

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

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SUBCOMMITTEE I ON THE FREE MOVEMENT OF GOODS

EEA EFTA Comment on the Review of the Construction Products Regulation

1. EXECUTIVE SUMMARY

- *The EEA EFTA States (Iceland, Liechtenstein and Norway) welcome the public consultation which the European Commission initiated on a possible revision of the Construction Products Regulation.*
- *The EEA EFTA States find that a complete revision of the Construction Products Regulation would create an unstable and unfavourable situation for all construction product actors, including market surveillance authorities.*
- *The EEA EFTA States consider that many of the shortcomings of the Construction Products Regulation could be solved within the current system and without a complete revision.*

2. INTRODUCTION AND GENERAL REMARKS

1. The EEA EFTA States welcome the public consultation on the review of the Construction Products Regulation (CPR) where five main policy options were defined by the European Commission.
2. The legislative framework of the CPR has exposed its shortcomings. However, the EEA EFTA States are of the view that many of them can be solved within the current legislative framework without a complete revision of it.
3. With reference to the five main policy options that have been defined by the Commission for a possible review of the CPR, the preferred policy option for the EEA EFTA States would be option B) “Repairing the CPR: Option A¹. + improvements to be made by revising various aspects of the CPR”. This option would allow the public authorities as well as the economic operators to use a legislative system they are already

¹ Baseline: No revision of the CPR, improvements to be made under the current rules and available mechanisms

familiar with. Moreover, this option would also allow the operators to promote the necessary improvements based on solid and existing achievements. Finally, it would represent a smart alternative to a long legislative transition period.

4. The EEA EFTA States find that a complete revision of the system would create an unstable and unfavourable situation for all construction product actors, including market surveillance authorities.
5. The EEA EFTA States would like to illustrate their preferred policy option with some short comments to the 13 distinct CPR-related elements in the “2020 Public consultation on the review of the Construction Products Regulation”. Please find the comments below.

3. COMMENTS TO THE 13 DISTINCT CPR-RELATED ELEMENTS OF THE 5 POLICY OPTIONS

3.1. Scope of EU harmonisation

6. The EEA EFTA States deem that there is a need to eliminate confusion regarding the scope of the CPR, and it could be useful to continue and enhance the relevant information efforts to reduce the uncertainty linked to the scope of the CPR.
7. The scope of the CPR is linked to other EU legislation, to the “overlapping legislation” and to “collision rules”. The EEA EFTA States find that the relation between different European laws addressing construction products should be more clearly defined.

3.2. CE marking and Declaration of Performance

8. The CE marking and Declaration of Performance (DoP) contain important and relevant information for choosing a construction product and for public authorities performing market surveillance.
9. The experience of the EEA EFTA States shows that there is room for improvement when it comes to making information available to the consumer. One example is the lack of knowledge about the CE marking not being a “quality marking”. The language used in the DoP could also be improved and the information made more understandable.
10. The EEA EFTA States believe that the information should also be available in a digital format, for example by extending the use of Smart CE marking. Smart CE marking provides a link between the product and its DoP in a digital, machine and human readable format. Smart CE marking facilitates the development of digital tools. It allows product traceability, provides a direct link to manufacturers and is building information modelling (BIM) compatible.

3.3. Standardisation process

11. Harmonised standards and European Technical Assessments (ETA) are important as the current basis for securing a single market for construction products. However, in the view of the EEA EFTA States, the process accommodates larger manufacturers. This issue should be dealt with, for example by making it easier or less expensive for smaller manufacturers to participate in standardisation work.
12. The EEA EFTA States find that a new or alternative route for the future harmonisation process cannot be dealt with at the expense of the existing standards. There are also several risks associated with introducing a new system for the standardisation process.

3.4. National requirements for construction work

13. Construction products are not end-use products. They will be incorporated into construction works. The EEA EFTA States therefore believe that it is crucial to know the performances of construction products in order to ensure that construction works meet the technical requirements specified by the national building regulations.
14. Due to the various conditions in the Member States of the EEA, the EEA EFTA States find that the Member States should still be responsible for setting the safety, environmental and energy requirements applicable to buildings and civil engineering works.

3.5. Product safety requirements

15. Product safety requirements are increasingly important. The EEA EFTA States are of the view that for consumers and public authorities, it could be an advantage if product safety requirements are included in the harmonised method of the standards within the performance approach, and it would encourage manufacturers to enhance the product safety of their products.

3.6. Market surveillance and enforcement

16. The EEA EFTA States consider that competent national market surveillance with sufficient resources is a key element to ensure a level playing field in the Internal Market. Therefore, Member States must ensure that the market surveillance authorities are provided with sufficient resources to carry out their surveillance activities. National market surveillance enforcement of construction products should be enhanced through guidance and recommendations, and by a legislative change as recommended by a common Administrative Cooperation Group (AdCo) position.

3.7. European Organisation for Technical Assessment (EOTA) and technical assessment bodies (TABs)

17. With regards to the system of EOTA and TABs, the EEA EFTA States find that there is no need for a legislative change. It would be unfortunate to introduce a preliminary CE

mark, because the process of developing a standard is a working process until it is finalised. It could also increase the confusion regarding the status of a CE mark.

3.8. Notified bodies

18. When it comes to notified bodies, the view of the EEA EFTA States is that there is no need for a legislative change. The function of the notified bodies could be improved within the current legislation.
19. It will be important to clearly target the possible improvements without creating new administrative burdens, i.e. the EEA EFTA States do not see any advantage of peer revisions for a new mechanism of peer evaluation of notifying authorities. This would create more paperwork, whereas the possible advantages are limited. The same reservation will apply in respect of new obligations for notified bodies, such as changing the staff responsible for deciding on certification every three years. That would unduly disadvantage smaller notified bodies like notified bodies in the EEA EFTA States.

3.9. Product Contact Points for Construction

20. The EEA EFTA States receive few inquiries for the Product Contact Points for Construction (PCPC). The role of the PCPC should be evaluated, so the PCPC can function as a provider of relevant information regarding construction products.

3.10. Simplification

21. A demand for simplification provisions to reduce the administrative burden for manufacturers exists. The EEA EFTA States find that the current provisions of the CPR could be clarified.
22. However, an opportunity for Member States to exempt firms of all sizes from all or some conformity assessment obligations, might disrupt the level playing field in the Internal Market. It can also increase the risk of placing dangerous construction products on the market.

3.11. New business models/products – 3D-printing, prefabricated houses

23. It is the view of the EEA EFTA States that the scope of the CPR should include the new ways to manufacture a construction product. New business models could increase innovation and the creation of new products.

3.12. Environmental aspects

24. Environmental aspects could also be included in harmonised standards within the performance approach of the CPR. There is a demand for products that are sustainable, and the EEA EFTA States find that CPR should not be an obstacle in this manner.

3.13. Circular economy

25. There is increased market demand for reused construction products and an increasing number of manufacturers and distributors want to place reused construction products on the market. With this background, the EEA EFTA States are of the view that there is a need to clarify if the CPR applies to the distribution of reused construction products, and which rules should apply for reused construction products.
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