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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 17 July 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 4625 final

Subject: Commission Delegated Regulation (EU) No .../. of 16.7.2014 on the
conditions for classification, without testing, of wood-based panels under
EN13986 and solid wood panelling and cladding under EN14915 with
regard to their fire protection ability, when used for wall and ceiling
covering

Delegations will find attached document C(2014) 4625 final.

Encl.: C(2014) 4625 final



Brussels, 16.7.2014
C(2014) 4625 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 16.7.2014

on the conditions for classification, without testing, of wood-based panels under EN13986 and solid wood panelling and cladding under EN14915 with regard to their fire protection ability, when used for wall and ceiling covering

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC¹, envisages that the manufacturers of construction products should not be subjected to unnecessary administrative burdens or costs. Notably, as foreseen in Article 28 of Regulation (EU) No 305/2011, the Commission should choose the least onerous system for assessment and verification of constancy of performance, which still could serve appropriately the needs of health, safety and environment.

Additionally, Regulation (EU) No 305/2011 acknowledges two main alternatives to establish classes of performance in relation to the essential characteristics of construction products. According to Article 27(1), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose.

When the performance of certain construction products has already been sufficiently demonstrated by stable test results or other existing data, their manufacturers should be permitted, under conditions to be specified, to declare a certain class of performance without testing or further testing these products. Such a simplified procedure would serve the same objective of avoiding unnecessary administrative burdens and costs. This has been foreseen in Article 27(5) and Article 36(1)(a) of Regulation (EU) No 305/2011.

Commission Decision 2000/367/EC² established a European classification system regarding fire protection ability as resistance to fire of construction products, based upon European test methods and explicit levels of performance.

Wood-based panels covered by EN 13986 and solid wood panelling and cladding covered by EN 14915, all used for wall and ceiling covering, have proven to have a stable and predictable performance concerning their fire protection ability as resistance to fire, when they meet certain conditions. This conclusion has been based on numerous test and classification reports gathered and compiled by the industry and the experts consulted. For this reason, the fire protection ability of these products can be deemed, without the need for any further testing, to achieve certain classes of performance, as defined in the European classification system mentioned above, when they are used for wall and ceiling covering.

Therefore, the draft Regulation, proposed by the construction industry, sets out the conditions for using these simplified procedures for determining the performance in relation to fire protection ability of wood-based panels falling within the scope of EN 13986 and solid wood panelling and cladding falling within the scope of EN 14915.

The draft Regulation will thus reduce the burdens and the costs incurred by the manufacturers of wood-based panels, solid wood panelling and cladding, because they will not anymore need to test the products covered by the draft Regulation for their fire protection ability. The consequence will be the general increase in efficiency and competitiveness of the construction industry as a whole.

¹ OJ L 88, 4.4.2011, p. 5.

² OJ L 133, 6.6.2000, p. 26.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft act was initially prepared as a Commission Implementing Decision, based on Council Directive 89/106/EEC (Construction Products Directive). It was submitted for the opinion of the Standing Committee of Construction, in accordance with the procedures foreseen in Article 20 of Directive 89/106/EEC, and was supported by the unanimity of Member States present (304 votes). EFTA and the construction products industry also supported the draft Decision. In this context, the European Parliament, to which the draft was duly transmitted, did not formulate any comments on the draft Decision.

Before the draft Decision was adopted, Regulation (EU) No 305/2011 entered into full application and repealed Directive 89/106/EEC. Therefore, a revised version of the draft legal act was produced to correspond to the procedural demands of Regulation (EU) No 305/2011 and subjected to consultation under its provisions, as a delegated act. However, all its technical aspects contained in the Annex remain untouched.

In particular, the draft Regulation was submitted for a written consultation of experts. Before this consultation, all Member States had been presented an opportunity to nominate experts to participate in it. In addition to these experts, also other external stakeholders were included as consulted. The documents relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts.

The observations presented during all these preceding consultations were taken into account when preparing the final draft version of this act for the inter-service consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Pursuant to Article 27 of Regulation (EU) No 305/2011, classes of performance may be established in relation to the essential characteristics of construction products.

Moreover, in accordance with Article 27(5), the Commission may establish conditions under which a construction product shall be deemed to achieve a certain class of performance without testing or without further testing, in order to avoid the unnecessary testing of construction products for which performance has already been sufficiently demonstrated by stable test results or other existing data.

These conditions are then to be fulfilled when a manufacturer wishes to replace type-testing of his product by these levels or classes of performance, as set out in Article 36(1)(a) of Regulation (EU) No 305/2011.

The European classification system established by Commission Decision 2000/367/EC, regarding the fire protection ability as resistance to fire of construction products, is applicable to wood-based panels covered by the harmonised standard EN 13986, as well as solid wood panelling and cladding covered by the harmonised standard EN 14915.

According to the consultations carried out, the fire protection ability of wood-based panels, solid wood panelling and cladding within the classification provided for in Decision 2000/367/EC, is well established. For this reason, the fire protection ability of these products can be deemed, without the need for any further testing, to achieve certain classes of

performance, as defined in the European classification system mentioned above, when they are used for wall and ceiling covering.

The draft Regulation conforms to the principle of proportionality. It results in alleviating certain obligations foreseen by Regulation (EU) 305/2011, concerning the testing of products under its scope.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 16.7.2014

on the conditions for classification, without testing, of wood-based panels under EN13986 and solid wood panelling and cladding under EN14915 with regard to their fire protection ability, when used for wall and ceiling covering

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC³, and in particular Article 27(5) thereof,

Whereas:

- (1) A system for classifying the performance of construction products, construction works and parts thereof with regard to their resistance to fire was adopted in Commission Decision 2000/367/EC⁴. Wood-based panels covered by the harmonised standard EN 13986, as well as solid wood panelling and cladding covered by the harmonised standard EN 14915 are among the construction products to which that Decision applies.
- (2) Tests have shown those products to have a stable and predictable performance concerning fire protection ability when used for wall and ceiling covering provided that the products meet certain conditions regarding the density of the wood and the thickness of the panels, panelling and cladding.
- (3) Wood-based panels covered by the harmonised standard EN 13986 and solid wood panelling and cladding covered by the harmonised standard EN 14915 should therefore be deemed to satisfy the classes of performance for fire protection ability established in Decision 2000/367/EC on those conditions without further testing being required,

³ OJ L 88, 4.4.2011, p. 5.

⁴ Commission Decision 2000/367/EC of 3 May 2000 implementing Council Directive 89/106/EEC as regards the classification of the resistance to fire performance of construction products, construction works and parts thereof (OJ L 133, 6.6.2000, p. 26).

HAS ADOPTED THIS REGULATION:

Article 1

Wood-based panels covered by the harmonised standard EN 13986 and solid wood panelling and cladding covered by the harmonised standard EN 14915 which fulfil the conditions set out in the Annex shall be deemed to satisfy the classes of performance indicated in the Annex without testing, when they are used for wall and ceiling covering.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16.7.2014

For the Commission
The President
José Manuel BARROSO