Certification and Marks in Europe

A Study commissioned by EFTA

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Part 1: Executive Summary

Figures in Executive Summary

Part 2: Report of the Study

Tables in the Study

Annexes

Tables in the Annexes

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 III).

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 Annexe III.

Executive Summary

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?

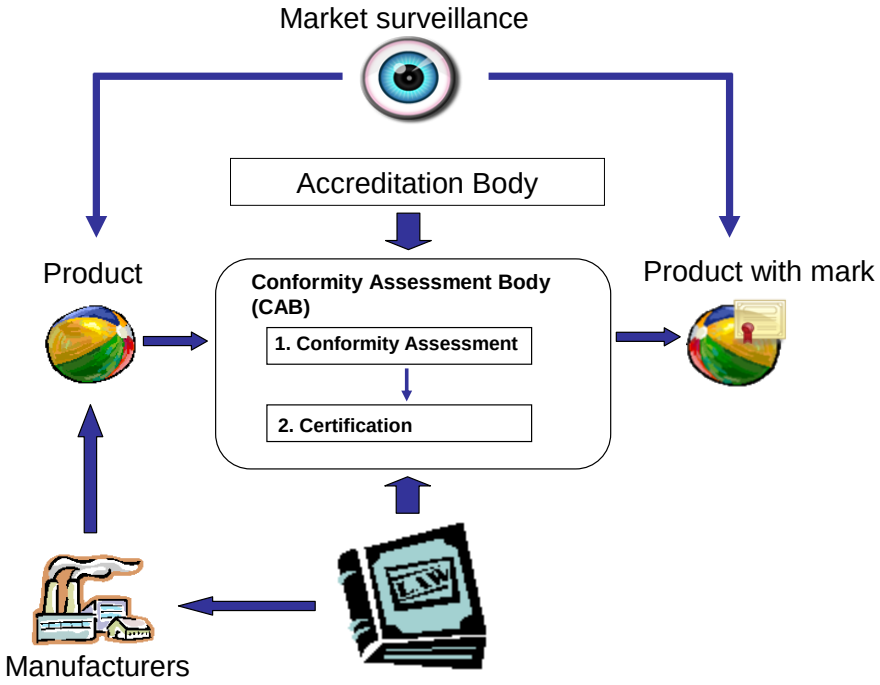
Certification may be mandatory to manufacturers, or used voluntarily, to contribute to placing safe products on the Internal Market. Are there, from an Internal Market and consumer perspective, any problems related to certification and marks? For a manufacturer whose product becomes the subject of multiple 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.

Figure: Marks and their environment



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.

* * * * * * *

Part 2: Report of the Study

1. Introduction

The European Free Trade Association (EFTA) has commissioned a study on the supply of, and demand for certification services, leading to the affixing of marks at national level. These marks (sometimes known as *quality, safety, private* or *voluntary* marks) can be affixed on any products for which individual private or national certification schemes operate and hence may appear alongside CE marking on those products subject to European harmonised technical requirements.

The purpose of the study is to increase the knowledge of the mechanisms and stakeholder pressures determining the supply and demand for certification that can lead to the affixing of marks on products, particularly at national level.

1.1 Background

The free movement of goods in the Internal Market is ensured by the basic principles of the EC Treaty/the Agreement on the European Economic Area (EEA) and by harmonised technical requirements. Further details of these requirements can be found in Annexe III. In many product sectors, essential technical requirements are accompanied by voluntary, harmonised European standards. CE marking, which is a legal requirement in the EEA for a wide range of product sectors, is placed on a product as the manufacturers' declaration that the product has been manufactured to comply with all relevant EEA technical requirements.

CE marking, which gives a product regulatory access to the entire Internal Market and so acts as the product's "passport", demonstrates the principle that a single conformity procedure should be accepted throughout the Internal Market. However, in addition to CE marking, there continues to be a demand for marks affixed on products subject to European harmonised technical requirements.

Marks may be of benefit to consumers and economic operators, but those affixed at national level could also have a negative impact on economic growth by fragmenting markets in Europe and by increasing costs for manufacturers. If the same product placed on the market in several European countries has to comply with different certification and marking schemes, then multiple testing costs and/or multiple licence fees for the use of the marks occur. These will cost more than a single mark and may - in some cases - be prohibitive for trade, in particular for SMEs.

1.2 Scope

The scope of this Study is focused on a selection of national and regional certification schemes leading to the affixing of marks on products at national level.

The schemes studied operate within the scope of **harmonised, non-food European product legislation** and include marking schemes operating in representative national markets of selected EU and EFTA countries:

- France

- Germany

- Norway

- Spain

- United Kingdom

Within each of these countries, the scope focuses on five product sectors selected to cover products intended to be purchased by consumers (B2C) and those intended for industrial customers (B2B):

- Microwave ovens (B2C product)
Applicable harmonised legislation: Low Voltage Directive (LVD)

- Toys (B2C product)
Applicable harmonised legislation: Toys Directive
(Limited to Germany and the United Kingdom in this study)

- Power tools (B2B product)
Applicable harmonised legislation: Machinery Directive

- Personal protective equipment (B2B product)
Applicable harmonised legislation: Personal Protective Equipment Directive (PPE Directive)

- Thermal insulation material (B2B product)
Applicable harmonised legislation: Construction Products Directive (CPD)

Finally, two further product sectors were examined. These were included because European, rather than national, marking schemes were being developed for products within those sectors. This addition to the scope was intended to provide extra opportunities to compare marking from the different perspectives of private, national and European schemes. The sectors were:

- Solar panels
Applicable harmonised legislation: CPD
European scheme: Solar Keymark

- Alarm and security equipment
Applicable harmonised legislation: CPD, LVD and other
European scheme: EQM

Due to time and budget constraints it has been necessary to limit the focus of the study, as the market for certification and marking of products falling under European harmonised product legislation is very large and fragmented. For example, there are 21 New Approach Directives for which CE marking is applicable and 28 separate Directives or Regulations for which Notified Bodies are appointed. Given that the total number of Notified Bodies listed by the European Commission[1] currently exceeds 1900, it can be deduced that there could be several thousands of certifying bodies operating in the EEA. Consequently, the results presented in this report are based on a small section of a very large market and may not represent the situations existing in other product sectors and where other harmonised legislation applies.

[1] http://ec.europa.eu/enterprise/newapproach/nando/index.cfm?fuseaction=directive.main#

2. Methodology

This study has been conducted using qualitative research methods: interviews, document review, and observations. Statistical and economic data has not been collected. The overall methodological process was:

- Literature review

- Desk research

- Selection of case studies for microwave ovens, toys, power tools and machinery, personal protective equipment and thermal insulation material

- Interviews with manufacturers

- Interviews with:
    - Trade bodies
    - Distribution channels
    - Insurers
    - Certification bodies and scheme operators
    - Authorities
    - Consumer representative bodies
    - Standardisation bodies

- Further desk research

2.1 Interviews

More than 100 interviews were conducted for this report. Most were conducted with manufacturers of products in case study areas. In some cases, there was an exchange of correspondence too. Interviews and correspondence were conducted with bodies in 10 European countries and two outside of Europe. Some interviews took place on the manufacturers' premises and were very detailed, with each of these on-site interviews typically taking several hours to complete. The remaining interviews were conducted by telephone.

Interviewing was also the main technique for gathering suitable information from other stakeholders. Although many organisations, especially trade bodies at European level, release large amounts of information into the public domain, very little of it directly covers their attitudes and knowledge of product certification and marking – so interviews were required in order to supplement the information obtained from other sources.

Staff or representatives from the organisations listed in Section10 and the companies listed in Section 11 took part in the research conducted for the study. Commercial companies and buyers of certification and marking services, whose staff assisted this study by taking part in interviews and providing insight into their company's certification policies, are not fully

identified in this report. They are identified in Section 11 by code only, as a number of interviewees asked for their information to be non-attributable.

2.2 Case studies

The case studies focused on products to which marks are fixed at national level in the sectors and countries selected for this study. Four of the five case study topics required detailed interviews with a minimum of four manufacturers and, for every case study, discussions were held with more than this number in order to locate manufacturers who were using certification and (possibly) affixing marks to their products.

The harmonised product legislation applicable to four of the case study topics - microwave ovens (LVD), toys (Toys Directive), power tools (Machinery Directive) and personal protective equipment (PPE Directive) – permitted, under defined circumstances, the manufacturer to assume total responsibility for conformity assessment and the subsequent Suppliers' Declaration of Conformity (SDOC). Where an SDOC is applicable, certification leading to marks affixed at national (or regional) level is voluntary.

This was not the situation in the fifth case study area (thermal insulation products), where the Construction Products Directive (CPD) was applicable. This Directive requires some form of intervention by a third party for all products for which CE marking is applicable. The case studies are reported in detail in Section 9.

2.3 Further studies

Further studies, made through limited use of informal in-shop surveys, were conducted in order to double-check some of the emerging findings. These were conducted in Belgium, Germany, Spain and the UK.

3. Existing marking schemes in Europe

3.1 Introduction

This section deals with marks of conformity. For the purpose of this report, these are the marks found on products that are affixed for regulatory reasons, eg the CE marking, or voluntarily, eg the mark of a certification body.

3.2 Obligatory legal marks - CE marking

Most products subject to harmonised, non-food European product legislation are required to be marked with the CE marking[2].

CE

This signals the conformity of the product with the applicable EEA requirements imposed on the manufacturer. Under the regulations, the CE marking replaces all mandatory conformity markings having the same meaning. Such marks existed before harmonisation took place (and some still do, though now they are mostly a voluntary marking). Any such mandatory national markings are incompatible with CE marking and would constitute an infringement of the applicable New Approach directives.

So-called modules (A, B etc.) define whether the manufacturer can affix the CE marking under an SDOC or whether third parties (Notified Bodies) need to be involved.

Council Decision 93/465/EEC[3] provides a clear description of the meaning of CE marking. An excerpt from this Council Decision has been reproduced below. The meaning of the CE marking is contained within the first paragraph and the remainder of the excerpt has also been included as it provides definitions and explanations that are relevant to the core of this study.

> ***"…Conformity***
>
> *The CE marking symbolizes the conformity of a product to the Community requirements incumbent on the manufacturer of the product. It indicates that the product conforms with all the Community provisions providing for its affixing.*
>
> *Member States may not restrict the placing on the market and entry into service of products bearing the CE marking, unless there is supporting evidence of the*

[2] http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf

[3] http://europa.eu/scadplus/leg/en/lvb/l21013.htm

product's non-conformity. The marking should be affixed prior to the product being placed on the European market and entering into service.

Scope

The Decision lays down rules for affixing the CE conformity marking concerning the design, manufacture, placing on the market and entry into service of a product.

CE marking can be introduced in Community legislation as conformity marking if:

- *a directive is in accordance with the principles of the new approach and the global approach;*
- *the method of total harmonisation is used;*
- *the directive contains conformity assessment procedures in accordance with this Decision.*

Declaration of conformity

Directives may exclude the affixing of the CE marking on certain products. These products may circulate freely on the European market if they are accompanied by, for example, a declaration or certificate of conformity.

Responsibility of manufacturers

The CE marking must be affixed by the manufacturer or his agent established within the Community. The manufacturer bears ultimate responsibility for the conformity of the product.

Conformity assessment relates to the design and production phases of the product. Depending on the conformity assessment procedures applied, a notified body may be involved in these two phases. If the notified body is involved in the production control phase, its identification number will follow the CE marking.

If a product falls within the scope of a directive that provides for the CE marking, this should be affixed:

- *to all new products, whether manufactured in the Member States or in third countries;*
- *to used and second-hand products imported from third countries.*

Assessment modules

The decision provides for eight assessment procedures or "modules" which cover the design and production phases:

- *internal production control (module A);*
- *CE type-examination (module B);*
- *conformity to type (module C);*
- *production quality assurance (module D);*
- *product quality assurance (module E);*
- *product verification (module F);*

- *unit verification (module G);*
- *full quality assurance (module H)…"*

CE marking, as can be seen from the Council Decision, is closely related to New Approach Directives[4]. These recast technical harmonisation in Europe on a new basis (back in 1985) by only harmonising the essential requirements for products and by applying the "general reference to standards" formula, as well as the principle of mutual recognition, in order to eliminate technical obstacles to the free movement of goods.

3.3 Legal marks - National

There are cases where national product regulations have not been replaced by EEA legislation. Notable examples relate to building regulations and electrical wiring regulations. In these cases, marking affixed at national level may continue to be a regulatory requirement, eg the Ü marking required for some building products in Germany or a quasi-voluntary requirement, eg the GS Mark in Germany.

3.4 Voluntary marks

The expression "voluntary marks" is frequently used to describe marks that have been affixed to products in addition to CE marking. They usually imply conformity to a published specification. There might be simply a declaration on the product or its packaging, eg "Tested to EN 71", or they might be affixed following the certification of the product against a published standard. It is the latter marks that are the main focus of this study.

Markings such as "Tested to EN 71", which are not accompanied by the mark of a certifying body, are not discussed further in this report.

3.4.1 De facto marks

Some voluntary marking schemes are described as de facto requirements. This description is used where an apparently voluntary requirement is effectively non-voluntary, ie the requirement to have a product marked exists in actual fact but there is no formal recognition of this requirement. For example, manufacturers of thermal insulation products use the ACERMI mark in France. They state that whilst this is not strictly a legal requirement, it would not be possible to sell the product unless it had that marking.

[4] http://europa.eu/scadplus/leg/en/lvb/l21001a.htm

3.5 Conformity assessment and certification

Conformity assessment, a generic term used to describe the processes involved in certifying and affixing a mark to a product, can be likened to an iceberg – with the majority of mass out of sight beneath the surface. All the buyer may see on a product subject to conformity assessment is a certification mark affixed to it, yet "underneath" that lies the work of a test laboratory, a certifying body, a scheme operator and possibly an accreditation body.

All have a role to play:

- The scheme operator identifies the specification and sets out the overarching scheme rules. For example, CEN is one of the scheme operators for the Keymark.
- The certifying body is the usual point of contact for the product's manufacturer or supplier seeking certification (and possibly a mark) for their product. This body usually organises and supervises the tests of the product at an independent test laboratory. At the successful completion of testing, they certify the product which can result in a licence being granted to enable a certifying body's mark to be affixed to the product. For example, LNE is the certifying body for the Keymark in France.
- The accreditation body gives formal recognition that a certification body or test laboratory is competent to carry out specific tasks.
- The scheme operator, certifying body and the test laboratory are sometimes part of the same organisation.

(The iceberg analogy applies to CE marking too. All modules require the manufacturer to take actions, such as compiling an SDOC, and to maintain files.)

3.6 Different types of certification

Certification lies at the core of product marking; no mark can be affixed unless the product has been previously certified. Under mutual recognition arrangements, certification by one body can offer the potential for a number of marks from different bodies to be affixed to a product. However, there are a number of different categories of certification.

ISO Guide 67[5] *Conformity assessment —Fundamentals of product certification* provides a classification system for third-party product certification. The Guide was prepared by the ISO Committee on conformity assessment (CASCO). It emphasises that there are many approaches to product certification, each having legitimacy in its own context. Of the six different certification systems described in the Guide, Types 1 and 5 generically represent those typically used for products.

5 http://www.iso.org/iso/en/CatalogueDetailPage.CatalogueDetail?CSNUMBER=30258&ICS1=3&ICS2=120&ICS3=20

Type 1 – is where just one product is tested and certified, but not necessarily licensed to carry the certifiers' mark. This type of testing is often referred to as type testing. The IECEE CB Scheme (a mutual recognition certification or approval scheme operated by the IEC, described in more detail in Section 9.2.2.1) is an example of a Type 1 scheme.

Type 5 – extends **Type 1** to include factory inspection, on-going random selection of samples for testing and licensing the use of the certifiers' mark. The CENELEC Certification Agreement (described in more detail in Section 9.2.2.1) is an example of a Type 5 scheme.

4. Stakeholder demand for certification and marks

4. 1 Introduction

The initial literature review (see Annexe I) identifies the most likely sources of demand for product marking:

- Part of the manufacturers' quality policy;

- Good marketing tool: demand from customers, distribution channels and insurance companies;

- Support from authorities, public procurement;

- Recommendation of consumer organisations.

The field studies, case studies and follow-up interviews provide both the opportunity to test these hypotheses and to establish whether there are other powerful sources of demand for certification and marking.

The findings given in this section have been divided into two: the first part dealing with products except those from the construction area, the second part dealing with construction products only. Overall, the findings for non-construction products confirm those established in the initial literature review, though with the notable addition that a lack of confidence in CE marking is also a driver for extra marking in some sectors. Findings for construction products are different. Here, local market demand for certification at national level is the main driver for marks.

4.2 The primary sources of demand for certification and marking

4.2.1 Quality policy

Interviews with manufacturers conducted as part of the case studies confirm that the main purpose for obtaining certification and, sometimes, marking is to comply with their own quality management policies. These policies cover the need for assurance from independent testing, the need for additional certification services - such as factory inspections - and the need to obtain advice on the applicable regulations from certifiers.

The fundamental requirements of the quality policy, that of obtaining an expert independent test and certificate are satisfied by obtaining certification alone, and the cost of obtaining the appropriate mark(s) often does not justify the additional expenditure.

In some cases, the certification acts as validation of the testing that the manufacturers conduct themselves. When the manufacturer does not possess in-house testing capacity, the certification provides the additional value of a test certificate. This is valuable because

the New Approach Directives impose an obligation for the manufacturer to draw up and to provide technical documentation to demonstrate the conformity of the product either to the harmonised standards (if the manufacturer has followed them) or to the essential requirements of the relevant directive. An appropriate test certificate provides a key component for that technical documentation.

Another related policy driver for obtaining certification is that manufacturing is increasingly being relocated to Eastern Europe and Asia. Under these circumstances, the manufacturing plants may no longer be under the direct control of the brand owners based in Europe who say that they seek independent assurance (and on-going factory inspection) to ensure that quality standards are maintained. The products to be certified are frequently tested at a laboratory close to the point of manufacture, eg in China. Typically, the laboratory is part of the European-based certifying body. In this way, a product manufactured and tested in China can have a mark affixed at national level, eg: -

Another part of quality policy that reinforces the value of using certification services is that such providers are able to advise the manufacturer on those regulations applicable to a particular product. Keeping up-to-date with regulatory requirements has been identified as a substantial problem for smaller companies who cannot afford the cost of employing specialist staff to undertake this task. Similarly, this is also a challenge for manufacturers who directly source products from outside Europe, since they do not have the in-house expertise to know which regulations are applicable.

The only specific purpose found for seeking to place a certification mark in addition to CE marking for quality policy purposes is that the additional marking is thought to indicate to the enforcement authorities that the product has been subject to independent testing and certification.

4.2.2 Demand from the market

Case study interviews with manufacturers of power tools confirm that this is the second most important reason for seeking independent certification and marking. Conversely, interviews with manufacturers of toys and LVD products indicate little demand for certification or additional marking from their customers. The demand from customers experienced by suppliers of power tools falling under the auspices of the Machinery Directive has been identified, within the limitations of the case studies, to come consistently from wholesale and retail distribution channels.

4.2.2.1 Demand from distributors

It has been difficult to obtain information directly from distribution channels, partly due to the size and diversity of the Internal Market, which provides for a huge fragmentation of distribution. This situation is further exacerbated by policy application within a particular distribution channel often being decided at local or disaggregated level. Obtaining information about the distribution channels from other sources is easier to accomplish. It is clear from these interviews that distributors are a significant driver for certification and, to a lesser extent, for marks too.

The interviews conducted for the case studies reveal little pressure from distribution channels for certification/marking of microwave ovens, yet confirm that there is substantial pressure for certification of power tools. This pressure is seemingly coming from a form of risk analysis as power tools are more often associated with safety concerns and are also a product whose manufacture has largely been relocated to Asia and is no longer under the management control of the European manufacturer.

The situation regarding toys is different again. Case studies are limited to the UK and Germany. The UK has a voluntary mark (Lion Mark), which is not a certification mark as it signifies self-declared compliance with a code of conduct. Versions of the code can apply to both manufacturers and members of the distribution chain, so it is familiar to all. However, there is no indication from any of the interviews conducted that distributors demand that manufacturers demonstrate compliance with the code. This is reinforced by informal market surveys in UK shops which indicate that retailers do not consistently demand the display of the Lion Mark since only a portion of the toys on display carry the mark.

Germany does not have a marking system for toys equivalent to the Lion Mark, though the GS Mark is applicable to toys and is widely applied (circa 6000 licences currently) on a voluntary basis. Informal shop surveys in Germany show that a minority of toys on display have the GS Mark in addition to CE marking. Some other toys which carry another mark in addition to CE marking display a certification mark from LGA. The other mark which is most frequently seen there is the Lion Mark, indicating that the same products/packaging are sold in Germany and in the United Kingdom. The majority of toys examined carry no marks in addition to CE marking. This indicates a similar situation to that suggested for the UK – toy retailers do not consistently demand the display of marks fixed at national level.

Interviews with power tool manufacturers reveal a demand for marking in addition to certification for some retailers, particularly in Germany. This demand is limited to products that bear the branding of that particular retailer or when there is to be some sort of exclusive promotion. One manufacturer stressed in his interview that marking (usually GS) is the exception, not the rule.

Interviews with two German retailer/distributors identify their demands for marks affixed at national level. One requires additional certification for products which fall under the remit of the GPSD, for which no CE marking is applicable; the other requires certification for electrical goods, potentially dangerous devices and products related to children. The retailer/distributors seek GS, TÜV or LGA marking of the product in order to satisfy their own policy, which is to ensure quality and safety through independent verification. Related to this, another interviewee explained that the retailers' requirement for certification can be more related to concerns with (avoiding) product recalls than with product liability per se.

The authorities responsible for the GS Mark said, during interviews, that they believe that the retailers' professional procurement staff are the major drivers for GS marking.

4.2.2.2 Demand from insurers

Obtaining information from representatives of insurance organisations has been difficult. Obtaining information about insurers from other sources has been easier to accomplish.

Risk analysis is a core activity of the insurance industry. The findings from the study confirm this, showing that insurance companies are drivers for certification and marking in those areas where their business is exposed. The areas identified include protection and fire security, eg fire walls, smoke detectors, security locks, water sprinklers and similar. Here, insurers look not only for product marking but also for certification of the installation. Comments from the European Solar Thermal Industry Federation (ESTIF) confirm that the insurance industry takes an interest in marking in the solar thermal product industry too.

Customers for security and similar products related to insured risk products are also a driver for marks. This is either because their insurance company has stipulated that specific products must meet an identified standard of performance, or because they may be able to obtain a rebate on their insurance premiums by fitting certified products.

These certifications are required to reduce the exposure for insurers to high cost claims. Interviewees reported that, as they valued certification (to appropriate standards) so highly, they were prepared to give a rebate on policy fees if approved products were fitted, eg security locks. To further reinforce this point, they reduced pay-outs if owners of buildings had acted irresponsibly by fitting non-approved products.

These details provide an example of marking adding a particular value over and above certification, since purchasers of the types of security products illustrated above are more likely to look for the marking at the point of sale or in catalogues. Similarly, the person who inspects and certifies the installation can readily ascertain that a product is appropriately certified. This might explain why one interviewee, from a major European trade association, identified insurance companies as *the* main driver for additional marking.

In contrast to the last statement, during interviews the authorities responsible for the GS Mark indicated that they did not believe insurers were a major driver for GS marking.

4.2.2.3 Manufacturer demand for certification and marking for marketing purposes

Although a number of sources from certification bodies referred to marks as a good marketing tool or as being sought out by consumers, very few of the manufacturers interviewed regard certification marks affixed at national level (or the Keymark) as having any significant marketing value – assuming no demands from customers.

Some manufacturers have explained that the addition of a mark could be a financial burden as it normally entails an extra service provision - typically factory inspections and the sampling of ongoing production from the certifying body - at a cost that was higher than the marketing benefits it may provide. Conformity industry experts identify the annual costs for a licence for a mark to be €2000-4000. Just how much this increases the final cost of a product depends on the number of samples over which the licence cost is spread. In the case of a limited production run this can be quite significant. One power tool manufacturer has calculated that the cost of obtaining the licence to affix a mark at national level to a particular product would increase the cost of each one sold by €2 (which, in this case, the distributor refused to pay and the licence was not obtained). Conversely, if the licence cost is spread over many tens of thousands of samples, then the additional cost per product could become insignificant.

4.3 Support from authorities for certification and marking

If it exists, support from authorities for the continuing use of national certification and marking schemes for products falling under the New Approach Directives would appear to contradict the intentions set out in the *Guide to the New Approach*[6]. This explains that the *"Free movement of goods is a cornerstone of the single market. The mechanisms in place to achieve this aim are based on prevention of new barriers to trade, mutual recognition and technical harmonisation."*

Support by public authorities could come in a number of ways, eg through underwriting the costs of operating a testing or certification scheme, or by requiring national certification in order to comply with national or local publicly funded subsidy schemes. Organisations whose members were likely to be disaffected by interventions from authorities at national level were requested to supply further details, and the topic was examined in the extensive interviews conducted for the case studies and associated enquiries.

[6] http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf

With two exceptions, there was little evidence of widespread support from authorities. One was related to the GS Mark, the other to construction products (see Section 4.6 for further details).

The German authorities support the GS Mark (see Section 8 for more details). Though voluntary, the mark is recognised in German legislation[7], laboratories are accredited by a public body and market enforcement for the mark is similarly undertaken by a public body. Whilst it may not be said that these public bodies are directly driving its requirement, the support they provide is clearly being seen by those who do drive demand for the GS Mark. This was confirmed by a representative from a major German retailer who indicated that the authorities approve the GS Mark and would take action if there was a problem.

4.3.1 Demand for certification and marks from public procurement

The Public Sector Procurement Directive (2004/18/EC) provides a framework within which public procurement must be conducted. This, in conjunction with community legislation, such as the Technical Standards and Regulations Directive (98/34/EC), reinforces the principals of the Internal Market of open competition, the equivalence of standards and seeks to prevent the creation of new technical barriers to trade. Furthermore, the Public Sector Procurement Directive reaffirms existing case law on the need to accept standards equivalent to those specified. Therefore, in both the theory and the spirit of the Internal Market, public procurers should not actively drive demand for certification services leading to the affixing of marks at national level.

Evidence of such activity was sought but no specific proof was forthcoming – in some cases because this information was regarded as "private". Manufacturers who have been more directly affected respond that whilst such certification at national level is not formally requested, it is "de facto, you need it in order to win the contract". When questioned further, two explanations were offered as to why public procurers were seeking certification at their national level. The first explanation was that they lacked the expert knowledge to be able to judge the equivalence of different (national or regional) certification schemes for products that they needed to specify. The second explanation was that public procurers are quite risk adverse - and there is less risk in accepting the familiar national certification than there is in accepting an unfamiliar one.

4.3.2 Support by national courts

Some stakeholders expressed the view that certification has a positive influence on the assessment by national courts of the manufacturer's liability in the event of damage. Though not all stakeholders share this view (clearly manufacturers want the certification to avoid transgressing the regulations rather than reduce their penalties) some do feel quite strongly about the issue. For example, the website of the United Kingdom approvals body, BEAB, states the following: *"Backed by the expert knowledge of our approvals engineers, the BEAB Approved Mark can provide a robust defence in law against a product liability claim."* Another interviewee from the insurance industry also strongly stated the view that courts would be

[7] German Equipment and Product Safety Law (GPSG), 2004

more sympathetic to certified products. However, no interviewees were aware of any court decision that has been influenced in such a way.

4.4 Consumer demand

4.4.1 Introduction

It appears that individual consumers are not usually direct sources of demand for marks for the simple reason that marks on products, should they be there at all, are not necessarily placed where they would be easily visible to a consumer wishing to make a purchase. For most of the electrical products seen in the informal surveys of shops, marks are typically at the back of the products or, in some cases, underneath them. Toys are an exception, since many are displayed in their packaging, on which the marks are affixed.

Nevertheless, certain marks may have some influence on consumers, and some consumer organisations have established policies for dealing with marks. Both of these factors are explored in the section below.

4.4.2 Results of consumer surveys

Most consumer organisations are based at national level and do not conduct surveys of consumer attitudes outside of their own country. More recent surveys conducted by such organisations have focused on consumer attitudes towards environmental and ethical marking, rather than that falling within the scope of this study. Consequently, it is difficult to identify much significant research data that specifically points to demand for certification and marking from consumers.

The most reliable answer to the important question regarding the influence of marks ("logos") on the consumers' decision to buy a product is contained in the conclusion published in the Eurobarometer 52.1 report *Europeans and the EC logo*[8]. It reports, "*The replies to the question «And which ones do you take into account when buying products?» show that the number of logos influencing 10% or more of purchasers is low and that their impact is limited to a small number of countries. The list* [in Table 1*] shows the identity and geographical area of influence of the eight most effective logos."*

[8] http://ec.europa.eu/public_opinion/archives/ebs/ebs_137_en.pdf. See also Annexe 1 to this report

Table 1 Results of mark recognition survey

	Germany: 12.3%
	Germany: 27.0%
	Germany: 17.7% Luxembourg: 14.1% Austria: 10.5%
	Netherlands: 39.4%
	Germany: 28.2% Luxembourg: 17.5% Austria: 10.7%
	France: 64.5%
	United Kingdom: 44.7%
	United Kingdom: 17.3%

NOTE: the logos depicted above are those currently in use by the certifying bodies concerned and may differ from those shown by the researchers conducting the Eurobarometer survey.

The Eurobarometer report, published in 2000, was based on research conducted in 1999.

The results of a Dutch survey, *Keurmerken, erkenningsregelingen en certificaten* of consumers and, separately, of businesses and municipalities shows that consumers can have limited understanding of the meaning of marks. To a consumer, the values conveyed by a mark may not be transparent. Since they 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.

4.4.3 Opinions of consumer organisations

An opinion on consumer attitudes to marks was sought from ANEC - as the European organisation established to promote and defend consumer interests in both standardisation and certification. ANEC is a member of the CEN Certification Board and CENELEC

Conformity Assessment Forum. ANEC is also a member of the Steering Committee of this EFTA Study.

They said, in an opinion submitted for this report: *"…ANEC supports the Keymark as the European mark of conformity to European standards and indeed was instrumental in its creation, seeing it as a viable alternative to a confusing proliferation of national marks. As the Keymark is based on a demonstration of conformity to European standards, it offers consumers a positive reassurance. However, ANEC believes that the success of the Keymark has been beset by a lack of resources to promote it and the interests of some countries to maintain (more profitable) national marks…"*

Further opinion on consumer associations' attitudes to marks and certification was sought from Stiftung Warentest ("SW") in Germany. This organisation is particularly well qualified to judge whether product certification leading to the affixing of marks at national level is of benefit to consumers and, therefore, something that they would actively support. SW's expertise on the possible benefits of marks stems from over 40 years experience of testing products for their consumer publication *'Test'*. Many thousands of products have been safety tested for them in independent laboratories and the results then compared with the certification markings on the products – so they are well placed to judge whether marks bring benefits.

SW continues to test products with marks in the same way as those without. Mostly, they say, the marked products are satisfactory but this is not always the case. Reasons include false declarations, false claims and others. As a result, SW does not recommend any mark except their own; product manufacturers may use a label on their product showing the quality rating achieved in SW's tests.

This attitude is similar to that existing in other consumer organisations that test products and thus have the ability to measure the benefits that marks should bring to products. *Which?* magazine, a major consumer publication published in the UK, used to subject products marked under the CENELEC Certification Agreement to a reduced testing regime compared to products that had not been certified and marked. They did this in order to save substantial amounts of testing fees. A study (never published) conducted in their own laboratory established over a period of time that the level of non-compliance for electrical products to the appropriate testing standards was much the same whether products had marks or just had CE marking. Their practice of testing marked products to a less severe programme has since been discontinued.

4.5 Construction products - demand for certification and marks

Interviews with manufacturers of thermal insulation products conducted as part of the case studies confirm that demand from the market at national level is the main reason why they seek additional certification leading to marks being affixed at the national level.

Thermal insulation products fall under the requirements of the CPD. The requirements in this directive are different to those of the LVD, Toys, Machinery and PPE Directives. Unlike these other directives, compliance with the harmonised EN standard is mandatory in the CPD for

most countries in the EEA. (Some EEA countries, eg UK, Finland, Norway, Portugal and Sweden do not interpret CE marking as mandatory under the CPD.) There is a harmonised performance standard, EN13167, for thermal insulation products – so CE marking is mandatory for these products and once marked they should, in theory, be accepted in the EEA.

In practice, this has proved not to be the case, since demand from customers has required the further certification and affixing of marks at national level in four of the five countries covered in the case studies. The types of customers who drive this demand are architects and specifiers of construction projects, although the specifiers, in turn, are influenced by the attitudes of public authorities.

Most of the manufacturers of thermal insulation products describe the requirements for national certification as “de facto”, ie they are not formally asked to demonstrate that their product is certified to the appropriate national scheme, but it is clear to them that without the national certification their sales would suffer.

The reason it has been possible to seemingly circumvent the intentions of the CPD are that the harmonised standard only covers the performance of the product and not the performance of the product after it has been installed in a building. The performance of the installation continues to fall under the remit of the national authorities who are able to apply their own standards – which gives rise to the possibilities of national certification schemes.

Note: The issues with certification (attestation) and marking associated with the provisions of the CPD are substantial and complex. It has not been necessary to examine them in detail in this study as this has already been done in a recent research programme[9]

4.5.1 Support by authorities

Manufacturers interviewed for the thermal insulation products case studies and the related studies with the European Solar Thermal Industry Federation (ESTIF) and Euralarm report that authorities are implicated in the demand for certification and marking at national level. There are three manifestations of this:

Firstly, many countries had mandatory or de facto mandatory conformity marks before CPD. In most cases, the mandatory marks remain for products not covered by CPD CE marking.

By way of illustration:

> A number of the manufacturers of thermal insulation products explained that the “Ü” mark is a legal requirement in Germany for building performance issues that are not covered by harmonised ENs, since the design, installation and works are to respect national legislation.
>
> Euralarm reinforced this same point that CE marked products are subject to national regulations once they are installed within a system. Local building

[9] Study to Evaluate the internal market and competitiveness effects of Council Directive 89/106/EEC (Construction Products Directive, CPD) PRC BV 2006

> regulation departments look for certification applicable to the system - certification which is usually derived at national level.

Secondly, some authorities operate grant or subsidy schemes that underwrite the cost of the supply of a particular product or installation where the eligibility criteria includes a requirement for certification that can refer to national schemes. As ESTIF explained, "…*marking is associated with the eligibility criteria for financial incentive schemes or building regulations. In general, any product can be sold on the market. However, if a significant financial incentive exists, a non-eligible product [ie one without the necessary national certification mark] is de facto out of the market*."

Finally, public authorities are major specifiers and purchasers of construction projects and so can directly specify which standards and certification schemes they require. From the evidence gathered from interviews with thermal insulation product manufacturers, authorities in some countries (though not all) require national standards and certification schemes to be applied.

By way of illustration:

> In Germany, only DIBt product certification schemes are accepted. (DIBt, the German Institute for Civil Engineering, operates a scheme recognised by the Federal State Building Regulations that includes a number of German institutes approved to undertake tests of building materials and building products.) In France, authorities look for ACERMI certification.

Clearly, where there are requirements to continue the use of local (national) certification/marking, it can be seen that authorities are active drivers.

4.6 Mistrust in CE marking

The interviews and desk research conducted for this study identify another driver for certification, leading to the affixing of marks at national level.

This was revealed in research (yet to be published) conducted on behalf of Teknikföretagen, the Association of Swedish Engineering Industries. In the course of their study, they sought to obtain an objective view from manufacturers on the administrative burdens associated with a selection of product safety directives: the LVD, Machinery Directive and the Radio & Telecommunications Terminal Equipment Directive (1999/5/EC).

The results show that a lack of efficient market surveillance on the Internal Market is undermining confidence in CE marking, since non-compliant products might have CE marking and yet be able to circulate freely in the Internal Market, even if they are not safe. The LVD manufacturers in particular indicated that this had led to a situation where room is given to other labels, which require costly certification for manufacturers. Those labels are often owned by a single company, which means that the manufacturer must use specific certifiers to get access to a particular market.

Therefore, as a result of insufficient market surveillance, many producers are feeling forced to use costly methods to ensure consumer confidence in their products.

Reinforcement of the view that a lack of confidence in CE marking in some sectors is acting as a driver for certification also came from the distribution chain. Here, one interviewee went so far as to say “a CE mark is worthless unless validated independently; if there are price pressures it can be open to cheating.”

5. The supply of certification services leading to marks in Europe

5.1 Introduction

There is no single or simple model characterising the supply of certification services in Europe. This section of the report provides an insight into a number of characteristics, of which continuing fragmentation and the apparent continuing existence of national certifying bodies are predominant. Yet consolidation is clearly taking place too, particularly in some sectors such as consumer products. Overall, it seems that marking makes up only a small portion of the underlying certification services.

5.2 Market size

The market for New Approach products is estimated to be €1500 billion per year[10]. The market for products falling under the GPSD and the Old Approach Directives adds to this value.

As it was difficult to obtain information about the size and make-up of the European conformity market, the main trade associations representing the conformity services industries - Eurolab, CEOC and EA - were asked for their own estimates of the size of the market.

EA estimates that the overall value of conformity assessment services delivered in Europe, in both voluntary and regulated areas, is in the region of €5 billion per year. The costs of accreditation, which apply to both areas, contribute 2% of this total. They estimate about ⅔ of this total be attributed to mandatory conformity assessment activities, in which Notified Bodies or other nationally recognised bodies are involved, and the remaining ⅓ be attributed to the voluntary market (testing, analyses, management system certifications and certification marks in general).

Eurolab and CEOC estimate that 95% of the products with CE marking only require an SDOC, with the remaining 5% requiring the involvement of Notified Bodies. It was suggested that, as a general rule, the size of the conformity market for any country is related to its GDP (gross domestic product) with SMEs being the biggest customers for certification marks.

5.3 The main suppliers of product certification and marks

Prior to the development of the Internal Market, most countries in Europe had their own national standards bodies (NSBs). In some countries, these NSBs developed associated

[10] http://ec.europa.eu/enterprise/newapproach/pdf/executive_summary_sec_2007_0174_en.pdf

certification and testing activities, leading to the development of marks affixed at national level. Some countries required compulsory testing and marking of certain products, eg electrical consumer products in Norway, and there was widespread use of marking schemes at national level. Independent of any activity by the NSBs, many testing laboratories and certifying bodies were established across Europe.

Some of this changed with the advent of the Internal Market and the New Approach, since CE marking required the withdrawal of compulsory national marking schemes (and associated regulations) for products where CE marking applied. Similarly, with the introduction of European Standards and the withdrawal of conflicting national standards, there was a reduction in the need for NSBs to continue to develop national standards. From this, it might also be expected that the number of national marking schemes would reduce and many would disappear.

Since (under defined circumstances) the New Approach permitted SDOCs and manufacturers were no longer required to seek the compulsory services of local certifiers, it might also have been expected that the reduction in assured income streams would have led to the demise of a number of certifying bodies.

However, whilst some parts of the standards development, certification and testing markets in Europe have been much affected by these changes, other parts have not. For example, from the figures provided earlier in this report, it can be deduced that the number of certifying bodies in Europe exceeds the 1900 listed as Notified Bodies by the European Commission.

Since the advent of the Internal Market, many of the smaller national certification bodies (and, where applicable, their test laboratories) which were owned by or largely supported by national Governments have been privatised.

The NSBs of the larger economies, who had developed associated testing and certification activities, have continued to offer services. For example, the marks of DIN (Germany), BSI (United Kingdom - Kitemark) and AFNOR (France -NF mark), as witnessed from the results of the Eurobarometer 52.1 report *Europeans and the EC logo*[11] (Section 4.4.2), are still amongst the most recognised in the marketplace.

However, it should not necessarily be assumed that these suppliers are the largest certifying bodies in the market. DIN has been required by its governing board to separate standards development from its certification activities and its policy is to concentrate on standardisation. DIN now only has a minority share in the certifying body DIN CERTO; TÜV having a majority share. BSI, which can be seen from its recently published Annual Report[12] to be a very active commercial organisation, has moved its focus away from the traditional UK product marks market into the global market. Much of its growth has been in service and management systems certification.

There has been a degree of market consolidation, with a number of international organisations expanding their operations in Europe through programmes of acquisition.

[11] http://ec.europa.eu/public_opinion/archives/ebs/ebs_137_en.pdf. See also Annex III to this report

[12] http://www.bsi-global.com/upload/Corporate%20Marketing/Financial%20Performance/AnnualReview2006.pdf

Some former national organisations in Europe have expanded, primarily through acquisitions, into other countries both inside and outside Europe.

For example:

UL, a company incorporated in the USA, made its first acquisition in Europe (DEMKO, purchased from the Danish Government) in 1996.[13] By 2007, UL had affiliates in 12 European countries.

Intertek, an international company with its headquarters in London, operates over 250 laboratories and 510 offices in more than 99 countries throughout the world. The ETL SEMKO division of Intertek provides local services[14], including product safety testing and certification, in 28 European or neighbouring countries.

TÜV Rheinland, an organisation originally set up to serve companies in the Rhine valley,[15] now has 21 branch offices, which include test laboratories in nine Asian countries.

It is the view of Eurolab and CEOC that these internationally active organisations, as well as Bureau Veritas and other TÜVs, are now amongst the largest certifying bodies in Europe.

Despite these changes in ownership, privatisations etc, marking schemes still exist in which marks are affixed at national level. Many of these have a national character, eg the NF mark from France, the British BEAB mark etc. If the appropriate mutual recognition arrangements exist, it can be possible for the results of testing and certification obtained in one country to be accepted for marking in another. Under these circumstances, it is normal for a licensing fee to be levied by the owner of the mark before it can be affixed. This means that whilst the certification can be accepted by, say, the French, German and UK certifying bodies, their individual marks could not be affixed to a product unless a separate licence fee had been paid to each body whose mark was required. This situation occurs in the electro technical sector.

For many product sectors outside of the CPD, the large number of certifying bodies in Europe has meant that product manufacturers can access a competitive market, which they strongly welcome. There is one area where there is no competition – that of licensing a mark to be affixed at national level. Most of these marks are “private”, ie owned by a single organisation which can charge licence fees in a non-competitive market. A notable exception to this is the GS Mark, which can be obtained from a choice of suppliers.

[13] http://www.ul-europe.com/en/company/history.php

[14] http://www.intertek-etlsemko.com/portal/page/cust_portal/ITK_PGR/ABOUT_INTERTEK_ETL_PG/GLOBAL_LABORATORIES_PG

[15] http://www.tuv.com/jp/en/history.html

5.4 Ownership models for European certification services

The main types of ownership generally fall into one of three categories:

- Public: a commercial body, eg Intertek laboratories in Sweden, the UK, etc. Their governance models follow the conventions of commercial companies, ie governed by Boards of Directors, consisting of executive and non-executive posts, reporting to shareholders through published annual reports and AGMs, etc.

- Private: Owned by members, sometimes the trade associations whose members use the services of that certifier/laboratory, eg DIN, or owned through some form of foundation, eg NEMKO or similar. Governance, usually conducted through a Board or Council, is more typically in the hands of representatives of the organisations that set up the body in the first place.

- Government owned, eg LNE, a state-owned enterprise attached to the French Ministry of Industry.

A number of certifying bodies claim to be “not-for-profit”. This normally means that the body has not been formed to be a profit distributing business, and is likely to have been formed for charitable or scientific purposes, or similar. Most “not-for-profits” nevertheless need to make a financial surplus since they require investment funds in order to maintain or improve their activities. As such, they could be more fully described as “not for profit distribution to shareholders”. BSI is an example of a “not-for-profit” body. Examination of its Annual Report[16] provides an insight into its financial affairs.

The different modes of ownership outlined above reinforce the notion that conformity assessment in Europe is a fragmented service supply market. Some commentators have expressed concerns that different ownership models could lead to unfair competition, and that the application of forms of subsidies could be used to support the continuation of certification services leading to the affixing of marks at national level.

The possibility of the application of subsidies was not investigated in detail as part of this Study, though the theory that NSBs could use their standards development knowledge to favour their own certification activities was checked. Evidence in the public domain demonstrates that BSI is required to separate its standardisation activities from its commercial certification activity. As the NSB, it is prohibited from favouring its own commercial activities.[17] A representative from DIN confirmed that similar requirements apply to their activities.

[16] http://www.bsi-global.com/upload/Corporate%20Marketing/Financial%20Performance/AnnualReview2006.pdf

[17] http://www.dti.gov.uk/files/file11950.pdf

5.5 Mission statements, market definition and services promotion

5.5.1 Mission statements

Only a minority of certifying bodies have a mission statement or provide details of their aims on their websites. Examples include TNO[18] "*To apply scientific knowledge with the aim of strengthening the innovative power of industry and government"*, and LNE whose website[19] describes a range of public service activities.

While some of the private certifying bodies, eg VDE, state a range of public-spirited activities on their website[20], this is not true for all private organisations. Overall, these are focused on the services they offer.

5.5.2 Market definition

As reported earlier, the European conformity services market is very fragmented, with a large number of service providers. Looking at the market sector that provides certification services leading to the affixing of marks at national level, the clearest signs of market definition are provided by the service suppliers themselves, particularly the test laboratories who need to have the necessary specific technical expertise. Most of these confine their activities to single or a related cluster of New Approach Directives. As could be expected, the larger international service suppliers offer a broader range of test laboratories and related technical expertise.

A less fragmented picture is presented by the manufacturers of electrical, toys, machinery and PPE. Here, with respect to suppliers of certification services leading to the affixing of marks at national level, a particular pattern emerges:

- The supply of certification/marking services to manufacturers of B2C and B2B/B2C (products migrating from the professional to the consumer sector) – which the manufacturers have **chosen** to seek;
- The supply of Notified Body services to manufacturers of B2B and B2C – which the manufacturers are **required** to seek.

What is clearly missing from this pattern is a significant level of voluntary certification/marking for B2B products. None of the 46 manufacturers interviewed who supply B2B products in the machinery and personal protective equipment (PPE) sectors are voluntarily using certification services. All the remaining B2B manufacturers are supplying products which could potentially migrate from the professional (tradesperson) sector to the consumer sector.

[18] http://www.tno.nl/content.cfm?context=overtno&content=overtno&item_id=30

[19] http://www.lne.eu/en/lne_glance/missions.asp

[20] http://www.vde.com/VDE_EN/About+ourselves

These trends are not those described by manufacturers of thermal insulation products, who are required to seek certification services leading to marking at national level for their B2B products.

5.5.3 Services promotion

Most certifying bodies offer to supply marks as part of their services. These marks usually fall into the voluntary category and would, for products falling under the New Approach, need to be affixed in addition to CE marking. Indeed, companies offering such services would be able to offer similar services only in support of CE marking, ie testing and checking that a product is in conformity with the essential requirements of the appropriate Directives.

Services offered on the certifying bodies' websites were assessed to evaluate whether they supported SDOCs and/or whether they in some way were trying to undermine confidence in CE marking. The Study also considered whether they tried to promote their own marking schemes in preference to CE marking, and whether they tried to promote a mark associated with a national scheme, while failing to draw attention to the existing European schemes.

Six service suppliers were chosen, one from each of the countries featured in the case studies, and UL. The latter was selected as an example of a multi-national commercial certifying body.

- **UL**
  An international certifying body that has rapidly expanded its commercial activities in Europe and can supply its own mark (UL, little used in Europe) as well as other offerings;

- **LNE**
  Government owned and licensed to apply the French NF and ACERMI marks, as well as other offerings;

- **AENOR**
  An independent, non-profit making Spanish organisation set up under an order of the Spanish Government for the development of standards and certification. It can supply its own AENOR mark as well as other offerings;

- **DIN Certo**
  A German organisation owned 80% by TÜV and 20% by DIN - which can supply its own DIN mark as well as other offerings;

- **BSI**
  The UK NSB, able to supply its own Kitemark as well as other offerings;

- **Nemko**
  A Norwegian organisation originally established as an institution for mandatory safety testing and national approval, which is now an independent, self-owned foundation able to supply its own N mark as well as other offerings.

From the detailed results given in Table 2, it can be seen that most certifying bodies promote their CE marking services as strongly as their own private marks. LNE (France) is a notable exception.

Table 2 Comparison of service offerings on certification body's websites

	Support for CE marking?	Support for the Internal Market?	Support for European marking schemes?	Support for own private mark or similar?	What is the target audience for the offered service?
UL	Yes – treated in the same way as other marking offerings	Yes – by implication since details are provided to assist entry to the market	Yes – treated in the same way as other marking offerings	Yes – treated in the same way as other marking offerings	Product suppliers
LNE	No, the CE mark is not on the introductory pages to product certification	No implicit support for the Internal Market	Yes – treated in the same way as other marking offerings	Yes – treated in the same way as other marking offerings	Not focused on any particular audience
AENOR	Yes – treated in the same way as other marking offerings	Yes – by implication since details are provided to assist entry to the market	Yes – treated in the same way as other marking offerings	Yes – treated in the same way as other marking offerings	Not focused on any particular audience
DIN	Yes – treated in the same way as other marking offerings	Yes – by implication since details are provided to assist entry to the market	Yes – Keymark gets a particularly high profile	Yes – treated in the same way as other marking offerings	Product suppliers
BSI	Yes – CE marking is given priority over all other markings	Yes – by implication since details are provided to assist entry to the market	No, European marks are not on the introductory pages to product certification	No – CE mark is given priority	Product suppliers
NEMKO	Yes – initially treated in the same way as other marking offerings – though no fact sheet offered for CE marking as there are for other marks.	Yes – by implication since links are provided to assist entry to the market	Yes – treated in the same way as other marking offerings	Yes – treated just a little better than other marking offerings	Not focused on any particular audience

5.6 Some features of the certification and marking market

Interviews with conformity industry experts Eurolab, CEOC, EA and EEPCA have suggested the following:

- Testing and surveillance make up the bulk of costs. The licence costs (for using the mark) are much lower, though this varies by product and the number being manufactured. Typical annual licence fees for a mark are estimated by Eurolab to be circa €2000 (though others have suggested fees can be higher, eg €4000).

- The bodies that own private marks are free to set their own fees for licensing the marks. Each private mark requires a separate licence fee. European marks such as the Keymark or ENEC mark only require a single licence fee, as does the GS Mark.

- Schemes which operate within the scope of harmonised, non-food European product legislation are shrinking in Europe, but growing outside of Europe due to relocation of production.

- Growth areas for conformity assessment and related services in Europe are:
    - Certification of management systems
    - Services
    - Certification of personnel
    - Food
    - Environmental
    - Energy efficiency

- Growth in non-European based certification of products is primarily due to importers seeking certification to build trust in their products. The addition of a mark is to display that a certification body has been involved in the certification process;

- There is more demand for certification marking for B2C than for B2B products. This is said to be because business buyers have more expertise with the products they are procuring, and because the overall expertise in products for which Notified Bodies have to play a role rests with the manufacturers. No examples of voluntary marking were found on products which fall under modules B-H during the course of research for the Study;

- There remains more to be done to improve and derive benefits from mutual recognition. The IECEE CB[21] scheme and the CCA[22] scheme from the electro technical product area show what could be accomplished in other sectors (these schemes are described in more detail in Section 9.2.2.1).

- There is a continuing trend in the electro technical area away from the use of multiple marks towards the use of a single certification mark or no certification mark. Many manufacturers are now considering CE marking as sufficient for the Internal Market.

[21] http://www.iecee.org/cbscheme/default.htm

[22] http://www.eepca.org/fact_cca.shtml

- A number of certifying bodies will not licence their mark to be used on a product unless it is subjected to an ISO type 5 or similar regime, which contains requirements for continuing factory inspections and sample checking. This, in part, is to enable the owner of the mark to protect the reputation of their mark.

- There is no general trend towards the creation or expansion of European marking schemes (also see Section 7 for more details on this topic)

5.7 Impact of accreditation

Two aspects of accreditation were studied for this report. One was the extent to which accreditation plays a role in underpinning the quality of product certification services. The other was whether accreditation could play an increasing role in supporting mutual recognition arrangements, in order to reduce the costs of carrying out duplicated assessment procedures.

5.7.1 Accreditation and the quality of conformity assessment

The views of EA are clear: there is currently not enough accreditation of product certification taking place in Europe. More, they say, is needed to drive up the quality of certifying bodies, particularly amongst some of the Notified Bodies. This view is close to that expressed by the European Commission in their Proposal COM (2007)37 Final.

However, the impact of the changes that EA would like to see, whilst improving the quality of service offerings, would also be likely to increase the cost to manufacturers requiring certification and marking of their products. This potential cost increase may, over time and in some circumstances, be mitigated by cost reductions coming from an increase in mutual recognition arrangements and from a subsequent increasing willingness in the market to accept non-national certifications.

5.7.2 Accreditation and its support for mutual recognition arrangements

Mutual recognition arrangements (MRAs) within which the results of tests and inspections conducted by one certifying body are accepted by another, appear to provide significant potential for reducing the cost of certification. They can substantially reduce the cost of obtaining certification relevant to the intended marketplace and they speed up access to that market.

The electro technical sector, with its IECEE CB and CCA Schemes, shows just how much can be accomplished through these MRAs. Similar achievements have been made with the

European RADMAC scheme,[23] in which signatories have established mutual acceptance of certification for convector and radiator products. In this scheme, each of the Certification Bodies (AENOR, AFNOR, BSI, and RAL) is a signatory to an agreement to accept test reports from RADMAC approved test laboratories, and to accept inspection reports from each other; thus the manufacturer only has to pay the costs of one certifier. However, the scheme does not have a common mark so the costs of licensing the individual marks of any of the certifying bodies are additional.

In contrast to this, a number of stakeholders expressed concern that much still needs to be accomplished, particularly with mutual recognition of conformity between schemes established at national level in Europe. For example, despite manufacturers' adoption of the CEN Keymark scheme for thermal insulation products, mutual recognition between the ("empowered") certification bodies for that scheme has not yet been established. Therefore, the certification process undertaken by one certifying body cannot be accepted by another operating within the same Keymark scheme. Further details of the CEN Keymark Scheme are given in Section 7.2.

The EA multilateral agreement (MLA) is a tool that could be used to underpin MRAs, since it provides a "…*process by which a test or inspection report or a certificate issued by an accredited body in one country is recognised as equivalent to that issued by an accredited body in any of the countries who are signatories to the EA MLA. Accreditation bodies recognise that they operate in an equivalent way and that they deliver equivalent accreditations, providing the same level of competence and confidence."* [24]

In something of a parallel with CE marking, EA sees the MLA making accreditation a "passport", facilitating access to the European and international markets. The MLA cannot deliver MRAs on its own. There are two other requirements:

- Existing certification schemes, possibly maintained at national level, need to be equivalent;
- Certifying bodies need to join such arrangements.

Investigations carried out for the case study on thermal insulation products show that the national schemes that continue to exist without MRAs are effectively acting as barriers to trade. These barriers to trade are described in more detail in the PRC Report *Study to evaluate the internal market and competitiveness effects of Council Directive 89/106/EEC (Construction Products Directive, CPD).*

23 http://comelec.afnor.fr/servlet/ServletComelec?form_name=cFormStatique&page_name=scope.htm&session_id=0.9974966093258166

24 http://www.european-accreditation.org/content/mla/what.htm

6. Value added by marks

6.1 Introduction

Certification marks are sometimes referred to as “quality marks”, yet quality is a relative description. All marks and marking systems may convey quality; some potentially add more value than others.

6.2 Value of CE marking

CE marking, though not normally described as a “quality” mark, conveys unique qualities to the enforcement officials, since it informs them that at the very least the manufacturer has compiled with and maintains a Declaration of Conformity to all applicable community product legislation. Furthermore, for products which fall under the New Approach and into the categories covered by modules B-H, CE marking also conveys the message that a Notified Body has been involved in some way in that declaration. For construction products, the CE marking conveys the message that the product’s family has been subject to the attestation procedures laid down in the CPD.

Many of the organisations and manufacturers interviewed drew attention to weaknesses with the CE marking process as it is currently applied, with ANEC expressing particular concerns from a consumer perspective. These weaknesses, notably the lack of support for CE marking at Member State level due to limited market surveillance and the inconsistent quality standards amongst Notified Bodies, reduce confidence in CE marking amongst economic operators and other stakeholders. These are acknowledged by the European Commission in COM (2007)35 and it can be seen from their Proposal COM (2007)37 that there is an intention to take action to address these issues.

6.3 Value of certification marks

Certification marks should not convey the same meaning as CE marking. Marking which in some way may confuse the purpose of CE marking is not permitted.

Examinations of the services promotion of certification marks (and the certification processes that may underpin them) show a variety of different claims for the values these marks add. These include:

- compliance with relevant safety standards[25]
- marketing tool[26]

[25] http://www.ul.com/international/gsmark.html

- defence against product liability claim[27]

These claims should be examined further:

Compliance with relevant safety standards – It seems that this claim can, with limited justification, be judged to add a value over and above what might otherwise be an SDOC for CE marking (under module A). There are two important limitations:

  - An ISO Type 5 or better system is applicable, ie it is not based on testing a single sample without some form of ongoing factory and sample surveillance;
  - It is no more than what it claims – in this case safety – and does not provide any assurance regarding other, non-safety, harmonised product legislation that may also be covered by the CE marking on that product.

Marketing tool – From the results recorded elsewhere in this report, it may be concluded that certification marks have greater merit as a marketing material in certain markets. Describing marks as "a powerful marketing tool" (both ETL SEMKO and UL use the word "powerful" in their promotional material) may have most impact in markets such as security products of interest to insurance companies. When insurance companies require that a product be certified to the full requirements of a particular standard - which is not a harmonised EN related requirement under the CPD - then the addition of a suitable certification mark can be judged to add marketing value over that of the CE marking alone.

Defence against product liability claim - it is clear from 93/465/EEC that *"the manufacturer bears ultimate responsibility for the conformity of the product"*. Therefore, whatever actions are taken by the certifying body, they cannot absolve the manufacturer of their legal responsibilities. Under these circumstances, it seems that the efforts involved in obtaining a certification mark will, at best, be taken in mitigation. This may add value relative to that within the CE marking, though this would depend on what other activities the manufacturer had undertaken when compiling their SDOC.

ISO Type 5 certification (and similar) services have the potential to add significant value over that of the CE marking alone (particularly for products only requiring an SDOC). An ISO Type 5 regime that includes testing of the product to appropriate standards in conjunction with factory inspection, pre-production and on-going sample surveillance provides a mechanism for ensuring that a product meets legal requirements now and in the future. This could help to reduce the risk of legal claims arising. From interviews conducted with manufacturers, distributors and retailers, it seems that this is where they derive particular benefit from product certification services.

[26] http://www.intertek-etlsemko.com/portal/page/cust_portal/ITK_PGR/ABOUT_INTERTEK_ETL_PG/GLOBAL_CERTS_MARKS_PG

[27] http://www.beab.co.uk/certP-BeabApp.asp

7. Lessons from the success/failure of European marking schemes

7.1 Introduction

The display of multiple national *quality* marks on a single product - with all the testing and licence costs that lie behind each one - will cost more than a single, harmonised European *quality* mark. Yet, relatively few single certification and marking schemes have so far been successfully developed in Europe.

The Keymark schemes operated by CEN and CENELEC, the Solar Keymark scheme developed by ESTIF and Euralarm's proposed EQM were closely examined to explore whether lessons could be learnt from their development for application in any future initiatives to develop European marks. Discussions were held with key staff involved in developing or supporting these schemes. Discussions were also held with EEPCA, who is currently developing a voluntary European certification scheme for LVD products, based on the previously successful ENEC mark.

Since not all manufacturers support the development of European certification schemes, discussions were additionally held with two organisations; the European Industry of Household Appliances (CECED) and the European Information & Communications Technology Industry Association (EICTA), to explore the possible reasons for this. Resistance to the concept also came from some elements of the B2B sector and written materials were received detailing the reasons for their opposition.

7.2 The Keymark

The Keymark, a European voluntary certification and marking scheme for products, was launched in 1997 and is jointly owned by CEN and CENELEC. The use of the Keymark means that a product conforms to an EN standard. The main differences in implementation between the two bodies relate to the content of the standard being covered by the Keymark. The CEN Keymark may cover performance or safety or other aspects; the CENELEC Keymark is a safety mark.

7.2.1 CEN Keymark

The scheme is managed by the CEN Certification Board which empowers certifying bodies to grant the Keymark.

The scheme provides more than just type approval to a particular EN standard, as it also requires each test laboratory to be audited. This ensures a level of consistency between the different laboratories.

Currently, some 1200 product certificates have been issued by 25 certification bodies on the basis of almost 150 EN standards[28]. This growth has taken place over a ten year period. This has been a poor rate of growth, given the potential size of the market, and particularly since approximately 1,000 of those product certificates are for just one product area.

A number of reasons have been cited as to why the CEN scheme has not grown more successfully:

- Insufficient market demand from the product supply side, ie manufacturers and suppliers of products;
- Insufficient market demand from the product demand side, ie distributors and specifiers;
- Lack of mutual recognition between the empowered certifiers operating at national level, resulting in cost increases due to repeat testing;
- Lack of support from certifying bodies at national level, who continue to promote their own competitive certification schemes;

[28] http://www.cen.eu/cenorm/conformityassessment/keymark+/index.asp

- The mark is not actively marketed by anybody, least of all by the members of CEN, who also operate certification bodies which have an existing national competitor product to the Keymark.

An examination of the websites that are directly linked on the CEN Keymark website shows that only two of the 24 certification bodies (one does not have a website) are proactively publicising the service. In the remaining cases, either a search or multiple (>3) keystrokes are required to locate specific CEN Keymark details. In some cases, the would-be suppliers' sites made no mention of their Keymark service at all.

7.2.2 The CENELEC Keymark

In 2007, CENELEC decided not to offer any new licences to the scheme, although the scheme will continue for existing licensed products.

The scheme had never achieved a significant market penetration, having certified less than 400 products at its peak. It faced strong competition from the outset, as the market already had established service suppliers, providing well established marks at national level in all the major European economies. MRAs were already well established too through the IECEE CB and CCA Schemes. Seemingly, the demand side's willingness to continue with the established marks (which they were already beginning to use less frequently) provided the service supply side with little incentive to exploit CENELEC Keymark's potential.

More recently, having noted[29] a decline in the European certification market for LVD products (an observation confirmed in the LVD case studies) EEPCA has been developing a proposal to expand the remit of the ENEC Mark (an existing European marking scheme), and offer it as a replacement for the disappearing CENELEC Keymark. EEPCA believes that the combination of the more established nature of the ENEC Mark (12,000 licences issued covering >30,000 products), its broader scope (it covers appliances, lighting and other products) and its ownership model (it is owned by the certification bodies) will offer it a better opportunity to gain ground in the market, compared to the CENELEC Keymark.

Support for this emerging ISO Type 5 product certification and marking proposal from EEPCA has not been strong. Trade associations representing suppliers of electrical products have expressed concerns, and the EICTA has gone as far as to submit a letter of complaint[30] about the proposal to the European Commission. (The letter also raised concerns about the GS Mark.) Some manufacturers expressed similar concerns, especially around the possibility of a strong single mark eventually becoming a de facto requirement. They were also concerned that the mark would add no further trust value beyond that already associated with their brand names. SMEs with less well-established brands may take an opposing view – a European mark may enhance trust in their products.

[29] Limited circulation paper, not in the public domain

[30] http://www.eicta.org/index.php?id=34&id_article=124

A comment from CECED, in response to the issues raised by the CENELEC Keymark and that may have a wider bearing on the challenge of creating common European conformity requirements, is that much of the market fragmentation continues to be underpinned by enforcement taking place at national level. To give a sense of scale to this: nine Directives apply to a domestic cold electrical appliance and there are national/regional/local enforcement authorities in 27 Member States, hence over 1000 authorities could potentially take action on this one product.

7.3 Solar Keymark

The creation of the Solar Keymark was driven by the product supply side through the European Solar Thermal Industry Federation, ESTIF, in partnership with a number of national solar test institutes. It is a voluntary European certification scheme designed to overcome the barriers posed by existing national schemes, and hence open up the European market for solar thermal products. The project, which is supported by the European Commission, has made significant progress but required substantial funding to do so. The initial three-year programme, identified as the EU Alterner[31] project, had a funding line of €600,500 and a team of experts dedicated to implementing the new EN standards and establishing the Solar Keymark as a certification mark.

There were three main challenges:

- Creating the scheme rules and procedures;
- Harmonising the procedures of different certifying bodies throughout Europe and creating a Europe-wide certificate that shows compliance with the ENs;
- Convincing national authorities to link their support schemes to the ENs and to accept the Solar Keymark certificate.

The first two challenges have largely been overcome. This includes establishing mutual recognition between certifiers for an ISO Type 5 procedure, as follows:

- Factory product selection for type testing by Test Laboratory inspector;
- Testing at a laboratory to appropriate EN standard;
- Inspection of manufacturing Quality Management System;
- Every two years, inspection of Solar Keymarked product selected by the test laboratory.

[31] http://www.estif.org/solarkeymark/final.php

The Solar Keymark is issued by a single accredited certification body after the product has been tested by an accredited testing laboratory. The certification bodies are empowered by the CEN Certification Board. There is neither re-testing at national level nor issuing of additional licences.

The third challenge, to convince national authorities to link their support schemes to the European norms and to accept the Solar Keymark certificate, is ongoing. It has taken some time to reach the current stage of development; two to three years for the Solar Keymark to be recognised and three to four years for it to become the de facto requirement in those countries where its adoption has been most successful.

A critical mass needed to be achieved through the number of suppliers holding Solar Keymark certification and, separately, authorities recognising it. Recognition has been achieved through lobbying and, in some instances, through direct support from the European Commission. A key contribution to the success of the Solar Keymark was the support from DIN Certo. Problems of acceptance still continue in France (insurance company demands) and Spain. Germany accepts the Solar Keymark but requires the addition of the Blue Angel eco-label.

The cost benefits to a thermal products manufacturer seeking certification in order to export into other European countries are potentially very significant. Indicative costs of the Solar Keymark are given in ESTIF's current brochure[32]:

Certification costs (costs exclude type testing) for one collector/system:

First year costs approx:	€ 2000-3000
Annual costs following year approx:	€ 2000

These costs are similar to those expected for the equivalent certification for just one national scheme, so show the cost benefits for product suppliers of having a European conformity scheme; assuming that it is accepted across all of Europe.

7.4 Euralarm EQM

The fire alarms and security systems sector is also currently suffering from multiple certification requirements, leading to substantial additional costs and delays to market. Further complexity comes from the application of multiple Directives, eg for a fire control panel the LVD, the EMC Directive and the CPD all apply. Further distortions also come from each Member State being able to accredit its own Notified Bodies, thus leading to quality differences between them. The industry's trade body, Euralarm, summarises the problems as follows:

32

http://www.estif.org/solarkeymark/Links/Internal_links/brochures/Solar_Keymark_brochure_2006.pdf

- The European fire and security industry suffers from multiple testing and approval/certification of their products;
- The approval process is costly and time consuming, hinders innovation and market introduction, and leads to unnecessary R&D efforts and higher product costs;
- Multinational US companies dominating the European manufacturers are unwilling to accept the complicated approval process in Europe any longer;
- Local companies (SMEs) see the complex approval process as a barrier to engage in external European markets;
- CE marking does not solve the problem.

Some of the problems encountered are similar to the key issue identified in the CPD case study – CE marking/harmonised standards only apply to the product and not to the system in which it has been installed. Local standards (and regulations) continue to apply to systems and this leads to local purchasers specifying their local or non-harmonised standard.

As with ESTIF, Euralarm (the Association of European manufacturers and installers of fire and security systems), is determined to develop a European certification mark. Unlike ESTIF, Euralarm has decided not to adopt the CEN Keymark route, but to develop a unique mark – the "EQM" - under a different ownership. Currently, Euralarm is reviewing the possibilities of establishing the scheme ownership through a European Economic Interest Group ("EEIG")[33]. There are a number of reasons why Euralarm prefers not to adopt the Keymark:

- 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.

Euralarm intends to launch the mark in 2008 and recognises that it will need substantial support in order to achieve market recognition. They plan to run it in parallel with the existing national marking schemes, whilst building market presence and mutual recognition at the same time. They see the audiences that need to be "won over" as those who are driving the current national schemes: insurers, specifiers and, most importantly, national regulators.

Their goals:

- Sustain the high level of quality of fire and security products, systems and services as achieved with existing third party marks;
- Support the development of a European market free of technical barriers to trade;

[33] http://europa.eu/scadplus/leg/en/lvb/l26015.htm

- Make sure that conformity standards are applied and surveyed uniformly across Europe (one level playing field);
- Achieve a one-stop testing/certification process with substantial time and financial benefits;
- Get support from major stakeholders:
    - Certification bodies and test houses
    - Trade associations, Manufacturers
    - CEN/CENELEC /ETSI
    - Insurers
    - Users
    - Fire Brigades, Police

This is a very important issue for Euralarm. Currently, it costs circa €20,000 just to test a smoke alarm – and these tests currently have to be repeated in each country, adding substantial costs and delays in getting the product to market. Costs are so high that only the large global manufacturers can afford to remain in the international market. The lack of an appropriate mark affixed at national level is an effective barrier to trade for smaller companies.

It is clear that the demand for this mark is being created by the supply industry in order to overcome existing barriers to trade, reduce conformity costs and speed up access to market.

Euralarm reported that the EQM/EEIG model they are developing may be adopted by other industries.

7.5 Success factors for European marks

The results of the study show that the demand for voluntary European certification marks is inconsistent. Some sectors are trying to develop such marks whilst other sectors are resisting such initiatives.

The trend in general for supporting the development of such marks appears to come most strongly from the construction products sector. Here, national conformity schemes are well established, and the CPD requires some form of compulsory attestation for products. These drivers can result in suppliers facing demands for multiple certifications, multiple delays to market and multiple fees. From this the logic for seeking a single European certification scheme is clear. Other sectors, (and here there is a need to be cautious about the conclusions to be drawn, since the electro technical sector has a particular focus in the

research conducted for this study) are slower to embrace the apparent advantages of a voluntary European certification mark. Their existing choice of conformity assessments already have established and widely adopted MRAs. Furthermore, manufacturers want to avoid the possibility emerging whereby a single widely recognised marking scheme eventually develops into a de facto requirement.

Many of those interviewed identified a straightforward goal for voluntary European certification marks: "tested once – accepted everywhere". Yet it can be seen from the history of both the CEN and CENELEC Keymarks, and the time and costs of developing the Solar Keymark, that success is not easily achieved. That is not to say that European marks cannot be created, since there are notable successes too. One example is the HAR[34] mark of conformity according to European ENs or harmonisation documents on electrical cables and cords, which is unconditionally recognised by the signatories of all 18 countries as equivalent to their own mark.

Stakeholders identified the following as potential critical success factors for the development of any future voluntary European certification marks:

- Ideally launched in a new product area where there are no existing national certification schemes in competition;
- Based on EN standards or a CEN workshop agreement for systems, installations and services as well as products ;
- Strong support from the product supply-side;
- Strong support from at least one major certifier;
- Strong visible support from the European Commission and ideally from national authorities too;
- Scheme must add value, ie be more than just an ISO Type 1 test and thus be a "quality" differentiator in the marketplace;
- Development team should be prepared to be in place for a long time span as schemes currently take some years to reach a successful level;
- Changes represent a cost for the product supply side, so benefits of a proposed new scheme must outweigh costs;
- Withdrawal of conflicting national schemes and standards;
- Strong promotion from all stakeholders;
- "Recognition is everything".

[34] http://www.eepca.org/fact_har.shtml

8. GS Mark

8.1 Introduction

The GS Mark was subjected to detailed review as references to it occurred more frequently than for any other mark throughout this study. The GS Mark is an official German mark, the responsibility of the Federal Ministry of Labour and Social Affairs. It is a voluntary mark, though it has a basis in the 2004 German Equipment and Product Safety Act, where it has an optional (voluntary) role to convey that the legally required safety level has been achieved.

8.2 Application of the GS Mark

The GS Mark was originally introduced in 1977 to cover workplace equipment. Since 2004, it has been possible to apply the mark to a wider range of products, including those for which a CE marking is not required. This expansion of scope was introduced to cover the requirements of the General Product Safety Directive (GPSD), which does not require products that fall under its jurisdiction to have CE marking. The purpose of the GS Mark is to convey extra safety or health qualities beyond those conveyed by CE marking, which only has to cover essential requirements. The GS Mark is not applied to products where it would have the same meaning as is conveyed by CE marking.

In the words of the authorities interviewed: *"the CE marking is for the market surveillance authorities, the GS Mark is for the consumers".* Use of the GS Mark appears to be widespread in the German market; currently 60,000 GS certificates have been issued. The case studies for the Machinery Directive product include use of the GS Mark.

The GS Mark market, which has expanded since the applicable German law was changed in 2004, breaks down as follows:

60% Low Voltage Directive products

10% Machinery Directive products

10% Toy Directive products

20% non-harmonised standard products

8.3 Procedures

The GS Mark and certificate is obtained from accredited test laboratories operating in a competitive market. The portion of test fees needed to cover the cost for those laboratories to obtain accreditation is minimised, since this is a non-commercial federal activity undertaken by a single accreditation body, ZLS. Most accredited laboratories are in Germany, though laboratories in seven other countries have also been accredited. ZLS is

indirectly represented in EA by the German Federal Ministry for Economics. It is organised and works in conformity with:

- EN ISO/IEC 17011 *Conformity assessment. General requirements for accreditation bodies accrediting conformity assessment bodies*

ZLS accredits:

- Laboratories to EN ISO/IEC 17025 *General requirements for the competence of testing and calibration laboratories*
- Certification bodies to EN ISO/IEC 17021 *Conformity assessment. Requirements for bodies providing audit and certification of management systems* and EN 45011 *General requirements for bodies operating product certification systems*

The detailed test procedures are not in the public domain. This is a diversion from normal accredited conformity procedures otherwise operating in the Internal Market, where the test procedures being used are published in the public domain. As a result, GS marked products have, in the words of Eurolab-Deutschland, “hidden qualities”.

The GS procedure is similar to ISO Type 5, as it requires independent testing, factory inspections and random sampling from the market place. The cost for obtaining a GS Mark was not known to the authorities interviewed, and would vary by product. Costs are not held down by mutual recognition of test results since this is only applicable in limited circumstances.

The German authorities are also involved in market surveillance of the GS Mark.

8.4 Drivers behind the GS Mark

Historically, the demand for the GS Mark has come from the professional user of GS marked products. Over time, the mark has migrated into the consumer domain, together with the products to which it is affixed. Today, the main demand for the mark comes from the procurement departments of German retailers, a fact reinforced in our interviews with some power tool manufacturers.

The authorities who were interviewed denied knowledge of the GS Mark being demanded in public procurement. They pointed out that, as the GS specifications are not published in the public domain, they would not be known by the public procurement staff responsible for drawing up detailed tender specifications.

Concerns have been expressed that the GS Mark could become a barrier to trade. One trade association, EICTA, believes so. It has drawn its concerns[35] about the GS marking in Germany to the attention of the European Commission. Indeed, if GS marking was specifically required as a prerequisite by retailer procurement staff in Germany, this might be

[35] http://www.eicta.org/index.php?id=34&id_article=124

constituted as a barrier to trade. The views of Swiss TBT experts on the potential for the GS Mark to be a barrier to trade are even stronger as, according to feedback from their industry, it is already a de facto requirement for the German market.

The results of an informal (and not statistically significant) inspection of products on shelves in retail stores in Frankfurt and Munich did not support this thesis. They showed in each case that, whilst some products were marked, other (competitive) products were not. There was no discernable pattern in which the big brands were less likely to be GS marked and lesser-known brands were more likely to GS marked.

However, it should be noted that the application of the GS Mark is increasing. If not checked, and this may lie behind the concerns expressed by EICTA, the penetration of the GS Mark could reach the stage where it does become a de facto requirement for certain products in order to enter the German market.

Since its repositioning in 2004 to cover those products which fall under the GPSD, the GS Mark fills a gap in the CE marking approach for the German market. If a number of other European countries follow the lead of Germany and introduce a voluntary GPSD mark at national level, there is a risk that these could also grow in stature to a situation where there would be a new proliferation of marks affixed at national level.

9. Case Studies

9.1 Introduction

Understanding the demand for marks is a key feature of this study. As existing published research was unable to provide clear or up-to-date answers, it was necessary to develop a process that would provide a systematic approach for investigating the real demand for marks. The process, developed under the direction of the study's Steering Committee, was to develop case studies around products falling within the scope of harmonised, non-food European product legislation.

Table 3 provides an overview of the case study topics selected by the Steering Committee. Their choice was in part determined by the need to have a mix of B2B and B2C products. For each of the five directives, a product was sought that was being supplied into at least one of the selected countries, and which carried a mark or marks affixed at national level in addition to CE marking. Interviews were then undertaken with the manufacturers and, where possible, with other relevant stakeholders such as those identified as applying pressure to affix a mark.

The findings from this case study approach illustrate the types of mark found. The results should not be seen as a reflection of the prevalence of marks since, with the exception of the CPD product, only a minority of products initially investigated had any marks in addition to CE marking. Readers should note that many findings from the case studies, which are reported in more detail in this section, have been used in earlier sections of this report.

Table 3 Case Studies Overview

Germany	France	UK	Norway	Spain
Low Voltage Directive: Household Appliances **Microwave ovens (B2C)**				
Toys Directive **(B2C)**	Not required	Toys Directive **(B2C)**	Not required	Not required
Machinery Directive: Machinery **Power tools (B2B)**				
Personal Protective Equipment Directive **Any (B2B)**				
Construction Products Directive **Thermal insulation material (B2B)**				

9.2 Case study – Low Voltage Directive

9.2.1 Background

The Low Voltage Equipment Directive (LVD) was originally drawn up in 1973 (73/23/EEC), before the concept of the New Approach and Global Approach was established. It was further aligned with other New Approach directives in 1993 (93/68/EEC) and 2006 (2006/95/EC).

Conformity to the LVD only requires an SDOC.[36] Any certification marks affixed to the marking plate in addition to CE marking are voluntary.

The LVD was selected as a basis for a case study as it is known to be an area in which national certification bodies are well established and where the use of multiple markings is common. It is also an area where marking at national level has been long established and where MRAs are also well established.

Microwave ovens were selected as they are a popular consumer product and so might provide an insight into whether, and why, certification marks are being affixed to consumer products.

[36] See p 90, *Guide to the implementation of directives based on the New Approach and the Global Approach*
(http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf)

9.2.2 Summary of findings from the case studies on LVD: microwave ovens

Table 4 provides an overview of marks being used on microwave ovens.

Table 4 Use of marks for MICROWAVE OVENS

Manufacturer code	AA	AP	AQ	BN
Using marks for FRANCE?	YES – but mark is not necessarily affixed at national level	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	NO, certification only
Using marks for GERMANY?	YES – but mark is not necessarily affixed at national level	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	NO, certification only
Using marks for NORWAY?	YES – but mark is not necessarily affixed at national level	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	NO, certification only
Using marks for SPAIN?	YES – but mark is not necessarily affixed at national level	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	NO, certification only
Using marks for UK?	YES – but mark is not necessarily affixed at national level	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	YES (BEAB)

- CE marking is most frequently the only mark found on the marking plates of microwave ovens;
- A certification mark affixed at national level is sometimes found on microwave ovens. The main drivers for these additional marks are either the manufacturer/suppliers' in-house policies or requirements from the demand side. The drivers from the demand side are the retail buyers;

- Microwave ovens used to be subject to multiple marking (marks affixed at national level), but this is no longer the case. The reduction in use of marks appears to stem from a reduction in the requirement for them from the demand side;
- The CENELEC Keymark is not found on any microwave ovens examined in the informal market surveys, and none of the manufacturers interviewed uses it as part of their marking policy on microwave ovens;
- Certification services are widely used by manufacturers and suppliers of microwave ovens;
- The main driver for using these certifiers is the manufacturer and suppliers' own corporate quality policies. These seek to validate in-house safety testing to minimise the risk of marketing products that are subsequently identified as unsafe;
- Only a few of the marks which can be obtained (subject to paying the appropriate fees) following certification are used by manufacturer/suppliers of microwave ovens;
- There is a high level of mutual recognition of test results for microwave ovens, with the IECEE CB scheme operating worldwide and the CCA scheme operating in Europe. These schemes reduce the re-testing costs that would otherwise be applied if additional marks affixed at national level were required;
- Despite the mutual recognition of test results, additional certification fees are usually levied by each national certifier from whom a mark is required.

9.2.2.1 Mutual recognition within the electrical products sector

There are two established mutual recognition schemes for electrical products, the IECEE CB scheme and the CENELEC Certification Agreement (CCA).

IECEE CB Scheme

The IECEE CB Scheme[37] is an international system for the mutual acceptance of test reports and certificates dealing with the safety of electrical products and components. A CB test certificate that has been issued by one of the National Certification Board (NCB) members of the scheme will be recognised and accepted by other NCB members of the scheme.

The scheme claims that its main objective is to facilitate trade by promoting harmonisation of standards and cooperation among NCBs worldwide, in order to bring product manufacturers a step closer to the ideal concept of "one product, one test, one mark".

Thus, a product manufactured and tested in China can, under the IECEE CB scheme and subject to the appropriate rules, appear in European shops with a mark affixed by one or more of the European NCBs (though the rules of the particular NCB may require factory and sample surveillance before they license their mark to be affixed to the product).

[37] http://www.iecee.org/cbscheme/default.htm

Testing under the IECEE CB Scheme is to international standards and is an ISO Type 1 scheme in so much that one sample is tested and there is no requirement, under the IECEE CB Scheme rules, for ongoing factory or production sample surveillance. The IECEE CB scheme is identified by many interviewees as one of the best and widely adopted examples of an effective MRA.

IEC has also developed an ISO Type 5 scheme from the CB Scheme, the IECEE CB-FCS[38] (FCS – "Full Certification Scheme"). This has not yet reached the level of adoption achieved by the CB Scheme.

CENELEC Certification Agreement

The CCA, a European scheme, operates in much the same way as the IECEE CB-FCS scheme, by creating a system whereby the results of testing by one certification body are accepted by other members of the scheme without the need for further testing. Testing under the CCA Scheme is to European harmonised standards and is an ISO Type 5 scheme, since CCA rules require ongoing annual factory inspection and product surveillance.

9.3 Case study – Toys Directive

9.3.1 Background

The Toys Directive was originally drawn up in 1988 (88/378/EEC) and amended in 1993 (93/68/EEC).

Conformity to this Directive is demonstrated via an SDOC.[39] Any marks affixed to the marking plate in addition to CE marking are voluntary.

Toys were selected as a basis for a case study as they are a product area that consumer representatives treat as a priority for safety, and thus might provide insights into whether third party marks were being affixed to convey a safety message.

The case study concentrated on just two European markets: UK and Germany, and was completed prior to the recalls instigated by toy manufacturer Mattel.

9.3.2 Summary of findings from the case studies on toys

Table 5 provides an overview of marks being used on toys.

[38] http://www.iecee.org/cb_fcs/Default.htm

[39] See P92 *Guide to the implementation of directives based on the New Approach and the Global Approach* (http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf)

Table 5 Use of marks for TOYS

Manufacturer code	AY	AX	BJ	BR	CA	CB
Using marks for GERMANY?	No	No, certified only	Yes (Lion Mark)	Yes (Lion Mark)	YES (LGA)	No, certified only
Using marks for UK?	Yes (Lion Mark)	No, certified only	Yes (Lion Mark)	Yes (Lion Mark)	YES (LGA)	No, certified only

- In most cases, CE marking is the only mark found on the marking labels and packaging for toys;
- The Lion Mark is quite commonly used in the UK, but this mark does not signify that the product to which it has been affixed has been certified. It identifies that the manufacturer complies with a UK industry code of practice, which deals with toy safety, counterfeiting, product recalls etc. It also indicates that the manufacturer complies with the International Council of Toy Industries (ICTI) Code of Business Practice, which requires members to ensure toy factories operate in a lawful, safe, and healthful manner. The Lion Mark is also frequently seen in Germany;
- The “LGA Tested Quality” mark is a private “quality” mark based on a standard agreed between the client and LGA. It is found on a limited range of toys in Germany and on those same brands of toys in other markets;
- Apart from the above, it seems that there is little demand for additional marks (apart, perhaps, from the GS Mark in Germany) from either the supply or the demand side;
- Toys do not appear to have ever been subjected to multiple marks affixed at national level in Europe;
- Certification services are used by some manufacturers and suppliers of toys;
- The main driver for use of these certifiers is the manufacturers’ corporate quality policies, which seek to validate in-house safety testing (where available) to minimise the risk of marketing products that are subsequently identified as unsafe;
- Global test houses are quite active in China. These bring inherent mutual recognition (within any single company) and a consistent interpretation of requirements;
- Some manufacturers use the same packaging in both the UK and German markets. It is for this reason only that the toy packaging has the Lion Mark on it in Germany.

Some manufacturers use the same packaging for many of their markets worldwide. In one example examined, instructions on the packing were supplied in nine languages and there were additional marks too. These marks* are not related to European non-food harmonised product legislation so are outside the scope of this report.

*Includes: Inmetro mark, compulsory certification in Brazil for toy safety and CS (Seguridad Comprobada) mark, compulsory certification in Argentina for toy safety.

9.4 Case study – Machinery Directive

9.4.1 Background

The Machinery Directive was drawn up in 1998 (98/37/EC) and amended the same year (98/79/EC).

Conformity to this Directive may only require an SDOC[40] , although with products to which Annexe IV of the Machinery Directive applies, the application of module B is required as part of that process.

Initial interviews with manufacturers and suppliers of larger machinery, eg commercial plant and industrial machines, indicated that voluntary marks were not being affixed in addition to CE marking.

Further study identified that additional certification marks are being used to a limited extent by suppliers of power tools of the type used professionally by trade persons. These power tools do not fall under Annexe IV category of the Machinery Directive.

9.4.2 Summary of findings from the case studies on Machinery Directive product: power tools

Table 6 provides an overview of marks being used on power tools.

[40] See P94 *Guide to the implementation of directives based on the New Approach and the Global Approach* (http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf)

Table 6 Use of marks for POWER TOOLS

Manufacturer code	AH	AL	AN	BE	BT
Using marks for FRANCE?	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	No, certified only	Use of mark has ceased – products are certified and could be marked if required	Customers are not prepared to pay extra cost of mark - products are certified and could be marked if required
Using marks for GERMANY?	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	YES (GS Mark) by exception, where required by the customer	Use of mark has ceased – products are certified and could be marked if required	Customers are not prepared to pay extra cost of mark - products are certified and could be marked if required
Using marks for NORWAY?	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	No, certified only	Use of mark has ceased – products are certified and could be marked if required	Customers are not prepared to pay extra cost of mark - products are certified and could be marked if required
Using marks for SPAIN?	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	No, certified only	Use of mark has ceased – products are certified and could be marked if required	Customers are not prepared to pay extra cost of mark - products are certified and could be marked if required
Using marks for UK?	YES – but mark is not necessarily affixed at national level	YES – by exception, where required by the customer	No, certified only	Use of mark has ceased – products are certified and could be marked if required	Customers are not prepared to pay extra cost of mark - products are certified and could be marked if required

- In most cases, CE marking is the only mark found on the marking plates of power tools;
- A certification mark affixed at national level is occasionally found on power tools. The main drivers for these additional marks are requirements from the demand side. The drivers from the demand side are the buyers for the distribution chain;
- Certification services are widely used by manufacturers and suppliers of some products falling under the Machinery Directive, particularly those that may migrate into the consumer sector;
- The main driver for certification is the manufacturer and supplier's own corporate quality policies, which seek the assurance that quality of design and manufacture has been independently checked and certified. This is particularly pertinent where manufacturing is relocated to facilities that are not managed by the manufacturer/distributor/importer;
- Only a minority of the marks which could be obtained (subject to paying the appropriate fees) are used by manufacturers/suppliers of power tools;
- A (small) demand for additional marks comes from the distribution chain, with some placing their own brand name on the products.

9.5 Case study – Personal Protective Equipment Directive

9.5.1 Background

The Personal Protective Equipment (PPE) Directive was drawn up in 1989 (89/686/EEC). It was amended in 1993 (93/68/EEC, 93/95/EEC) and 1996 (96/58/EEC).

Conformity to this Directive is dependent upon the type of PPE, low-risk products via a SDOC, high-risk products via Modules B, C or D.[41]

The focus for the case study is certification marks affixed under a SDOC on products supplied into the B2B market.

A number of interviews with manufacturers and suppliers of PPE were undertaken. Although it is possible to find examples of PPE sold into the B2C market with certification marks affixed in addition to CE marking, it is not possible to locate examples of PPE being sold into the B2B market with additional certification marks.

[41] See P95 *Guide to the implementation of directives based on the New Approach and the Global Approach* http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf

Whilst some manufacturers/suppliers have previously affixed third party marks, eg manufacturer G used to affix a TÜV mark and supplier AL used to affix the BSI Kitemark, both reported that there was no longer a B2B market demand for such marks.

9.6 Case study – Construction Products Directive

9.6.1 Background

The Construction Products Directive ("CPD") dates from 1989 (89/106/EEC).

The CPD is a New Approach Directive that differs from the other Directives used for the case studies. Instead of providing a means for manufacturers to declare that a product is safe, it enables manufacturers to declare, via an attestation procedure, that a product meets requirements of performance. This must be declared via CE marking when there is an applicable harmonised EN, unlike the other New Approach Directives where the use of the harmonised standard is voluntary (though CE marking is not).

As the number of harmonised ENs increases, so the demand for marks affixed at national level should decrease. However, the CPD was identified by this study's Steering Committee as an area where the affixing of marks at national level was continuing even though, in theory, the demands for this should be diminishing.

Thermal insulation products were selected as they are a product for which a CEN Keymark certification process has been developed. Given that the Keymark is a European certification mark demonstrating that a product is in conformity with the relevant European standard, it might have been expected that this mark was successfully replacing the multiple marks affixed at national level.

Case studies undertaken for the PRC Report *Study to evaluate the internal market and competitiveness effects of Council Directive 89/106/EEC (Construction Products Directive, CPD),* show that the CPD has very different impacts on different industry sectors. The report claims that while initial investment brings positive benefits from the reduction in attestation costs year by year for many sectors, this will not be the case for thermal insulation where the main requirement is for system (rather than product) approvals.

9.6.2 Summary of findings from the case studies on thermal insulation products

Table 7 provides an overview of marks being used on thermal insulation products.

Table 7 Use of marks for THERMAL INSULATION PRODUCTS

Manufacturer code	AV	BP	BS	BV
Using marks for FRANCE?	Not sold in this country	Yes, ACERMI	Yes, ACERMI	Yes, ACERMI
Using marks for GERMANY?	Not sold in this country	Yes, Ü mark, FIW Mark	Yes, Ü mark	Yes, Ü mark
Using marks for NORWAY?	Keymark	No	"Local technical approval required for higher risk applications"	No
Using marks for SPAIN?	Not sold in this country	No	Yes, N mark	Yes, N mark
Using marks for UK?	Not sold in this country	No	Yes, BBA mark	No*

* Manufacturer said some competitors were still using the "old" BSI mark

- National approval schemes for thermal insulation continue to have sovereignty over CE marking in a number of European countries;
- The CEN Keymark scheme developed for thermal insulation products, whilst supported by a number of manufacturers, has yet to gain significant market acceptance by the purchasers;
- These are primarily B2B products, the demand (purchasing) side is made up of those who specify buildings and construction projects, eg architects. A large number of construction projects are commissioned or supported by public authorities who are thus implicated in the non-acceptance of CE marking and the Keymark;
- Non-acceptance of CE marking and the Keymark is particularly strong in Germany where there appear to be a number of technical barriers related to product approval;
- CE marking of thermal insulation may need to cover applications approval and other technical requirements in order to overcome the resistance to acceptance currently

existing in a number of European countries. One interviewee explained that local certification was sought by public procurers needing assurance of the performance of the product as installed rather than as supplied..."de facto you need it, though not mandatory...";

- The Keymark too, may need to cover applications approval and other technical requirements in order to gain acceptance by the demand side;
- Mutual recognition between Certifiers (“empowered bodies”) is preventing the CEN Keymark for thermal insulating material and products from achieving the goal of “tested once – accepted everywhere”.

- Requirement for additional French marks:
    - **ACERMI**: Local market demand. This mark covers the same standard as Keymark plus additional non-harmonised performance and product certification.
- Requirement for additional German marks:
    - **Ü Mark**: This is said to be a legal requirement in Germany for building performance issues not covered by harmonised standards, since the design, installation and works must respect national legislation. The harmonised standard for which CE marking is applicable (EN13167) covers the performance of the insulating material under test but not installation conditions.
    - **FIW Mark:** Local market demand. This mark covers the same standard as the Keymark, but the Keymark is not accepted in Germany as only national (DIBt) product certification schemes are accepted.
- Requirement for additional Spanish marks:
    - **N Mark:** although no longer a legal requirement in Spain (this requirement ceased with the introduction of CE marking), it is regarded by some manufacturers as a de facto requirement due to local market demand.
- Requirement for additional UK marks**:**
    - **BBA:** Local market demand

10 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)

* Represented on the Steering Committee of the Study

11 Certifying bodies, manufacturers etc. interviewed

Code used in this report	Organisation type	Sector covered in interview	
A	Machinery manufacturer	B2B	France
B	Machinery manufacturer	B2B	Spain
C	Machinery manufacturer	B2B	Sweden
D	Machinery manufacturer	B2B	France
E	PPE manufacturer	B2B	Belgium
F	Importer/distributor	B2C	Denmark
G	PPE manufacturer	B2B	Belgium
H	PPE manufacturer	B2B	UK
J	Machinery manufacturer	B2B	France
K	PPE manufacturer	B2B	Sweden
L	Distributor	B2B, B2C	Germany
M	PPE manufacturer	B2B	Germany
N	Machinery manufacturer	B2B	Germany
P	PPE manufacturer	B2B	Germany
Q	Machinery manufacturer	B2B	Germany
R	Certifying body	B2B,B2C	UK
S	Machinery manufacturer	B2B	Germany
T	Machinery manufacturer	B2B	Germany
V	Machinery manufacturer	B2B	Germany
X	Machinery manufacturer	B2B	Germany
Y	Machinery manufacturer	B2B	Germany
Z	Toy manufacturer	B2C	Sweden
AA	Electrical appliance	B2C	Germany

	manufacturer		
AC	Machinery manufacturer	B2B	France
AD	Machinery manufacturer	B2B	Switzerland
AE	Machinery manufacturer	B2B	Spain
AF	Machinery manufacturer	B2B	Spain
AG	Machinery manufacturer	B2B	Spain
AH	Machinery manufacturer	B2B,B2C	USA
AJ	Machinery manufacturer	B2B	Spain
AK	PPE manufacturer	B2B	Germany
AL	Machinery importer/distributor	B2B, B2C	UK
AM	Electrical products manufacturer	B2C	UK
AN	Machinery importer/distributor	B2B, B2C	Germany
AP	Electrical appliance manufacturer	B2C	Sweden
AQ	Electrical appliance manufacturer	B2C	France
AR	Machinery manufacturer	B2B	Belgium
AS	Machinery manufacturer	B2B	Sweden
AT	Machinery manufacturer	B2B	Germany
AV	Insulation manufacturer	B2B	Norway
AX	Toy manufacturer	B2C	USA
AY	Toy manufacturer	B2C	UK
AZ	Certifying body	B2B, B2C	Sweden, others
BA	PPE manufacturer	B2B	UK
BB	Distribution chain/wholesaler/retailer	B2B, B2C	Germany
BC	Insulation manufacturer	B2B	UK

BD	Toy manufacturer	B2C	Denmark
BE	Machinery manufacturer	B2B,B2C	Japan, China, UK
BF	Machinery manufacturer	B2B,B2C	Germany
BG	Machinery manufacturer	B2B	France
BH	Machinery manufacturer	B2B	Germany
BJ	Toy manufacturer	B2C	USA
BK	Machinery manufacturer	B2B	Germany
BL	Distribution chain/wholesaler/retailer	B2B, B2C	Germany, UK, France, Czech Republic
BM	Solarkey consultant	B2B	Denmark
BN	Electrical products manufacturer	B2C	UK
AP	Insulation manufacturer	B2B	Belgium
BQ	PPE manufacturer	B2B	France
BR	Toy manufacturer	B2C	USA
BS	Insulation manufacturer	B2B	Belgium
BT	Machinery manufacturer	B2B	Taiwan
BV	Insulation manufacturer	B2B	Denmark
BW	PPE manufacturer	B2B	France
BX	PPE manufacturer	B2B	France
BY	Machinery manufacturer	B2B	Germany
BZ	Keymark developer	B2B	Denmark
CA	Toy manufacturer	B2C	Germany
CB	Toy manufacturer	B2C	Israel
CC	PPE manufacturer	B2B	France
CD	Certifying body	B2B, B2C	Germany and elsewhere

CE	Certifying body	B2B, B2C	Demark and elsewhere
CF	PPE manufacturer	B2B	Spain
CG	PPE manufacturer	B2B	Italy
CH	PPE manufacturer	B2B	Spain
CJ	Distribution chain/wholesaler/retailer	B2B, B2C	UK
CK	Security systems manufacturer	B2B	Netherlands

Annexe I - Results of the initial literature review

I. Introduction to this report

This report was the first to be prepared in support of the EFTA study ("the Study") and was completed in March 2007.

It provides the results of the first phase of the study in which literature and other published materials that related to the study topic were examined for relevant material.

The topic at the core of the study - the possible negative impact that certification and marking schemes at national level could have on the Internal Market - has continued to generate a wide range of interest for many years. More than 30 papers and supporting materials, including a small selection of websites were examined. Sources included European Commission surveys, trade associations, standards bodies and member states.

II. Focus of the literature examination

The literature and other published materials examined are listed in Table AI, overleaf

Table AI

Literature and other materials examined

No. (this reference is used on Table 3)	**Publisher or Source organisation**	**Title**	**Year of publication**
1	EOTC	Press releases	1998-2000
2	EOTC	Marks of Conformity for Products	1999
3	EOTC	Critical Issues Workshop	2000
4	EOTC	Core Team Meeting Report	2002
5	CEOC	Marks and Marking on Products	2000
6	Eurolab-CEOC	"How can it really work at international level?" Workshop (Introductory paper only)	2003
7	EC DG ENTERPRISE	Discussion paper on CE margining for construction products and its relation to voluntary marks	Undated
8	European Commission Staff Working Document	Internal Market Scoreboard No.15bis	2007
9	EU Project II/98/087	Voluntary Product Marking	1999
10	Eurobarometer	Europeans and the EC Logo	2000
11	Flash Eurobarometer 180	Internal Market: Opinions and experiences of Businesses in EU-15	2006
12	Flash Eurobarometer 190	Internal Market: Opinions and experiences of Businesses in the 10 New Member States	2006
13	OECD	Labels and conformity Marks in a Global Marketplace	1999
14	OECD	Standards and conformity assessment in trade: minimising barriers and maximising benefits	2005
15	OECD	Trends in conformity assessment practices and barriers to trade: final report on survey of certifying bodies and exporters	2006
16	ISO	Marks of Conformity Assessment	1999
17	CEN	Marking of products and system certification	2004

Table AI
continued…

No. (reference used on Table 3)	**Publisher or Source organisation**	**Title**	**Year of publication**
18	Danish Ministry of Economic and Business Affairs	Growth through Globalisation	2004
19	Finnish Ministries for Foreign Affairs and for Trade and Industry	Trade Barriers Encountered by Finnish Businesses	2005
20	Spanish Ministerio de Industria, Turismo y Comercio	On Line for the identification of problems of Spanish companies in the European single market Phase VI	2006
21	Swedish Minister for Trade	Speech at European Conference on Mutual Recognition	2001
22	SWEDAC	European Conference on Mutual Recognition of Conformity Assessment in the Non-Harmonised Sector of the Internal Market	2001
23	Kommerskollegium Swedish National Board of Trade	System för frivillig märkning och den inre marknaden	2003
24	UNICE	“It's the internal market, stupid!” - A company survey on trade barriers in the European Union Note: UNICE supplied additional supportive material which was not in the public domain	2004
25	EEPCA	A proposal for development	2006
26	EIM	Keurmerken, erkenningsregelingen en certificaten	2002
27	PwC Consulting B.V	Economic aspects product testing	2002
28	INRA	Attractivité des labels publics de qualité pour les marques de distributeurs	2004(?)
29	ADEME	Rapport: textile, Environnement & Developpement Durable Inventaire international de 62 labels	2004
30	OIVO	Percepties van de labels	2004
31	LSA	Les labels de qualité alimentaire	2006
32	BEAB	Website	2007
33	Swedish Testing and Research	Website (SP certification, P-märkning)	2007
34	AFAQ AFNOR Certification	Website	2007

Each item was examined for relevant information covering the following:

- **Why** are marks being demanded?

- **Who** leads this demand? Is it manufacturers, consumers or somewhere in the supply chain? Are insurance companies or professional procurers, particularly those of major retailers, involved in creating this demand?

- **What** are the main drivers causing manufacturers to affix the marks?

- **What** is the added value (both claims and perceptions) of the marks themselves, compared to CE marking?

- **Where** is the evidence that perceptions of the meaning of/the need for marks are correct? Do consumers (wrongly) tend to put trust in marks in the belief that they signify the approval of quality by public authorities?

- **What** reasons do consumers cite for seeking the marks (if they do at all)?

- **What** evidence is there that the application of such marks is accepted as part of a due diligence defence in courts of law?

- **What** is the current position of public authorities with regard to marks? For example:
    - Is there evidence of any protectionist interests at national level by public authorities?
    - Is government intervention - direct or indirect - in this field distorting the market for marks and/or the free movement of goods in the Internal Market?
    - Are public authorities motivated to put a marking scheme into legislation or otherwise supporting the creation of marking schemes?
    - Are public authorities asking for marks in public procurement?

- **What** evidence is there of other protectionist interests at work? For example:
    - Do any of the individual stakeholder categories influence demand contrary to the interests of others (eg loading more cost into the testing process than other stakeholders feel necessary)?
    - Is there evidence of any protectionist interests at work at national level by manufacturers?
    - Is there evidence of market sharing in Europe (the number of mutual recognition arrangements between European certification bodies versus similar agreements between the latter and third country certification bodies)?
    - What is the role of EA (European Cooperation for Accreditation) with regard to mutual recognition arrangements?

- **What** can be learnt from the success/failure of present marking schemes, eg Keymark or ENEC at European level?

Detailed results are given in Annexe A Detailed Mapping Results – supplied separately.

III. Discussion of results

Most papers that were examined contained some material of relevance to the core topic under examination – that of the supply of and demand for certification services, leading to the affixing of marks at national level.

A number of the papers examined contained information that should be treated with caution. There were a number of reasons for this:

- Some of the results examined had little or no statistical validity or were unbalanced in some way – perhaps by being skewed towards only part of the population;
- The required information was not clearly stated, so needed to be deduced. This was particularly true of a number of reports that touched on conformity assessment and otherwise made little mention of marks;
- In some cases, the reports reviewed made no reference to any research. This could indicate that the content of those reports was no more than the opinion of their authors;
- The product area covered was outside the scope of the Study of harmonised, non-food European product legislation;
- The results may simply be out of date.

Consequently, the results contained in Table All should be regarded primarily as illustrative rather than absolute. In many cases, it will be seen that the result recorded has been taken directly from the document being reviewed. This was to avoid the risk of re-interpreting materials that were themselves already an interpretation of other work.

Detailed results were complied in a spreadsheet, which is available as a separate file. Table All (overleaf) provides a summary of results for each of the information topics identified earlier in Section II.

Table AII – Summary of all results of mapping

Published source	Key findings or representative findings	Reviewer's overall summary
Why are marks being demanded?	No single key or representative finding	Reasons cited varied from "Most manufacturers use voluntary marks to raise the trust and confidence of consumers and commercial purchasers..." (Source: *CEN Marking of products and system certification*)Technical standards (marks can be related to these) were the most frequently reported problem in a survey sourced from: SPAIN Ministerio de Industria, Turismo y Comercio (*On Line Phase VI*).
Who leads this demand? Is it manufacturers, consumers or somewhere in the supply chain? Are insurance companies or professional procurers, particularly those of major retailers, involved in creating this demand?	"Part of quality policy - 49% Demand from customers - 45% Good marketing tool - 36% Demand from distribution channels - 32% Competitors use - 23% Supported by authorities - 15% Recommended by consumer orgs - 13% Insurance companies - 11% Public procurement - 8%" Overall - most reasons for using a mark were of a marketing oriented nature but further qualitative analysis by the researchers indicated that nearer 1% of the responding companies reliably cited reasons of "supported by authorities" and/or "required by insurance companies" and/or "public procurement". (Source: EU Project *II/98/087*)	The responses to this review topic were varied. The results of the analysis given in the adjacent (⇦) cell provide a plausible overview of the sources from which the demand is generated.
Where is the evidence that perceptions of the meaning of/the need for marks are correct? Do consumers (wrongly) tend to put trust in marks in the belief that they signify the approval of quality by public authorities?	One of the main conclusions of the report reviewed is that consumer perceptions of what the marks really mean are incorrect. For example, it says expectations concerning guarantees that products/services are regularly inspected or that Government is supervising the marking system are too high. (Sourced from: EIM *Keurmerken, erkenningsregelingen en certificaten*)	There is little coverage of this topic in the reviewed materials

Table AII continued…

Published source	Key findings or representative findings	Reviewer's overall summary
What reasons do consumers cite for seeking the marks (if they do at all)?	"Consumers have a strong reluctance to rely on Supplier's Declarations of Conformity...Proliferation of marks is a nightmare for consumers, they prefer to see a single simple mark...CE marking is confusing and not reliable in the view of consumers" (Source: EOTC paper: *Marks of conformity for products)*	Overall: there is no strong message that consumers are seeking marks
What evidence is there that the application of such marks is accepted as part of a due diligence defence in courts of law?	"...Demonstrates due diligence in taking all reasonable steps to ensure the safety of a product..." (Source: BEAB *website)*	There is little other coverage of this topic in the reviewed materials
What is the current position of public authorities with regard to marks? - Answers in next 4 questions, below		
Subsidiary question (1): Is there evidence of any protectionist interests at work at national level by public authorities?	1. Relating to accreditation bodies (rather than the certifying bodies), some countries subsidise the cost of accreditation 2. "Competition between Notified Bodies can be influenced by national governments in several ways, resulting in a non-level playing field for the EU-NoBo's. Particularly the costs of the national NoBo's can be influenced by their national government..." (Sourced from: PwC Consulting B.V *Economic aspects product testing)*	See summary to question in cell below, which covers a very similar topic.
Subsidiary question (3): Are public authorities motivated to put a marking scheme into legislation, or otherwise motivating the creation of marking schemes?	No significant information found	There is little coverage of this topic in the reviewed materials
Table AII continued…		

Published source	Key findings or representative findings	Reviewer's overall summary
Subsidiary question (4): Are public authorities asking for marks in public procurement?	“19 per cent of the companies encountering political barriers indicate “buy local” clauses or public tender rules as a barrier to their entering into foreign markets.” Source: Danish Ministry of Economic and Business Affairs *Growth through Globalisation*)	The results show that product certification (aka marking) is important for buyers in municipalities, although the materials reviewed do not specifically identify that the marks are being requested.
What evidence is there of other protectionist interests?	A number of protectionist interests are reported, ,eg France requiring a French quality/safety label next to the CE marking, Germany requiring a TUV mark, etc. Sourced from: UNICE *It's the internal market, stupid!*	There is little other coverage of this topic in the reviewed materials apart from that covered above.
Do any of the individual stakeholder categories influence demand contrary to the interests of others (,eg, loading more cost into the testing process than other stakeholders feel necessary)?	No significant information found	There is little coverage of this topic in the reviewed materials
Is there evidence of any protectionist interests at work at national level by manufacturers?	"...more than one in four companies mention cartels and strong solidarity between suppliers and buyers as a barrier" (Source: Danish Ministry of Economic and Business Affairs *Growth through Globalisation)*	There is little other coverage of this topic in the reviewed materials
Is there evidence of market sharing in Europe (the number of mutual recognition arrangements between European certification bodies versus similar agreements between the latter and third country certification bodies)?	"To counteract multiple testing and to facilitate multiple certification, initiatives are contained in multi lateral agreements between third parties..." (Source: EOTC paper: *Marks of Conformity for Products)*	The materials reviewed indicated increasing numbers of MRAs
What is the role of EA (European Cooperation for Accreditation) with regard to mutual recognition arrangements?	1. "...(*EA*) of which all accreditation bodies are members, has issued guidelines for its members, that have the objective of a handover of the accreditation to the relevant local accreditation body, in order to avoid competition..." 2. "The [*EA*] policy is meant to avoid "accreditation shopping"..." (Source: PwC Consulting B.V *Economic aspects product testing)*	There is little other coverage of this topic in the reviewed materials

Table AII continued…

Published source	Key findings or representative findings	Reviewer's overall summary
What can be learnt from the success/failure of present marking schemes at European level, ,eg *Keymark*, or proposed schemes, ,eg *ENEC Care Mark*?	"Among the logos examined, there is not one that is recognised to a significant extent throughout the European Union. The EC [*CE marking*] logo is the only one that has this distinction". (Source: EUROBAROMETER *Europeans and the EC Logo)*	The materials reviewed showed that there were mixed feelings about the value of pan European marks

IV. Conclusions from the mapping

The main value of this first phase of research was to help determine the boundaries for the detailed research phase of the study.

It can be seen from the tabulated results that the literature did not comprehensively cover all the topics identified at the outset of the mapping exercise. In some cases, eg *Are public authorities motivated to put a marking scheme into legislation?* and *Do any of the individual stakeholder categories influence demand contrary to the interests of others?,* there is not much information available.

Although the information recorded from the literature examination did not provide a detailed picture of the supply and demand for certification, it did provide a number of indications. For example:

- There is no strong message that consumers are a driving force for marks at national level;
- The actions of (some) authorities are implicated in the demand for marks at national level;
- It is the quality and marketing policies of some manufacturers to seek certification/affix marks at national level.

IV.i Is there a problem in the Internal Market relating to the affixing of marks?

Firstly, it is necessary to confirm whether there is a problem in the Internal Market relating to the affixing of marks at national level on products requiring CE marking.

Overall, the reports from large-scale surveys of companies showed that the majority of those polled were reporting positive experiences from trading across national boundaries in the Internal Market.

Nevertheless, it was also clear from a number of papers that there were problems relating to conformity assessment. Not all of those papers went on to reveal whether marks were relevant to the problems reported or whether products with CE marking were implicated.

One paper, EU Project II/98/087 *Voluntary Product Marking*, reported the results of research that focused more clearly on possible roots of these problems. Although the authors of that report advised that the findings of their mainly quantitative survey should be treated with caution, and although dating back to 1999, the conclusions for this particular piece of additional qualitative research appeared valid to reviewers working on this EFTA study. These indicated that some 1% of the companies surveyed cited reasons for needing marks of conformity at national level as "supported by authorities" and/or "required by insurance companies" and/or "public procurement". The report did not provide a similar detailed analysis for the larger demand for marks which comes as a result of normal market mechanisms, eg demand from customers, etc.

IV.ii Where do the main problems appear to be located?

Part of the purpose of the mapping exercise was to identify the areas likely to yield the most useful results to aid the purpose of this study. Details summarised in Table A2 show that demand for marks comes primarily from:

- Marketing and quality drivers within manufacturing and supply companies
- Demand from customers and distribution channels
- Support from authorities and insurance companies
- Recommendation by consumer organisations

Additionally, it seems that some countries (eg Germany, France, Italy, UK, etc.) and some marks (eg GS Mark, TÜV), and some Directives (eg Medical Devices Directive, Low Voltage Directive, Machinery Directive, Construction Products Directive, etc.) emerged most often.

Annexe II - Glossary

Annexe II.i Acronyms

AFNOR - Association Française de Normalisation, a national standards body for France

AENOR – Spanish Association for Standardisation and Certification

ANEC - Association européenne pour la coordination de la représentation des consommateurs dans la normalisation. European NGO representing consumers in standardisation

BEAB - UK approval Body for domestic electrical appliances

BHTA - British Toy and Hobby Association

BSI - British Standards Institution, national standards body for the UK

B2B - business to business

B2C - business to consumer

CCA - CENELEC Certification Agreement, a MRA applicable in the electro technical sector

CECED - European Industry of household appliances

CEN - Comité Européenne de Normalisation, the European standards body responsible for developing standards other than electro technical standards covered by CENELEC

CENELEC - the European standards body responsible for developing standards in the electro technical sector

CEOC - International confederation of inspection and certification organisations

CPD - Construction Products Directive**,** 89/106/EC

DIN - Deutsches Institut für Normung, national standards body for Germany

EA – European Co-operation for Accreditation, the European network of nationally recognised accreditation bodies based in the European geographical area

EEA - European Economic Area; the countries in the EU plus Iceland, Liechtenstein and Norway

EEPCA - Association of the European Certification Bodies active in the LVD area

EFTA - European Free Trade Association

EICTA - European Information & Communications Technology Industry Association

ESTIF - European Solar Thermal Industry Federation

Euralarm - Association of European manufacturers and installers of fire and security system

Eurolab – European Federation of National Associations of Measurement, Testing and Analytical Laboratories

GPSD – General product Safety Directive (2001/95/EC)

GS Mark - Geprüfte Sicherheit = tested safety, a voluntary safety mark used in Germany

hEN - harmonised European product standard used in conjunction with the CPD

IECEE CB - a MRA applicable in the electro technical sector

ISO - International Standards Organisation

LVD - Low Voltage Equipment Directive, originally drawn up in 1973 (73/23/EEC) before the concept of the New Approach and Global Approach was established. It was further aligned with other New Approach directives in 1993 (93/68/EEC) and 2006 (2006/95/EC)

MD - Machinery Directive (98/37/EC), the recent revision (2006/42/EC) is not yet applicable.

MRA - Mutual recognition arrangements at a global or regional level under which organisations agree to recognise certificates issued or assessments made by other organisations

Nemko - Norwegian conformity services provider for products falling under harmonised European legislation

NF Mark - a certification mark affixed at national level**,** owned by AFNOR

NSB – National standards body

SDOC – suppliers' declaration of conformity

VDE –formally the Association for Electrical, Electronic &Information Technologies, though in the context of this report VDE is a German conformity services provider for products falling under harmonised European legislation

ZLS - Zentralstelle der Länder fUr Sicherheitstechnik, accreditation body for the GS Mark

Annexe II.i Other

The definitions used in this glossary are as they are used in the context o this report. See also the definitions “box” at the beginning of this report.

Accreditation - The process of third party recognition of an organisation's technical competence, quality assurance system, and its impartiality.

Attestation - a statement of conformity that conveys the assurance that the specified requirements have been fulfilled.

Manufacturer - term used throughout this report to denote the manufacturer, or the authorised representative established within the European Community, responsible for the CE marking of the product.

Notified Body - a certification, inspection or testing body designated by the notifying authority of an EU Member State to perform the attestation of conformity of products within the scope of a New Approach Directive.

Stiftung Warentest - German consumer organisation

Teknikföretagen - Association of Swedish Engineering Industries

ANNEXE III Extract from EFTA Fact-sheet on free Movement of Goods[42]

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

[42] http://secretariat.efta.int/Web/Publications/FactSheets

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. 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. ([43])

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

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

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.

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).

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.