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NOTE

From: Presidency
To: Delegations

Subject: 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
– Presidency partial compromise proposal

Delegations will find in the Annex the partial Presidency's compromise text for the above Proposal, which will be discussed at the meeting of the Working Party on Technical Harmonisation – Construction Products) on 8 March 2023.

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes harmonised rules for the placing or making available on the market of construction products and other items covered by this Regulation including rules for construction products installed without placing on the market and direct installation of construction products, regardless of whether the construction product is delivered within undertaken in the framework of a service or not, by establishing:

- (a) rules on how to express the ~~environmental, including climate, and safety~~ performance of construction these products in relation to their essential characteristics;
- (b) ~~environmental, including climate, functional and safety~~ product requirements for construction these products.

[Second subparagraph to be discussed with art 31]

This Regulation also establishes obligations incumbent on economic operators dealing with ~~construction products or their components or with products that could be regarded as construction products whilst not being intended by their manufacturer to be construction products.~~ products that although not designed nor intended for use as a construction product, resemble an object commonly recognized as suitable for construction or intended for use as a construction product, because of its design, packaging or characteristics, in particular when such a product is similar to a product covered by harmonised technical specification or European assessment document.

Article 2

Scope

1. This Regulation shall apply to construction products and to the following items, when those products or items are intended for use on the Union market:
 - ~~(a) 3D datasets placed on the market to permit the 3D printing of construction products which are covered by harmonised technical specifications adopted under this Regulation and 3D-printed construction products and moulds;~~
 - ~~(b) materials intended to be used for the 3D-printing of construction products on or close to the construction site or for the manufacturing using moulds on or close to the construction site;~~
 - ~~(c) construction products manufactured on the construction site for immediate incorporation into construction works, without separate commercial action for the placing on the market;~~
 - (d) key parts of construction products covered by this Regulation;
 - (e) parts or materials intended to be used for products covered by this Regulation, if the manufacturer of those parts or materials so requests;

- ~~(f) kits or assemblies, where their composition is specified in and covered by harmonised technical specifications or European assessment documents (EADs);~~
- ~~(g) prefabricated one-family houses of less than 180 m² surface floor space with one floor or of less than 100 m² surface floor space on two floors.~~

Member States may decide not to apply this Regulation for the houses referred to in point (g) by notification to the Commission

[Paragraph 2 to be discussed in connection with provisions on used products etc]

2. This Regulation shall also apply to used construction products and to used items referred to in paragraph 1 in any of the following cases:

- (a) those used construction products or items are imported from third countries without having been placed on the Union market before;
- (b) the economic operator has changed the intended use of ~~those~~ **the** used construction products or items from the intended use assigned to ~~those construction products or items~~ by the initial manufacturer in another way than by a reduction in terms of performance or intended uses or to mere decoration²² purposes, ~~those purposes being defined by the absence of any structural function for the construction works;~~
- (ba) the economic operator has changed the intended use of the used construction products or items from the previous use of that product in the building where the used product or item was de-installed from, in another way than by a reduction in terms of performance or intended uses or to mere decoration purposes;

- (c) the economic operator making the used construction products or items available on the market ~~claims for their characteristics~~ declares their performance or the fulfilment of product requirements set out in Annex I, additional to or different from the ~~characteristics~~ performance and requirements declared pursuant to this Regulation or Regulation (EU) 305/2011 when the used construction product or item was first placed on the market;
- (d) the used construction products or items have been subject to a transformative process going beyond repair, cleaning and regular maintenance ('remanufactured product');
- (e) the economic operator making the used construction products or item available on the market opts for the application of this Regulation;
- (f) obligations of economic operators de-installing or dealing with used products for reuse are not fulfilled.

3. This Regulation shall not apply to:

- (a) lifts subject to Directive 2014/33/EU of the European Parliament and of the Council¹, escalators and their components;
- ~~(b) boilers, pipes, tanks and ancillaries and other products intended to be in contact with water for human consumption;~~
- ~~(c) systems treating waste water;~~
- ~~(d) sanitary appliances;~~
- ~~(e) traffic signalling products. road marking materials, vertical road signs and traffic lights;~~
- ~~(f) decorative paints.~~

¹ Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.3.2014, p. 251).

(g) performance assessment and requirements subject to Directive (EU) 2020/2184 of the European Parliament and of the Council and covered by the delegated acts of Commission referred to in Article 11(8) of this directive;

4. ~~This Regulation also shall also apply to establishes obligations for 3D printing services providers in the field of construction products and of items covered by this Regulation. 3D printing activities services include renting out of 3D printing machines that could be used for construction products and items covered by this Regulation.~~

~~However, this Regulation does not regulate services and service providers altogether as in the meaning of the Directive 2006/123/ES.~~

4a. ~~This Regulation shall also apply to establishes obligations for the economic operators providing services linked to:~~

- ~~– the manufacturing and commercialisation of construction products and or items covered by this Regulation, and~~

[Last indent to be discussed in connection with provisions on used products]

- ~~– to the de-installing, preparation for re-use, remanufacturing and dealing with used construction products or items covered by this Regulation.~~

[Paragraph 4b to be discussed in connection with article 27]

4b. This Regulation also establishes obligations for online search engines providing services linked to commercialisation of construction products or items covered by this Regulation.

Article 2a

Application of the regulation in the outermost regions

5- Member States may exempt from the application of this Regulation construction products and items covered by this Regulation that are placed on the market ~~or directly installed~~ in the outermost regions of the European Union in the meaning of Article 349 of the Treaty on the Functioning of the European Union. Member States shall notify to the European Commission and to the other Member States the regulations providing such exemptions. They shall ensure that exempted construction products or items do not bear the CE marking in accordance with Article 16. Construction products or items placed on the market ~~or directly installed~~ on the basis of such exemption shall not be deemed to be placed on the market ~~or directly installed~~ in the Union in the meaning of this Regulation.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

- (1) ‘construction product’ means any formed or formless physical item, ~~including its packaging and instructions for use,~~ or a kit ~~or assembly~~ combining such items, that is placed on the market or produced for incorporation in a permanent manner in construction works or parts thereof ~~within the Union, and including its packaging and instructions for use~~ **with the exception of items necessarily first integrated into an assembly, kit or another construction product prior to being incorporated in a permanent manner in construction works;**

- (2) ‘permanent’ means for a duration of two years or longer intended to remain in the construction work or parts thereof within the Union after the completion of the construction or renovation process;
- (3) ‘product’ means a construction product or other item ~~covered by~~ falling within the scope of this Regulation in accordance with as set out in Article 2(1) to (3);
- (4) ‘making available on the market’ means any supply of a product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge, regardless whether in the framework of providing a service or not;

Recital: (9a) In order to avoid innovative distribution models being used to circumvent the obligations under this Regulation, it should be clarified that any supply of a product in the course of a commercial activity, including when ownership of the products is transferred as part of the provision of a service, should be considered as the product being made available on the market.

- ~~(5) ‘direct installation’ means the installation of a product into a construction work of a client without prior making available on the market or the installation of a one-family house covered by this Regulation, regardless whether in the framework of providing a service or not;~~
- (6) ‘performance’ means the degree to which a product has certain scalable essential characteristics;
- (7) ‘essential characteristics’ means those characteristics of the product which relate to the basic requirements for construction works as set out in Annex ~~I-A Part A~~ Point 1 or which have been listed as predetermined environmental characteristics in Annex ~~I-A Part A~~ Point 2;

- (8) ‘product requirements’ means a ~~threshold level or another~~ characteristic with which a product has to comply before it can be placed on the market or installed directly, including those requirements relating to labelling and instructions for use or other information to be provided;
- (9) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider, ~~the 3D-printing service provider, manufacturer, importer or distributor of materials intended for 3D-printing of products,~~ online seller, the broker, the supplier, the service provider, ~~the provider of 3D-datasets~~ and the own-brand-labeller or any other natural or legal person, other than authorities, notified bodies, technical assessment bodies and product contact points for construction who is subject to this Regulation in relation to the manufacturing, de-installation for re-use, re-manufacturing or repackaging of products, or making those products available on the market or installing those products directly in accordance with this Regulation, and economic operators as defined in Article 3, point (13) of Regulation (EU) 2019/1020 of the European Parliament and of the Council;
- ~~(10) — ‘3D-printing service provider’ means any natural or legal person offering, in the course of a commercial activity, one of the following services: renting or leasing out 3D-printers, printing out 3D-printing datasets, or brokering one of these services, regardless of whether the printing material is provided by that person or not;~~
- ~~(11) — ‘materials intended for 3D-printing of products’ means any material intended for the 3D-printing of products for which the respective economic operators have not explicitly and consistently excluded the use as materials for 3D-printing;~~

(12) ‘manufacturer’ means a manufacturer as defined in Article 3, point (8), of Regulation (EU) 2019/1020¹;

~~(13) ‘3D-datasets’ means a set of numerical data describing the shape of an object by its outer dimensions and its cavities in view of permitting the 3D printing of that object;~~

(14) ‘construction works’ means buildings and civil engineering works that may both be over or in the ground or water, including but not limited to bridges, tunnels, pylons and other facilities for transport of electricity, communication cables, pipelines, aqueducts, dams, airports, ports, water ways, and installations which are the basis for rails of railways, but excluding wind mills, oil platforms or chemical plants, industry manufacturing installations, agricultural installations, electricity generation installations, military installations, whilst their shelters may be buildings;

Recital: (8a) To create the necessary link between construction products and the construction works, including buildings, into which they might be incorporated, the notion of construction works should be defined only for the purposes of this regulation and without prejudice to Member States’ competences to define and regulate construction works and buildings.

~~(15) ‘buildings’ means facilities, other than containers, giving shelter to humans, animals or objects, which either are permanently fixed to the ground or can only be transported by the help of special equipment whilst having a surface floor space of at least 20m² on one or several levels;~~

(16) ‘level’ means the result of the assessment of the performance of a product in relation to its essential characteristics, expressed as a numerical value;

¹ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

- (17) ‘class’ means a range of levels, delimited by a minimum and a maximum value, of performance of a product;
- (18) ‘threshold level’ means a ~~mandatory~~ minimum or maximum performance level of a product with regard to a certain essential characteristic;
- (19) ‘placing on the market’ means the first making available of a product on the Union market or the first making available of a used product where any of the conditions of Article 2(2) are fulfilled or of a remanufactured product;
- (20) ‘key part’ means a part which is ~~intended by the manufacturer of a construction product or another economic operator to be~~ used as a component or spare part for a construction product and ~~that~~ which has been specified by a harmonised technical specifications as essential for the characterisation, safety or performance of a construction product;
- (21) ‘kit’ means a product placed on the market by a single economic operator as-a set of at least two separate items, none of which needs to be a product itself, intended to be incorporated together in construction works;
- ~~(22) — ‘assembly’ means a set of at least two separate items, one of which is a product;~~
- (23) ‘European assessment document’ means a document adopted by the organisation of technical assessment bodies for the purposes of issuing European technical assessments;

- (24) 'used product' means a product that is not waste as defined in Article 3, point (1), of Directive 2008/98/EC of the European Parliament and of the Council , and which has been installed at least once into a construction work, and that:
- (a) has not been subject to a process going beyond repair, cleaning or regular maintenance, as specified by the original manufacturer in its instructions for use or acknowledged to be necessary according to common civil engineering knowledge;
 - (b) has not undergone a process going beyond repair, cleaning and regular maintenance or 'preparing for re-use' in the meaning of Article 3, point (16) of Directive 2008/98/EC after being de-installed;
- (25) 'intended use' means the use intended by the manufacturer, including the conditions for usage, as laid out in technical documentation, on labels, in instructions for use, or in publicity material, whilst usages mentioned only in one of these are already part of the 'intended use';
- (26) 'repair' means the process of returning a faulty product to a condition where it can fulfil its intended use;
- (27) 'maintenance' means an action carried out to retain a product in a condition where it is able to function as required;
- (28) 'remanufactured product' means a product that is not waste as defined in Article 3, point (1), of Directive 2008/98/EC, but that has been installed at least once into a construction work, and that has been subject to a transformative process going beyond repair, cleaning and regular maintenance;
- (28a) "decoration purposes" means [...];
- (29) 'risk' means risk as defined in Article 3, point (18), of Regulation (EU) 2019/1020;

- (30) ‘preparing for re-use’ means checking, cleaning or repairing retrieval operations, by which products or components of products are prepared so that they can be re-used without any other pre-processing;
- (31) ‘product type’ means the abstract model of individual products, determined by the intended use and a set of characteristics which exclude any variation with regard to performance or to the fulfilment of product requirements set-out in or in accordance with this Regulation, produced in a specific production process using a given combination of raw materials or components, whilst identical items of different manufacturers also belong to different product types;
- (32) ‘state of the art’ means a way to achieve a certain goal which is either the most effective and advanced or close to it ~~and thus above the average of ways which can be chosen;~~
- (33) ‘recycling’ means recycling as defined in Article 3, point (17), of Directive 2008/98/EC;
- (34) ‘fulfilment service provider’ means a fulfilment service provider as defined in Article 3, point (11), of Regulation (EU) 2019/1020;
- (35) ‘product family’ means all product types belonging to one of the families ~~product areas~~ listed in Annex IV, Table 1;
- (36) ‘product category’ means a subset of the product types of a certain product family encompassing those product types which have in common a certain intended use as specified in harmonised technical specifications or European assessment documents;
- (37) ‘factory production control’ means the documented, ~~permanent~~ continuous and internal production control in a factory with regard to certain parameters or quality aspects, reflecting the specificities of a respective product family or a group and manufacturing processes, and which aim at the constancy of performance or of continuous fulfilment of product requirements, executed in accordance with Annex V;

- (38) ‘harmonised zone’ means the sphere jointly covered by this Regulation, the harmonised technical specifications, and the Commission acts of general applicability adopted pursuant this Regulation;
- ~~(39) ‘Union law’ means the TEU, the TFEU, general principles of law, acts of general applicability referred to in the second, third and fourth paragraph of Article 288 TFEU and any international agreements to which the Union is party or the Union and its Member States are parties;~~
- (40) ‘importer’ means an importer as defined in Article 3, point (9), of Regulation (EU) 2019/1020;
- (41) ‘distributor’ means a distributor as defined in Article 3, point (10), of Regulation (EU) 2019/1020;
- (42) ‘individually manufactured’ means that, due to the specifications of the client, there is a variation in terms of manufacturing method when compared with all other products produced for other clients by the economic operator in question;
- (43) ‘micro-enterprise’ means a micro-enterprise as referred to in the Annex to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ;
- (44) ‘custom-made’ means that, due to the specifications of the client, there is a variation in terms of size or material when compared with all other products produced for other clients by the economic operator in question.
- (45) ‘permalink’ means an internet link to a website which is stable both for its content and the address (“URL”);

- (46) ‘harmonised technical specifications’ means construction products performance standards established in accordance with Article 4(2) the reference of which have been published in the Official Journal in accordance with Article 34 and thereby were rendered mandatory for purposes of application of this Regulation in accordance with Article 4(2d), and delegated or implementing acts adopted in accordance with Article 4a(1), (2) and (3) and (4), or Article 5(2) or Article 22(4) that contain technical prescriptions;
- (46a) ‘harmonised standard’ means a standard as defined in Article 2(1), point (c) of Regulation (EU) No 1025/2012;
- (47) ‘construction products performance standard’ means a harmonised standard adopted by a European standardisation organisation on the basis of a request made by the Commission for the application of this Regulation the reference of which has been published in the Official Journal in accordance with Article 34, regardless of whether the use of such standard is laying down methods and criteria for assessing the performance of a construction product in relation to its essential characteristics and rendered mandatory for the purposes of the application of under this Regulation through publication in the Official Journal in accordance with Article 4(2d) and Article 34(2) or whether they stay voluntary in accordance with Article 5(2), Article 22(4) and Article 34(3);
- ~~(48) ‘double use product’ means a product that is, by its manufacturer, intended to be used as product and as an item with another intended use that would fall outside of the scope of this Regulation if it had only that other intended use;~~
- (49) ‘European standardisation organisation’ means a European standardisation organisation as defined in Article 2(8), of Regulation (EU) 1025/2012;
- (50) ‘European technical assessment’ (ETA) means the documented assessment of the performance of a product, in relation to its essential characteristics, in accordance with the respective European assessment document;

- (51) ‘full-time equivalence’ means the work-power of one person employed full-time as defined by the Member State concerned or the work-power of several persons employed part-time working together the same number of hours per day or week;
- (52) ‘non-series process’ means a process that is neither prevalently automated or produced using assembly-line techniques, nor repeated more than 100 times per year by the economic operator in question or the economic operators belonging to the same group of companies, defined by a common controlling natural or legal person, or the same organisational structure;
- (53) ‘withdrawal’ means withdrawal as defined in Article 3, point (23), of Regulation (EU) No 2019/1020;
- (54) ‘recall’ means withdrawal as defined in Article 3, point (22), of Regulation (EU) No 2019/1020;
- (55) ‘online marketplace’ means a provider of an intermediary service using software, including a website, part of a website or an application, that allows customers to conclude distance contracts with economic operators for the sale of products;
- (56) ‘online interface’ means online interface as defined in Article 3, point (15), of Regulation (EU) 2019/1020;
- (57) ‘broker’ means any natural or legal person providing an intermediation service for the placing on the market ~~or direct installation~~ of products;
- (58) ‘own-brand-labeller’ means any natural or legal person other than the manufacturer who wishes to sell a product as his own and therefore affixes his name, trade-mark or label in addition to the mandatory inscriptions of other economic operators;

- (59) ‘supplier’ means any natural or legal person providing raw materials or interim products to manufacturers or to other persons providing raw materials or interim products to manufacturers;
- (60) ‘service provider’ means any natural or legal person providing a service to a manufacturer or to a supplier of a key part, provided that the service is relevant for the manufacturing of products, including their design;
- (61) ‘accreditation’ means ‘accreditation’ as defined in Article 2(10), of Regulation (EC) No 765/2008;
- (62) ‘market surveillance authority’ means an authority as defined in Article 3, point (4), of Regulation (EU) 2019/1020;
- (63) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, from raw material acquisition or generation from natural resources over manufacturing, de-installation, possibly reuse with or without prior remanufacturing to final disposal;
- (64) ‘reuse’ means any operation by which a product or its components, having reached the end of their first use, are used for the same purpose for which they were conceived;
- (65) ‘competent authority’ means the market surveillance authority designated in accordance with Article 69(1);
- (66) ‘national competent authority’ means the market surveillance authority designated in accordance with Article 69(2);
- (67) ‘notifying authority’ means the single public administration in charge of the designation and supervision of notified bodies, designated in accordance with Article 48, unless specified otherwise in the respective provision: only in the Member State where the respective notified body is located;

- (68) ‘designating authority’ means the single public administration in charge of the designation and supervision of Technical Assessment Bodies, designated in accordance with Article 43, unless specified otherwise in the respective provision: only in the Member State where the respective technical assessment body is located;
- (69) ‘authority’ means the European Commission, its agencies, and any notifying authority, designating authority or market surveillance authority, unless specified otherwise in the respective provision: regardless of in which Member State it is located;
- (70) ‘product presenting a risk’ means a product that, whenever during its entire life-cycle and even when created indirectly, has an inherent potential to affect adversely the health and safety of persons, the environment or the fulfilment of basic requirements for construction works when incorporated in those works, to a degree which, taking account of the state-of-the-art, goes beyond what is considered reasonable and acceptable in relation to its intended use and under normal or reasonably foreseeable conditions of use;
- (71) ‘product presenting a serious risk’ means a product presenting a serious risk as defined in Article 3, point (20), of Regulation (EU) 2019/1020.

Article 3a

Preparatory phase for the development of harmonised technical specifications

1. The Commission shall establish an expert group composed of experts designated by the Member States ('the CPR Acquis Expert Group') to support the Commission in the task of processing Member State requests for EU harmonisation through harmonised technical specifications.
2. The Commission shall, after consultations with the CPR Acquis Expert Group, establish a working plan for the development of harmonised technical specifications for product families listed in Annex IV and update it at least every three years. The Commission shall set the priorities of the work plan on the basis of inputs from Member States using a transparent and balanced methodology published together with the working plan.
3. Following the working plan established under paragraph 2, Member States shall communicate to the Commission and the CPR Acquis Expert Group the essential characteristics they require for a product family or for categories of construction products within that family, as well as ~~and~~ the assessment methods, ~~they apply and any~~ threshold levels, ~~or~~ performance classes ~~or product requirements~~ that they deem necessary.
4. On the basis of the basic requirements for construction works set out in Annex I-A, ~~Part A~~, Point 1 and taking into account the regulatory needs communicated by ~~the~~ Member States in accordance with paragraph 3, the CPR Acquis Expert Group shall identify ~~the relevant technical aspects to prepare standardisation requests, including~~ essential characteristics of construction products. These essential characteristics ~~which~~, together with the list of ~~predetermined environmental life cycle assessment~~ characteristics set out in Annex I-A, ~~Part A~~, Point 2, shall constitute the basis for the preparation of standardisation requests and harmonised technical specifications.

5. The Commission shall ensure that essential characteristics shall be covered by harmonised technical specifications to the extent that their development of such specifications is technically and economically proportionate.
6. The Commission is empowered to adopt delegated acts in accordance with Article 87 to amend:
- (a) the list of ~~predetermined environmental life cycle assessment~~ characteristics set out in Annex I-A, ~~Part A~~, Point 2 in order to adapt it to new environmental risks;
 - (b) the table of product families listed in Annex IV to adapt it to technical progress and Member States regulatory needs.

Article 4

Construction product performance standards laying down essential characteristics of products

1. ~~The basic requirements for construction works, set out in Annex I Part A Point 1 shall constitute the basis for the preparation of standardisation requests and harmonised technical specifications.~~
2. ~~The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and~~ The methods and the criteria for their assessment the performance of a construction product in relation to its essential characteristics shall be laid down in mandatory construction product performance standards which are rendered mandatory for purposes of application of this Regulation. These performance standards shall, where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the products in relation to their essential characteristics. The essential characteristics of products shall be identified in view of the basic requirements for construction works, taking account of the regulatory needs of Member States.
- 2a. ~~The Commission may shall, issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012, request one or more European standardisation organisations to draft performance standards laying down essential characteristics and their assessment methods for one or more of the product families listed in Annex IV or for one or more categories of construction products within those families. The standardisation request shall set out the basic principles and corner stones reference points for the establishment of these essential characteristics and their assessment methods.~~

2b. The Commission may, as part of the respective standardisation requests referred to in paragraph 2a, ~~may also include a request that the~~ **European performance standardisation organisation** ~~also propose determine~~ in the standards referred to in the first subparagraph ~~the~~ one or more of the following elements:

- i) voluntary or mandatory threshold levels in relation to the essential characteristics,
~~and~~
- ii) classes of performance in relation to the essential characteristics, ~~and~~
- iii) which of the essential characteristics ~~may or~~ **that always** shall be declared by manufacturers, ~~or~~
- iv) technical details necessary for the implementation of the assessment and verification system that is to be applied in accordance with Article 6, ~~or~~
- v) **applicable product information requirements according to Annex I-D.**

In that case, the standardisation request ~~Commission~~ shall set out lay down the basic principles and ~~corner stones~~ reference points for the establishment of the ~~threshold levels,~~ classes, and ~~mandatory characteristics in the standardisation~~ information elements requested in accordance with the first subparagraph.

2c. The Commission shall ~~verify that the basic principles and corner stones,~~ and assess the compliance of performance standards with the relevant standardisation requests, with this Regulation and with other Union law, including general principles of law ~~are respected in the standards prior to publishing the reference thereof in the Official Journal in accordance with Article 34.~~ The Commission may assess the compliance of performance standards with other performance standards or harmonised standards, the reference of which has been published in the Official Journal.

2d. Where a performance standard is in conformity with ~~satisfies~~ applicable legal requirements and satisfies the demands to be met in relation to the basic principles and ~~corner stones~~ reference points set out in the standardisation request as well as to the essential characteristics to be covered in view of the basic requirements for construction works, the Commission shall without delay publish a reference of that standard in the Official Journal of the European Union. ~~thereby rendering it~~ One year after such publication the respective performance standard shall become mandatory to apply for the purposes of this Regulation ~~as of one year after its publication~~ unless a later application date has been specified as part of the publication of the reference in the Official Journal. A performance standard may however be voluntarily applied ~~on request of the manufacturer~~ as from the date of its publication.

2e. Where a reference to a performance standard ~~otherwise~~ cannot be published in the Official Journal, the Commission may publish it such a reference with restrictions. ~~Exceptionally, where a reference to a performance standard cannot be published or published with restrictions, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 to modify the standard for purposes of legal effects under this Regulation.~~

Recital: (60) In order to ensure a timely publication of references of standards and European assessment documents in the Official Journal of the European Union, the European Commission should, where references to standards or European assessment documents otherwise cannot be published, have the possibility to publish these references with restrictions of their legal effects under this Regulation. It should be possible for such restrictions to cover, for example, outdated references to other standards or documents, provisions which contradict this Regulation or other Union law, provisions which contradict other harmonised standards the references of which have already been published in the Official Journal, or provisions which are not in conformity with the demands to be met in relation to the basic principles and reference points set out in a standardisation request.

2f. When a Member State or the Commission, the latter on the advice of the CPR Acquis Expert Group established under article 3a, considers that a performance standard does not entirely satisfy conform with applicable legal requirements or satisfy the demands to be met in relation to the essential characteristics to be covered in view of the basic requirements for construction works, the procedure for formal objections to harmonised standards as set out in Article 11 of Regulation (EU) No 1025/2012 shall apply.

Article 4a

Other harmonised technical specifications laying down essential characteristics

31. By way of derogation from Article 4 paragraph 2 and in order to cover the regulatory needs of Member States and to pursue the goals of Article 114 of the Treaty on the Functioning of the European Union, the Commission is empowered to ~~supplement this Regulation by means of delegated acts in accordance with Article 87, by establishing, for particular product families and categories, adopt implementing acts laying down voluntary or mandatory~~ essential characteristics, ~~and~~ their assessment methods **and technical details pursuant to Article 4(2b)(iv)** for one or more of the product families listed in annex IV or for one or more categories of construction products within those families where ~~in any of~~ the following conditions have been fulfilled ~~eases~~:

- (a1) no reference to a construction product performance standard covering the essential characteristics or assessment methods in relation to that specific product family or category of construction products is published in the Official Journal of the European Union in accordance with article 4(2d) or such a standard has been subject to a formal objection in accordance with Article 4(2f) and that standard has been maintained with restrictions, and;
- (b1) the Commission has requested, pursuant to Article 4(2a), one or more European standardisation organisations to draft a construction product performance standard for the essential characteristics or assessment methods in relation to that specific product family or category of construction products, and;
- (c1) the request referred to in point (b1) has not been accepted by any of the European standardisation organisations, or the construction product performance standard addressing that request is not delivered within the deadline set out in that request or does not comply with the request.
- ~~(a) there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2) by the European standardisation organisations, whilst an undue delay is given where the European standardisation organisation does not submit a standard within the time frame set out in the standardisation request;~~
- ~~(b) there is an urgency for the adoption of more harmonised technical specifications that cannot be matched with standards referred to in the first subparagraph of Article 4(2) alone;~~

- ~~(e) one or more essential characteristics referring to basic work requirements set out in Annex I Part A, Point 1 or included in Annex I Part A, Point 2 are not covered by the standards referred to in the first subparagraph of Article 4(2) the references of which are already published in the Official Journal;~~
- ~~(d) the standards referred to in the first subparagraph of Article 4(2) are for other reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators;~~
- ~~(e) the standards referred to in the first subparagraph of Article 4(2) are not in line with EU climate and environmental legislation and ambition;~~
- ~~(f) references to standards referred to in the first subparagraph of Article 4(2) cannot be published in the Official Journal for the reasons set out in Article 34(4) or other legal reasons;~~
- ~~(g) references to standards referred to in the first subparagraph of Article 4(2) have been withdrawn from the Official Journal or were published with a restriction.~~

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2). Before preparing a draft implementing act, the Commission shall inform the committee referred to in Article 22 of Regulation EU (No) 1025/2012 that it considers that the conditions in the first subparagraph are fulfilled.

When a reference to a construction product performance standard is published in accordance with article 4(2d), the Commission shall repeal implementing acts adopted in accordance with this paragraph, or parts thereof, which cover the same essential characteristics or assessment methods in relation to the same product families or categories.

42. In order to cover the regulatory needs of Member States and to pursue the environmental, safety and harmonisation goals of Article 114 of the Treaty on the Functioning of the European Union cases where the Commission has supplemented the standardisation request with a request for a proposal in accordance with article 4(2b) but no corresponding standardisation delivery has been published in accordance with article 4(2d), the Commission is it shall be empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by determining, for ~~particular~~ the product families or product and categories and for the elements covered by that request, the following:

- (a) voluntary or mandatory threshold levels in relation to the essential characteristics,
and
- ii) classes of performance in relation to the essential characteristics, or ~~and~~
- iii) which of the essential characteristics ~~may or~~ that always shall be declared by manufacturers, or
- iv) applicable product information requirements according to Annex I-D.

The Commission may, after consultations with the CPR Acquis Expert Group, deviate from the proposals of the European standardisation organisation.

Delegated acts referred to in the first subparagraph may, irrespective of any prior standardisation request but on the advice of the CPR Acquis Expert Group, also be adopted to determine the elements set out in points (i) and (ii) in relation to any of the essential characteristics of a horizontal nature listed in Annex VI.

3. ~~In cases where harmonised technical specifications determine voluntary or mandatory threshold levels or classes of performance in relation to the essential characteristics, either through a construction product performance standard published in accordance with Article 4(2d) or a delegated act adopted in accordance with paragraph 2, on the basis of the nature or technical characteristics of a product, it is apparent that testing would be unnecessary or redundant,~~ the Commission is ~~shall be~~ empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by laying down ~~establishing (b)~~ conditions under which a product shall be deemed to satisfy a certain ~~level~~, threshold level or to qualify for a class of performance without testing or without further testing.
5. ~~The Commission is empowered to amend Annex I Part A by means of delegated acts in accordance with Article 87 in order to adapt it to technical progress and to cover new risks and environmental aspects. [Moved to article 3a(6)]~~
- 5a. ~~The Commission is empowered to~~ adopt delegated acts in accordance with Article 87 in order to amend:
- (a) ~~the list of essential characteristics of a horizontal nature in Annex VI by means of delegated acts in accordance with Article 87 in order~~ to adapt it to Member States regulatory needs;
- (b) Annex I-D to adapt it to technical progress and new information needs.

Article 5

Product requirements

1. ~~All~~ Where a products family or one or more categories of products within a product family is either covered by a construction product performance standard published in accordance with article 4(2d) or an implementing act adopted in accordance with article 4a(1), the Commission shall be this Regulation shall, prior to their placing on the market or direct installation, satisfy the generic, directly applicable product requirements set out in Annex I Part D and the product requirements laid down in Annex I Part B and C as specified for the respective product family or category in accordance with paragraph 2. The product requirements laid down in Annex I Part B and C are only applicable where they have been specified in accordance with paragraph 2.

2. ~~In order to specify the product requirements set out in Annex I Part B, C and D, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by establishing product requirements in accordance with Annex I-BC for that specifying, for particular product families and or categoryies, or for parts thereof, these product requirements and by laying down the corresponding assessment methods.~~

2a. Delegated acts referred to in the first paragraph may also supplement this Regulation by requiring manufacturers to:

(g) make available on the market themselves or by specially designated distributors or by manufacturers of spare parts, with reasonably short delivery time, spare parts for their products for 10 years after the last product of the respective type has been placed on the market or directly installed and inform proactively about this availability, or

(j) accept to regain, directly or via their importers and distributors, ownership of surplus and unsold products that are in a state equivalent to the one in which they were placed on the market.

establishing requirements on 3D-datasets intended to be used for the 3D-printing of products covered by that act.

2b. ~~Once the Commission has specified these requirements by delegated acts, it may, as provided in accordance with Article 10(1) of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft requests which aim at the elaboration of voluntary harmonised standards for the providing presumption of conformity with these mandatory product or manufacturer requirements established in accordance with paragraphs 1 and 2a as specified by these delegated acts. The procedures set out in Regulation (EU) No 1025/2012 shall be applicable to those standardisation requests.~~ A construction product subject to those product requirements which is in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the product requirements covered by those standards or parts thereof.

3. The Commission is empowered to amend Annex I-BC ~~Part B, C and D~~ by means of delegated acts in accordance with Article 87 in order to adapt it to technical progress and in particular to cover new risks and environmental aspects.

Article 6

Assessment and verification systems and their product specific modalities

1. Assesment and verification of a product's constancy of performance in relation to its essential characteristics as set out in harmonised technical specifications adopted in accordance with articles 4 and 4a or European assessment documents referred to in Article 7a, or of its conformity with product requirements adopted in accordance with article 5, shall be carried out in accordance with one of the systems set out in Annex V.
- 1a. ~~In order to apply a tailor-made approach and to minimise the potential burden on manufacturers whilst ensuring a high level of protection of health, safety and the environment, †~~The Commission is empowered to adopt implementing acts supplement this Regulation, by means of delegated acts in accordance with Article 87, by determining for each product family or category the applicable assessment and verification system among those set out in Annex V. It may also determine different assessment and verification systems to the same product family or category when differentiating by essential characteristic or product requirement.

Implementing acts adopted in accordance with the first subparagraph shall apply a tailor-made approach for the respective product families or categories and minimise the potential burden on manufacturers whilst ensuring a high level of protection of health, safety and the environment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

- ~~2. In order to facilitate and to harmonise the application of the requirements or obligations contained in Annex V, the Commission shall, where appropriate, draw up guidance~~ is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying ~~on these requirements and obligations for a given product family or category.~~
3. In order to counter systematic non-compliances of notified bodies or manufacturers or in view of adaptation to technical progress, the Commission is empowered to ~~adopt amend this Regulation, by means of~~ delegated acts in accordance with Article 87; ~~in order to by amend Annex V to~~ introducing additional assessment ~~and or~~ verification steps in the systems of ~~in Annex V~~. Such systems may only be introduced when it is evident that ~~guidance issued under paragraph 2 on the application of existing systems~~ has proved insufficient. Additional systems ~~might may~~ not set out more demanding obligations for economic operators than prescribed for in System 1+.

Article 7a

European assessment documents

1. When a construction product is not covered by Construction Product Performance Standards as referred to in Article 4 or implementing acts referred to in Article 4a(1), the methods and criteria for assessing the performance of a construction product in relation to its essential characteristics can be laid down in European assessment documents.
European assessment documents constitute the basis for European technical assessments as set out in Article 42.
2. The organisation of technical assessment bodies ('TABs') may in agreement with the Commission, following a request for a European technical assessment by a manufacturer or a group of manufacturers or on the initiative of the Commission, draw up and adopt a European assessment document. The basic requirements for construction works, set out in Annex I-A Point 1, and the list of predetermined environmental characteristics, set out in Annex I-A Point 2, shall constitute the basis for the preparation of European assessment documents. The development and adoption of a European assessment document shall follow the principles and procedure set out in Article 36.
3. A construction product shall not be considered as covered by harmonised technical specifications as referred to in paragraph 1 when:
 - (i) the intended use of the product is different than the intended use supposed in the harmonised technical specification,
 - (ii) the materials used are not identical to the materials intended to be used under the harmonised technical specification, or
 - (iii) the assessment method of the harmonised technical specification is not appropriate for that product.

4. Even in the absence of harmonised technical specifications as referred to in the first paragraph, European assessment documents shall not be drawn up in relation to a construction product in any of the following cases:
- (a) a construction product performance standard covering the same construction product has been submitted to the Commission for assessment in accordance with Article 4(2c);
 - (b) the Commission has informed the committee referred to in Article 22 of Regulation EU (No) 1025/2012 about the fulfilment of the conditions in Article 4a(1) for adopting an implementing act covering the same construction product;
 - (c) there is another European assessment document covering the same construction product, the reference of which has either already been published in the Official Journal or has been submitted to the Commission for assessment in accordance with Article 38(1).

The organisation of TABs and the Commission may bundle or reject requests for the development of a European assessment document.

5. The organisation of TABs shall withdraw a European assessment document when a harmonised technical specification as referred to in paragraph 1 has entered into force covering the same construction product as that document.

Article 8

Relationship with other Union law

To avoid double assessment of products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 by determining the conditions under which the fulfilment of obligations under other Union law also fulfils certain obligations under this Regulation, where otherwise the same aspect of health, safety or protection of the environment would be assessed in parallel under this Regulation and other Union law. *[To be discussed during WP]*

Article 10

Exemptions from drawing up a declaration of performance and conformity

1. By way of derogation from Article 9(1), a manufacturer may refrain from undergoing the applicable assessment and verification system, verifying the product's compliance with applicable product requirements and the drawing up of a declaration of performance and conformity when ~~placing a product covered by a harmonised technical specification on the market where~~ any of the following applies:
 - (a) *[for possible deletion]* the product is, ~~otherwise than by 3D-printing or already existing moulds~~, individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work, by a manufacturer who is also responsible for the safe incorporation of the product into the construction work in compliance with the applicable national rules, and under the supervision of those responsible for the safe execution of the construction works designated under the applicable national rules; ~~this exemption does not apply to products manufactured by 3D-printing or using of existing moulds~~ in accordance with Article 28; or

- ~~(b) — the product is otherwise than by 3D printing or already existing moulds manufactured on the construction site, in a non-series process for its incorporation in the respective construction work in compliance with the applicable national rules and under the supervision of those responsible for the safe execution of the construction works designated under the applicable national rules; this exemption does not apply to products manufactured by 3D printing or using of existing moulds in accordance with Article 28; or~~
- (c) the product is manufactured in a manner exclusively appropriate to heritage conservation and in a non-series process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit.

[Paragraphs 2 and 3 to be discussed in connection with provisions on remanufactured products]

2. A Member State may exempt from Article 9(1) remanufactured products based on products which remain safe after remanufacturing provided that it ensures that the product does not to circulate outside the territory of that Member State.
3. A Member State may exempt from Article 9(1) parts of construction works other than products that are prepared for re-use or remanufactured provided that the part does not to circulate outside the territory of that Member State.

~~4. A Member State may exempt from Article 9(1) products where all of the following applies:~~

- ~~(a) the manufacturer is a micro-enterprise without belonging to a family of companies or other commercial organisation, including networks, able to determine or organise the manufacturer's activities;~~
- ~~(b) the manufacturer uses exclusively or in essence components or materials with commonly known stable characteristics or products which have been voluntarily subject to this Regulation and, in all instances, the characteristics of the product depend in essence on the characteristics of these components or materials;~~
- ~~(c) the product does not to circulate outside the territory of that Member State.~~

Additional environmental obligations of manufacturers

~~1. For the product characteristics specified in Annex I Part A Point 2, the manufacturer shall assess the environmental characteristics of the product in accordance with harmonised technical specifications or with Commission acts adopted under this Regulation and use, once available, the latest version of the software made freely available on the website of the European Commission. However, this shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.~~

[Moved to Article 11(2a)]

~~2. Unless product safety or the safety of construction works is thereby negatively impacted, the manufacturer has the following obligations:~~

~~(a) design and manufacture products and their packaging in such a way that their overall environmental, including climate sustainability reaches the state of the art level, unless a lower level:~~

~~(i) is proportionate when compared to the environmental sustainability improvement triggered by them at the level of the construction works; and~~

~~(ii) is either necessary to improve the environmental sustainability at the level of the construction works.~~

~~(b) under the conditions set out in point (a)(i) and (ii) give preference to recyclable materials and materials gained from recycling;~~

- ~~(c) — respect the minimum recycled content obligations and other limit values regarding aspects of environmental, including climate sustainability contained in harmonised technical specifications;~~
- ~~(d) — prevent premature obsolescence of products, use reliable parts and design products in such a way that their durability does not fall beyond the average durability of products of the respective category;~~
- ~~(e) — design products in such a way that they can be easily repaired, refurbished and upgraded, unless such design triggers non-compliance with other requirements of this Regulation, or other Union law, or repairing, refurbishing or upgrading is risky for human safety or the environment, in which case the manufacturer shall refrain from repairable, refurbishable or upgradable design and warn against repairing in accordance with point (f);~~
- ~~(f) — make available, in product databases, instructions for use and on permalinks of their own websites, information on how to repair the products and any additional information necessary for repairing, including relevant warnings;~~
- ~~(g) — make available on the market itself or by specially designated distributors or by manufacturers of spare parts, with reasonably short delivery time, spare parts for their products for 10 years after the last product of the respective type has been placed on the market or directly installed and inform proactively about this availability;~~
- ~~(h) — design products in such a way that re-use, remanufacturing and recycling are facilitated, namely by facilitating the separation of components and materials at the later stage of recycling and avoiding mixed, blended or intricate materials, unless remanufacturing and recycling are risky for human safety or the environment. In this case the manufacturer shall refrain from such design and warn against remanufacturing and recycling in accordance with the following point;~~

- ~~(i) — make available, in product databases, instructions for use and on their own websites, information on how to remanufacture or recycle the products and any additional information necessary for re-use, remanufacturing or recycling, including relevant warnings;~~
- ~~(j) — accept to regain, directly or via their importers and distributors, ownership of surplus and unsold products that are in a state equivalent to the one in which they were placed on the market.~~

~~Where obligations of this paragraph cannot be cumulatively fulfilled due to a conflict arising between different obligations, the manufacturer shall choose a trade-off solution that brings the highest and most cost-effective benefits in terms of environmental sustainability for the products and construction works combined. However, the “safety first” principle, applicable both for the construction product and the construction works, shall in all instances be respected, and shall encompass protection of health.~~

[Paragraph 3 to be discussed in connection with provisions on used products]

3. Paragraph 2, points (a) to (c) and paragraph 2 point (j), shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.
- ~~4. — In order to specify the obligations set out in paragraph 2, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying, for particular product families and categories, these obligations. Alternatively, the Commission may issue standardisation requests which aim at the elaboration of harmonised standards providing presumption of conformity with the obligations of paragraph 2 for a specific product family or category. The obligations contained in paragraph 2 shall not apply before such a delegated act or a harmonised standard has become applicable.~~

[Paragraphs 5-6 to be discussed at a later stage]

5. In order to ensure transparency for the users and to promote sustainable products, the Commission is empowered to supplement this Regulation by delegated acts adopted in accordance with Article 87 to establish specific environmental sustainability labelling requirements including “traffic-light-labelling” in relation to environmental obligations set out in paragraph 1, product inherent environmental requirements set out in Annex I Part C Point 2, and environmental performance classes established in accordance with of Article 4(4), point (a).
6. The manufacturer shall affix the traffic light label in the way set out in the delegated acts adopted in accordance with paragraph 5.

~~***Obligations in relation to of 3D-printing of construction products service providers and of providers of moulds, of 3D-printing datasets, and of 3D-printing materials***~~

- ~~1. A natural or legal person using 3D-printing service provider for the commercial production of a product covered by this Regulation shall, when that product is not intended for his or her own use, assume the responsibilities of the manufacturer under this Regulation in respect of that product unless there is another person who has either placed it on the market under his or her own name or trademark or who has assumed the responsibility of the product by having drawn up a declaration of performance in accordance with article 9.:~~

Recital: (9) To avoid circumvention of the obligations under this Regulation when the production technology, for example 3D-printing, may involve several different actors who contribute to the design and manufacture of a construction product, it is necessary to establish a clearly defined manufacturer's role where the natural or legal person who does the actual production of a construction product assume the responsibilities under this Regulation in respect of that product in its entirety, unless there is another person who either places the product on the market under his or her own name or trademark or who assumes responsibility for the product by drawing up a declaration of performance and conformity.

- ~~(a) refrain from placing on the market or directly installing products for clients without satisfying the obligations incumbent on manufacturers;~~
- ~~(b) inform its clients that they may use 3D-printing services only for the fabrication of products for their own use, unless satisfying the obligations incumbent on manufacturers;~~

- (e) ~~inform its clients that the 3D-datasets and the materials to be used shall have undergone the procedures applicable to products under this Regulation; and~~
- (d) ~~inform its clients that both the information provided by the manufacturer of the 3D-dataset and the information provided by the manufacturer of the printing material shall coincide and confirm the usability of the material for that type of 3D-dataset and the given 3D-printing technology.~~

2. ~~Providers of moulds and of 3D-datasets intended to produce items covered by this Regulation shall produce 10 such items and shall make them available to the notified body, technical assessment body and to authorities on request. When a product is covered by product requirements established in accordance with Article 5(1), Providers of moulds and of 3D-datasets intended to produce items covered by this Regulation such a product shall assess and document the fulfilment of any requirements relating to the product's design as specified by the applicable harmonised technical specification as well as any requirement on 3D-datasets established in accordance with Article 5(2a) of this Regulation with regard to the produced items. Those providers shall ensure that only 3D-datasets that comply with applicable requirements are made available on the market.~~
3. ~~Providers of materials intended to be used for the 3D-printing of items covered by this Regulation on or close to the construction site shall produce 10 such items for each intended use and shall make them available to the notified body, technical assessment body and to authorities on request. Providers of materials intended to be used for the 3D-printing of items covered by this Regulation on or close to the construction site shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.~~
- 3a. ~~This article does not apply to products placed on the market or directly installed under responsibility of a manufacturer.~~

Article 35

European assessment document

[Moved to Article 7a]

- ~~1. Article 4(1) and (4), Article 6, Article 9 and Articles 11 to 17 shall apply to European assessment documents. Where the CE marking is issued on the basis of a European assessment document and European technical assessment, the European assessment document shall be referred to in the declaration of performance and the declaration of conformity.~~
- ~~2. Following a request for a European technical assessment by a manufacturer or a group of manufacturers or on initiative of the Commission, a European assessment document may be drawn up and adopted by the organisation of technical assessment bodies ('TABs') in agreement with the Commission for any product not covered by:
 - ~~(a) a harmonised technical specification;~~
 - ~~(b) a harmonised technical specification intended to be adopted in the next 2 years as from the date of verification with the Commission;~~
 - ~~(c) another European assessment document already cited in the Official Journal or submitted to the Commission for citation therein.~~~~

~~The product shall not be considered as covered by the harmonised technical specification where:~~

~~(i) the intended use of the product is different than the intended use supposed in the document,~~

~~(ii) the materials used are not identical to the materials intended to be used under the document, or~~

~~(iii) the assessment method of the document is not appropriate for that product.~~

~~3. The organisation of TABs and the Commission may bundle or reject requests for the development of a European assessment document. The procedure for adopting the European assessment document shall respect Article 36 and shall comply with Article 37 and Annex III.~~

~~4. The Commission is empowered to amend Annex III by delegated act adopted in accordance with Article 87 to establish supplementary procedural rules for the development and adoption of a European assessment document, where this is necessary to ensure the good functioning of the European assessment documents system.~~

Principles and procedure for the development and adoption of European assessment documents

1. ~~The procedure for~~ When developing and adopting European assessment documents, individual TABs as well as the organisation of TABs shall follow the procedure set out in Annex III and respect the following principles:
- (a) be transparent to Member States, the manufacturer concerned and to other manufacturers or stakeholders that request to be informed;
 - (b) disclose as little as possible information protected by intellectual property rights, and protect commercial secrecy and confidentiality;
 - (c) specify appropriate mandatory time limits in order to avoid unjustified delay;
 - (d) allow at any stage for adequate participation by the Member States and the Commission;
 - (e) be cost-effective for the manufacturer; and
 - (f) ensure sufficient collegiality and coordination amongst TABs designated for the product in question.

The balancing of principles laid down in points (a) and (b) shall at least allow for the disclosure of the name of the product at the stage of the approval and the communication of the work programme, as set out in Annex III, point 3., and the detailed contents of the draft European assessment document set out in Annex III, point 7.

2. The TABs shall, together with the organisation of TABs, bear the full costs of the development and adoption of European assessment documents, unless it is started on initiative of the Commission.

3. TABs and the organisation of TABs shall avoid any proliferation of European assessment documents where there is no technical justification for differentiating between products and shall therefore in particular give preference to the extension of a scope of an existing European assessment document.
4. Even when allowed for in accordance with Article 7a, TABs and the organisation of TABs shall refrain from developing European assessment documents where there is a high likelihood of future duplication with harmonised technical specifications or pre-existing European assessment documents ~~and shall withdraw duplicating European assessment documents~~.
5. The Commission is empowered to amend Annex III by delegated act adopted in accordance with Article 87 to establish supplementary procedural rules for the development and adoption of a European assessment document, where this is necessary to ensure the good functioning of the European assessment documents system.

Obligations of the TAB receiving a request for a European technical assessment

1. ~~The TAB~~ When receiving a request for a European technical assessment from a manufacturer, or a group of manufacturers ~~or the manufacturers' association~~, the TAB shall inform the applicant ~~if the product is covered, fully or partially, by a harmonised technical specification or European assessment document~~ as follows:
 - (a) where the product is **fully** covered by a harmonised technical specification or a European assesment document cannot be drawn up in accordance with with Article 7a(4)(a) or (b), the TAB shall inform the ~~manufacturer, the group of manufacturers or the manufacturers' association~~ applicant that, ~~in accordance with Article 35(2)~~, a European technical assessment cannot be issued;
 - (b) where the product is **fully** covered by a European assessment document the reference of which has been ~~cited~~ published in the Official Journal, the TAB shall inform the ~~manufacturer, the group of manufacturers or the manufacturers' association~~ applicant that the referenced European assessment ~~such a~~ document will be used as the basis for the European technical assessment to be issued;
 - (c) where the product is eligible not covered by any harmonised technical specification for a European assessment document pursuant to Article 7a and ~~where no such harmonised technical specification is intended to be adopted in the next two years, the deadline for delivery of harmonised standard was published and it is not expected within two years, or~~ no such ~~or European assessment~~ document is **already** in the procedure of being developed ~~ing pursuant to Annex III~~, the TAB shall inform the applicant that apply the procedures set out in Annex III will be initiated ~~or those established in accordance with Article 35(4)~~.

2. In the cases referred to in paragraph 1, points (b) and (c), the TAB shall inform the organisation of TABs and the Commission of the content of the request and of the reference to a relevant Commission act determining the assessment and verification system in accordance with Article 6(1a), which the TAB intends to apply for that product, or of the lack of such a Commission decision.
3. If the Commission considers that an appropriate Commission act determining the assessment and verification system does not exist for the product, it may adopt such act in accordance with Article 6(1a).

Publication of references

1. The Commission shall assess the ~~conformity compliance~~ of European assessment documents with harmonised technical specifications, with this Regulation and with other Union law. ~~Where a European assessment document is in conformity with applicable legal requirements, the Commission shall without delay publish a reference of that document or publish with restriction in the Official Journal of the European Union, the list of~~ Where a references of accepted conforming to a European assessment documents cannot be published in the Official Journal,- the Commission may shall publish such a reference with restrictions any updates to that list.

2. ~~Only European assessment documents referred to in that list and published in at least one language of the Union by either the Commission or by the organisation of TABs shall authorise the issuing of European technical assessments in accordance with Article 42 and trigger legal effects in accordance with Article 42(5), including with regard to the manufacturer who requested the development of the European assessment document. This legal effect of European assessment documents shall expire ten years after their first citation in the Official Journal of the European Union unless they have been renewed in the last year prior to expiry and the Commission decides to maintain the listing.~~

Following publication in accordance with paragraph 1, a European assessment document may in accordance with Article 42 be used as a basis for a European technical assessment for a period of 10 years, unless withdrawn for other reasons. The organisation of TABs may in the last year prior to the expiration of a European assessment document decide to submit it for renewed validity. The Commission shall in that case reassess it in accordance with paragraph 1.

Article 39

~~***Dispute resolution in cases of disagreement between TABs***~~

~~If the TABs do not agree upon the European assessment document within the time limits provided for, the organisation of TABs shall submit this matter to the Commission for appropriate resolution, including instructions to this organisation how to complete its work. [Moved to annex III point 5]~~

Article 40

Content of the European assessment document

1. A European assessment document shall contain the following elements:
 - (a) a description of the product covered; and
 - (b) the list of essential characteristics, including predetermined environmental characteristics as set out in Annex I-A Point 2, relevant for the intended use of the product as set out by the manufacturer and agreed between the manufacturer and the organisation of TABs, and the methods and criteria for assessing the performance of the product in relation to those essential characteristics.
2. Principles for the **applicable** factory production control to be applied shall be set out in the European assessment document, taking into account the conditions of the manufacturing process of the product concerned.

3. Where the performance of ~~some of certain~~ essential characteristics of the product can appropriately be assessed with methods and criteria already established in harmonised technical specifications or other European assessment documents, those existing methods and criteria shall be incorporated as parts of the European assessment document, unless there are good reasons not to ~~deviate from this rule~~. Where applicable, these principles shall also apply for thresholds levels and classes of performance adopted in accordance with Article 4a(2).

Article 41

Formal objections against European assessment documents

1. A Member State shall inform the Commission of all of the following:
- (a) where it considers that a European assessment document does not entirely satisfy conform with applicable legal requirements or satisfy the demands to be met in relation to the essential characteristics to be covered in view of the basic requirements for construction works ~~or product requirements~~ set out in Annex I;
 - (b) where it considers that a European assessment document raises a major concern for human health and safety, the protection of the environment or consumer protection;
 - ~~(c) — where it considers that a European assessment document does not fulfil the requirements set out in Article 35(2);~~

The Member State concerned shall substantiate its viewpoints. The Commission shall consult the other Member States on the issues raised by the Member State concerned.

2. In the light of the views of all the Member States, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the European assessment documents concerned in or from the Official Journal of the European Union.
3. The Commission shall inform the Member States and the organisation of TABs of its decision referred to in paragraph 2 and, where necessary, request the revision of the European assessment document concerned.

Article 42

European technical assessment

1. ~~The A~~ European technical assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a European assessment document ~~established in accordance with the procedures set out in Article 37 and Annex III~~ the reference of which has been ~~cited~~ published in the Official Journal of the European Union in accordance with Article 38.

Provided that there is a European assessment document, a European technical assessment may be issued even in the case where a standardisation request has been issued. Such issuing shall be possible until the ~~citation~~ publication of a reference to the construction products performance standard in the Official Journal of the Union.

2. The European technical assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the TAB receiving the request for the European technical assessment for the declared intended use, and technical details necessary for the implementation of the assessment and verification system.

3. The Commission may adopt implementing acts to establish the format of the European technical assessment.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).

4. European technical assessments issued on the basis of a European assessment document remain valid for five years after the expiry date of the European assessment document in accordance with Article 38(2).
5. Products covered by a European assessment document for which a European technical assessment has been issued may be CE marked and thereby obtain the same status as products CE marked on the basis of harmonised technical specifications, where the manufacturer satisfies the obligations set out in this Regulation. Where these obligations refer to harmonised technical specifications, the manufacturer shall refer to the European assessment document instead or, where the harmonised technical specifications are also relevant, in addition.

CHAPTER VII

SIMPLIFIED PROCEDURES

Article 64

Use of appropriate technical documentation

1. A manufacturer may replace type testing by appropriate technical documentation demonstrating that:
 - (a) for one or several essential characteristics of the product, which the manufacturer places on the market, that product is deemed to achieve a certain level or class of performance without testing or calculation, or without further testing or calculation, in accordance with the conditions set out to that end in the relevant harmonised technical specification or a Commission act; or
 - (b) the product, covered by a harmonised technical specification or a European assesment document, which the manufacturer places on the market is a system made of items components, which the manufacturer assembles duly following precise instructions, including compatibility criteria in case of individual items components, given by the provider of such a system or of a component thereof, who has already tested that system or that item component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are satisfied and when the manufacturer has notably verified that the precise compatibility criteria of the provider are met, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the item component provided to him.

2. If the product referred to in paragraph 1 belongs to a family or category of products for which the applicable assessment and verification system is system 1 + or 1, as set out in Annex V, a notified body or TAB shall, in addition to the tasks set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Article 65

Use of simplified procedures by micro-enterprises

1. Micro-enterprises manufacturing products covered by a harmonised technical specification or a European assesment document may treat products to which system 3 applies in accordance with provisions for system 4. When a manufacturer uses this simplified procedure, the manufacturer shall demonstrate compliance of the product with the applicable requirements by means of a Specific Technical Documentation.
2. The fulfilment of the requirements of this Article ~~shall~~ may be assessed and confirmed by a TAB or a notified body.

Custom-made non-series products

1. ~~In relation to~~ For a products ~~covered by a harmonised technical specification and~~ which are individually manufactured or custom-made in a non-series process in response to a specific order, and ~~which are~~ installed in a single identified construction work by a manufacturers who ~~are~~ is also responsible for the safe incorporation of ~~th~~at ~~ose~~ products into the construction works, the performance assessment part of the applicable system, as set out in Annex V, may be replaced ~~by the manufacturer~~ by a Specific Technical Documentation where the manufacturer demonstrates ing the compliance of that product with ~~the~~ applicable requirements and provides ing data equivalent to those required by this Regulation and the applicable harmonised technical specifications. Equivalence is given where all the data needed and requirements applicable to the particular construction work and its future dismantling, including reuse, remanufacturing and recycling of its installed products, are provided or fulfilled on the basis of state-of-the-art methods.
2. If the product referred to in paragraph 1 belongs to a family or category of products for which the applicable assessment and verification system is system 1 + or 1, as set out in Annex V, Aa notified body or TAB shall, in addition to the tasks set out in Annex V, assess and certify the correct fulfilment of the obligations referred to in paragraph 1.

Recognition of assessment and verification by another notified body

1. A notified body (~~hereafter: recognising notified body~~) may refrain from the assessment and verification of a certain product item to be assessed or verified in accordance with this Regulation and recognise the assessment and verification undertaken by another notified body for the same or another economic operator where all of the following applies:
- (a) the product item has been correctly assessed and verified by the other notified body ~~which is—whilst being rebuttable—to be assumed where the respective report does not contain any information suggesting an error~~;
 - (b) there is an agreement in place between the two notified bodies obliging them to share all information regarding the assessment and verification ~~and their respective certificates and reports~~;
 - (c) the assessed or verified economic operator agrees to share all relevant data and documents with the recognising notified body;
 - (d) the validity of the certificate is limited to the validity of the certificate issued by the other notified body.

This paragraph shall also apply to test reports that are not followed by a certification and to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) ... [Regulation on ecodesign for sustainable products].

2. Where the notified body wishes to recognise an assessment or verification undertaken by another notified body in relation to an economic operator for which only the other notified body is in charge (~~“other economic operator”~~), ~~the recognition shall only be possible and provided that if~~ there is ~~additionally~~ an agreement in place between the two economic operators that ensures the free flow of all information between them and the notified bodies in view of ensuring compliance with this Regulation, ~~the recognition shall only be possible with regard to the following:~~

~~(a) — with regard to the verification of the environmental sustainability calculation of the other economic operator, namely supplier or service provider, and their respective supplied goods or services, or~~

~~(b) — with regard to components where these components do not constitute the entire product.~~

This paragraph shall also apply to assessments of calculation of the environmental sustainability undertaken under Regulation (EU) ... [Regulation on ecodesign for sustainable products].

ANNEX I-A
Requirements

**~~PART A: Basic requirements for construction works and essential~~ minimum predetermined
environmental characteristics to be covered**

1. Basic requirements for construction works

The following list of basic requirements for construction works shall be taken as the basis for the identification of essential characteristics of products and for the preparation of standardization requests and harmonized technical specifications.

These basic requirements for construction works do not constitute obligations incumbent upon economic operators or Member States.

The intended life span related to basic requirements for construction works shall take into account the likely impacts of the changing climate.

1.1. Structural integrity of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and deconstructed or demolished in such a way that all relevant loads and any combinations of them are sustained and transmitted into the ground safely and without causing deflections or deformations of any part of the construction works, or movement of the ground as to impair the durability, structural resistance, serviceability and robustness of the construction works.

The structure and structural elements of construction works shall be designed, manufactured, constructed, maintained and deconstructed or demolished in such a way that they meet the following requirements:

- (a) be durable for their intended life span (durability requirement);
- (b) be able to sustain all actions and influences likely to occur during construction, use and deconstruction or demolition with an appropriate degree of reliability and in a cost-effective way (structural resistance requirement). They shall not:
 - (i) collapse,
 - (ii) deform to an inadmissible degree,
 - (iii) damage other parts of the construction works, fittings or installed equipment as a result of major deformation of the load-bearing construction;
- (c) remain within their specified service requirements during the intended life span with appropriate degrees of reliability and in an economic way (serviceability requirement);
- (d) maintain appropriately their integrity in adverse events, including earthquake, explosion, fire, impact or consequences of human errors, to an extent disproportionate to the original cause (robustness requirement).

1.2. Fire safety of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and deconstructed or demolished in such a way that an event of fire is appropriately prevented, including through adequate usage of detectors and alarms. In case of a fire, the fire shall be detected and an alarm or alert shall be triggered without a delay. The fire and smoke shall be contained and controlled, and the occupants of the construction works shall be protected against fire and smoke. There shall be appropriate arrangements to ensure safe escape and evacuation of the construction works for all its occupants.

The construction works and any part of them shall be designed, constructed, used and maintained in such a way that they meet the following requirements in the case of a fire:

- (a) the load-bearing capacity of the construction works is maintained for a specific period of time to give occupants time to leave the building;
- (b) the rescue and emergency services' access is ensured and there are appropriate means to facilitate their work;
- (c) the generation and spread of fire and smoke is controlled and limited;
- (d) the spread of the fire and smoke to the adjacent construction works is limited;
- (e) the safety of rescue and emergency services is taken into consideration.

1.3. ~~Workers, consumer and occupant p~~Protection against adverse hygiene and health impacts related to construction works

The construction works and any part of them shall be designed, constructed, used, maintained and deconstructed or demolished in such a way that they, throughout their life cycle, do not present acute or chronic threat to the health and safety of construction workers, occupants, visitors or neighbors as a result of any of the following:

- (a) the emissions of hazardous substances, volatile organic compounds or hazardous particles into indoor air;
- (b) the emission of hazardous radiation into the indoor environment;
- (c) the release of hazardous substances into drinking water or substances which have an otherwise negative impact on drinking water;
- (d) the passage of moisture to the interior of the building;
- (e) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste to the indoor environment.

1.4. ~~Workers, consumers and occupants protection against physical injuries~~ Safety and accessibility of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and deconstructed or demolished in such a way that, throughout their life cycle, they do not present unacceptable risks of accidents or damage in service or in operation, including slipping, falling, collision, burns, electrocution and injury from falling or braking parts caused by external factors like extreme weather conditions, burglaries or explosions.

In particular, construction works shall be designed and built taking into consideration accessibility and use for disabled persons with limited mobility or orientation.

1.5. Resistance to the passage of sound and acoustic properties of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and **deconstructed or** demolished in such a way that they provide, throughout their life cycle, reasonable protection against adverse sound load through air or materials from other parts of the same construction work or sources outside its structure. That protection shall ensure that it:

- (a) does not create immediate or chronic risks for the human health;
- (b) allows occupants and people nearby to sleep, rest and engage in their normal activities in satisfactory conditions.

The construction works and any part of them shall be designed, constructed, used and maintained in such a way that they provide sufficient sound absorption and reflection where these acoustic properties are required.

1.6. Energy efficiency and thermal performance of construction works

The construction works, **including automated processes within them**, and their heating, cooling, lighting and ventilation installations shall be designed, built, and maintained in such a way that, **throughout their life cycle**, the amount of energy they require **in during their** use **phase** shall be low, when account is taken of:

- (a) the target for nearly zero energy buildings and zero-emissions buildings in the Union;
- (b) the outdoor climatic conditions;
- (c) the indoor climate conditions.

1.7. Hazardous emissions into the outdoor environment of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and demolished in such a way that, throughout their life cycle, they are not a ~~threat~~ risk to the outdoor environment, as a result of any of the following:

- (a) the release of hazardous substances or radiation into ground water, marine or surface waters or soil;
- (b) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste to the outdoor environment;
- (c) damage to the building, including damage through the transport of water-borne contaminants to the foundations of the building;
- (d) ~~the release of net~~ greenhouse gas emissions into the atmosphere.

1.8. Sustainable use of natural resources of construction works

The construction works and any part of them shall be designed, constructed, used, maintained and deconstructed or demolished in such a way that, throughout their life cycle, the use of natural resources is sustainable and ensures the following:

- (a) use of raw and secondary materials of high environmental sustainability ~~and thus with a low environmental footprint~~;
- (b) minimizing the overall amount of raw materials used;
- (c) minimizing the overall amount of embodied energy;
- (d) minimizing the overall use of drinking and brown water;
- (e) maximising the reuse or recyclability of the construction works, in parts or in whole, and of ~~them and~~ their materials after deconstruction or demolition.

2. ~~Minimum Predetermined~~ environmental ~~Essential~~ characteristics to be covered

Harmonised technical specifications shall to the extent possible cover the following list of predetermined essential environmental characteristics related to the life cycle assessment of a product:

- (a) climate change effects (mandatory in accordance with Article 11(2));
- (b) ozone depletion;
- (c) acidification potential;
- (d) eutrophication aquatic freshwater;
- (e) eutrophication aquatic marine;
- (f) eutrophication terrestrial;
- (g) photochemical ozone;
- (h) abiotic depletion – minerals, metals;
- (i) abiotic depletion – fossil fuels;
- (j) water use;
- (k) particulate matter;
- (l) ionizing radiation, human health;
- (m) eco-toxicity, freshwater;
- (n) human toxicity, cancer;
- (o) human toxicity, non-cancer;
- (p) land use related impacts.

~~Harmonised technical specifications shall indicate that for the life cycle assessment essential characteristic of climate change effects under point (a) it is mandatory for the manufacturer to declare the performance of the product as set out in Articles 11(2) and 22(1).~~

~~Harmonised technical specifications covering life cycle assessment characteristics shall specify that, once available, the latest version of the software made freely available on the website of the European Commission shall be used when assessing those characteristics. However, this shall not apply in case of used, remanufactured or surplus products, unless the economic operator, subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.~~

Harmonised technical specifications shall also cover to the extent possible the **essential predetermined environmental** characteristic of capability to temporarily bind carbon and of other carbon removals.

ANNEX I-BC

PART B: Product Rrequirements ensuring the appropriate functioning and performance of products

1. Functionality and performance requirements

1.1 Harmonised technical specifications adopted in accordance with Article 5(1) may, as appropriate for the products it covers, specify how Pproducts shall be designed and manufactured in such a way that:

- (a) they fulfil well their intended purpose;
- (b) the fulfilment of the declared performance is not impaired;
- (c) the fulfilment of the environmental and safety requirements set out in points 2 and 3 ~~Part C~~ is not impaired;
- (d) they work well when being used.

1.2. ~~The product requirements harmonised technical specifications referred to in point 1 shall be specified in harmonised technical specifications, including by specifying may where necessary, also Voluntary harmonised standards, requested in accordance with Article 5(2b), shall set out how any these requirements in accordance with Point 1.1 can be fulfilled through for instance:~~

- (a) the use of specific materials which can be specified also in terms of their chemical composition;
- (b) specific dimensions and shapes of products or their components;
- (c) the use of certain components which can be specified also in terms of materials, dimensions and shapes;
- (d) the use of certain accessories and requirements for them;
- ~~(e) a specific way of installation;~~
- ~~(f) a specific way of maintenance;~~
- ~~(g) periodic inspections.~~

1.3. Where these product requirements are necessary to ensure the performance with regard to a certain essential characteristic or the compliance with regard to a certain safety or environmental product requirement, this shall be specified in the harmonised technical specifications.

PART C: Inherent product requirements

42. Inherent product safety requirements

Safety relates to professionals (workers) and laypersons (consumers, occupants), while they transport, install, maintain, use or dismantle the product, as well as while they treat the product for its end of life phase or its reuse or recycling.

42.1. Harmonised technical specifications adopted in accordance with Article 5(1) may, as appropriate for the products it covers, specify how products shall be designed, manufactured, and packaged in such a way that one or more of the following inherent product safety risks are, ~~where relevant,~~ addressed in accordance with the state of the art and to the extent not covered by other EU legislation:

- (a) chemical risks due to leaking or leaching;
- (b) risk of unbalanced composition in terms of substances resulting in flawed, safety-relevant functioning of products;
- (c) mechanical risks;
- (d) mechanical failure;
- (e) physical failure;
- (f) risks of electric failure;
- (g) risks linked to electricity supply breakdown;
- (h) risks linked to unintended charge or discharge of electricity;
- (i) risks linked to software failure;

- (j) risks of software manipulation;
- (k) risks of incompatibility of substances or materials;
- (l) risks linked to the incompatibility of different items, at least one of them being a product;
- (m) risk of not performing as intended, whilst the performance is safety relevant;
- (n) risk of misunderstanding instructions for use in a field affecting health and safety;
- (o) risk of unintended inappropriate installation or use;
- (p) risk of intended inappropriate use.

12.2. ~~Harmonised technical specifications shall, as appropriate, specify these inherent product safety requirements, which might relate to but are in essence independent from the phase of the installation of the product into construction works. When specifying the inherent product safety requirements, Voluntary harmonised standards, requested in accordance with article 5(2b), technical specifications shall at least cover the following elements set out how any requirements in accordance with Point 2.1 can be fulfilled, by for instance:~~

- (a) ~~define~~ define the state of the art of possible risk reduction with regard to the respective product category, including the risk of incompatibility of different items, at least one of them being a product;
- (b) ~~provide~~ provide technical solutions that avoid safety-related risks, ~~or;~~
- (~~e~~) where risk avoidance is not possible, reduce and mitigate risks ~~shall be reduced, mitigated and by~~ addressed by them through warnings on the product, its packaging and in instructions for use;

2.3 When specifying the inherent product safety requirements, harmonised technical specifications may differentiate these in accordance with performance classes.

23. Inherent product environmental requirements

~~Environment relates to the extraction and manufacturing of the materials, the manufacturing of the product, its maintenance, its potential to remain as long as possible within a circular economy and its end of life phase.~~

23.1. Harmonised technical specifications adopted in accordance with Article 5(1) may, as appropriate for the products it covers, specify how products shall be designed, manufactured, and packaged in such a way that one or more of the following inherent product environmental aspects are, ~~where relevant,~~ addressed in accordance with the state of the art and to the extent not covered by other EU legislation:

- (a) maximising durability in terms of the expected average life span, the expected minimum life span under worst but still realistic conditions, and in terms of the minimum life span requirements;
- (b) minimising whole-life-cycle greenhouse gas emissions;
- (c) maximising recycled content wherever possible without safety loss or outweighing negative environmental impact;
- (d) selection of safe, environmentally benign substances;
- (e) energy use and energy efficiency;
- (f) resource efficiency;
- (g) identification which product or parts thereof and in what quantity can be reused after de-installation (reusability);

- (h) upgradability;
- (i) reparability during the expected life span;
- (j) possibility of maintenance and refurbishment during the expected life span;
- (k) recyclability and the capability to be remanufactured;
- (l) capability of different materials or substances to be separated and recovered during dismantling or recycling procedures.

23.2. ~~Harmonised technical specifications shall, as appropriate, specify these inherent product environmental requirements, which might relate to but are in essence independent from the phase of the installation of the product into construction works.~~ When specifying the inherent product environmental requirements, Voluntary harmonised standards, requested in accordance with article 5(2b), technical specifications shall at least cover the following elements set out how any requirements in accordance with Point 3.1 can be fulfilled, by for instance:

- (a) ~~if possible,~~ defininge the state of the art of addressing the environmental aspects with regard to the respective product category, including the minimum recycled content;
- (b) providinge technical solutions which avoid negative environmental effects and risks, including the generation of waste materials, ~~or;~~
- (e) where avoidance is not possible, reduce and mitigate negative effects and risks ~~shall be reduced, mitigated and by~~ addressinged by them through warnings on the product, its packaging and in instructions for use.

3.3 When specifying the inherent product environmental requirements, harmonised technical specifications may differentiate these in accordance with performance classes.

ANNEX III

Procedure for adopting a European Assessment Document

1. Request for a European Technical Assessment
 - (a) When a manufacturer makes a request for a European Technical Assessment to any TAB for a product, and after the manufacturer and the TAB (hereinafter referred to as the 'responsible TAB') have signed an agreement of commercial secrecy and confidentiality, unless the manufacturer decides otherwise, the manufacturer shall submit to the responsible TAB a technical file describing the product, its use as foreseen by the manufacturer and details of the factory production control the manufacturer intends to apply.
 - (b) When a group of manufacturers ~~or a manufacturers' association~~ (hereinafter referred to as the 'Group') makes a request for a European Technical Assessment, it shall address the request to the organisation of TABs that will propose to the Group a TAB to act as the responsible TAB. The Group can either accept the proposed TAB or ask the organisation of TABs to propose an alternative TAB. Once the Group has accepted the responsible TAB proposed by the organisation of TABs, the members of the Group shall sign an agreement of commercial secrecy and confidentiality with this TAB, unless the Group decides otherwise, and the Group shall submit to the responsible TAB a technical file describing the product, its use as foreseen by the Group and details of the factory production control the members of the Group intend to apply.

- (c) In the absence of a request for a European Technical Assessment, when the Commission initiates the development of a European Assessment Document, it shall deliver to the organisation of TABs a technical file describing the product, its use and details of the factory production control to become applicable. The organisation of TABs shall together with the Commission ~~selects the~~ agree on a TAB to act as the responsible TAB, ~~after consulting the organisation of TABs.~~

2. Contract

For products referred to in Article 37(1)(c), within 1 month from the reception of the technical file, in cases foreseen in points 1(a) and 1(b), a contract shall be concluded respectively between the manufacturer or the Group and the responsible TAB for the production of the European Technical Assessment, specifying the work programme for drawing up the European Assessment Document, including:

- (a) the organisation of work within the organisation of TABs,
- (b) the composition of the workgroup to be established within the organisation of TABs, designated for the product family ~~area~~ in question, and
- (c) the coordination of TABs.

In the case foreseen in point 1(c), the responsible TAB shall submit to the Commission the work programme for drawing up the European Assessment Document with the same content and within the same deadline. After that, the Commission shall have 30 working days to communicate to the responsible TAB its observations on it, and the responsible TAB shall amend the work programme accordingly.

3. Communication of Work programme

After the conclusion of the contract with the manufacturer or the Group, the organisation of TABs shall inform the Commission of the work programme for drawing up the European Assessment Document, the schedule for its execution and indicating the assessment programme. This communication shall take place within 3 months of the receipt of the request for a European Technical Assessment.

4. The draft European Assessment Document

The organisation of TABs shall finalise a draft European Assessment Document by means of the working group coordinated by the responsible TAB and shall communicate such draft to the parties concerned within 6 months of the date the Commission was informed of the work programme in cases foreseen in points 1(a) and 1(b) or the date the Commission communicated to the responsible TAB its observations on the work programme in the case foreseen in point 1(c).

5. Commission Participation

A Commission representative may participate, as observer, to all the parts of the execution of the work programme. The Commission may request the organisation of TABs at any stage to abandon or modify the development of a certain European Assessment Document, including merging or splitting thereof, when the development is not in line with this Regulation or in case the approach is not efficient or effective in terms of resources and final applicability.

In case the TABs involved do not agree on a European assessment document within the time limits provided for, the organisation of TABs shall submit the matter to the Commission for appropriate resolution, including through instructions to the organisation of TABs on how to complete its work.

6. Member States consultation

In the case foreseen in point 1(c), the Commission shall inform Member States on the development of the European Assessment Document after the finalisation of the work programme for it. When requested, Member States may participate where appropriate in its execution.

7. Extension and delay

Any delay in relation to the time limits set in points 1 to 4 in this Annex shall be reported by the working group to the organisation of TABs and to the Commission.

If an extension of the time limits for developing the European Assessment Document can be justified, notably by the absence of a Commission decision on the applicable assessment and verification system for the product or by the need to develop a new test method, an extended time limit shall be set by the Commission.

8. Amendments and adoption of a **draft** European Assessment Document

8.1. In cases foreseen in points 1.(a) and 1.(b), the responsible TAB shall communicate the draft European Assessment Document to the manufacturer or the Group, respectively, who shall have 15 working days to react thereto. Thereafter, the organization of TABs shall:

- (a) if applicable, inform the manufacturer or the Group as to how their reactions have been taken into account;
- (b) adopt the draft European Assessment Document;
- (c) send a copy of it to the Commission.

8.2. In the case foreseen in point 1.(c), the responsible TAB shall:

- (a) adopt the draft European Assessment Document;
- (b) send a copy of it to the Commission.

8a. Commission assessment of draft European Assessment Documents

The Commission shall assess the submitted draft European Assessment Document and if, within 30 working days of receipt, ~~the Commission~~ communicates its observations to the organisation of TABs ~~its observations on the draft European Assessment Document.~~ The organisation of TABs, after having been given the opportunity to comment, shall amend the draft accordingly and ~~shall~~ resend a copyies of the adopted amended draft European Assessment Document in ~~cases foreseen in accordance with~~ points 8.1-(b) and (ca) and 8.21-(b) ~~to the manufacturer or the Group, respectively, and in all cases to the Commission.~~

9. Adoption of fFinal European Assessment Document ~~to be~~ and publicationsshed

The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union, for the publication of its reference in the *Official Journal of the European Union*.

The organisation of TABs shall publish the European Assessment Document in one or more languages of the Union and, as a minimum, keep it accessible until no European technical assessments based on it remain valid.