European Commission

DG for Internal Market, Industry, Entrepreneurship and SMEs

Supporting study for the Review of the Construction Products Regulation: Evaluation and Impact assessment

Background Paper

Validation Workshop

3 May 2018, 9.30-12.30

Breydel building, Auditorium

avenue d'Auderghem 45, 1040 Bruxelles

26 April 2018

Study conducted by VVA Economics & Policy (VVA – **study lead**), Joint Institute for Innovation Policy (JIIP), Danish Technological Institute (DTI), with the support of Global Data Collection Company (GDCC)

Contents

1. INTRODUCTION & OBJECTIVES

1.1. Introduction & objectives of the study

The Joint Institute for Innovation Policy (JIIP) together with Valdani and Vicari Associati Consulting (VVA), the Danish Technological Institute (DTI) and the Global Data Collection Company (GDCC) hereinafter "the study team") have been mandated by the European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs to carry out a Supporting Study for the joint evaluation and impact assessment for the CPR review (No 606/PP/GRO/IMA/17/1133/9924).

The overall objective of the study is to "provide an informed retrospective analysis of the performance of the CPR and the extent to which it has met its original objectives. The study will also provide a prospective analysis of appropriate evidence examining whether it will be appropriate to propose a revision of the CPR within the mandate of this Commission."

1.2. Objectives and structure of the workshop

The aim of this workshop is to present and validate the draft findings and conclusions from both the evaluation and impact assessment parts of the study. Our objective is to elicit stakeholder views on the results of the study and any gaps that should be considered. The results of the workshop will be incorporated in the evaluation and impact assessment final reports.

The structure of the workshop is as follows:

- **09.30 - 09.40: Opening of the workshop *(Fulvia Raffaelli, Head of Unit Clean Technologies and Products)***
- **09.40 – 10.15: Background to the CPR *(VVA Pierre Hausemer)***
- **10.15– 11.15: Evaluation *(DTI Janne Sylvest)***
- **11.15 – 12.15: Impact Assessment *(VVA Pierre Hausemer)***
- **12:15 – 12.30: Conclusions and wrap-up *(VVA Pierre Hausemer)***

1.3. Overview of the methodology

The methodology for this assignment included extensive desk research and stakeholder consultation including:

- Comprehensive analysis of all documents, studies and databases that are relevant to the review of the CPR. This included documents produced as part of the Technical Platforms as well as a review of the Rapid alert system for dangerous non-food products (RAPEX);
- 76 interviews with business representatives, technical bodies, public authorities and testing / certification bodies in 10 Member states (Belgium, Denmark, France, Germany, Ireland, Italy, Poland, Romania, Spain, UK);

- 103 responses to an online survey aimed at business representatives, technical bodies, public authorities, and testing / certification bodies across the 18 EU Member states not covered in interviews;
- 736 phone interviews with companies across the construction products value chain (construction product manufacturers, professional end-users (architects, building industry / contractors), importers and distributors, raw material suppliers) in the 10 countries covered by the interviews;
- 641 responses to the open public consultation from across the EU-28 and third countries[1]; and
- This validation workshop (95 participants registered on 25 April).

[1] Please note that, for the open public consultation, the results presented in this document are based on a preliminary analysis as it closed on 16 April.

2. BACKGROUND TO THE CPR

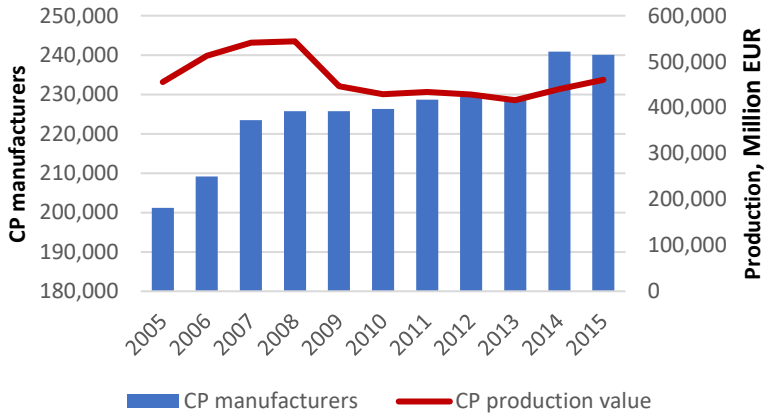
2.1. The market for construction products

This section presents a brief overview of key features of the construction products market - business demography, production value and intra-EU trade – based on estimates produced for this study.

Business demography and production value

Between 2005 and 2015, the number of construction products manufacturers in the EU grew to reach approximately 240,000 by the end of the period (Figure 1)[2]. While the growth rate fell between 2008 and 2013 due to the financial crisis, there was no decline in the number of manufacturers in the market and the growth rate increased again in 2014. Production value was characterised by similar fluctuations between 2005 and 2015 (Figure 1). It grew until 2008, reaching approximately 550,000 million EUR. Due to the financial crisis, production value fell sharply between 2009 and 2013. By 2015, production value had not yet reached pre-crisis levels, standing at 460,000 million EUR.

Figure 1: Number of CP manufacturers and production value



Source: Own calculation.

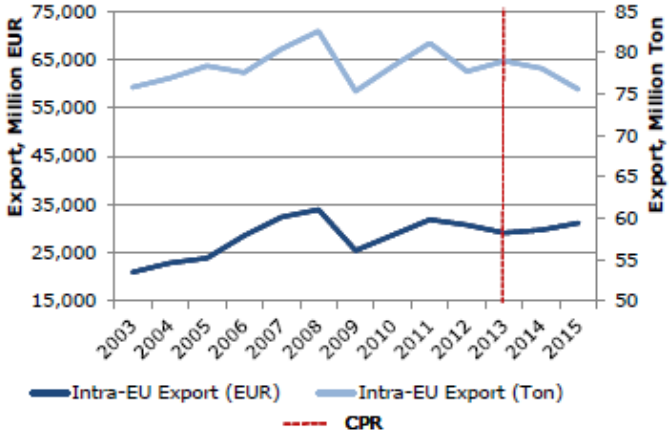
Intra-EU trade in construction products

Between 2003 and 2015, cross-border trade of construction products within the EU increased in terms of value and decreased slightly in terms of volume (Figure 2)[3]. The value of intra-EU exports increased by 48% (from 21 billion EUR in 2003 to 31 billion EUR in 2015 in current prices) while it decreased by 1% in terms of volume (from 59 million ton in 2003 to 58 million ton in 2015). Large fluctuations occurred during the period of interest : while trade grew until 2008, when it reached its peak both in value (34 billion EUR) and volume (71 million tons), in 2009, it fell significantly due to the financial crisis both in value (-25%) and volume (-17%).

[2] The calculation is based on Eurostat data on production value of construction products and the number of enterprises in construction ; VVA Europe, DTI & TNO (2016) Economic Impacts of the Construction Products Regulation ; Economisti Associati, Milieu and CEPS (2016) Supporting study for the Fitness Check on the construction sector. Production value is reported in current prices.

[3] The data is taken from CSIL & CRESME Ricerche (2017) Cross-Border Trade for Construction Products. The results are conservative because they encompass only 25 construction products. Thus, they are best used to understand the overall trend in intra-EU trade rather than specific amounts and volumes of trade.

Figure 2: Intra-EU trade for the 25 construction products (EU28)



Source: CSIL & CRESME Ricerche (2017) Cross-Border Trade for Construction Products.

2.2. Key provisions of the CPR

The Construction Products Regulation (EU) No 305/2011 lays down harmonised rules for marketing construction products in the EU.

The CPR approach differs from the general principles of the New Legislative Framework, mainly by defining a common technical language without defining any specific requirements for construction products. Harmonised conditions for the marketing of construction products are established by harmonising information about the performance of construction products. Member States retain responsibility for the safety, health, durability, etc. related to construction.

The common technical language, created by Harmonised European standards (hENs) and European Assessment Documents (EADs), makes it possible to (a) assess the performance of construction products; (b) ensure the availability of reliable information for professionals, public authorities and consumers; and (c) compare the performance of products from different manufacturers in different countries[4].

The supporting testing and classification standards relevant to construction products cover characteristics related to the Basic Works Requirements for buildings, for instance resistance and reaction to fire, external fire performance and noise absorption, and release of dangerous substances into indoor air, soil, and (ground)water[5].

The Declaration of Performance (DoP) is required for every construction product covered by a hEN, or for which a European Technical Assessment (ETA) has been issued[6]. A DoP

[4] European Commission (2017) Construction Products Regulation (CPR). Available at: http://ec.europa.eu/growth/sectors/construction/product-regulation_en, accessed 31/07/2017.

[5] European Commission (2017) Harmonised standards. Available at: https://ec.europa.eu/growth/sectors/construction/product-regulation/harmonised-standards_en, accessed 31/07/2017.

[6] European Commission (2017) Declaration of Performance (DoP) and CE marking, Available at: https://ec.europa.eu/growth/sectors/construction/product-regulation/performance-declaration_en, accessed 31/07/2017.

should be supplied in the language(s) of each country where the product can be purchased[7] - or another language decided by the Member state.

Each construction product covered by a hEN, or for which an ETA has been issued, also must be CE marked. The Member States are obliged to allow the selling of CE marked construction products, without requiring any additional marks, certificates or testing[8]. The harmonised standards are to be considered exhaustive in terms of defining all the relevant essential characteristics and assessment methods, meaning that no additional requirements by Member States are allowed.

Products outside the scope of harmonised European standards can be voluntarily CE marked. If the product in question is covered by an existing EAD, a Technical Assessment Body (TAB) can be requested to assess the product to have it CE marked, if not, a new EAD can be created. Products covered by a harmonised standard may also be exempted from CE marking if they are individually manufactured/custom-made for a given use, or if the manufacturing must maintain traditional processes for the conservation of officially protected works[9].

Box 1 Key discussion topics

- **Do the market statistics on the number of manufacturers, volume and value of manufacturing and intra-EU trade align with your experience ?**
- **What other relevant statistics on CP manufacturing (or up/downstream sectors) are available?**

2.3. Intervention logic

The diagram on the following page shows the intervention logic for the CPR. The intervention logic is a conceptual tool used in evaluations to visualise the link between an intervention (here the CPR), the problems and needs that it tries to address and its immediate outputs, results and impacts.

Box 2 Key discussion topics

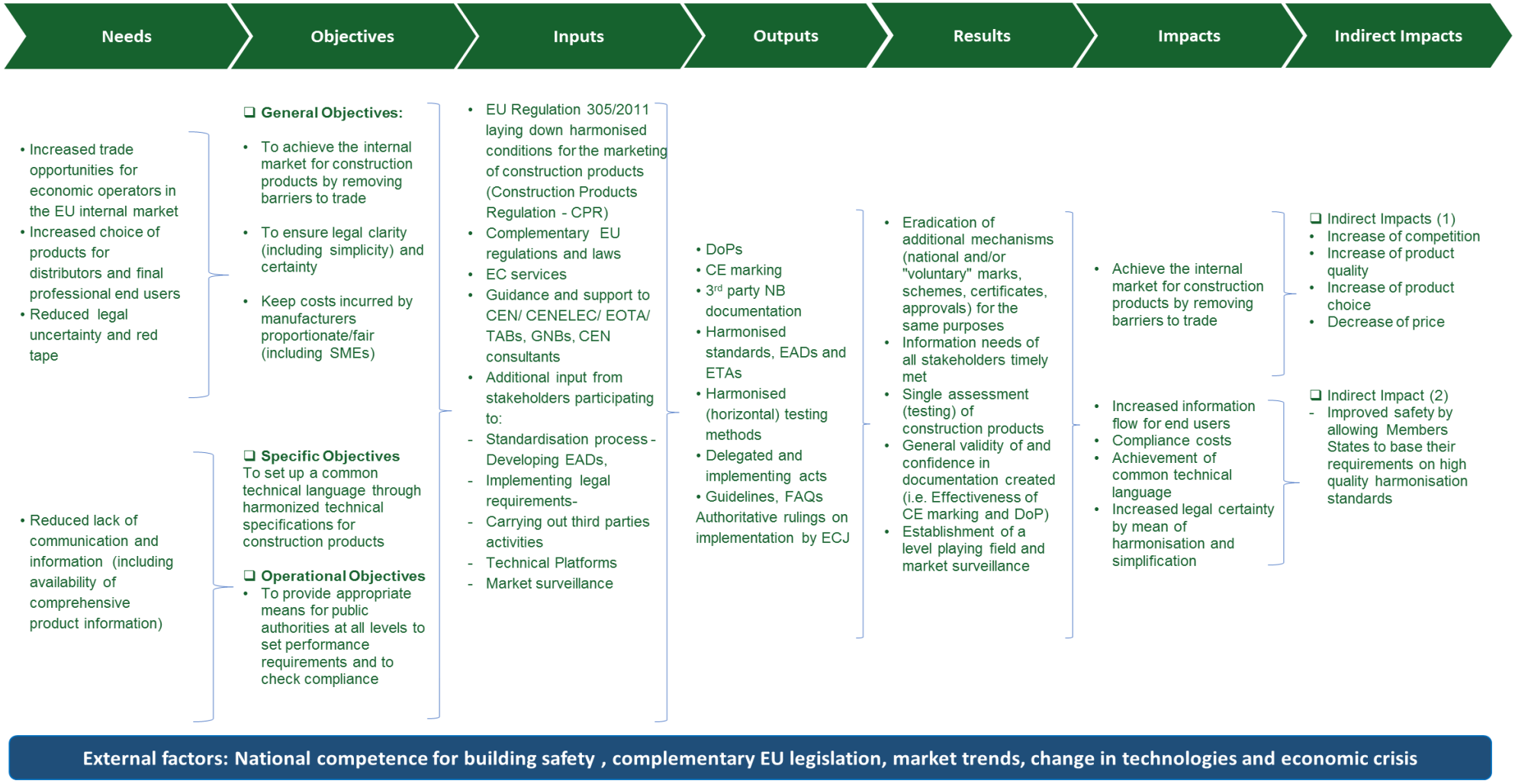
- **Does the diagram on the following page align with your understanding of the CPR?**
- **Why? Why not?**

[7] DoPcreator (2015), CE marking and DoP for construction products. Available at: http://dopcreator.com/ce-marking-and-dop-for-construction-products/, accessed 31/07/2017.

[8] European Commission (n.d.) CE marking of construction products step by step. Available at: http://ec.europa.eu/DocsRoom/documents?tags=ce-guide, accessed 31/07/2017.

[9] European Commission (n.d.) CE marking of construction products step by step. Available at: http://ec.europa.eu/DocsRoom/documents?tags=ce-guide, accessed 31/07/2017.

Figure 3: Intervention logic diagram for the CPR



3. DRAFT RESULTS OF THE EVALUATION

3.1. Are the problems that the CPR tries to address still relevant?

The evaluation shows that **the needs that the CPR is designed to address remain relevant** for stakeholders. In the public consultation more than 50% of respondents indicated that the following issues both are significant and should be addressed by EU legislation on construction products: (a) extent and usefulness of information available to users of construction products (professional users and consumers), (b) legal certainty in the market for construction products, (c) extent of cross-border trade between EU Member States, (d) level of administrative costs for market operators to comply with the EU legislation on construction products, (e) safety of construction products, (f) environmental impact of construction products and (g) energy efficiency of construction products. Only innovation (including BIM Building information modelling) and consumer choice were seen as irrelevant for EU legislation on construction products by a majority of respondents in the public consultation.

This result is supported by interviews and surveys which indicate that **there is potential for further intra-EU trade** in construction products but that this varies substantially depending on the type of product. Since facilitating the development of such trade is one of the key objectives of the CPR (see also the Intervention Logic above), this result supports the conclusion that the CPR remains relevant.

At the same time, **there are a number of needs that, according to stakeholders, are not addressed explicitly (or not strongly enough**). These include: (a) information on product safety and fitness for use, (b) issues related to sustainability and (c) – perhaps more long-term – the circular economy. Specifically, with respect to product safety, many of the interviewed stakeholders highlighted that the CE marking is not a quality or safety mark with little guidance or help for the user to determine the safety of a construction product, and they consider this a flaw in the CPR.

3.2. Does it work?

The key rationale for the CPR is to improve the internal market for construction products. Stakeholders point overall to easier cross-border trade due to the existence of a common technical language and common rules, including common standards. Statistically, however, **an impact of the CPR on cross-border trade for construction products cannot be demonstrated**. With respect to competition in the national markets, which would be a result of increased cross-border trade, the evidence does not point to significantly increased levels of competition. While there is no statistical link, the public consultation results indicate that a majority of respondents believe the CPR has led to an increase in market opportunities abroad and in competition in their home market.

Information to end-users has been improved and **the common technical language has created transparency** and a better possibility for users to compare products with respect to the declared performance. However, the **information provided is not always sufficient for the end-user to assess whether the product is fit for purpose**. To some extent, stakeholders see the information on fitness for use (relating to product safety and quality) as being negatively affected compared to what was required in the CPD.

The implementation of market surveillance by many Member States has been insufficient. This also has the effect of a certain lack of confidence in the CE marking among some market actors.

There is also to some extent a **lack of understanding** among end-users of the specific role of the CE mark under the CPR.

Legal uncertainty exists, particularly due to the court cases between the European Commission and Germany, revolving around the question of whether Member States may set additional requirements for the performance of construction products on top of those set by the European standards under the CPR. Concretely, it seems that not all stakeholders, including at the level of Member States, share the European Commission's interpretation regarding the exhaustiveness of harmonisation.

The **simplification potential expected at the time of the adoption of the CPR has only been partially achieved.** The simplifications aimed at avoiding unnecessary repetition of testing (Art. 36) are widely applied but other simplifications aimed at SMEs/micro-enterprises and non-series products have not been effective.

One of the key factors that influence the less than full achievement of the internal market is **insufficient and ineffective market surveillance and enforcement,** which creates the basis for lack of trust in the legislation and thus a disincentive for companies to comply with the legislation. Another important factor for the effectiveness of the CPR are the **issues concerning the lengthy standardisation procedures.**

Obstacles to the internal market still remain in the form of national marks, although some stakeholders do not consider these as obstacles but rather a natural – and perhaps necessary – supplement to the CPR.

The CPR does not seem to have any significant impact on innovation. It neither hinders it nor fosters it. The ETA system is generally seen as a positive aspect of the CPR. However, the development of ETA/EADs is time consuming and this has a negative impact on time-to-market for innovative products when producers wish to CE mark them. With respect to whether the adaptation mechanisms in place allow the CPR to support innovation and technological development, however, the adoption of delegated acts also appears to take too long.

Box 3 Key discussion topics

- **Do you agree with the overall findings of the evaluation with respect to what the CPR has achieved?**
- **Has the CPR achieved legal clarity? What are the key issues?**
- **The issue of fitness-for-use is pointed to by many stakeholders as not being sufficiently addressed by the CPR. Is it simply a mismatch between stakeholders' expectations and the CPR system, or is there a real need for change to the CPR approach in this area?**
- **Do you agree that the CPR does not have an impact on innovation (positive or negative)? Does compliance with the CPR divert resources away from companies' innovation activities?**

3.3. Is it worth it?

The costs of the CPR are mainly borne by manufacturers, although some of these costs is passed on to buyers (end-users). The preliminary results of the public consultation show that there is no clear-cut view among stakeholders on whether the benefits of the current CPR outweigh its costs with slightly more than one third of respondents answering either way and about half of respondents considering that the results of the CPR could be achieved at lower cost.

The main benefits of the CPR, according to stakeholders, include **better access to other EU Member State markets** and the existence of the **common technical language and common rules**, including common standards. Related to this, another benefit frequently mentioned is **uniform information for end-users** which helps e.g. when checking construction products arriving at construction sites, and more **focus on quality**. The benefits can however not be quantified.

The costs of complying with the CPR are generally assessed as being commensurate to the benefits of the CPR. However, this is an assessment based on average costs. There are **economies of scale in compliance activities** (administrative costs).

In a 2016 study[10], it was estimated that the share of administrative burden on turnover for the different company sizes is, on average:

- Micro-enterprises: 1.31%
- Small enterprises: 0.49%
- Medium enterprises: 0.42%
- Large enterprises: 0.07%.

Thus, the costs can be quite substantial for SMEs - particularly micro-enterprises - while, relatively speaking, they are negligible for large enterprises. While the simplifications aimed at avoiding unnecessary repetition of testing (Art. 36) are widely applied and generally successful, the expected positive impacts of **simplification aimed at SMEs/micro-enterprises and non-series products have not been achieved**. These simplified rules are seen as being unclear and difficult to apply. Their justification has also been questioned since end-users expect that products bearing the CE mark have been treated the same way regardless of the size of the company producing them.

The burden of costs also depends on the type of product and the complexity of requirements of the relevant standard, as well as the number of different products that each company produces.

Overlap of information to be provided in both the DoP and the CE mark creates unnecessary duplication of costs.

The CPR has achieved **EU added value** by facilitating access for economic operators to cross-border markets through the establishment of common rules and a common technical language. It is unlikely that improvement of the internal market in this way could have been achieved at national level.

Box 4 Key discussion topics

- **The current simplification measures of the CPR aimed primarily at SMEs have not been successful. At the same time, the burden on SMEs of complying with the CPR is relatively larger than for large companies. Are there other ways to ease the burden on SMEs in complying with the CPR?**
- **Is it worth it? Do the benefits of having common European legislation compensate for the costs associated with compliance? Are there ways to further reduce the costs for the economic operators? Which, and how?**

[10] VVA Europe, DTI and TNO (2016) Economic Impacts of the Construction Products Regulation, European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

3.4. How does it interact with other interventions?

With respect to external coherence with other European legislation, some areas have been identified where the legislations overlap and/or are in conflict with each other. This includes particularly the Eco-Design Directive, but also the Energy Labelling Directive and its delegated acts. The CPR is different from the other internal market (or New Approach) directives, since the basic function/meaning of the CE mark is different. There are specific overlaps with a number of other EU product/technical directives (internal market directives), and standardisation procedures as defined in the Standardisation Regulation are different from those applied under the CPR.

Instances of conflict with national legislation have not been identified (no examples have been provided).

Box 5 Key discussion topics

- **Do you see problematic issues of overlap or conflicts between the CPR and other legislation at EU level or at national level? Which, and how?**
- **Does the CPR meet Member States' regulatory needs? What are the key issues?**

3.5. How could it be improved?

The public consultation shows that 80% of respondents believe there is merit in legislating on construction products at EU level compared to doing it at national level (28/27 national regimes).

At the same time, while the CPR has achieved positive impacts, there are still areas where improvements can be made. Some of these have already been discussed above. Key issues identified in the evaluation where there is room for improvement relate to:

- Legal clarity – for economic operators and for Member States,
- The standardisation process,
- Simplification,
- Product information for end-users (fitness for use),
- Market surveillance,
- The continued existence of national marks,
- Some (limited) overlaps with other EU interventions.

Box 6 Key discussion topics

- **Considering the objectives of the CPR outlined above, what could be done to increase achievement of these objectives?**
- **Are the objectives still relevant?**
- **What are the main features of the CPR that you would like to see improved, and how?**

4. DRAFT RESULTS OF THE IMPACT ASSESSMENT

4.1. What are the problems that need to be addressed with the review?

The concerns identified in the evaluation can be grouped into two different problem areas which require different sets of solutions:

1. **Problems related to markets and competitiveness** include obstacles to and lack of growth in the internal market, disproportionate administrative costs and burdens for SMEs, ineffective simplification measures for SMEs; and ineffective market surveillance.
2. **Problems related to standards and information** include unclear information for end-users, overlap with existing Directives and the slow adoption of standards.

Box 7. Key discussion topics

- **Do you agree that these are the key problem areas that need to be addressed in the review of the CPR?**
- **What other problems should be addressed in the current review?**

4.2. What are the proposed solutions to address these problems?

In addition to the baseline (no change), three options are being considered to remedy the above problems:

Option I: "Enhanced baseline" - No legislative change but improved implementation through guidance/soft law

Under this option, the CPR continues to be in force as it currently exists i.e. the common technical language for construction products. No changes other than those which are within the scope of the Commission's delegated and implementing powers are made.

This includes smoothening the application of the CPR, streamlining standardisation work, stepping up market surveillance and enforcement; promoting the uptake of simplification provisions, improving Technical Assessment Bodies' and EOTA's processes and improving coordination among Notified Bodies.

Option II: Legislative change: Revising the EU legislation on construction products

Under option 2, three sub-options are envisaged, all of which require a legislative revision of the CPR with various scale and scope:

- **Sub-option II.A: limited revision of the CPR focused on the issues identified in the CPR Implementation Report**.
- **Sub-option II.B: wider revision of the CPR** through three alternative scenarios:
    - **harmonising only the assessment methods**,
    - **harmonising specified essential characteristics**,
    - **making the use of the common technical language optional**.

- **Sub-option II.C: profound revision touching on the balance in the present division of tasks between the EU and Member States and harmonising product requirements for construction products by prescribing their characteristics**, rather than limiting themselves to the creation of the common technical language as under the current CPR. Each scenario proposes a unique way of achieving this, ranging from:

    - a move to the **New Legislative Framework Approach**
    - keeping the **Old Approach by setting out product requirements in legislation**
    - creation of an **EU agency for construction products**.

Option III: Repealing the CPR: no Union legislation on construction products

The CPR would be repealed without any substitute: no harmonised common technical language for assessing and communicating performance, no harmonised standards, no basic work requirements for construction works, no obligation to draw up a DoP or communicate it down the supply chain, no CE marking, no classes, thresholds, AVCP systems or conditions for classification determined at EU level, no roles for notified bodies or technical assessment defined at EU level, no role for EOTA, no coordination of notified bodies.

Absent Union harmonising legislation, Member States and operators would rely on the **principle of mutual recognition**[11] to achieve free movement of construction products.

Box 8. Key discussion topics

- **Do you agree that the proposed solutions address the problems with the current CPR as identified earlier?**
- **What other solutions do you think would be required to fully address these problems ?**

4.3. What is the expected impact of these proposed solutions?

The following impacts are analysed: costs for companies, market opportunities, product quality, market surveillance and enforcement costs, information to end-users, environment and health and safety.

The results show that the impacts of the different options considered to be relatively limited, especially as concerns information, environment and health and safety. Across several of the options, the consulted stakeholders found it difficult to make a precise assessment as they felt the options needed to be spelled out in greater detail.

- **Option I**: Overall this option was seen as generating positive impacts in all areas and a potential starting point to improve the functioning of the CPR while considering other longer-term solutions. It would improve the understanding of

[11] Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC, OJ L 218, 13.8.2008, p. 21; see also the Evaluation of the Application of the mutual recognition principle in the field of goods, http://ec.europa.eu/DocsRoom/documents/13381, the Inception Impact Assessment for the Initiative "Achieving more and better mutual recognition for the single market for goods", http://ec.europa.eu/smart-regulation/roadmaps/docs/2017_grow_005_mutual_recognition_revision_en.pdf (Commission proposal not yet adopted) and Communication COM(2017)0787 from the Commission to the European Parliament, the Council and the European Economic and Social Committee, The Goods Package: Reinforcing trust in the single market, http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2017:787:FIN.

rules by all actors, reduce frustration by speeding up the EAD and lead to much improved acceptance of the CPR by all actors. The respondents were almost unanimous in their support for streamlining the EAD procedures and standardisation work and stepping up market surveillance and enforcement to improve the implementation of the CPR. It was however noted that the streamlining of standardisation might need to be done through other means, mainly through Regulation (EU) No. 1025/2012 on European Standardisation and acknowledged that the new COM (2017) 795 proposal on market surveillance might improve the situation regarding insufficient market surveillance. The speed of revision and update was considered a significant issue by many.

- **Option IIA:** There was general agreement among stakeholders participating across all data collection efforts in this study that this option would have a positive impact, including on cost savings, market opportunities, surveillance and enforcement cost as well as information, health and safety and the environment. However, one issue with the assessment of this option was that respondents were not fully clear what the specific changes would be under this policy option and what the differences were between this option and option I. This may be due, in part, to the fact that stakeholders may have different interpretations about what is already included in the existing CPR – in particular concerning the issue of exhaustiveness.

- **Option IIB1:** The assessment of this policy option was split between companies in the CP sector, who thought the option would being little change or have a small positive impact, and the other actors, who thought this option posed a threat to the Single market. Broadly speaking, the dividing line was the possible introduction of voluntary/industry standards. For companies, the possibility of purely voluntary/industry standards was welcomed while the other stakeholders saw it as potentially undermining the single market.

- **Option IIB2:** The opinion of stakeholders on the potential impacts of the policy option was very mixed and the detailed analysis shows that the impact of this option would overall be quite limited in terms of actual changes on the ground (cost or market opportunities) while at the same time generating significant legislative upheaval and potentially creating new barriers to trade depending on the specific provisions that would be included under this option.

- **Option IIB3:** This policy option is expected to have little positive impact on any of the impact types under consideration and this perception is shared across all stakeholder groups. The general perception is perhaps best summarised by one market surveillance authority which said that "making the common technical language voluntary would not cure the conceptual defects of the CPR, but it would increase uncertainty and create chaos."

- **Option IIC1:** Stakeholders expect this policy option to have a small positive impact on market opportunities but also lead to a small increase in costs. There was significant uncertainty regarding other types of impacts with a large share of respondents unable to make an assessment.

- **Option IIC2:** This option is seen as having a negative impact by all stakeholder groups and across all of the impact types that are considered in this study. Indeed, this option was seen as "nearly impossible" because the Commission does not have the resources to draft a complete piece of European legislation regulating the wide field of construction products in detail. Similarly, developing detailed technical legislation for all construction products would be very difficult. Furthermore, this

option would be a step back because it would impede standards from responding flexibly to current developments in research.

- **Option IIC3:** This option led to a very clear negative assessment across all stakeholder groups and across all impact types. While there is a need for more specific information about the role of the proposed agency to assess the option fully, thirteen respondents in the semi-structured interviews considered this option in general to be unrealistic, unclear, too big a change, or too "centralistic".

- **Option III:** Stakeholders did not support this policy option as it is expected to have a negative impact on all impact types considered in this study. The failure of mutual recognition led to the CPD in 1989 and mutual recognition is not strong enough a tool to eliminate barriers to trade, regulatory competition.

Box 9. Key discussion questions

- **Do you agree with the assessment of the different options? Why not?**
- **What further impacts do you expect? Consider, for instance, impacts on innovation, legal certainty, coherence / overlaps with other initiatives**

4.4. Which of the proposed solutions leads to the best outcome?

The table below summarises the impacts of each option compared with the baseline and provides an overall assessment. The two favoured options are highlighted in bold.

Figure 4 Summary of impacts compared with baseline (no action)

Option	Administrative & compliance costs	Market opportunities / Single Market	Product quality	Surveillance and enforcement	Information	Health and safety	Environment	Overall comment
0	0	0	0	0	0	0	0	Problems with markets, competitiveness, standards and information persist
I	**+ / 0**	**+**	**0**	**+/0**	**+**	**+/0**	**+/0**	**Favoured but seen as potentially ineffective**
II. A	**+ +**	**+**	**0**	**+**	**+**	**+**	**+**	**Favoured but precise content needs to be specified in greater detail**
II. B.1	+ /0	-	0	-	0	0	0	Potential cost saving due to voluntary nature of standards but threat to functioning of the Single market
II. B.2	0	0	0	0	0	0	0	High regulatory complexity; more details needed on specific provision to assess impact; could potentially lead to barriers to trade
II. B.3	-/0	-	0	-	-	-	-	Detrimental to single market; does not address the flaws of the CPR but requires big regulatory change
II. C.1	-	+/0	0	-	+	+	+	Uncertainty about specific detail on the provisions of the option
II. C.2	-	-	0	-	-	-	-	Unrealistic and difficult to implement

Option	Administrative & compliance costs	Market opportunities / Single Market	Product quality	Surveillance and enforcement	Information	Health and safety	Environment	Overall comment
II. C.3	- -	- -	0	- -	-	-	-	Unrealistic and difficult to implement
III	-	-	-	-	-	-	-	Detrimental to the Single Market; a step back; would undo progress made

Source: Own analysis, based on company phone survey, online survey, semi-structured interviews; public consultation

As the table indicates, across all the different impact types, options I and II.A were assessed most positively, followed by II.C.1 and II.B.2. This is consistent with the public consultation where 60% of respondents indicated that "EU legislation on construction products should be maintained as it is but with improved implementation and enforcement", compared with only 10% who prefer "no change". Furthermore, among the 23% who wanted more extensive change, 90% saws this as "clarifying procedures, better aligning with other legislation and simplifying rules so as to make it easier to apply, for smaller businesses especially" (i.e. the main aims of option II.A).

The main reservation that stakeholders had with regard to these options relates to their effectiveness (in general the soft law provisions under option I are seen as insufficient) and to their comprehensiveness (i.e. there are a number of specific provisions which some stakeholders thought should be included in the review alongside the proposed measures).

On the other hand, the repeal option III, II.C.3 (the establishment of an agency) and II.C.2 (Old Approach) were clearly assessed as negative. On the whole, these options were seen as a step back that could be detrimental to the Single Market without solving any of the flaws of the current regime. At the same time, these options would introduce major upheaval in the market and for regulators.

Finally, for options IIB1, IIB2 IIB3 and IIC1, stakeholders were unsure about the precise impacts they expect, since they considered the options to be specified at too high a level and impacts would depend on the precise wording of the option. In the absence of such further specification, the stakeholders considered the potential risk to the Single Market to be too high for them to support these options. This was especially the case for option IIB3 (making the common technical language optional), which stakeholders considered to be tantamount to a repeal of the CPR which would destroy the Single Market and represent a significant step backwards (see also assessment of the repeal option III).

The general results of the assessment above and specifically, the stakeholder preference for options I and II.A reflect three broader considerations which emerge strongly from the results of the qualitative data collection tools (e.g. interviews):

1. Almost all stakeholders expressed **disagreement with the option of repealing CPR** because this would put in jeopardy the adaptation and investment undertaken up to this point.

2. At the same time, **a majority of stakeholders believe that there should not be radical change of the CPR**. In addition to broad satisfaction with the principles of the current regulation, several stakeholders considered that the CPR is simply not mature enough yet for a substantial revision. This is because a number of stakeholders are still in the process of adapting to the current rules and a significant change would be disruptive to that process and, ultimately, undermine the objectives of the Regulation which aims to bring greater legal certainty.

3. **Rather, the results point to a need for incremental changes to the CPR in specific areas**. Policy option I, the preferred option for many stakeholders, proposes such incremental change while stopping short of a significant legislative intervention. For example, stakeholders suggested that this option would improve the understanding of rules by all actors, reduce frustration by speeding up the EAD, and lead to greater acceptance of the CPR by all actors. The respondents were almost unanimous in their support for streamlining the EAD procedures and standardisation work and stepping up market surveillance and enforcement to improve the implementation of the CPR. At the same time, it must be cautioned that there may be different views on what an 'incremental' change is: for some stakeholders this may include giving up on the 'exhaustiveness' of harmonisation for instance, which would, on the other hand, represent a radical change for other stakeholders.

4. **At the same time, it needs to be examined thoroughly whether all the incremental changes that are desired by stakeholders would be possible under option 1**. For instance, to cite the previous example, changes to the 'exhaustiveness' of harmonisation could not be implemented without legislative change. Similarly, with regard to the inefficiencies in process for the development and citation of harmonised specifications, the soft law interventions proposed under option 1 might not be sufficient to address this issue. In that context, it might be relevant to consider if the current problems basically relate to the current concept of harmonised specifications. Given the legal nature of harmonised specifications, the Commission has a high degree of responsibility for their content. However, in the current CPR harmonised specifications are developed by the external bodies CEN and EOTA which limits the possibilities for the Commission to control the process as well as the resulting specifications. This would point to the need for a wider ranging intervention that goes beyond the proposed option 1.

5. **"Fitness for use" has been identified as an issue for stakeholders** (i.e. the fact that products available on the market will not necessarily be fit for the applications for which people may wish to use them and that it's difficult for a user to assess on the basis of a declaration of performance if the construction product it accompanies is fit for a particular use). There is, in this case, a conflict between the expectations of some stakeholders and the common technical language approach of the current CPR, according to which the methods and criteria for the declaration of performance should be established rather than specific requirements to the products. The wish of some stakeholder to have 'fitness for use' safeguarded by the Union legislation would require a change of basic philosophy and point to policy option II.C.

6. Most stakeholder express a general satisfaction with the current common technical language approach and indicate either Policy Option I or II.A as their preference. Therefore, **other means of taken the 'fitness for use issue' into account without abandoning the common technical language**, e.g. if any sort of tools could be provided for users of construction products to assess on the basis a declaration of performance if a particular product would be fit for a particular use.

Box 10. Key discussion questions

- **Which of the options do you think should be chosen? Why?**
- **The analysis points to options I and II.A as the preferred way forward. What are the positives / drawbacks of these options and how could drawbacks be remedied?**
- **How should the issues with the proposed solutions that were identified in the assessment, be addressed? For instance:**

- **Should it be possible for Member states to set additional requirements for the performance of construction products, on top of those included in the harmonised European standards?**
- **Should it be possible to complete mandatory standards with voluntary information (e.g. fitness for use, installation modalities, information on environmental/social performances of the production process….) ?**

5. ANNEX. BRIEF OVERVIEW OF THE METHODOLOGY

5.1.1. Evaluation

The evaluation is carried out in line with the Better Regulation Guidelines[12]. It evaluates the relevance, effectiveness, efficiency, coherence and EU added value of the CPR. For each of these five overall evaluation criteria, the Terms of Reference for the study provided a number of specific evaluation questions which form the main basis for analysing the evidence and drawing conclusions.

The geographical scope of the evaluation is the EU. Data has been collected across all the EU Member States, although more in-depth research was carried out in 10 Member States, namely: Belgium, Denmark, France, Germany, Ireland, Italy, Poland, Romania, Spain, United Kingdom[13].

The evaluation builds on a significant amount of existing information, including several studies undertaken in recent years on different aspects of the performance of the CPR, in particular the *Supporting study for the Fitness Check on the construction sector: EU internal market and energy efficiency legislation* (Economisti Associati, Milieu and CEPS, 2016), the study on *Economic Impacts of the Construction Products Regulation* (VVA Europe, DTI & TNO, 2016)*, Cross-Border Trade for Construction Products* (CSIL Centre for Industrial Study & CRESME Ricerche, 2017), and the Commission's 2016 CPR Implementation Report. Summaries of the Technical Platform meetings held in 2016 and 2017 on different aspects of the CPR were also included in the evidence base, as well as a number of other sources (a full biography will be provided in the final evaluation report). Two recently published surveys on information needs of users and of Member State authorities will furthermore be incorporated in the final evaluation analysis.

In addition, primary data collection was undertaken to supplement the already existing evidence:

- Scoping interviews,
- Semi-structured interviews ,
- An online survey,
- A company phone survey,
- The Public Consultation on EU rules for products used in the construction of buildings and infrastructure works,
- This validation workshop.

The answers to the evaluation questions draw on all the analysis of the evidence from different relevant data sources.

5.1.2. Impact assessment

Like the evaluation, the impact assessment is carried out in line with the Better Regulation Guidelines[14]. It draws on the results of the evaluation as well as all the primary and secondary data collected over the course of the study to (a) define those problems that should be addressed in the current review of the CPR, (b) present the proposed solutions to these problems in the form of a set of policy options, (c) assess the impact of each of the options on different stakeholder groups, (d) compare the impacts of each option

[12] https://ec.europa.eu/info/files/better-regulation-guidelines-evaluation-and-fitness-checks_en

[13] Those countries are considered representative of the 5 main construction business systems in the EU and represent more than 80% of the EU turnover in the sector. Finally, they cover the various EU geographical sub-regions, and both large and small Member States.

[14] https://ec.europa.eu/info/files/better-regulation-guidelines-evaluation-and-fitness-checks_en

against one another and against the baseline and (e) identify the 'preferred' option(s) or elements which should be taken forward in the Commission's review of the CPR.

The impact assessment consists of the following steps:

Step 1: Development of the conceptual model

The general conceptual model for the impact assessment is illustrated in the figure below. The baseline has been developed first for each type of impact using data from desk research, semi-structured interviews, the online survey and the company phone survey. For each policy option, changes with respect to the baseline are calculated in quantitative terms from the online survey and the company phone survey, while semi-structured interviews provide qualitative feedback.

The impact assessment includes the following stakeholders:

- Consulted in the online survey: manufacturing organisations of construction products, professional end-user organisations of construction products, testing and certification bodies, market surveillance authorities, national contact points, standardisation bodies.

- Consulted in the company phone survey: construction products manufacturers, importers and/or distributors of construction products, raw material suppliers for construction products industry, professional end-users of construction products.

- Consulted in the semi-structured interviews: technical bodies, business representatives, public authorities, SME representatives.

- Consulted in the public consultation: all of the above as well as the general public.

The costs and benefits are differentiated into the following impacts:

- Costs
    - Impacts on compliance costs
    - Impacts on surveillance and enforcement costs
- Benefits
    - Impacts on market opportunities, potentially leading to increase in cross-border trade, and competition
    - Impacts on product information
    - Impacts on health and safety
    - Impacts on the environment

Step 2: Definition of the baseline

The baseline serves as a benchmark against which the impacts of the policy options are assessed. The baseline scenario assesses the extent to which the CPR:

Directly

- Achieves the internal market for construction products by facilitating cross border trade – assessed by its impact on market opportunities.
- Increases information flows for professional end users – assessed by its impact on product information.
- Produces reasonable compliance costs for construction products manufacturers – assessed by its impact on costs.

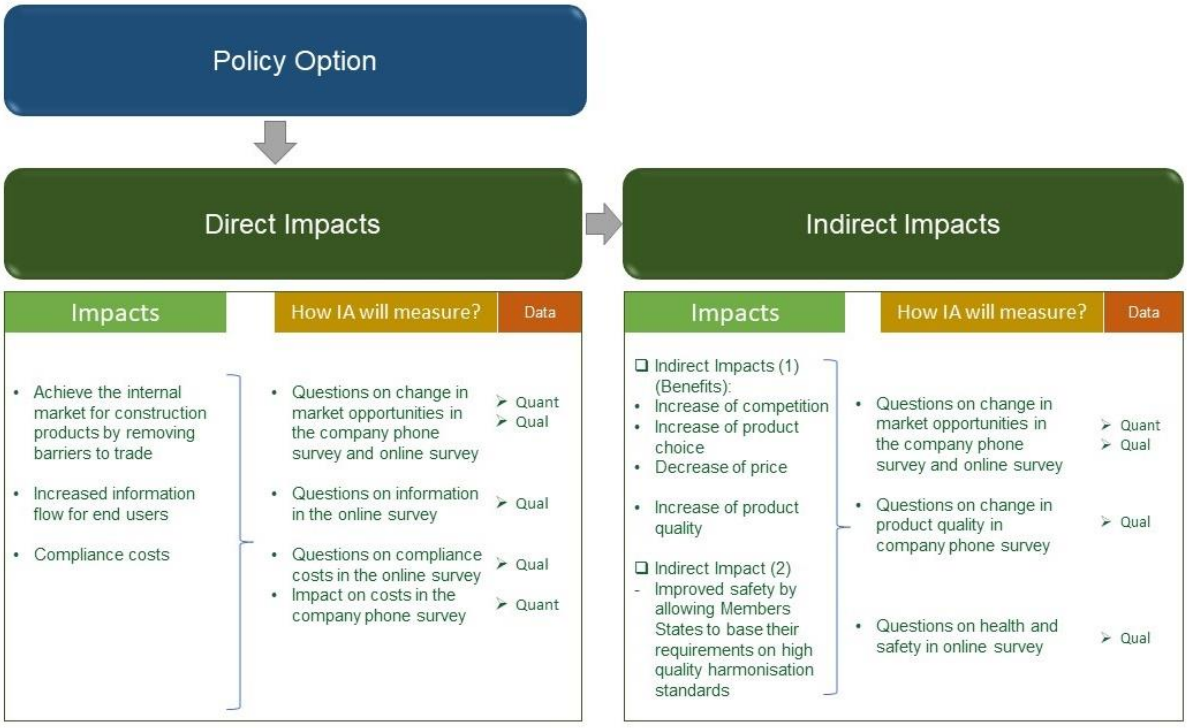
Indirectly

- Increases competition in the construction products market (through increases in cross border trade flows) – assessed by its impact on market opportunities.
- Increases product choice for professional end users and consumers (through increases in cross border trade) – assessed by its impact on market opportunities.
- Decreases prices for professional end users and consumers (through reductions in compliance costs and increases in cross-border trade) – assessed by its impact on costs and market opportunities.
- Increases product quality for professional end users and consumers (through better information flow and greater cross-border trade) – assessed by its impact on product quality.
- Improves safety for professional end users and consumers (through better information flow) – assessed by its impact on health and safety.

Step 3: Calculation of impacts for each policy option

After the definition of the baseline, each policy is assessed. The figure below outlines direct and indirect impacts for each policy option, with which data collection tool they are measured, and what type of data is produced (quantitative or qualitative).

Figure 5: Assessment of impacts for each policy option



Step 4: Comparison of policy options and the selection of the most preferred option

After each policy option is assessed separately, the next step provides the comparison of all policy options. The section provides rankings of each policy option by the type of impact and then provides a final aggregate ranking of the policy options based on the results of the semi-structured interviews, online survey and the company phone survey. Finally, most preferred policy option is presented.