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*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products (COM(2008)0311 – C6-0203/2008 – 2008/0098(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Catherine Neris

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products (COM(2008)0311 – C6-0203/2008 – 2008/0098(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0311),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0203/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Industry, Research and Energy (A6-0068/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) The rules of Member States require that construction works are designed and executed so as not to endanger the safety of persons, domestic animals and property.

Amendment

(1) The rules of Member States require that construction works are designed and executed so as not to endanger the safety of persons, domestic animals and property ***nor damage the natural or man-made environment.***

Amendment 2

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The performance of a construction product is not only defined in terms of technical capabilities and essential characteristics, but also in terms of the health and safety aspects related to the use of the product during its entire lifecycle.

Justification

It is important that product performance is not only measured in terms of technical capabilities but that health and safety considerations for the worker are taken into account when assessing a construction product

Amendment 3

Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) The methods used by the Member States in their requirements for works, as well as other national rules in relation to the essential characteristics of construction products, ***should*** be in accordance with harmonised technical specifications.

(10) The methods used by the Member States in their requirements for works, as well as other national rules in relation to the essential characteristics of construction products, ***shall*** be in accordance with harmonised technical specifications.

Justification

The Commission proposal for recital 10 opens up the possibility for Member States to apply their own technical language rather than common language. To establish a complete and well-functioning internal market for construction products and eliminate existing barriers to trade, it is essential to ensure that Member States use the common technical language.

Amendment 4

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) For the assessment of the sustainable use of resources and of the impact of building works on the environment, Environmental Product Declarations (EPD) should be used.

Justification

The background information on products needed to assess the sustainable use of resources is provided in Environmental Product Declarations (EPDs). There is no need to devise new criteria.

EPDs also contain details on the energy consumption of products and their recyclability.

Amendment 5

Proposal for a regulation
Recital 14

Text proposed by the Commission

Amendment

(14) Those harmonised standards should provide the appropriate tools for the harmonised assessment of the performance in relation to the essential characteristics of construction products. Harmonised standards should be established on the basis of mandates adopted by the Commission, covering the relevant families of construction products, in accordance with Article 6 of Directive 98/34/EC.

(14) Those harmonised standards should provide the appropriate tools for the harmonised assessment of the performance in relation to the essential characteristics of construction products. Harmonised standards should be established on the basis of mandates adopted by the Commission, covering the relevant families of construction products, in accordance with Article 6 of Directive 98/34/EC. ***The Commission should take steps to increase the range of products covered by harmonised standards.***

Justification

Harmonised norms are the most effective and appropriate instrument for manufacturers in the construction products market.

Amendment 6

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) It is necessary for the representative bodies of the principal professions involved in the design, manufacture and deployment of construction products to participate in European technical bodies to ensure they operate in a fair and transparent way and to ensure market effectiveness.

Justification

It is also important that representative bodies (professional bodies) endorse the principles of the Regulation and should allow fair competition between construction products, in a similar way to manufacturers.

Amendment 7

Proposal for a regulation
Recital 14 b (new)

Text proposed by the Commission

Amendment

(14b) In order to ensure good comprehension of the information provided by the manufacturer, the declaration of performance should be drawn up in the official language, or one of the official languages, of the Member State in which the product is placed on the market. If a Member State has several official languages, the choice of the language used for the drawing up of the declaration of performance should be made with the recipient's agreement.

Amendment 8

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In order to allow manufacturers and importers of construction products to draw up a declaration of performance for construction products which are not covered by a harmonised standard it is necessary to provide for a European Technical Assessment.

Amendment

(16) In order to allow manufacturers and importers of construction products to draw up a declaration of performance for construction products which are ***not fully covered or*** not covered by a harmonised standard, it is necessary to provide for a European Technical Assessment.

Justification

ETA shall not be issued for a product fully covered by a harmonised standard. However it shall be possible that an ETA may complement an existing harmonised standard as to allow to express those characteristics not covered by a harmonised standards.

Amendment 9

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) To provide the manufacturer and the importer with additional flexibility for the assessment of the performance of the construction product he intends to place on the market, he should be entitled to request a European Technical Assessment also in a case in which the product is covered by a harmonised standard.

Amendment

deleted

Justification

In order to avoid a two-speed CE marking procedure, which would complicate the system and risk having a negative impact on the credibility of the CE marking, access to the European Technical Assessment should be reserved for innovative products.

Amendment 10

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The establishment of **draft** EADs and the issuing of European Technical Assessments should be entrusted to Technical Assessment Bodies (TAB) designated by Member States. In order to ensure that TABs have necessary competence for carrying out those tasks, the requirements for their designation should be set out at Community level. Therefore it is also necessary to provide for periodical evaluations of TABs by TABs from other Member States.

Amendment

(19) The establishment of EADs and the issuing of European Technical Assessments should be entrusted to Technical Assessment Bodies (TAB) designated by Member States. In order to ensure that TABs have necessary competence for carrying out those tasks, the requirements for their designation should be set out at Community level. Therefore it is also necessary to provide for periodical evaluations of TABs by TABs from other Member States.

Justification

Ze względu na jednoznaczny podział obowiązków i kompetencji ostateczny za dokument EDO powinny być odpowiedzialne wyłącznie kompetentne jednostki ds. oceny technicznej działające wspólnie w europejskiej organizacji jednostek ds. oceny technicznej. Rozróżnienie pomiędzy wzorem (projektem) EDO, za który odpowiedzialność ponosi europejska organizacja jednostek ds. oceny technicznej a ostatecznym dokumentem EDO, za który odpowiedzialność należy do Komisji (patrz Załącznik 2, Point 2.7) budzi wątpliwości kto ostatecznie będzie odpowiedzialny za ewentualna nieodpowiedniość wyrobu objętego EOT na podstawie EDO.

Amendment 11

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) The TABs should establish an organisation to coordinate **the** procedures for the establishment of **draft** EADs and for issuing of **the** European Technical Assessments.

Amendment

(20) The TABs should establish an organisation to coordinate **and ensure the transparency of** procedures for the establishment of EADs and for issuing of European Technical Assessments. **That organisation should ensure, in particular, that manufacturers are properly informed and, if necessary, that the working groups set up by the TABs organise a hearing with an independent scientific expert and/or a professional organisation**

nominated by the manufacturer.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer. The manufacturer must be able to obtain information about the progress of his application and must be able to add to his application file on the basis of a hearing with an independent expert and a professional organisation of his choice.

Amendment 12

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Among the essential characteristics, characteristics for which the minimum requirements in terms of levels or classes of performance are determined by the Commission under the appropriate committee procedure, and which apply independently of where the construction product is marketed should be distinguished.

Justification

Amendment 13

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) The manufacturer should be entitled not to make a declaration of performance for those essential characteristics of construction products for which no requirements exist where he intends to place the product on the market. ***deleted***

Justification

It is important that all products covered by a harmonised technical specification (a harmonised standard or a European Technical Assessment) should bear the CE marking.

Amendment 14

Proposal for a regulation

Recital 23

Text proposed by the Commission

Amendment

(23) When no requirements related to the essential characteristics of construction products exist where the manufacturer intends to place the product on the market, he should be allowed to place such a product on the market without a declaration of performance. *deleted*

Justification

Same formulation as in Recital 22. Same justification for deletion.

Amendment 15

Proposal for a regulation

Recital 28

Text proposed by the Commission

Amendment

*(28) By affixing or having affixed the CE marking to construction product, the manufacturer **should take** responsibility for the conformity of that product with its declared performance.*

*(28) By affixing or having affixed the CE marking to **a** construction product, the manufacturer, **authorised representative or importer should take** responsibility for the conformity of that product with its declared performance.*

Justification

This is intended to clarify the responsibilities for the manufacturer, authorised representative and importer. The authorised representative is established within the Community and acts on behalf of the manufacturer. The authorized representative is (not “should” be) as much responsible for the conformity of the product as the manufacturer. Whereas the importer does not represent the manufacturer, it places the product on the Community market and is the only economic operator with an easy access to distributors, consumers and national authorities. The importer must therefore account for the conformity of the product.

Amendment 16

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) The CE marking should be affixed to all construction products, for which the manufacturer has drawn up a declaration of performance in accordance with this Regulation. ***If a declaration of performance has not been drawn up, CE marking should not be affixed.***

Amendment

(29) The CE marking should be affixed to all construction products, for which the manufacturer has drawn up a declaration of performance in accordance with this Regulation.

Justification

It is important that all products covered by a harmonised technical specification (a harmonised standard or a European Technical Assessment) should bear the CE marking.

Amendment 17

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) The CE marking should be the only marking ***which attests*** conformity of the construction product with the declared performance and with applicable requirements. ***Therefore, no additional markings should be imposed to the construction products bearing it by the Member States nor by public bodies or private bodies acting as a public undertaking, or acting as a public body on the basis of a monopoly position or under a public mandate, when the requirements for this use in that Member State correspond to the declared performance.***

Amendment

(30) The CE marking should be the only marking ***of*** conformity of the construction product with the declared performance and with applicable requirements ***relating to Community harmonisation legislation. However, other markings may be used, provided that they help to improve the protection of users of construction products and are not covered by Community harmonisation legislation.***

Justification

Pending a proposal from the Commission reinforcing the CE marking, the compromise formula approved by the European Parliament and the Council when the ‘goods package’

was adopted should be maintained.

Amendment 18

Proposal for a regulation Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) In order to allow effective market surveillance and to ensure a high level of consumer protection, it is important that simplified procedures for declaring a certain level or class of performance without testing or without further testing do not apply to importers who place a product on the market under their own name or trademark or modify a construction product already placed on the market in such a way that conformity with the declared performance may be affected. This provision concerns the use of stable previous test results or other existing data and the use of results of tests obtained by third parties. It also concerns the simplified procedure applying to micro-enterprises.

Justification

Clarification of Amendment 13 (draft report) to avoid misinterpretation. The sole aim of this amendment is to avoid the risk of the STD being misused to deliberately get around EU legislation on the CE marking, and to ensure that products placed on the market perform reliably.

Amendment 19

Proposal for a regulation Recital 35

Text proposed by the Commission

Amendment

(35) It is important to ensure the accessibility of national technical rules, so that enterprises, and in particular SMEs,

(35) It is important to ensure the accessibility of national technical rules, so that enterprises, and in particular SMEs,

can gather reliable and precise information about the law in force in the Member State where they intend to market their products. Product Contact Points established by the Regulation (EC) No ... of the European Parliament and of the Council of [...2008] laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC should therefore provide information also on rules applicable to the incorporation, assembling or installation of a specific type of construction product.

can gather reliable and precise information about the law in force in the Member State where they intend to market their products. Product Contact Points established by the Regulation (EC) No ... of the European Parliament and of the Council of [...2008] laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC should therefore provide information also on rules applicable to the incorporation, assembling or installation of a specific type of construction product. ***They should also be able to provide to any manufacturer all information concerning the available appeals procedures where the conditions of access for one or more of the manufacturer's products to the CE marking are contested, in particular the appropriate appeals procedures against decisions taken following the assessment.***

Justification

The Product Contact Points provide an information service to construction product manufacturers wishing to obtain the CE marking. This information should include, in particular, the possibilities for appeal available to manufacturers should they wish to contest decisions taken during the procedure for obtaining the CE marking.

Amendment 20

Proposal for a regulation Recital 42 a (new)

Text proposed by the Commission

Amendment

(42a) Existing mandates for the setting of harmonised European standards should be taken into account. The European Committee for Standardisation (CEN) is called on to devise standards to clarify Basic Works Requirement No 7 'Sustainable use of natural resources'.

Amendment 21

Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

Amendment

(43a) The Commission and the Member States should, in collaboration with stakeholders, launch information campaigns to inform the construction sector, particularly economic operators and users, regarding the establishment of a common technical language, the distribution of responsibilities between the individual economic operators, the affixing of the CE marking to construction products, the revision of the basic works requirements and the systems of assessment and verification of constancy of performance.

Amendment 22

Proposal for a regulation Recital 43 b (new)

Text proposed by the Commission

Amendment

(43b) The Commission should, within one year of the entry into force of this Regulation, submit to the European Parliament and the Council a proposal for the revision of the European standardisation system to increase the transparency of the system as a whole, above all to ensure balanced participation of stakeholders in the technical committees of European standardisation bodies and to prevent conflicts of interest among them. At the same time, measures should be taken to speed up the adoption of European standards, as well as their

translation into all official languages of the European Union, and especially the translation of guidelines for SMEs.

Amendment 23

Proposal for a regulation Recital 43 c (new)

Text proposed by the Commission

Amendment

(43c) The basic works requirement 7 entitled “sustainable use of natural resources” should take account of the recyclability of construction works, their materials and parts after demolition, the durability of construction works and the use of environmentally compatible raw and secondary materials in construction works,

Justification

Goes together with the respective amendment regarding Annex I, paragraph 7. In principle the basic requirement 7 „Sustainability“ (Annex I) can be supported. As long as there are no European standards available which demonstrate how the detailed requirements can be fulfilled (at the moment respective standards are under development in CEN), the proposed list of detailed requirements should be inserted in the recitals. In this regard the competence of CEN, as laid out in recital 13, as the competent organisation for the adoption of harmonized standards should be taken into account.

Amendment 24

Proposal for a regulation Article 1

Text proposed by the Commission

Amendment

This Regulation lays down rules on how to express the performance of construction products in relation to their essential characteristics and on the use of CE

This Regulation lays down ***conditions for the marketing of construction products by establishing*** rules on how to express the performance of construction products in

marking on those products

relation to their essential characteristics and on the use of CE marking on those products.

Justification

This amendment clarifies that this regulation only concerns conditions for the marketing of construction products not the installation, assembling and incorporation of construction products into the works.

Amendment 25

**Proposal for a regulation
Article 2 – point 1 a (new)**

Text proposed by the Commission

Amendment

1a. "Products which are not covered or not fully covered by a harmonised standard" means any construction product whose essential characteristics and performance cannot be entirely evaluated according to an existing harmonised standard, because inter alia:

(a) the product does not fall within the scope of any existing harmonised standard;

(b) the product does not meet one or more technical definitions of characteristics included in any such harmonised standard;

(c) one or more essential characteristics of the product are not adequately covered by any such harmonised standard; or

(d) one or more test methods necessary to assess the performance of the product are missing or not applicable.

Justification

This definition is needed to clarify the products for which a European Technical Assessment can be requested. Under this definition mostly innovative products will fall.

Amendment 26

Proposal for a regulation Article 2 – point 3

Text proposed by the Commission

3. ‘essential characteristics’ means those characteristics of the construction product which relate to the basic works requirements;

Amendment

3. ‘essential characteristics’ means those characteristics of the construction product which relate to the basic works requirements *set out* in Annex I. ***Among those essential characteristics, laid down in the harmonised technical specifications, a distinction is made between:***

(a) characteristics which exist where the manufacturer or importer intends to place the product on the market;

(b) characteristics which must be notified irrespective of where the product is placed on the market and for which the minimum requirements in terms of levels or classes of performance are determined for each family of products laid down in Annex IV, Table 1, and by type of application by the European Standardisation Bodies, with the agreement of the Commission and the Standing Committee of Construction.

When appropriate, for each family of construction products laid down in annex IV, Table 1, the characteristics mentioned in point (b) of this paragraph are established by the Commission, in accordance with the procedure referred to in Article 51 (2); they relate inter alia to issues of general interest such as the environment, safety and evaluation of possible health hazards throughout the entire lifecycle of the construction product.

Justification

Amendment 27

**Proposal for a regulation
Article 2 – point 3 a (new)**

Text proposed by the Commission

Amendment

3a. 'Performance of a construction product' means performance with reference to essential individual characteristics expressed through value, level, class or threshold, or in a description;

Justification

This definition is intended to provide clarity and consistency in the descriptions used for the purposes of the performance declaration and CE mark. It is based on the definition contained in Guidance Paper E.

Amendment 28

**Proposal for a regulation
Article 2 – point 3 b (new)**

Text proposed by the Commission

Amendment

3b. "level" means a minimum performance value of a product. A level can be of a technical or regulatory nature, and may be applicable to a single characteristic or comprise a set of characteristics.

Amendment 29

**Proposal for a regulation
Article 2 – point 3 c (new)**

Text proposed by the Commission

Amendment

3c. "class" means a range for the performance of a product delimited by a

minimum and a maximum performance value. A class can be of a technical or regulatory nature and may be applicable to a single characteristic or comprise a set of characteristics.

Amendment 30

Proposal for a regulation Article 2 – point 4 a (new)

Text proposed by the Commission

Amendment

4a. "European Technical Assessment" means an assessment based on an European Assessment Document, and reserved for construction products which are not or not fully covered by a harmonised standard;

Justification

In the definitions it is necessary to define the method of obtaining the CE marking in the non-harmonised area.

Amendment 31

Proposal for a regulation Article 2 – point 4 b (new)

Text proposed by the Commission

Amendment

4b. "Specific Technical Documentation" means the documentation which is used for simplified procedures;

Justification

In the definitions it is necessary to define the Specific Technical Documentation in order to clarify its use in simplified procedures.

Amendment 32

Proposal for a regulation
Article 2 – point 5

Text proposed by the Commission

5. 'making available on the market' means any supply of a construction product for distribution or use on the Community market in the course of a commercial activity, whether in return for payment or free of charge;

Amendment

5. 'making available on the market' means any supply of a construction product for distribution or use on the Community market in the course of a commercial activity, whether in return for payment or free of charge; **this excludes:**

(a) any product which users transform on site for their own use in the context of their professional activity;

(b) any product manufactured on and/or off site and incorporated by the manufacturer into a work without being placed on the market.

Justification

Clarification of Amendment 17 as regards point (b).

Amendment 33

Proposal for a regulation
Article 2 – point 7

Text proposed by the Commission

7. "manufacturer" means any natural or legal person who manufactures a construction product or who has such a product manufactured, under his name or trademark;

Amendment

7. "manufacturer" means any natural or legal person who manufactures a construction product or who has such a product manufactured, **and markets that product** under his name or trademark;

Justification

The definition of manufacturer has to be brought in line with the New Legal Framework (Decision No 768/2008/EC of on a common framework for the marketing of products, and repealing Decision 93/465/EEC). It is of utmost importance to clarify that a company which manufactures and markets its product is a manufacturer whereas a company which manufactures AND installs its product is NOT a manufacturer.

Amendment 34

Proposal for a regulation
Article 2 – point 11 a (new)

Text proposed by the Commission

Amendment

11a. "user" means any natural or legal person responsible for the safe incorporation of a construction product into construction works;

Justification

In the definitions it is necessary to define the users, who may be the building designers (architects, building engineers) or building contractors.

Amendment 35

Proposal for a regulation
Article 2 – point 12 a (new)

Text proposed by the Commission

Amendment

12a. "Technical Assessment Body" means a body designated by a Member State to participate in the development of European Assessment Documents and to assess the performance of the essential characteristics of construction products not or not fully covered by a harmonised standard in the product areas listed in Annex IV;

Justification

Technical Assessment Bodies shall participate in the EAD development, carry out assessments and issue European Technical Assessments for products that are not covered by harmonised standards (mostly innovative products).

Amendment 36

Proposal for a regulation
Article 2 – point 13

Text proposed by the Commission

Amendment

13. 'European Assessment Document' means a document adopted by the

13. 'European Assessment Document' means a document **which is** adopted by the

organisation of Technical Assessment Bodies;

organisation of Technical Assessment Bodies *for the purpose of issuing a European Technical Assessment and which concerns a product not covered or not fully covered by a harmonised standard;*

Justification

The European Technical Assessment is a document forming the basis on which the European Technical Assessment is drawn up.

Amendment 37

Proposal for a regulation

Article 2 – paragraph 14 a (new)

Text proposed by the Commission

Amendment

14a. 'Notified body' means a laboratory, supervisory or certifying body, notified by the Member States to perform tasks connected with the assessment and verification of constancy of performance of construction products.

Justification

Unlike the New Legal Framework, the sphere of activities of notified bodies under the directive, as set out in Article 19, concerns 'the assessment and verification of constancy of performance'.

Amendment 38

Proposal for a regulation

Article 2 – point 14 b (new)

Text proposed by the Commission

Amendment

14b. "notifying authority" means a body designated by a Member State to establish and carry out the procedures necessary for the assessment and notification of notified bodies in accordance with Article 30;

Justification

Notifying authorities are the subject of articles 30, 31 and 32 in Chapter VII.

Amendment 39

Proposal for a regulation

Article 2 – points 5 to 16

Text proposed by the Commission

5. "making available on the market" means any supply of a construction product for distribution or use on the Community market in the course of a commercial activity, whether in return for payment or free of charge;

6. "placing on the market" means the first making available of a construction product on the Community market;

7. "manufacturer" means any natural or legal person who manufactures a construction product or who has such a product manufactured, under his name or trademark;

8. "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a construction product available on the market;

9. "importer" means any natural or legal person established within the Community, who places a construction product from a third country on the Community market;

10. "economic operators" means the manufacturer, the importer, distributor and the authorised representative;

11. "authorised representative" means any natural or legal person established within the Community who has received mandate from the manufacturer to act on his behalf

Amendment

4a "harmonised standard" means a standard adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC, on the basis of a request issued by the Commission, in accordance with Article 6 of that Directive;

4b "European Assessment Document" means a document adopted by the organisation of Technical Assessment Bodies;

4c "economic operators" means the manufacturer, the importer, distributor and the authorised representative;

4d "manufacturer" means any natural or legal person who manufactures a construction product or who has such a product manufactured, under his name or trademark;

4e "importer" means any natural or legal person established within the Community, who places a construction product from a third country on the Community market;

4f "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a construction product available on the market;

4g "authorised representative" means any natural or legal person established within the Community who has received mandate from the manufacturer to act on his behalf

for specific tasks;

12. "harmonised standard" means a standard adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC, on the basis of a request issued by the Commission, in accordance with Article 6 of that Directive;

13. "European Assessment Document" means a document adopted by the organisation of Technical Assessment Bodies;

14. "accreditation" has the meaning assigned to it by Regulation (EC) No [...];

15. "withdrawal" means any measure aimed at preventing the making available on the market of a construction product in the supply chain;

16. "recall" means any measure aimed at achieving the return of a construction product that has already been made available on the market;

for specific tasks;

4h "making available on the market" means any supply of a construction product for distribution or use on the Community market in the course of a commercial activity, whether in return for payment or free of charge;

4i "placing on the market" means the first making available of a construction product on the Community market;

4j "withdrawal" means any measure aimed at preventing the making available on the market of a construction product in the supply chain;

4k "recall" means any measure aimed at achieving the return of a construction product that has already been made available on the market;

4l "accreditation" has the meaning assigned to it by Regulation (EC) No [...];

Justification

Reordering of definitions following a logical sequence. After defining the construction product, works and essential characteristics, harmonised technical specifications should be defined (including a harmonised standard and an EAD) followed by definitions of economic operators (a manufacturer, an importer, a distributor and an authorised representative). Definitions on making available on the market, placing on the market, withdrawal and recall should follow.

Amendment 40

Proposal for a regulation Article 2 – point 18

Text proposed by the Commission

18. "factory production control" means the permanent internal control of **the** production **in a factory**;

Amendment

18. "factory production control" means the permanent internal control of production **carried out by the manufacturer ensuring that the production of the construction**

product and the product produced are in conformity with the technical specifications;

Justification

Clarification of the text

Amendment 41

Proposal for a regulation
Article 2 – point 20 a (new)

Text proposed by the Commission

Amendment

20a. “kit” means a set of at least two separate components that need to be put together to be installed permanently in the works (in order to become an “assembled system”).

Amendment 42

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. The manufacturer or the importer when placing a construction product on the market shall make a declaration of performance if the following conditions **are** met:

(a) the construction product is covered by a harmonised standard, **or a European Technical Assessment has been issued for that product; and**

(b) **the requirements in relation to essential characteristics of that product exist where the manufacturer or importer intends to place the product on the market.**

The manufacturer or the importer may

1. The manufacturer or the importer when placing a construction product on the market shall make a declaration of performance if **one of** the following conditions **is** met:

(a) the construction product is covered by a harmonised standard;

(b) **a European Technical Assessment has been issued for the construction product.**

make a declaration of performance where the requirements referred to in point (b) do not exist.

Justification

It is important that all products covered by a harmonised technical specification (a harmonised standard or a European Technical Assessment) should bear the CE marking in order for that marking to be credible.

Amendment 43

**Proposal for a regulation
Article 4 – paragraph 2**

Text proposed by the Commission

Amendment

2. The declaration of performance referred to in paragraph 1 shall cover at least the essential characteristics for which requirements referred to in point b of paragraph 1 exist.

deleted

Amendment 44

**Proposal for a regulation
Article 5 – paragraph 1**

Text proposed by the Commission

Amendment

1. The declaration of performance shall express the performance of construction products in relation to the essential ***characteristics*** of those products in accordance with the relevant harmonised technical specifications.

1. The declaration of performance shall express the performance of construction products in relation to the ***two types of essential characteristic defined in Article 2(3)*** of those products in accordance with the relevant harmonised technical specifications..

Justification

In cases of European technical assessments the technical specification is the European assessment document and not the European technical assessment. However, the European assessment document is only the basis for the assessment, but the results of the assessment – which shall be the content of the declaration of performance – can only be found in the

European technical assessment. Therefore the latter needs to be referred to and not the European assessment document.

Amendment 45

Proposal for a regulation

Article 5 – paragraph 2 – point b

Text proposed by the Commission

(b) the list of the essential characteristics *of the construction product for which the performance is declared, and the levels or classes of that performance*;

Amendment

(b) the **full** list of the essential characteristics **which has been determined in accordance with the harmonised technical specifications. For each essential characteristic of a product, the manufacturer shall declare a value, class or level of performance. If there is no requirement for that characteristic in the Member State where the product is being placed on the market, the manufacturer shall mark the product ‘NPD’ (No Performance Determined)**;

Justification

The declaration of performance should be a comprehensive document, which gives data on similar products in a way that is comparable and helpful for users. This should include the option for a manufacturer to declare 'no performance determined' for any of the essential characteristics, so that manufacturers are not obliged to do unnecessary testing for characteristics that are not required by the user. The declaration of performance should be a comprehensive document, which gives data on similar products in a way that is comparable and helpful for users. This should include the option for a manufacturer to declare 'no performance determined' for any of the essential characteristics, so that manufacturers are not obliged to do unnecessary testing for characteristics that are not required by the user.

Amendment 46

Proposal for a regulation

Article 5 - paragraph 2 - point c

Text proposed by the Commission

(c) the reference number of the harmonised standard, the European Assessment Document or the Specific Technical Documentation, which has been used for

Amendment

(c) the reference number **and title** of the harmonised standard, the European Assessment Document or the Specific Technical Documentation, which has been

the assessment of each essential characteristic.

used for the assessment of each essential characteristic.

Amendment 47

Proposal for a regulation

Article 5 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the generic intended use set out in the harmonized technical specification;

Amendment 48

Proposal for a regulation

Article 5 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) details of the procedure used to assess and verify the constancy of performance; if the applicable system of assessment of performance has been replaced by the simplified procedure referred to in Article 27 or 28, the manufacturer shall declare as follows: 'STD - Simplified procedure';

Justification

In order to clarify the meaning of declared performances and ensure that consumers are properly informed, it is important that the declaration of performance mentions the system used to assess the product's performances.

Amendment 49

Proposal for a regulation

Article 5 - paragraph 2 - point c c (new)

Text proposed by the Commission

Amendment

(cc) information about hazardous substances in the construction product, as referred to in Annex IIIa, and details of

***hazardous substances to be declared
pursuant to other Community
harmonisation rules.***

Justification

The title of the harmonised standard and the intended use of the product are important items of information for users of construction products. Both are known to the manufacturer of the product and should be listed so as to contribute to the safe use of the product. It is important for users of construction products to be provided with all product information in as transparent and complete a form as possible. The aim should be to summarise all information known to the manufacturer in the declaration of performance, including details of hazardous substances.

Amendment 50

**Proposal for a regulation
Article 6 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

1. A copy of the declaration of performance shall be supplied with ***each*** product ***which*** is ***made available*** on the market.

Amendment

1. A copy of the declaration of performance ***of each product which is made available on the market*** shall be supplied ***in paper form or sent by electronic means.***

Justification

This Regulation should include the possibility of using electronic means, which is something certain sectors already use, and it works.

Amendment 51

**Proposal for a regulation
Article 6 – paragraph 2**

Text proposed by the Commission

2. The copy of the declaration of performance ***may be supplied by electronic means only with the express agreement of*** the recipient.

Amendment

2. ***The producer shall send in paper form*** the copy of the declaration of performance, ***if*** the recipient ***requests it.***

Amendment 52

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

4. The declaration of performances shall be drawn up using the model set out in Annex III.

Amendment

4. The declaration of performances shall be drawn up using the model set out in Annex III ***in the official language, or one of the official languages, of the Member State in which the product is placed on the market.***

Justification

The users of construction products must have a declaration of performance in a language they can understand.

Amendment 53

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. The CE marking shall be affixed ***only*** to those construction products, for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4, 5 and 6.

If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4, 5 and 6, the CE marking may not be affixed to construction products.

By affixing or having affixed the CE marking the manufacturer shall take responsibility for the conformity of the construction product with the declared performance.

Amendment

1. The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4, 5 and 6. ***In the absence of a declaration of performance, the CE marking can not be affixed.***

If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4, 5 and 6, the CE marking may not be affixed to construction products.

By affixing or having affixed the CE marking the manufacturer, ***or, where applicable, the importer,*** shall take responsibility for the conformity of the construction product with the declared performance ***and for its conformity with***

Community harmonisation legislation.

Justification

It is important that all products covered by a harmonised technical specification have a CE marking; the amendment to the first paragraph makes this clear. Moreover, in accordance with the 'goods package' adopted by Parliament and the Council, importers should also bear responsibility as far as marking is concerned.

Amendment 54

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. The CE marking shall be the only marking which attests conformity of the construction product with the declared performance.

Amendment

2. The CE marking shall be the only marking which attests conformity of the construction product with the declared performance ***in accordance with Community harmonisation legislation.***

Member States shall not introduce national measures or shall withdraw any references to a conformity marking other than the CE marking.

Justification

Pending a proposal from the Commission reinforcing the CE marking, the compromise formula concerning national markings approved by the European Parliament and the Council when the 'goods package' was adopted should be maintained.

Amendment 55

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. The CE marking shall be followed by the two last digits of the year in which it was affixed, the name or the identifying mark of the producer, the unique identification code of the construction

Amendment

3. The CE marking shall be followed by the two last digits of the year in which it was affixed, the name or the identifying mark of the producer ***and*** the unique identification code of the construction

product **and the number of the declaration of performance** product.

Justification

The proposed system of including a unique identifying mark and number of the declaration of performance with each product is impractical for many industries due to the very large numbers of products. The alpha-numeric descriptions currently in use in some sectors of the industry should remain in place.

Amendment 56

**Proposal for a regulation
Article 8 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking, and shall take appropriate action in the event of improper use of the marking. Member States shall also provide for penalties for infringements, which may include criminal sanctions for serious infringements. Those penalties shall be proportional to the seriousness of the infringement.

Justification

This is in line with Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products.

Amendment 57

**Proposal for a regulation
Article 9**

Text proposed by the Commission

Amendment

Each Member State shall ensure that the Product Contact Points established in accordance with Regulation (EC) N°.... also provide *the* information on any technical rules or regulatory provisions applicable to the incorporation, assembling

Each Member State shall ensure that the Product Contact Points established in accordance with Regulation (EC) N°.... also provide information ***using transparent and easily understandable terms***, on:

or installation of a specific type of construction product in the territory of that Member State.

(a) any technical rules or regulatory provisions applicable to the incorporation, assembling or installation of a specific type of construction product in the territory of that Member State;

(b) if applicable, the appeals possibilities available to all manufacturers contesting the conditions of access for one or more of their products to the CE marking, in particular the appropriate appeals procedures against decisions taken following the assessment.

Justification

The Product Contact Points provide an information service to construction product manufacturers wishing to obtain the CE marking. That information must relate to the manufacturers' obligations, particularly regarding the essential territorial requirements, and the possibilities for appeal available to manufacturers where decisions taken in the procedure for obtaining the CE marking are contested.

Amendment 58

Proposal for a regulation

Article 9 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Product Contact Points shall be independent of any body or organisation involved in the procedure for obtaining the CE marking. Guidelines on the role and responsibility of contact points shall be drawn up by the Commission and adopted by the Standing Committee for Construction referred to in Article 51(1).

Justification

To avoid any conflict of interest, the Product Contact Points must be independent of any body or organisation involved in the procedure for obtaining the CE marking.

Amendment 59

Proposal for a regulation

Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Before making a construction product available on the market distributors shall ensure that the product bears the required CE marking and is accompanied by the documents required under this Regulation **and by instructions and safety information** in a language **easily understood by users in** the Member State where the product is made available on the market and that the manufacturer and the importer have complied with the requirements set out in Article 10(4), Article 10(5) and Article 12(3) *respectively*.

Amendment

2. Before making a construction product available on the market, distributors shall ensure that the product bears the required CE marking and is accompanied by the documents required under this Regulation in **the official language, or official languages, of** the Member State where the product is made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 10(4), Article 10(5) and Article 12(3).

Justification

The users of construction products must have a declaration of performance in a language they can understand.

Amendment 60

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

1. Harmonised standards shall be established by the European standardisation bodies listed in Annex I to Directive 98/34/EC on the basis of **mandates adopted** by the Commission in accordance with Article 6 of that Directive.

Amendment

1. Harmonised standards shall be established by the European standardisation bodies listed in Annex I to Directive 98/34/EC on the basis of **requests submitted** by the Commission in accordance with the first indent of Article 6(3) of that Directive **and by the Standing Committee on Construction in accordance with Article 5(1) of that Directive**.

The European standardisation bodies shall ensure that no category of actors in any one sector comprises more than 25%

of the participants on a technical committee or working group. If one or more categories of actors cannot take part in a working group, or chooses not to, this requirement may be reassessed on a pro rata basis in relation to actual participants.

Justification

Clarification of Amendment 31 (draft report).

Amendment 61

Proposal for a regulation

Article 16 – paragraph 2 - subparagraph 1

Text proposed by the Commission

2. Harmonised standards shall provide the methods and *the* criteria for assessing the performance of *the* construction products in relation to their essential characteristics.

Amendment

2. Harmonised standards shall provide the methods and criteria for assessing the performance **and durability** of construction products in relation to their essential characteristics.

Harmonised standards shall provide the generic intended use of the products if applicable; they shall also provide the characteristics, the minimum requirements for which in terms of levels or classes of performance are determined by the Commission for each family of products laid down in Annex IV, Table 1, and by type of application, in the context of the regulatory procedure with scrutiny provided for in Article 51(2);

Justification

For certain uses a durability assessment for a construction product is indispensable and it is essential in selecting the correct product. In the first generation of standards, durability criteria were often neglected and they must be taken into account in harmonised product standards. Harmonised standards are only practicable if they provide the intended use together with levels and classes of performance.

Amendment 62

Proposal for a regulation
Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The European standardisation bodies shall ensure a fair representation of the representative bodies of the principle professions involved in design, manufacture and use of construction products.

Justification

It is also important that representative bodies (professional bodies) endorse the principles of the Regulation and allow fair competition between construction products, in a similar way to manufacturers.

Amendment 63

Proposal for a regulation
Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When a harmonised standard has been approved by a European standardisation body, the committee referred to in Article 51(1) may take responsibility for all verifications ensuring that the standard meets the requirements laid down in the mandate given by the Commission or a Member State.

Justification

One of the main problems with standardisation mandates is that the harmonised product standards do not correspond to national requirements. The standards must allow manufacturers to declare all the performances regulated in a specific Member State. The Standing Committee on Construction, representing the Member States' authorities, should ensure that all the necessary characteristics have been taken into account in the relevant mandate.

Amendment 64

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. **Where** classes of performance in relation to the essential characteristics of construction products **are not** established **by the Commission, they may be established by the European standardisation bodies in harmonised standards.**

Where the Commission has established classes of performance in relation to the essential characteristics of construction products, the European standardisation bodies shall use those classes in harmonised standards.

Amendment

2. **Levels or** classes of performance in relation to the essential characteristics of construction products **shall be** established **in harmonized technical specifications, taking account of the different traditions and levels of basic work requirements for certain works as well as the differences in climate, geology and geography and other relevant conditions prevailing in Member States.**

The manufacturer shall be entitled to choose between declaring individual performance values and declaring levels or classes of performance.

Where the Commission has established **levels or** classes of performance in relation to the essential characteristics of construction products, the European standardisation bodies shall use those classes in harmonised standards.

Justification

As national building regulations and local traditions remain diverse, it is important to provide harmonised performance (technical) levels and classes of performance as an alternative to declaring individual performance values. However Member States must replace or adapt their existing levels and classes to the classification systems in harmonised standards.

Amendment 65

Proposal for a regulation
Article 18 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

With regard to the classes of performance established by the Commission, the European standardisation bodies shall lay down the conditions under which it may be recognised, without tests or further tests being performed, that a

product has a specific level of performance on the basis of the relevant decisions taken by the Commission in accordance with the procedure referred to in Article 51(2).

Justification

With regard to the class of performance established by the Commission, determining the conditions under which it can be recognised, without tests or further tests being performed, that a product has a specific level of performance requires wide ranging analysis of available test results and scope for them to be adopted by the natural authorities. Accordingly, they should be based on decisions by the Commission adopted by the standing technical committee under the comitology procedure.

Amendment 66

**Proposal for a regulation
Article 19 – paragraph 2 – subparagraph 2**

Text proposed by the Commission

In each case, the Commission shall choose the least onerous system consistent with **safety**.

Amendment

In each case, the Commission shall choose the least onerous system consistent with ***the safe incorporation of the construction product into construction works.***

Amendment 67

**Proposal for a regulation
Article 19 – paragraph 3**

Text proposed by the Commission

3. The system thus determined shall be indicated in the mandates for harmonised standards and in the harmonised technical specifications.

Amendment

3. The system thus determined ***and information concerning its envisaged generic use*** shall be indicated in the mandates for harmonised standards and in the harmonised technical specifications.

Justification

To clarify the meaning of declared performances and to ensure that consumers are properly informed, it is important that the declaration of performance refers to the product's envisaged

use.

Amendment 68

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

1. The European Assessment Document (EAD) shall be adopted by the organisation of Technical Assessment Bodies referred to in Article 25(1) following a request for a European Technical Assessment by a manufacturer or an importer, in accordance with the procedure set out in Annex II.

Amendment

1 *For construction products not or not fully covered by a harmonised standard,* the European Assessment Document (EAD) shall be adopted by the organisation of Technical Assessment Bodies referred to in Article 25(1) following a request for a European Technical Assessment by a manufacturer or an importer, in accordance with the procedure set out in Annex II

Justification

For consistency with the scope of the European Assessment Document, which is limited to innovative products as defined in this Regulation.

Amendment 69

Proposal for a regulation Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Where the Commission considers that a sufficient level of technical and scientific expertise concerning an EAD has been achieved, it shall give a mandate to the European standardisation bodies to draw up a harmonised standard on the basis of that EAD. The EAD concerned shall become null and void when that harmonised standard is published in the Official Journal.*

Amendment 70

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

1. The European Technical Assessment (ETA) shall be issued by a Technical Assessment Body, for any construction product, at the request of a manufacturer or importer on the basis of a EAD in accordance with the procedure set out in Annex II.

Amendment

1. **For construction products which are not or not fully covered by a harmonised standard**, the European Technical Assessment (ETA) shall be issued by a Technical Assessment Body, for any construction product, at the request of a manufacturer or importer on the basis of a EAD in accordance with the procedure set out in Annex II.

Justification

In order to avoid a two-speed CE marking procedure, which would complicate the system and risk having a negative impact on the credibility of the CE marking, access to the European Technical Assessment should be reserved for innovative products.

Amendment 71

Proposal for a regulation Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The Commission shall establish procedures for carrying out the evaluation, including appropriate appeals procedures against decisions taken as a result of the evaluation.

Amendment

2. The Commission shall establish **transparent** procedures for carrying out the evaluation, including appropriate **and accessible** appeals procedures against decisions taken as a result of the evaluation.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer.

Amendment 72

Proposal for a regulation

Article 25 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) ensure that each TAB has the same status within the organisation of TABs;

Justification

To ensure that decisions in the organisation of TABs are taken transparently, each TAB must have the same status.

Amendment 73

Proposal for a regulation

Article 25 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) ensure that the procedures set out in Article 19 and Annex II are transparent, and that the manufacturer is consulted during those procedures.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer. It must be possible for the manufacturer to be consulted and informed about the progress of his file.

Amendment 74

Proposal for a regulation

Article 26 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the construction product he places on the market ***shares*** the product-type ***with*** another construction product, manufactured by another manufacturer and already tested in accordance with the relevant harmonised technical

(b) the construction product he places on the market ***corresponds to*** the product-type ***of*** another construction product manufactured by another manufacturer and already tested in accordance with the relevant harmonised technical

specification. When **these** conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this **another** product;

specification. When **the** conditions ***laid down in the harmonised technical specification*** are fulfilled, **and if applicable after the STD has been verified by the relevant certification body as referred to in Annex V**, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this **other** product;

Justification

To clarify matters and facilitate better surveillance of the market, the arrangements for accessing simplified procedures should be specified in the harmonised technical specifications.

Amendment 75

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

(c) the construction product he places on the market is a system made of components, which he assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the component provided to him.

Amendment

(c) the construction product he places on the market is a system made of components, which he assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When **the** conditions ***laid down in the harmonised technical specification*** are fulfilled, **and if applicable after the STD has been verified by the relevant certification body as referred to in Annex V**, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the component provided to him.

Justification

This procedure allows a manufacturer to avoid unnecessary costs and delays by using test results obtained by the system provider, subject to the safeguards set out.

Amendment 76

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

2. If the construction product, referred to in paragraph 1, belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is **system 1 or 2**, as set out in Annex V, the STD shall be verified by a relevant certification body as referred to in Annex V.

Amendment

2. If the construction product, referred to in paragraph 1, belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is **system 1, 2 or 4** as set out in Annex V, the STD shall be verified by a relevant certification body as referred to in Annex V.

Justification

It should be absolutely clear that Specific Technical Documentation can replace only the assessment, and not the verification of constancy of performance. For this reason, pursuant to Annex V system 4 should also be verified by a relevant certification body.

Amendment 77

Proposal for a regulation Article 26 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Article shall not apply to importers who place a product on the market under their own name or trademark or modify a construction product already placed on the market in such a way that conformity with the declared performance may be affected, within the meaning of Article 14.

Justification

Clarification of Amendment 40 (draft report) to avoid misinterpretation. The sole aim of this amendment is to avoid the risk of the STD being misused to deliberately get around EU legislation on the CE marking, and to ensure that products placed on the market perform reliably.

Amendment 78

Proposal for a regulation Article 27 – title

Text proposed by the Commission

Use of Specific Technical Documentation
by micro-enterprises

Amendment

Use of Specific Technical Documentation
by micro-enterprises ***which manufacture
construction products***

Amendment 79

Proposal for a regulation Article 27 – paragraph 1

Text proposed by the Commission

1. Micro-enterprises may replace the applicable system for assessment of the declared performance of construction product by a STD. The STD shall demonstrate the compliance of the construction product with the applicable requirements.

Amendment

1. Micro-enterprises ***which manufacture construction products*** may replace the applicable system for assessment of the declared performance of construction product by a STD. The STD shall demonstrate the compliance of the construction product with the applicable requirements.

Amendment 80

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

2. If a construction product belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is ***system 1 or 2***, as set out in Annex V, the STD shall be verified by a relevant certification body as referred to in Annex V.

Amendment

2. If a construction product belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is ***system 1, 2 or 4***, as set out in Annex V, the STD shall be verified by a relevant certification body as referred to in Annex V.

Justification

While allowing the simplified procedure to be used, it is important that STDs drawn up for products corresponding to assessment system No 3 are also verified by a third party.

Amendment 81

Proposal for a regulation Article 27 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Specific Technical Documentation shall guarantee an equivalent level of health and safety for persons and for other issues of public interest. The manufacturer shall remain responsible for the product's compliance with the characteristics stated in the declaration of performance. The manufacturer shall provide information on the intended use of the product.

Amendment 82

Proposal for a regulation Article 27 - paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall, by 5 years after the entry into force of this Regulation, draw up a report on the implementation of this Article considering, inter alia, whether its application could be extended to other undertakings, or whether to repeal it. The Commission shall submit this report to the European Parliament and the Council together with legislative proposals, as appropriate.

Justification

Once the benefits of the application of this article have been proven, it should be extended to cover small and medium-sized enterprises or possibly the whole sector. If it proves not to be

possible to guarantee safe incorporation of such a construction product into construction works, it will be necessary to repeal this article.

Amendment 83

Proposal for a regulation

Article 27 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. This Article shall not apply to importers who place a product on the market under their own name or trademark or modify a construction product already placed on the market in such a way that conformity with the declared performance may be affected, within the meaning of Article 14.

Justification

Clarification of Amendment 42 (draft report) to avoid misinterpretation. The sole aim of this amendment is to avoid the risk of the STD being misused to deliberately get around EU legislation on the CE marking, and to ensure that products placed on the market perform reliably.

Amendment 84

Proposal for a regulation

Article 28 - paragraph 1

Text proposed by the Commission

Amendment

1. For a construction product designed and manufactured in a non-industrialised production process in response to a specific order, and installed in a single identified work, the manufacturer may replace the applicable system for assessment of performance by a STD, demonstrating compliance of that product with the applicable requirements.

1. For a construction product designed and manufactured in a non-industrialised production process in response to a specific order, and installed in a single identified work, the manufacturer may replace the applicable system for assessment of performance by an STD, demonstrating compliance of that product with the applicable requirements. ***The STD shall provide for an equivalent level of confidence and reliability of performance regarding the essential work requirements.***

Amendment 85

Proposal for a regulation Article 30 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The notifying authority shall verify that the conformity assessments are carried out appropriately, without imposing unnecessary burdens on undertakings and taking due account of the size of the undertakings, the specific nature of the construction sector and its structure, the degree of technological complexity of the product in question and the nature, volume and frequency of the manufacturing process.

Justification

In line with the philosophy of the Regulation, this provision is intended as a simplification.

Amendment 86

Proposal for a regulation Article 33 – paragraph 5

Text proposed by the Commission

Amendment

5. The notified body and its personnel shall carry out the third party tasks in the process of assessment and verification of constancy of performance, with the highest degree of professional integrity and requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.

5. The notified body and its personnel shall carry out, ***with complete transparency vis-à-vis the manufacturer***, the third party tasks in the process of assessment and verification of constancy of performance, with the highest degree of professional integrity and requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer.

Amendment 87

Proposal for a regulation Article 33 - paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. Notified bodies shall inform their clients and advise them in their best interests.

Amendment 88

Proposal for a regulation Article 51 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the members of the committee referred to in paragraph 1 are independent of the parties involved in assessing the conformity of construction products.

Justification

If the representatives of the Member States are not independent of the third parties involved in assessing conformity, there is a significant risk of construction product manufacturers being obliged to carry out additional tests or other tasks not required under the Regulation.

Amendment 89

Proposal for a regulation Article 53 - paragraph 3

Text proposed by the Commission

Amendment

3. Guidelines for European technical approval which were published before 1 July 2011 in accordance with Article 11 of

3. Guidelines for European technical approval which were published before 1 July 2011 in accordance with Article 11 of

Directive 89/106/EEC may be used as EADs.

Directive 89/106/EEC *and joint interpretations of procedures for the evaluation of construction products adopted by EOTA before 1 July 2011, on the basis of Article 9(2) of Directive 89/106/EEC*, may be used as EADs. *Where the Commission considers that a sufficient level of technical and scientific expertise concerning European technical approval guidelines has been achieved, it shall give a mandate to the European standardisation bodies to draw up a harmonised standard on the basis of those guidelines in accordance with Article 20(3a).*

Justification

The harmonised standard must remain the main reference. Therefore, when an EAD (initially drawn up for an innovative product) has proven its value, it is important that it is transformed into a harmonised standard via the work of the European standardisation bodies. The same obviously applies to European technical approval guidelines.

Amendment 90

Proposal for a regulation Annex I - paragraph 1

Text proposed by the Commission

Construction works as a whole and in their separate parts must be fit for their intended use.

Amendment

Construction works as a whole and in their separate parts must be fit for their intended use, **taking into account the health and safety of persons involved throughout the lifecycle of the works.**

Justification

It is important that already in the design and construction phase due consideration is given to health and safety aspects of those involved during the whole lifecycle of the works

Amendment 91

Proposal for a regulation
Annex I - Part 3 - introductory wording

Text proposed by the Commission

The construction works must be designed and built in such a way that they will *not* be a threat neither to the hygiene nor health of *the* occupants and neighbours, nor exert an exceedingly high impact over their entire life cycle to the environmental quality nor to the climate, during their construction, use and demolition, in particular as a result of any of the following:

Amendment

The construction works must be designed and built in such a way that they will be a threat neither to the hygiene nor health *and safety* of *workers*, occupants and neighbours *throughout their lifecycle*, nor exert an exceedingly high impact over their entire life cycle to the environmental quality nor to the climate, during their construction, use and demolition, in particular as a result of any of the following:

Amendment 92

Proposal for a regulation
Annex I – Part 6

Text proposed by the Commission

The construction works and their heating, cooling and ventilation installations must be designed and built in such a way that the amount of energy required in use shall be low, when account is taken of the climatic conditions of the location and the occupants.

Amendment

The construction works and their heating, cooling, *lighting* and ventilation installations must be designed and built in such a way that the amount of energy required in use shall be low, when account is taken of the climatic conditions of the location and the occupants. *Construction products must also be energy-efficient; they must use as little energy as possible during their life cycle.*

Amendment 93

Proposal for a regulation
Annex I – Part 7 - introductory wording

Text proposed by the Commission

The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable and

Amendment

The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable and

ensure the following:

ensure, *at least*, the following:

Amendment 94

Proposal for a regulation Annex II - title

Text proposed by the Commission

Amendment

Procedure for adopting European Assessment Document and for issuing European Technical Assessment

Procedure for adopting a European Assessment Document and for issuing a European Technical Assessment **for construction products not or not fully covered by a harmonised standard**

Justification

The European Technical Assessment and the European Assessment Document are to be used for construction products that are not fully covered by harmonised standards (mostly innovative products).

Amendment 95

Proposal for a regulation Annex II - point 2 a (new)

Text proposed by the Commission

Amendment

2a. In agreement with the Technical Assessment Bodies of the selected destination market, the relevant Technical Assessment Body shall carry out the assessment in accordance with the provisions of the second contract and the draft work programme, shall issue the relevant European Technical Assessment and shall forward it to the Commission and all other TABs appointed for the same product areas pursuant to Annex IV, Table 1.

Justification

The opportunity must exist in future for a Technical Assessment to be obtained even if no 'European guidelines' have been devised. The manufacturer or importer should be able, depending on his marketing strategies, to determine the destination market and the use of his product. Only the TABs of the selected destination market should be involved in the

assessment process, provided that they are competent in their area of expertise.

Amendment 96

Proposal for a regulation

Annex II – point 2.5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The manufacturer may ask for the above-mentioned working group to hear an independent scientific expert of its choice in order to supplement the information made available to the TABs. The working group shall be required to hold such a hearing.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer. The manufacturer must be able to obtain information about the progress of his application and must be able to add to his file on the basis of the hearing by the working group concerned of an independent scientific expert of his choice.

Amendment 97

Proposal for a regulation

Annex II – point 2.7

Text proposed by the Commission

Amendment

2.7. The responsible TAB shall include these contributions, after consulting the working group, in the draft EAD, which it shall send to the organisation of TABs referred to in Article 25(1). After communicating the final draft EAD to the manufacturer, who shall have one week for his reactions, the organisation of TABs shall adopt the EAD as a provisional document. The organisation of TABs shall send a copy of the adopted provisional EAD to the manufacturer and the Commission. If the Commission communicates, within fifteen working days

2.7. The responsible TAB shall include these contributions, after consulting the working group, in the draft EAD, which it shall send to the organisation of TABs referred to in Article 25(1). After communicating the final draft EAD to the manufacturer, who shall have one week for his reactions, ***and after having consulted at least one professional organisation designated by the manufacturer should he so wish***, the organisation of TABs shall adopt the EAD as a provisional document. The organisation of TABs shall send a copy of the adopted provisional EAD to the

from reception, to the organisation of TABs its observations on the provisional EAD, it shall be amended accordingly by the organisation of TABs. After this period, the responsible TAB shall start the preparations for carrying out the assessment.

manufacturer and the Commission. If the Commission communicates, within fifteen working days from reception, to the organisation of TABs its observations on the provisional EAD, it shall be amended accordingly by the organisation of TABs. After this period, the responsible TAB shall start the preparations for carrying out the assessment.

Justification

The procedure leading to the establishment of a European Technical Assessment for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer. The manufacturer must be able to obtain information about the progress of his application and must be able to add to his file on the basis of the hearing by the working group concerned of a professional organisation of his choice.

Amendment 98

**Proposal for a regulation
Annex III - title**

Text proposed by the Commission

Amendment

Declaration of performance

deleted

No.

Justification

The proposed system of including a unique identifying mark and number of the declaration of performance with each product is impractical for many industries due to the very large numbers of products.

Amendment 99

**Proposal for a regulation
Annex III – point 4**

Text proposed by the Commission

Amendment

4. Identification of product (allowing traceability):

4. Identification of product (allowing traceability) ***and reference to the envisaged generic use:***

Justification

To clarify the meaning of declared performances and to ensure that consumers are properly informed, it is important that the declaration of performance refers to the product's envisaged use.

Amendment 100

Proposal for a regulation

Annex III – point 6 - subparagraph 2 a (new)

Text proposed by the Commission

Amendment

***in accordance with system
(No) for assessing and verifying the
constancy of performance***

Justification

To clarify the meaning of declared performances and to ensure that consumers are properly informed, it is important that the declaration of performance mentions the system used to assess the product's performances.

Amendment 101

Proposal for a regulation

Annex III a (new)

Text proposed by the Commission

Amendment

Annex IIIa

***Hazardous substances to be declared in
the performance declaration***

1. Substances of very high concern

***a) substances on the candidate list of
REACH (Regulation (EC) No 1907/2006
of the European Parliament and of the
Council of 18 December 2006 concerning
the Registration, Evaluation,
Authorisation and Restriction of
Chemicals (REACH), establishing a
European Chemicals Agency¹)***

***b) substances that are persistent, bio
accumulative or toxic (PBT) according to***

REACH (Regulation (EC) No 1907/2006)

c) substances that are very persistent or very bio accumulative (vPvB) according to REACH (Regulation (EC) No 1907/2006)

d) substances that are carcinogenic, mutagenic and toxic to reproduction in category 1 or 2 according to Council Directive 1967/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances²

2. Substances with certain classifications

Substances that fulfil the criteria for classification set out in Directive 1967/548/EEC for the following categories:

a) carcinogenic, mutagenic and toxic to reproduction in category 3

b) substances with chronic toxicity (R48)

c) environmentally hazardous substances with possible long term effect (R50-53)

d) ozone depleting substances (R59)

e) substances which may cause sensitization by inhalation (R42)

f) substances which may cause sensitization by skin contact (R43)

3. Priority Hazardous Substances

Priority hazardous substances as listed in Annex X to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy³ (Water Framework Directive)

¹ OJ L 396, 30.12.2006, p. 1.

² English special edition: Series I Chapter 1967 p. 234.

³ OJ L 327, 22.12.2000, p. 1.

Justification

This Annex refers to the existing Community legislation regarding dangerous substances. The Annex might be amended according to the article 50. The expert group for dangerous substances related to the work of TC 351 should have an important role when amending this Annex

Amendment 102

Proposal for a regulation

Annex V - Part 1 - point 1.1 - introductory wording

Text proposed by the Commission

1.1. System 1 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.6. System 1+ - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The fact that the numbering is now proposed to go from 1-5 will cause confusion. As a result of a lengthy education campaign, manufacturers and the market are aware of which essential characteristics relate to which [current] system; with the new numbering system this will no longer be the case. It will place a significant obligation on many industry sectors to change all the administrative documentation currently implemented within companies as well as official documents.

Amendment 103

Proposal for a regulation

Annex V - Part 1 - point 1.2 - introductory wording

Text proposed by the Commission

1.2. System 2 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.7. System 1 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The fact that the numbering is now proposed to go from 1-5 will cause confusion. As a result of a lengthy education campaign, manufacturers and the market are aware of which essential

characteristics relate to which [current] system; with the new numbering system this will no longer be the case. It will place a significant obligation on many industry sectors to change all the administrative documentation currently implemented within companies as well as official documents.

Amendment 104

Proposal for a regulation

Annex V - Part 1 - point 1.3 - introductory wording

Text proposed by the Commission

1.3. System 3 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.8. System 2+ - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The fact that the numbering is now proposed to go from 1-5 will cause confusion. As a result of a lengthy education campaign, manufacturers and the market are aware of which essential characteristics relate to which [current] system; with the new numbering system this will no longer be the case. It will place a significant obligation on many industry sectors to change all the administrative documentation currently implemented within companies as well as official documents.

Amendment 105

Proposal for a regulation

Annex V - Part 1 - point 1.4 - introductory wording

Text proposed by the Commission

1.4. System 4 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.9. System 3 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The fact that the numbering is now proposed to go from 1-5 will cause confusion. As a result of a lengthy education campaign, manufacturers and the market are aware of which essential characteristics relate to which [current] system; with the new numbering system this will no longer be the case. It will place a significant obligation on many industry sectors to change

all the administrative documentation currently implemented within companies as well as official documents.

Amendment 106

Proposal for a regulation

Annex V - Part 1 - point 1.5 - introductory wording

Text proposed by the Commission

1.5. System 5 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.10. System 4 - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The fact that the numbering is now proposed to go from 1-5 will cause confusion. As a result of a lengthy education campaign, manufacturers and the market are aware of which essential characteristics relate to which [current] system; with the new numbering system this will no longer be the case. It will place a significant obligation on many industry sectors to change all the administrative documentation currently implemented within companies as well as official documents.

EXPLANATORY STATEMENT

To promote the movement/use of construction products, the Commission is proposing to replace the Construction Products Directive (89/106/EEC) with a new regulation laying down harmonised conditions for the marketing of construction products (CPR). The CPR seeks to propose a common technical language and to clarify the conditions of access to the CE marking.

1. Main elements of the proposal

1.1 – Nature of the CE marking

The declaration of performance is the element enabling the CE marking to be used. It is drawn up by the manufacturer, who is responsible for the information provided. The authorities assume that the declaration is accurate. It contains details of the performance of the product, details which thereafter do not appear on the product itself, to simplify the labelling.

The CPR differs from the NLF (the ‘goods package’) in that it sets the CE marking as the sole marking for the performance of products and replaces any other national marking. Manufacturers will be authorised to use legally non-binding quality labels.

In the absence of essential requirements applying where the product is to be placed on the market, the CE marking will no longer be obligatory even if the product is covered by a harmonised technical specification.

1.2 – Procedure leading to the CE marking

1.2.1 – Two access routes

The Commission proposal distinguishes between two procedures which manufacturers can choose from:

(a) The main procedure based on harmonised standards. Where a manufacturer believes that a product is covered by an existing standard, he has its performance assessed by bodies notified by the Member States in accordance with the appropriate test system.

(b) European technical assessment (ETA) provides a parallel route. It enables a manufacturer to call for a new harmonised technical specification suitable for his product to be created through the production of a European assessment document (EAD), whose function is comparable to that of the harmonised standards. EADs and ETEs are drawn up by the technical assessment bodies (TABs) at the manufacturer’s request.

1.2.2 – Harmonised standards: simplified assessment procedure

In order to limit the costs, the Commission is proposing an alternative route to assess the performance of products: micro-enterprises will be able to replace the conventional assessment system with a specific technical documentation (STD), in which the manufacturer demonstrates that his product is covered and meets the requirements of existing rules. Tests may, however, be required where the Commission believes them to be necessary for reasons of security.

The procedure using the STD should also make it possible to share the results of tests carried out on products considered as being equivalent and to use 'cascading type testing'. The STD will also be open to non-industrially manufactured products.

2. The rapporteur's suggestions

The rapporteur welcomes the Commission's initiative, the aim of which is to make it easier to place on the market and to trade in construction products in the European Union. The establishment of a common language and improved flexibility regarding access to the CE marking (in particular, via simplified procedures for micro-enterprises) will help to improve the regulatory framework for the construction industry.

Nevertheless, the rapporteur considers that precision and clarification is needed on a number of points in order to ensure that the CE marking is credible and to make the system more transparent for users of construction products.

2.1 – Two separate access routes to the CE marking

The possibility offered by the Commission of leaving access to the ETA free to all construction products carries the risk of establishing a two-speed certification procedure, with variable gauges of quality, to the extent that procedures for assessing performance differ depending on the route to CE marking. That is why the choice was made to reserve the possibility of using the ETA for innovative products (Article 21), which are now defined more precisely (Article 2(1)(a)).

2.2 – Simplified procedures

The need for market surveillance means there must be stricter control of products manufactured outside the European Union. Applied to imports, the possibility offered by the STD of derogating from standard procedures for assessing performance entails a real risk of creating a loophole allowing products of questionable performance to enter the European market without any real opportunity for control. In this regard, the possibility of fictitious micro-enterprises being set up to facilitate imports of non-tested products cannot be excluded. Therefore the rapporteur suggests that, while the STD procedure should be maintained, it should not be made available to importers, who should be required to follow the conventional assessment route (Articles 26(3) and 27(3)).

In addition, in order to ensure the credibility of the CE marking affixed to a product where simplified procedures are used, the number of cases in which the STD is verified by a third party (Articles 26(2) and 27(2)) should be extended.

2.3 - Transparency

For the system to function smoothly there has to be a certain degree of transparency as regards the establishment of harmonised technical specifications and the assessment of the performances of products for which the CE marking is sought.

The procedure leading to the establishment of an ETA for innovative products must be not only confidential but also transparent vis-à-vis the manufacturer. It must be possible for the manufacturer to be informed about the progress of his application and to add to his file on the basis of a hearing with an independent scientific expert and a professional organisation of his choice (Annex II, points 2.5 and 2.7).

In terms of governance, the rapporteur also proposes that each TAB participating in the decision-making procedure should have the same status within the OTAB (Article 25(2)). In addition, he suggests that over-representation of particular categories of manufacturer within European standardisation bodies should be avoided so as to ensure that decision-making is transparent and that SMEs are protected (Article 16(1)).

2.4 - Conditions associated with the CE marking

It is essential that any product placed on the Community market and covered by a harmonised technical specification (harmonised standard or ETA) has the CE marking (Article 7(1)). That marking corresponds to the manufacturer's declaration concerning the performance of the product, in accordance with a set of essential characteristics.

Where such essential characteristics exist, they are currently exclusively national and reflect the differences (e.g. climatic) between the Member States. If the Member State where a product is placed on the market has not laid down appropriate essential requirements, the CE marking will not be linked to any tangible element in terms of performance values. This would significantly affect the credibility of the CE marking. To address this problem, the rapporteur suggests differentiating two types of essential characteristics (Articles 2(2) and 4(2)):

– ‘*Essential European characteristics*’, which must reflect considerations common to all Member States of the EU and its citizens, and will be the fruit of minimum harmonisation through the committee procedure. The performance of a product covered by a harmonised technical specification will have to be assessed on the basis of these ‘essential European requirements’. They will refer, in particular, to requirements relating to security, global warming and the quality of indoor air (Article 4(3)); the list is not, however, exhaustive and may be revised.

– ‘*Essential territorial characteristics*’, defined by the Member States and corresponding to the definition currently contained in the Commission draft. Where they exist in the place where the manufacturer intends to place his product on the market, they will provide additional elements for assessing the product's performance.

By introducing ‘essential European characteristics’ the rapporteur is seeking to reinforce the credibility of the CE marking by giving it the same meaning throughout the EU, in

accordance with certain clearly defined elements.

2.5 - Protection of professional consumers/users

Declaration of performance – In order to clarify the meaning of declared performances and to ensure that consumers are properly informed, it is important that the declaration of performance refers to the envisaged use of the product and the test system used for the assessment (Articles 5(2) and 19(3) and Annex III).

CE marking/national markings – Pending an initiative from the Commission to reinforce the CE marking, the compromise formula on national markings approved by Parliament and the Council in the ‘goods package’ should be maintained (Recital 30 and Article 7(2)).

Document language – The users of construction products must be able to have a declaration of performance in a language they understand (Articles 6(4) and 13(2)).

Product Contact Points – The Commission is proposing to establish Product Contact Points to provide firms with information on the national technical rules applicable to the incorporation, assembling or installation of a specific type of construction product. It is important that the information provided should also include the possibilities for appeal available to manufacturers should they wish to contest decisions taken during the procedure for accessing the CE marking. Furthermore, it is essential that the Product Contact Points are independent of any body or organisation involved in the procedure for obtaining the CE marking (Article 9).

Specific cases: Works contractors and/or craftspeople are often required to manufacture products and incorporate them into a work themselves. The CE marking should not be obligatory in these specific cases (Article 2(5)).

4.12.2008

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on the Internal Market and Consumer Protection

on the proposal for a regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of the construction products (COM(2008)0311 – C6-0203/2008 – 2008/0098(COD))

Rapporteur: Den Dover

SHORT JUSTIFICATION

The construction sector is one of Europe's key industries both in terms of output and employment. It is the biggest industrial employer (with around 12 million direct jobs) and a major contributor to GDP, covering more than 20,000 different products. However, the development of the sector is being hampered by overregulation and unnecessary red-tape, leading to a less than satisfactorily functioning of the internal market.

In 1989 the Construction Products Directive (CPD) was put in place. Its main objective was to remove technical barriers to trade within the Union by replacing existing national standards and approvals with a single set of European-wide technical specifications for construction products. However, the practical implementation of the CPD revealed several weaknesses. Due to divergent national transposition, implementation and interpretation, the CPD only partially eliminated barriers to trade. Furthermore, the CPD caused burdensome procedures and obligations for manufacturers, such as a relatively slow and costly process of CE marking.

In May 2008 the European Commission published its proposal to replace the current CPD by a new Regulation, the CPR, aimed at removing all remaining regulatory and technical obstacles to the free circulation of construction products in the EU. The CPR does not alter the current philosophy and the principal elements of the CPD. However, certain changes are proposed to improve harmonisation and to take the interests of SMEs more into account.

Your draftsman welcomes this proposal, intending to enhance the internal market for construction products while providing industry with a reliable framework for its activities. The aim of the Regulation should be to increase confidence in the assurance of performance of construction products, to simplify and clarify the options available, to increase the use of

CE marking, and give encouragement to innovators and also to SMEs.

Your draftsman would like to highlight three specific topics:

1. CE marking

It is important to acknowledge the fundamental difference between construction products and other products: Construction products are ‘intermediate’ products whose end use cannot be predicted. It is the user that is responsible for the safe use of these products, in accordance with national safety regulations. For the user to judge whether a product use is safe, it is of the utmost importance that manufacturers provide full and reliable information about the performance of their products using a common vocabulary and harmonized standards.

By making CE marking mandatory for products placed on the market, a common technical language is created, based on harmonised standards for manufacturers to express the performance and characteristics of their products. This is the best way forward to create a true internal market for construction products.

It is however important that the CE marking is accurate, reliable and credible. In this respect, the proposal could be strengthened. Firstly by clarifying the different routes to get a CE marking. In the current proposal two parallel routes exist: by complying with the harmonised standards or through a so-called European Technical Assessment (ETA). Your draftsman believes that the level playing field, the market certainty and the credibility of the CE marking will be strengthened by clarifying which route should be used and when. A second point is enhancing the quality assurance that can be ascribed to the CE marking. Your draftsman welcomes the proposals regarding the functioning of the Notified Bodies that will enhance the credibility of the CE marking. However, further strengthening could be useful to ensure the complete independence and impartiality of these Bodies.

2. SMEs

The proposal introduces simplified procedures for micro-enterprises and unique products. Those manufacturers can (for non safety critical products) replace the normal procedure by an easier method, called Specific Technical Documentation (STD), using test results obtained from other manufacturers or so-called cascaded test results. Your draftsman welcomes these proposals that will assist the competitiveness of small businesses and ease their cost burden. However it is essential that consumers have equal levels of protection for safety and environmental purposes whichever procedure is used. This is especially important taking into account the large number of small enterprises in the construction sector. Also, it is important to note that these changes could provide for a faster route to CE marking for innovative products.

3. Sustainability

A novelty in the proposal is the specific mentioning of the sustainability of construction products, through a new Basic Works Requirement, which means that CE marking could include an indicator on the sustainability of the product where this is regulated by the Member State. Your draftsman supports this proposal. By covering recyclability, durability and the use of sustainable resources, this could be instrumental as part of the overall aim to tackle carbon emissions and to boost eco-innovation. It is important to link this Regulation with existing European standardisation measures such as Technical Committees 350 and 351.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The rules of Member States require that construction works are designed and executed so as not to endanger the safety of persons, domestic animals and property.

Amendment

(1) The rules of Member States require that construction works are designed and executed so as not to endanger the safety of persons, domestic animals and property ***nor damage the natural or man-made environment.***

Amendment 2

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) To provide the manufacturer and the importer with additional flexibility for the assessment of the performance of the construction product he intends to place on the market, he should be entitled to request a European Technical Assessment also in a case in which the product is covered by a harmonised standard.

Amendment

deleted

Justification

When a harmonised standard exists there is no need for a European Technical Assessment.

Amendment 3

Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) It is important to complement the basic works requirements with the “sustainable use of natural resources”, which should take into account the following:

(a) recyclability of the construction works, and their materials and parts after demolition;

(b) durability of the construction works;

(c) use of environmentally compatible raw and secondary materials in the construction works.

Justification

Goes together with the respective amendment, regarding Annex 1, paragraph 7. In principle the basic requirement 7 „Sustainability“ can be supported. As long as no European standards are available which demonstrate how the detailed requirements in paragraphs a), b) and c) can be fulfilled (respective standards are under development in CEN), the proposed list of detailed requirements should be inserted in the Rec. In this regard, the competence of CEN, as set out in Recital 13, as the competent organisation for the adoption of harmonized standards should be taken into account.

Amendment 4

Proposal for a regulation
Article 2 – point 1 a (new)

Text proposed by the Commission

Amendment

1a. "construction product not or not fully covered by a harmonised standard" means a construction product whose essential characteristics and performance cannot be entirely evaluated according to an existing harmonised standard, because inter alia:

(a) the product does not fall within the scope of any existing harmonised standard;

(b) the product does not meet one or more

technical definitions of characteristics included in any such harmonised standards;

(c) one or more essential characteristics of the product are not adequately covered by any such harmonised standards; or

(d) one or more test methods necessary to assess the performance of the product are missing or not applicable.

Justification

This definition is needed to clarify the products for which a European Technical Assessment can be requested. Under this definition mostly innovative products will fall.

Amendment 5

Proposal for a regulation

Article 2 – point 4

Text proposed by the Commission

4. "harmonised technical specifications" means harmonised standards and European Assessment Documents;

Amendment

4. "harmonised technical specifications" means harmonised standards (***including through Specific Technical Documentation***) and European Assessment Documents;

Justification

All these routes constitute harmonised technical specifications.

Amendment 6

Proposal for a regulation

Article 2 – point 12 a (new)

Text proposed by the Commission

Amendment

12a. "Technical Assessment Body" means a body designated by a Member State to participate in the development of European Assessment Documents and to assess the performance of the essential characteristics of construction products

not or not fully covered by a harmonised standard in product areas listed in Annex IV;

Justification

Technical Assessment Bodies shall participate in the EAD development, carry out assessments and issue European Technical Assessments for products that are not covered by harmonised standards (mostly innovative products).

Amendment 7

Proposal for a regulation
Article 2 – point 13 a (new)

Text proposed by the Commission

Amendment

13a. "Specific Technical Documentation" means specific documentation to demonstrate in a simplified manner the compliance of the construction product with the applicable requirements;

Justification

Micro-enterprises may replace the applicable system for assessment of the declared performance of a construction product by a Specific Technical Documentation.

Amendment 8

Proposal for a regulation
Article 2 – point 14 a (new)

Text proposed by the Commission

Amendment

14a. "kit" means a construction product that consists of at least two separate components that need to be combined in order to be installed permanently in the works;

Justification

A definition of "kit" is needed to avoid creative interpretations.

Amendment 9

Proposal for a regulation Article 2 – point 14 b (new)

Text proposed by the Commission

Amendment

14b. "notifying authority" means a body designated by a Member State to establish and carry out the procedures necessary for the assessment and notification of notified bodies in accordance with Article 30;

Justification

Notifying authorities are the subject of articles 30, 31 and 32 in Chapter VII.

Amendment 10

Proposal for a regulation Article 2 – point 14 c (new)

Text proposed by the Commission

Amendment

14c. "notified body" means a notified performance assessment body, that meets the requirements set out in Article 33;

Justification

Notified bodies are the subject of Articles 33 to 45 inclusive in Chapter VII.

Amendment 11

Proposal for a regulation Article 2 – point 20

Text proposed by the Commission

Amendment

20. "life cycle" means the consecutive and interlinked stages **of a product life**, from **raw material acquisition or generation from natural resources to** final disposal.

20. "life cycle" **of a product** means the consecutive and interlinked stages, from generation, **processing, building, exploitation and possible reprocessing or** final disposal.

Justification

The definition should not include terms which have themselves been defined.

'Life cycle' should be seen in terms of the maximum useful life of the construction product and the legitimacy of using products from raw materials which are being depleted. It is also necessary to consider the possibility of eliminating construction products which at a particular stage of their manufacture pose a threat to the environment.

Amendment 12

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) the construction product is covered by a harmonised standard, or a European Technical Assessment has been issued for that product; and

Amendment

(a) the construction product is covered by a harmonised standard (***including through a, Specific Technical Documentation***) or a European Technical Assessment has been issued for that product; and

Justification

All above routes to CE marking are valid.

Amendment 13

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. Member States shall presume the declaration of performance drawn up by the manufacturer or the importer to be accurate and reliable.

Amendment

3. Member States shall presume the declaration of performance drawn up by the manufacturer or the importer to be accurate and reliable. ***The manufacturer or the importer shall be responsible for the conformity of the construction product with the declared performance.***

Justification

This clarification removes any doubt about the responsibility for the conformity of the product with the declared performance.

Amendment 14

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. The declaration of performance shall contain the following information:
- (a) the product-type for which it has been drawn up;
 - (b) the list of the essential characteristics of the construction product *for which the performance is declared, and the levels or classes of that performance*;
 - (c) the reference number of the harmonised standard, the European Assessment Document or the Specific Technical Documentation, which has been used for the assessment of each essential characteristic.

Amendment

2. The declaration of performance shall contain the following information:
- (a) the product-type for which it has been drawn up;
 - b) the list of the essential characteristics *set out in the harmonised technical specification for the construction product and for each essential characteristic either the declared measure, class or level of the declared performance or a confirmation of 'no performance determined'*;
 - c) the reference number, *title and date* of *issue of* the harmonised standard, the European Assessment Document or the Specific Technical Documentation, which has been used for the assessment of each essential characteristic;
 - d) the generic intended use as laid down in the relevant harmonised technical specification;*
 - e) the system of assessment and verification of constancy of performance.*

Justification

The producer should make available all product-information which is related to the harmonized technical specification. The generic “intended use” is in many cases directly linked to the choice of the conformity assessment system and should therefore be clearly visible to the designer, contractor and to market surveillance authorities.

Amendment 15

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

3. By way of derogation from paragraphs 1 and 2, the content of the declaration of performance may be ***made available on a web site in accordance with conditions established by the Commission.***

Those measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 51(2).

Amendment

3. By way of derogation from paragraphs 1 and 2, the content of the declaration of performance may ***additionally be supplied by electronic means.***

Justification

The use of a website for delivering the declaration of performance of a construction product should be possible. It would be possible to provide much additional and detailed information in all languages corresponding to countries where the product could be placed on the market.

We propose to provide on the product or on the packaging the 3 following information: logo CE, a reference number guaranteeing traceability and unambiguous identification of the product concerned and the address, where the complete information, including technical details, may be found.

Amendment 16

Proposal for a regulation
Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall not introduce national measures ***or*** shall withdraw any references to a conformity marking other than the CE marking.

Amendment

Member States shall not introduce national measures ***and*** shall withdraw any references to a conformity marking other than the CE marking.

Justification

Rationalisation of the system for marking products is essential to give assurance to users and remove uncertainties.

Amendment 17

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. Member States shall not prohibit or impede, within their territory or under their responsibility, the making available on the market or the use of construction products bearing the CE marking, ***when the requirements for this use in that Member State correspond to the declared performance.***

Amendment

3. Member States shall not prohibit or impede, within their territory or under their responsibility, the making available on the market or the use of construction products bearing the CE marking.

Justification

A correctly CE marked product with a declaration of performance should be free to enter and circulate within the European market irrespective of national regulations in the place where it enters the market or moves through it.

Amendment 18

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In all cases the CE marking together with the declaration of performance shall be stored electronically and shall be accessible to the client.

Justification

This measure is necessary to provide certainty, ease of access and to encourage use of the latest available communication methods.

Amendment 19

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The CE marking shall be followed by ***the two last digits of the year in which it***

3. The CE marking shall be followed by the name or the identifying mark of the

was affixed, the name or the identifying mark of the producer, the unique identification code of the construction product **and** the number of the declaration of performance.

producer, the unique identification code of the construction product, the number of the declaration of performance, ***the title of the technical specification referred to in the declaration of performance, and the indication of the generic intended use given therein.***

Justification

This article defines the product information affixed or printed on a construction product. The key information on the use of a construction product should continue to be affixed or printed directly on the product and should not only be given on notices ('declarations of performance'). Construction products cannot be identified and fitted on the basis of a unique identification code. The indication of the intended generic use on the CE marking would be a useful piece of information for product users without imposing substantial bureaucratic burden.

Amendment 20

Proposal for a regulation

Article 19 – title

Text proposed by the Commission

Amendment

Assessment and ***verification of constancy of performance***

Assessment and ***attestation of conformity***

Justification

The existing terminology “Attestation of conformity” should be maintained. The new wording would only cause confusion on the markets and would create a lot of unnecessary administrative work load and costs.

Amendment 21

Proposal for a regulation

Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. Assessment and ***verification of constancy of the declared performance*** of construction products in relation to their essential characteristics shall be carried out in accordance with one of the systems set

1. Assessment and ***attestation of conformity*** of construction products in relation to their essential characteristics shall be carried out in accordance with one of the systems set out in Annex V.

out in Annex V.

Justification

The existing terminology “Attestation of conformity” should be maintained. The new wording would only cause confusion on the markets and would create a lot of unnecessary administrative work load and costs.

Amendment 22

Proposal for a regulation Article 20

Text proposed by the Commission

European Assessment **Document**

1. The European Assessment **Document (EAD)** shall be **adopted** by **the organisation of Technical Assessment Bodies referred to in Article 25(1) following a request for a European Technical Assessment** by a manufacturer or an importer, in accordance with the procedure set out in Annex II.
2. **The organisation of Technical Assessment Bodies referred to in Article 25(1) shall establish in the EAD the methods and the criteria for assessing the performance in relation to those essential characteristics of the construction product, which are related to the use intended by the manufacturer.**
3. **The organisation of technical assessment bodies referred to in Article 25(1) shall determine in the EAD the specific factory production control to be applied, taking into account the particular conditions of the manufacturing process of the construction product concerned.**

Amendment

European **Technical** Assessment

1. The European **Technical** Assessment (**ETA**) shall be **issued by a Technical Assessment Body, for any construction product not or not fully covered by a harmonised standard, at the request of a manufacturer or an importer on the basis of an European Assessment Document (EAD)** in accordance with the procedure set out in Annex II.
 2. **The Commission** shall establish **the format of the ETA.**
- Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 51(2).**

Justification

European Technical Assessment precedes the European Assessment Document so the ETA is dealt with in this article and the EAD in the following one. The ETA applies to construction products not fully covered by harmonised standards (mostly innovative products).

Amendment 23

Proposal for a regulation Article 21

Text proposed by the Commission

European **Technical** Assessment

1. The European **Technical** Assessment (**ETA**) shall be **issued** by a Technical Assessment **Body, for any construction product, at the request of** a manufacturer or importer **on the basis of a EAD** in accordance with the procedure set out in Annex II.

2. **The Commission** shall establish **the format of the ETA**.

Those measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 51(2).

Amendment

European Assessment **Document**

1. The European Assessment **Document** (**EAD**) shall be **adopted** by **the organisation of** Technical Assessment **Bodies referred to in Article 25(1) following a request for an ETA** by a manufacturer or an importer **of a construction product not or not fully covered by a harmonised standard**, in accordance with the procedure set out in Annex II.

2. **The organisation of Technical Assessment Bodies referred to in Article 25(1)** shall establish **in the EAD the methods and the criteria for assessing the performance in relation to those essential characteristics of the construction product not or not fully covered by a harmonised standard, which are related to the use intended by the manufacturer**.

3. **The organisation of technical assessment bodies referred to in Article 25(1)** shall determine **in the EAD the specific factory production control to be applied, taking into account the particular conditions of the manufacturing process of the construction product concerned**.

Justification

The ETA and the EAD are to be used for construction products not fully covered by harmonised standards (mostly innovative products).

Amendment 24

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) the construction product he places on the market shares the product-type with another construction product, manufactured by another manufacturer and already tested in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this *another* product;

Amendment

(b) the construction product he places on the market shares the product-type with another construction product, manufactured by another manufacturer and already tested in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, ***and if applicable after the STD has been verified by the relevant certification body as referred to in Annex V***, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this *other* product;

Justification

This procedure allows the principle of cascade testing to be used, thereby saving time and costs.

Amendment 25

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

(c) the construction product he places on the market is a system made of components, which he assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the component

Amendment

(c) the construction product he places on the market is a system made of components, which he assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, ***and if applicable after the STD has been verified by the relevant certification body as referred to in Annex V***, the manufacturer is entitled to

provided to him.

declare performance corresponding to all or part of the test results for the system or the component provided to him.

Justification

This procedure allows a manufacturer to avoid unnecessary costs and delays by using test results obtained by the system provider, subject to the safeguards set out.

Amendment 26

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The manufacturer shall remain responsible for the product's compliance with all declarations of performance in accordance with the relevant harmonised technical specification.

Justification

This procedure allows a manufacturer to avoid unnecessary costs and delays by using test results obtained by the system provider, subject to the safeguards set out.

Amendment 27

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The manufacturer may use the test results obtained by another manufacturer only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those test results.

The manufacturer may use the test results obtained by another manufacturer ***or system provider*** only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those test results.

Justification

To clarify that also test results obtained by the system provider can be used, subject to the safeguards set out.

Amendment 28

Proposal for a regulation Article 27 – paragraph 1

Text proposed by the Commission

1. Micro-enterprises may replace the applicable system for assessment of the declared performance of construction product by a STD. The STD shall demonstrate the compliance of the construction product with the applicable requirements.

Amendment

1. Micro-enterprises may replace the applicable system for assessment of the declared performance of construction product by a STD ***if the harmonised standard contains no specific methods for micro-enterprises to indicate and assess performance***. The STD shall demonstrate the compliance of the construction product with the applicable requirements.

Justification

An STD should be used only if the harmonised product standards contain no appropriate methods for micro-enterprises.

Amendment 29

Proposal for a regulation Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The simplified procedure set out in paragraph 1 shall guarantee an equivalent level of protection for the health and safety of persons or for other issues of public interest such as the environment and fitness for use.

Justification

It is essential and vital that the use of Specific Technical Documentation by micro-enterprises does not lead to any reduction in the levels of health and safety protection, or other issues of public interest such as the environment and fitness for use.

Amendment 30

Proposal for a regulation

Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall, by [five years after the entry into force of this Regulation], draw up a report on the application of this Article considering inter alia whether its application could be extended to other undertakings.

The Commission shall submit this report to the European Parliament and the Council together with legislative proposals as appropriate.

Justification

The opportunity of widening the use of Specific Technical Documentation to other enterprises should be considered, once the benefits to the industry and micro-enterprises have been proven.

Amendment 31

Proposal for a regulation

Article 49 a (new)

Text proposed by the Commission

Amendment

Article 49a

Guidelines

The Commission shall draw up specific guidelines on construction products for market surveillance authorities. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 51(2).

Justification

The provisions in chapter VIII allow national market surveillance activities at all different degrees of rigour and do not take sufficiently into account the specific need of market

surveillance for construction products. Compared to other products, market surveillance for construction products should – besides formal non-compliance - concentrate on verifying whether construction product achieve the declared performances or not.

Amendment 32

Proposal for a regulation Annex I – point 3 – introductory part

Text proposed by the Commission

The construction works must be designed and built in such a way that they will not be a threat neither to the hygiene nor health of the occupants and neighbours, *nor* exert a ***exceedingly high*** impact over their entire life cycle to the environmental quality nor to the climate, during their construction, use and demolition, in particular as a result of any of the following:

Amendment

The construction works must be designed and built in such a way that they will not be a threat neither to the hygiene nor health of the ***workers***, occupants and neighbours, ***and*** exert a ***limited*** impact over their entire life cycle to the environmental quality nor to the climate, during their construction, use and demolition, in particular as a result of any of the following:

Amendment 33

Proposal for a regulation Annex I – point 6

Text proposed by the Commission

The construction works and their heating, cooling and ventilation installations must be designed and built in such a way that the amount of energy required in use shall be low, when account is taken of the climatic conditions of the location and the occupants.

Amendment

The construction works and their heating, cooling, ***lighting*** and ventilation installations must be designed and built in such a way that the amount of energy required in use shall be low, when account is taken of the climatic conditions of the location and the occupants. ***Construction products shall also be energy-efficient; they shall use as little energy as possible during their life cycle.***

Amendment 34

Proposal for a regulation
Annex I – point 7

Text proposed by the Commission

The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable **and ensure the following:**

- (a) recyclability of the construction works, their materials and parts after demolition;**
- (b) durability of the construction works;**
- (c) use of environmentally compatible raw and secondary materials in the construction works.**

Amendment

The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable.

Justification

It should be respected that work is already underway in CEN Technical Committees on the environmental assessments of buildings/products and on dangerous substances in products. Any steps taken in this regard should be consistent with existing related requirements such as the waste framework directive and REACH.

Amendment 35

Proposal for a regulation
Annex I – point 7 a (new)

Text proposed by the Commission

Amendment

7a. Existing mandates to establish harmonised European standards shall be taken into account. The respective CEN committee shall develop standards to clarify the basic works requirement 7 “sustainability”.

Justification

In principle the basic requirement 7 „Sustainability“ can be supported. As long as there are no European standards available which demonstrate how the detailed requirements in paragraphs a), b) and c) can be fulfilled (at the moment respective standards are under development in CEN), the competence of CEN, as laid out in recital 13, as the competent organisation for the adoption of harmonized standards should be taken into account.

Amendment 36

Proposal for a regulation Annex II - title

Text proposed by the Commission

Procedure for adopting European Assessment Document and for issuing European Technical Assessment

Amendment

Procedure for adopting European Assessment Document and for issuing European Technical Assessment **for construction products not or not fully covered by a harmonised standard**

Justification

The European Technical Assessment and the European Assessment Document are to be used for construction products that are not fully covered by harmonised standards (mostly innovative products).

Amendment 37

Proposal for a regulation Annex II – point 2.2

Text proposed by the Commission

2.2. The responsible TAB shall, in cooperation with the manufacturer, obtain the relevant information on the product and on its intended use. The responsible TAB shall inform the manufacturer if the product is covered, fully or partially, by another harmonised technical specification. The responsible TAB shall then draft a first contract to be concluded with the manufacturer, defining the terms for the elaboration of the work programme.

Amendment

2.2. The responsible TAB shall, in cooperation with the manufacturer, obtain the relevant information on the product and on its intended use. The responsible TAB shall inform the manufacturer if the product is covered, fully or partially, by another harmonised technical specification. The responsible TAB shall then draft a first contract to be concluded with the manufacturer, defining the terms for the elaboration of the work programme **and the likely programme to be adhered to (specific time periods being agreed for each particular contract).**

Justification

The time periods to be included in the work programme shall be agreed by the Technical Assessment Body and the manufacturer as part of the contract.

Amendment 38

Proposal for a regulation Annex III – point 7 – introductory part

Text proposed by the Commission

Declaration of performance (list, levels or classes and reference to the corresponding harmonised technical specification/Specific Technical Documentation used for the assessment of the performance for the declared essential characteristics)

Amendment

Declaration of performance (list, levels or classes and reference to the corresponding harmonised technical specification **(harmonised standard (including through Specific Technical Documentation)/European Assessment Document)** used for the assessment of the performance for the declared essential characteristics)

Justification

It is important to clarify the different routes that lead to harmonised technical specifications and CE marking.

Amendment 39

Proposal for a regulation Annex III – point 7 – table – last column

Text proposed by the Commission

Reference of the harmonised technical specification / Specific Technical Documentation

Amendment

Reference of the harmonised technical specification **(harmonised standard (including through Specific Technical Documentation)/European Assessment Document)**

Justification

It is important to clarify the different routes that lead to harmonised technical specifications and CE marking.

Amendment 40

Proposal for a regulation
Annex V – title

Text proposed by the Commission

Amendment

Assessment and **verification of constancy of performance**

Assessment and **attestation of conformity**

Justification

The existing terminology “Attestation of conformity” should be maintained. The new wording would only cause confusion on the markets and would create a lot of unnecessary administrative work load and costs.

Amendment 41

Proposal for a regulation
Annex V – point 1 – title

Text proposed by the Commission

Amendment

1. SYSTEMS OF ASSESSMENT AND
**VERIFICATION OF CONSTANCY OF
PERFORMANCE**

1. SYSTEM OF ASSESSMENT AND
ATTESTATION OF CONFORMITY

Justification

The existing terminology “Attestation of conformity” should be maintained. The new wording would only cause confusion on the markets and would create a lot of unnecessary administrative work load and costs.

Amendment 42

Proposal for a regulation
Annex V – point 1.1 – introductory phrase

Text proposed by the Commission

Amendment

1.1. System **I** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

1.1. System **I+** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The new numbering system could confuse customers and could create unnecessary administrative work and cost. We accept the new reduced system but to avoid confusion we would suggest keeping the existing numbering according to Guidance Paper K.

Amendment 43

Proposal for a regulation

Annex V – point 1.2 – introductory phrase

Text proposed by the Commission

1.2. System **2** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.2. System **1** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The new numbering system could confuse customers and could create unnecessary administrative work and cost. We accept the new reduced system but to avoid confusion we would suggest keeping the existing numbering according to Guidance Paper K.

Amendment 44

Proposal for a regulation

Annex V – point 1.3 – introductory phrase

Text proposed by the Commission

1.3. System **3** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Amendment

1.3. System **2+** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The new numbering system could confuse customers and could create unnecessary administrative work and cost. We accept the new reduced system but to avoid confusion we would suggest keeping the existing numbering according to Guidance Paper K.

Amendment 45

Proposal for a regulation
Annex V – point 1.4 – introductory phrase

Text proposed by the Commission

Amendment

1.4. System **4** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

1.4. System **3** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The new numbering system could confuse customers and could create unnecessary administrative work and cost. We accept the new reduced system but to avoid confusion we would suggest keeping the existing numbering according to Guidance Paper K.

Amendment 46

Proposal for a regulation
Annex V – point 1.5 – introductory phrase

Text proposed by the Commission

Amendment

1.5. System **5** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

1.5. System **4** - Declaration of the performance for the essential characteristics of the product by the manufacturer on the basis of following items:

Justification

The new numbering system could confuse customers and could create unnecessary administrative work and cost. We accept the new reduced system but to avoid confusion we would suggest keeping the existing numbering according to Guidance Paper K.

PROCEDURE

Title	Harmonised conditions for the marketing of construction products	
References	COM(2008)0311 – C6-0203/2008 – 2008/0098(COD)	
Committee responsible	IMCO	
Opinion by Date announced in plenary	ITRE 4.6.2008	
Drafts(wo)man Date appointed	Den Dover 22.8.2008	
Discussed in committee	18.9.2008	3.11.2008
Date adopted	2.12.2008	
Result of final vote	+: 38	–: 0
	0: 0	
Members present for the final vote	Šarūnas Birutis, Jan Březina, Jerzy Buzek, Jorgo Chatzimarkakis, Giles Chichester, Dragoş Florin David, Den Dover, Nicole Fontaine, Adam Gierek, Norbert Glante, David Hammerstein, Erna Hennicot-Schoepges, Mary Honeyball, Ján Hudacký, Werner Langen, Anne Laperrouze, Pia Elda Locatelli, Eluned Morgan, Antonio Mussa, Angelika Niebler, Reino Paasilinna, Aldo Patriciello, Miloslav Ransdorf, Vladimír Remek, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Britta Thomsen, Patrizia Toia, Claude Turmes, Nikolaos Vakalis, Adina-Ioana Vălean	
Substitute(s) present for the final vote	Gabriele Albertini, Alexander Alvaro, Pierre Pribetich, John Purvis, Silvia-Adriana Țicău, Vladimir Urutchev	

PROCEDURE

Title	Harmonised conditions for the marketing of construction products			
References	COM(2008)0311 – C6-0203/2008 – 2008/0098(COD)			
Date submitted to Parliament	23.5.2008			
Committee responsible Date announced in plenary	IMCO 4.6.2008			
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 4.6.2008			
Rapporteur(s) Date appointed	Catherine Neris 3.6.2008			
Discussed in committee	15.7.2008	9.9.2008	20.10.2008	15.12.2008
Date adopted	11.2.2009			
Result of final vote	+: 28	–: 0	0: 13	
Members present for the final vote	Mogens Camre, Charlotte Cederschiöld, Gabriela Crețu, Mia De Vits, Janelly Fourtou, Evelyne Gebhardt, Martí Grau i Segú, Małgorzata Handzlik, Malcolm Harbour, Anna Hedh, Edit Herczog, Pierre Jonckheer, Kurt Lechner, Lasse Lehtinen, Toine Manders, Catuscia Marini, Arlene McCarthy, Nikolay Mladenov, Catherine Neris, Bill Newton Dunn, Zita Pleštinská, Karin Riis-Jørgensen, Giovanni Rivera, Zuzana Roithová, Heide Rühle, Leopold Józef Rutowicz, Christel Schaldemose, Eva-Britt Svensson, Jacques Toubon, Bernadette Vergnaud, Barbara Weiler, Marian Złotea			
Substitute(s) present for the final vote	Emmanouil Angelakas, André Brie, Colm Burke, Giles Chichester, Magor Imre Csibi, Joel Hasse Ferreira, Filip Kaczmarek, Syed Kamall, Manuel Medina Ortega, José Ribeiro e Castro, Olle Schmidt			
Substitute(s) under Rule 178(2) present for the final vote	Klaus-Heiner Lehne, Manolis Mavrommatis			