1. **Conclusions and recommendations**

1.1 The Committee is convinced of the importance of ensuring full application of the principle of the free movement of goods, which is enshrined in the Treaty and enhanced by the common framework launched in July 2008 and subsequent sectoral regulations, so that products lawfully marketed in a Member State can also be marketed without hindrance throughout the EU, with guarantees in terms of health, safety and environmental protection over the entire life cycle of the product, from conception to disposal.

1.2 The Committee welcomes the Commission's initiative aimed at revising EU legislation on construction products – specifically the CPD Directive (89/106) – to bring it into line with current needs, update its content and establish a certain, unambiguous European legal framework.

1.3 The Committee firmly believes that, from the design stage, ecosystemic quality must be factored into the range of characteristics and structural conditions of housing and/or building structures by using natural resources sparingly, improving people's housing conditions and instilling a more responsible approach into the procedures, practices and techniques involved in meeting quality and safety requirements for workers and end users.

1.4 The Committee feels that the European system of construction product standardisation needs to be bolstered, by supporting standardisation bodies and incorporating into standards the aspects of work safety, product use and disposal.

1.5 The Committee feels that the huge potential of innovative construction products, in terms of mitigating the negative effects of climate change and improving housing comfort, should be incorporated into the culture of construction professionals, construction companies and consumers, as a practical, effective means of contributing to environmental protection and energy-saving.

1.6 The Committee reiterates that the free movement of goods should be an essential driver for competitiveness and the economic and social development of the European single market and that reinforcement and updating of the requirements for the marketing of safe, healthy products should ensure quality for European consumers and industry players.
1.7 The Committee believes it important to ensure a harmonised EU regulatory framework for the marketing and manufacturing of construction products in the single European market (EEA).

1.8 The Committee attaches particular importance to the need to restore the credibility of the CE mark and improve the system for accrediting notified bodies. A legal framework should be developed which provides consistency, comparison and coordination in the decentralised system, effective market surveillance, and unambiguous, simplified definitions and procedures.

1.9 The Committee recommends that adequate financial resources are allocated to fund EU training and information programmes, targeting all the public and private bodies involved – particularly through trainer-training campaigns – as well as a flanking programme to monitor implementation.

1.10 The provisions specifically designed to simplify procedures are essential, particularly for SMEs and microenterprises, providing simplified access to the CE mark system and setting up Solvit(1) at national product contact points (PCP), to facilitate problem-solving.

1.11 The Committee feels that the new rules and technical annexes should be accompanied by technical guides on developing the basic requirements of activities linked to the use of environmentally-friendly primary and secondary materials and innovative products.

1.12 The Committee stresses the need for a sector-specific application of the Rapex rapid alert system to construction products and calls for cases of infringement and fraud to be published in the Official Journal of the EU and on an EU web portal for construction products.

1.13 The Committee thinks that the time frames for implementation of the Regulation are too tight to allow for its full and effective application and that they should be carefully assessed inter alia in relation to the training and information requirements involved in assimilating the imposed changes.

1.14 Finally, the Committee calls on the Commission to present a two-yearly report to the Parliament, Council and EESC on the implementation of the Regulation, with a chapter dedicated to health and safety requirements for construction products and related cases of infringement and fraud.

2. Introduction

2.1 The European construction industry accounts for some 10 % of EU GDP and around 7 % of the entire EU workforce, with over 65 000 companies working in the construction products sector, of which some 92 % are SMEs and micro-enterprises.

2.2 A significant proportion of construction products are subject to intra-Community trade within the European Economic Area, ranging from 15 % to 25 % of the total market, depending on the sector.

2.3 Construction products can be placed on the EEA market(2) only if fit for purpose: construction materials should retain the declared levels of fitness for purpose in terms of their properties for the entire lifecycle of the product of which they are part. This applies in particular to essential requirements with regard to mechanical strength and stability, safety in the event of fire, hygiene, health and the environment, safety in use, protection against noise, and energy economy and heat retention.

2.3.1 Due consideration must therefore be given to the compatibility and durability of construction products, especially when major investment is needed to renew the building stock with a view to making it more energy efficient.

2.4 The Committee firmly believes that 'the free movement of goods is an essential driver for competitiveness and the economic and social development of the European single market and that reinforcement and updating of the requirements for the marketing of safe, high-quality products are key factors for consumers, businesses and European citizens(3)'.

2.5 To date over 300 categories of construction products have obtained the CE mark and since the year 2000 the CEN has established over 380 harmonised standards(4). During the same period over 1 100 European Technical Assessments (ETA) have been carried out on specific products, enabling the CE mark to be obtained, instead of using harmonised standards.

2.6 Innovative construction products offer huge potential for mitigating the negative effects of climate change, increasing energy efficiency and improving housing comfort. If this potential were recognised and appreciated by architects and consumers, it would provide a practical, effective means of contributing to environmental protection and energy-saving(5).

(1) http://ec.europa.eu/solvit/

(2) EEA: European Economic Area.

(3) OJ C 120, 16.5.2008.


2.7 It is crucial that manufacturers take timely action to adapt their production processes to the new rules. The requirement to use a common language in assessing product performance – both in terms of reducing CO₂ emissions at the manufacturing stage and in terms of healthy building interiors – should improve relations between manufacturers, their clients and public authorities and improve construction quality.

2.8 A simple high-quality legal framework for companies is a key factor for competitiveness, development and employment. Simplification of the regulatory environment is crucial to encouraging innovation and reducing the administrative burden stemming from regulatory requirements, reducing the total volume of the Community acquis and promoting the transition to more flexible regulatory approaches.

2.9 The Committee thinks that in addition to the properties and characteristics required of the products themselves, account should be taken of the capacity and need to predict the possible costs of the design and building of works, and particularly of management and maintenance.

2.10 The Committee also reiterates ‘that better lawmaking and implementation and enforcement are closely linked: a good law is an enforceable and enforced law. (...) This [application problem] has to do with different cultures and responsibilities and varying degrees of involvement in effective implementation across Europe’ (6).

2.11 Consequently, the Committee strongly supports the decision to opt for a Regulation (CPR) as the means of revising the Directive, so as to avoid the problem of divergent interpretation and implementation, reduce the burden and simplify the regulatory framework.

2.12 The Committee stresses again the importance of guaranteeing ‘certainty, transparency and efficiency in trade, eliminating duplication of checks and tests and ensuring high levels of protection for consumers, citizens and businesses, and to coordinate and step up market surveillance activities to ensure active, uniform application of Community product safety requirements’ (7).

3. The Commission proposal

3.1 The aim of the proposed Regulation is to ensure accurate and reliable information on construction product performance throughout the EEA internal market, by:

— establishing a common technical language;
— defining objectives, concepts and precise rules for determining the obligations of all economic operators;
— stipulating that obtaining the CE mark is dependent on a Declaration of performance, sole responsibility for which lies with manufacturers and importers;
— increasing the credibility of the rules, including those for the designation of Technical Assessment Bodies (TAB);
— simplifying procedures and reducing administrative burdens on companies;
— establishing more stringent criteria for notified bodies under the control of a notifying authority designated by the Member States; and
— increasing market surveillance by means of Member States’ surveillance authorities.

4. General comments

4.1 The Committee welcomes the initiative to harmonise Community legislation on the subject, updating it and establishing a certain, unambiguous, clear, transparent, balanced European regulatory framework for all public and private operators on the European internal market, with a common language, harmonised technical specifications (harmonised European standards – hEN and European Assessment Documents – EAD) and basic works requirements – BWR – fully incorporating obligations in the area of sustainable development, public health and sustainable use of natural resources, and simplifying procedures for SMEs.

4.2 The Commission sees the construction sector as a cutting-edge European market which, however, is governed by ‘insufficiently coordinated regulations, not only at EU … level. This factor, ‘coupled with the predominantly local business structure, lead[s] to considerable administrative burden and to a high fragmentation of the sustainable construction market’ (8).

4.3 The Committee believes that the following essential criteria should be taken into account in particular as the Construction Products Directive is revised and converted into a CPR:

(7) As footnote 3.
— transparency, streamlining, reliability, legal and technical certainty, consistent definitions, accessibility to the Community user, intermediate and end consumers of construction products, sellers and buyers, engineers, architects and design engineers, public and private contracting agents, and public administrations;

— a common language based on harmonised standards and European Technical Assessments which is accessible, clear and user-friendly for both professionals and the layman, with their living and space needs and requirements in the area of health and energy and environmental efficiency, quality of life, hygiene and safety;

— consistency with other EU objectives and policies, particularly the general precautionary principle enshrined by the Treaty and adopted in a number of international conventions and in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS): this principle must be applied when objective scientific research has identified potentially harmful effects of a phenomenon, product or process, particularly in relation to the REACH regulatory framework for chemicals (9), the general safety of products placed on the market (10) and product liability, to ensure a high level of consumer protection against damage to consumers' health or property by a faulty product (11);

— communication, information and training on the rights and responsibilities of all the various Community stakeholders, with clear identification of the Product Contact Points (PCPs) which should incorporate Solvit mechanisms to settle disputes and give intermediate and end users and businesses, especially SMEs, access to out-of-court procedures;

— cutting red tape and related burdens, especially for smaller, weaker consumers such as intermediate and end consumers, SMEs and individuals, bearing in mind that requirements laid on economic operators must be justified and proportionate and not entail costly bureaucratic and administrative burdens;

— development and dissemination of a culture of sustainable, health-aware, safe construction incorporating project research, revised building methods, manufacture, placing on the market and use of better materials in the construction process, and new structural methods, giving all those involved a share of responsibility as early in the process as schools, training of engineers and universities;

— support for European standardisation bodies, aimed at increasing their efficiency in the process of drawing up technical standards for construction products, and ensuring that such bodies have clear, transparent and fully respected mandates, and broader representation of all the relevant categories;

— reinforcement of market surveillance systems and publishing of offences and their perpetrators, with enhancement and coordination of national systems, sector-specific application of Rapex construction products (12), publication on a European web portal and in the EU Official Journal of construction products which have been the subject of infringements or fraud, and a chapter on cases of infringement or fraud in a two-yearly report on the application of the new Regulation, to be submitted to Parliament, the Council and the EESC.

4.4 The Committee agrees on the need to improve the system for accrediting notified bodies and to establish more stringent requirements for designating, managing and overseeing these bodies, in line with general legislation in this area, laid down under Decision No 768/2008/EC and Regulation (EC) 765/2008 of 9 July 2008.

4.5 In view of increasing globalisation, the market surveillance system must provide a common regulatory framework to ensure effective, consistent implementation of legislation throughout the Community: Member States must provide sufficient resources for this to be carried out. In any case, Member States must be explicitly required to designate a body to which complaints can be submitted and to give the public access to this body.

4.6 The Committee feels that the responsibilities of the various players should be clearly demarcated, ensuring full product traceability, particularly in terms of the performance of construction materials throughout the whole product life cycle; in terms of health and safety – especially the safety of workers and end users; and in terms of integrated protection of the general living and working environment.

4.7 There is a need to rebuild confidence in conformity marks. The intrinsic value of the CE mark needs to be restored and greater scope needs to be provided for prosecuting infringements and for legal protection of the CE mark. The Committee notes that changing over to the new CE mark system will entail burdens for businesses and substantial initial investment from public authorities in standardisation and surveillance infrastructure, especially as regards bringing notified bodies up to levels of excellence.

(12) RAPEX: rapid alert system for non-food products.
4.8 The Committee feels that in tandem with bolstering the European construction product standardisation system there should be greater promotion of the establishment and application of international standards, facilitating access to markets and international trade, and ensuring that construction product markets have a global dimension.

4.9 The Committee advocates more suitable implementation time frames than those proposed, given the need for widespread and grassroots information campaigns and for a period of adjustment to the changes in methods, procedures and behaviour required to make the transition from the CPD to the CPR.

4.10 The Committee believes it is essential for adequate financial resources to be provided to support Community programmes for training, information, support and monitoring of implementation, targeting all public and private stakeholders.

4.11 The Committee recommends that the new standards and technical annexes be supplemented with technical guides on developing basic works requirements to help with:

— defining obligations in this field in the future, particularly with a view to use of environmentally-friendly primary and secondary materials;

— greater flexibility for innovative products, not least in processing times, thanks to European Technical Assessments (ETAs), and the role and selection of the various bodies and organisations specified in the proposal.

5. Specific comments

5.1 The proposal should include two additional chapters:

— one on communication, information and training, with a view to developing a widespread culture of sustainable construction;

— the other on energy saving, sustainable use of natural resources and health, hygiene and safety throughout the entire product life cycle – from conception to disposal. The basic requirements for these appear in Annex I but the Committee feels that they should be specified in the text of the Regulation itself.

5.1.1 In particular, the obligation to observe hygiene and health requirements is essential as regards the dangers of using recycled material which is radioactive (13) and/or contains hazardous toxic substances which, once incorporated into buildings or structures, could cause permanent – sometimes extremely serious – harm to the health of people living there or who are in contact with them for a long time.

5.2 As regards the definitions (Article 2), the Committee attaches particular importance to the definitions proposed relating to marketing products (14), on which it has already commented (15). These should ensure consistency with legal frameworks adopted elsewhere but also provide definitions relating to non mass-produced construction products (which are particularly important for SMEs), complex pre-engineered or pre-assembled product kits, and innovative products. The definition of harmonised technical specifications should refer to European Technical Assessments (ETAs) rather than European Assessment Documents (EADs).

5.3 With regard to the declaration of performance, the Committee believes that as soon as a product is placed on the market and complies with the essential product characteristics, meeting the basic works requirements, a complete declaration of performance should be mandatory, not limited to national standards. IT systems or websites which the client can access could also be used for this.

5.3.1 The Committee considers that a declaration of performance must be made if the product is covered by a harmonised standard or a European Technical Assessment Document (16).

5.4 The aims of harmonised standards established by CEN (European Committee for Standardisation) on the basis of instructions from the Commission should be explicitly and clearly defined for the product or group of products in question, stating the uses covered: harmonised standards must comply fully with instructions.

5.5 The Committee feels that the rules laid down on simplified procedures are essential; they implement a specific simplification commitment, in particular for SMEs and micro-enterprises, giving them simplified access to the CE marking system. These procedures must, however, provide equivalent levels of consumer protection in terms of health, safety and environmental-protection requirements.

5.6 The Committee emphasises the importance of the provisions of Article 46, particularly as regards risks to the health and safety of workers, and the need for an evaluation of the product concerned and its entire life cycle. The evaluation must cover all the requirements laid down by the proposed Regulation, as a means of preventing accidents in the sector caused by the use of unsuitable materials or their misuse.


(15) OJ C 120, 16.5.2008.

(16) The text of Article 4(1)(b) and the final paragraph of Article 4(1) should therefore be deleted.
5.7 The Committee calls for a review of the transitional provisions under Article 53 that fix a deadline of 1 July 2011 for the legislative changeover from the CPD to the CPR. A longer transition period is needed, given the substantial requirements in terms of information, training and behavioural changes, as well as the necessary period of adjustment to the envisaged changes in methods and procedures.

5.8 As regards the technical updates provided for in Article 51, the Committee reiterates its previous comments on the subject (17), regarding the ‘importance of comitology procedures being as transparent as possible and more accessible to people living in the EU, especially those affected by these acts’.


The President
of the European Economic and Social Committee
Mario SEPI