show that the modern concrete road can be a sustainable solution for our society and that it satisfies the basic criteria for sustainable construction in respect of the environment, economy and society. A paper copy can be obtained on simple request: send an email to [info@eupave.eu](mailto:info@eupave.eu) in which your name, email address, company, shipping address and country are mentioned.

More information: [www.eupave.eu](http://www.eupave.eu)

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## CEMBUREAU

### CEMBUREAU at cement sustainability initiative (CSI) in Brazil

CEMBUREAU took part in a recent meeting of the Cement Sustainability Initiative (CSI), a member-led programme of the World Business Council for Sustainable Development (WBCSD). The event took place in Sao Paulo, Brazil on 1 September 2009. Some 70 participants from around the world attended to discuss key sustainability challenges facing the cement industry, in areas such as health and safety, greenhouse gas emissions management, biodiversity and technology.

A presentation on perspectives from the EU was given by CEMBUREAU, introducing the organisation and giving a brief outline of CEMBUREAU's key recent achievements. These include the achievement of EU recognition that the cement industry is at risk from carbon leakage. CEMBUREAU added that the engagement of trade associations in CSI should strengthen the role of the cement sector by promoting greater debate among members.

During other sessions, delegates heard that industry fatality rates need to be reduced, and that decisive company action is needed to make the workplace safer. Participants also discussed meeting social responsibility needs, establishing standards along the supply chain and achieving optimal cement use.

The Cement Sustainability Initiative's sectoral approach to greenhouse gas mitigation in the cement industry can be found here:

<http://www.wbcscement.org/pdf/WBCSD%20rev%20final%20low.pdf>

## OTHER NEWS

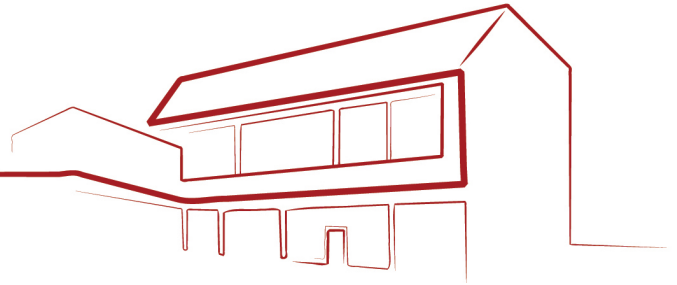
### New industrial dust limits discussed

Parties to the 1999 pan-European Gothenburg protocol on air pollution discussed stricter limits for dust emissions at a meeting of the UN's Economic Commission for Europe (UNECE) in early September. The new limits would be included in an annex of a revised version of the Gothenburg protocol and would affect dust emissions from refineries, combustion plants and other major industrial installations in sectors such as cement, and steel and waste incineration.

The Gothenburg protocol sets limits for specific emission sources and national emission ceilings for four major pollutants in more than 30 European countries (SO<sub>2</sub>, NO<sub>x</sub>, VOCs and ammonia). In the EU, the Gothenburg protocol has been implemented through the National Emission Ceilings (NEC) Directive.



# The European Cement Association



The EU is seeking to include more stringent national emissions ceilings for 2020 and aspirational emission reduction targets for 2050. It is also planning the first ever caps on PM2.5 emissions, however this may be technically difficult to achieve. A final version of the revised treaty is expected in December 2010.