EFTA STUDY ON CERTIFICATION AND MARKS IN EUROPE

Executive Summary of the final report

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- Study commissioned by:
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  Study completed December 2007

- Cover: STOCKXPERT

- Printed by Drifosett, Brussels
  Layout by Orangemetalic

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Acknowledgements
The authors wish to thank staff and representatives from the organisations listed in Annex I for their assistance during the compilation of this report.

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For the purpose of this study the following definitions have been used:

Mark: A symbol affixed on a product in accordance with a certification scheme that may operate in one or several European countries. These marks are sometimes referred to as quality, safety, private or voluntary marks. For the purpose of this study, "mark" does not include labels on (bio)food, or those affixed on a product solely for ethical or environmental reasons.

European marks: Marking schemes that operate at European level, eg the Keymark.

CE marking: Signals the conformity of the product with the applicable EU requirements imposed on the manufacturer.

Conformity assessment: Includes activities such as testing, measuring, inspection, certification, etc.

Certification: The issuing by a third party of a certificate of conformity with rules and standards. This may, or may not, lead to the affixing of a mark.

Mutual recognition arrangement: An arrangement between certification bodies to accept the results of different services, eg certificates, carried out by each other.

Standard: Standard developed by organisations like ISO or IEC, CEN or CENELEC, or by a national standardisation body in an EEA State.

EEA: The European Economic Area consisting of the 27 EU member states, Iceland, Liechtenstein and Norway, throughout which the same harmonised rules and standards apply to products. (With regard to agreements between the EU and Switzerland, see the Annexe II).

Readers that want to refresh their knowledge about the European Economic Area (EEA) and key concepts in the area of the free movement of goods may find information in Annex II.

1. Why a study on certification and marks?

Products with marks affixed to them are literally everywhere. Just check any office desk. Marks will probably appear behind a flat screen, under a laser mouse and even under some paper punchers. In a house, eg in the kitchen, in the garage or in the children's rooms, the chances are that there will be dozens of products with such markings. Very often, such symbols are somewhat hidden on the products.

Most of the marks will not necessarily mean anything to a consumer. One - the CE marking - may be familiar. CE marking is a declaration by the manufacturer that a product meets all the applicable legal provisions set by the European Union. One European rule and one test (when required by legislation) are behind the CE marking. In short, the CE marking should be equivalent to a "passport" for products in the European Internal Market.

Often, other less broadly known marks are affixed next to the CE marking, at national level, at regional level or at European level. A Norwegian mark may be familiar to a Norwegian, but not to a German. Although familiar, it may not be correctly understood by consumers.

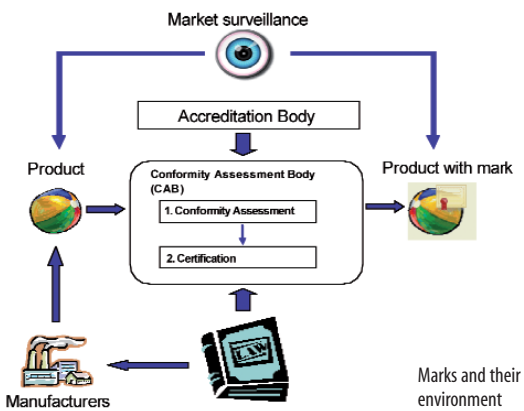
Why is this the case? What is the purpose of such marks? What is their meaning? Are they useful, to whom exactly? Are there too many or too few of them? What is the business behind such marks?

Certification may be mandatory to manufacturers, or used voluntarily, to contribute to placing safe products on the Internal Market. Are there, from an Internal Market and consumer perspective, any problems related to certification and marks? For a manufacturer whose product becomes the subject of multiple or unnecessary testing and marking at national level, this can become a barrier to trade in the Internal Market; in particular for smaller manufacturers. The extra costs created by multiple or unnecessary testing and marking may simply be reflected in higher prices for consumer goods and capital goods.

Against this background, the European Free Trade Association (EFTA) commissioned a study with a view to shedding light on certification leading to the affixing of marks, with special emphasis on what is happening at national level. Schemes operating at European level were also to be studied. The main objective of the study was to create a better understanding of crucial parts of the market for marks in Europe. The reported findings provide new facts and some interesting answers to the questions raised above.

The toy company Mattel recently had to withdraw millions of unsafe toys from the market. The political discussions this raised have demonstrated the relevance of this study. On 26 September 2007, the European Parliament voted a resolution urging *"the Commission to assess the added value of creating a common European Consumer Safety Label, complementary to the CE marking, to be used by all economic operators, thus helping the consumer to make an informed choice between products."* The Parliament underlined *"that this European Consumer Safety Label must be voluntary and, when adopted by a producer, should replace all national safety labels"*.

It is not the intention to give a complete and final answer to all the questions raised above. It is, however, hoped that the outcome of the study will contribute to an in-depth discussion on certification and marking, and eventually to new proposals aimed at further facilitating the free movement of goods and ensuring the safety of consumers.



2. Methodology

The study was made using a qualitative research approach; statistics were not collected. An initial literature review and internet searches were followed by more than 100 interviews with manufacturers, consumers, other stakeholders and industry bodies. Findings from the initial research and interviews were reinforced by further desk research.

Out of the sheer numbers of products placed on the Internal Market and the number of marks affixed on products, a selection had to be made. This study focused on marks attached to five products from representative goods sectors, selected in consultation with representatives of the major stakeholder groups. Firstly, two typical individual consumer product types were screened for marks: microwave ovens and a variety of toys. Secondly, two typical product types mainly supplied to companies were carefully analysed: power tools and personal protective equipment. Thirdly, the research team focused on thermal insulation material that is mainly purchased by construction companies. Finally, two product sectors applying specific European-wide marking schemes - solar panels and alarm equipment - were assessed for signs of success and hints of failure. Inevitably, the Keymark (owned by CEN and CENELEC, two European standardisation bodies) was also studied.

A geographical selection had to be made. With regard to the products referred to above, the study focused on France, Germany, Norway, Spain and the UK.

Starting with products that had a mark affixed, research was conducted using a two-step approach. As a first step, after having selected a product, the manufacturer was interviewed and asked for the company's motivation behind using certification and having a mark affixed to the product. As a second step, based on the answers provided, the research team contacted representatives of the various stakeholders cited by the producer (insurers, consumers, distribution channel, authorities, etc.) in order to get their views as to why they demand certification and marking from manufacturers. Certification bodies were also contacted. The manufacturers of products that had no mark other than the CE marking were also interviewed, to seek the reasons for not affixing additional marks.

In addition, the research team contacted organisations representing different stakeholders such as certifiers, manufacturers, distribution channels and SMEs. Discussions were also held with the European Standardisation Bodies responsible for the Keymark.

3. Typology of marks and certification

The expressions quality, safety, private or voluntary are frequently used to describe marks that have been affixed to products in addition to CE marking. They are usually affixed following the certification of the product against published specifications. Certification can mean that just one sample is tested; this is often referred to as "type testing". Certification can be much more than just testing one sample. It may also include ongoing auditing of the factory where the product is manufactured and occasional re-testing of current production samples to ensure that conformity is maintained. It is this latter type of certification that more usually leads to the affixing of marks.

Some voluntary marking schemes can become de facto requirements, ie when an apparently voluntary requirement has become effectively involuntary. The study revealed that this is the case for some construction products.

It follows from EEA product legislation that a mark affixed alongside the CE marking must not mislead third parties as to the meaning and form of the CE marking. A mark which signals conformity only with the same requirements as the CE marking is not permitted. As a consequence, a mark affixed alongside the CE marking must signal conformity with requirements that differ, in whole or in part, from those behind the CE marking. The nature, type and the degree of difference from those behind the CE marking is, however, not clear.

Consumers are increasingly looking for a more recent type of mark or labelling; those signalling conformity with ethical or environmental requirements. The number of marks and labels on (bio) food is also increasing. Although such marks are not a part of this study, it is hoped that the findings presented could also shed light on discussions on those marks.

4. The main issues emerging from the study

The main issues and findings emerging from the study, which will be further described in the next chapter, are as follows:

- Certification and marking in Europe is a confused market
- Manufacturers do not always affix a mark to a certified product
- Is the CE marking "winning"?
- Will the big certifiers drive down the cost of certification and marking?
- Relocation of production gives a new boost to certification and marking of consumer products
- SMEs are hit hardest by multiple certification and marking
- Are consumers looking for marks?
- Consumer organisations don't trust marks
- Manufacturers more frequently seek voluntary certification for consumer products
- Mistrust in the CE marking drives certification
- Is there a future for European marks?
- …. or is the GS Mark winning for consumer products?
- (In)voluntary certification and marks at national level still rule for construction products

5. Characteristics and trends in the European market for marks - main findings of the study

The definitions given at the beginning of the report are important and should be noted.

The following is a summary of the main findings of the study. The findings concerning certification and marks at national level are, inter alia, based on the **product sectors studied in the selected countries (see Chapter 2 above), and should not be automatically presumed to apply to all product sectors covered by EEA legislation. Furthermore, there may be variations within each of the product sectors studied that have not been covered by this study.** Findings from the Construction Products sector are reported separately at the end of this section.

5.1 Certification and marking in Europe is a confused market

There are several thousand certification bodies in Europe. Many operate marking schemes. In the absence of mutual recognition arrangements, certification of the same product may need to be repeated in several countries. Or, if a certificate is accepted in another country, it may still be necessary to pay extra licence fees for the affixing of an equivalent mark in that country.

The conformity industry in Europe estimates the market for its services (product, service and systems certification, testing, accreditation, etc.) to exceed €5bn per annum. For the 21 New Approach Directives providing for CE marking alone, there are 1900 Notified Bodies performing conformity assessment. Given the number of certification bodies, and different kinds of services offered, it can be concluded that this is a very fragmented service industry. The lack of detailed statistics for this market makes it even more difficult to describe.

Given the vast changes in manufacturing that have taken place with the development of the Internal Market, it is perhaps surprising to see that certification bodies have continued to maintain a high level of national identity. Many, it seems, remain active at their national level with relatively little progress seemingly being made towards the development of meaningful mutual recognition arrangements. Under such arrangements, services undertaken by one certification body working at national level will be recognised and accepted by the equivalent bodies in other European countries.

Whilst CE marking provides a product's "passport" and enables it to be moved freely within the Internal Market, the same cannot necessarily be said of any "voluntary" certification that the product has been awarded. In some cases, notably in the electro technical sector, mutual recognition arrangements for certification of products exist. Yet these do not extend to the licensing of marks at national level. So, although the basic certification might be accepted, additional costs are encountered in obtaining the licence to use the mark appropriate to the country where the product is to be sold.

The licence fees are set by the owner of the mark. Sometimes the owners are the certifiers, eg the British Standards Institution owns the Kitemark, and they are free to set any price they choose (and the market will bear) for their "private" mark. In other cases, such as the ENEC European mark, there can be a choice of certifying bodies and the potential for a competitive offer.

The licensing of the mark usually includes a service in which the certifying body undertakes ongoing factory surveillance and regular testing of samples taken randomly from the market place. The cost of licensing a mark can be low (10-20%) in proportion to the fees required for product testing as part of certification. By way of illustration, the costs of marking have been estimated at € 2000-4000. This is a low per-product cost when spread out over thousands of samples but could be a significant on-cost if spread out over a relatively small (<1000) number of samples.

5.2 Manufacturers do not always affix a mark to a certified product

With the exception of the construction product sector, industry experts estimate that 95% of products for which CE Marking is applicable fall under a conformity assessment module, allowing manufacturers to self-declare the products' conformity without requiring certification. Where voluntary certification is used in connection with a self declaration, it does not follow that a mark (in addition to the CE marking) will be affixed to the product since use of a mark is optional.

The New Approach regulations define the rules for affixing the CE marking. Conformity assessment relates to the design and production phases of the product and provides for eight different modules (A-H) that define whether the manufacturer can affix the CE marking under a Suppliers Declaration of Conformity (SDoC) or whether a third party needs be involved (use of Notified Bodies).

Behind the choice of the conformity assessment module(s) to be applied in individual product sector legislation lies a risk assessment. The higher the risk, the more stringent the requirement as to the involvement of third party accreditation (or product testing or factory inspection), before a CE marking can be affixed to a product.

Only module A, internal production control, permits the use of an SDoC. According to sources within Eurolab - the European Federation of National Associations of Measurement, Testing and Analytical Laboratories - the majority of products (excluding construction products) under the New Approach fall into the Module A category. This means that there is no legal requirement for the manufacturer to engage the services of a Notified Body in order to place those products on the European market. The SDoC is sufficient; any use of certification is voluntary.

A mark on a product, in addition to the CE marking, is the visible sign that the product has been certified. However, the requirements behind the certification may not be easily accessible to, eg a consumer. Excluding situations of a mark being counterfeited, there should be no mark unless certification has taken place. Yet certified products do not necessarily carry the mark of the certifier, since the affixing of the mark is an optional choice for the manufacturer, involving extra expense.

Many manufacturers who have their Module A products voluntarily certified do not always affix the certifier's mark to the products (see Chapter 5.9). There are a number of reasons for this. Affixing the mark can add to the cost of certification without providing sufficient marketing value to justify the additional cost. Where there is a demand from the market for certification, this can often be satisfied through providing separate proof of certification. For example, some distributors prefer to have a copy of the product's certification on file rather than simply relying on the marking affixed to the product.

5.3. Is CE marking "winning"?

For the product sectors studied, CE marking is increasingly the only marking found. Where additional marking is found, in most cases there is only one mark, amongst which the German GS Mark is prominent.

In some product sectors, eg the electro technical sector, there has been a history of multiple marking at national level in Europe. It would not have been unusual 20 years ago to have found 15 different marks from European countries on the rating plate of an electrical appliance. With the exception of construction products, this has changed. Most manufacturers interviewed during the study confirmed that they are no longer affixing any marks other than CE marking for the European Market. In the words of a leading figure from the conformity industry "the multi-mark market is dying away". Where they are adding marks, it is normally just one.

The main reason given for the decline in use of marks is that the market requires them less (though it may

still require that the product be certified). Where a mark is being used, it is primarily because of customer demands. Notable amongst these are demands from the German market for the GS Mark, which is required by some distributors for certain categories of products, such as power tools.

5.4 Will the big certifiers drive down the cost of certification and marking?

Certifying bodies have increasingly become more international. Some have opened facilities in a number of European countries (often through acquisition) and close to manufacturing plants in Asia. This can lead to advantages for manufacturers, due to cross border mutual recognition within a certifying body, though it may still be necessary for the manufacturer to pay the extra licence fees for marks.

At first sight, many of the familiar names of certification bodies that were active at national level 20 years ago are still there – as are their marks. Behind these familiar names, though, some substantial market changes can be found. For example, DIN, the German National Standards Body, now only has a small stake in what was previously its main product certification service.

The public institutions that provided certification services when these were mandatory for certain products at national level, prior to the development of the Internal Market, have largely been privatised and may be providing marks for an international product market. Some now exist in a form of non-profit bodies, eg Nemko in Norway. Others, eg Demko in Denmark, are now owned by the multinational body Underwriters Laboratory (UL).

Examination of the European expansion of UL illustrates how the European conformity services market has been consolidated under international ownership. UL, a long established American certification body, made its first acquisition in Europe in 1996. By 2007, it had expanded into a further 11 European countries. Such expansion is not confined to US certifiers in Europe. TÜV Rheinland, an organisation originally set up to serve companies in Germany, now has test laboratories in nine Asian countries.

Such consolidation can bring advantages through mutual recognition within a certification body, since it can use its own facilities in Asia to test a product for which it can certify and issue a licence for a European mark, without requiring any further testing. This saves the expense (and time to market) of any repeated testing. However, the appropriate licence fees will have to be paid for the marks affixed in each national market. An organisation such as UL that has testing and inspection facilities in Asia can also organise the issuing (and licensing) of marks on behalf of a variety of schemes based in Europe, such as the ENEC and GS marks.

5.5 Relocation of production gives a new boost to certification and marking of consumer products

It has become more common for manufacturers established in Europe to relocate production to other countries. Certification and marking of consumer products is increasingly used for electrical products manufactured in Asia. There has been a decline in the marking of products manufactured in Europe, particularly those supplied to industry.

Clearly, there is a direct relationship between relocating the manufacture of products previously manufactured in Europe and the development of certification facilities in Asia. The increased demand for local certification services in Asia is explained by an increased need for European companies to ensure that there is an independent factory audit process in place and that there is on-going independent surveillance of the quality of products.

The study has shown that the decline in the marking of products is particularly pronounced for products supplied to industry (B2B). All suppliers of personal protective equipment, where the manufacturer may

affix the CE marking under their own Declaration of Conformity (SDoC), indicated that they are not using any voluntary certification or marking on their B2B products, although some had done so in the past. Similar findings came from manufacturers of industrial machinery products. They, too, are no longer using marks of a voluntary nature as these are not required by customers in the Internal Market.

In contrast, the experience of manufacturers supplying smaller items of machinery, such as power tools for tradesmen, is different. Many of these types of products are now manufactured in Asia, often in factories that are not under the direct management control of the European manufacturer. The majority of these products are certified, often through the Asian facilities of well-known certifiers such as TÜV, SGS and Intertek. However, the certifier's mark is affixed to the product only in a minority of cases.

Similar to power tools, the use of certification and marks on products produced outside Europe is more pronounced for consumer products, though marks are not always affixed to certified products. In the product sectors studied, more certification and marking was found in the electro technical area than in toys. The most frequent mark on toys, the UK "Lionmark", is not a certification mark as such, as it largely represents a manufacturers' self declaration on conformity with an industry code of conduct.

Other European marks on toys are of German origin: the GS mark and the "LGA" mark. Despite this, the Lion Mark is equally commonly seen in Germany, demonstrating that some manufacturers use the same packaging in Germany and in the UK. This type of package labelling is frequently used by manufacturers whose toys retail in a range of different countries. It provides (along with a "Made in China" statement) a multi-marking image, though the majority of marks are not necessarily of European origin or do not relate to European harmonised product legislation.

5.6 SMEs hit hardest by multiple certification and marking

SMEs, needing to establish a brand reputation, may use marks to build trust in their brands. Brands already established at the European level do not have these particular requirements for marks. Therefore, multiple certification with or without marks, can amount to a barrier to trade for SMEs.

Although a number of the major manufacturers of consumer products with well known brand names continue to use voluntary certification, they do not always affix the mark to the product. They say that the addition of marks offers little marketing advantage, as their brand name already has a high level of trust in the market place.

Trust in a product is very important in a competitive market place. Large manufacturers with established reputations already have it but new entrants to the market, often SMEs, have no established (trustworthy) reputation, and may seek certification and marking as a way to demonstrate that their products can be trusted.

New entrants/SMEs are thus faced with costs for "voluntary" certifications and markings that larger established companies can avoid. Where a lack of mutual recognition leads to requirements for repeated certification in a number of European countries, as reported by manufacturers of security alarm systems, the expenses for multiple certifications can become so high that they effectively act as barriers to trade.

5.7 Are consumers looking for marks?

Evidence suggests that few individual consumers look for marks on a product, though consumers in Germany and in some other countries may be an exception to this. Research from the Netherlands suggests consumers may not understand the meaning of the marks they do see.

The most recent substantial survey of consumer attitudes to marks was the Eurobarometer Europeans and the EC Logo survey from 2000.This concluded that the number of marks influencing 10% or more of purchasers was low and that their impact was limited to just a few European countries (Austria, France, Germany, Luxembourg, Netherlands and the UK).

Furthermore, a Dutch study, Keurmerken, erkenningsregelingen en certificaten has shown that consumers often do not understand the meaning of the marks they see on products. They may, for example, think that a private mark indicates some sort of government intervention or guarantee.

Informal surveys of consumer products displayed in shops in Belgium, Germany, Spain and the UK were carried out by the research team. It seems clear that in most cases, not even the suppliers expect consumers to look for marks, as these are not placed in the full view of consumers. (There are exceptions to this, see Chapter 5.10). Marks are often placed at the back of a product, and for some of the vacuum cleaners and microwave ovens inspected the marking plate was placed on the bottom of the appliance, completely out of sight to the would-be purchaser.

5.8 Consumer organisations don't trust marks

A major German consumer organisation, Stiftung Warentest, recommends no marks and submits all products to the same test regimes, regardless of whether they have marks or not.

Consumer organisations that test products in order to report on them in their magazines have direct experience of whether the extra "qualities" that a mark is expected to convey are delivered in practice. For example, if products with GS marking are always found to be safe when tested by a consumer organisation, they could decide to declare this in their magazine report. At the same time, testing costs could be saved by no longer subjecting GS marked products to safety testing.

Stiftung Warentest, publisher of Germany's "Test" magazine, is the most active consumer organisation in Europe that tests products. It has been doing this for more than 40 years and has built up unique experience of whether a mark conveys the qualities it is supposed to. Its conclusion can be deduced from its actions – it submits marked products to the same test routines as unmarked products. Their experience is that marked products are usually satisfactory but this is not always the case. Where it is not the case, the reasons include false declarations and false claims. Experts who have tested products for the UK consumer test magazine "Which?" report similar experiences. In their case they abandoned a previous policy of subjecting products with certain marks to a reduced test testing regime.

5.9 Manufacturers more frequently seek voluntary certification for consumer products

Manufacturers have their own reasons for requiring certification and marks:

- As a requirement of their quality management policy which is to have their in-house testing double checked;
- If the manufacturer does not have in-house testing facilities, the test certificate can be used as part of the technical documentation required by legislation before affixing the CE marking.

Certification and marks are most consistently used by manufacturers supplying consumer products.

The main reason given for seeking certification is to comply with quality management policies. Typically, when manufacturers have in-house testing facilities, they still require a second independent opinion of the quality of the product to ensure it complies with the applicable legislation. The underlying reason is to safeguard their corporate and brand reputations for supplying trustworthy products.

When manufacturers do not have in-house testing facilities and they need to make a declaration of

conformity in order to place CE marking on their products, they require a test report. This report forms part of the technical documentation that must be established and held on file by the manufacturer as part of the requirements enabling CE marking. Testing a product forms part of the certification process, so when certification is required, it can provide manufacturers with both a test report and an independent opinion of the quality of the product.

Other reasons were given by manufacturers for affixing marks. Firstly, the mark may be required for specific marketing purposes, because a buyer is demanding it or because in some product sectors (see chapter 5.10) it needs to be easily spotted by buyers. Secondly, the mark (or more specifically the certification that leads to the mark) is required since, through mutual recognition arrangements, it could be used to enable access for that product to markets outside Europe where marking is mandatory, eg Russia.

5.10 Mistrust in the CE marking drives certification

Manufacturers come under external pressure to certify and mark products:

- The distribution chain asks for them
- Insurers ask for them
- It has been reported that professional buyers sometimes mistrust the CE marking, particularly when it is only based on a Supplier's Declaration of Conformity.

Distributors, the direct customers of manufacturers, confirmed that they demand certification and marks, though this demand is not a general rule. The evidence suggests that marks are particularly required in support of the risk management policies operated by distributors. These policies implicitly identify the potential risk associated with some categories of products where a Suppliers Declaration of Conformity is permitted, eg power tools, products manufactured for children etc. Distributors may require marks for these products, but not for others. The distribution chain may also demand marks when they are placing their own branding on the product or are using the product in a special promotion. Here it can be seen that, in common with manufacturers, the use of certification and marks to protect the brand reputation is very important.

Demand for marking on products associated with risk is reinforced by insurers who seek marking on products related to insurance cover, eg fire prevention, security products and similar. In these cases, marks deliver tangible value, since the fitting of a marked product may result in a direct reduction in the cost of insurance premiums for the purchaser of the products. In these cases it is important that the marking is placed in full view of the would-be purchaser.

On the one hand, this study has shown (c.f. Chapter 5.3 above) that in some product sectors manufacturers affix only the CE marking to their products. This indicates that their customers have a trust in the CE-marking and the system behind it.

On the other hand, some stakeholders' lack of confidence in CE marking is evident throughout this study. It manifests itself implicitly in the demand from the distribution channels for marking of higher risk products. This lack of confidence is explicitly identified as a driver for marks. Another reason can be that marks provide a positive signal of compliance to the enforcement authorities. In a study conducted by Teknikföretagen - the Association of Swedish Engineering Industries - manufacturers of electrical products confirmed that additional marks were required because of a lack of confidence in CE marking.

The results of interviews conducted during the study reinforced the widely reported belief that the lack of market surveillance at Member State level has led to a situation where products with CE marking are able to circulate freely in the Internal Market, even though they do not comply with the applicable legislation. In February 2007, the European Commission proposed legislation to strengthen the mechanisms behind the CE marketing. Proposals included improving market surveillance and the imposition of tougher sanctions.

Do marks overcome the problem caused by the lack of market surveillance of products with CE marking by national authorities? The answer could be 'yes', if

voluntary certification and a mark could give a 100% guarantee that a product meets the requirements of EEA legislation. However, that may not be the case, as with the CE marking. Also, marks may be counterfeited. Furthermore, no systematic market surveillance based on the conformity signalled by the mark is carried out by public authorities. Market surveillance of marks is left to the operator of the marking schemes. The German authorities do however undertake market surveillance of the GS Mark (see chapter 5.12).

5.11 Is there a future for European marks?

European marks have been slow to develop. Although there have been some notable successes, eg the ENEC scheme for luminaries and the HAR scheme for electric cables, more recent attempts to develop the Keymark by CEN and CENELEC have been less successful.

A European mark cannot be implemented successfully unless the manufacturers are willing to use it and the certifiers are prepared to support the scheme.

Success factors for European schemes include: launch in a new or developing product area, withdrawal of equivalent national schemes, strong support provided by product suppliers, scheme operators and public authorities.

The ENEC scheme for luminaries and electrical components and the HAR scheme for electric cables are examples of the successful development of certification and marking schemes in Europe that deliver on the certification goal of "tested once, accepted everywhere". Intriguingly, both are in the electro technical sector where the subsequent development of the CENELEC Keymark has been a market failure. The uptake of the in-some-ways similar CEN Keymark scheme has also been poor, yet such schemes appear to promise reduced certification costs at the same time as (eventual) greater market recognition.

Despite the setbacks for the CEN and CENELEC schemes, attempts to develop other European schemes continue. Two such schemes were examined as part of this study. The first - the Solar Keymark - is a CEN Keymark developed by the European Solar Thermal Industry Federation (ESTIF). The project, financially supported by the European Commission, began in 2000 with the purpose of opening up the fragmented European market for solar thermal products by implementing the new EN standards and establishing a single certification mark for solar thermal products. Tasks, which are now largely succeeding, include creating a voluntary scheme, harmonising procedures of the national certifying bodies throughout Europe and convincing the national authorities to link their support schemes to the European norms and to accept the EU-wide (Keymark) certificate.

The second scheme, being developed by the Association of European manufacturers and installers of fire and security systems (Euralarm), will not adopt the CEN Keymark route. Instead, a unique mark, the EQM, under the possible ownership of a European Economic Interest Group is expected. Euralarm preferred not to adopt the CEN Keymark because of:

- Lack of mutual recognition;
- Variation in the quality of test laboratories;
- Ability to certify systems as well as component products;
- Need for a mark that can be recognised as delivering quality attributes specific to that product or system.

This study has identified a number of critical success factors for the successful development of European marks. Chief amongst them is strong support from the product manufacturers and certification bodies. Other important factors include:

- Launched in a new or developing product area;
- No existing national certification schemes in competition with new scheme;
- Based on EN standards or a CEN workshop agreement for systems, installations and services as well as products;
- Visible support from the authorities;
- Strong promotion from all stakeholders.

5.12 …or is the GS Mark winning for consumer products?

The study has revealed that one mark, the German GS Mark, is found on consumer products throughout the European market. It has 60,000 licences issued and is growing. It was re-launched in support of the German implementation of the General Product Safety Directive. However, 80% of GS marked products also carry CE marking. The claim that the requirements for GS marking have additional qualities to those required for CE marking cannot be verified as the detailed test procedures required for GS marking are not published.

The GS Mark is supported by public authorities:

- The GS Mark is owned by the Federal Ministry of Labour and Social Affairs;
- It is given a legal status in the German implementation of the General Product Safety Directive – although referred to as a voluntary mark;
- German authorities undertake market surveillance of the GS Mark;
- Accreditation of GS Mark certification bodies is undertaken by a public body (ZLS)

Only one mark, the GS Mark from Germany, was identified during the study to be significantly increasing its market presence. The number of licences for the mark (there are currently 60,000) has accelerated since 2004 when the GS Mark was included in the German Equipment and Product Safety Act. The GS Mark is optional (voluntary) and conveys that the legally required safety level has been achieved. Most GS marked products (80%) carry CE marking.

Unlike most certification schemes, the GS Mark is based on detailed test procedures that are not published in the public domain. Despite this, the mark is highly regarded in Germany where distributors are known to ask for it.

The GS Mark is an official German mark, the responsibility of the Federal Ministry of Labour and Social Affairs. It is seen in Germany as a consumer product safety mark. In the words of one official "the CE marking is for the market surveillance authorities; the GS Mark is for the consumers". Support for the mark is provided through the work of other official bodies:

- State Ministries for Consumer Protection who are responsible for market surveillance
- Zentralstelle der Länder für Sicherheitstechnik who is responsible for the accreditation of the certifying bodies

Growth and the role of the GS Mark in Germany is a cause for concern by manufacturers. This state-supported scheme is growing in prominence and some sources are reporting that the mark is developing into a de facto requirement there. This could lead to growth in the demand (and costs) for certification leading to the affixing of marks at national level in Germany.

The application of the GS Mark demonstrates another risk – that of the development of similar schemes in other European countries. Currently, national certification and marking schemes for products which fall under the General Product Safety Directive (GPSD), not requiring CE marking, do not exist outside Germany.

5.13 (In) voluntary certification and marks at national level still rule for construction products

The CPD is different to other New Approach Directives. The Supplier's Declaration of Conformity is not permitted and the harmonised standards or guidelines are mandatory (where they exist). The CE marking, together with a copy of its Declaration of Conformity that has to accompany each product, signals that the construction product is fit only for **a specific use**. This specific use can be dependent on national building regulations. This gives more room for certification and marking schemes at national level. The CE marking is regarded as voluntary in five EEA countries.

The study has shown that:

- Many marks can be found on some Construction Product Directive (CPD) products;
- With many marks and little mutual recognition, certification costs are significantly increased for some CPD products;
- Authorities are involved in supporting marking for CPD products at national level.

Although officially a New Approach Directive, the Construction Products Directive has a number of features that differentiate it from the other New Approach Directives. It provides for a manufacturer's declaration of the performance of the product in specific use conditions, since the Directive provides no essential requirements for the product. CE marking is not mandatory until the relevant EN standard has been harmonised. Thereafter, compliance with the standard becomes mandatory, unlike the situation with other New Approach Directives where compliance with the standard is voluntary. Some EEA countries, eg UK, Finland, Norway, Portugal and Sweden do not interpret CE marking as mandatory under the CPD.

A harmonised EN standard exists for the thermal insulation products examined during this study and, as was expected, all products carried CE marking. However, unlike the other products examined, these construction products carried multiple marking at national level – a situation that might have been expected to have changed with the introduction of CE marking. Interviews with manufacturers revealed that the cause of this was largely the continuing existence of national building regulations that specify standards for the installations into which products with CE marking are assembled.

Local specifiers of construction projects continue to specify installations in accordance with national building regulations, for which national certification and marking schemes still apply. Such certification is regarded by manufacturers as a de facto requirement.

The CEN Keymark scheme developed for thermal insulation products has yet to deliver the benefits expected of a European mark. The lack of mutual recognition between different certifiers at national level has meant that testing of the product has to be repeated in some European countries. The costs of repeated tests, extra inspection visits to manufacturing facilities and the licence fees for each mark are significant. Added to these are the delays to market and the extra costs for manufacturers who have to separately administer a number of equivalent scheme requirements.

Authorities are implicated in the continuing support for national certification schemes. The national building regulations that specify the installation requirements, for which national certification schemes exist, are drawn up and administered by authorities at national level. Separately, in many European countries, public funding of construction projects is very large. The specifications of such projects are the responsibility of the authorities who can thus influence which types of certifications and marking are required.

The full report may be downloaded from: http://www.efta.int/content/publications

ANNEX I

Organisations providing input to this Study

Association européenne pour la coordination de la représentation des consommateurs dans la normalisation (ANEC)*
Association of European manufacturers and installers of fire and security system (Euralarm)
Association of the European Certification Bodies active in the LVD area (EEPCA)
Association of Swedish Engineering Industries (Teknikföretagen)
Bavarian State Ministry for consumer protection
British Standards Institution (BSI)
British Toy and Hobby Association (BTHA)
Business Europe* (previously UNICE)
European Industry of household appliances (CECED)
CEN*
CENELEC*
Confederation of Netherlands Industry and Employers (VNO-NCW)
Dansk Industri/Confederation of Danish Industries
Danish National Agency for Enterprise and Construction
Deutsches Institut für Normung (DIN)
Dutch Food and Consumer Product Safety Authority (VWA, for Prosafe)
European Co-operation for Accreditation (EA)
EA Advisory Board
Ecoinstitut Barcelona
Eurocommerce
Eurolab-Deutschland
European Association of Insulation Manufacturers (EURIMA)
European Engineering Industries Association (Orgalime)

European Federation of National Associations of Measurement, Testing and Analytical Laboratories (Eurolab)*
European Free Trade Association (EFTA)*
European Information & Communications Technology Industry Association (EICTA)
European Power Tool manufacturers Association (EPTA)
European Safety Federation (ESF)
European Commission DG Enterprise*
European Solar Thermal Industry Federation (ESTIF)
German Federal Institute for Occupational Safety and Health (BAUA)
IEC System for Conformity testing and Certification of Electrical Equipment (IECEE)
International confederation of inspection and certification organisations (COEC)
ISO
Laboratoire national de métrologie et d'essais (LNE)
NORMAPME
North East Regional (UK) Centre of Excellence
Norwegian Financial Services Association (Finansnæringens Hovedorganisasjon)
Norwegian Foundation for Sustainable Consumption and Production
Spanish Association for Standardisation and Certification (AENOR)
Spanish Union of Insurance and Reinsurance Companies (UNESPA)
Standards Norway
Stiftung Warentest
Swedish National Testing and Research Institute
Zentralstelle der Länder fÜr Sicherheitstechnik (ZLS)

In addition 80 manufacturers, importers/distributors, certification bodies and Keymark developers were interviewed, c.f. the full report

* Represented on the Steering Committee of the Study.

ANNEX II

Extract from EFTA Fact-sheet on free Movement of Goods[1]

THE EUROPEAN ECONOMIC AREA

A set of bilateral free trade agreements between the European Community (EC) and the EFTA States entered into force in 1972-73. These agreements marked the first step to what later became the European Economic Area (EEA). Following the EC's proposal to complete an internal market, the EFTA States and the EC concluded negotiations on the EEA Agreement in December 1992. In a referendum, Swiss voters rejected Switzerland's participation in the EEA. The other EFTA and EU Member States accepted the Agreement on the European Economic Area (EEA Agreement), which entered into force in January 1994.

The EEA Agreement governs the trade relations between the EU on one side, and Iceland, Liechtenstein and Norway on the other. Switzerland and the EU conduct their economic relations through a bilateral free trade agreement signed in 1972. Both parties also concluded two sets of comprehensive sectoral agreements between 1999 and 2004. The first set entered into force on 1st June 2002. The second, while some parts already entered into force, is still to be fully ratified.

The EEA is essentially a free trade area where goods, services, capital and persons can move freely, in an open and competitive environment, across the borders of all its 30 members (27 EU Member States and three EEA EFTA Member States, ie, Iceland, Liechtenstein and Norway). This concept is generally referred to as the four freedoms.

The objective of the EEA Agreement – which basically extends the EU Internal Market to the EEA EFTA Member States – is to promote continuous and balanced trade and economic relations between the contracting parties.

Besides containing provisions relating to the four freedoms, the EEA Agreement focuses on cooperation in flanking areas such as research, social policy, tourism, public health and environment matters. In order to guarantee equal conditions for economic operators across the entire Internal Market, the EEA Agreement further covers competition, state aid and public procurement rules. The Agreement is continuously amended to reflect changes in the EU. So far, more than 5 300 legal acts (directives, regulations and decisions) have been incorporated into the EEA Agreement.

PRODUCT REQUIREMENTS

General Considerations

The free movement of goods applies throughout the Internal Market. However, this does not imply that all products can circulate freely. They have to be produced in conformity with requirements that protect legitimate interests, such as health, safety and the environment.

When EEA States individually adopt product requirements, producers who want to market their products in several countries have to ensure that their goods fully conform to the regulations in those countries. This is an extra burden for producers, which in turn leads to increased consumer prices. These obstacles are called technical barriers to trade (TBT).

In order to significantly reduce TBT, the EU has adopted harmonised product requirements for a wide range of product sectors. Member States have to accept that products that conform to these harmonised requirements circulate freely. This approach promotes the free movement of goods throughout the Internal Market, while safeguarding legitimate interests.

In non-harmonised areas, there is no harmonised product legislation, and requirements may therefore vary from state to state. These areas cannot be defined by product sector, since some aspects of a single product may be harmonised while others may not.

[1] http://www.efta.int/content/publications/fact-sheets

Harmonised requirements for a given product sector may only deal with the safety of these products, while the environmental aspects of the same product may be non-harmonised.

Harmonised Areas

In sectors where the EU has adopted harmonised product requirements, one set of rules that applies throughout the EEA has replaced national product regulations. This is the case especially in sectors where products such as motor vehicles, pharmaceuticals, toys, etc., may be harmful to people or to the environment.

For products considered high risk, a conformity assessment body (CAB) is required to assess whether they conform to the relevant requirements. A product certification conducted by a CAB designated by an EEA Member State is recognised throughout the EEA.

MUTUAL RECOGNITION AGREEMENTS

The EU has concluded a number of mutual recognition agreements (MRAs) with non-EU countries in which it grants certifying bodies from these countries the right to certify products for the European market. In return, European certifying bodies may certify products for the markets of the EU's MRA partners. According to the EEA Agreement, EEA EFTA Member States shall conclude equivalent agreements with these countries so that the Internal Market remains homogeneous and goods move freely. The EEA EFTA Member States have concluded MRAs with Australia, New Zealand, Canada, the United States and Switzerland. The MRA with Switzerland is included in the updated EFTA Convention, which entered into force on 1 June 2002.

There are two ways of harmonising product legislation in the EU. In the old approach, all technical product specifications are set out in the legal act. In the new approach, only the essential health, safety and environment requirements are adopted by law. Technical specifications are then set out in European harmonised standards and subsequently adopted at national level.

Some old approach sectors, such as pharmaceuticals, plant protection products and biocides require authorisation to place a specific product on the market. Motor vehicles need to be type-approved in one EEA State, but may then be marketed in all these countries. For most of the sectors, eg cosmetics, textiles and chemicals, the products may be placed on the market without prior authorisation.[2]

Authorisation schemes have been abandoned in the new approach sectors. Goods produced in accordance with harmonised standards are presumed to fulfil the

EUROPEAN STANDARDISATION

On the basis of the Luxembourg Declaration of 9 April 1984, the EFTA countries and the Commission of the European Communities have closely co-operated to create and implement a European standardisation policy. It includes parallel financing of standards-related work carried out by the European Standards Organisations (ESOs). These are: the European Committee for Standardisation (CEN), the European Committee for Electro technical Standardisation (CENELEC) and the European Telecommunications Standardisation Institute (ETSI). CEN, CENELEC and ETSI, and the European Commission and EFTA signed general guidelines for co-operation on 28 March 2003.

The framework partnership agreements that EFTA and CEN, CENELEC and ETSI signed in January 2004 form the legal basis for all the specific grant agreements signed between EFTA and the ESOs. EFTA also provides some financial support to assist European stakeholder organisations to take part in the European standardisation work. Among these organisations are the European Association for the Co-ordination of Consumer Representation in Standardisation (ANEC), the European Organisation for Technical Approvals (EOTA), which relates to the construction industry, and the European Environmental Citizens' Organisation for Standardisation (ECOS).

[2] A few dangerous substances will be subject to an authorisation scheme under the REACH Regulation.

essential requirements and may be placed directly on the market. Certification by an independent body is necessary in some cases. The CE mark on the product indicates that all the relevant EU requirements have been fulfilled.

Market surveillance is necessary to achieve a uniform application of European legislation, equal protection for all citizens, and to maintain a level playing field for economic operators. National surveillance authorities monitor the market to ensure that the products placed on it comply with safety requirements. The authorities act to enforce compliance, where necessary.

Non-Harmonised Areas

In non-harmonised areas, all EEA Member States may continue to adopt national requirements. However, they have to follow certain rules and principles to avoid creating new TBTs. National product requirements must be proportionate to the risk posed by the product and must not discriminate against foreign producers.

When an EU Member State plans to regulate a given product sector, it has to notify the Commission in advance. An EEA EFTA Member State has to notify the EFTA Surveillance Authority (ESA). The Commission and ESA then assess the draft national regulation to determine whether it conforms to the basic principles of the Internal Market.

On the basis of the principle of mutual recognition, products lawfully marketed in one Member State can be marketed in all other Member States without further modification. However, an importing country may exceptionally prevent a product from being placed on its market if justified. This principle is based on the EC Treaty and the case law of the European Court of Justice, especially the Cassis de Dijon case.

THE CASSIS DE DIJON CASE

This 1979 European Court of Justice ruling has been central to the achievement of the free movement of goods in the Community and, consequently, in the EEA. According to the ruling on trade in a particular blackcurrant liqueur (Cassis de Dijon), a product recognised and approved in one EU Member State should also be allowed to be imported and sold in other EU Member States without the need for any additional testing and approval. This is the principle of mutual recognition for products in the non harmonised areas. However, an authority may take measures to ban the marketing of products on the grounds that they endanger the environment, consumer interests, or the health and life of humans, animals or plants. Such measures must be proportionate to the risk posed by the product and applied in a non-discriminatory way.

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ISBN 978-92-990042-2-7