

Brussels, 18th April 2013

Public Consultation

Review of the internal Market legislation for industrial products

2. PROFILE OF THE RESPONDENT

Name of the Organisation: *T&D Europe*

Please indicate in what capacity you are replying to the questionnaire:

business representative organisation

If you are a business representative organisation, please indicate the size of the enterprises you represent:

- Self-employed
- Micro enterprise (1-9 employees)
- Small enterprise (10-49 employees)
- Medium enterprise (50-249 employees)*
- 250-499 employees*
- More than 500 employees*
- Other / Unknown

Where are you based?

Belgium

Please select the NACE sector corresponding to the main activity of your enterprise or the enterprises you represent

Manufacturing

Manufacture of electrical equipment

T&D Europe (www.tdeurope.eu) is the European Association of the Electricity Transmission & Distribution Equipment and Services Industry, which members are the European National Associations representing the interests of the electricity transmission and distribution equipments manufacturing and derived solutions. The companies represented by T&D Europe account for a production worth over € 25 billion EUR, and employ over 200,000 people in Europe.

3. IDENTIFYING AND ELIMINATING THE REMAINING BARRIERS TO THE INTERNAL MARKET FOR INDUSTRIAL PRODUCTS

Estimations point to the fact that around 20-25% of products remain non-harmonised, meaning not subject to Union harmonisation legislation.

These products might be explicitly or implicitly excluded from Union harmonisation legislation. This is for instance the case with products intended for security purposes or some measuring instruments such as material measures of capacity for liquids or for grains, measuring containers, level indicators etc.

In general, preliminary feedback has so far suggested that stakeholders, in some sectors, are reluctant to rely on mutual recognition for varying reasons. Cross-border disputes also present a great challenge for enterprises operating within the internal market.

This section of the questionnaire therefore aims to look into these diverse remaining barriers in order to learn from stakeholders which are the most important points that would need to be looked into by the Commission. Questions refer to non-harmonised products, services related to a product and high-growth/new technology products.

What, if any, are the regulatory barriers to the effective functioning of the internal market for industrial products?

The products manufactured by T&D manufacturers are not subjects to such national regulatory barriers that would prevent them from exporting within the EU Internal Market. Most technical specifications are fixed by the customers themselves, for example via calls for tender.

How could any such regulatory barriers be overcome?

The T&D industry has and will continue to actively support and contribute to the definition of international standards (IEC), completed, where necessary, by European standards (Cenelec).

What, if any, are the non-regulatory barriers to the effective functioning of the internal market for industrial products?

An important action would consist in re-enforcing market surveillance at the external borders of the Internal Market, ensuring a strict control on products imported into the EU, in order to ensure fair competition.

Do you rely on mutual recognition for supplying products to another Member State of the European Union?

Not applicable

Yes

No T&D products are harmonized within EU according to IEC and CENELEC standards, which are applied by all customers.

Do not know

Do you think that Regulation (EC) 764/2008 on mutual recognition is a good instrument for ensuring the free movement of industrial products not covered by harmonisation legislation? If not, what is its main weakness?

T&D products should not be subject to European harmonised legislation. National legislation is sufficient for placing such products on the market, as these are mostly products manufactured ad-hoc according to the client's specifications based on IEC and CENELEC standards.

Are there products not covered by EU industrial products legislation that would benefit from being harmonised in view of facilitating their free movement in the internal market?

Not in the T&D sector

Is there a need for a special procedure allowing for a faster dispute resolution of cross-border litigation related to the free movement of products within the EU?

Not in the T&D sector

B) Services related to a product

The value-chain of certain industrial products often includes the provision of a service. Have you come across any impediment to deliver and to receive services with respect to industrial products?

- Yes
 Not within the European Union
 Do not know

If yes, please specify for which products or categories of products

If yes, what type of service barriers do you refer to?

- Engineering and design
 On-site installation
 Maintenance, support and after-sales services
 Repairs
 Others

Are there other issues related to the interpretation of products and services that you would like to raise in view of ensuring a smoother functioning of the internal market for industrial products?

No

C) –High-growth / New technology products

Do you see specific regulatory barriers impeding the development, commercialisation or market uptake of KET-related applications and products¹ within the EU?

Probably no: this is not applicable to the T&D sector, since it is not using KET (key enabling technologies)

If yes, please specify which are these barriers

If yes, please specify for which of the KETs you see face these barriers?

Are there barriers to the free movement of KETs-based products within the EU?

Not relevant for T&D products

If yes, please specify for which of the KETs you face these barriers

Are there aspects of 3-D printing that need to be regulated at EU level?

Not relevant for T&D products

Are there actual or potential barriers to the free movement of 3-D printed products within the EU?

Not relevant for T&D products (3D printed products are only used locally for rapid prototyping)

Are there actual or potential barriers to the free movement of sustainable and environment-friendly products within the EU?

Not in the T&D area

If yes, please specify which are these barriers

2) Simplification and alignment of existing rules

The marketing of a product in the harmonised area is typically regulated by more than one piece of Union harmonisation legislation. Overlaps, inconsistencies and even conflicts between different legislative texts should be eliminated as far as possible. These may for instance concern traceability and marking rules.

¹ A KET-based product is defined as a product induced by Key Enabling Technologies and/or produced by advanced manufacturing technologies. Examples are high-efficiency photonic LEDs; advanced batteries combining advanced materials and nanotechnologies for electro-mobility; biochips combining advanced materials, nanoelectronics and photonics to detect diseases; nanocomponents issued from nanoelectronics or mobile phones etc

This section of the questionnaire therefore looks into the common features of the different legislative texts, for instance relating to traceability or conformity marking, so as to ensure that the rules are coherent and do not create unnecessary burdens for economic operators and market surveillance authorities.

Which type of legal instrument is more suited to the aims of technical harmonisation?

In principle, regulations

Are there overlaps or conflicts between different pieces of legislation that have an impact on EU industrial products?

Not in the T&D sector

If yes, please specify which provisions of EU legislation are concerned, how they overlap and in what way they conflict

Are there categories of products that should be increasingly subject to mutual recognition and less to EU harmonised rules?

No, the T&D sector relies on IEC and CENELEC standards

Is there scope to broaden the essential requirements of some pieces of harmonisation legislation to cover a wider range of products from related industry sectors?

Not in the T&D sector

Is there scope to merge the essential requirements of different pieces of harmonisation legislation?

Not relevant for the T&D sector

If yes, please specify which pieces of harmonisation legislation are concerned

Are there provisions in the internal market legislation for industrial products which could be identical and apply across a range of sectors in view of reducing divergence and potential conflicts between different legislative texts?

No, the equipment for electricity distribution and transmission forms a separate sector due to the sensitivity of electricity supply and personnel safety requirements.

If yes, which ones? Multiple-response question

- Rules on free movement
- Rules on the obligations for manufacturers
- Rules on the obligations for importers

- Rules on the obligations for distributors
- Rules on the authorised representative
- Cases in which the obligations of manufacturers apply to importers and distributors
- Rules on the identification of economic operators
- Rules on conformity assessment procedures
- Rules on the presumption of conformity with standards
- Rules on the EU declaration of conformity
- Rules on CE marking
- Rules on notification, notifying authorities and notifying bodies
- Rules on penalties
- Rules on the validity of certificates of conformity

In the case of capital goods which are developed and supplied to be used by professionals for the development of other products: do these products require a special treatment in harmonisation legislation?

- Yes, these need to be exempted from the scope of product legislation
- Yes, these products need to be subject to lighter requirements, both in terms of substance and labelling, which take into account the difference between a professional user and a consumer
- Yes, they do not need to comply with the usual labelling and requirements for the accompanying documents shaped mainly to protect consumers, but they need to comply with the substantive requirements
- No
- Do not know (this makes or not life easier, e.g. for instruments or devices to test products during development)*

CE marking

Should CE marking be accompanied by other information, for example, labelling such as:

- No (not relevant for T&D products)*

Are there elements concerning CE marking which can be improved in view of ensuring a smoother functioning of the internal market for industrial products?

- Not relevant for T&D products*

Accreditation, Conformity Assessment, Declaration of Conformity

Should accreditation be made compulsory for the purposes of demonstrating the technical capacity of conformity assessment bodies?

- Yes, conformity assessment bodies should be accredited*
 No
 Do not know

Should third party conformity assessment be required for all industrial products?

- Yes
 No, self assessment is sufficient to assign conformity of T&D products, since the manufacturer is anyhow liable, not the third party.
 Do not know

Do you prefer the Single Declaration of Conformity being a simple compilation of individual Declarations of conformity?

- Yes, if it is possible to generate a single declaration out of the compiled individual declarations and if users accept this, this would be an advantage.*
 No
 Do not know

Do you prefer that each piece of product legislation provides for a customised Declaration of Conformity?

- Yes
 No. The conformity of T&D products is normally declared in relation to IEC or CENELEC standards. Since we are not putting the CE marking on our products, we are not obliged to state conformity with the legislation relevant to CE marking.
 Do not know

Final general question

Are there any other suggestions you wish to make to ensure a smoother functioning of the internal market for industrial products?

For T&D products, reliance on IEC and Cenelec standards should remain the essential way to ensure free circulation of products and guarantee their safety and compliance.