

Extract from ANEC EEB BEUC position paper on EEE May 2001

Packaging disaster

The first experiment to make use of the principles of the "New Approach" in the field of environment regarding packaging and packaging waste was a complete disaster. The standards produced by CEN TC 261 must be considered as alibi papers without any substance. Their actual impact on the environment will be negligible as these papers are written in such a way that it is almost impossible not to comply with them. These aspects are further detailed in the ANEC review: "CEN standards in the field of packaging and the environment – an inadequate complement to the Packaging Directive" and in the EEB analysis: "CEN at work: How the requirement of the European packaging and packaging waste directive (94/62) are bypassed by CEN standards". The ANEC and EEB criticism is essentially shared by the Commission services as stated at the March 2001 meeting of the 98/34 Committee (Standards and Technical Regulations).

A proper evaluation of the unpleasant results as well as of the reasons for the failure in the field of packaging must be performed before any further attempt is made to go ahead with the New Approach concept in the environmental field. Otherwise we are very likely to be faced with a similar situation in the future. The failure of the packaging standards does not only reflect the ambiguity of the directive and the mandate, they also reflect structural deficits of the standardisation process as such, in properly incorporating the environmental dimension.

Structural deficits of the "New Approach"

In a huge number of technical committees industry representatives dominate the procedures and steer the process. Representatives of the public interest (authorities, consumer and environmental organisations) constitute a small minority. Public authorities, if they participate, are formally treated like any other stakeholder. Therefore the standards primarily reflect industrial needs.

In the field of consumer safety there is a strong incentive for manufacturers to maintain a certain level of protection as a result of product liability legislation. This holds true at

least in cases where a clear and direct relation between a faulty product, an accident and an injury exists. There is nothing comparable in the environmental field.

Failure in delivering product safety creates an immediate consequence. Cause-effect relationship is often easy to establish and the reputation of the producer is endangered. Whenever this immediate feed-back exists there is an inherent producer interest in product safety. This inherent producer interest cannot be generally expected in environmental issues. Risks are controversial, cause-effect relationships are difficult to get established, delays between cause and effect may be considerable – in short: immediate feed-back of environmentally unsafe products cannot be expected, but for highly politicised issues. The inherent producers interest, with the exception of market niche products, is much weaker to ensure a high level of environmental performance.

Reform of the “New Approach”

A substantial reform of the “New Approach” is needed. Even in the field of safety standards are often not adequate. This structural reform must aim at a better balance in European standardisation, counterbalancing measures where imbalances exist, safeguards, clearly described dispute settlement procedures, a better monitoring of mandated work within and outside the standards bodies, involvement of consumer and environmental organisations in the drafting of mandates, clear and unambiguous provisions in the mandates, compulsory involvement of consumer and environmental organisations in certain areas of mandated work, documentary evidence of this, obligation to seek consensus with all stakeholders, timely interventions when things are going wrong in the standard bodies, clearly described sanctions when inadequate standards are delivered, alternatives to standards when the standards bodies do not deliver acceptable specifications, involvement of consumers in the 98/34 Committee and so forth. These arguments are outlined in detail in the ANEC position paper on the Council resolution on standardisation in Europe (ANEC 2001/GA/7). Until such changes as above mentioned have taken place ANEC, BEUC and EEB recommend not to make use of the "New Approach" in the environmental field.