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COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION STAFF WORKING DOCUMENT

Accompanying the

**Proposal for a Regulation of the European Parliament and of the Council
laying down harmonised conditions for the marketing of the construction products**

SUMMARY OF THE IMPACT ASSESSMENT

**{COM(2008) 311 final}
{SEC(2008) 1900}**

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SUMMARY OF THE IMPACT ASSESSMENT

As part of the policy on Better Regulation the Commission has been implementing, an Impact Assessment of the draft proposal of the Commission for a Regulation of the European Parliament and of the Council, laying down harmonised conditions for the marketing of the construction products, has been carried out. The Impact Assessment Board delivered its opinion on 10.09.2007 on the draft text of this assessment. The comments of the Board were taken into account and incorporated in the Impact Assessment accompanying this proposal, summarised here as follows:

The three policy alternatives considered in this context were: Option 1 – No EU action: no change; Option 2 – No legislation; Option 3 – Revision of the CPD.

OPTION 1 - NO EU ACTION: NO CHANGE

The baseline option is for the CPD to continue to be in force as it currently exists. Its requirements would not be clarified or simplified in any other manner than the changes related to the natural evolution of the legislation in its current form and to legislation applicable to this field beyond the CPD.

However, some of the existing divergences in national requirements and in testing and certification regimes could be reduced through already initiated means of administrative cooperation between national authorities.

Nevertheless, the in-depth analysis of this option demonstrates that many of the current problems, such as the unclear meaning of CE marking, the different approaches to CE marking (mandatory, non-mandatory), the complexity of the system, the insufficient acceptance of CE marking and the proliferation of national marks, will continue to exist. This is confirmed by the most recent data on complaints and infringements in areas already covered by harmonised technical specifications. Thus, the CPD would continue to fail to meet its objective of free circulation and use of construction products in the Internal Market.

OPTION 2 - NO LEGISLATION

This option would imply a repeal of the CPD without any substitute, and a reversion to mutual recognition taking into account the New Legal Framework.

In practice the Internal Market would be based exclusively on the principle that a product lawfully marketed in one Member State can be marketed in any other Member State, even if the product does not fully comply with the technical rules of the destination Member State, as long as a Member State has not sufficiently justified reasons for banning the product on the market in its territory.

COM(1999)299 final on improving the application of the principle of mutual recognition in the Single Market identified construction in the top five sectors for infringements of mutual recognition, between 1996 and 1998, under Article 28 (former Article 30) of the Treaty. By the time of COM(2002)419 final, the number of infringements in the construction sector had increased marginally over the period 1998-2001 to rank in the top four industry sectors. The most recent available data confirms these trends and shows that mutual recognition is not sufficient for assuring efficient functioning of the internal market for construction products.

In May 2006, the stakeholder consultation showed that manufacturers almost unanimously consider that mutual recognition would not be able to achieve the free circulation and use of construction products in the internal market.

The external study, contracted for preparing the Impact Assessment of the revision of the CPD, analysed whether or not the ‘no legislation’ option would address the problems identified in relation to the CPD. Unsurprisingly, given the above discussion, the conclusion was that this option would not fulfil the objective of free circulation of construction products in the Internal Market.

OPTION 3 - REVISION OF THE CPD: THE PREFERRED OPTION

Option 3, to revise the Community legislation, is the preferred option. It consists of a package which mirrors the existing necessity and scores best in the Impact Assessment. It is the only one fully corresponding to the issues and problems requiring action as well as to the findings of the stakeholder consultation undertaken in this respect. It addresses the main identified problem drivers in an optimal way and allows the best possible improvements with regard to those who are affected. It also safeguards the general *acquis* and the technical specifications established under the current CPD. Finally it strictly respects the balanced subsidiarity achieved in the field of construction, i.e. Member States are competent for the rules of design and building of works, while EU legislation ensures the Internal Market for the products used in such works.

For these reasons, the Impact Assessment recommends choosing Option 3 as the basis for future actions.

The main changes to the current situation foreseen in the proposed Construction Products Regulation (CPR) are threefold: clarification of the legal content, simplification of implementing mechanisms and reinforcement of the credibility of the system.

- **Clarification:** The proposed Regulation contains definitions of the most pertinent concepts in the field of the Internal Market for construction products. In addition, the obligations of the manufacturers and of the importers are precisely established. The specific meaning of CE marking for construction products is determined clearly. CE marking, in this context, entails the declaration of relevant information in relation to the performance of the product and means that this information was obtained following the provisions of this Regulation and therefore has to be considered accurate and reliable.
- **Simplification and reduction of administrative burden:** Coinciding with the experience gained through the application of the CPD, the proposal includes an important number of measures aimed at simplifying the route to CE marking, thereby reducing the administrative burden of enterprises and in particular of micro-enterprises. Simplified procedures are also foreseen for the treatment of individually manufactured products. In addition, the procedures for issuing European Technical Assessments (ETA) are to be simplified and clarified.
- **Reinforcing the credibility of the system:** The proposal introduces new and stricter criteria for the notification of bodies carrying out third party tasks in the process of assessment and verification of constancy of performance. Furthermore, the proposal contains provisions on market surveillance and safeguard procedure.