

## Eurobrief November 2009

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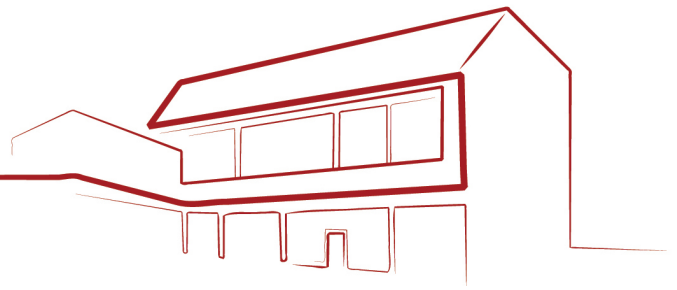
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## EDITORIAL

The European cement industry is vulnerable to carbon leakage - the decision & beyond

November 2009 - For nearly two years the European cement industry has battled to be recognised as vulnerable to carbon leakage in the context of the EU ETS. This is now officially the case after the decision made in the European Parliament Environmental Committee on 4 November (this decision is final as far as the European Parliament is concerned) and the adoption by the Council on 30 November 2009. The European Commission is expected to publish the decision as it is on 23 December ahead of the 31 December deadline set by the Directive on Emissions Trading. The cement industry qualifies as a sector vulnerable to carbon leakage, with an increased cost of induced directly by the Emission Trading Scheme (ETS) of 55.06% (see May 2009 Eurobrief).

Work will now continue on the benchmark and other aspects of the allocation process but this is a first and major step in the right direction, an essential determinant of the treatment that will be reserved to the European cement industry in the ETS.



The decision opens up the way for free allocation of allowances in the period 2013 to 2020 and perhaps beyond. The Commissioner for the Environment, Mr. Dimas, has recently recalled that free allocation is the tool through which the European Commission intends to tackle carbon leakage in the short term. He clearly indicated that inclusion of importers in the ETS is not on the table for the moment. It may well be the case now and still in June 2010 when the European Commission has to report on this delicate topic. However, free allocation may be a fragile in the long term as, sooner or later, maybe after the Copenhagen process has given birth to an agreement on binding targets, auctioning will become the rule. Stavros Dimas said to the European Parliament's Environment Committee that the list of sectors would be revised through co-decision. To the extent that the risk of carbon leakage may still exist once the international agreement is implemented, because some economies outside OECD countries, will impose only intensity targets, the inclusion of importers in the ETS may come to play an important role. The idea should therefore not be abandoned!

Is it realistic to try and convince the European Commission to keep the door open, in their report to the European Parliament and the Council at the end of June, for addressing the issue of including importers in the ETS for a later stage? No one knows today what the outcome of Copenhagen is going to look like, no one knows what the first ETS review in 2014 will find out. In such an uncertain context, no industry - even those which are opposed to the extension of the ETS to European importers for fear of retaliation - should have any serious objections to keeping the door open.

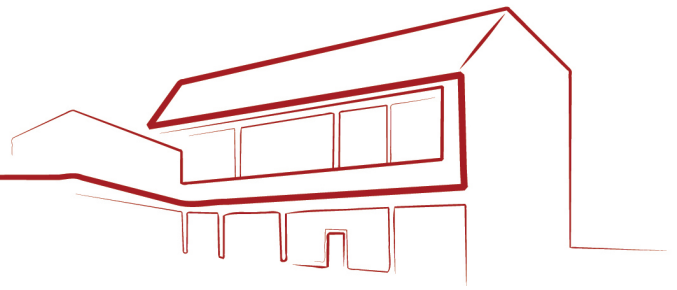
Let us hope the European Commission will follow suit.

## EU EMISSIONS TRADING SCHEME

### CEMBUREAU attends ECCP benchmarking meeting

On 6 November CEMBUREAU participated in the Ad hoc meeting of the European Climate Change Programme (ECCP) stakeholder group on emissions trading covering the issue of benchmarking. Key points raised during the meeting include the fact that the European Commission has signed several contracts with various consultants with the aim of moving ahead with the finalisation of the benchmarks, quality criteria for verification of benchmark curves and draft rules for activity data collection, setting up a helpdesk, limited data collection for validation of the benchmarks, support for the proportionate impact assessment, and an assessment of international negotiations.

In addition, a Technical Working Group and Task Force have been established with the Member States. In relation to the European Commission's interservices consultation, bilateral meetings



with sectors were due to be held the following week. A first Task force meeting was held on 17 November, followed by a TWG meeting being organised approximately every 6 weeks as of 30 November. Further stakeholder consultations are expected, but the dates have yet to be confirmed. The draft benchmark rules are expected by May 2010, with the Member States consultation occurring in June/July 2010. The Climate Change Committee is expected to vote on the draft in July or September 2010 followed by a three month scrutiny by the EP and the Council. The document will then be adopted by the European Commission in December 2010.

DG ENV still assumes that no cross-sectoral correction factor will be needed. In relation to the discussion on the linear factor, DG Environment is currently consulting the Commission's legal services. TNO also gave a presentation on their final report on the GHG efficiency of industrial activities in EU and non-EU countries. The report was heavily criticised and industry deplored the lack of consultation. IEA and GNR data are, as far as the cement industry is concerned, completely ignored. The report concludes that the cement industry is not at risk of carbon leakage by simply comparing specific emissions in different regions of the world. Industry also added that carbon leakage should rather be assessed in terms of difference in constraints. In addition, CO<sub>2</sub> from transport should be taken into account from an efficiency perspective. Industry urged DG ENV not to publish the TNO report or at least to clearly highlight the caveats of the study. WWF, however, deplored the fact that the study was only released after the vote in the Parliament's Environment Committee.

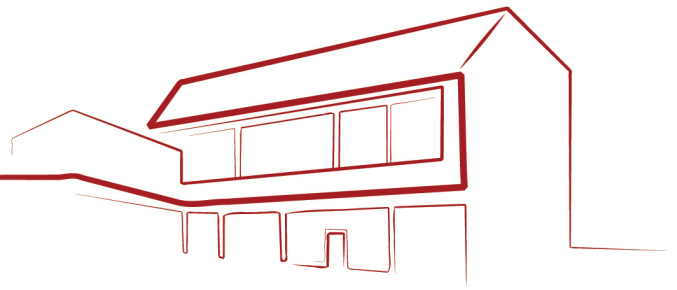
With regards to the ECOFYS report, CEMBUREAU welcomed the fact that clinker has been identified as the basis for the benchmark. The Association is nonetheless concerned about how to take biomass availability into account, and is also advocating a separate benchmark for white clinker.

The presentations from the meeting can be found here:

[http://ec.europa.eu/environment/climat/emission/benchmarking\\_agenda.htm](http://ec.europa.eu/environment/climat/emission/benchmarking_agenda.htm)

A CEMBUREAU delegation was also invited to a bilateral meeting with DGs Environment and Enterprise to further discuss details related to the cement industry. CEMBUREAU committed to speed up the GNR data collection for 2008 in view of providing the European Commission with updated distribution curves for the purpose of setting the benchmark (Gross CO<sub>2</sub> emissions per tonne of clinker).

The deadline set by the European Commission for sectors to register their interest in developing a product benchmark for transitional free allocation was 30 November 2009.



## EU EMISSIONS TRADING SCHEME

### Industry Committee holds exchange of views on ETS implementation

An exchange of views between the European Parliament's Industry Committee and the Commission on the implementation of the EU's Emission Trading Scheme (ETS) also took place earlier this month. The Committee heard that the preparatory work on benchmarking is on track, and that a Regulation on carbon auctioning should be adopted by the end of June 2010. Furthermore, any proposal to protect the carbon market against market abuse would be after 2010, and would go through co-decision.

## EU EMISSIONS TRADING SCHEME

### Sectoral approaches to emissions causing confusion

Sectoral approaches to cutting greenhouse gas emissions are still causing enormous confusion, according to the Cement Sustainability Initiative (CSI), a member-led programme of the World Business Council for Sustainability Development (WBCSD). While the EU has been a strong supporter of sectoral approaches, the EU's chief climate negotiator Artur Runge-Metzger recently warned that evolving the Clean Development Mechanism (CDM) from a project towards a sector-based approach could be difficult. Many countries, such as the US, are reluctant to subsidise large-scale efficiency improvements in developing countries. Nonetheless, the concept of nationally-tailored sectoral approaches, rather than global sectoral caps could feature in the text that emerges from Copenhagen.

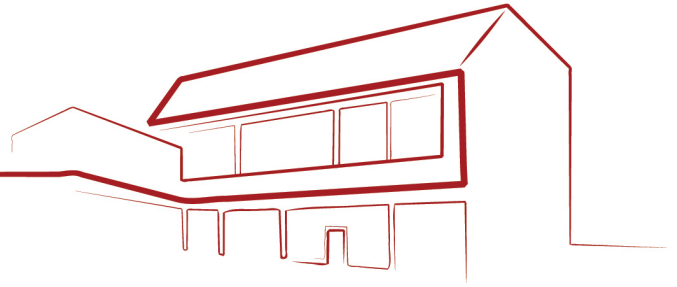
The CSI's briefing on a sectoral approach can be found here:

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

## ENVIRONMENT

### Negotiators aim for political breakthrough at Copenhagen

The biggest obstacle to achieving an agreement at the Copenhagen climate summit will be disagreements over emission reduction commitments and financing, says the EU's chief negotiator Artur Runge-Metzger. The United States, for example, wants to see its domestic legislation accepted at international level, while opposing any push to make the Kyoto protocol's principles underpin a new legally binding climate deal. There also remains disagreement over whether new institutions and a new fund for climate financing are required. It is likely that climate negotiators at Copenhagen will agree to a political rather than legally binding agreement on



climate change policy in December.

China has already announced that it will reduce by 40 to 45% its "carbon intensity" (polluting emissions per unit of GDP) by 2020, compared to 2005. The US has stated an emission reduction of 17% by 2020 (a drop of about 3% below 1990 levels), and 42% by 2030, compared to 2005. Nonetheless, India has yet to issue a clear statement on its reduction targets.

## ENVIRONMENT

### United Nations predicts delay over future climate change deal

The conclusion of a new greenhouse gas emissions treaty could take up to a year after next month's Copenhagen climate change summit, say United Nations officials. There appears to be growing acceptance that the divisions between countries will delay the signing of any binding treaty to succeed the Kyoto protocol. Copenhagen is now expected to produce a "political deal" rather than a definitive legal agreement. The current provisions of the Kyoto protocol expire in 2012.

## ENVIRONMENT

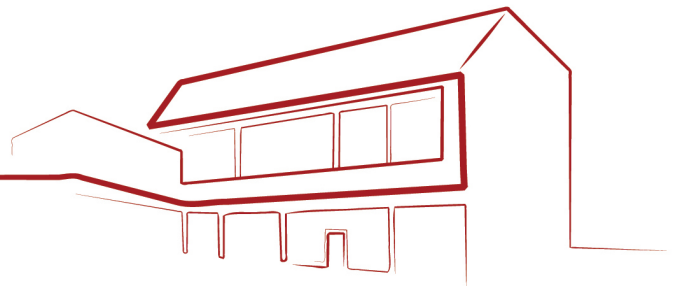
### Legally binding sustainability criteria for biomass unlikely

The European Commission is unlikely to come forward with a proposal that would make sustainability criteria for biomass used to generate heat and power legally binding. The Commission's DG Energy and Transport, which prepared a policy paper on the issue, has rejected the idea. It is likely instead that the Commission will publish a non-binding recommendation for Member States on the issue.

The Commission is, nonetheless, obliged to report on the need for a sustainability scheme for biomass used as energy by the end of this year, under the EU's new Directive on the promotion of renewable energy. There is also likely to be a review by the Commission in 2011 on the need for legally binding criteria.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:EN:PDF>



## ENVIRONMENT

### First European pollutant release register published

A comprehensive new European pollutant release and transfer register - called E-PRTR - was launched earlier this month by the European Commission and the European Environment Agency. The purpose of the register is to improve public access to environmental information. It contains information about the emissions of pollutants to air, water and land by industrial facilities throughout Europe, along with annual data for 91 substances. The register covers more than 24 000 facilities in 65 economic activities.

More specifically, information in the register covers 30% of total NO<sub>x</sub> (nitrogen oxides) emissions (i.e. most emissions from sources other than transport) and 76% of total SO<sub>x</sub> (sulphur oxides) emissions to air in the EU-27 countries and Norway. The website has a powerful search engine that allows visitors to search using one or more criteria and a map tool.

The register can be found here:

<http://prtr.ec.europa.eu/>

## ENVIRONMENT

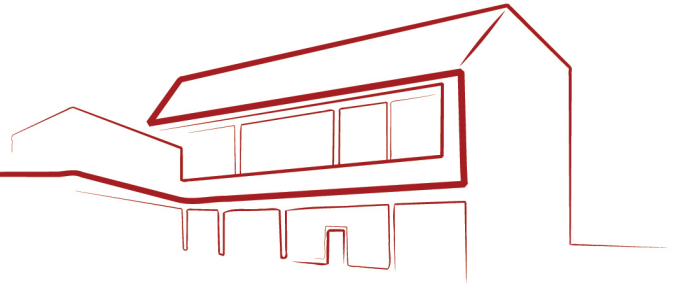
### Europe to benefit from climate action, says report

The recently published Report on Energy and Climate Policy in Europe (RECIPE) suggest that Europe could benefit from better climate protection even if no other countries join in, so long as a meaningful impact is made before 2020. The report, published by Allianz and WWF, suggests that while the creation of a low-carbon energy sector will cost Europe some 400 to 1 000 billion dollars annually until 2030, and billions more to help poor countries cut carbon emissions, doing nothing would be disastrous, financially and economically.

The RECIPE study can be found here:

[http://knowledge.allianz.com/nopi\\_downloads/downloads/RECIPE\\_synthesis\\_report.pdf](http://knowledge.allianz.com/nopi_downloads/downloads/RECIPE_synthesis_report.pdf)

## BUILDINGS & BUILDING MATERIALS



## Agreement reached on energy performance of buildings proposal

The European Parliament and the Council have reached a political agreement on the Commission's energy performance of buildings recast proposal. The compromise text, which was agreed on 17 November, must now be formally approved by the Council, before it is voted on by the European Parliament. This vote is scheduled for 8 March 2010.

Both the Parliament and Council agreed that all newly constructed buildings (commercial and housing) must be "nearly-zero energy" buildings as of 2020, though all new public sector buildings will have to be "nearly-zero energy" buildings by 2018. Existing buildings will have to improve their energy performance after major renovations if technically and economically feasible. The most significant improvement includes the removal of the 1,000 m<sup>2</sup> threshold for renovation in existing buildings.

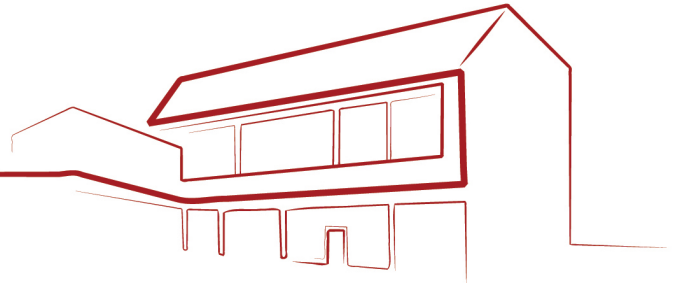
It was also agreed that Member States will have to establish a certification system to measure the energy performance of buildings. Certificates will be required for any buildings constructed, sold or rented out to a new tenant, and also for buildings where over 500 m<sup>2</sup> will be occupied by a public authority and frequently visited by the public. Five years after the legislation takes effect, this threshold will be lowered to 250 m<sup>2</sup>.

Financial incentives will be made available to implement the recast Directive, an issue that has proved to be a barrier to the proper implementation of the current Directive. Member States must, by mid-2011, make a list of financial and other incentives for the transition, such as technical assistance, subsidies, loan schemes and low interest loans.

Rapporteur Silvia-Adriana Ticău (Group of the Progressive Alliance of Socialists and Democrats in the European Parliament, Romania) said that the political agreement should help strengthen the EU's role in fighting climate change, most specifically at the forthcoming Copenhagen Conference. COREPER will meet on 19 November to endorse the final compromise, and Council intends to adopt a political agreement in the Energy Council on 7 December. Once adopted and published in the EU Official Journal, Member States will have two years to bring their national laws into line with the new Directive.

The original proposal for a Directive on the energy performance of buildings can be found here:

[http://ec.europa.eu/energy/strategies/2008/doc/2008\\_11\\_ser2/buildings\\_directive\\_proposal.pdf](http://ec.europa.eu/energy/strategies/2008/doc/2008_11_ser2/buildings_directive_proposal.pdf)



## BUILDINGS & BUILDING MATERIALS

### Parliament and Council reach informal agreement over energy labelling

The European Parliament and Council have reached an informal agreement on the Commission's energy labelling proposal. MEPS and Member States agreed that an extra category (A+++)  
should be added to the A-G scale but that the total number of energy classes should be limited to seven. Classifications will be rescaled when a third of the products in a category reach A++ category. Manufacturers will be obliged to indicate the energy consumption irrespective of whether the product performs well (dark green "A" class), or poorly (red "G" class), on this measure.

Most significantly, the energy labelling obligation will apply to energy-related products, including construction products, which do not consume energy but "have a significant direct or indirect impact" on energy savings such as window glazing and frames or outer doors. The technical details of the Directive, such as the energy classes of specific products, will be determined by a Commission working group.

The compromise text agreed upon in November still has to be formally approved by the Council before Parliament as a whole gives its final endorsement at the start of 2010. Once adopted and published in the EU Official Journal, Member States will have 12 months to adapt their national laws to the new EU rules.

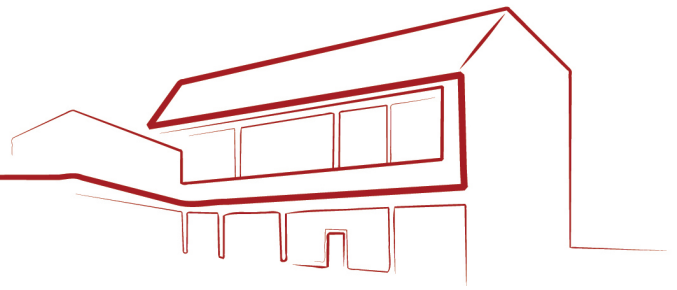
## WASTE

### New animal by products regulation published

Regulation (EC) No 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) was published in the EU's Official Journal (OJ) on 14 November 2009. The new regulation is aimed at introducing more risk-proportionate rules and at clarifying the rules on animal by-products, as well as their interaction with other EU legislation.

It includes the concept of an "end point" in the manufacturing of animal by-products, after which the processed products are no longer subject to the animal by-products regulation. Furthermore, once a product has become an animal by-product, it must not re-enter the food chain. A registration obligation is introduced for operators who transport animal by-products, in order to strengthen traceability.

The new regulation enters into force 20 days after its publication in the Official Journal of the EU and becomes applicable 15 months after its entry into force. The basic principles of the current



regulation on animal by-products, 1774/2002, however, remain unchanged.

The Regulation can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0001:0033:EN:PDF>

## HEALTH AND SAFETY

### CEMBUREAU identifies uses of (substances) in cement

Within the framework of REACH, substances have to be registered for specific uses. Following a consultation of CEMBUREAU members and contacts with upstream and downstream industry association sectors related to cement, a list of uses of components in cement was prepared. The description of the uses follows the codes which are given in the ECHA guidance document on Chemical Safety Assessment, chapter 12, use descriptor system ([http://guidance.echa.europa.eu/docs/guidance\\_document/information\\_requirements\\_en.htm?time=1258649944](http://guidance.echa.europa.eu/docs/guidance_document/information_requirements_en.htm?time=1258649944)).

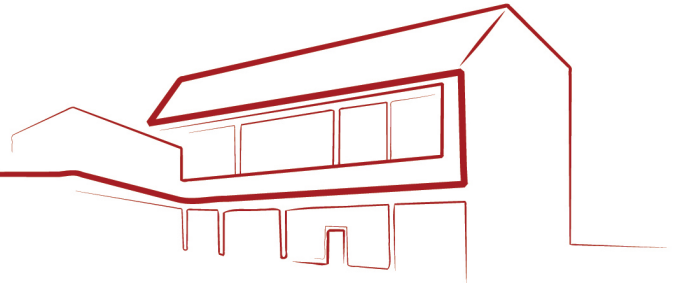
In order to ensure that components in cement will be registered for these uses by upstream suppliers of cement companies and to inform downstream customers of cement companies about the uses which will be considered in the registration dossiers, CEMBUREAU will send this list to several other organisations.

A document published by CONCAWE (Conservation of Clean Air and Water in Europe), gives an overview of the identified uses of petroleum products.

## HEALTH AND SAFETY

### REACH - Late pre-registration deadline for large volume substances passes

Companies that did not pre-register phase-in substances in manufactured or imported quantities over 1000t per year because they did not manufacture or import them before 1 December 2008, had until 30 November 2009 to complete a so-called late pre-registration. This means that they can still use the extended registration deadline of 1 December 2010 for phase-in substances that are manufactured or imported for the first time in the EU after 1 December 2008, provided the late pre-registration was achieved before 30 November 2009 (and within 6 months of first manufacture or import). After that date, the extended registration deadline is not applicable anymore, and companies hereafter will be obliged to complete a full registration before manufacturing or importing the substance (please see Art 28.6 of REACH).



CEMBUREAU has encouraged its members to contact the persons responsible for REACH implementation in order to ensure that all pre-registrations to cover manufacture or import of phase-in substances up to 1 December 2010 was done before 30 November 2009.

The Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:396:0001:0849:EN:PDF>

## HEALTH AND SAFETY

### Stakeholder consultation on Seveso II review

A stakeholder consultation to discuss the forthcoming proposal for a review of the Seveso II Directive with the Commission was held on 10 November 2009. A proposal for a revised Directive, which will undergo co-decision, is expected in 2010. During the consultation, a suggestion was made to extend the scope of the Directive to cover pipelines, railway stations, harbours and airports. CEMBUREAU feels that this is inappropriate, as it would create an overlap between existing international and EU legislation on transport of dangerous goods (rail, road, air, maritime and inland waterways) and legislation/certification covering security/safety in, for example, harbours.

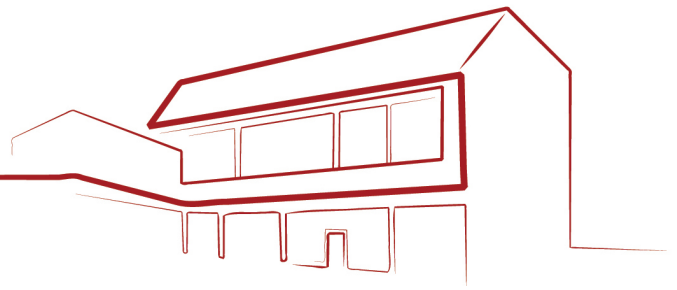
In addition, the Technical Working Group (TWG) on Seveso and GHS, which has been discussing necessary modifications to the Seveso II Directive following the adoption of the CLP Regulation since 2006, has issued an interim report. The aim of the TWG is to ensure that there is no reduction in the level of protection achieved by existing Seveso II Directive scope, and also that there is no unnecessary and significant extension of the scope of Seveso II Directive as a consequence of the GHS alignment, in order not to ensure that the burden on industry is increased. It is the intention of the Commission to maintain the application of the Seveso Directive to waste which exhibits the same potential in terms of major accidents as substances/mixtures in Annex I part 2 of the Seveso Directive.

The TWG report is expected to be finalised at the end of 2009 or the beginning of 2010. The TWG interim report is available here:

[http://ec.europa.eu/environment/seveso/pdf/twg\\_report.pdf](http://ec.europa.eu/environment/seveso/pdf/twg_report.pdf)

The Seveso Directive can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:345:0097:0105:EN:PDF>



## HEALTH AND SAFETY

### Consultation on draft guidance for harmonised C&L proposals

A draft guidance document for the preparation of proposals for harmonised classification and labelling (CLH) under Regulation (EC) 1272/2008 is being developed by ECHA and the European Commission on the basis of the Annex XV C&L guidance. Under the REACH Regulation, Member State Competent Authorities have been able to submit proposals for harmonised classification & labelling (Annex XV dossiers) in accordance with Title XI, but Title XI of REACH has recently been replaced by Title V of the CLP Regulation. This revised draft guidance therefore focuses on the new requirements under the CLP Regulation.

Compared to the former Title XI of REACH, the basic principles concerning proposals for harmonised classification and labelling are the same under Title V of CLP, except that the CLP Regulation opens up the possibility also for manufacturers, importers and downstream users to propose a harmonised classification and labelling. However, manufacturers, importers and downstream users cannot propose a revision of an existing Annex VI entry.

The draft guidance document from ECHA was under consultation until 24 November 2009 and can be found here:

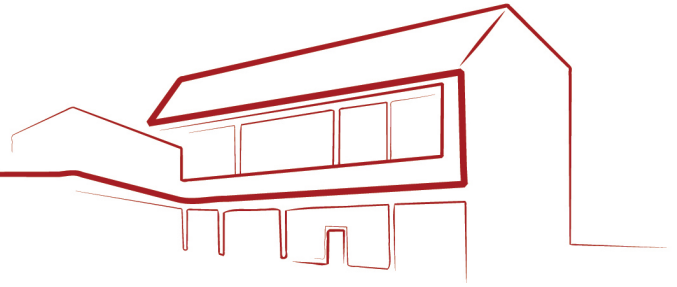
[http://guidance.echa.europa.eu/docs/guidance\\_document/ECHA\\_final\\_draft\\_clh\\_guidance\\_en\\_20091104.pdf](http://guidance.echa.europa.eu/docs/guidance_document/ECHA_final_draft_clh_guidance_en_20091104.pdf)

## CEMBUREAU

### CEMBUREAU participation in European Minerals forum

On 25 November, the European Minerals Forum was held in Brussels. The five topics discussed during this year's edition were:

- » Maintaining the Health, Safety and Quality of Life of all Stakeholders
- » Ensuring Access to Essential Raw Materials
- » Stimulating Investment in Sustainable Infrastructures
- » Meeting the Energy Efficiency challenge
- » Practically Stimulating Recycling of Construction & Demolition Waste



The Meeting the Energy Efficiency Challenge session was chaired by the European Concrete Platform, with CEMBUREAU Technical Director Claude LorÃ©a acting as rapporteur. All presentations will be available shortly on the European Minerals Foundation website:

<http://www.europeanmineralsfoundation.org/>

## OTHER NEWS

### New EU-US Energy Council launched

A new EU-US Energy Council, which aims to deepen transatlantic dialogue on strategic energy issues, has been launched. The Energy Council will study diversification of energy sources, such as through increased use of liquefied natural gas (LNG), solar power, wind power and biofuels, and the use of nuclear power. It will also discuss how to effectively promote global energy security on the basis of transparent, stable and non-discriminatory global energy markets and diversified energy sources. The work of the Council will be structured through working groups of senior officials from both sides that will focus on three specific areas: Energy Policies, Global Energy Security and Global Markets and Energy Technologies Research Cooperation. The Council plans to meet annually.

A declaration from November's EU-US Summit, which announced the launch of the EU-US Energy Council, can be found here:

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/110929.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/110929.pdf)