

Eurobrief May 2010

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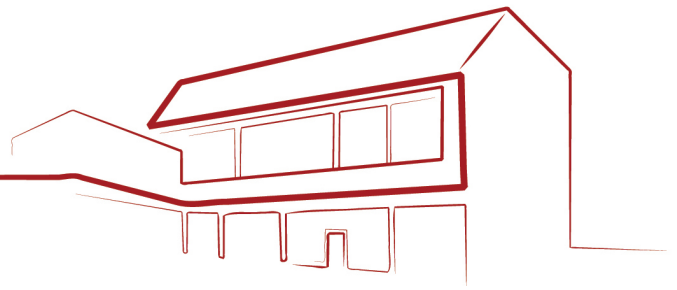
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EDITORIAL

EU Climate Change target: the European Commission brought to reason

Commissioner Hedegaard's attempt to prompt the EU to move unilaterally Greenhouse Gases reduction target from a minus 20%, compared to 1990, to a minus 30% attracted furore from all manufacturing industries. This attempt was thwarted as, on 26 May, the College of Commissioners adopted a much watered down version of the announced Communication. This is reflected in the change of the title from "Unlocking Europe's potential in clean innovation and growth: Analysis of options to move beyond 20%" to "Analysis of options to move beyond 20% greenhouse gas emission reductions and assessing the risk of carbon leakage" as well as in the action-oriented main conclusions.

A few Member States, France, Germany, Italy and Poland in particular, had made it clear that they would not support going for a further reduction now and, within the European Commission, the Commissioners for Energy, Mr Oettinger, and for Industry & Entrepreneurship, Mr Tajani, were also opposed.



CEMBUREAU welcomes the Communication in that it confirms 3 key points which are advocated by CEMBUREAU:

- » the conditions for a unilateral move by the EU from a minus 20% to a minus 30% reduction target are not yet met;
- » free allocation of allowances to energy intensive industries at risk of carbon leakage remains justified;
- » the possibility of a border tax adjustment is not completely excluded in the future but this would be as an alternative to free allocation and is therefore on the European agenda for the moment. At page 12, the Commission states that inclusion of importers in the ETS "could at best only be envisaged for a limited number of standardised commodities, such as steel and cement". On the first two points, the Commission has wisely heeded the arguments raised by the manufacturing industries, included CEMBUREAU. It must be kept in mind, however, that the assumptions made in the Communication, especially regarding the development of green industries and the analysis made the Commission of the carbon leakage risk were meant to underpin a different conclusion and are still there! Industry must therefore maintain its effort to demonstrate the flaws in the Commission's analysis and to argue the merits of its own case.

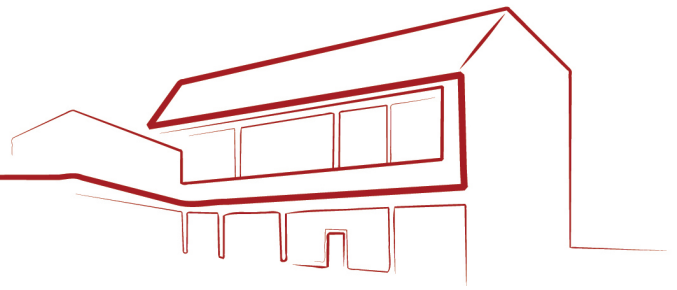
On the last point - inclusion of importers - it looks like EUROFER's and CEMBUREAU's message has been heard. It remains, however, that today the way to tackle the risk of carbon leakage is and will, for the time being, remain free allocation.

ENVIRONMENT

Environment Committee adopts IPPC Recast (IED) Second Reading report

Parliament's Environment Committee adopted the Draft Recommendation for Second Reading on the Integrated Pollution Prevention and Control (IPPC) Recast on 4 May 2010, by 40 votes in favour to 13 against.

The Committee agreed on stricter conditions for deviating from best available techniques (BAT). Operators of IPPC installations would only be able to deviate from BAT in "exceptional" cases, provided certain conditions are met; operators must be able to prove that they cannot apply BAT because of technical characteristics and because it would lead to "disproportionately high costs". The Committee also backed Mr Krahmer's proposed minimum emission limit values for industrial sectors with a high environmental impact or where BAT is not properly implemented. The adopted recommendation states that limits should be decided through the co-decision procedure, following



sectoral assessments.

Rapporteur Holger Kraemer (ALDE, Germany) said that the recommendation adopted by the Committee was a good start for negotiations with the Council of Ministers, due to begin shortly. A plenary vote in Strasbourg on the IPPC Recast is scheduled for 6 July 2010.

CEMBUREAU, together with other industry sectors, is advocating that it is important to understand and recognise that not all specific situations across Europe can be captured within the range of the Best Available Techniques Associated Emission Levels (BATAELs), as required under Article 15.3 (setting of emission limit values for permitting). CEMBUREAU thus supports derogations in specific cases, where justifiable - and does not support "in a limited number of specific cases" as it would introduce legal uncertainty on its actual meaning.

In addition, and in relation to the Union Wide Minimum Requirements (Article 13.5) CEMBUREAU prefers the BAT application with the possibility of a justified derogation in specific cases, rather than uncertain minimum requirements.

The draft recommendation for a second reading can be found here:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-430.626+02+DOC+PDF+V0//EN&language=EN>

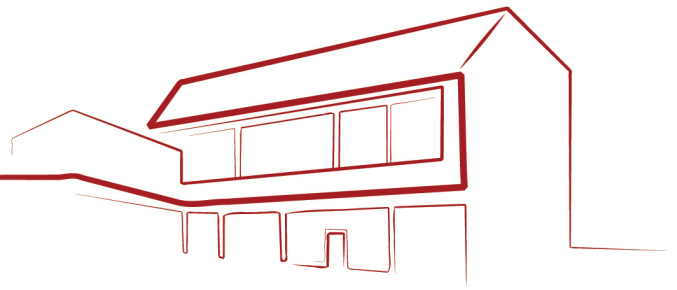
The draft compromise package proposed by Holger Kraemer can be found here:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/envi/dv/814/814654/814654en.pdf

EU EMISSIONS TRADING SCHEME

Green / EFA group report questions carbon leakage criteria

A report commissioned by the Greens/EFA group in the European Parliament claims that only 13 industrial sectors in Europe are "truly" at risk of carbon leakage, and that the criteria for deciding which industry sectors should qualify as being at risk of carbon leakage is questionable. The study claims that the European Commission's single trade intensity criteria has resulted in a list of sectors that is too long, and does not reflect the leakage potential at a sectoral level. Using the Emission Trading Directive criteria, 164 sectors are considered to be at risk of carbon leakage. However, the criteria laid down in the Directive are deemed essential by all Energy Intensive Industries, including CEMBUREAU.



The cement industry qualifies as a sector vulnerable to carbon leakage, not on the basis of trade intensity, but because of our increased cost directly and indirectly induced by the Emission Trading Scheme (ETS) of 45.5% of GVA in excess of the 30% criterion in the ETD.

The report on carbon leakage can be found here:

http://www.stopclimatechange.net/fileadmin/bali/user_upload/docs/CS_greens_group_final_May_19.pdf

EU EMISSIONS TRADING SCHEME

French Ministry concern over carbon auctioning platform plans

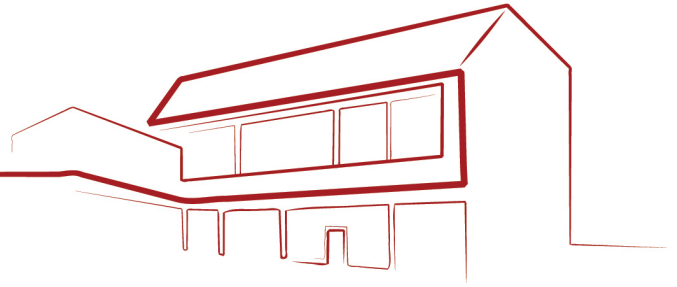
The French Environment Ministry has warned that establishing more than one platform for auctioning EU carbon allowances from 2013 could damage the carbon market. In April, the European Commission proposed a single, centralised auctioning platform with an opt-out clause for Member States allowing them to establish their own national schemes. The French Environment Ministry, however, has warned that having multiple platforms could raise the cost of auctioning and even open the door to fraudulent activities.

The Ministry told a recent conference in Brussels that if there is to be an opt-out, stronger measures will be needed to ensure that fraudulent practices are stamped out. The European Commission remains hopeful that Member States will reach an agreement on the rules before the summer. This draft regulation on auctioning EU carbon allowances will set rules for auctioning in the EU's Emissions Trading System (EU ETS) from 2013.

The Commission proposal for a regulation can be found here:

http://ec.europa.eu/environment/climat/emission/pdf/proposed_auctioning_reg.pdf

EU EMISSIONS TRADING SCHEME



Commission launches consultation on new energy strategy

A consultation on a new energy strategy has been launched by the European Commission, asking stakeholders to outline ways in which existing legislation can be better implemented over the next ten years. The consultation, which runs until 2 July, touches on the Emissions Trading Scheme (ETS), renewables and energy security issues. Stakeholders' input will be analysed and included in the strategy, which will be put to the European Council in March 2011. The proposed strategy would cover the period 2011-2020.

A stock-taking document on the proposed new energy strategy can be found here:

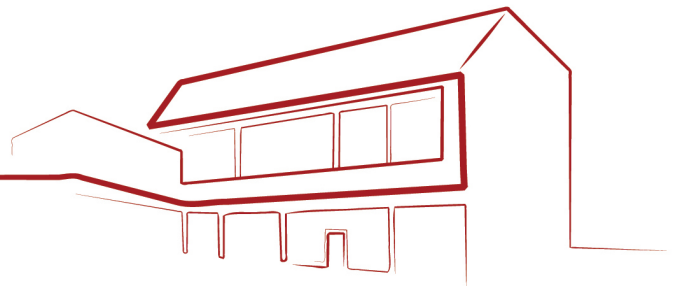
http://ec.europa.eu/energy/strategies/consultations/doc/2010_07_02/2010_07_02_energy_strategy.pdf

Greenhouse gas emissions from EU industries participating in the EU Emissions Trading System (EU ETS) fell 11.6% last year compared to 2008, according to information provided by Member States. This drop in emissions is in line with widely held expectations, given reduced economic activity caused by the recession.

The data, recently published by the European Commission, also shows that only a small percentage – 4% - of carbon allowances submitted by European companies in 2009 under the EU's Emissions Trading Scheme (EU ETS) were generated through the Kyoto's flexible mechanisms: the Clean Development Mechanism (CDM) and Joint Implementation (JI). Furthermore, EU companies have only used about 12% of the 1.4 billion Kyoto credits available to them during the EU ETS's second trading phase. The second trading period of the EU ETS began on 1 January 2008 and runs for five years until 31 December 2012. This is because lower emissions have enabled industry to meet their emission caps relatively easily. Only a few industrial installations covered by the ETS failed to surrender enough carbon allowances to cover their 2009 emissions by the 1 May deadline.

In fact every single EU country reported a decline in emissions last year compared to 2008, according to Commission figures. Biggest reductions were recorded in France, Germany, Italy, Spain and the UK.

Nevertheless, the Irish Environmental Protection Agency (EPA) has warned that Ireland could fall short of its greenhouse gas emission reduction target for 2020 under the EU Emissions Trading System (EU ETS). The EPA says that the country's non-ETS sectors are scheduled to emit 7.5% more CO₂ per year than it should by 2020, despite the



economic crisis. Ireland nonetheless plans to comply with its Kyoto target for 2012 by using leftover carbon allowances in the ETS's new entrants reserve, rather than buying more Kyoto credits.

The Irish EPA Report can be found here:

http://www.epa.ie/downloads/pubs/air/airemissions/EPA_GHG_Emission_Projections_2010.pdf

A progress report on climate finance commitments made by EU Member States and the European Commission to developing countries for the period 2010-12 was adopted by European finance ministers earlier this month. The report says that the EU is "on track" to meet its €2.4bn climate funding pledge. Some 25 Member States have made individual commitments, though the report declines to detail how much funding each country has pledged.

The Council of Ministers Progress Report can be found here:

<http://register.consilium.europa.eu/pdf/en/10/st09/st09437-re01.en10.pdf>

A report conducted by former EU Internal Market Commissioner Mario Monti says that EU standards for measuring and auditing carbon footprints are vital if Europe is to create a proper functioning single market for green products. The report, which has been submitted to European Commission President José Manuel Barroso, also calls for a better regulatory framework in order to encourage renewable energy sources and smart-metering. The report also warns against a raft of national approaches to low-carbon technologies, which risk fragmenting the market.

The Monti report can be found here:

http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf

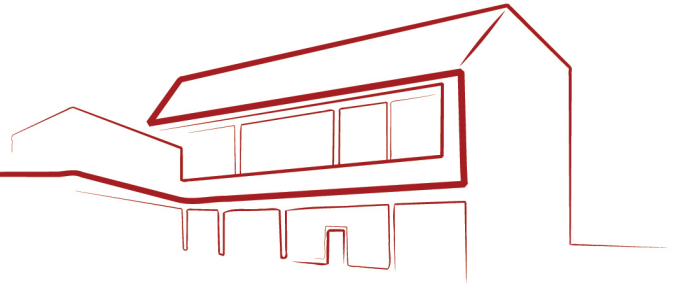
ENVIRONMENT

Convention on Biological Diversity report examines biodiversity loss

The Convention on Biological Diversity claims that insufficient attention has been paid to the causes of biodiversity loss. In a new report, it claims that the result has been a failure to meet global targets of significantly reducing the rate of biodiversity loss by 2010. The report recommends a new global strategy to protect biodiversity from 2011 onwards.

An executive summary of the report can be found here:

<http://www.cbd.int/gbo/gbo3/doc/GBO3-Summary-final-en.pdf>



ENVIRONMENT

Some Member States to exceed 2010 NOx emission caps

Latest estimates published by the European Environment Agency (EEA) suggest that 11 Member States are likely to exceed their 2010 NOx pollutant caps as set out in the National Emission Ceilings directive (NEC). Austria, Belgium, France, Ireland, Luxembourg, Malta and Spain are expected to exceed their national NOx ceilings by more than 10%. Germany, Slovenia, Sweden and the UK are expected to exceed their ceilings by less than 10%, according to the EEA.

An EEA press release can be found here:

<http://www.eea.europa.eu/highlights/europe-to-exceed-air-pollutant>

BUILDINGS & BUILDING MATERIALS

Political agreement reached on Construction Products regulation in 1st reading

The Competitiveness Council reached on 25 May 2010, by qualified majority, a political agreement on a draft regulation updating the conditions for the marketing of construction products in the internal market, the successor to the Construction Products Directive. The text will be forwarded to the European Parliament for a second reading under the Council-Parliament ordinary procedure (co-decision).

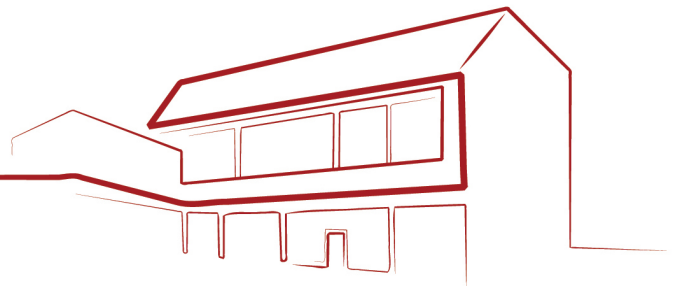
BUILDINGS & BUILDING MATERIALS

Parliament adopts 2nd reading on energy performance of buildings Directive

The European Parliament adopted its opinion in second reading on the proposal for a Directive on energy performance of buildings on 18 May 2010. As no motion to reject the Council's common position nor any amendment were tabled, the second reading opinion was approved without a vote. The adoption closes the procedure and the Directive will now be published and enter into force.

The agreement reached between the Parliament and Council on the Directive is the following:

- » The 1000 m2 threshold for refurbishing buildings was removed.



» Concerning the substance of the proposal as agreed on 17 November 2009, Parliament and Council agreed that in 2020, all new buildings (commercial and households) will have to be "nearly-zero energy" buildings.

» In 2018 all new Public sector buildings will have to be "nearly-zero energy" buildings.

» Financial incentives will be made available to implement the Directive. Furthermore, the Commission is committed to examining the appropriateness of increasing the threshold in the Structural Funds for housing.

» A possibility to upgrade existing buildings to "nearly-zero" energy buildings has been inserted in the text.

» A voluntary EU certification scheme for the non-residential sector will be established.

BUILDINGS & BUILDING MATERIALS

Parliament adopts 2nd reading report on energy labelling

The European Parliament adopted its opinion in second reading on the proposal for a Directive on energy labelling on 19 May 2010. As no motion to reject the Council's Common Position, nor any amendment were tabled, the second reading opinion was approved without a vote. The adoption closes the procedure and the Directive will now be published in the EU's Official Journal, and enter into force.

Initially this Directive was meant to apply only to household appliances. Its scope, however, is now broadened to include other energy related products among which some construction products.

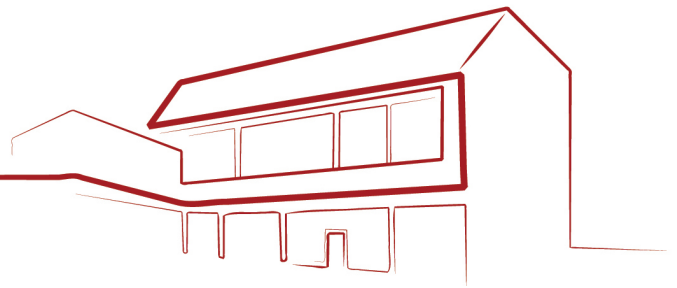
The scope will in fact be aligned with that of the Eco-design Directive approved on 21 October 2009 (2009/125/EC).

Incentives are to be given to the use of energy labelled products in public procurement and criteria for Green Public Procurement (GPP) will be defined.

At the moment, there are 10 product groups that have been identified:

» Boilers

» Combined Heat & Power



- » Air Conditioning & Heat Pumps
- » Thermal Insulation
- » Hard Floor Coverings
- » Windows
- » Wall Panels
- » Street Lighting & Traffic Signals
- » Road Surfacing Materials & Road Signs
- » Mobile Phones

The European Commission is expected to produce GPP criteria in respect of each of the above product groups by the end of June 2010. CEMBUREAU will thus continue to monitor and take necessary actions in this field.

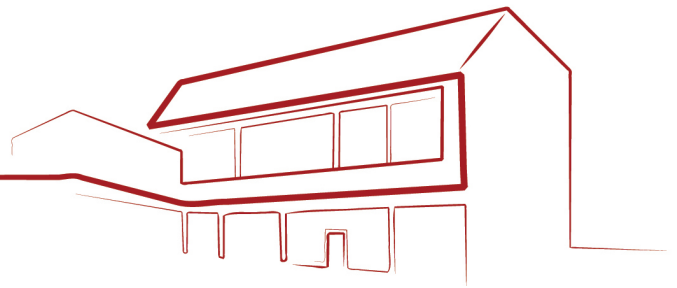
HEALTH AND SAFETY

Commission study on REACH enforcement

A study conducted by Milieu, commissioned by the European Commission regarding REACH enforcement by the Member States, has been published. The report, entitled "Report on penalties applicable for infringements on the provisions of the REACH Regulation in the Member States", is based on the contractor's analysis of Member State provisions for REACH enforcement penalties notified to the Commission, and subsequent feedback from Member States' Competent Authorities. The final report does not address how the penalties are implemented in practice or which are the enforcement cultures and approaches towards enforcement in the different MS (for example the extent to which maximum available fines would be applied) as not much experience with penalties for REACH enforcement is at hand.

Further activities regarding REACH enforcement include Member States' reports on the operation of REACH (required by Article 117(1), sections on Evaluation and enforcement) and the work of the Forum for the Exchange of Information on Enforcement, in particular the results of the Forum's harmonised enforcement projects.

More information can be found here:



http://ec.europa.eu/environment/chemicals/reach/enforcement_en.htm

HEALTH AND SAFETY

REACH: Guidance on Waste and recovered substances published

The final version of the Guidance document on REACH and Waste and recovered substances has been published by ECHA. The document:

- » Explains which information is necessary to benefit from the exemption from Registration for recovered substances and where the information can be obtained

- » Explains the obligations for the manufacturers of recovered substances under REACH

- » Contains an appendix with examples of recovered materials - it contains a substantial section on recovered aggregates and mentions that aggregates from C&D waste are to be considered as articles

The guidance document is available from here:

http://guidance.echa.europa.eu/docs/guidance_document/waste_recovered_en.pdf

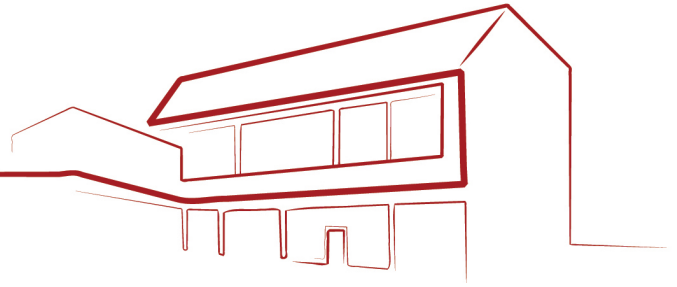
HEALTH AND SAFETY

New REACH Annex II on SDS published in Official Journal

The Commission Regulation No 453/2010 of 20 May 2010 amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) was published on 31 May 2010 in the Official Journal. This Regulation contains the new version of Annex II of REACH with updated requirements for the Safety Data Sheets (SDS).

There are two versions of the Annex II, one to be used as of 1 December 2010 and the second to be used as of 1 June 2015, in line with the staggered entry into force of the Regulation on Classification, Labelling and Packaging of Substances and Mixtures.

The templates for the new SDS for clinker and cement which CEMBUREAU is preparing, will be



in line with this new requirements for SDS.

WASTE

Commission publishes communication on future of biowaste rules

The European Commission has identified several priority areas for strengthening existing waste legislation in a recently published Communication on the future of biowaste policy. The policy paper suggests that increasing biowaste recycling and recovery could deliver significant environmental benefits, such as saving 10 million tonnes of CO₂. This represents a 4% contribution to a 10% reduction target for 2020 in sectors outside the EU's Emissions Trading Scheme (EU ETS).

The Communication can be found here:

http://ec.europa.eu/environment/waste/compost/pdf/com_biowaste.pdf

CEMBUREAU

CEMBUREAU responds to Commission public consultation on the review of the European Standardisation System

From the start, CEMBUREAU expressed doubts at the apparent urge of the European Commission to overhand the standardization process (see [Editorial April 2010 Eurobrief](#)).

Earlier this month, CEMBUREAU responded to the European Commission's public consultation on the review of the European Standardisation System, highlighting that, the major added values in European standardisation with respect to national standardisation are the reduction of barriers to trade and the reduction of testing costs.

For the cement industry, the main priority is not the time needed to prepare standards. The main priority is, and should always be, the quality of the standard.