



Council of the
European Union

Brussels, 1 April 2022
(OR. en)

Interinstitutional File:
2022/0094(COD)

7799/22
ADD 4

ENT 42
MI 245
CODEC 418
IA 38
COMPET 215

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 31 March 2022

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: SWD(2022) 89 final

Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT [...] Accompanying the document Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011

Delegations will find attached document SWD(2022) 89 final.

Encl.: SWD(2022) 89 final



Brussels, 30.3.2022
SWD(2022) 89 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

[...]

Accompanying the document

**Proposal for a Regulation of the European Parliament and of the Council
laying down harmonised conditions for the marketing of construction products, ,
amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011**

{COM(2022) 144 final} - {SEC(2022) 167 final} - {SWD(2022) 87 final} -
{SWD(2022) 88 final}

Executive Summary Sheet

Impact assessment for the revision of Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products

A. Need for action

Why? What is the problem being addressed? Maximum 11 lines

The evaluation of the Construction Products Regulation and the feedback received from EU authorities and stakeholders point clearly to shortcomings in its functioning. Its objectives have not been achieved and barriers to the free movement of construction products in the single market persist.

This underperformance is due to a number of overarching issues, identified in the evaluation:

- a malfunctioning standardisation process
- hampered implementation on the ground in EU countries
- over-complex and unclear rules
- ambiguous relationship between the Regulation and other EU legislation, and/or national rules.

Finally, the Regulation is not able to contribute to on broader policy priorities, particularly the green and digital transitions, because it lacks rules to this effect.

There is clear potential for making these rules more suitable for new business models and the data economy, and making construction products considerably more sustainable and innovative.

What is this initiative expected to achieve? Maximum 8 lines

The **general** objectives are:

- 1) to achieve a well-functioning single market for construction products
- 2) to contribute to the objectives of the European Green deal

These general objectives are complemented by the following **specific** objectives:

- unblocking the technical harmonisation system
- reducing national barriers to trade for products covered by the Regulation
- improving enforcement and market surveillance
- providing more clarity (more comprehensive definitions, reducing overlaps and collision rules with other legislation) and simplification
- reducing the administrative burden on companies, including through simplification and digitalisation
- ensuring construction products are safe
- reducing the climate and environmental impact of construction products, including by applying digital tools (digital product passport).

What is the value added of action at the EU level? Maximum 7 lines

Revising the Construction Products Regulation can improve the overall functioning of the single market for construction products, particularly by addressing the current issues relevant to the standardisation process and removing barriers to the single market, such as overlapping rules at EU or national level.

This can increase legal certainty and make the conditions for competition fairer in the construction ecosystem, while ensuring a high level of safety and protection for health and the environment.

Improved market surveillance can improve trust in the system across the EU.

Finally, a revision enables the environmental sustainability of construction products to be improved. This is best dealt with at EU level.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why? Maximum 14 lines

- **Option A** – baseline scenario: **no change** to the Regulation but improving implementation through guidance and other soft law measures.
- **Option B - repairing** the Regulation: clarifying and streamlining its scope, ensuring consistency with other EU legislation and addressing environmental aspects of construction products.
- **Option C - focusing** the Regulation: including all the elements described in option B, as well as the following 3 sub-options, which can be combined:
 - sub-option C1 – limiting the Regulation’s application to assessment methods
 - sub-option C2 – limiting its scope to core areas
 - sub-option C3 – making the common technical language optional for manufacturers.
- **Option D - improving the Regulation:** Building on Option B, requirements dealing with product-inherent characteristics may also be introduced, to protect health, safety and the environment. Such product-specific requirements can be formulated via 3 sub-options, (D1 and D2 can be combined):
 - sub-option D1 – new rules approach for product requirements
 - sub-option D2 – technical specifications approach for products requirements
 - sub-option D3 – a hybrid solution between D1 and D2 (keeping the core elements of each).
- **Option E - repealing the Regulation:** The Regulation would be repealed, products would rely on mutual recognition between Member States.

Conclusion

Option D is the preferred option, as the analysis has shown this is the best way to achieve the objectives.

Who supports which option? Maximum 7 lines

Many stakeholders are in favour of maintaining the current Regulation (baseline option A), although, at the same time, these stakeholders wished for action to be taken that requires a revision. Both among business associations and companies there is majority support for option A.

Among public authorities, a little less than half prefers this option. However, feedback from EU countries in the course of the consultations showed a preference for a revision.

Option B is preferred by the EU citizens who responded, whereas option D is preferred by NGOs (in both cases, by around a third of the respondents in each group).

Option C received very little support.

The repeal option (E) is strongly rejected by all stakeholders groups.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Option D would allow us to address the main shortcomings of the current Regulation: an underperforming standardisation process, national barriers to trade, ineffective market surveillance and lack of clarity and simplification.

Option D would lead to a better functioning single market for construction producers and rising cross-border trade.

It would also maximise the potential of digitalisation to reduce administrative burden, allowing all Regulation-related information and documentation to be processed in digital form.

Further reduction of administrative burden for manufacturers would be achieved by eliminating the overlap between the CE marking and the Declaration of Performance. EU governments would be able to exempt micro-companies not trading across borders from the obligations of the Regulation.

Option D would effectively address the goals stemming from the Industrial Policy Strategy, the Standardisation Strategy, European Green Deal, the Circular Economy Action Plan and other linked initiatives, in the context of construction products.

Option D would allow environmental and product safety requirements to be established independently of construction works-related performance, and should contribute to the decarbonisation of the built environment.

Option D would have a positive impact particularly on safety, compliance and quality of the built environment.

What are the costs of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Option D is expected to lead to an increase of some €200 million annually in costs for manufacturers – equal to approximately 8% of the baseline costs.

This increase is driven by higher compliance costs, administrative burden and regulatory charges in relation to CE marking and Declaration of Performance (DoP), but partly offset by cost reductions related to removing national requirements.

Overall, thanks to different measures, including the possibility of using electronic means for all documentation and information requirements, a single entry point for registering and providing all documentation, etc., Option D is expected to bring about a net reduction in the administrative burden (see Annex 3 of the impact assessment report for more detail).

How will businesses, SMEs and micro-enterprises be affected? Maximum 8 lines

The revision of the Regulation aims to improve the single market for construction products. It will create a level playing field for all producers, especially small and medium businesses in all EU countries.

Producers will have to meet more obligations to bring their products to the market, but at the same time, they will have more business opportunities. Simplification requirements specifically aim to provide micro-companies with simplified procedures when assessing and verifying performance.

Moreover, EU governments will be empowered to exempt certain micro-businesses from the Regulation's obligations. The intended planned work-sharing and the technical fine-tuning with the Sustainable Products Initiative will avoid unnecessary burdens for businesses of all sizes.

A better functioning single market will give construction companies access to a broader choice of products. Overall, producers and the construction eco-system will benefit from the revision.

Will there be significant impacts on national budgets and administrations? Maximum 4 lines

On the one hand, EU countries will have to provide more resources for market surveillance, which is currently understaffed.

On the other hand, the revision will greatly support EU countries in their responsibility for the safety of construction works. Thus, the overall impact on national budgets will not likely be significant.

Will there be other significant impacts? Max 6 lines

No other significant impact is expected.

D. Follow up

When will the policy be reviewed? Maximum 4 lines

Policy monitoring and evaluation will be centred on the core issues to be addressed by the revision.

It is proposed that the revised Regulation should be evaluated no sooner than 8 years after its application date.