The European Commission has presented a draft proposal for Milestone I in the CPR Acquis WG Cement. The purpose of this document is to provide the CPR acquis group a high-level structure for the harmonised technical specifications related to ‘cement, building limes and other hydraulic binders’. According to the guidance document, Milestone I renews the scope of current Mandate M114 and extends it to new products on the market.

We welcome the ambition of the European Commission and the CPR Acquis WG on Cement to update and widen the scope of the existing Mandate M114 to cover new products. With relation to cements, the scope of M114 is extremely prescriptive and outdated. This is also reflected by standards EN 197-5 and EN 197-6; as well as the proliferation of ETAs for specific cement types in recent years. For this reason, ECOS is a long-time advocate of a performance-based cement standard to cover all common cements, in line with the spirit of the CPR (art. 1 and 4) and reflecting international trends and academic insights on the topic¹.

The current proposal is falling short on legal requirements, the necessity for innovation and decarbonisation and fair and non-discriminatory market practices for the reasons outlined below.

We urge the European Commission and all involved stakeholders to urgently address these issues in order to create the much-needed stable and innovation friendly regulatory framework for the CE marking of cement, building limes and other hydraulic binders.

Continuation of recipe-based approach

Despite the clear objective of the CPR (Art. 1) to market construction products in a performance-based way; as well as the fact that the European Commission clearly recognised the need to shift to such approach for cement: the current proposal clearly retains a recipe-based logic.

Indeed, similar to the approach taken today by EN197-1 and M114, the scope of draft Milestone I is drafted in such a way that it excludes certain products based on their composition, regardless of them meeting the performance criteria. It goes without saying that this defeats the purpose of having performance-based essential characteristics within the actual standard.

This approach is not only legally questionable, it is also inconsistent with the approach taken in other CPR acquis WGs. The CPR acquis WG on prestressed steel is a case in point where products are CE marked via hEN via performance-based essential requirements, and where needed and relevant additional information on e.g. chemical composition are provided to market actors and surveillance via the declaration of performance (DOP) as a non-essential characteristic. This is also required by the new CPR (Annex I.4), obliging manufacturers to provide information on the “main materials used” in the DOP, as such providing market actors and surveillance the necessary information, without jeopardising the performance-based approach required by the CPR.

Some Member States and stakeholders have expressed their wish to maintain existing cement designations. This would simplify engineers’ and users’ work and simply require the deletion of the compositional limitations in Table 1. This is justified on the following grounds:

- Safety of the covered products is guaranteed by the essential characteristics of the hEN. (e.g. performance requirements on strength, durability). Furthermore, additional safety checks exist at the level of concrete standards, design standards and building codes, and where necessary could be built if state-of-the-art research and data indicate such need.

- Composition of the cement types should be declared via the declaration of performance (DOP). The CPR requires manufacturers to declare the composition of a product in the DOP as a non-essential characteristic (annex I.4).

- Existing descriptions and limitations underlying the cement product types are (increasingly) outdated and not future-proof. The proposed complex compositional limitations for common cement types are no longer fit for purpose. The fixed list and requirements for cement constituents (e.g. reactive silica content) are no longer aligned with the scientific state-of-the-art and leads to technology lock-in. Decarbonisation of our wider European industry will lead to shifting material flows and dwindling supply of common cement constituents for low clinker.

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cement types (e.g. coal combustion fly ash or ground granulated blast furnace slag), jeopardising further clinker substitution.

- **Standard development is time consuming and costly.** While not explicitly referenced in the draft document, the CPR acquis WG meeting of 11 March 2024 referred on several occasions to the fact that the scope of the future standard can be gradually widened in the years to come. Not only has such a delay not been justified and would it continue to create market distortions, based merely on products composition, it is also highly unrealistic. Both the rate at which new cement constituents and cement types are being developed\(^3\), as well as the slow nature of standardisation – especially when dealing with harmonised standards – requires a much more proactive approach to save valuable time and resources of all involved actors, industry upfront. This is especially true for cement standards, as reforms at the level of cement also need to be accommodated downstream in concrete standards.

**Important cement types are missing from the scope**

As pointed out before, we believe that the best way forward is to develop a harmonised performance-based standard for all common cements, whereby the performance requirements serve as yardstick to define what cements can be safely placed on the market.

Not only has this approach proven its merits in a fast-growing number of markets outside of Europe\(^4\), it is also the preferential scenario of frontrunners (and industry) organisations (including EU-wide initiatives such as the Alliance for Low-Carbon Cement and Concrete (https://alliancelccc.com/) and national industry-led initiatives including the Dutch ‘Betonakkoord’ (https://www.betonakkoord.nl/) , the Flemish (Belgium) ‘Circulair Betonakkoord’ (https://www.betonakkoord-vlaanderen.be/) and the French FNTP (https://www.fntp.fr/). Furthermore, also traditional cement and mineral industry associations outside of Europe clearly advocate for a shift to performance-based standards, including the Portland Cement Association (https://www.cement.org/) which has a large overlap in membership with European cement producers.

This being said, we acknowledge that some Member States and actors would like to maintain the existing designation of cement types. If done in a performance-based logic (cf. section 1), such approach can achieve – albeit in a more complex framework – a satisfactory result. If such approach is taken, we do want to highlight the following elements:

- **We fully support the inclusion of EN 197-5 and EN 197-6 as well as widening of the scope towards those EADs and ETAs that have been issued in recent years.** On the latter, some relevant ETAs are still missing from the scope:

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\(^3\) See e.g. https://www.sciencedirect.com/science/article/abs/pii/S0008884623001138

• Other cements: Inorganic binder based on sodium carbonate alkali activated granulated blast furnace slag (EAD: 150058-00-0301)
• Other cements: Natural binder made from ‘scaglia rossa’ marl for construction mixtures (EAD: 150059-00-0301)
• Common cements: Blended cements with high filler content, ground granulated blast furnace slag or pozzolanic material or both, and clinker (EAD: 150080-00-0301)

• In addition, we would strongly recommend introducing a new category of group of cements, covering those cements which comply with leading international standards (e.g. ASTM C1157), so that they can expedite CE marking upon meeting the performance-based essential characteristics of the new hEN.

Additional remarks on the CPR acquis process on cement

In addition to the above input on table 1 of draft Milestone I, we would like to draw attention to the following elements which link to the wider process:

1) Jeopardising the future of the European cement industry: The European cement industry is increasingly operating in a globalised market, with technologies and products being traded more intensively. Standards play a key role in creating the right regulatory environment for innovation and R&D. While Europe has historically always been at the forefront of research and technology development in cement and concrete, being home to some of the largest cement producers and research institutes in the world, recent years clearly show that innovations are happening at a much faster rate in markets which are more open for innovations—referring to those with performance-based standards in place. Therefore, it is of vital importance for our industry to follow this wider international trend. In the spirit of the Antwerp Declaration, signed by major cement producers and associations, and endorsed by the European Commission and several Member States, it is key to urgently shift to a standards framework which works for innovation and decarbonisation, strengthening the international competitiveness of our industry.

2) Legal and practical issues: The current and new CPR clearly display a performance-based logic (see e.g. article 1 on hEN, article 4 on BWR) for the marketing of construction products. As pointed out above, this is not reflected in the current process on cement. A series of challenges arise from the Commission's approach which create legal uncertainties as the new standard would fall outside the scope of the CPR, and therefore could jeopardise the acquis process on cement (and beyond).

• Legal conflicts with CPR articles on product requirements and performance-based CE marking: the CPR requires performance-based CE marking of products (e.g. article 1), yet room for

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5 One example is ASTM C1905 for carbonation curing cements, demonstrating how other markets are moving (much) faster on creating a regulatory framework for cements that require carbonation curing (C1905/C1905M).
introducing additional product requirements (e.g. on safety grounds). The current approach largely ignores this framework, relying on limiting the scope of the hEN in pursuit of the same objectives.

- **Legal conflicts with annex I.3:** while annex I.3 clearly puts forward an extensive framework to justify why certain requirements are introduced, based on the state of the art; and the inability to mitigate the risks in a more proportional way (see also article 114 TFEU), no evidence has been provided as to why certain products create a safety risk. The approach taken is one whereby the scope of the hEN was defined only on the basis of M114 and (some) EADs. Furthermore, neither the survey for Milestone I, nor the inputs of the different Member States and stakeholders put forward references to safety concerns, raising a series of questions on the approach taken.

- **Legal conflicts with CPR articles on ‘product categories’ and ‘families’:** the CPR allows for the introduction of product requirements at the level of product categories (e.g. article 4). This is defined as "a certain product family encompassing those product types which have in common a certain intended use as specified in harmonised technical specifications". This approach is clearly abandoned in draft Milestone I as table 1 only lists ‘products’. Furthermore, as reflects from this very same table, intended uses of these different products significantly overlap, showcasing that the respective product categories are “common and special cements”. This creates unnecessary legal confusion and uncertainty for the further process.

- **Practical issues stemming from ‘product’ categories:** building upon the previous point, a proliferation of product categories should be avoided at all costs. This stems from the fact that the CPR only foresees in the option to adopt implementing actions per product category, e.g. GPP provisions or ecodesign requirements. A semantic intervention in table 1 to rebrand the current products as product families should thus be avoided at all costs (on top of legal concerns) as it would create a overly complex regulatory landscape with over 40 categories already for which specific thresholds, GPP provisions and ecodesign requirements need to be developed. Not only would this impose a huge administrative burden on the entire value chain, it would also be incredibly time consuming and therefore come at the expense of other construction products next in line in the CPR acquis process.

- **Legal concerns about composition of CPR acquis WG on cement:** upon closer inspection of both the minutes of previous meetings, as well as the input of the different Member States, it becomes clear that the current process cannot guarantee that Member States experts are operating independent from industry actors. A large number of Member States delegations are (entirely) composed out of industry associations and representatives, and inputs of Member States and other countries explicitly refer to coordination with CEN TC 51. This raises serious questions about the governance of the CPR acquis WG on cement.

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https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=3776&fromMeetings=true&meetingId=36695