



CEN/TC 154
Aggregates

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Report of the meeting of CEN/TC 154 with Mr Mikkeli, of European Commission, 20th November 2018

Document type: Meeting report

Date of document: 2018-11-23

Expected action: INFO

Background:

Committee URL: <https://cen.iso.org/livelihood/livelihood/open/centc154>

REPORT OF THE MEETING OF REPRESENTATIVES OF CEN/TC154, CEN AND MR MIKKELI OF THE EC, TUESDAY 20TH NOVEMBER 2018, BRUSSELS BY MR JONATHAN SIMM

Attendees:

Mr Tapani Mikkeli	EC Legal Advisor
Mr Jonathan Simm	CEN/TC 154 Chairman
Mr Raphael Bodet	CEN/TC 154 Officer
Mr Nuno Pargana	CEN TPM for CEN/TC154

Firstly a number of issues were discussed, many of which had been readdressed by the recent HAS consultant assessments. I noted that these HAS assessments did not necessarily always reflect the final (pragmatic) position which would be adopted by the Commission.

- Additional levels and classes. This is the issue that was proposed to be dealt with by the Delegated Act (DA). There is no fundamental change in the position here, although there is an alternative to the DA – see below.
- Additional characteristics. Tapani expressed a preference to avoid the exclusion of such characteristics via Annex ZA, making them non-mandated characteristics. However, that remains the necessary course of action should we continue with the DA route. Additional characteristics could however be added should we decide to move to an updated standardisation request (revised mandate)
- Dangerous Substances. Despite comments by the HAS Consultants, Tapani accepted that our position (following Situation 2 in the document CPR 13/013 “Current situation on how to treat Dangerous Substances in hENs”) and as articulated in the letter to Mrs Raffaelli in summer 2017 was likely to be acceptable. This involves avoiding all references to dangerous substances in the next version of the product standard. Indeed the equivalent challenges with indoor air quality in other standardisation processes suggested that it would be very difficult to find levels/classes on dangerous substances that would be acceptable to all.
- Alkali Silica Reactivity. In the light of comments from the HAS consultants, the position of TC154 on this subject had reverted to giving no answer on the subject. (The version for formal vote 2 which referred to methodologies valid in the place of use would be abandoned.) Tapani accepted that it would be inconsistent to give an answer on this point whilst not doing so for Dangerous Substances. He was grateful for the suggestion of a Canadian professor to provide an independent adjudication on the matter. He felt that it would be possible to present a robust scientific argument consistent with the position of the joint technical report (CEN TR 16349 2012) of 4 TCs, namely that the issue should be addressed at the (non-harmonised) level of the Concrete standardisation rather than at the level of the component products such as aggregates. For these reasons, we noted that it would ultimately be desirable to omit ASR from a future revision of the Mandate (standardisation request).
- Inclusion of undated references. The use of undated references was consistent with current CEN procedures. In the face of the arguments from the Commission for all references to be dated (to ensure legal certainty), the arguments of TC154 were purely practical. TC154 had a large number of test method standards for which it was responsible and every year at least 5 or 6 of those were up for a five yearly review and revision. It was completely impractical to keep the revisions of these test methods synchronised with the updates to the product standards, which would be necessary if the references to these standards were all dated. If the Commission insisted on this approach they would have to accept that references to these test methods from the hENs would quickly become outdated, which would introduce a different kind of legal uncertainty. The decision on this point, however, should be made by CEN/the Commission and was not a matter for TC154, which would implement whatever they decided.

Next steps were then discussed in three main areas: the standards themselves, the Delegated Act and the mandate/standardisation request. In all cases TC154 would have to adopt a three stage process to update the product standards themselves.

1. Discussion and review of HAS consultant comments by TC154 experts to identify solutions to the many other detailed editorial and technical comments, leading to an updated set of standards and equivalent responses to the HAS comments.
2. Discussion with CEN (Nuno Pargano), probably integrated in with 1, to agree on resolution of matters that required guidance from CEN. This would probably lead to a series of email and telephone style exchanges with the HAS consultants to agree possible way(s) forward.
3. On completion of 1 and 2, a final face to face meeting with the HAS consultants and CEN would be necessary. Such a meeting would be essential since it was already evident that the approaches of the three different HAS consultants involved were not entirely consistent with one another or with the position of the Commission on critical points. It was envisaged that Tapani Mikkeli would be present to adjudicate and to help make decisions on the final version of the standard for Formal Vote 3. The formal HAS assessment after the implementation of these decisions would (hopefully) then not lead to any lack of compliance assessment.

To achieve eventual citation of the draft hENs, there were 2 options available;

- A. Continue with the Delegated Act route, along with some 40 DAs associated with standards from other TCs. Detailed changes to the Response to the Mandate would also be necessary to deal with issues raised by the HAS consultants. This route would only deal with new levels and classes for mandated Essential Characteristics (ECs) or their equivalent proxy characteristics (PCs). Risks remained with this route: the change in European Parliament composition following elections next year could lead to unforeseen delays and there was a risk of the process being 'ambushed'. The earliest a result could be achieved would be by the early months of 2020. The result was rather inflexible should a subsequent need be identified to make further changes to levels and classes.
- B. Move to preparation of a new Standardisation Request for the Commission reflecting the actual current content of the standard. This process was not fast (maybe 15-18 months), but less likely to be ambushed by external forces. The revised Standardisation request could deal with currently problematic issues including currently non-mandated characteristics, ASR etc. It would give more flexibility for the future, setting out groups of characteristics without restrictions (not sure why?) on future changes to levels and classes. One major drawback to this approach was that it would be difficult to avoid reference to BWR 7 on environmental sustainability, which would also require TC154 to do work on PCRs (Product Characteristic Rules) – unsure of link to the issue dangerous substances here.

CEN/TC154 needs to discuss these options and make a decision on next steps. Tapani would remain available for discussion and clarification of various points. In the meantime, TC154 would again send the latest version of the Delegated Act and associated justification document to Tapani, so that the DA process which had stalled for 6 months over the summer along with the other 40 DAs could be recommenced. This would be initiated and only withdrawn from the process should TC154 decide to proceed with the alternative Standardisation Request route.

FOLLOW-UP ACTIONS

A CEN/TC 154 Chairman's Advisory Panel conference call was held on 22nd November to Discuss the findings of this report. The Panel will meet, face-to-face, on 17th Jan in Brussels to discuss the options further and try to prepare a recommendation for the next steps.

ACTION: Members with any questions or comments are invited to submit these to the Chairman directly