

Jon Denyer

Senior Scientist (Convenor CENTC89 WG13)
British Board of Agreement
Bucknalls Lane,
Watford, Herts WD25 9BA
United Kingdom

Brussels, 24th April 2014
Prot. N° 045

Position against fundamental changes to the Scope of TC89/WG13

Dear Mr. Denyer,

SBS is writing to you for a very important and negative development that we are witnessing in the upcoming discussions within CEN/TC 89 WG13. Indeed, the delegates of the Danish CEN Member have proposed an important change to the scope of the work done by this Working Group. They propose the removal of the word “declared” while leaving the word “design” in the scope of CEN/TC89/WG13.

Let us remind you here the current scope of WG 13:

*Scope: To elaborate a procedure, or procedures, to derive in-situ test data that will complement the **declared** or **design** thermal performance value of construction products, building elements and structures established by conventional steady state methods, e.g. in accordance with EN 10456 and EN 6946.*

It is important to highlight that there is opposition to any change which diverges from the objective set by the CEN BT and agreed by WG13 as its Scope and work programme. The basis of the opposition to change the scope includes the following issues:

- Correction factors according to EN 10456 already complement declared values and to our knowledge there is no precedent in an existing Standard for complementing only a design value. Thus maintaining the existing Scope follows existing practice and should be maintained.

T: +32-2/285.07.15

www.sbs-sme.eu

B-1040 Brussels, Rue Jacques de Lalaingstraat 4

Aisbl n°: 546.585.694

- The agreement of the present Scope was formally adopted by the CEN BT following full consultation with TC89 and WG13 in full accordance with the CEN Internal Regulations.
- The change of scope would be detrimental to the work of WG13 which has proceeded since January 2010. The dispute over changing the Scope has been a major element in delaying progress and if continued will put the project into serious conflict with CEN's timetable for the issue of an EN.
- It is implicit that, members joining a CEN Working Group will work actively in accordance with the agreed parameters and scope, in order to achieve the designated European Standards within the foreseen schedule.
- The European Commission representative in WG13 has clearly indicated that the Commission wishes to see the work of WG13 result in an in-situ test method in order to provide results that can be used as "declared values" as determined by the Construction Products Regulation.
- A significant number of the members of WG13 are of the opinion that the EMM proposal for in-situ testing of the thermal insulation properties of construction products, building elements and structures, together with the supporting evidence, clearly demonstrates that the original Scope adopted by the CEN/BT can be achieved and should be maintained.

The CEN Internal Regulations and the guidance documents issued by CEN/CENELEC place great emphasis on the establishment of the Scope and that the WG shall work in accordance with the adopted Scope and the work specification, guidelines and time schedule provided by the TC. Changes have already been made by WG13, therefore the time for further change is past. The formal procedures were fully applied and the work of WG13 should continue.

This proposal for the change of Scope raises significant concerns on how such changes should be dealt with in CEN and on the clarity of the internal regulations. regarding such decisions.

Given the situation that exists within WG13 it is useful to review possible solutions within other parts of the CEN/CENELEC system. For example at the creation of CEN Workshops there is a requirement that upon formal agreement to create the Workshop the members are committed to fully adhere to the business plan which defines its scope and schedule.

CEN should consider that in specific cases such a commitment should be elicited from WG members. Some CEN Member Bodies already commit delegates to CEN to actively participate in the development of the designated standards in accordance with the CEN Internal Regulations. If it is the practice to require participants to commit to follow the agreed Scope in a CEN Workshop then why not in a Working Group?

The European Commission has taken a particular interest in the work of WG13 and has directed the Joint Research Council to carry out a study of the two major proposals currently under discussion in WG13 in order to establish an independent opinion on the possibilities that they can form the basis of a robust test method that can satisfy the specific objectives set for WG13. It is the opinion of a significant number of WG13 members that the results of the study will confirm that the existing Scope is required and achievable.

WG13 needs to be reminded that CEN has agreed a policy for the handling of technical diversity within European Standards which states. *"Standardization, in principle, aims to limit technical diversity across the market but not to inhibit innovation and intends to restrict barriers to trade. Moreover, it should achieve the optimum degree of order and should limit exclusive proprietary technical specifications. Standards must also be capable of opening of the market in Public Procurement."* Whilst the standards to be produced by WG13 are test methods and are not product standards they are fundamental to related product standards.

It should not be forgotten that TC89 was directed to create WG13 and to modify the Scope of WG12 by a decision of the CEN/BT following the Appeal submitted by a group of mineral wool insulation manufacturers to CEN. Thus the creation of WG13 and its scope was considered in close detail before approval.

The experience of WG13 and its predecessor CEN Workshop 36 has shown the need for the possibility in particular circumstances to apply more defined roles and responsibilities to those who participate in the standardization process and to such matters as the process of achieving agreements in Working Groups and when each method is to be applied or not applied. Currently much time is lost through lack of understanding or misuse of CEN's working practices. Under existing CEN Internal Regulations individual TCs may establish "Specific Working Procedures" as TC89 have already done in documents TC 89 N1349, N1351 and N1359.

A significant factor in slowing down WG13's work to reach a single opinion on the "Danish proposal" is that CEN Internal Regulations provide the minimum of requirements as to the working procedures of Working Groups. This can lead to very different interpretations of the procedures to be followed, especially on when and what has been "agreed". For example formally WGs can only make "Recommendations" to record actions or opinions. However in cases such as WG13 the Convenor has to try to achieve the least disputable opinion of the WG. This would be unanimity but in the case of WG13 it is rarely achieved. The next level is "Consensus". However it should be clarified if this can be used in relevant matters such as changing the Scope of TCs or WGs.

The lowest level of agreement is a simple majority view, noting that formal "voting" is not for Working Groups. However a majority view has proved contentious. Should the majority be determined by Member delegations present or of the complete WG or on the basis of individual persons present?

Clarity is required on matters of dispute when for example SMEs are completely outnumbered by members from large international companies. There is need for a formal objection to be registered and acted upon.

T: +32-2/285.07.15

www.sbs-sme.eu

B-1040 Brussels, Rue Jacques de Lalaingstraat 4

Aisbl n°: 546.585.694

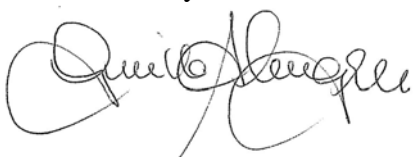
While it is fully appreciated that Working Groups do not have the authority to change their scope. The formal "opinion" of a Working Group will have considerable influence on the final decision and it is the opinion of a significant number of members of WG13 that an "opinion" established under the present possibilities within WG13 will be dominated by influences that will be contrary to the interests of SMEs, be restrictive to change and open competition in the insulation market.

In conclusion it is clear that no change of scope, as proposed by Denmark, should be adopted when such a significant number of participants of WG13 are totally opposed to it.

Should any change be considered necessary it should be restricted to an alignment of the Scope with that agreed for the official Work Item of WG13. This would mean the deletion of both "declared" and "design" from the scope, thus it would not restrict it. This change was previously proposed within WG13 and was acceptable to the Danish delegate.

Additionally CEN needs to review and clarify the working practices of its Working Groups. CEN cannot ignore the difficulties and delays experienced in WG13, which are mainly due to registered experts regularly trying to diverge from the scope and continuously ignoring the answers given on the scope. This is a major issue on which SBS asks you to please be alert. A CEN/WG should not be blocked by members that do not accept the scope or try to challenge it at each stage of the process.

Yours faithfully



Gunilla Almgren
President SBS

Cc: Mr. Tapani Mikkeli, DG Enterprise
Mr. Hein Bollens, DG Enterprise
Mr. Jean-Paul Vetsuypens, CEN/CENELEC
Mr. Goncalo Ascensao, CEN/CENELEC
Mr. Navid Gohardani, SIS

T: +32-2/285.07.15

www.sbs-sme.eu

B-1040 Brussels, Rue Jacques de Lalaingstraat 4

Aisbl n°: 546.585.694