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The logo for the Wood Panel Industries Federation is located in the top right corner. It consists of a dark green rectangular box with the words "WOOD", "PANEL", "INDUSTRIES", and "FEDERATION" stacked vertically in white, uppercase, sans-serif font. The box is partially overlapped by a lighter green shape behind it.

Wood-based construction panels and CE marking **– the need for care and surveillance**

This commentary, which is published on behalf of the wood sector's CE Marking and Advisory Groupⁱ, has been prompted by the frequent use in construction of types or grades of wood-based panels that are unsuitable for the use to which they are put, and the need to put this into context against the background of CE marking.

The matter for concern

The failure to ensure that a wood-based panel product is identifiable as fit for its intended purpose is at its most serious when a non-loadbearing (non-structural) product is used, either deliberately or negligently, where the requirement is for a loadbearing (structural) panel, but this commentary equally applies to several other panel product misapplications in the construction industry – for example, the instalment of non-moisture-resistant panels in humid conditions, or the use of a board not complying with the appropriate chemical control specifications.

These types of misuse can and do occur with any of the types and technical classes of panels that are now regulated for construction use in the member states of the EU and the EEA, and are sometimes exacerbated by companies in the timber trade who, either knowingly or inadvertently, sell what amount to unregulated products, with no guarantee of performance. Also, little has been done in the past to bring mis-described (or undescribed) products to the attention of the Retail Trading Standards offices where misuse is suspected or likely.

In the UK and Ireland, the supply of a construction product not fit for its intended purpose is an offence under the Construction Products Regulations. The Harmonised Standard for wood-based panels (EN 13986)ⁱⁱ, or a European Technical Approval (ETA) in the case of a non-standardised panel, provides the product requirements, and the use of a CE mark (from April 2003) for the product will stake a claim of compliance. However, the UK and Irish governments, unlike most of the other EU member states, have decided not to make CE marking compulsory for construction products placed on the British or Irish markets.

The CE mark will be the surest means (provided it is universally used) to recognise what construction panels are entitled to be in the British or Irish markets because of their claim to fitness for purpose – it will focus the minds of manufacturers, merchants, agents, distributors and users on the need to fit the right product into the right usage slot, and will thus tend to minimise the risks of product abuse.

So what abuses do we have in mind? Unfortunately the age-old ones are our concern, and we want the help of all the commercial parties to reduce their impact and prevent wood-based panels from contributing to the construction risks that the CPD was designed to avoid.

Fraudulent and negligent marking

The advent of the CE mark from Spring 2003 has raised concerns that this affords a new means for less scrupulous companies to mark, at will, panels from unregulated sources in order to claim regulatory compliance. With the lack of awareness at many levels in the construction industry such panels will be assumed to be in compliance by the very existence of the CE mark on the product, on its packaging, or on its documentation.

An offence of fraudulent marking is only likely to come to light if there is reason to suspect the product's credentials and it is found through testing to be in non-compliance with its claimed specification in aspects that show its unfitness for purpose. The same is true of false marking through negligence – for example, marking by an authorised agent after insufficient enquiry as to the product's proved characteristics. In either case, traders are at risk if an offence is disclosed, and the advice from the CE Marking Advisory Group is clear: **even though the presence of a CE mark will virtually guarantee the right of the product to be on the British or Irish market in the first place, traders will do well to obtain from their suppliers explicit confirmation in writing that all necessary control procedures (internal quality control at the production stage and, where necessary, third party certification) have been followed to ensure the authenticity of the CE mark on the specific product concerned.**

No CE marking

For panels intended for construction use there must be assured levels of safety and reliability as specified in EN 13986 (this is of course of particular significance in the case of load-bearing boards). Engineering design in construction will rely entirely on the availability of products that comply with the essential requirements of the CPD, as assured by EN 13986 or an ETA. CE marking, as stated above, is the formal claim of compliance that entitles the product to be marketed. What, therefore, are we to make of products offered to the construction industry (after March 2003, but more especially after March 2004 when the so-called 'period of co-existence' will have expired) that do not bear a CE mark on the product, the package or the accompanying documentation?

There are a number of possible cases:

- (1) **Panels not intended for construction use.** Panels supplied for non-construction uses (furniture, packaging, toys etc) need not be CE marked **anywhere** in the EU or EEA (although there can be no objection to the use of CE-marked panels in non-construction applications provided such panels are in conformity with the relevant technical classes in EN 13986). Some of these panels may well be offered for use on construction sites without CE marks.

- (2) **Panels supplied for use in construction but having no CE marking or no marking at all**, and therefore making no on-product claim of compliance with the essential requirements (i.e. claim of fitness for purpose). This is not illegal in itself in the UK or Ireland provided the products do in fact comply with the essential requirements.
- (3) **Panels intended for construction use, not bearing CE marks, but bearing other marks** indicating compliance with non-European standards or regulations or containing other information about the characteristics of the product. Again, this is not illegal in itself in the UK or Ireland, but it is the essential requirements of the CPD that have to be complied with and not some non-European technical specification that does not or may not ensure this.
- (4) A panel product may be supplied to an established customer, to that customer's own detailed specification **which itself complies with the essential requirements**, where the customer incorporates the panel into another construction product or element under a systematised standard procedure, and where the customer's finished product or element will be required to comply with the essential requirements. In this case, the panel as such is not deemed to be placed in the market according to the CPD and for that reason need not be CE-marked.

In all these cases, with the exception of case (4), the CE Marking Advisory Group urges extreme caution in the decision by builders whether or not to accept non-CE-marked wood-based panels. If the need to prove compliance of a non-CE-marked product with the essential requirements of the CPD should arise, either by an official investigatory action or some other circumstance, the process of proof could be convoluted and a negative result costly. Acceptance of the product should always be conditional on the builder's documented confidence that the necessary compliances are in place. The question must often suggest itself: if this product claims compliance, why does it not declare itself openly and simplify matters for the chain of supply and the product user? It should be borne in mind, too, that wood-based panel manufacturers often do not know, when the panels they produce are sold into the open market, where they will be used. Unless the manufacturer specifically makes and supplies his product only for non-construction use (e.g. furniture)ⁱⁱⁱ and makes that clear on the product or otherwise, it will be wise to question the product's credentials if it arrives on the building site.

Final advice

To all traders in wood-based panels in the UK and Irish markets: please be meticulous about the quality of the information you receive about any product destined or apparently destined for the construction industry. After March 2003 centre all your enquiries on the commercial and practical desirability of the CE mark, and if the CE mark is not present be prepared to question rigorously why not, unless you have all the answers embedded in your supplier/customer relationship. If the CE mark is there, you are entitled to rely on it unless you have particular grounds for suspicion. The associations mentioned below¹ that support the CE Marking Advisory Group will provide information and advice on the important topic to the best of their ability to member firms and their customers.

Final request

To manufacturers and traders: please be vigilant for doubtful products moving towards the construction industry. Please refer any proposal for investigation of a product either direct to your county Retail Trading Standards department (in the UK) or to the NSAI (in the Republic of Ireland), or in confidence to one of the associations mentioned below¹ who will be pleased to assess the merit of a reference to one of these bodies. It is not our purpose to harass traders in marginal cases, but the co-operation of trade and industry is essential if product misuse is to be minimised in this new regulatory era.

However, please bear in mind also that the year to 31 March 2004 is the transition period for CE marking, and it is not possible to speculate at present what volume (small or large) of perfectly bona fide products will not yet be CE marked up to that date, especially in the case of imports. There would therefore have to be good reason for treating a non CE marked product as suspicious during the transition period.

March 2003

ⁱ The CE Marking Advisory Group was formed in 2001 in order to evolve a practical forum for consultation on the regulatory aspects of CE marking and for co-operation with the Trading Standards service in its role of enforcing authority. It is a collaborative action between the Timber Trade Federation, the Wood Panel Industries Federation, the British Woodworking Federation and Canada Wood. APA the Engineered Wood Association (now closing its remaining European offices) has also contributed valuably to the group's preliminary agendas.

ⁱⁱ EN 13986 "Wood-based panels for use in construction – Characteristics, evaluation of conformity and marking" (the "Harmonised Standard").

ⁱⁱⁱ The WPIF's Industry Standard IS(WPIF) 1/2002 "Wood-based panels: Particleboards, Fibreboards and Oriented Strand Boards (OSB) for non-construction uses" is recommended for the evaluation and marking of panel productions consisting wholly or mainly of boards for use in the furniture industry or for other applications outside the building or civil engineering sectors.