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**NOTE**

From:	Presidency
To:	Working Party on Technical Harmonisation (Construction Products)
Subject:	Construction Products Regulation: Presidency supporting document

# Articles of new CPR grouped into clusters

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Text of proposal	National positions		Questions
	Suggestion	Justification	

## A. Scope

### 1. Article 1 - Subject matter

A1	Article 1 - Subject matter	<p>PT: first article should be improved so as not to be confusing for Citizens</p> <p>AT: we share the written comments of DE and DK in terms of improvement of proposal.</p>		
A2	<p>This Regulation establishes harmonised rules for the making available on the market and <u>direct installation of construction products</u>, regardless of whether undertaken in the framework of a service or not, by establishing:</p>	<p>SK, FI, DE concerned about the use of term “direct installation”</p> <p>SI: this Article states only CP, but already article 2 is widening this scope &gt;this leads to confusion</p> <p>SK: in the subject matter the environmental requirements are highlighted and safety and functionality requirements are rather in the background</p> <p>AT: supports DE, is not in favour of the wording “direct installation”, nor referencing “services”, it is confusing–</p>	<p>DE: use of construction products is within the scope of competence of the Member States. It should therefore be made clear that the direct installation of construction products refers only to the products to be installed, but not to the actual incorporation of said products.</p> <p>SK: wording “direct installation” leads to confusion in construction sector as this is in competence of MS</p> <p>NL: to cover e.g. steel constructions, now they are not under the control of the market surveillance, this would allow market surveillance to carry out the control</p>	<p>AT: implicitly what is indirect installation? COM: when the product is first placed on the market and then installed.</p> <p>AT: what is added value of the wording regarding services? COM: to cover construction products delivered within the service framework to close the loop hole + few obligation for services regarding e.g. 3D printing, de-installing,..., again to prevent circumvention</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>PT: is not in favour of incorporating services</p> <p>HR, SE, BG, CY: supports AT regarding direct installation</p> <p>ES: direct installation – suggests exclusion of some situations without placing on the market</p> <p>BE, NL: on the contrary, they support inclusion of direct installation into the scope</p>		
A3	(a) rules on how to express <u>the environmental, including climate, and safety performance of construction products</u> in relation to their essential characteristics;	PL: suggests adding reference to the requirements as set out in Annex I, part A		<p>DK: why those types of performance are listed and not for example mechanical performance</p> <p>AT: supports DK, if those are only examples, there is no added value</p>
A4	(b) <u>environmental</u> , including climate, <u>functional</u> and safety product requirements for construction products.	<p>DK: supports to set environmental requirements at EU level and promotion of reusable and recyclable products, to examine further whether to <u>set functional</u> requirement at the EU level a to examine process of setting such requirements</p> <p>PL: suggests adding a reference to Annex I, parts B, C, D</p>		<p>FI: the term “environmental” needs more clarification</p> <p>PT: follows the comment of FI on the environment</p>



	Text of proposal	National positions		Questions
		Suggestion	Justification	

A5	This Regulation also establishes obligations incumbent on economic operators dealing with construction products or their components or with products <u>that could be regarded as construction products whilst not being intended by their manufacturer to be construction products.</u>	SK, DE, DK expressed concern about this aspect BE: delete underlined text (AT, CY, PT) BE: shares opinion of EC regarding the consumer protection, this paragraph is not the optimal solution DE: wants to protect consumers, however this formulation does not create legal certainty for manufacturers	SK: this formulation creates confusion; boundary of construction product is set by intended use and relation to the basic requirements DE: there is no certainty for manufacturer, this can be addressed nationally DK: this might not be necessary	SI: are these products regarded as within the scope? COM: MS to decide if they want to deal with pseudoproducts and protect consumers - yes or not - and then the method can be eventually modified (e.g. positive list of pseudoproducts to make it clearer), link to art. 31, postpone the discussion, if there is any coverage of pseudoproduct, the warning must be here
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Article 1 - Subject matter	PT: first article should be improved so as not to be confusing for Citizens AT: we share the written comments of DE and DK in terms of improvement of proposal.		
This Regulation establishes harmonised rules for the making available on the market and <u>direct installation of construction products</u> , regardless of whether undertaken in the framework of a service or not, by establishing:	SK, FI, DE concerned about the use of term “direct installation”  SI: this Article states only CP, but already article 2 is widening this scope >this leads to confusion  SK: in the subject matter the environmental requirements are	DE: use of construction products is within the scope of competence of the Member States. It should therefore be made clear that the direct installation of construction products refers only to the products to be installed, but not to the actual incorporation of said products.	AT: implicitly what is indirect installation? COM: when the product is first placed on the market and then installed. AT: what is added value of the wording regarding services? COM: to cover construction products

Text of proposal	National positions		Questions
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	<p>highlighted and safety and functionality requirements are rather in the background</p> <p>AT: supports DE, is not in favour of the wording “direct installation”, nor referencing “services”, it is confusing— PT: is not in favour of incorporating services HR, SE, BG, CY: supports AT regarding direct installation</p> <p>ES: direct installation – suggests exclusion of some situations without placing on the market</p> <p>BE, NL: on the contrary, they support inclusion of direct installation into the scope</p>	<p>SK: wording “direct installation” leads to confusion in construction sector as this is in competence of MS</p> <p>NL: to cover e.g. steel constructions, now they are not under the control of the market surveillance, this would allow market surveillance to carry out the control</p>	<p>delivered within the service framework to close the loop hole + few obligation for services regarding e.g. 3D printing, de-installing,..., again to prevent circumvention</p>
(a) rules on how to express <u>the environmental, including climate, and safety performance of construction products</u> in relation to their essential characteristics;	<p>PL: suggests adding reference to the requirements as set out in Annex I, part A</p>		<p>DK: why those types of performance are listed and not for example mechanical performance</p> <p>AT: supports DK, if those are only examples, there is no added value</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

(b) <u>environmental</u> , including climate, <u>functional</u> and safety product requirements for construction products.	DK: supports to set environmental requirements at EU level and promotion of reusable and recyclable products, to examine further whether to <u>set functional</u> requirement at the EU level a to examine process of setting such requirements PL: suggests adding a reference to Annex I, parts B, C, D		FI: the term “environmental” needs more clarification PT: follows the comment of FI on the environment
This Regulation also establishes obligations incumbent on economic operators dealing with construction products or their components or with products <u>that could be regarded as construction products whilst not being intended by their manufacturer to be construction products.</u>	SK, DE, DK expressed concern about this aspect BE: delete underlined text (AT, CY, PT) BE: shares opinion of EC regarding the consumer protection, this paragraph is not the optimal solution DE: wants to protect consumers, however this formulation does not create legal certainty for manufacturers	SK: this formulation creates confusion; boundary of construction product is set by intended use and relation to the basic requirements DE: there is no certainty for manufacturer, this can be addressed nationally DK: this might not be necessary	SI: are these products regarded as within the scope? COM: MS to decide if they want to deal with pseudoproducts and protect consumers - yes or not - and then the method can be eventually modified (e.g. positive list of pseudoproducts to make it clearer), link to art. 31, postpone the discussion, if there is any coverage of pseudoproduct, the warning must be here

## 2. Article 2 – Scope

A6	2. Article 2 - Scope	FI: not to change significantly the scope from the current one	FI: broadening the scope may cause vast additional costs for the industry	
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>FI: avoid overlaps with other legislation (REACH, MS 2019/1020, ...), especially with the ESPR - ecodesign</p> <p>SI: sees as problematic lots of exceptions in the scope, it is not clear</p> <p>IE: use of secondary materials is not envisaged</p> <p>CY: these products are marginal; we will deliver written comments on these</p>		
A7	1. This Regulation shall apply to construction products and to the following items:	<p>DK: to examine, whether all these additional items are necessary to include, especially those who might overlap with the national building legislations</p> <p>IT: approved draft text</p> <p>AT: agree with the written comments of others, many questions/concerns regarding key parts, kits or assemblies, prefabricated houses</p> <p>HR: supports the comments of most other MS</p>		<p>SK: Can COM elaborate on the term “items”?</p> <p><b>COM: it is a modern definition in a product legislation, “items” are more fitting than “products”</b></p>
A8	(a) 3D-datasets placed on the market to permit the 3D-	SK Seen as problematic, should NOT be in the scope		DK: clarification - 3D printed CP are already in the scope, other moulds are

Text of proposal		National positions		Questions
		Suggestion	Justification	
	printing of construction products covered by this Regulation and 3D-printed construction products and moulds	DE: 3D constructed products - need to examine whether is different production method a reason to have explicit regulation IT: approved draft text SI: suggests dealing with the 3D.-related products/items in a separate chapter PL: 3D data – collection might not be comparable for NB and market surveillance; “greening” would consist of the assessment of each individual product – too challenging		not part of the regulation > COM: yes, 3D printed products are covered FR: concerned about collision of national and union legislation, what about 3D-printed houses? > COM: 3D printed houses are not CP but construction works AT: if we include 3D printing – should not we cover other innovative methods? COM: we try to start with 3D printing, it would be great to cover perspectives of other new methods
A9	(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	SK Seen as problematic, prefers not to be in the scope IT: approved draft text SI: suggests dealing with the 3D.-related products/items in a separate chapter		DK: clarification - materials used in 3D printing could be considered in scope already
A10	(c) construction products manufactured on the construction site for immediate incorporation into construction works, without separate	DE suggests an explicit exclusion of these from the scope DK: Overlap to national building legislation should be avoided. FR: no need or advantage of harmonizing these	DE: no relevance for the internal market, no need for regulation  FR: no circulation on the market	SK: please, COM clarify the connection with Art. 10 (1b) IE: please give reasoning, hard to see market surveillance on site in practice, those products are not subject to technical barrier to trade.

Text of proposal	National positions		Questions
	Suggestion	Justification	

	commercial action for the placing on the market;	IT: approved draft text IE: support exclusion from the scope,	IE: not practicable for market surveillance	DK: For clarification, the delivery of materials could be seen as in scope already.
A11	(d) key parts of products covered by this Regulation;			DK: For clarification, parts of products could be considered in scope already. PT: the definition is not clear > <b>COM:</b> it is an abstract concept + necessary to identify in hEN, it enables market surveillance address problems more efficiently and act in situations when different manufacturer's products are problematic because of a problematic key part supplied by different manufacturer.
A12	(e) parts or materials intended to be used for products covered by this Regulation, if the manufacturer of those parts or materials so requests;			SK asks for clarification, reasoning >COM: the voluntary assessment benefits the further manufacturer and it does not have to assess this part AT: how does the manufacturer request such thing? To whom?
A13	(f) kits or assemblies, where their composition is specified in and covered by harmonised technical specifications or European assessment documents (EADs)		DE: kits for houses are already regulated here	FR: concerned about collision of national and EU legislation

Text of proposal		National positions		Questions
		Suggestion	Justification	
A14	(g) prefabricated one-family-houses of less than <u>180 m<sup>2</sup></u> surface floor space with one floor or of less than <u>100 m<sup>2</sup></u> surface floor space on two floors.	DE: paragraph is not necessary, as this could be covered within the kits for houses (f) IE: suggest using technical terms: “single occupancy detached dwelling with no horizontal or vertical connection with neighbouring unit(s)”	DK: potential clash with national building legislation DE: kits for houses regulated under f), including prefabricated houses as products crosses the MS rights to regulate building structure  PT: MS have specific rules for housing;	SK: please give reasoning behind this numbers IE: What percentage of the structure would have to be prefabricated to fall within the scope of this Regulation? Will the system of mutual recognition of non-harmonised construction products be impacted by the language of this Article? How would be one harmonised standard applicable to different conditions and MS building codes? CY: one-family-house – there is no such definition
A15	Member States may decide not to apply this Regulation for the houses referred to in point (g) by notification to the Commission.	IT: approved draft text	SK opt-out option does not lead to harmonization so there is no reason to harmonise them IE: opt out in contrary to harmonization, plus more questions on standards and building regulation HR: can lead to situation, when some products are classified as harmonized by one MS, and not by another one, confusing	PT, HU: how is it possible to transmit the information about national exemption of prefa houses from CPR?  COM: even if only 3 MS will follow keep these prefa houses harmonized, it will lower the price > makes housing more affordable, in the aquis process MS can influence the requirements

Text of proposal	National positions		Questions
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A16	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:	<p>DK: support measures to advance the use of re-used construction products and to do so in a safe and environmentally sound manner. Of special concern is the determination of environmental risks, such as recirculation of toxins, and how to deal with safe work environments.</p> <p>However, the text under (a)-(e) makes for a very complex regulation of used products.</p> <p>IT: approved draft text</p> <p>SI: suggests separate chapter for used product to make it clearer</p> <p>FR: exclusion of used products – we have to establish line between EU and national legislations, questioning if to regulate the market that is just starting off the ground</p>		DK: For clarification... a used construction product is NOT included in scope already.
A17	(a) those used construction products or items are imported from third countries without having been placed on the Union market before;	IT: approved draft text		
A18	(b) the economic operator has changed the intended use of those used construction	IT: approved draft text		FI: this term needs more clarification



Text of proposal	National positions		Questions
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	products or items from the intended use assigned to those construction products or items by the initial manufacturer in another way than by a <u>reduction in terms of performance or intended uses</u> or to mere decoration” purposes, those purposes being defined by the absence of any structural function for the construction works;	SI: needs clarification of wording		
A19	(c) the economic operator making the used construction products or items available on the market claims for them characteristics or the fulfilment of product requirements set out in Annex I, additional to or different from the characteristics 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;	IT: approved draft text		

Text of proposal		National positions		Questions
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A20	(d) the used construction products or items have been subject to a transformative process going beyond repair, cleaning and regular maintenance ('remanufactured product')	IT: approved draft text		IE: would the materials from waste transformed to new material/products be subject to the revised CPR? COM: material from waste can only be used to produce a new product (containing recycled material), not a reused one; once the waste phase is reached, it is never a used product anymore
A21	(e) the economic operator making the used construction products or item available on the market opts for the application of this Regulation.	IT: approved draft text		
A22	3. This Regulation shall not apply to:	DE: CP under Euroatom directive to be excluded, and delimitation from the regulations on Ecodesign, and Machines, etc. IT: approved draft text NL: understands why products covered with DWD are excluded, to avoid overlaps, but why also sanitary appliances and traffic signalling? MT, AT: support NL HU: preliminary comment, products b), c), d), e) should be excluded only if they are covered in other legislation		IE: would those excluded products be included in other regulation? What are the consequences of deharmonization?

Text of proposal	National positions		Questions
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		ES: agrees only with exclusion of lifts		
A23	(a) lifts subject to Directive 2014/33/EU of the European Parliament and of the Council <sup>43</sup> , escalators and their components	IT: approved draft text		
A24	(b) boilers, pipes, tanks and ancillaries and other products intended to be in contact with water for human consumption;	SK, ES: do not agree with exclusion DE: these products should be also covered by CPR, reference to DWD to be made for hygienic requirements IT: do not agree with exclusion		FI: is it possible to erase Sanitary appliance altogether? As DWD covers only some characteristics... DK: clarification how will DWD and CPR interact, DWD does not cover the mechanical performance <b>COM: the hENs do not include performance-based characteristics, and hygiene is covered by DWD</b>
A25	(c) systems treating wastewater;	ES do not agree with exclusion		DK: it is not clear what means the term “system” <b>COM: to prevent unclear line between construction products and construction works; system design is subject to national requirements</b>
A26	(d) sanitary appliances;	SK, ES, LV, DE, IT do not agree with exclusion	DE: high level if internal market relevance LV: CE marked since 2004. 11 product groups affected By excluding sanitary appliances, manufacturers will need additional	<b>COM: in the hENs there are not performance-based characteristics, envi can be covered by ESPR</b>

Text of proposal	National positions		Questions
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			financial resources to meet the requirements imposed by all MS, thus reducing the capacity of manufacturers to meet the requirements imposed by all Member States. disadvantage for all stakeholders: the manufacturer, wholesaler, installer and consumer	
A27	(e) traffic signalling products.	SK, ES, IT do not agree with exclusion		COM: in hENs are only optical properties, plus these products are subject to many national requirements
A28	4. This Regulation also shall also apply to 3D-printing services of construction products and of items covered by this Regulation. 3D-printing services include renting out of 3D-printing machines that could be used for construction products and items covered by this Regulation.	DK: reserved to general widening the scope, needs further examination, it is not clear the relation to machinery regulation IT: approved draft text		
A29	This Regulation shall also apply to services linked to: the manufacturing and commercialisation of construction products and or items covered by this Regulation, and to the de-	DK: reserved to general widening, to be examined,  DK: It should be clarified how the provision on de-installation and		DK: it is unclear what services is meant and how the regulation is intended to apply.

Text of proposal	National positions		Questions
	Suggestion	Justification	

	installing, preparation for re-use, remanufacturing and dealing with used construction products or items covered by this Regulation.	preparing for re-use will avoid overlap to waste legislation. IT: approved draft text		
A30	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			HR: How is understood this option to exempt the products from outermost regions? > COM: autonomy of overseas territories of EU member states, outside of geographic Europe

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			
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### 3. Article 3(1) *Construction Product Definition*

A31	For the purposes of this Regulation the following definitions shall apply: (1) ‘construction product’ means	SK, DE, <b>AT, CY</b> : prefers currently valid definition, <b>danger of two different definitions side by side for a long coexistence period - confusion</b> DK: generally concerned on the consequences of changing the definition, missed the reference to the effect on performance of the building /essential characteristics SI: suggests broadening the definition so as to include some items <b>HU: definition must be simplified</b> <b>PL: definitions must be understandable to the public (manufacturers and users)</b>	SK: the currently valid definition is more unambiguous and with a clear connection to the basic requirements	DK: Why reference to the effect on the performance of the building, which seems essential to the understanding of a construction product, was left out? <b>COM: as the environmental impact is one of the basic characteristics, and every product has an influence on this, then a reference to environmental impact does not add any differentiation, and therefore it can be left out</b> PT: If there are more key parts in the product, will the product carry more CE markings?
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>BE: if we change the definition, it could have an effect on existing products</p> <p>DK: generally, the definition has a lot to do with the scope</p> <p>SE: also missed the reference to the basic requirements for construction works but it will ponder the response of COM, the old definition is a base to be tailored</p>		
A32	means <u>any formed or formless physical item</u>	DK questions this wording		COM: it is a modern definition in a product legislation, “items” are more fitting than “products”
A33	<u>including its packaging and instructions for use,</u>	<p>DE: disagree with packaging and instructions in the definition</p> <p>DK: questioning this to be in the definition</p> <p>IT: after “packaging” -&gt; add “where present”; instead of instructions -&gt; “documents accompanying the product”</p> <p>AT, CY: packaging is not needed</p>	DE: it dilutes the definition, packaging might be outside of the influence of the manufacturer, it conflicts with EU Packaging Directive	<p>SK: please give reasoning why packaging and instructions are included in the definition</p> <p>EE, HU, BE: reasons behind inclusion of “instructions” – it is not in any other legislation under NLF (worry about unintentional including kitchen appliances – shelves, cabinets)</p> <p>COM: is is for better empowerment for market surveillance and for notified bodies, if there is noncompliance in this area the action</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

				can be taken. Modern approach (MDR), influence of packaging on the environmental impact and to keep the declared performance of CP
A34	or a kit <u>or assembly</u> combining such items	IT: to be deleted > “ <del>or assembly</del> ”		COM: assembly = construction product + a part, this part might strongly influence the overall performance and therefore, the assessment of compatibility and final effect is necessary
A35	that is placed on the market or produced for incorporation in a <u>permanent</u> manner in construction works or parts thereof <u>within the Union</u>	DK questions the wording “within the Union” SK, HU: suggest removing “permanent” from definition FR: a 2-year definition of “permanent” should be replaced by “for the lifetime of the construction work in which it is installed”	SK: suggest return to basic requirements, and permanent can be related to life-cycle of building HU: even not permanent construction product might pose a risk, also in the temporary construction works	DK: explanation for the wording “placed on the market or produced”  COM: Permanent + clear cut defining the time, we can debate if it is 2 or 3 or x years time, but a clear cut if needed
A36	with the exception of items that are necessarily first integrated into an assembly,	DE: to exclude this from definition IT: to delete “an assembly”, DK questions this wording PL: suggests deleting	DE: this would exclude harmonization of cement	COM: cement is a construction product itself; it is not becoming a product only after the integration, therefore it will not be left out
A37	kit or other construction product prior to being incorporated in a permanent manner in construction works;	PL: suggests deleting		DK: what is the consequence of permanent defined as 2 years?



Text of proposal	National positions		Questions
	Suggestion	Justification	

#### 4. Article 85 - Regulatory status of products

Note: this article also listed in cluster Delegated/Implementing Acts

A38	4. Article 85 - Regulatory status of products			FR: Why did the COM opt for implementing acts and not for other methods? COM: “guidance” is not legally binding, so it can be challenged by economic operators
A39	Upon a duly substantiated request of a Member State or on its own initiative, the Commission may, by means of implementing acts, determine whether or not a specific item, or category of items, falls within the definition of ‘construction product’ or constitute an item referred to in Article 2(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2) of this Regulation.	DK.: We consider delegation to the Commission, when relevant, an important measure of flexibility and efficiency, when it comes to a uniform application of the regulation.		DK: need for a closer analysis of the extent of these delegations and their wording, such as whether the intention is to adjust scope or to determine matters case-by-case. DK: whether provisions such as these may be a cause of constitutional issues for some member states? DK: are there any other examples of provision that contain this? COM: MDR, IVDR, old cosmetics legislation, draft “blood and cell” regulation - it is not first used here

Text of proposal	National positions		Questions
	Suggestion	Justification	

## B. Governance/Harmonised Zone

### 5. Article 3(38) – *Harmonized Zone Definition*

B1	(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;	DE: to provide more specific definition  HU: do not agree with exclusion of EAD form harmonized zone		SK: general need for more clarification on harmonised zone with regards to the role of MS and their national regulatory needs DK: For clarification, it is unclear how the Regulation harmonizes matters that may be covered by the regulation but not by a harmonized technical specification. FR: notifying procedure for construction products – where is the limitation, where does it begin and end? isn’t there overlap with existing provisions – subsidies, public tenders? BE: supports FR, there are consistency issues, serious concerns regarding public tenders PL: clarification of the competence
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Text of proposal	National positions		Questions
	Suggestion	Justification	

## 6. Article 7 - Harmonised zone and national measures

Note: Article 7(5) is listed in subsection Implementing Acts

B2	Article 7 - Harmonised zone and national measures	DE: harmonized zone should be clearly limited to the standards in accordance with the Art. 4(2), ad DA acc. Art 4(3,4) and Art. 34(4), harmonised zone to be only to the extend covered in those specifications o		<p>DK: COM intention is to make the construction product regulation and the building directive work closely together.</p> <p>We are concerned with possible overlaps building legislation falling under national competence, and how Member States may work with initiatives on policies for sustainable construction in interaction with the legislation on how to apply the harmonized zone.</p> <p>For clarification, how will this be applied to products covered by the General Product Safety Regulation GSPR?</p> <p>PL: Council legal service to answer the question of competence to be clarified, as already asked previously</p> <p>&gt;Council: we are still analysing</p>
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Text of proposal		National positions		Questions
		Suggestion	Justification	
B3	1. The harmonised zone shall be presumed to be comprehensive, covering <u>all potential</u> requirements for products other than those covered by other Union law.	DE to avoid gaps, clear provision are required in case of incomplete harmonization	DE: this would inhibit new technical developments, the HZ should be clearly limited to the standards Art. 4(2) rt. 4(3,4) Art. 34(4), to avoid gaps in regulation, clear provisions in case of incomplete harmonization are required.	
B4	2. Member States shall respect the harmonised zone in their national law, other rules or administrative action and shall not set additional requirements for products covered by it. They shall in particular apply the following:			
B5	(a) no information, registration or other requirements other than those laid down in the harmonised zone shall be established;			DK: what is meant by “established”?
B6	(b) no assessments other than those set out in the harmonised zone shall be made mandatory;			
B7	(c) unless otherwise specified in accordance with Article 5(3), national law, other rules or administrative action shall not duplicate or <u>go beyond</u>	DE: MS must be able to establish the requirements that <u>go beyond</u> ...	DE: ...otherwise the competence of MS to determine level of safety for construction works is undermined	DK: It is important here to differentiate between what requirements are set out for construction products and what requirements are set out in national

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product requirements specified in accordance with Article 5 or the threshold levels established in accordance with Article 4(4);			legislation on building construction. This is unclear and an issue of some concern whether it may infringe upon national building legislation. Concerned of the infringement of the national competence in buildings
B8	(d) national law, other rules or administrative action shall not require more assessments and verifications than those set out in Annex V and shall not extend the scope of the assessments and verifications of Annex V;			
B9	(e) national law, other rules or administrative action shall replicate and not request more or less than what has been required by threshold levels established in accordance with Article 4(4);			
B10	(f) national law, other rules or administrative action shall not be based on classes, sub-classes or additional classes other than those established in accordance with Article 4(4);			DK: what is the implication for the use of Ecolabel

Text of proposal		National positions		Questions
		Suggestion	Justification	
B11	(g) where assessment methods have been established in accordance with Article 4(2) or in Article 5(2), national law, other rules or administrative action shall, both for construction works and in relation to the characteristics of or requirements for products, not refer to other assessment methods or modify or complement these assessment methods or select just a part thereof.	DK: concerned there is a risk of overlap with the national building legislation, (CPR does not cover construction works)		
B12	This paragraph shall also apply to <u>public tenders</u> or direct attributions of contracts where those public tenders or direct attributions are executed under direct or indirect control of public entities or are executed with reference to public provisions on public tenders or direct attribution of contracts. This paragraph shall also apply to grants or other	SK: reservations to cover public tenders, incentives, etc. in a product legislation ES: to delete this paragraph DE: to be deleted  BE: to delete the paragraph regarding public tendres	SK: as these are outside the scope of the regulation proposal and are subject to other legal regulations and competence of the member states DE: to protect the right of contractor to specify the requirements ES: We think that obligations to public tenders should not be set in this Regulation BE: Public tenders are sensitive and important topic	IE: Would the wording of article 7 preclude a Member State from specifying low carbon cement on public tenders and contracts should it so wish?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	positive incentives with the exception of fiscal incentives.			
B13	However, harmonised technical specifications may permit or recommend Member States to link the decisions on the attribution of <i>public tenders</i> , of contracts or of grants or other positive incentives to sub-classes or additional classes other than those established in accordance with Article 4(4) where these still relate to environmental performances assessed in accordance with these harmonised technical specifications.	ES: to delete this part IT: to delete this part DE: to delete  BE: to delete the paragraph regarding public tendres	DE: to protect the right of contractor to specify the requirements	
B14	3. Member States shall communicate to the other Member States and to the Commission the essential characteristics they require for each product family or category, the respective product requirements and the			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	assessment methods they apply.			
B15	They shall refer to these essential characteristics, requirements and assessment methods proactively <u>in all fora and on all occasions</u> relevant for the elaboration of harmonised technical specifications.	DE: this is not sufficient; COM should inform the MS in writing and in good time of its intention to draw up a standardisation request. MS should be requested to provide notification of what they consider essential characteristics, the respective product requirements, and the assessment methods they apply.		
B16	Fora elaborating harmonised technical specifications shall take note of these essential characteristics, requirements and assessment methods. The essential characteristics shall be covered by harmonised technical specifications <u>to the extent possible</u> .	DE: this formulation is not sufficient; the requirements of the MS must be reflected in full. Specific and transparent decision-making criteria by COM		
B17	4. Where a Member State deems it necessary, on imperative grounds of health, safety or protection of the environment, including climate, to establish requirements by regulation or to take administrative			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	measures in derogation of paragraph 2, it shall notify the Commission thereof, justifying the need for the procedural obligations established and explain the regulatory need it aims to address and provide evidence both for the existence of the regulatory need and the lack of coverage by the harmonised zone and other Union law. Member States shall to that end use the notification procedure under Directive (EU) 2015/1535, where applicable.			
B18	5. The Commission shall, by means of implementing acts, <u>authorise the national measure notified under paragraph 4</u> where:	DE: Authorisation process is not necessary, notification according to EU directive 2015/1535 is sufficient		COM: the notification does not solve anything, the national requirements are continuously infringing the current CPR, the manufacturers will win the cases if they challenge you at the court
B19	<i>(a) it ascertains that the regulation or administrative measure appears duly justified in the light of imperative grounds of health, safety or</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>protection of the environment referred to in paragraph 4;</i>			
B20	<i>(b) the regulatory need is not covered by the harmonised zone or by other Union law;</i>			
B21	<i>(c) the notified regulation or administrative measure does not discriminate against economic operators of other Member States;</i>			
B22	<i>(d) the notified regulation or administrative measure is able to cover the respective regulatory need;</i>			
B23	<i>(e) the notified regulation or administrative measure does not constitute a disproportionately large obstacle to the functioning of the Union market; and</i>			
B24	<i>(f) the Commission does not indicate by a letter of intent addressed to the Member States its intention to publish or cite, within one year as from the date of notification in accordance with paragraph 4,</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>in the Official Journal the harmonised technical specification or to adopt an act of general applicability covering the respective need.</i>			
B25	<i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).</i>			
B26	<i>On duly justified imperative grounds of urgency relating to human health and safety or the protection of the environment, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 88(3).</i>			
B27	6. Member States shall register all their national regulation, and administrative measures directly or indirectly influencing the usability of products on their territory, into the Single Digital Gateway.			
B28	<i>7. This Regulation does not hinder Member States to</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>introduce mandatory deposit-refund systems, to oblige manufacturers to take back used or not used products directly or via their importers and distributors and to establish obligations regarding the collection and the treatment of products for waste, provided that all of the following is complied with:</i>			
B29	<i>(a) the owner of the product, whilst having a choice amongst the manufacturer, the importer or the distributor as addressee, is in charge of the transport back to the distributor, importer or manufacturer</i>			
B30	<i>(b) economic operators in other Member States are not otherwise directly or indirectly discriminated.</i>			
B31	<i>8. Member States may ban the destruction of products taken back in accordance with Article 22(2), point (j) and Article 26 or make the</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>destruction of these products dependent on their prior making available on a national brokering platform for non- commercial use of products.</i>		
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#### 7. Article 93(6) – Derogations and transitional provisions

Note: This article is fully listed in the cluster Transition

B32	6. The requirements set out in Chapters I, II and III applicable to economic operators with regard to a certain product group or product family shall apply <u>as from one year after the entry into force of the harmonised technical specification covering that product group or family.</u> However, economic operators may apply those harmonised technical specifications as from their entry into force by undergoing the procedure leading to a declaration of performance or of conformity.	DE: greater flexibility (longer period) should be included	DE: for some product groups it takes longer than 1 year for the manufacturer to adjust,	NL: isn't the manufacturer immediately obliged to draft DoC/DoP according to new hTS? COM: "entry into force" -> application date - this will give us up to 2 years for adaptation of producers and NBs
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Text of proposal	National positions		Questions
	Suggestion	Justification	

#### 8. Article 4(2) - *Essential characteristics of products*

Note: This article is fully listed in the clusters Standardization and Environmental sustainability

B33	2. The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation. The essential characteristics of products shall be identified in view of the basic requirements for construction works, <u>taking account of the regulatory needs of Member States.</u>	DE: regulatory needs of MS not only to be taken into account, but to be REFLECTED in FULL		<p>PL: can you explain a voluntary nature of thresholds?</p> <p>NL: proposed “hybrid” system can cause confusion – why not choose voluntary NLF standardisation and mandatory EC requirements?</p> <p>COM&gt; this is too broad field, many different products; COM is not setting the requirements, the standardisation way is to be kept</p>
B34	The Commission may issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones for the establishment of these essential characteristics and their assessment methods.	DE: the MS should have appropriate participation rights and obligations in regard to development of standardisation request. Actionable and enforceable rights should be put in place for the MS		

Text of proposal	National positions		Questions
	Suggestion	Justification	

B35	The respective standardisation requests may also include a request that the European standardisation organisation determine in the standards referred to in the first subparagraph the voluntary or mandatory threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers. In that case, the Commission shall lay down the basic principles and corner stones for the establishment of the threshold levels, classes and mandatory characteristics in the standardisation request.			
B36	The Commission shall verify that the basic principles and corner stones, and the Union law are respected in the standards prior to publishing the reference thereof in the	DE: the COM criteria for publishing in the OJEU should be described exhaustively in order to make clear which key point and principles are examined		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	Official Journal in accordance with Article 34.		
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## 9. Article 81 - Shared roles and joint decision-making

Note: This article is also related to the cluster Market Surveillance

B37	Article 81 - Shared roles and joint decision-making	DE: supports provisions making it easier for Member States to fulfil their tasks in accordance with the Regulation. FR: our silence does not mean an agreement; we continue internal discussion		
B38	1. In order to fulfil their obligations under this Regulation with regard to market surveillance, designation and supervision of TABs, notified bodies, and product contact points for construction, Member States may designate:			
B39	(a) a body or authority set up in cooperation with another Member State or other			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	Member States for the purpose of joint designation;			
B40	(b) a body or authority already designated by another Member State for the same purpose, in cooperation with that Member State;			
B41	The Member States concerned shall jointly ensure that the shared bodies or authorities meet all relevant requirements. They shall be jointly responsible for them, whilst decisions taken towards natural or legal persons on a certain Member State shall be legally attributable only to that Member State.			
B42	2. The authorities of different Member States may, without prejudice to their individual obligations under this Regulation or other legislative acts, share resources and responsibilities in order to ensure the harmonised application or effective			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	enforcement of this Regulation. To that end, they may also:			
B43	(a) a body or authority set up in cooperation with another Member State or other Member States for the purpose of joint designation;			
B44	(b) a body or authority already designated by another Member State for the same purpose, in cooperation with that Member State			
B45	(c) pool resources for specific purposes, such as building up testing capacity or for internet surveillance;			
B46	(d) delegate the execution of tasks to a peer authority of another Member State, whilst staying formally responsible for the decisions taken by that authority;			
B47	(e) transfer a task from one Member State to the other, provided that such transfer is clearly communicated to all concerned			

Text of proposal		National positions		Questions
		Suggestion	Justification	

B48	The relevant Member States shall be jointly responsible for the actions taken in accordance with this paragraph.			
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## 10. Article 88 – Committee

Note: This article is also related to the cluster Delegated/Implementing Acts

B49	1. The Commission shall be assisted by the <u>Committee on Construction Products</u> . This committee shall be a committee within the meaning of Regulation (EU) No 182/2011. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply (advisory procedure).	DE: the role of the Committee should be strengthened, and also strengthen the rights of MS		
B50	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply (examination procedure).			
B51	3. Where reference is made to this paragraph, Article 8 of			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply (urgent examination procedure).			
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# 11. Article 10 - Exemptions from drawing up a declaration of performance

Note: This article is also listed in the cluster Environmental sustainability

B52	Article 10 - Exemptions from drawing up a declaration of performance			<p>DK: elaborate on the necessity of these exception</p> <p>BE: does that apply for CE, exemptions for technical files and verification of the third party, or is it just administrative relief?</p> <p>COM:&gt; for these exemptions no assessment is required, it is NOT only administrative exemption</p> <p>PL: several types of DoP, DoC, parallel systems are confusing – need for clarification</p> <p>COM: we suggest a modified DoP, DoC for used products, so as we can provide at least some information about the product</p>
B53	1. By way of derogation from Article 9(1), a manufacturer			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	may refrain from drawing up a declaration of performance when placing a product covered by a harmonised technical specification on the market where any of the following applies:			
B54	(a) the product is, otherwise than by <u>3D-printing</u> or <u>already existing moulds</u> , individually manufactured or custom-made in a <u>non-series process</u> 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	<p>SI: to mention explicitly that products manufactured by 3D-printing and existing mould are not subject to this exemption</p> <p>DE: regulation to products from non-series processes should NOT be obligatory, only voluntary DE: as these products should be out of the scope, no exemption is needed for those</p> <p>IE: The reference to “already existing moulds” is in conflict with the description of these moulds being “manufactured on the building site”. These two descriptions are mutually exclusive and the meaning must be clarified.</p>	DE: lack of internal market relevance	<p>SI: is it correct, that 3D-printed products and existing moulds are not subject to this exemption DK: how is the information on the performance of this products communicated to the authorities?</p>

Text of proposal		National positions		Questions
		Suggestion	Justification	
B55	(b) the product is otherwise than by 3D-printing or already existing moulds <u>manufactured on the construction site</u> , 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; or	DE: this exception is not necessary, as those products are not subject to cross border trade		DK: how the manufacturer in this case is to document that the incorporation of the product into the construction work is safe and in compliance with the applicable national rules. Also, how does (b) relate to Article 10, No. 1 (c)?
B56	(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.			
B57	2. A Member State may exempt from Article 9(1) remanufactured products		DE: not possible to avoid circulation	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	based on products which remain safe after remanufacturing provided that it ensures that the product does not to <u>circulate outside the territory of that Member State.</u>			
B58	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 <u>circulate outside the territory of that Member State.</u>	IT: to delete paragraph 3	DE: not possible to avoid circulation	
B59	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;	ES: suggest deleting paragraph 4. a), b),c) altogether. ES: we want to reduce administrative burden for SMEs, they want to be part of the CE system, the goal is not to have them separate and create national control.	ES: It is impossible to control the correct use of these exceptions. In addition, exempting these products might lead to having potentially dangerous products on the market. DE: This is unfair, no level playing field. To guarantee safe constructions we cannot exclude requirement for the size of the enterprise	ES: suggest deleting this text. It is impossible to control the correct use of these exceptions. In addition, exempting these products might lead to having potentially dangerous products on the market.  DE: This is unfair, no level playing field. To guarantee safe constructions we cannot exclude requirement for the size of the enterprise NL: when the microenterprises are exempted form CPR, how do they

Text of proposal	National positions		Questions
	Suggestion	Justification	

				<p>prove compliance with the national requirements?</p> <p>COM&gt; it is down to national provisions, exempting microenterprises is a compromise raising from conflicting goals</p> <p>NL: do we understand it right that for SMEs the MS can decide if the DoP obligation is exempted or not? COM: the exemption ba MS can be for SMEs but not for all, only if th SMEs fulfil the criteria set in Art. 10(4) a), b), c)</p> <p>AT: when the Exemption to DoP is applied, is there still mandatory DoC? Or other markings? COM: DoC will not be mandatory, this can be clarified</p>
B60	<p>(b) the manufacturer uses exclusively or <u>in essence</u> components or materials with <u>commonly known</u> 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;</p>	<p>ES: suggest deleting this text.</p> <p>SI: needs clarification of wording „in essence“ and „commonly known“</p>	<p>DE: this exception is not necessary, as those products are not subject to cross border trade</p>	<p>DK: how is the manufacturer to provide compliance with the national rules?</p>



Text of proposal		National positions		Questions
		Suggestion	Justification	

B61	(c) the product does not to circulate outside the territory of that Member State.	ES: suggest deleting this text. IT: suggest deleting this text		
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## 12. Article 12(3) *Modified declaration of performance for used, remanufactured and surplus products*

Note: This article is fully listed in the cluster Environmental sustainability

B62	Article 12(3) Modified declaration of performance for used, remanufactured and surplus products	DK: We support the goal of promoting re-use and recycling, and of producing construction products that to a higher degree are reusable. LV: calls for a higher priority to be given to the development of technical specifications for reusable and recycled CP and for the development of uniform guidelines for the determination of requirements for reusable and recycled construction products. IE: Depending on the interpretation and application of the terms “used” and “remanufactured”, this could potentially raise issues for end-of-waste assessments and criteria.		IE: Would construction materials that may have been classified as waste, which are subsequently deemed to have reached end-of-waste status following a recovery process, fall within the scope of the revised CPR? IE: whether and how declarations of performance/declaration of conformity may apply to secondary materials. DK: it could open the market for products that deviate from the requirements; we lack means on how to go about that
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	Text of proposal	National positions		Questions
		Suggestion	Justification	

B63	3. Paragraphs 1 and 2 shall not apply where:			DK: how to apply the regulation to the used products in general and how to obtain needed documentation.
B64	(a) the mechanical and chemical properties of the used product cannot be assumed to be stable enough anymore for the new intended use;			
B65	(b) health and safety of persons would be at risk due to the properties of the product;			
B66	(c) the product has been subject to stresses that makes it unsuitable for the new intended use; or			
B67	(d) such stress is <u>not very unlikely</u> according to the protocol established by the de-installer in accordance with Article 29 and the documentation on the conditions of a certain building (“building log-book”).	SI: needs clarification of wording		
B68	Member States shall set-up requirements for de-installers <u>and the certification</u> to be			DK: what certification is referred to? SE: “de-installers” - sounds like a regulated profession – is it so?

Text of proposal		National positions		Questions
		Suggestion	Justification	
	provided in accordance with the last sentence, including on the definition of stresses that render the product unsuitable.			COM: it is possible, but it is down to MS to ensure, that a certain protocol or procedure is followed while de-installing

### 13. Article 18 - Other markings

B69	Article 18 - Other markings	<p>DE: in principle, other markings should be allowed, prohibition of markings should be limited to the specific content of CE marking</p> <p>DE, AT- we do not agree with this article in this form, other markings (Ecolabel, Blue angel) are useful and understandable for consumer</p>	<p>DE: In accordance with Article 30 (5) of Regulation (EC) No 765/2008, any other marking (within the limits set out in paragraph 4) may be affixed to the product provided that the visibility, legibility and meaning of the CE marking are not thereby impaired.</p>	<p>DK: what does this mean for EU ecolabel and other envi labels? Does this also mean not to place labels physically on the product?</p> <p>NL: what about private certificates and marking?</p> <p>COM: every parallel marking that certifies what has been already covered by CE (e.g. compliance with hEN) is an infringement!</p>
B70	Markings other than the CE marking, including private ones, may be affixed on a product only if they do not	ES: to revise or delete	ES: Private marking should not be prohibited	<p>DK: “affixed on” - means a physical placing?</p> <p>COM: not only physical labelling but also giving reference to certificates or</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

	cover or refer to harmonised technical specifications or to product requirements or essential characteristics or assessment methods included in the harmonised zone.			other markings in advertising, publishing information etc.
B71	No other marking than marking set out by Union legislation may be affixed on a product in a distance smaller than the double length of the CE marking measured from any point of the CE and the other marking set out by Union law.			
B72	No other marking than the CE marking may be placed on the declaration of performance or the declaration of conformity.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

## C. Standardization

Note: This cluster is for better orientation further divided into 3 subsections: Harmonized Technical Specifications, EAD and Assessment and verification systems.

### Harmonised Technical Specifications

General:

AT: With regard to the definition of “harmonised technical specifications” in Art. 3(46), it has to be stated that this definition is not in alignment with the definition of “technical specifications” for the construction sector pursuant to Annex VII para 1 lit. a) of Directive 2014/24/EU (cf. the aligned definition in Art. Para 50 concerning the “European technical assessment”). According to the case law of the ECJ, the same terms in Union law should also have the same meaning (principle of uniformity of legal language, see Case C-260/17, Anodiki, paragraphs 24/25).

#### 14. Article 4 - Essential characteristics of products

Note: This article is also listed in the cluster Environmental sustainability and part Art. 4(2) is listed in Governance/Harmonized Zone, Article 4(3,4,5) is also listed in subsection Delegated Acts

C1	Article 4 - Essential characteristics of products	SK, FI: proposed system is long term solution, but we need short-term as well (FI: allowing citation of hENs under the present CPR is necessary).  FI: Harmonized declaring method do not eliminate the need for national regulation.		SK: need more clarification on article 4 in general. IT: has it been assessed whether the power delegated to the COM complies with Article 290 TFEU? IT: products essential characteristics and their assessment methods could be
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>FI: we support to maintain the publication of hTS during the very long transition period, MS must be involved fully in the process of DA development</p> <p>CY, MT: high percentage of SMEs, it will paralyze them when there is too much DA, complicated</p> <p>PRES: Council Legal Service will present a legal analysis of the Das in greater detail later on</p>	<p>FI: COM wants the empowerment to change about 20 articles through DA, complicated framework and perturbation of the predictability of the system regarding new requirements;</p>	<p>considered nonessential parts of legislative acts?</p> <p>COM: we agree to prioritize CEN, but we need solutions for emergency situations, prior to DA, there are many consultations, as set in horizontal legislation</p>
C2	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.			COM: Annex I, Part A concerns measurable characteristics
C3	2. <i>The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation.</i>	<p>SI: this paragraph refers to essential characteristic in paragraph 1, but these are not mentioned there</p> <p>DE: Art.4(2) too vague formulation that gives too much room for not involving the MS needs</p>		<p>DK: For clarification, are the harmonized standards to take into account national legislation?</p> <p>COM: the goal of DA in article 4(2) is to set essential characteristics and assessment methods to avoid the gaps in system and to prevent the blockage of the system.</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>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.</i>			
C4	<i>The Commission may issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones for the establishment of these essential characteristics and their assessment methods</i>	DK: support to keep CEN as the central element, the proposal provides discussion how to set the standardization system work again. - important that the powers delegated to the Commission are formulated in a way that they are suitable only for emergencies. DK: We support the goal of fixing the current standardization issues to establish a functioning inner market. In this regard we find it useful to keep the structure where the Commission makes standardization request and sends them to CEN.		
C5	<i>The Commission <u>may issue standardisation requests</u> in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic principles and corner stones</i>	AT: not may, but <b>MUST</b> issue standardization request		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>for the establishment of these essential characteristics and their assessment methods</i>			
C6	<i>The respective standardisation requests may also include a request that the European standardisation organisation determine in the standards referred to in the first subparagraph the voluntary or mandatory threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers. In that case, the Commission shall lay down the basic principles and corner stones for the establishment of the threshold levels, classes and mandatory characteristics in the standardisation request.</i>			DK: it requires detailed communication between COM and CEN, how is this to be handled?
C7	<i>The Commission <u>shall verify that the basic principles and corner stones,</u> and the Union law are respected in the</i>	AT: this formulation is not specific enough		DK: elaborate on the necessity of a provision for this specific purpose. What will the consequence be if the Commission considers a standard to



Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>standards prior to publishing the reference thereof in the Official Journal in accordance with Article 34.</i>			not be in accordance with these principles? There seems perhaps to be some repetition of article 34(4)?
C8	<i>3. By way of derogation from 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, voluntary or mandatory essential characteristics and their assessment methods in any of the following cases:</i>	<p>DE: standardisation should be definitive for harmonisation. Need to form more specific criteria for the use of DA, clearly defined and binding criteria in the regulation itself. Put in place enforceable right for MS. Time limits for validity of DA, regular examination and option to repeal DA</p> <p>SI: in doubts regarding DA as harmonized technical specifications, 7 options is a lot considering that all standards are subject to Commission's scrutiny before reference publication and the Commission also has the power to modify standards or publish them with restriction according to Art. 34.</p> <p>DK: Strictly for emergencies.</p> <p>FI: the range of areas covered by</p>	<p>SI: we are not convinced that the delegated act route to HTS is in fact faster or more efficient than the standard route or that it has the same level of wide acceptance.</p>	<p>DK: Can an adopted DA be replaced by hEN in a later time? Are the needs of economic operators taken into account in the standardization request?</p> <p>DK: clarify if the list a) to g) is exhaustive - the process to be strictly for emergencies, assure that the industry is taken on board.</p> <p>SI: is it expected that Member States employ technical experts, capable of creating HTS for various construction and construction related products? We doubt that this would be feasible for smaller MS and ask for clarification.</p> <p>DK: how is the industry taken on board as well? What is meant by “mandatory essential characteristics”? (Gramatically, how is a characteristic something that may be considered mandatory?)</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>DA remains a serious source of concern, as these might increase the complexity of the framework and have a significant impact on its certainty and predictability - especially when used for harmonised standards or for defining additional product requirements and sustainability aspects of CP. DA procedure often does not allow for sufficient consideration of the views of all stakeholders. Industry and MS must be included in drafting of DA.</p> <p>PL: is not in favour of so many empoweremnets for DA, IA might be better option</p> <p>DE: supports PL, AT prefers IA or time-limited DA, set clear criteria in the text itself, not only the promises of COM</p> <p>FR: understand the emergency exit principle but ask for better definition of condition for use, precise text</p> <p>BG, HU, MT, HR, CY, BE – scutinizing the text, wait for the Council Legal Service to give answers, prefer implementing acts</p>	<p>PL: IA are for better involvement of the MS</p> <p>DE: MS should co-decide in standardisation, it is very important subject</p>	
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Text of proposal	National positions		Questions
	Suggestion	Justification	

C9	<i>(a) <u>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</u></i>			DK: How will the time-frames be set in the request?
C10	<i>(b) <u>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</u></i>			DK: clarification needed - what an “urgency” is and who is to evaluate it?
C11	<i>(c) <u>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</u></i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>are already published in the Official Journal;</i>			
C12	<i>(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</i>			
C13	<i>(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;</i>	IT: delete <del>and ambition</del> .  DK: support the notion of including environmental and climate characteristics. DA as an important tool to ensure efficiency and flexibility in an area where development is in motion, however we have some concern as to the scope of these delegations. PL: understands this case for DA empowerment	IT: too indeterminate definition.	
C14	<i>(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;</i>			DK: clarify situations when standards can't be published, and ask if this together with Article 34(4) makes it possible to refer to standards outside of this legislation (eurocodes) in the DAs.

Text of proposal	National positions		Questions
	Suggestion	Justification	

				DK: What would “other legal reasons” be? And does it have to do with intellectual property rights?
C15	<i>(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</i>			
C16	<i>4. 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, the Commission is empowered to supplement this Regulation, by <u>means of delegated acts</u> in accordance with Article 87, by <u>determining, for particular product families and categories, the following:</u></i>	FI: DA suitable for definitions of categories, set values for classes and to ensure functioning of the system when standardization is blocked  NL: prefers implementing acts	FI: based on subsidiary principle	IT: Should Art. 4(4) be better coordinated with Art. 22(4)? Should b) be turned in implementing acts under article 291 TFEU?  COM: DA to set classes and threshold is already the practice of current CPR
C17	<i>(a) <u>threshold levels and classes of performance</u> in relation to the essential characteristics and which of</i>	NL: prefers implementing acts		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>the essential characteristics may or shall be declared by manufacturers;</i>			
C18	<i>(b) conditions under which a product shall be deemed to satisfy a certain threshold level or to qualify for a class of performance without testing or without further testing.</i>	NL: prefers implementing acts		
C19	<i>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.</i>	DE: COM to be <u>obliged</u> to adopt DA when necessary to meet regulatory needs of a MS, on the request of MS.		

## 15. Article 5 - Product requirements

Note: Article 5 1,2) is listed in the cluster Environmental sustainability, article 5(2,3) is also listed in subsection Delegated Acts

C20	<b>Article 5 – product requirements</b>	NL: do not support European generic requirements  ES: set minimal EU requirements,	NL: it may interfere with the national regulations at the building level, it may hamper ambitions of MS aiming higher	SK: need more clarification on article 5 in general DE: clarification – are there provisions to be applied also for the products where no DoP is submitted?
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Text of proposal		National positions		Questions
		Suggestion	Justification	
			ES: it is not possible to cover all legislation and all requirement, but at least minimal should be set	COM: these are inherent product requirements, and do not compromise the MS national competence in construction works/installation, these requirements reflect also the users, consumers, professionals that get in touch with the product, not for each product, but specific for certain product group, applicable only when the DA specifies this This part mirrors the ESPR. Some of the requirements are already present in the hEN, even though they do not fit the performance-based framework
C21	<i>1. All products covered by 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</i>	BE: concerned about this wording, broader scope than so far, prefers to keep the current scope IT: The text “directly applicable product requirements set out in Annex I Part D” should be better coordinated with Art. 93(6).  DK: support introduction of inherent environmental requirements, important to develop in alignment with eco-design	IT: The wording suggests that these product requirements are <u>immediately</u> applicable.	IT: Why to distinguish the product requirements set in Annex I Part D from requirements set in Parts B and C?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>down in Annex I Part B and C are only applicable where they have been specified in accordance with paragraph 2.</i>			
C22	<i>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 specifying, for particular product families and categories, these product requirements and by laying down the corresponding assessment methods. Once the Commission has specified these product requirements by delegated acts, it may issue standardisation requests which aim at the <u>elaboration of voluntary harmonised standards providing presumption of conformity with these mandatory product requirements as specified by these delegated acts.</u></i>	<p>DE: welcomes the general safety requirements, directly applicable requirement on safety to add in Annex, rather than in the DA, more specific requirements to be specified in hEN - voluntary (presumption of conformity).</p> <p>NL: rather IA than DA</p> <p>DK: be careful to the extent of DA, but in overall DAs are efficient way of developing legislation.</p> <p>DK: Concerning the introduction of requirements concerning the appropriate functioning and performance of products, we need to investigate more carefully whether such requirements are appropriate to set at EU level considering the different weather conditions and traditional building practices across member states.</p>	<p>NL: due to subsidiarity principle, but only when the product requirements are deemed necessary</p>	<p>DK: for clarification: why these harmonized standards are voluntary?</p> <p>IT: Contrary to essential characteristics set in Article 4(2,3), the system is the opposite for product requirements: there is not a derogation by ordinary procedure of standardisation request from COM to CEN/CENELC. Art. (4) for products requirements set in Annex I, part C, n. 2 provides a different system (standardisation request and delegated acts are alternatives). Why this apparent contradiction with NLF, based on essential safety requirements established by standardisation organizations? COM: stakeholders will be consulted in the process of the development of DA</p> <p>AT: clarification on the voluntary hEN to satisfy mandatory requirements</p> <p>COM: regarding non performance based inherent product requirements, it</p>



Text of proposal	National positions		Questions
	Suggestion	Justification	

				is like in NLF, the manufacturer proves compliance by hEN or he can use a different way of proving compliance
C23	3. The Commission is empowered to amend Annex I 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.	DE: part B - functionality - risk to encroach the area of national competence. DE: part D - the list of product information requirements is more comprehensive than necessary.		

## 16. Article 9 - Declaration of performance

C24	1. Where a product is covered by a harmonised technical specification adopted in accordance with Article 4(2) or (3), the manufacturer shall undergo the applicable assessment and verification system set out in Annex V and draw up a declaration of performance before such a product is placed on the	SI: reference to AVS system is missing for the EAD/ETA procedure.  PL: missed the reference to EAD and ETA in this paragraph COM: this is covered using the reference in art. 35(1), that when the hTS according to art. 4(2) and 4(3) is addressed, it refers to EAD and as well		COM: DoP is linked to hTS from Art. (4), DoC is linked to hTS in Art. 5, Art. 22 is specifically linked  COM: the DoP concept is similar to the current situation, DoC is complementary. The detailed discussion about the specific content should be postponed for later. We should be in line with the ESPR
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<p>market. <u>A manufacturer of a product which is not covered by any harmonised technical specification may issue a declaration of performance in accordance with the relevant European assessment document and European technical assessment.</u></p>			<p>regarding the safety and environmental requirements.</p> <p>DE: is there an option that there will be product only with DoC without DoP?</p> <p>COM: yes, with certain product groups, the industry prefers the DoC, for this reason, we kept the option of two parallel systems, for some products the DoP is sufficient, the option of DoC without DoP is not possible</p> <p>PL: is DoP for product covered by ETA mandatory?</p>
C25	<p>2. Where a product is covered by a harmonised technical specification, information about its performance in relation to the essential characteristics laid down in the applicable harmonised technical specification may be provided elsewhere than in the declaration of performance</p>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	only if in parallel provided in the declaration of performance. This obligation shall not apply to situations where, in accordance with Article 10, no declaration of performance has been drawn up.			
C26	3. By drawing up the declaration of performance, the manufacturer assumes responsibility for the conformity of the product with such declared performance and becomes liable in accordance with Union and national laws on contractual and extra- contractual liability, <u>and this even where it did not act negligently</u> . In the absence of objective indications to the contrary, Member States shall presume the declaration of performance drawn up by the manufacturer to be accurate and reliable.	<p>DE: does not support this formulation, it creates liability without negligence.</p> <p>IE: strong assumption.</p> <p>IT: to delete &gt; “<del>on contractual and extra- contractual liability, and this even where it did not act negligently</del>”</p> <p>SE: Support DE and IT regarding liability</p> <p>FR: this sets manufacturer responsible for the declared performance, this is not in line with</p>		<p>SE: this liability is a new concept in NLF (already know in cybersecurity), why is this needed in the construction product sector?</p> <p>COM: the generally used formulation “manufacturer is responsible “ is interpreted differently in different MS, this should clarify, that the liability is mean on contractual or extra- contractual basis, we aim to be more precise than in NLF, it is declaratory formulation</p> <p>COM: the product liability covers the dangers directly</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

		the product liability requirement directive		
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## 17. Article 11 - Content of the declaration of performance

Note: Article 11(3) is also listed in section Delegated Acts.

C27	1. The declaration of performance shall express the performance of products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications or European assessment document.	DE: ETA should be listed in paragraph 1 as a basis for assessment alongside the EAD.		
C28	2. <u>The declaration of performance</u> shall be drawn up using the model set out in Annex II without the section relating to conformity. The declaration of performance shall at least cover the <u>performance with regard to the mandatory essential characteristics listed in Annex I Part A Point 2</u> , the essential	DE: DoP shall always include intended use and essential characteristic necessary for that intended use.  NL: prefers to preserve obligation to declare at least one characteristic from Annex I A.1 AND in addition		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	characteristics mandatory by virtue of <u>harmonised technical specifications</u> or delegated acts adopted in accordance with Article 4(3), and the assessment of environmental sustainability referred to in Article 22(1).	Environmental characteristic Annex I A.2 ES: minimum <i>characteristics and performance</i> that the product must have to guarantee its main functionality should be mandatory at an EU level.  DE: ETA and EAD should be listed in paragraph 2 as well.	ES: We think that it is not realistic to pretend that all the characteristics of all products should be listed in the building codes.	
C29	<i>3. The Commission is empowered to amend the model set out in Annex II by delegated acts adopted in accordance with Article 87 to permit the inclusion of further information in order to allow economic operators to cover new information needs.</i>			
C30	4. The information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>45</sup> shall be provided			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	together with the declaration of performance.		
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#### 18. Article 13 - Declaration of conformity

C31	Article 13 - Declaration of conformity	DE: should <u>not</u> be included separately, but as part of DoP, where possible.		MT: Asks for clear diagram that is easily understandable for enterprises COM: it was provided within the presentation  COM: DoP is linked to hTS from Art. (4), DoC is linked to hTS in Art. 5, Art. 22 is specifically linked
C32	1. Before placing a product on the market, the manufacturer who is not exempted from the obligation to produce a declaration of performance shall:			
C33	(a) verify the product's compliance with the product requirements of Annex I Part B and C <u>to the extent that they have been specified by delegated acts</u> in accordance with Article 5(2), and with the	ES: it must be clear to the manufacturers.		SI: do we understand it correctly that AVS system might be different for essential characteristic and different for product requirements? ES: when DoC has to be issued? Always? For some products only?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product requirements of Annex I Part D;			
C34	(b) undergo the respective assessment and verification system set out in Annex V; and			
C35	(c) draw up a declaration of conformity.			
C36	2. The <u>manufacturer may decide to issue a declaration of conformity in accordance with paragraph 1 even where exempted from the obligation to produce a declaration of performance.</u>	ES: it should <u>not</u> be a matter of choice.	ES: this is legally confusing.	
C37	3. By the declaration of conformity, the manufacturer assumes responsibility for the conformity of the product with the product requirements and becomes liable in accordance with national laws <u>on contractual and extra-contractual liability, and this even where it did not act negligently.</u> In case of non-compliance or absence of a declaration of conformity, the	SI: unclear interpretation >to be explained and write more precisely.  IE: strong presumption to the manufacturer regarding liability  IT: to be deleted> “ <del>on contractual and extra-contractual liability, and this even where it did not act negligently</del> ”  DE: not support the liability without negligence	SI: two ways of understanding: a) manufacturer is liable <u>where national legislation provides</u> , liable only for the non-comforming products; b) liable for the breach if its obligations regarding conformity and only details are governed by national law.	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product may not be made available on the market. In the absence of objective indications to the contrary, Member States shall presume the declaration of conformity drawn up by the manufacturer to be accurate and reliable.			
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#### 19. Article 14 Content of the declaration of conformity

C38	1. The declaration of conformity shall express conformity of a product with product requirements referred to in Article 5(1) and (2).			
C39	2. The manufacturer shall combine the declaration of conformity with the declaration of performance into a single declaration, to be labelled “Declaration of performance and conformity” as set out in Annex II.			
C40	3. Article 11(2) to (4) and Article 12 shall apply with	SI: misleading reference		



Text of proposal		National positions		Questions
		Suggestion	Justification	

	regard to the declaration of conformity.			
C41	4. The manufacturer shall fulfil the obligations of this Article as from the first revision of the declaration of performance undertaken by the manufacturer after the date of application of harmonised technical specification, for the respective product family or category, <u>but at the latest 3 years after that date.</u>	IT: amendment :> ONE YEAR		

## 20. Article 16 - General principles and use of CE marking

C42	1. The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.			
C43	2. The CE marking shall be affixed to those products for which the manufacturer has drawn up a declaration of performance or conformity in accordance with Articles 9 and	DE: only one CE per product, even if it consists of several key parts.  MT: suggestion to specify in hTS the place on the key part, where to place the CE marking		COM: different TCs have different approach, we prefer general rules, than specification in hTS

Text of proposal	National positions		Questions
	Suggestion	Justification	

	11 to 14. The CE marking shall be affixed to key parts. The CE marking may not be affixed to parts which are not key parts.			
C44	3. If neither a declaration of performance nor a declaration of conformity has been drawn up by the manufacturer, the CE marking shall not be affixed.			
C45	4. By affixing or having affixed the CE marking, the economic operator indicates that it takes responsibility for the conformity of the product with the declared performance and applicable product requirements of this Regulation or laid down in accordance with this Regulation. By affixing the CE marking, the economic operator becomes liable for the	It: To be deleted > <del>“on contractual and extra-contractual liability”</del>		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	declared performance and the fulfilment of these requirements in accordance with national <u>law on contractual and extra-contractual liability</u> .			
C46	5. The CE marking shall be the only marking which attests the performance of the product with regard to assessed essential characteristics and the conformity of the product with this Regulation. Member States shall not introduce any references or shall withdraw any references in national measures to a marking attesting conformity with requirements or the declared performance in relation to the essential characteristics covered by the harmonised zone.	DE: allow other markings in principle (Blue angel, EU ecolabel) FR: too strong formulation	FR: Many markings – national, private – are functioning for several years	FR: Why the voluntary marking are forbidden? Why do we need to all of sudden assess what is tolerable and what is not? COM: to keep the internal market, not to disintegrate it, we prefer strong formulation, it is not able to assess each marking individually

Text of proposal		National positions		Questions
		Suggestion	Justification	
C47	6. A Member State <u>shall not prohibit or impede, within its territory or under its responsibility</u> , the making available on the market or the use of products bearing the CE marking, when the declared performances correspond to the requirements for such use in that Member State.	DE: ban of impeding should be limited to the harmonized zone. SE: to include free movement clause separately and not as apart of CE marking article		COM: the answer is harmonised zone, respect the harmonized zone and do not require another national assessments
C48	A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of products bearing the CE marking, when the product conforms with product requirements set-up in or by means of this Regulation, unless it is specified in the respective harmonised technical specification that the respective requirements constitute only minimum requirements.	DE: to <u>delete</u> this subparagraph.		
C49	7. A Member State shall ensure that the use of products	DE: to <u>delete</u> this paragraph.		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	bearing the CE marking shall not be impeded by rules or conditions imposed by public bodies or private bodies acting as a public undertaking or acting as a public body on the basis of a monopoly position or under a public mandate.			
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## 21. Article 17 Rules and conditions for the affixing of CE marking

Note: Article. 17(2) is included in the cluster Market Surveillance.

C50	1. The CE marking shall be affixed visibly, legibly and indelibly to the product or to a label attached to it. Where this is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging or to the accompanying documents.			
C51	<i>2. The CE marking shall be followed by:</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C52	<i>(a) the two last digits of the year in which it was first affixed;</i>			
C53	<i>(b) the name <u>and</u> the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity;</i>	IT: insert: > “the certified e-mail account having legal validity”.		
C54	<i>(c) the name <u>and</u> the registered address of the authorised representative, or the identifying mark allowing identification of the name and address of the authorised representative easily and without any ambiguity where the manufacturer does not have a place of business in the Union or where the manufacturer chooses to have an authorised representative;</i>	IT: insert: > “the certified e-mail account having legal validity”.		
C55	<i>(d) the unique identification code of the product-type, the permalink to the manufacturer’s products</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>registration(s) in Union databases and the precise location therein where the product can be found;</i>			
C56	<i>(e) the permalink to the manufacturer's own product presentation website, if any there is any;</i>			
C56	<i>(f) the reference number of the declaration of performance; and</i>			
C57	<i>(g) the identification number of the notified body, if applicable.</i>			
C58	<i>The items listed in points d) to f) may be replaced by a permalink to the combined declaration of performance and of conformity (electronic CE marking).</i>			
C59	3. The CE marking shall be affixed before the product is placed on the market <u>or</u>	DE: use of CP is in the MS competence, CE for direct installations should not be obligatory		DE: clarification on pictogram vs. Prohibition of use of other markings

Text of proposal	National positions		Questions
	Suggestion	Justification	

	directly installed into a construction work. <u>It may be subsequently followed by a pictogram or any other mark indicating a special risk or use.</u>		
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## 22. Article 34 - Construction products standards

Note: Article 34(4) is also listed in subsection Delegated Acts

C60		DE: many comment related to art. 4 are also relevant in Art. 34, it deserves detailed discussion		
C61	1. Construction products standards shall be established by the European standardisation organisations on the basis of a standardisation request issued by the Commission.	DE: MS should have appropriate participation rights and obligations in regard to the development of standardisation requests.  AT: recalls the well-known issue of the accessibility (publicity) of	AT: The ECJ held in C-345/06, <i>Heinrich</i> , as follows: “ <i>Moreover, an act adopted by a Community institution can not be enforced against natural and legal persons in a Member State before they have the opportunity to make themselves acquainted with it by its proper publication in the Official Journal of the European Union (see Case C-</i>	AT: explanation in context of judgement on Case C-160/20 would be welcome in relation to Art. 34.



Text of proposal	National positions		Questions
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		<p>standards and wants to make aware of jurisdiction in this context.</p> <p>AT: to solve an issue pursuant to Art. 34 para 4 of the proposal, COM can modify relevant standards that are not generally and freely accessible, and thus a binding set of rules would not be generally accessible.</p>	<p><i>161/06, Skoma-Lux, paragraph 37). In particular, the principle of legal certainly requires that Community rules enable those concerned to know precisely the extent of the obligations which are imposed on them. Individuals must be able to ascertain unequivocally what their rights and obligations are and take steps accordingly (see Case C-158/06, ROM-projecten, paragraph 25 and the case-law cited)."</i></p>	
C62	<p>2. Construction products standards developed pursuant to Article 4(2) shall be of mandatory application for purposes of this Regulation <u>as of six months after the publication of their reference in the Official Journal</u> in accordance with paragraph 4, but may be voluntarily applied on request of the manufacturer as from the date of that publication. They shall</p>	<p>DE: this time limit is unrealistic, especially, when NBs are involved, the transition might take up to 2 years.</p> <p>SI: 6 months is too short, suggests 12 months or longer</p>	<p>DE: the NBs must adapt their accreditation first.</p> <p>SI: time for NBs to adjust notification, then to do the assessment.</p>	

Text of proposal	National positions		Questions
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	provide the methods and the criteria for assessing the performance of the products in relation to their essential characteristics. These 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, classes, threshold levels or product requirements.			
C63	3. Construction products standards developed pursuant to the second sentence of Article 5(2), or the third sentence of Article 22(4) shall be voluntary. Products which are in conformity with voluntary standards adopted in accordance with Article 5(2), or parts thereof, the references of which have been published in the Official Journal of the			

Text of proposal	National positions		Questions
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	<p>European Union shall be presumed to be in conformity with the requirements laid down in Annex I Part B and C, as specified for the respective product family or category by harmonised technical specifications adopted in accordance with the second sentence of Article 5(2), to the extent that those requirements are covered by such voluntary standards and that this coverage has been precisely stated in the respective harmonised standard.</p> <p>Manufacturers who comply with voluntary standards adopted in accordance with Article 22(2), 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 obligations set out in Article 22(2), to the extent that those obligations are covered by</p>			
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Text of proposal	National positions		Questions
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	such standards and that this coverage has been precisely stated in the respective standard.			
C64	<p><i>4. The Commission shall assess the conformity of construction products standards established by the European standardisation organisations with the relevant standardisation requests, with this Regulation and with other Union law. <u>The Commission shall publish or publish with restrictions in the Official Journal of the European Union the list of references of accepted conforming construction products standards that have been made available at an affordable price.</u> Where a reference to a standard cannot be published otherwise in the Official Journal, the Commission is empowered to supplement this Regulation by delegated acts adopted in</i></p>	<p>DE: needs clear statement that COM <u>must</u> publish a hEN when it is in accordance with the request and legislation. Also a need to set a fixed <u>deadline</u>, for example 2 months.</p>		<p>SI: is there any obligation for COM to publish EAD in OJEU?</p> <p>DK: for clarification, what is “affordable”? And who makes decision on this?</p> <p>BE: is COM really allowed to modify the hEN through DA? Is this not</p>

Text of proposal		National positions		Questions
		Suggestion	Justification	
	<i>accordance with Article 86 to modify the respective standards for purposes of legal effects under this Regulation.</i>	BE: to be corrected, right reference is to Art. 87 DE: to state explicitly “only when the standard deviates”.		breaching of the regulation on standardisation 1025/2012/EU? COM: this is not to adjust the hEN itself, but to specify the legal effect, in this case, the citation in OJEU will be complemented with the notes and remarks, this is used already in other sectors, this clarifies the legal competence to correct the standards, we will verify if there is no contradiction. SE: is this modification of hEN different than the emergency exit for standardization? COM: yes, it is

## 23. ANNEX I

Annex I is listed also in cluster Environmental Sustainability. Annex I part D is also listed in cluster Environmental sustainability (subsection Reuse and remanufacturing):

PART A – Basic requirements for construction works and essential characteristics to be covered

	Text of proposal	National positions		Questions
		Suggestion	Justification	

C65	PART A – Basic requirements for construction works and essential characteristics to be covered	SI: for clarity, we suggest dividing the Annex I into 2 separated Annexes, one for basic requirements and another for product requirements.		
C66	<b>1. Basic requirements for construction works</b>	DE: to emphasize that these basic requirements are informative Function and underlying purpose of Part A to be explained in more detail	DE: prevent misunderstanding,	
C67	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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	into account the likely impacts of the changing climate.			
C68	1.1. Structural integrity of construction works			
C69	The construction works and any part of them shall be designed, constructed, used, maintained and 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.			
C70	The structure and structural elements of construction works shall be designed, manufactured, constructed, maintained and demolished in such a way that they meet the following requirements:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C71	(a) be durable for their intended life span (durability requirement);			
C72	(b) be able to sustain all actions and influences likely to occur during construction, use and demolition with an appropriate degree of reliability and in an cost-effective way (structural resistance requirement). They shall not:			
C73	(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;			
C74	(c) remain within their specified service requirements during the intended life span with appropriate degrees of reliability and in an economic way (serviceability requirement);			



Text of proposal	National positions		Questions
	Suggestion	Justification	

C75	(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).			
C76	1.2. Fire safety of construction works			
C77	The construction works and any part of them shall be designed, constructed, used, maintained and demolished in such a way that an event of fire is appropriately prevented. 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	IT: part A, 1.2 fire safety to be deleted> <del>“In case of a fire, the fire shall be detected, and an alarm or alert shall be triggered without a delay.”</del>		

Text of proposal	National positions		Questions
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	ensure safe escape and evacuation of the construction works for all its occupants.			
C78	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:			
C78	(a) the load-bearing capacity of the construction works is maintained for a specific period of time;			
C79	(b) the rescue and emergency services' access is ensured and there are appropriate means to facilitate their work;			
C80	(c) the generation and spread of fire and smoke is controlled and limited;			
C81	(d) the spread of the fire and smoke to the adjacent construction works is limited;			
C82	(e) the safety of rescue and emergency services is taken into consideration.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C83	1.3. Workers, consumer and occupant protection against adverse hygiene and health impacts related to construction works			
C84	The construction works and any part of them shall be designed, constructed, used, maintained and <u>demolished</u> in such a way that they, throughout their life cycle, do not present acute or chronic threat to the health and safety of workers, occupants or neighbours as a result of any of the following:	DE: add the terms such as deconstruction or dismantling to make it clear it refers not only to the full demolition		
C85	(a) the emissions of hazardous substances, volatile organic compounds or hazardous particles into indoor air;			
C86	(b) the emission of hazardous radiation into the indoor environment;			
C87	(c) the release of hazardous substances into drinking water or substances which have an otherwise negative impact on drinking water;	IE: the definition of recycling does not include this requirement		

Text of proposal	National positions		Questions
	Suggestion	Justification	

C88	(d) the passage of moisture to the interior of the building;			
C89	(e) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste to the indoor environment.			
C90	1.4. Workers, consumers and occupants protection against physical injuries of construction works			NL: accessibility and use for disabled & injury from explosions and burglaries were deleted, please give reasoning SI: no mention of risk of burglaries, why? As the demand on anti burglary products is rising
C91	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 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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	extreme weather conditions or explosion.			
C92	1.5. Resistance to the passage of sound and acoustic properties of construction works			
C93	The construction works and any part of them shall be designed, constructed, used, maintained and 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:			
C94	(a) does not create immediate or chronic risks for the human health			
C95	(b) allows occupants and people nearby to sleep, rest and engage in their normal activities in satisfactory conditions.			

Text of proposal		National positions		Questions
		Suggestion	Justification	
C96	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.			
C97	1.6. Energy efficiency and thermal performance of construction works	FI: it is not sufficiently clear how the COM intends to ensure that the revised CPR is coherent with requirements of other EU initiatives (Energy Performance of Buildings Directive).		
C98	The construction works and their heating, cooling, lighting and ventilation installations shall be designed, built, and maintained in such a way that, <u>throughout their life cycle</u> , the amount of energy they require in use shall be low, when account is taken of:	DE: clearly refer only to the amount of energy required during the building's use phase	DE: proposed text might lead to different interpretations	
C99	(a) the target for nearly zero energy buildings and zero-			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	emissions buildings in the Union;			
C100	(b) the outdoor climatic conditions;			
C100	(c) the indoor climate conditions.			
C101	1.7. Hazardous emissions into the outdoor environment of construction works	IE: the definition of recycling does not include this requirement		
C102	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 to the outdoor environment, as a result of any of the following:			
C103	(a) the release of hazardous substances or radiation into ground water, marine or surface waters or soil;			
C104	(b) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste to the outdoor environment;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C105	(c) damage to the building, including damage through the transport of water-borne contaminants to the foundations of the building;			
C106	(d) the release of <u>net greenhouse gas emissions</u> into the atmosphere.	DE: do not agree with the wording “net greenhouse gas emissions”: to delete “ <del>net</del> ” FI: proposal for a recast EPBD requires calculation of the lifecycle global warming potential (GWB) for new buildings. However, contractors may not be able to perform this calculation - which will require access to a lot of information on construction products and their embodied carbon.	DE: greenhouse gases are categorized as climate gases, not air pollution, include it in different point, necessary to clarify how is this criteria to be applied	
C107	1.8. Sustainable use of natural resources of construction works	DE: missing definitions and benchmarks, need to first identify mS needs and then formulate the requirements here, scrutiny reservation to this part		NL: Does the COM monitor the progress of CEN 250 in updating Eurocodes regarding sustainability?
C108	The construction works and any part of them shall be designed, constructed, used, maintained and demolished in such a way that, throughout			



Text of proposal	National positions		Questions
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	their life cycle, the use of natural resources is sustainable and ensures the following:			
C109	(a) use of raw and secondary materials of high environmental sustainability and thus with a low environmental footprint;	IE: Annex I, para 1.8, reference to secondary materials, but only regarding footprint, not the overall environmental impacts.		
C110	(b) minimizing the overall amount of raw materials used;			
C111	(c) minimizing the overall amount of embodied energy;			
C112	(d) minimizing the overall use of drinking and brown water;			
C113	(e) reuse or recyclability of the construction works, parts of them and their materials after demolition.	<p>FI: favors the goal to promote the circular economy and the operation of the internal market in the construction sector; an opportunity to reuse construction products on a wider scale than at present is central.</p> <p>IE: the wording is confused: “... <i>the use of natural resources is sustainable and ensures the following: (e) reuse or recyclability of the construction works, parts of them and their materials after</i></p>		

Text of proposal	National positions		Questions
	Suggestion	Justification	

		<i>demolition.” <b>Change to</b> “... the use of natural resources is sustainable and <u>maximises the following: (e) the reuse or recyclability of the construction works, in part or in whole and the reuse, or recyclability, of their materials and components construction products after demolition.”</u></i>		
C114	<b>2. Essential characteristics to be covered</b>			
C115	Harmonised technical specifications shall to the extent possible cover the following essential characteristics related to life cycle assessment:	FR: support the use of EN 15804+A2 NL: support the use of EN 15804+A2 DE: support the reference to EN 15804, to assesses whether the same wording as in standard should be used in the provisions, to add models for the key environmental indicators to ensure it is equivalent	FR: the manufacturers have worked a lot with this standard already	COM: we do not want to namely mention EN 15804 in the legal text, but we listed all indicator, that are in this standard, without mentioning the method
C116		FI: proposal for a recast EPBD requires calculation of the lifecycle global warming potential (GWB) for new buildings. However, contractors may not be able to perform this calculation - which will require		

Text of proposal	National positions		Questions
	Suggestion	Justification	

		access to a lot of information on construction products and their embodied carbon.		
C117	(a) climate change effects (mandatory);	NL: this could be mandatory additionally to another “classical” essential requirement. FI: proposal for a recast EPBD requires calculation of the lifecycle global warming potential (GWB) for new buildings. However, contractors may not be able to perform this calculation - which will require access to a lot of information on construction products and their embodied carbon.		NL: would EN 15804 method be sufficient?
C118	(b) ozone depletion;			
C119	(c) acidification potential;			
C120	(d) eutrophication aquatic freshwater			
C121	(e) eutrophication aquatic marine;			
C122	(f) eutrophication terrestrial			
C123	(g) photochemical ozone;			
C124	(h) abiotic depletion – minerals, metals;			
C125	(i) abiotic depletion – fossil fuels;			
C126	(j) water use;			

Text of proposal	National positions		Questions
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C127	(k) particulate matter;	IE: suggesting additional criteria: A) Particulate matter of 10 microns or less B) Particulate matter of 2.5 microns or less C) Particulate matter that we could potentially filter out if we wished to make sizeable environmental interventions and D) Those particulate matter that for practical purposes are permanently in the environment.		
C128	(l) ionizing radiation, human health;			
C129	(m) eco-toxicity, freshwater;			
C130	(n) human toxicity, cancer;			
C131	(o) human toxicity, non-cancer;			
C132	(p) land use related impacts.			
C133	Harmonised technical specifications shall indicate that for the 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).			

	Text of proposal	National positions		Questions
		Suggestion	Justification	

C134	Harmonised technical specifications shall also cover to the extent possible the essential characteristic of capability to temporarily bind carbon and of other carbon removals.			
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PART B: Requirements ensuring the appropriate functioning and performance of products

C135	PART B: Requirements ensuring the appropriate functioning and performance of products	FR: <b>crossing the national competence for installation</b> DE: supports FR	DE: extensive requirements, to be examined if it is necessary	COM: Art. 5(2,3) is applied only when there is a DA that specify which part pf Annex I, part, B, C is applicable for certain product group
C136	<b>1. Products shall be designed and manufactured in such a way that:</b>	NL: concerned about public intervention which might hamper innovation; hard to verify by market surveillance (not measurable). NL: suggests developing benchmarking system.	NL: hybrid system DoP and DoC will create confusion and enhance administrative burden.	
C137	(a) they fulfil well their intended purpose;			
C138	(b) the fulfilment of the declared performance is not impaired;			
C139	(c) the fulfilment of the environmental and safety requirements set out in Part C is not impaired;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C139	(d) they work well when being used.			
C140	2. The product requirements referred to in point 1 shall be specified in harmonised technical specifications, including by specifying where necessary:	NL: overlaps with part D, product information		
C141	(a) the use of specific materials which can be specified also in terms of their chemical composition;			
C142	(b) specific dimensions and shapes of products or their components;			
C143	(c) the use of certain components which can be specified also in terms of materials, dimensions and shapes;			
C144	(d) the use of certain accessories and requirements for them;			
C145	(e) a specific way of installation;		DE: this is in the MS competence, not COM	
C146	(f) a specific way of maintenance;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C147	(g) periodic inspections.		DE: subject to MS building regulations	
C148	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

C149	PART C: Inherent product requirements	FR: crossing the national competence for installation DE: supports FR	DE: extensive requirements, to be examined if it is necessary	COM: Art. 5(2,3) is applied only when there is a DA that specify which part pf Annex I, part, B, C is applicable for certain product group
C150	<b>1. Inherent product safety requirements</b>	NL: doubts about added value of the inherent safety requirements for the construction products.	NL: mostly semi-finished products for further processing in buildings by professionals, also the general	

Text of proposal	National positions		Questions
	Suggestion	Justification	

			product safety of products is applicable.	
C151	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 <u>product for its end-of-life phase or its reuse or recycling.</u>	NL: concerned about the liability of manufacturer over the extended period of time.	NL: will the manufacturer, if there still exists, be liable e.g. for a gas leak from CE-marked pipes after 50 years? NL: the proportionality is questionable; will create administrative burden and enforcement problems.	
C152	1.1. Products shall be designed, manufactured, and packaged in such a way that the following inherent product safety risks are addressed in accordance with the state of the art:			
C153	(a) chemical risks due to leaking or leaching	IE: This requirement is not reflected in the definition of recycling		
C154	(b) risk of unbalanced composition in terms of substances resulting in flawed, safety-relevant functioning of products;			
C155	(c) mechanical risks;			
C156	(d) mechanical failure;			
C157	(e) physical failure;			



Text of proposal	National positions		Questions
	Suggestion	Justification	

C158	(f) risks of electric failure;			
C159	(g) risks linked to electricity supply breakdown			
C160	(h) risks linked to unintended charge or discharge of electricity;			
C161	(i) risks linked to software failure;			
C162	(j) risks of software manipulation;			
C163	(k) risks of incompatibility of substances or materials;			
C164	(l) risks linked to the incompatibility of different items, at least one of them being a product;			
C165	(m) risk of not performing as intended, whilst the performance is safety relevant;			
C166	(n) risk of misunderstanding instructions for use in a field affecting health and safety;			
C167	(o) risk of unintended inappropriate installation or use;			
C168	(p) risk of intended inappropriate use.			

Text of proposal	National positions		Questions
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C169	1.2. 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.			
C170	When specifying the inherent product safety requirements, harmonised technical specifications shall at least cover the following elements:			
C171	(a) 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;			
C172	(b) provide technical solutions that avoid safety-related risks;			
C173	(c) where risk avoidance is not possible, risks shall be reduced, mitigated and addressed by warnings on the			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product, its packaging and in instructions for use;			
C174	When specifying the inherent product safety requirements, harmonised technical specifications may differentiate these in accordance with performance classes.			
C175	<b>2. Inherent product environmental requirements</b>	DE: to clarify in the wording that it applies only to certain product groups		
C176	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.			
C177	2.1. Products shall be designed, manufactured, and packaged in such a way that the following inherent product environmental aspects are addressed in accordance with the state of the art:			

Text of proposal	National positions		Questions
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C178	(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;			
C179	(b) minimising whole-life-cycle greenhouse gas emissions;			
C180	<u>(c) maximising recycled content wherever possible without safety loss or outweighing negative environmental impact;</u>	IE: in the Annex I Part A, 2. to add <i>q) percentage recycled content</i> to the essential characteristics in the CE marking	IE: it is not possible to maximise, when there is no metric	
C181	(d) selection of safe, environmentally benign substances;			
C182	(e) energy use and energy efficiency			
C183	(f) resource efficiency;			
C184	(g) identification which product or parts thereof and in what quantity can be reused after de-installation (reusability);			
C185	(h) upgradability;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C186	(i) reparability during the expected life span;			
C187	(j) possibility of maintenance and refurbishment during the expected life span;			
C188	(k) recyclability and the capability to be remanufactured			
C189	(l) capability of different materials or substances to be separated and recovered during dismantling or recycling procedures.			
C190	2.2. 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.			
C191	When specifying the inherent product environmental requirements, harmonised technical specifications shall			

Text of proposal	National positions		Questions
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	at least cover the following elements:			
C192	(a) if possible, define the state of the art of addressing the environmental aspects with regard to the respective product category, including the minimum recycled content;			
C193	(b) provide technical solutions which avoid negative environmental effects and risks, including the generation of waste materials;			
C194	(c) where avoidance is not possible, negative effects and risks shall be reduced, mitigated and addressed by warnings on the product, its packaging and in instructions for use.			
C195	When specifying the inherent product environmental requirements, harmonised technical specifications may differentiate these in accordance with performance classes.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

PART D: Product information requirements

C196	PART D: Product information requirements	FR: too many general information, not proportionate, it touches the national requirements for installation DE: supports FR SE, HU: support DE and FR, toom complex concept for manufacturers	DE: extensive requirements, to be examined if it is necessary	COM: Product <u>information</u> requirements are applicable to all products, information for the consumer and market surveillance
C197	<b>1. Products shall be accompanied by the following information:</b>	NL: concerned about the complexity, redundancy and enforceability, also overlaps with other information requirements in other parts of Annex I.		
C198	1.1. <u>Product identification</u> : unequivocal type number on the basis of the determination of <u>product type</u> pursuant to Article 3, point 31.	NL: already in the DoP	NL: is it necessary to duplicate the information?	
C199	1.2. Product description:			
C200	(a) intended uses			
C201	(b) intended users			
C202	(c) conditions of uses;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C202	(d) estimated average and minimum service life span for intended use (durability);			
C203	(e) nominal dimensions (drawings);			
C204	(f) main materials used;			
C205	(g) key parts.			
C206	1.3. Transport, <u>installation</u> , maintenance, deconstruction and demolition rules:	NL: common solutions of installing to make sure that the declared performance is preserved.		
C207	(a) Safety during transport, installation, maintenance, deconstruction and demolition:			
C208	(i) potential risks of the product and any reasonably foreseeable misuse thereof;			
C209	(ii) instructions for the assembly, installation and connection, including drawings, diagrams and, where relevant, the means of attachment to other products and parts of construction works;			
C210	(iii) instructions for operation and maintenance to be carried out safely, including the			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	protective measures that should be taken during these operations;			
C211	(iv) if necessary, instructions for the training of the installers or operators			
C212	(v) information on what to do in case of failure or accidents			
C213	(b) Compatibility and integration into systems or kits:			
C214	(i) compatibility with other materials or products, regardless of whether they are covered by this Regulation or not;			
C215	(ii) electric and electro-magnetic compatibility			
C216	(iii) software compatibility			
C217	(iv) integration into systems or kits;			
C218	(c) Maintenance needs with a view to maintaining the performance of the product during its service life span:			
C219	(i) description of the adjustment and maintenance operations that should be			

Text of proposal	National positions		Questions
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	carried out by the users and the preventive maintenance measures that should be observed;			
C220	(ii) the type and frequency of inspections and maintenance required for safety reasons and, where appropriate, the parts subject to wear and the criteria for replacement;			
C221	(iii) information on what to do in case of failure or accident;			
C222	(d) Safety during use:			
C223	(i) instructions on the protective measures to be taken by the user, including, where appropriate, the personal protective equipment to be provided;			
C224	(ii) instructions designed for the safe use of the product, including the protective measures that should be taken during its use;			
C225	(iii) information on what to do in case of failure or accident during use;			

Text of proposal	National positions		Questions
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C226	(e) Training and other requirements necessarily to be fulfilled for safe use;			
C227	(f) Risk mitigation possibilities going beyond points 1.2 to 1.3.			
C228	1.4. Contact details of the manufacturer or the representative:			
C229	(a) address/website/telephone number/email address;			
C230	(b) if possible, specific contact details should be given for:			
C231	(i) information on installation, maintenance, use, deconstruction and demolition,			
C232	(ii) information on risks,			
C233	(iii) information in case of failure			
C234	1.5. Contact details of relevant authorities in case of risky or faulty products.			
C235	1.6. Rules or recommendations for repair, deconstruction, reuse, remanufacturing, recycling or safe deposit.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C236	Product information on these items shall, both in terms of quantity and quality, suffice to make knowledgeable decisions on purchase, including the respective needed quantity, installation, use, maintenance, dismantling, reuse and recycling of the product. It shall include all the drawings, diagrams, descriptions and explanations necessary to understand it.			
C237	2. Harmonised technical specifications may specify that a certain product information requirement is not relevant for a certain product category.			
C238	3. Harmonised technical specifications shall, as appropriate, specify the product information requirements set out in point 1 that may relate both to the product itself and to its installation into construction			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	works. Thereby, they shall take into account the needs of designers, building authorities, construction professionals, building control authorities, consumers and other users, occupants, use managers, and of maintenance professionals.			
C239	When specifying the product information requirements, harmonised technical specifications shall at least cover the following elements:			
C240	(a) address safety and environmental aspects relevant for the respective product category;			
C241	(b) specify where the respective information is to be provided, aiming, by choice of the location, at the utmost likelihood for information not be overlooked. If possible, several of the following places shall be selected: on the product, on its label, on its packaging, on its outer (sales) packaging, in paper			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	instructions for use, in electronic instructions for use, on the website of the manufacturer or in the product database established in accordance with Article 78;			
C242	(c) in cases where information may or shall be provided on the website of the manufacturer or in the product database, the harmonised technical specifications shall require a link to be placed on the product, on its packaging, and on its outer (sales) packaging;			
C243	4. Harmonised technical specifications may permit manufacturers to provide certain information items relevant for Member States, users or occupants, under the condition that:			
C244	(a) the respective Member States' regulation is compatible with Union law,			
C245	(b) it is made clear that the respective information items			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	permitted by the harmonised technical specifications do not relate to Union law and are not mandatory.		
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## 24. ANNEX II

C246	ANNEX II Declaration of Performance and of Conformity <sup>1</sup>	<p>ES: DoP, DoC – to add to the content a reference to certificate/test report of the product and its parts.</p> <p>IE: Annex II provides a template and required information. There are various environmental and sustainability assessment requirements here. However, it is not clear if the necessary specifications are available at this stage, on which the methodology for some of the assessments and the practical application of it all seems to be based.</p> <p>SI: to add: - identification of the assessed manufacturing plant(s), - number of the notified body, - number of the certificate and/or the reports.</p>	<p>ES: This is currently done in other CE marking Directives and it is very useful for the consumer and for the authorities, to quickly check if the certificates are correct, and therefore that the Declaration is not fraudulent. In addition, it is a way to clearly record the certificates that apply to each unit of product, guarantee traceability and avoid fraud (for example, in the event that there are several Declarations, several certificates, or that these change over time).</p> <p>SI: to facilitate verification of DoC by market surveillance and other stakeholders.</p>	COM: the forging can be also prevent by functioning database of certificates
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Text of proposal		National positions		Questions
		Suggestion	Justification	

C247	Name of the Manufacturer			
C248	Declaration No ...2			
C249	Version No ...3			
C250	Date of that version ...			
C251	1. Product description			
C252	(a) unique identification code of the product type, and the ranges of batch numbers and serial numbers covered if already determined for the respective product type;			
C253	(b) product category as defined by harmonised technical specifications or European Assessment Documents;			
C254	(c) intended uses of the product, necessarily falling under those intended uses for which the applicable harmonised technical specification or European Assessment Document has been developed, with facultative additional			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	information on the intended users, or the conditions for safe and good use;			
C255	(d) dimensions of the product;			
C256	(e) main materials or substances used;			
C257	(f) information to be provided in accordance with Regulation (EC) 1907/2006;			
C258	(g) key parts of the product;			
C259	(h) estimated average and minimum service lifetime for the intended use foreseen for the product (durability);			
C260	(i) variants, if any, and their descriptions;			
C261	(j) information falling under Annex I Part D.			
C262	2. Permalinks as regards the following:			
C263	(a) the manufacturer's products registration(s) in EU databases, and the precise location therein where the product can be found, and to his own product presentation website;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C264	(b) any voluntarily or mandatorily used products registration database or website, and the precise location therein where the product can be found;			
C265	(c) instructions for use in accordance with Annex I Part D point 1.3.			
C266	3. Manufacturer			
C267	(a) name;			
C268	(b) trade name;			
C269	(c) place of business;			
C270	(d) postal address;			
C271	(e) telephone;			
C272	(f) email address;			
C273	(g) website;			
C274	(h) social media contact details;			
C275	(i) where available, specific contact details for providing information on installation, maintenance, use, de-construction, and on the handling of risks or product failure.			
C276	4. Authorised representative:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C277	(a) name;			
C278	(b) trade name;			
C279	(c) place of business;			
C280	(d) postal address;			
C281	(e) telephone;			
C282	(f) email address;			
C283	(g) website;			
C284	(h) social media contact details;			
C285	(i) where available, specific contact details for information on installation, maintenance, use, de-construction, on the handling of risks and on actions in case of product failure.			
C286	5. Notified bodies:			
C287	(a) name;			
C288	(b) trade name;			
C289	(c) place of business;			
C290	(d) postal address;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C291	(e) telephone;			
C292	(f) email address;			
C293	(g) website;			
C294	(h) social media contact details.			
C295	6. Technical Assessment Body:			
C296	(a) name;			
C297	(b) trade name;			
C298	(c) place of business;			
C299	(d) postal address;			
C300	(e) telephone;			
C301	(f) email address;			
C302	(g) website;			
C303	(h) social media contact details.			
C304	7. Assessment and verification system(s) applied			
C305	8. Harmonised technical specifications applied: (reference number and date of issue)			
C306	9. European Assessment Document applied: (reference number and date of issue)			
C307	10. European Technical Assessment issued:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	(technical assessment body, reference number and date of issue)			
C308	11. Declared performances and sustainability characteristics:			
C309	(a) the list of essential characteristics, as determined in the harmonised technical specification or European Assessment Document for the respective product category for which a performance is declared.			
C310	(b) the performance of the product, by calculated values, levels or classes, or in a description. Respective values, levels or classes shall be reproduced in the declaration of performance itself and thus cannot be expressed solely by inserting references to other documents. However, the performance of structural behaviour of a product may be expressed by referring to attached			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	production documentation or structural design calculations.			
C311	(c) the environmental sustainability data calculated in accordance with Article 22(1), in particular where they fit under the essential characteristics listed in Annex I Part A, point 2, in case the respective rules covering the product category have become applicable at the time of placing on the market or direct installation.			
C312	12. The product identified above is in conformity with the following requirements of Annex I Part B and C as specified by4:			
C313	13. Declarations:			
C314	(a) the performance of the product identified above is in conformity with the set of declared performances under point 11;			
C315	(b) the sustainability data of the product identified above have been correctly calculated			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	on the basis of the product category rules applicable to it;			
C316	(c) the product identified above is in conformity with the requirements listed under point 12.			
C317	Signed for and on behalf of the manufacturer by: [name, function5] At [place] on [date of issue] [signature]			

European assessment document EAD:

#### 25. Article 3(46) - *Harmonised technical specifications Definition*

C318	<b>‘harmonised technical specifications’</b> means construction products standards established in accordance with Article 4(2) the reference of which has been published in the Official Journal in accordance with			PL: asks for clarification of art. 3 and references to EADs
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	Article 34 and thereby were rendered mandatory for purposes of application of this Regulation, and delegated acts adopted in accordance with Article 4(3) and (4), Article 5(2), or Article 22(4) that contain technical prescriptions			
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## 26. Article 35 - European assessment document

Note: Article 35(4) is also listed in subsection Delegated Acts

C319	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 <u>and the declaration of conformity.</u>	DE: ETA and EAD is to be referred to in the declaration of performance  SI: misleading reference to Art. 4(1)		SI: does the EAD covers only the essential characteristics and NOT product requirements? If so, the reference to DoC makes no sense
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Text of proposal	National positions		Questions
	Suggestion	Justification	

C320	2. Following a request for a European technical assessment by a manufacturer or a group of manufacturers or on <u>initiative of the Commission</u> , a European assessment document may be drawn up and adopted by the organisation of technical assessment bodies ('TABs') in agreement with the <u>Commission for any product not covered by:</u>	DE: provide the relevant right for of initiative to the individual MS  DE: to cover a missing option d) in case when a specific essential characteristic is missing in the HTS or EAD		
C321	(a) a harmonised technical specification;			
C322	(b) a harmonised technical specification intended to be adopted <u>in the next 2 years</u> as from the date of verification with the Commission;	DE: this may be overly long time for a manufacturer		
C323	(c) another European assessment document already cited in the Official Journal or submitted to the Commission for citation therein			
C324	The product shall not be considered as covered by the	IT: replace "document" by "harmonised technical specification"		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	harmonised technical specification where: (i) the intended use of the product is different than the intended use supposed in the <u>document</u> .			
C325	(ii) the materials used are not identical to the materials intended to be used under the <u>document</u> , or	IT: replace “document” by “harmonised technical specification”		
C326	(iii) the assessment <u>method</u> of the <u>document</u> is not appropriate for that product.	IT: replace “document” by “harmonised technical specification”		DE: it is not clear what method or document is meant? DK: We request for clarification whether article 35, para. 2, (iii), is considered applicable for re-used products.
C327	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.	DE: to reject only on the grounds listed in paragraph 2, applicant to be informed on rejection in writing. To set clear criteria on bundling		

Text of proposal	National positions		Questions
	Suggestion	Justification	

C328	4. <i>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.</i>			
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## 27. Article 36 - Principles for the development and adoption of European assessment documents

C329	Article 36 - Principles for the development and adoption of European assessment documents			DK: For clarification, it seems not clear how to develop EAD's and whether the same principles as described in annex 1 applies.
C330	1. The procedure for developing and adopting European assessment documents shall respect the following principles:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C331	(a) be transparent to Member States, the manufacturer concerned and to other manufacturers or stakeholders that request to be informed;			
C332	(b) <u>disclose as little as possible information</u> protected by intellectual property rights, and protect commercial secrecy and confidentiality;	DE: too unspecific formulation for such a sensitive topic, TABs need clear legal basis for necessary passing on information		
C333	(c) specify appropriate mandatory time limits in order to avoid unjustified delay;			
C334	(d) allow at any stage <u>for adequate participation by the Member States and the Commission</u> ;	DE: more specific definition needed, MS need right for consultation, not only as set in Annex II, no. 6		
C335	(e) be cost-effective for the manufacturer; and			
C336	(f) ensure sufficient collegiality and coordination amongst TABs designated for the product in question.			
C337	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			

Text of proposal		National positions		Questions
		Suggestion	Justification	

	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.			
C338	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.	DE: amendment, COM should continue to participate in the funding of the EOTA work		
C339	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 therefore in particular give preference to the extension of a scope of an existing			

Text of proposal		National positions		Questions
		Suggestion	Justification	

	European assessment document.			
C340	4. TABs and the organisation of TABs shall refrain from developing European assessment documents where there is a high likelihood of duplication with harmonised technical specifications or pre-existing European assessment documents and shall withdraw duplicating European assessment documents			

## 28. Article 37 - Obligations of the TAB receiving a request for a European technical assessment

Note: This article is also listed in the cluster TABs

C341	1. The TAB receiving a request for a European technical assessment from a manufacturer, a <u>group of manufacturers or the</u>	DE: supports the option for group of manufacturers, but needs more clarification		DE: support this option, but it needs more clarification, how the request is made together, is there one neutral ETA or more ETAs in the end of the
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<u>manufacturers’ association</u> shall inform the applicant if the product is covered, <u>fully</u> or <u>partially</u> , by a harmonised technical specification or European assessment document as follows:	DE: “fully covered” is not sufficiently explained  DE: “partially covered” is not explained, not later used		process? DE suggests one EAD and the ETA for each manufacturer
C342	(a) where the product is fully covered by a harmonised technical specification, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers’ association that, in accordance with Article 35(2), a European technical assessment cannot be issued;			
C343	(b) where the product is fully covered by a European assessment document the reference of which has been cited in the Official Journal, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers’ association that such a document will be			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	used as the basis for the European technical assessment to be issued;			
C344	(c) where the product is not covered by any harmonised technical specification or European assessment document <u>and where no such harmonised technical specification is intended to be adopted in the next two years,</u> or no such or European assessment document is already in the procedure of developing pursuant to Annex III, the TAB shall apply the procedures set out in Annex III or those established in accordance with Article 35(4).	DE: this time period is overly long for the manufacturer		
C345	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			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	verification system, which the TAB intends to apply for that product, or of the lack of such a Commission decision.			
C346	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(1).			

## 29. Article 38 – Publication of references

C347	1. The Commission shall <u>assess the conformity of European assessment documents with harmonised technical specifications</u> , with this Regulation and with other Union law. <u>The Commission shall publish or</u> publish with restriction in the Official	DE: accepted EAD must be published immediately or within 2 months  DE: the list of references should be always complete		DE: it is not clear what it means
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	Journal of the European Union the list of references of accepted conforming European assessment documents. <u>The Commission shall publish any updates to that list.</u>			
C348	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. <u>This legal effect of European assessment documents shall expire ten years after their first citation in the Official Journal of the</u>			SI: The legal effect of the EAD expires 10 years from the first publication, unless renewed. But it is unclear what happens after the first renewal, until when is the renewed EAD valid? Is the renewed EAD also cited in the OJEU and is that also meant to be »first citation«?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	European Union unless they <u>have been renewed</u> in the last year prior to expiry and the Commission decides to maintain the listing.			
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### 30. Article 39 - Dispute resolution in cases of disagreement between TABs

Note: This article is also listed in cluster TABs:

C349	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.	DE: welcomes resolution, the resolution process should be specifically regulated		
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Text of proposal	National positions		Questions
	Suggestion	Justification	

### 31. Article 40 - Content of the European assessment document

C350	1. A European assessment document shall contain the following elements:			
C351	(a) a description of the product covered; and			
C352	(b) the list of essential characteristics, 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.			
C353	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.			
C354	3. Where the performance of some of certain essential characteristics of the product	DE: term “good reasons” should be clarified		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	can appropriately be assessed with methods and criteria established in harmonised technical specifications or European assessment documents, those existing methods and criteria shall be incorporated as parts of the European assessment document, unless there are <u>good reasons to deviate from this rule.</u>			
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### 32. Article 41 - Formal objections against European assessment documents

C355	1. A Member State shall inform the Commission of all of the following:			
C356	(a) where it considers that a European assessment document does not entirely satisfy applicable legal requirements or the demands to be met in relation to the			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	basic requirements for construction works or product requirements set out in Annex I;			
C357	(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;			
C358	c) where it considers that a European assessment document does not fulfil the requirements set out in Article 35(2),			
C359	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.	DE: the contradiction between uncertain participation in the process by Member States and options for subsequent objection must be resolved.		

Text of proposal	National positions		Questions
	Suggestion	Justification	

C360	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 the Official Journal of the European Union.	DE: COM must implement a relevant measure, when the MS objection is confirmed		
C361	3. The Commission shall inform the organisation of TABs of its decision referred to in paragraph 2 and, where necessary, request the revision of the European assessment document concerned.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

33.

#### Article 42 - European technical assessment

Note: Article 42(3) is also listed in subsection Implementing Acts

C362	1. The 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 <u>III the reference of which has been cited in the Official Journal of the European Union</u> in accordance with Article 38.	DE: COM should publish EAD promptly, according to verifiable criteria, if the deadline is not met, the ETA can be issued anyway		
C363	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 of the construction			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	products standard in the Official Journal of the Union.			
C363	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.			
C364	<i>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).</i>			
C365	4. European technical assessments issued on the basis of a European			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	assessment document remain valid for five years after the expiry date of the European assessment document in accordance with Article 38(2).			
C366	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.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

### 34. ANNEX III

C367	ANNEX III Procedure for adopting a European Assessment Document			
C368	1. Request for a European Technical Assessment			
C369	(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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	manufacturer and details of the factory production control the manufacturer intends to apply.			
C370	(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 <u>shall address the request to the organisation of TABs that will propose to the Group a TAB to act as the responsible TAB.</u> 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	DE: the EOTA involvement is not necessary		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			
C371	(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. <u>The Commission selects the TAB to act as the responsible TAB</u> , after consulting the organisation of TABs.	DE: the TAB should be appointed by EOTA, not Commission		
C372	2. Contract			
C373	For products referred to in Article 37(1)(c), within 1 month from the reception of the technical file, in cases			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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:			
C374	(a) the organisation of work within the organisation of TABs,			
C375	(b) the composition of the workgroup to be established within the organisation of TABs, designated for the product area in question, and			
C376	(c) the coordination of TABs.			
C368	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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			
C369	3. Work programme			
C370	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.			
C371	4. The draft European Assessment Document			
C372	The organisation of TABs shall finalise a draft European			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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).			
C373	5. Commission Participation			
C374	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			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	Document, including merging or splitting thereof.			
C375	6. Member States consultation			
C376	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.			
C377	7. Extension and delay			
C378	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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product or by the need to develop a new test method, an extended time limit shall be set by the Commission.			
C379	8. Amendments and adoption of a European Assessment Document			
C380	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:			
C381	(a) if applicable, inform the manufacturer or the Group as to how their reactions have been taken into account;			
C382	(b) adopt the draft European Assessment Document;			
C383	(c) send a copy of it to the Commission.			
C384	8.2. In the case foreseen in point 1.(c), the responsible TAB shall:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

C385	(a) adopt the draft European Assessment Document;			
C386	(b) send a copy of it to the Commission.			
C387	If, within 30 working days of receipt, the Commission communicates 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 send a copy of the adopted European Assessment Document in cases foreseen in points 1.(a) and 1.(b) to the manufacturer or the Group, respectively, and in all cases to the Commission.	DE: does this mean, that when there is no reaction from COM within 30 days, it is automatically accepted? please clarify		
C388	9. Final European Assessment Document to be published			
C389	The organisation of TABs shall adopt the final European Assessment Document and shall send a copy thereof to			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

## D. Environmental sustainability

Note: This cluster is for better orientation divided into 4 subsections: General, Reuse and Remanufacturing, Product labelling and Green Public Procurement public procurement.

	DK: is generally positive for the prospect of including environmental aspects in to the new CPR. Nevertheless, we need further examination of the detailed aspects before we can comment on a detailed level		AT: the CPR proposal and the proposal for Eco-design have overlapping scopes of application (the Eco-design proposal basically applies to all products which are placed on the market – see Art. 1). Can COM explain how this regulatory overlap can be avoided so that only one regulatory regime will be applicable to construction products? Which legislation will incorporate a provision to that effect? AT suggests that both proposals should include an explicit provision to that effect.
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General:

### 35. Article 4 - Essential characteristics of products

Note: This article is also listed in the cluster Standardization, Article 4(2) is listed in Governance/Harmonized zone

Text of proposal	National positions		Questions
	Suggestion	Justification	

D1	1. The basic requirement 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.			
D2	<i>2. The essential characteristics specified in accordance with paragraph 1 or listed in Annex I Part A Point 2 and the methods for their assessment shall be laid down in standards which are rendered mandatory for purposes of application of this Regulation. 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.</i>			
D3	<i>The Commission may issue standardisation requests in accordance with Article 10 of Regulation (EU) 1025/2012 laying down the basic</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>principles and corner stones for the establishment of these essential characteristics and their assessment methods.</i>			
D4	<i>The respective standardisation requests may also include a request that the European standardisation organisation determine in the standards referred to in the first subparagraph the voluntary or mandatory threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers. In that case, the Commission shall lay down the basic principles and corner stones for the establishment of the threshold levels, classes and mandatory characteristics in the standardisation request.</i>			
D5	<i>The Commission shall verify that the basic principles and corner stones, and the Union</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>law are respected in the standards prior to publishing the reference thereof in the Official Journal in accordance with Article 34.</i>			
D6	3. By way of derogation from 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, voluntary or mandatory essential characteristics and their assessment methods in any of the following cases:			
D7	(a) there are undue delays in the adoption of certain standards referred to in the first subparagraph of Article 4(2) by the European			



Text of proposal	National positions		Questions
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	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;			
D8	(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;			
D9	(c) 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;			
D10	(d) the standards referred to in the first subparagraph of Article 4(2) are for other			

Text of proposal	National positions		Questions
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	reasons considered not sufficient to cover regulatory needs of Member States or the needs of economic operators;			
D11	(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;			
D12	(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;			
D13	(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.			
D14	4. In order to cover the regulatory needs of Member States and to pursue the environmental, safety and			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	harmonisation 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 determining, for particular product families and categories, the following:			
D15	(a) threshold levels and classes of performance in relation to the essential characteristics and which of the essential characteristics may or shall be declared by manufacturers;			
D16	(b) conditions under which a product shall be deemed to satisfy a certain threshold level or to qualify for a class of performance without testing or without further testing.			
D17	5. The Commission is empowered to amend Annex I Part A by means of delegated			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	acts in accordance with Article 87 in order to adapt it to technical progress and to cover new risks and environmental aspects.			
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### 36. Article 5(1,2) - *Product requirements*

Note: Article 5 is fully listed in cluster Standardization

D18	1. All products covered by 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.			
D19	2. In order to specify the product requirements set out			

Text of proposal	National positions		Questions
	Suggestion	Justification	

<p>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 specifying, for particular product families and categories, these product requirements and by laying down the corresponding assessment methods. Once the Commission has specified these product requirements by delegated acts, it may issue standardisation requests which aim at the elaboration of voluntary harmonised standards providing presumption of conformity with these mandatory product requirements as specified by these delegated acts.</p>			
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### 37. ANNEX I

Note: Due to the complexity of the Annexes, please see the Annex I in the official proposal document.

Annex I is also listed in the cluster Standardization, Annex I part D is also listed in cluster Environmental sustainability, subsection (Reuse and remanufacturing)

Text of proposal	National positions		Questions
	Suggestion	Justification	

+ Additional indicators in EN 15804

Comment of MS regarding Annex are for simplicity listed altogether in the cluster standardisation

#### Reuse & remanufacturing:

D20		IE: general remark: the reuse and preparation for reuse do not adequately address the use of secondary materials		
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#### 38. Article 7(7,8) *Harmonised zone and national measures*

Note: Article is fully listed in the cluster Governance/Harmonized zone

D21				COM: this paragraph only states it is in the hands of MS to decide, for some areas these systems works already, it can be inspiration for other product groups, it is only an <b>OPTION</b>
D22	7. This Regulation does not hinder Member States to introduce <u>mandatory deposit-</u>	DE: does not support the obligatory deposit-refund system, prefers <b>voluntary systems</b>	DE: it could lead to the manufacturer having a deposit od unused products	DK: What is meant by “treatment for waste”?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	refund systems, to oblige manufacturers <u>to take back used or not used products</u> directly or via their importers and distributors and to establish obligations regarding the collection and <u>the treatment of products for waste</u> , provided that all of the following is complied with:	<p>DE: do not support this obligation</p> <p>PL: support t DE regarding take back products</p> <p>AT: concerned about the wording “treatment of product for waste “</p>	<p>DE: recycling centres do often better job that manufacturers would. Many products are not possible to separate and reuse or to take back.</p> <p>PL: it is also question of costs for manufacturer, the functioning of such a system is not clear</p> <p>AT: once the product is going to be waste, it cannot be used again and the owner has to respect national waste legislation</p>	<p>How will overlap to EU waste law be avoided?</p> <p>Does this provision demand for compliance with certain conditions in order to enact national legislation for waste?</p> <p>AT: Did you examine, where is the borderline MS and COM competence regarding the products the were already once placed on the market?</p>
D23	(a) the owner of the product, whilst having a choice amongst the manufacturer, the importer or the distributor as addressee, is in charge of the transport back to the distributor, importer or manufacturer;			
D24	(b) economic operators in other Member States are not otherwise directly or indirectly discriminated.			
D25	8. Member States may ban the destruction of products taken			DK: For clarification, how does this relate to waste law, and is it

Text of proposal	National positions		Questions
	Suggestion	Justification	

	back in accordance with Article 22(2), point (j) and Article 26 or make the destruction of these products dependent on their prior making available on a national brokering platform for non-commercial use of products.		envisioned that a ban on destruction will make it illegal to discard the item as waste?  For clarification, does this affect how the item may be treated once it is waste?
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### 39. Article 10 - Exemptions from drawing up a declaration of performance

Note: Article is also listed in the cluster Governance/Harmonised zone.

D26	1. By way of derogation from Article 9(1), a manufacturer may refrain from drawing up a declaration of performance when placing a product covered by a harmonised technical specification on the market where any of the following applies:			
D27	(a) the product is, otherwise than by 3D-printing or already existing moulds, individually manufactured or custom-made in a non-series process in			DK: Regarding (a), we find it unclear how information about product performance in relation to the



Text of proposal	National positions		Questions
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	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			essential characteristics may be communicated to building authorities and others parts in this case.
D28	(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; or			DK: How does (b) relate to Article 10, No. 1 (c)? There seems to be some overlap.

Text of proposal	National positions		Questions
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D29	(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.			
D30	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.	FI: To avoid unnecessary burdens for companies, it should be clarified in which cases used and remanufactured products must undergo the full administrative procedure to obtain a CE-marking.		DK: What aspect of safety is thought of here? What is meant by “circulate”, and how does it relate to “making available on the market”? How is it to be ensured that the product does not circulate outside the Member State?
D31	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			DK: This paragraph concerns construction works. How is a provision regarding construction works to be applied to individual products?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	outside the territory of that Member State.			
D32	4. A Member State may exempt from Article 9(1) products where all of the following applies:			
D33	(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;	FI: SMEs and micro-enterprises are key to achieve the goals of the Green Deal and the digital transition.		
D34	(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;			DK: What are the cases where products have been voluntarily subject to the regulation?

Text of proposal	National positions		Questions
	Suggestion	Justification	

D35	(c) the product does not to circulate outside the territory of that Member State.			
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#### 40. Article 12 - Modified declaration of performance for used, remanufactured and surplus products

D36	Article 12 - Modified declaration of performance for used, remanufactured and surplus products	<p>DK: support the intention to include incentives to enhance recycling of building materials, but it is important to ensure that dangerous substances are not recirculated from old building materials. need for more clarity on this matter.</p> <p>DK: we further scrutinize the modified DoP for used and surplus products if it is understandable for manufacturers</p> <p>ES: support the need for definition of decorative purposes</p> <p>FR: not in favour</p> <p>IE: depending on the definition reuse and remanufacture, this could raise</p>	<p>FR: risk of fraud with the DoP for used products, we do not have enough information to regulate</p>	<p>BE: more questions than answers, what are the methods and criteria for assessment of used products? COM: now the used product that were once marketed in the EU can freely circulate without any further assessment, this proposal enables at least certain assessment and use information needed for the design of the building, this is for better competition of used products, they also can undergo full assessment voluntarily, support the goals of circular economy</p> <p>COM: the legislation is not only post factum, we can shape the future and stimulate the market</p>
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>an issue for end-of-waste assessment and criteria</p> <p>IE: Ireland opposes any diminution in the allowable performance of construction products as a result of a reuse, remanufacture or recycling process.</p>	<p><b>emerging market with used products, it could be obstacle for the market</b></p> <p>IE: Construction products, regardless of their origin, or any manufacturing, or reclamation, process they have undergone, must meet the same performance standard required by the relevant authorities.</p>	<p>DE: What other information must the economic actor provide in the declaration of performance if it issues a new declaration of performance without undergoing a full procedure, as provided for in para. 2? Is a declaration of performance even necessary if the product's intended use is limited to decoration?</p> <p>IE: clarification on whether and how DoP and Doc apply to secondary materials</p>
D37	<p>1. Where a declaration of performance, issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, is available for a used product, the new declaration of performance may, in derogation from Article 11(1), refer to the initial declaration of performance in relation to the characteristics declared therein if:</p>	<p>SI: to clarify in the text if all three subsequent conditions (a), b), c), must be fulfilled at the same time or if only one is sufficient to benefit from initial DoP</p>		<p>DK: Please explain how is para. 1 a derogation of article 11(1), considering the new declaration refers to the initial declaration, and assuming the initial declaration is in conformity with article 11(1)?</p> <p>How should the situation be handled if the initial DoP expresses performance in accordance with a harmonized standard which is no longer valid?</p> <p>DK: are point a) to c) cumulative?</p>

Text of proposal		National positions		Questions
		Suggestion	Justification	
D38	(a) the intended use is not changed otherwise than <u>by reduction in terms of performance</u> or intended uses or to merely decorative purposes;	SI: to precise this formulation  DK: too complex sentence <b>DK: need to define the decorative purpose</b> BE: support DK regarding decorative purposes	SI: not a precise formulation, might lead to confusion	IT: could be confirmed that this case is different from Art. 2(2) b)? DK: We kindly ask for clarification on the term decorative purposes. How are decorative purposes relevant for performance?
D39	(b) <u>the lifespan</u> of the initial product or the relevant durability performance has been specified in the initial declaration of performance, the harmonised technical specification on which the initial declaration of performance was based, or is generally known on the basis of common civil engineering knowledge;	IT: delete " <del>or is generally known on the basis of common civil engineering knowledge</del> ";	IT: too indeterminate wording, might affect market surveillance	
D40	(c) the time that expired after the first integration of the product into a construction work does not exceed the <u>lifespan</u> of the product or the relevant durability performance, whatever is shorter.			DK: Is by "lifespan" here meant the lifespan referred to in (b)?

Text of proposal	National positions		Questions
	Suggestion	Justification	

D41	The economic operator shall attach the initial declaration of performance to the declaration of performance issued by him, whilst the latter shall be labelled “declaration of performance for used product”.			DK: Is the declaration of performance for used product only to refer to the initial declaration of performance and contain no other information? Regarding the attachment, how is this envisioned in a digital setting?
D42	2. Where there is no declaration of performance available for a used product issued by the initial manufacturer or another economic operator pursuant to this Regulation or Regulation (EU) 305/2011, an economic operator may issue a new declaration of performance without undergoing a full procedure in accordance with this Regulation where it limits <u>the intended use to “decoration”</u> . Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration	ES: suggests deleting whole paragraph	ES: Putting its intended use as "decoration" is going to confuse builders and consumers. We think that this route can lead to unsafe products on the market that will end up being installed in places where these products should not be, creating a danger.  If the use of a product is only for decoration, then it should not have a CE marking.	DK: clarify the term decoration  DK: Unclear what this DoP is to contain: how much of the procedure must be done at minimum? DK: If intended use is limited to “decoration”, it would seem the product is not to be considered a construction product, also what is the added value of a DoP when the intended use is limited to decoration?

Text of proposal	National positions		Questions
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	of performance for used product”.			
D43	3. Paragraphs 1 and 2 shall not apply where:			
D44	(a) the mechanical and chemical properties of the used product cannot be assumed to be stable enough anymore for the new intended use;			DK: How is this to be determined?
D45	(b) health and safety of persons would be at risk due to the properties of the product;			DK: Is this meant as a concrete assessment, and in what way does this relate to EU-law on chemicals (REACH/POP)?
D46	(c) the product has been subject to stresses that makes it unsuitable for the new intended use; or			DK: How is this to be determined?
D47	(d) such stress is not very unlikely according to the protocol established by the de-installer in accordance with Article 29 and the documentation on the conditions of a certain building (“building log-book”).			DK: How is this to be determined?



Text of proposal		National positions		Questions
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D48	Member States shall set-up requirements for de-installers and the certification to be provided in accordance with the last sentence, including on the definition of stresses that render the product unsuitable.			DK: We need to scrutinize whether re-quirements for de-installers may fall under national competency, also if there are overlap to waste law.
D49	4. Paragraphs 1 to 3 shall also apply to remanufactured products, if the transformative process, whilst going beyond repair, cleaning or regular maintenance or preparing for re-use as defined in Article 3, point (16), of Directive 2008/98/EC after being de-installed, does not jeopardise the compliance with this Regulation or the performance of the product in relation to the relevant characteristics because, by their design, the transformative process cannot negatively influence the performance and the compliance <u>or because the used replacement part has been assessed as equivalently</u>			<p>IT: should this assessment be done by the economic operator or by NB?</p> <p>DK: central clause here is whether the transformative process does not influence performance. Please elaborate on the understanding of the text.</p> <p>Considering this part: “or because the used replacement part has been assessed as equivalently performing and compliant”. What assessment method is meant here?</p> <p>elaborate on the need for distinction between re-use and re-manufacture</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<u>performing and compliant.</u> Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration of performance for re-manufactured product”.			
D50	5. Paragraphs 1 to 4 shall apply to all of the following:			DK: Are a) and b) cumulative
D51	(a) products which have reached the user or have left the distribution chain, but were never installed and for which the initial manufacturer no longer assumes any responsibility as new product (“surplus products”);			DK: Under what circumstances may the initial manufacturer decide to not assume any responsibility and how is this decision expressed? clarification whether it has been assessed if (and possibly to what extent) provisions on sur-plus products may become a means of circumvention?
D52	(b) for which the initial manufacturer refused to confirm its responsibility within one month after receiving the respective request of the economic operator wishing to make available on the market the surplus product.			

Text of proposal		National positions		Questions
		Suggestion	Justification	

D53	Where the economic operator has used this derogation, the declaration of performance shall be labelled “declaration of performance for surplus product”.			DK: We note that the proposal introduces numerous new types of declarations, and need to examine further how to implement this in practice.
D54	6. Article 21(3) and Article 22(1) shall only apply to products falling under the derogations of paragraphs 1 to 5 where the economic operator making them available on the market requests their application.	IT: delete “ <del>Article 21(3) and</del> ”	IT: Article 21(3) provides the obligation for manufacturers to draw up a technical documentation describing the intended use and containing the mandatory or facultative calculation of environmental, calculation that is not required for used, remanufactured or surplus products, if the EO do not opts for placing them on the market as new products.	IT: Why is technical documentation describing the intended use not mandatory for such products?
D55	Article 21(2) shall not apply to products falling under the derogations of paragraphs 1 to 5. However, the economic operators shall provide the information set out in Annex I Part D			
D56	7. Unless the economic operator opts for the application of harmonised			IT: why derogation from requirements set in Annex I, Part B and C?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	technical specifications, the products falling under the derogations of paragraphs 1 to 5 shall be exempted from threshold levels, product requirements and applicable harmonised technical specifications.			DK: How does this exemption relate to possible threshold levels in other Union legislation such as REACH/POP?
D57	8. By issuing the declaration of performance, the economic operator assumes responsibility for the conformity of the product with such declared performance and becomes liable in accordance with EU <u>and national laws on contractual and extra-contractual liability</u> . <u>In the absence of objective indications to the contrary, Member States shall presume the declaration of performance to be accurate and reliable.</u>			DK: elaborate on the issue of liability and provide the background for the addition of the first sentence of this provision.; why the second sentence is considered necessary.
D58	9. This article shall not apply to used, remanufactured or surplus products which have never been placed on the Union market or which have			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	never been installed in the Union.		
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#### 41. Article 22 - Additional environmental obligations of manufacturers

Note: Full article is also listed in the cluster Economic operators; Article 22(5) is listed separately in the subsection Product labelling

D59		DE: lacks the reference to the materials of concern as listed in the Art. 4 of ESPR		DE: need to discuss purpose or art. 22 in general is this a regulatory goal to be achieved or only as an appeal.
D60	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 <u>software made freely available on the website</u> of the European Commission. <u>However, this shall not apply</u>	DK: generally supportive on environmental requirement, aware of the eco-design		DK: general clarification, why there is the need for the second sentence  DE: free tool -does this enable a comprehensive life-cycle

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<u>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.</u>			assessment? Will there be inventory data provided free of charge? Does it mean that the commercial LCA tools will be no longer permitted?
D61	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 <u>reaches the state of the art level</u> , unless a lower level:	DE: the law usually refers to the BAT document (Best Available Technology)		DK: What defines the state of the art? Is this a reference to Best Available Technology? How is it to be applied and assessed?
D62	(i) is proportionate when compared to the environmental sustainability improvement triggered by them at the level of the construction works; and			

Text of proposal	National positions		Questions
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D63	(ii) is either necessary to improve the environmental sustainability at the level of the construction works.			DK: There is an “either” in this sentence but no “or”.
D64	(b) under the conditions set out in point (a)(i) and (ii) give preference to recyclable materials and materials gained from recycling	DK: generally support recycling and recyclability		DE: should this cover also the use of important by-products (fly-ash, slag) to promote their circular economy?
D65	(c) respect the minimum recycled content obligations and other limit values regarding aspects of environmental, including climate sustainability contained in harmonised technical specifications		DE: not all construction products can be made using recycled content. Binding percentage might not be the most envi-friendly solution, renewable materials to be taken into account as well (wood)	DK: Does this not already follow from the Regulation in general that limit values set out in harmonized standards are to be respected?
D66	(d) prevent premature obsolescence of products, use reliable parts and design products in such a way that their durability <u>does not fall beyond the average durability of products of the respective category</u>	SI: support maximising the durability of product, maybe better to replace “beyond” by “short of”.  IT: Wording “ <i>does not fall beyond the average durability of products of the respective category</i> ” is too indeterminate, that might affect		SI: How is the average durability set, measured, is it done periodically? Is this to be stated in the DA issued according to Art. 4

Text of proposal	National positions		Questions
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		market surveillance.		
D67	(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);	DK: generally support recycling and recyclability		
D68	(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;			
D69	(g) make available on the market itself or by specially designated distributors or by	DE: too general wording, difficult to implement, should be applicable	DE: it could lead to the significant excess of spare parts, for some	DK: clarification whether this obligates the manufacturer to keep a



Text of proposal	National positions		Questions
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	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;	only when appropriate (e.g. heating systems)	products, no spare parts are relevant (lime, precast concrete components)	store with enough spare parts for 10 years, or whether the manufacturer may decide in general how to go by this obligation? How is the manufacturer to estimate how many spare parts will be necessary? Does this provision influence the price at which the manufacturer provides the spare parts?
D70	(h) design products in such a way that re-use, remanufacturing and recycling are facilitated, namely by facilitating the separation of components and materials <u>at the later stage of recycling</u> 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	ES: to delete “ <del>at the later stage of</del> ” and to be replace by “before”.  FI: to envisage clear and proportionate provisions that consider that the <u>knowledge</u> about materials and products, the techniques used to construct /deconstruct and exposure to the climate for those construction works exists <u>locally</u> .	ES: Once a material is recycled it is ready for use. The advantage lies in separating it prior to recycling, in order to obtain better quality materials at a lower cost.	DK: We note that re-use is mentioned in this provision, but re-use is absent from the last part of the first sentence and is absent from the second sentence. In case re-use is risky for human safety or the environment, does this provision then apply?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	recycling in accordance with the following point;			
D71	(i) make available, in product databases, <u>instructions for use</u> 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;	SI: redundant term	SI: already covered under f)	
D72	(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.	DE: clarify, that that this does not apply to custom-made products, and for which the manufacturer has no other use, make possible to delegate this to marketplaces or similar, mention who will bear the costs		DK: Will this provision also apply if the products are considered waste? (For reference to waste classification of unused products, see C-624/17.) How does this provision relate to Extended Producer Responsibility schemes in waste legislation?
D73	Where obligations of this paragraph cannot be cumulatively fulfilled due to a conflict arising between different obligations, the manufacturer shall <u>choose a trade-off solution</u> that brings			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.	DE: to be further specified, to make clear trade-off rules, as also referred in the Recital 42		
D74	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, <u>subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products.</u>			DK: It seems generally unclear what is meant by “subject to the obligations of this Article by virtue of Article 26, opts for the application of this Regulation as for new products”.
D75	4. In order to specify the obligations set out in paragraph 2, the Commission is empowered to supplement this Regulation, by means of			IT: if the obligations set in para. 2 are related to Annex I Part A, n. 2, should

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			this paragraph be better coordinated with Art. 4(2)?
D76	<i>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</i>			DK: clarification whether an DA is the only way to introduce the “traffic-light” labelling on a product or whether this may also be included in hEN; for clarification whether such acts concerning “traffic-light”

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>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).</i>			labelling is to be applied only to products for which there is a hEN.
D77	6. The manufacturer shall affix the traffic light label in the way set out in the delegated acts adopted in accordance with paragraph 5.			

#### 42. Article 29 - Obligations of economic operators de-installing or dealing with used products for re-use or remanufacturing

Note: This article is also listed in the cluster Economic operators ”

Text of proposal		National positions		Questions
		Suggestion	Justification	
D78	1. An economic operator de-installing used products for re-use or re-manufacturing shall establish protocols on the place, <u>conditions</u> and <u>presumed length of use of the de-installed product</u> and make them available together with the products, regardless whether it exert its activity on its own behalf or for somebody else. <u>The economic operator shall also make the protocols available on request to authorities, to later users of these products and to owners of the construction works in which they were re-installed.</u>	DE: to define what is meant by conditions PL: presumed length of use - do not support this obligation	PL: <i>burden for the enterprise to estimate, it can vary a lot for many factors</i> COM: the presumed length of use refers to the PAST, for how long this product was in used in the building, <u>it does not refer to the future use</u>	DK: For clarification, is this provision applicable only to items which at no time has been considered waste? For how long is the de-installer expected to keep these protocols? COM: the de-installing protocol describes how the product was treated in the de-installation process, (visual control, cleaning, ultrasound, etc. depending on the product), this is to be handed over to the owner of the new project and designer of the new project to have information needed, MS are free to regulate de-installing as such
D79	2. Where an economic operator brokers, sells or otherwise makes available de-installed used products on its own behalf or for somebody else, it shall also fulfil the obligations of importers or			DK: For clarification, which obligations are relevant here and why are manufacturer's obligations not mentioned?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	distributors with regard to used products.			
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#### 43. ANNEX I Part D

Note: Due to the complexity of the Annexes, please, see the Annex I part D in the official proposal document.

Annex I is also part of the cluster Standardization. Annex I part D is also part of the cluster Environmental Sustainability (subsection) Reuse and Remanufacturing.

PART D: Product information requirements – comments related to this part are listed altogether in Annex I, in the Cluster Standardisation

#### Product labelling

#### 44. Article 22(5) *Additional environmental obligations of manufacturers*

Note: Article 22 is fully listed in the clusters Environmental Sustainability and Economic Operators

D80	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			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	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).			
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## Green Public Procurement:

### 45. Article 83 - Member State incentives

D81				COM: in line with ESPR, postpone the discussion when we see how the ESPR proceeds in the council meetings
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Text of proposal	National positions		Questions
	Suggestion	Justification	

D82	1. Where Member States provide incentives for a product category covered by a delegated act establishing performance classes in accordance with Article 4(4), point (a) or a “traffic-light-labelling” in accordance with Article 22(5), those incentives shall aim at the highest two populated classes / colour codes, or at higher classes / better colour codes. Where a delegated act defines classes of performance in relation to more than one sustainability parameter, it shall be indicated therein in relation to which parameter this Article should be implemented.			<p>IT: Should there be a confirmation that CPR can introduce provisions related to MS incentives?</p> <p>DK: We kindly ask if this in practice would exclude the possibility for MS to make incentives based on other labels for building materials than the “traffic-light-labelling”?</p> <p>We ask for elaboration on what these incentives could be and how MS incentives relate to the free movement of goods.</p> <p>We ask how MS incentives at the level of certain product categories relates to MS incentives at the level of the construction work?</p> <p>DE: further explanation – which incentives are referred to?</p>
D83	2. Where no delegated act is adopted pursuant to Article 4(4), the Commission may specify in the delegated acts	DK: needs to scrutinize more closely on the extent of these.		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	adopted pursuant to Article 4(3), which levels of performance related to product parameters the Member States incentives shall concern.			
D84	When doing so, the Commission shall take into account the following criteria:			
D85	(a) the relative affordability of the products depending on their level of performance;			
D86	(b) the need to ensure sufficient demand for more environmentally sustainable products.			

#### 46. Article 84 – Green public procurement

Note: Article 84(1) is also listed in subsection Delegated Acts

D87				COM: this part mirrors the ESPR text, postpone the discussion when
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Text of proposal	National positions		Questions
	Suggestion	Justification	

				we see how the ESPR proceeds in the council meetings
D88	<i>Article 84 – Green public procurement</i>	<p>AT: It is not understandable, why Art. 84 enables COM to supplement the CPR by establishing “sustainability requirements applicable to public contracts”.</p> <p>AT: Why there are different definitions in the CPR and Public Procurement Directives?</p>	<p>AT: Unclear regulatory rationale of the CPR as regards the inclusion of Public Procurement: According to Art. 1, the CPR shall establish “harmonised rules for the making available on the market and direct installation of construction products, regardless of whether undertaken in the framework of a service or not”. The intention therefore is, to establish obligatory and harmonized standards for “construction products”.</p> <p>AT: Different definitions in the CPR and Public Procurement Directives (especially as regards “works” versus “construction works”) have an impact on the area of public procurement insofar as the COM may, pursuant to Art. 84 of the proposal, adopt special DA for the</p>	<p>FI: wouldn't actions by MS be enough?</p> <p>IT: Should there be a confirmation that CPR can introduce provisions related to public procurement?</p> <p>DK: We ask for elaboration on what sustainability requirements may be established, also keeping in mind the distinction between requirements at construction product level and requirements at the level of the construction works.</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>ES: The use of delegated acts should be replaced by alternative instruments that allow MS to individually participate in the decision-making of the green public procurement requirements.</p> <p>IT: asks for exemptions for the MS that already regulate this at the national level</p>	<p>area of public procurement. AT takes the view that the definition of "construction works" (see Art. 2 para 14 of the proposal) is narrower than the definition of "a works" in the Public Procurement Directives (see for ex. Art. 2(1) numbers 6 and 7 of Directive 2014/24/EU). This incongruence of definitions has among other things the consequence that DA according to the CPR proposal would not cover all construction projects ("works") according to the Public Procurement Directives! However, this would contradict the objectives of the proposal.</p>	
D89	<p><i>1. The Commission is empowered to supplement this Regulation by <u>delegated acts</u> according to Article 87 by establishing sustainability requirements applicable to public contracts, including implementation, monitoring and reporting of those requirements by Member States.</i></p>	<p>FI: questioning if this is really necessary.</p> <p>FR: we do not support the regulation through he delegated acts</p> <p>AT: which <u>additional requirements</u> COM could specify in the context of delegated acts: are these further generic aspects (if yes, which ones) or specific (technical/functional)</p>		<p>AT: What will be the impacts (specifically on prices) if such a DA is to be implemented?</p>

Text of proposal	National positions		Questions
	Suggestion	Justification	

		aspects (if yes, which ones)? COM should explain the system of Art. 84 and its intentions so that the MS have a better understanding of the proposed system and can react to the proposal in a more targeted way.		
D90	2. Requirements adopted pursuant to paragraph 1 for public contracts awarded by contracting authorities, as defined in Article 2(1) of Directive 2014/24/EU or Article 3, point (1) of Directive 2014/25/EU, or contracting entities, as defined in Article 4(1) of Directive 2014/25/EU, may take the form of mandatory technical specifications, <u>selection criteria</u> , <u>award criteria</u> , contract performance clauses, or targets, <u>as appropriate</u> .	AT: Neither in the text nor in the relevant recitals are any indications as to which sustainability <u>criteria</u> are addressed here. It is therefore suggested that the text should be specifically supplemented by those criteria that are relevant in the given context (e.g. greenhouse gas reduction). Reference is made to the comments on Art. 4.  AT: objections against “award criteria”. AT stands ready to submit constructive proposals if a	AT: Such DA could not only frustrate efforts of MS who have implemented Sustainable or Green PP programmes (especially in the case when MS have nationally implemented higher standards as those foreseen in the DA), such DA would also severely limit the discretion of CA/CE (see in this regard especially as regards award criteria for ex. Case C-19/00, SIAC, at number 36). <u>Uniformly mandated requirements</u> for the procurement of works that apply throughout Europe	AT asks COM to provide an explanation: 1) why introduce harmonised standards if these standards do not apply for all products regardless in which context they are used? 2) if additional (higher) standards are implemented only for public contracts – what are the impacts on industry (they have to produce two different products if they want to cover the PP market and the rest of the market) and what sense does it make to “create” two

Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>convincing explanation can be provided.</p> <p>AT understands the wording "<u>as appropriate</u>" in Art. 84(2) as possibly providing the opportunity, that conditions can also be set in an implementing regulation in which specific cases or for which specific CA/CE mandatory requirements or objectives shall apply. It would be therefore necessary to specify how the term "as appropriate" should be understood and which differentiation it would (potentially) cover. Such a differentiation would make it (theoretically) possible to react adequately to specific needs of specific CA/CE or to react to situations in which exceptions are necessary.</p>	<p>could lead to enormous complications in light of the large number of CA/CE and their different needs for procurement (see for ex. the different quality requirements for concrete in the area of roads in Finland versus Greece because of the different climate). It should be emphasized that procurement procedures always serve to purchase those services/works /supplies on the market that are necessary to provide public services - in particular as regards services of general interest! For the provision of the various public tasks, it is there-fore sometimes necessary for the CA/CE to have some leeway in the procurement process (e.g. by taking greater account of social rather than green aspects).</p>	<p>different markets in the same regulatory context?</p>
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Text of proposal	National positions		Questions
	Suggestion	Justification	

			Enabling provisions in the EC's proposal grants an indeterminate (and far-reaching) discretion as regards the delegated acts (there are <u>no criteria</u> in which situations COM may use this empowerment).	
D91	3. When establishing requirements pursuant to paragraph 1 for public contracts, the Commission shall take into account the following criteria:	IE: to add in following criteria: “(d) the need for Member States to regulate the quality of construction works to ensure the safety of people in and about buildings, (e) the local market conditions prevailing in the Member State, or the region, at the time, (f) the tax policies of the Member State in relation to the construction works proposed, (g) the strategic objectives of the member state to reduce carbon emissions, (h) the state of the public finances in the Member State for the duration of the contract.	AT: The extremely unspecified parameters mentioned in Art. 84(3) are insufficient and not suitable (e.g. the "criterion" "need to ensure sufficient demand for more environmentally sustainable products" is inappropriate in the context of a provisions which allows to set requirements only for public contracts and not for the entire market of construction products).  AT: introduction of mandatory "award criteria" in the specific context is not comprehensible (from a material and “technical” PP perspective), and on the other hand	AT: The Council Legal Service should be asked to comment <u>in writing</u> on the question of the admissibility of such an undetermined empowerment as well as on the suitability/admissibility of the "criteria" mentioned in Art. 84(3) of the proposal in the light of Art. 290 TFEU.

Text of proposal	National positions		Questions
	Suggestion	Justification	

			<p>that such an regulatory approach is extremely problematic: if construction products/construction works must have a certain mandatory characteristic (see Art. 1), the setting of mandatory award criteria is inappropriate since the effect of such an award criterion can ultimately be offset or even nullified by other award criteria (and here in particular by a low price).</p> <p>Award criteria must have a connection to the subject matter of the contract and, as a rule, be weighted (cf. in detail for example Art. 67 of Directive 2014/24/EU); it would have to be examined in each individual case whether such a connection exists and which weighting can be considered as being objectively appropriate and justified (by the needs of CA/CE). The same applies to the selection criteria mentioned in para 2. COM</p>	
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Text of proposal	National positions		Questions
	Suggestion	Justification	

			should therefore explain in detail how it intends to use the authorization in Art. 84(2).	
D92	(a) the value and volume of public contracts awarded for that given product family or category or for the services or works using the given product family or category;			
D93	(b) the need to ensure sufficient demand for more environmentally sustainable products;			
D94	(c) the economic feasibility for contracting authorities or contracting entities to buy more environmentally sustainable products, without entailing disproportionate costs.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

## E. Market Surveillance

### 47. Article 68 – Complaint Portal

E1	1. The Commission shall set up a system allowing any natural or legal person to share <u>complaints or reports related to possible non-compliances with this Regulation.</u>	IT: In order to avoid further burdens the complainant must declare that complain have been not yet sent to any market surveillance authorities		NL: not clear if this is related to non-compliances in the regulation itself or to the complaints about non-complying products. DK: is this a new entry point or this can be an extension of the national systems? Is it possible to keep the national system? COM: yes, an option to make a complaint is a support how the third parties can influence the market surveillance
E2	2. Where the Commission consider a complaint or report relevant and substantiated, it shall assign it to a market surveillance authority for it to follow-up with the relevant natural or legal person in accordance with Article 11(7),			NL: could those complaints lead to infringement procedure?

Text of proposal	National positions		Questions
	Suggestion	Justification	

	point (a) of Regulation (EU) 2019/1020.		
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#### 48. Article 69 - Competent authorities

E3	1. Member States shall designate, amongst their market surveillance authorities, one or more ‘competent authorities’ that dispose of the particular knowledge needed to assess products both technically and legally.	IT: The internal organisation of MS should be a national prerogative.		
E4	2. Member States shall designate, amongst their competent authorities, the ‘ <u>national competent authority</u> ’ which is the focal point for contacts with other Member States.	ES: delete this paragraph or replace “national competent authority” by “national coordination point” IT: Should be specified that direct contact between MaSui authorities is not forbidden. Furthermore, the provision should be coordinated with article 22 and 23 Regulation n. 1020/2019 (cross-border mutual	ES: market surveillance is carried out by regional authorities.	

Text of proposal	National positions		Questions
	Suggestion	Justification	

		assistance) and with 10 (2) (competence of single liaison office)	
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#### 49. Article 70 - Procedure to deal with non-compliances

E5	Article 70 - Procedure to deal with non-compliances	SI: we see lack the formal non-compliance as set out in Art. 59 of the current CPR.  FI: notification obligations to the COM and other MS must not cause an unnecessary administrative burden to the authorities, and the conditions for the obligations must be clearly defined.	SI: formal non-compliance procedure simplified the market surveillance tasks	SI: could you give reasoning why this was removed?  IT: In the proposal there not anymore the risk's assessment about the fulfilment of the requirements for the construction works. According to articles 93 and 94, art. 70 applies when new CPR entry into force: should be specified that ongoing market surveillance activities are not involved?
E6	1. Where a market surveillance authority of one Member State has sufficient reason to believe that certain <u>products</u> covered by a	FI: the supervisory authority should continue to be able to take into account risk-based assessment on a case-by-case basis when, for example, it receives notifications	FI: applying risk-based assessment on a case-by-case basis is important in terms of the use of the MSA's resources.	SI: we understand that the term product covers also packaging and instructions, is this the reason why according to the para. 1 the market

Text of proposal	National positions		Questions
	Suggestion	Justification	

	construction products standard or for which a European technical assessment has been issued, or its manufacturer, is noncompliant, it shall carry out an evaluation in relation to the products and the manufacturer concerned covering the respective requirements laid down by this Regulation. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.	about possibly non-compliant construction products.		surveillance does not target other relevant economic operators? E.g. importers?
E7	Where, in the course of that evaluation, the market surveillance authority finds that the products or its manufacturer does not comply with the requirements and obligations laid down in this Regulation, it shall without delay require the relevant economic operators to take all			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<p>appropriate and proportionate corrective actions to bring the products or himself into compliance with those requirements and obligations or to withdraw the products from the market, or to recall them, all within a reasonable period and commensurate with the nature and degree of the noncompliance. The corrective action required to be taken by the economic operators may include the actions listed in Article 16(3) of Regulation (EU) 2019/1020.</p> <p>The market surveillance authority shall inform the notified bodies accordingly, if notified bodies are involved.</p>			
E8	2. Where the market surveillance authority considers that the non-compliance is not limited to its	IT: This provision, furthermore, is in conflict with article 34, par. 4,		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	national territory, it shall, <u>via the national competent authority</u> , inform the Commission and the other Member States of the results of the evaluation and of the actions which it has required the economic operators to take.	Regulation n. 1020/2019 that states that MSA have to communicate via ICSMS the measures taken according to article 16(5).		
E9	3. The economic operators shall take all appropriate corrective action in respect of all the products that that economic operator has made available on the market throughout the Union.			
E10	4. Where the relevant economic operators, within the period referred to in the second subparagraph of paragraph 1, do not take adequate corrective action or where the non-compliance persists, the market surveillance authority shall take all appropriate provisional or definitive measures to prohibit or restrict			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	the making available on the market of the products, to withdraw these products from the market or to recall them.			
E11	The market surveillance authority shall inform the public, and <u>via the national competent authority</u> the Commission and the other Member States, without delay, of those measures.	FI: the information obligation should apply only to non-compliances at national level (with no cross-border effects). IT: Should be specified that direct contact between market surveillance authorities is not forbidden.		
E12	5. The information referred to in the last sentence of paragraph 4 shall include all available details, in particular the data necessary for the identification of the noncompliant products, the origin of the products, the nature of the non-compliance alleged and the risk involved, the nature and duration of national measures taken as well as the arguments put forward by the relevant economic operator. In particular, the market			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	surveillance authorities shall indicate whether the non-compliance is due to either of the following:			
E13	(a) failure of the products to achieve the declared performance and/or to meet the requirements related to the fulfilment of basic requirements for construction works laid down in this Regulation;			
E14	(b) failure of the manufacturer to meet obligations;			
E15	(c) shortcomings in the harmonised technical specifications or a European assessment document.			
E16	6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the products concerned, and, in			

Text of proposal	National positions		Questions
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	the event of disagreement with the notified national measure, of their objections.			
E17	7. Where, within two months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State in relation to the product concerned, that measure shall be deemed justified.	SI: The reference to para. 4 is in our opinion incorrect because para. 4 does not refer to any information received by the Member States or the Commission. The correct reference would probably be to para. 6.		
E18	8. The other Member States shall ensure that appropriate restrictive measures are taken without delay in respect of the product or manufacturer concerned, such as withdrawal of the products from their market.	SI: It is not clear in which case the Member States (MS) will take restrictive measures. As it stands now, it can be understood that the MS are obligated to impose restrictive measures even if they object to measures taken by another Member State as set out in para. 7. This paragraph needs to be linked to a certain situation, for example to para. 7. Then it would be understood that the MS are obligated to impose restrictive measures only when the		

Text of proposal	National positions		Questions
	Suggestion	Justification	

		measure, imposed by another Member State, is deemed justified.	
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## 50. Article 71 - Union safeguard procedure

Note: Article 71(1) is also listed in subsection Implementing Acts.

E19	<i>1. Where, on completion of the procedure set out in Article 70(4), objections are raised against a measure taken by a Member State or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operators and shall evaluate the national measure. On the basis of the results of that evaluation, <u>the Commission shall decide</u> by means of implementing act adopted</i>			IT: How does this provision interface with Regulation (UE) 2019/ 515? Is it possible to appeal to SOLVIT?
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>whether the measure is justified or not.</i>	IT: Should be considered a deadline, and after the measure must to be considered justified.		
E20	<i>Those implementing acts shall be adopted in accordance with <u>advisory procedure referred in Article 88(1)</u>.</i>	IT: The advisory procedure set in art. 88 (1) has no deadlines.		
E21	<i>The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operators</i>			
E22	2. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant product is withdrawn from their markets and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.			
E23	3. Where the national measure is considered to be justified and the non-compliance of the			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	product or its manufacturer is attributed to shortcomings in the construction products standards as referred to in Article 70(5), point (c), the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.			
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## 51. Article 72 - Complying products which nevertheless present a risk

Note: Article 72(4) is also listed in subsection Implementing Acts.

E24	1. Where, having performed an evaluation pursuant to Article 70(1), a market surveillance authority Member State finds that, although certain products are in compliance with this Regulation, they present a risk for the fulfilment of the basic			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<p>requirements for construction works, to the health or safety of persons, to the environment or to other aspects of public interest protection, it shall require the relevant economic operators to take all appropriate measures to ensure that the products concerned, when placed on the market, no longer present that risk, to withdraw the products from the market or to recall them within a reasonable period, commensurate with the nature of the risk, which it may prescribe.</p> <p>2. The economic operator shall ensure that any corrective action is taken in respect of all the products concerned which that economic operator has made</p>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	available on the market throughout the Union.			
E25	3. The market surveillance authority shall, <u>via the national competent authority</u> , immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the product concerned, the origin and the supply chain of the product, the nature of the risk involved and the nature and duration of the national measures taken.	IT: Should be specified that direct contact between market surveillance authorities is not forbidden.  FI: the information obligation should apply only to non-compliances at national level (with no cross-border effects).		
E26	<i>4. The Commission shall without delay enter into consultation with the Member States and the relevant economic operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide by implementing act whether the measure is</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>justified or not and, where necessary, propose appropriate measures.</i>			
E27	5. Those implementing acts shall be adopted in accordance with the <u>advisory procedure</u> referred to in Article 88(1).	IT: The advisory procedure set in art. 88 (1) has no deadlines, should be considered to introduce it?		
E28	6. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operators.			

## 52. Article 73 - Minimum checks and minimum human resources

Note: Article 73(1) is also listed in subsection Delegated Acts

E29	<i>52. Article 73 - Minimum checks and minimum human resources</i>	NL: questioning if this is in the COM competence. ES: to delete or change this article. FI: questioning if this is really Necessary.	ES: this should not be set by Commission, the reinforcement can be achieved differently, by giving consumers tool to verify information themselves	FI: wouldn't actions by MS be enough?  COM: there is inspiration from the ESPR, uneven market surveillance
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		<p>ES: do not support the minimum requirement on human resources IE, MT, EE, HU, HR, FR, SI, IT do not support the empowerment of COM to set minimum requirements on the number of checks and human resources</p> <p>DE: support the proposal, internal discussion is ongoing</p>	<p>ES: it is hard to set aside the workers for different sectors, regionally organised market surveillance</p>	<p>has to be addresses as it was result of the impact assessment, market surveillance is important, we have to prevent frauds and uneven competition, we want to support you in discussion with you legislators</p>
E30	<p><i>1. The Commission is empowered to adopt delegated acts in accordance with Article 87 supplementing this Regulation by laying down the <u>minimum number of checks</u> to be performed by the market surveillance authorities of each Member State on specific products covered by harmonised technical specifications or in relation to specific requirements set out in such measures in order to ensure checks are performed on a scale adequate to safeguard the effective enforcement of this</i></p>	<p>IT: The internal organisation of MS is a national prerogative.</p> <p>IT: The minimum number of check is an abstract concept that do not considers the quality of the checks and can tempt MS to carry out easy investigations to comply the number required.</p> <p>IT: The adequate scale should be clarified.</p>		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>Regulation. The delegated acts may, where relevant, specify the nature of the checks required and methods to be used.</i>			
E31	2. The Commission is also empowered to adopt <u>delegated acts</u> in accordance with Article 87 supplementing this Regulation by laying down the minimum human resources to be deployed by Member States for purposes of market surveillance with regard to products covered by this Regulation.	IT: The internal organisation of MS is a national prerogative.		

### 53. Article 74 - Market surveillance coordination and support

E32	1. For the purposes of this Regulation, the administrative cooperation group ('ADCO') set up pursuant to Article 30(2) of Regulation (EU)			
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Text of proposal		National positions		Questions
		Suggestion	Justification	

	2019/1020 shall meet at regular intervals and, where necessary, at the reasoned request of the Commission or of two or more participating market surveillance authorities.			
E33	In the context of performing its tasks set out in Article 32 of Regulation (EU) 2019/1020, the ADCO shall support the implementation of this Regulation, <u>namely by identifying common priorities for market surveillance.</u>	IT: It should be considered that the priorities may differ from MS to MS depending on the national strategy adopted.		
E34	2. Based on priorities identified in consultation with the ADCO, the Commission shall:			
E35	(a) organise joint market surveillance and testing projects in areas of common interest;			IT: ADCO already organises activities set in lit. a): shall be possible to continue?
E36	(b) organise joint investment in market surveillance capacities, including equipment and IT tools;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E37	(c) organise common trainings for the staff of market surveillance authorities, notifying authorities and notified bodies, including on the correct interpretation and application of this Regulation and on methods and techniques relevant for applying or verifying compliance with it;			
E38	(d) elaborate guidelines for the application and enforcement of requirements and obligations set out in delegated acts referred to in Article 4(3) and (4) and Article 5(2) and (3) and the delegated acts referred to in Article 22(4), including common practices and methodologies for effective market surveillance.			IT: Guidelines set in lit. d) must be voluntary and not mandatory.
E39	The Union shall, where appropriate, finance the actions referred to in points (a), (b) and (c).	IT: New tasks of the Commission regarding ADCO activities can be done only with finance from Union: Commission shall organise, and co-finance all of the tasks.		

Text of proposal	National positions		Questions
	Suggestion	Justification	

	3. The Commission shall provide technical and logistic support to ensure the ADCO fulfils its tasks set out in Article 32 of Regulation (EU) 2019/1020 and this Article.			
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#### 54. Article 75 - Retrieval of costs

E40	Market surveillance authorities shall have the right to recover from economic operators in possession of a non-compliant product or from the manufacturer the costs of document inspection and physical product testing.	<p>SI: suggests retrieving also the cost regarding the products that are compliant but present a risk (Art. 72)</p> <p>IT: This provision is in conflict with art. 15 Regulation 1020/2019, where the possibility to retrieve cost is broader (<i>the totality of the costs of their activities</i>)</p>		NL: are these to be additional costs to the usual fines imposed in case of non-compliance?
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Text of proposal	National positions		Questions
	Suggestion	Justification	

## 55. Article 76 - Reporting and benchmarking

E41	55.  Art icle 76 - Reporting and benchmarking	ES: report less detailed data	ES: this complex detailed information increases bureaucratic costs	
E42	1. Market surveillance authorities shall enter into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 information on the nature and severity of any penalty imposed in relation to non-compliance with this Regulation.	IT: to be assessed in relation of the protection of privacy; a lot of administrative burdens to coordinate the several authorities involved, even judicial, in imposing penalties, and there is not any compared utility in market surveillance.		
E43	2. The Commission shall, every 2 years, draw up a report by 30 June based on the information entered by market surveillance authorities into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The first of these reports shall			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	be published by [OP: Please add date: two years after date of application of this Regulation]. The report shall include:			
E44	(a) information on the nature and number of checks performed by market surveillance authorities during the two previous calendar years pursuant to Article 34(4) and (5) of Regulation (EU) 2019/1020			
E45	(b) information on the levels of non-compliance identified and on the nature and severity of penalties imposed for the two previous calendar years in relation to products covered by delegated acts adopted pursuant to Articles 4, 5, 6 and 22 of this Regulation;			
E46	<u>(c) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed.</u>	NL: usually for businesses, not for offices	NL: number of circulating product is different in each MS	NL: What will be the criteria for benchmarking?

Text of proposal	National positions		Questions
	Suggestion	Justification	

E47	3. The Commission shall publish the report referred to in paragraph 2 of this Article in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall make public a summary of the report.			
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## 56. Article 77 - Information systems for harmonised decision-making

Note: Article 77(1) is also listed in subsection Implementing Acts.

E48	<i>1. The Commission shall establish and maintain an information and communication system for the collection, processing and storage of information, in a structured form, on issues relating to the interpretation or application of the rules laid down in or pursuant to this Regulation, with the aim of</i>			NL: It is unclear whether the handling of a Body, in case of reasonable doubt leads to the right interpretation of this Regulation. Who decides on what is the right or wrong interpretation and how is any decision on what is right or wrong established in the said information system?
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>ensuring the harmonised application of those rules.</i>			
E49	<i>In addition to the Commission and Member States, market surveillance authorities, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020, the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, notifying authorities, notified bodies, and product contact points for Construction shall be able to access the information and communication system. The Commission may, by implementing decision give access to authorities of third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.</i>			
E50	<i>Those implementing acts shall be adopted in accordance with</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>the advisory procedure referred to in Article 88(1).</i>			
E51	2. The bodies listed in paragraph 1 may use the information and communication system to raise any question or issue related to the interpretation or application of the rules laid down in or pursuant to this Regulation, including their relationship to other provisions of Union law. They shall raise such questions or issues where reasonable doubt exists about how to apply or interpret those rules in a given situation.			
E52	3. For purposes of paragraph 2, reasonable doubt shall be assumed to exist where the bodies listed in paragraph 1:			
E53	(a) are aware or made aware of the application or interpretation of the rules laid down in or pursuant to this Regulation by any other body in a way that diverges from their own practise;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E54	(b) are aware or made aware of questions or issues raised through the information and communication system related to the situation they are confronted with or to their own practice;			
E55	(c) are confronted with a situation not foreseen by the rules laid down in or pursuant to this Regulation when first published or referred to in the Official Journal of the European Union, especially but not limited to situations brought about by the emergence of new products or business models,;			
E56	(d) have to apply the rules laid down in or pursuant to this Regulation to a situation to which other provisions of Union law also apply and the resulting question			
E57	4. When raising a question or issue, the relevant body shall enter into the information and			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	communication system information concerning:			
E58	(a) any decision taken in relation to the question or issue raised;			
E59	(b) the presumable reasoning/rationale behind the approach taken;			
E60	(c) any alternative approach it has identified and its respective reasoning/rationale;			
E61	5. Member States shall establish a national information system or email list service to inform their authorities, the economic operators active on their territory, TABs and notified bodies with place of business on their territory and, on request, also other TABs and notified bodies, on all matters relevant for the correct interpretation or application of the rules laid down in or pursuant to this Regulation. In doing so, they shall take into account the information available in the information	ES: to be written in a simpler and more generic way	ES: Suggestion to COM to publish guides and FAQ documents about the interpretation and application of rules pursuing this regulation. These documents to be developed by consensus of MS. Works well in practice.	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	and communications system referred to in paragraph 1.			
E62	6. Authorities, economic operators, TABs and notified bodies with place of business in the respective Member State shall register into that system or email list service and take account of all information transmitted via them.			
E63	7. The national information system or email list service shall be able to receive complaints on behalf of the national competent authority from any natural or legal person, including TABs and notified bodies, on the uneven application of the rules laid down in or pursuant to this Regulation. If deemed appropriate, the national competent authority shall forward such complaints to their peers in other Member States and to the Commission.	ES: to be written in a simpler and more generic way		
E64	8. Member States and the Commission may use artificial	ES: this paragraph to be deleted	ES: no need for this text	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	intelligence to detect diverging decision-making practices			
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## 57. Article 79 - Product contact points for construction

<p>E65</p> <p>1. Member States shall support economic operators by product contact points for construction. Member States shall designate and maintain at least one product contact point for construction on their territory and shall ensure that their product contact points for construction have sufficient powers and adequate resources for the proper performance of their tasks and at any rate <u>at least one full-time equivalence per Member State and one additional full-time equivalence per each ten millions of inhabitants.</u> They</p>	<p>IT: Art. 79(1) does not bring anything new and useful, only complicates</p> <p>IT: examination suspended</p>		
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	shall ensure that product contact points for construction deliver their services in accordance with Regulation (EU) 2018/172449 and that they coordinate with the contact points for mutual recognition established by Article 9(1) of Regulation (EU) No 2019/515.			
E66	2. Product contact points for construction shall provide, at the request of an economic operator or a market surveillance authority of another Member State, any useful product related information, such as:			
E67	(a) electronic copies of, or online access to, the national technical rules and national administrative procedures applicable to products in the territory in which the product contact points for construction is established,			
E68	(b) information on whether those products are subject to			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	prior authorisation under national law,			
E69	(c) rules applicable to the <u>incorporation</u> , assembling or installation of products.	NL: to be left out	NL: rules for incorporation are in Codes of practice, with no reference to national legislation, not a common knowledge of the contact point members	
E70	Product contact points for construction shall also provide information on product related provisions of this Regulation and of acts adopted in accordance with it.			
E71	3. Product contact points for construction shall respond within 15 working days of receiving any request under paragraph 3.			
E72	4. Product contact points for construction shall not charge any fee for the provision of the information under paragraph 3.			
E73	5. Product contact points for construction shall be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	of the procedures for obtaining the CE marking.			
E74	6. Paragraphs 1 to 6 apply also to products which have not yet been covered by harmonised technical specifications.			
E75	7. The Commission shall publish update a list of the national product contact points for construction.			

**58. Article 80 - Trainings and exchange of staff**

E76	1. Market surveillance authorities, product contact points for construction, designating authorities TABs, notifying authorities, and notified bodies shall ensure that their staff:			
E77	(a) keep up-to-date in their area of competence and receive periodic additional training to that end; and			

Text of proposal	National positions		Questions
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E78	(b) receive periodically training on the harmonised interpretation and application of the rules laid down in or pursuant to this Regulation.			
E79	2. The Commission shall, periodically and at least once a year, organise training events jointly for the staff of market surveillance authorities, notifying authorities, and notified bodies. The Commission shall organise these training events in cooperation with the Member States.			
E80	The training events shall be open to the participation of the staff of the authorities designated under Article 25(1) of Regulation (EU) 2019/1020, the single liaison offices appointed under Article 10(3) of Regulation (EU) 2019/1020 and, where appropriate, of other authorities of the Member States involved in the implementation or enforcement			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	of this Regulation. The Commission may, by implementing decision adopted in accordance give access to third countries that apply voluntarily this Regulation or that have regulatory systems for construction products similar to this Regulation.			
E81	Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).			
E82	3. The Commission may organise, in cooperation with the Member States, programmes for the exchange of staff between the market surveillance authorities, notifying authorities, and notified bodies of two or more Member States.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

#### 59. Article 81 - Shared roles and joint decision-making

E83	1. In order to fulfil their obligations under this Regulation with regard to market surveillance, designation and supervision of TABs, notified bodies, and product contact points for construction, Member States may designate:			
E84	(a) a body or authority set up in cooperation with another Member State or other Member States for the purpose of joint designation;			
E85	(b) a body or authority already designated by another Member State for the same purpose, in cooperation with that Member State;			
E86	The Member States concerned shall jointly ensure that the shared bodies or authorities meet all relevant requirements. They shall be jointly responsible for them, whilst decisions taken towards natural			

Text of proposal	National positions		Questions
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	or legal persons on a certain Member State shall be legally attributable only to that Member State.			
E87	2. The authorities of different Member States may, without prejudice to their individual obligations under this Regulation or other legislative acts, share resources and responsibilities in order to ensure the harmonised application or effective enforcement of this Regulation.			
E88	To that end, they may also:			
E89	(a) take joint decisions, especially in relation to joint cross-border activities or in relation to economic operators active on the territory of the relevant Member States;			
E90	(b) establish common projects, such as joint market surveillance or testing projects;			
E91	(c) pool resources for specific purposes, such as building up			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	testing capacity or for internet surveillance; (d) delegate the execution of tasks to a peer authority of another Member State, whilst staying formally responsible for the decisions taken by that authority;			
E92	(e) transfer a task from one Member State to the other, provided that such transfer is clearly communicated to all concerned.			
E93	The relevant Member States shall be jointly responsible for the actions taken in accordance with this paragraph			

#### 60. Article 86 - Amendments to Regulation (EU) 2019/1020

E94	Regulation (EU) 2019/1020 is amended as follows:	FI: CPR should only provide for the powers of market surveillance authorities that are necessary due to	FI: to prevent overlaps and conflicting definitions with the Regulation (EU) 2019/1020.	
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Text of proposal	National positions		Questions
	Suggestion	Justification	

		the special character of CP ( <i>lex specialis</i> rule in Article 2(1) of the market surveillance regulation); CPR should provide for market supervision only to the extent that it is desired to deviate from the Regulation (EU) 2019/1020. Article 3 provides for several new economic operators, which are not recognized by the Regulation (EU) 2019/1020.		
E95	(1) in Article 4(5), the following text is added: “[EU) 2020/...(*51)]”			
E96	(2) in Annex I, the following point 72 is added to the List of Union harmonisation legislation:			
E97	“72. 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			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	Regulation (EU) 305/2011 (the Publications Office to fill in the OJ publication details);”.			
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## 61. Article 90 – Penalties

Note: Article 90(4) is also listed in subsection Delegated Acts

E98	1.Member States shall lay down the rules on penalties applicable to non-compliances with this Regulation and shall take all measures necessary to ensure that these rules are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by [insert date - 3 months after to the date of entry into force of this Regulation], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.	FI: Article 90 of the draft CPR is broader in scope than Article 41 of the Regulation (EU) 2019/1020. In addition to economic operators, the penalty provisions of the proposed Article 90 would apply to TABs and NBs.		
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Text of proposal	National positions		Questions
	Suggestion	Justification	

E99	2.Member States shall especially lay down rules on penalties for the following non-compliances of economic operators:	FI: Paragraphs 2 and 3 of the Article list acts and omissions for which an administrative fine would be more effective and proportionate in national enforcement than a criminal penalty. The threat of criminal punishment for e.g. formal non-compliance seems disproportionate and will in any case remain a dead letter if such a provision is made. In this context, it should be taken into account that the current Article 41 of the Regulation (EU) 2019/1020 requires that effective, proportionate and warning sanctions must already be provided for the violation of the Construction Products Regulation.		SE: why there is no reference to the formal non-compliance, as it is in the current CPR and NLF legislation , long list of very specific infringements, it is far away from the NLF framework, could you give explanation? COM: the gap in 768/2008 – when it is not formal non-compliance and the product is not dangerous, the market surveillance is not entitled to take an action, we wan to avoid this mistake, close this gap (as applied in MDR legislation)
E100	(a) placing on the market or making available on the market of a product which is not CE marked whilst an CE marking is mandatory;			
E101	(b) affixing the CE marking in violation of Article 17(1) or without the correct information to be provided together with the CE marking in accordance with Article 17(2);			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E102	(c) affixing of the CE marking without prior issuing of a declaration of performance;			
E103	(d) issuing of a declaration of performance or declaration of conformity where the conditions therefore have not been met;			
E104	(e) the declaration of performance or the declaration of conformity is incomplete or incorrect;			
E105	(f) the technical documentation is missing, incomplete or incorrect;			
E106	(g) information to be provided in accordance with Annex I Part D and harmonised technical specifications is missing, incomplete or incorrect;			
E107	(h) the information referred to in paragraph Article 21(4), Article 22(2), points (f) and (i) or Article 21(7) and Article 24 is missing, incomplete or incorrect;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E108	(i) any other administrative requirement provided for in Articles 21, 22 or 24 is not fulfilled;			
E109	(j) information due to notified bodies, TABs or authorities is not provided or is incorrect;			
E110	(k) measures requested in case of non-compliance or risk, mandatory according to Article 21(8) and (9), Article 23(3), points (d) and (e), Article 24(5), Article 25(2) in conjunction with Article 24(5), Article 27(2), point (c) in conjunction with Article 24(5) and Article 27(2), points (d), (e) and (g) are not taken;			
E111	(l) the product and documentation verification obligations incumbent on economic operators according to Articles 23 to 27 are not fulfilled; and			
E112	(m) 3D-printing services are provided under infringement of Article 28.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E113	3.Member States shall also lay down rules on penalties for the following non compliances of TABs and notified bodies:			
E114	(a) issuing of certificates, test reports, or European technical assessments whilst the conditions therefore are not fulfilled;			
E115	(b) non-withdrawal of certificates, test reports, or European technical assessments where the withdrawal is mandatory;			
E116	(c) information to be provided to notified bodies, TABs or authorities is not provided, incomplete or is incorrect; and			
E117	(d) instructions of authorities are not followed.			
E118	<i>4.The Commission is empowered to supplement this Regulation by delegated act adopted in accordance with Article 87 in order to establish proportionate minimum penalties, targeting all economic operators, TABs and</i>	AT: considers such an authorization for setting penalties (should they be administrative penal provisions or penal court provisions?) is in principle problematic and <u>strongly opposes such a provision.</u>  IT: this should be matter of MS	AT: according to established case law of the ECJ, the severity of a sanction must be commensurate with the seriousness of the violations by ensuring a genuinely deterrent effect while at the same time preserving the general principle of proportionality (cf. ECJ 15.4.2021,	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>notified bodies directly or indirectly involved in the infringement of obligations of this Regulation.</i>		Case C-30/19, Braathens Regional Aviation AB, at number 38). In view of the subject matter of the CPR (construction products/works), it is highly questionable whether the setting of penalties by COM is proportionate. In view of the subsidiarity principle, AT takes the view that only MS should be responsible for setting penalties in the given context.	
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### Obligation of Economic operators

Note: In this section, the paragraphs establishing the obligation of economic operators related to market surveillance are covered, the whole range of economic operators' obligations is dealt with in the cluster Economic Operators.

#### 62. Article 17(2) - Rules and conditions for the affixing of CE marking

Note: This article is fully listed in the cluster Standardization

E119	2. The CE marking shall be followed by:			
E120	(a) the two last digits of the year in which it was first affixed;			

Text of proposal	National positions		Questions
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E121	(b) the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity;			
E122	(c) the name and the registered address of the authorised representative, or the identifying mark allowing identification of the name and address of the authorised representative easily and without any ambiguity where the manufacturer does not have a place of business in the Union or where the manufacturer chooses to have an authorised representative;			
E123	(d) the unique identification code of the product-type, the permalink to the manufacturer's products registration(s) in Union databases and the precise location therein where the product can be found;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

E124	(e) the permalink to the manufacturer's own product presentation website, if any there is any;			
E125	(f) the reference number of the declaration of performance; and			
E126	(g) the identification number of the notified body, if applicable.			
E127	The items listed in points d) to f) may be replaced by a permalink to the combined declaration of performance and of conformity (electronic CE marking).			

**63. Article 19(4) - Obligations of all economic operators**

Note: This article is fully covered in the cluster Economic operators

E128	An economic operator shall be able to present all documentation and information referred to in this Chapter to authorities for a period of ten years after they have last been in possession or dealing with			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	the product in question, unless they are permanently available via the product registration database or system established in accordance with Article 78. It shall present the documentation and information within 10 days of receipt of a request by the respective authority.			
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**64. Article 23(4,5) - Obligations of authorised representatives**

Note: This article is fully covered in the cluster Economic operators

E129	4. The authorised representative shall verify the compliance of the product with requirements regarding marking, labelling, instructions for use, declaration of performance and conformity. The authorised representative shall also verify at a documentary level that the manufacturer satisfies his obligations set out in Article 19(4) to (6), Article 21(1) to			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	(3) and (5) to (7), Article 22(1) and Article 22(2) points (f) and (i), and Article 27(6).			
E130	5. Where an authorised representative considers that there is a non-compliance mentioned in the paragraph 4, the authorised representative shall ask the manufacturer to remedy the non-compliances. The manufacturer shall thereon stop the placing on the market and ask other economic operators involved in the distribution to stop their commercial activities, until the authorised representative regards the infringements as remedied. Where the non-compliances are not remedied within one month whilst products possibly continue to be made available on the market, the authorised representative shall be allowed to terminate his contract with the manufacturer and thereof inform the national competent			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	authorities of the Member States where the products are placed on the market and the national competent authority of his own place of business. The latter shall coordinate joint actions of all competent authorities, unless the national competent authorities agree on another national competent authority to coordinate.			
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**65. Article 24(1) - *Obligations of importers***

Note: This article is fully covered in the cluster Economic operators

E131	The importer shall place on the Union market only products which are compliant with this Regulation. Before placing a product on the market, the importer shall verify at a documentary level that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7)			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	and in Article 22(2), points (f) and (i). It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.			
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66. **Article 25(2) - Obligations of distributors**

Note: This article is fully covered in the cluster Economic operators

E132	When making a product available on the market, the distributor shall fulfil the obligations incumbent on importers in accordance with Article 24(1) to (5) whilst references to “placing on the market” shall be understood as “further making available on the market”.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

**67. Article 27(2) - Obligation of fulfilment service providers, brokers, online marketplaces, online sellers, online shops and online search engines**

Note: This article is fully covered in the cluster Economic operators

E133	A fulfilment service provider, online seller or broker shall:			
E134	(a) display, in a visible manner, to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications;			
E135	(b) verify that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and Article 22(2), points (f) and (i);			
E136	(c) fulfil the obligations laid down in Article 24(5), whilst references to “placing on the market” shall be understood as “supporting the making available on the market”;			
E137	(d) eliminate all offers for products which are non-compliant or likely to be risky in the meaning of Article 21(9)			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	last sentence on their own initiative or, within two working days, on request of the market surveillance authorities;			
E138	(e) inform concerned authorities on the measures taken in accordance with points (b), (c) and (d);			
E139	(f) support product withdrawals or recalls, regardless of whether initiated by authorities, the manufacturer, the authorised representative or the importer. In cooperation with the economic operator concerned, the fulfilment service provider or broker shall inform consumers directly of product withdrawals or recalls. It shall keep the concerned authorities informed of any action taken.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

**68. Article 49(5) - Requirements relating to notifying authorities**

Note: This article is fully covered in the cluster Notifying authorities and Notified bodies

E140	5. The notifying authority shall safeguard the confidentiality of the information obtained. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.			
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5. The notifying authority shall safeguard the confidentiality of the information obtained. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

PUBLIC

Text of proposal	National positions		Questions
	Suggestion	Justification	

## F. Digitalisation

### 69. Digital product passport Articles of ESPR

Note: For better understanding of the Digital Product Passport, see the appropriate articles of ESPR listed bellow

Article 8: Product passport

Article 9: General requirements for the product passport

Article 10: Technical design and operation of the product passport

Article 11: Unique operator identifier and unique facility identifier•

Article 12: Product passport registry

Annex III: Digital Product Passport

Link to ESPR proposal: [here](#)

### 70. Article 15 - Supply of the declaration of performance and of the declaration of conformity

1. The manufacturer shall supply by electronic means a copy of the declaration of performance and of the declaration of conformity of each product which is made available on the market			
However, where a batch of the same product is supplied to a single user, it			



Text of proposal	National positions		Questions
	Suggestion	Justification	

may be accompanied by a single copy of the declarations.			
2. Where the declaration is provided by electronic means, the manufacturer shall issue that declaration in a commonly readable, but unamendable electronic format. Alternatively, the manufacturer may use a permalink provided that the permalink and the document accessible via the permalink are unamendable. Commission Delegated Regulation (EU) No 157/2014 shall apply under this Regulation. The manufacturer shall supply a paper copy of the declarations if the recipient requests for such paper copy.			
3. Declarations may contain permalinks to unamendable environmental product declarations or other unamendable documents			

Text of proposal	National positions		Questions
	Suggestion	Justification	

containing the requested information if those documents follow the order and structure of the declarations or if a correlation table linking the order of the declarations to the order of these documents is provided together with the permalink.			
4. The manufacturer shall supply the declaration of performance and the declaration of conformity in the language or the languages required by the Member States where the manufacturer intends to make the product available. Another economic operator who makes a product available in another Member State shall make available a translation of the declaration of performance and the declaration of conformity in the languages required by that Member			

Text of proposal	National positions		Questions
	Suggestion	Justification	

State together with the original, and shall comply with paragraphs 1 and 2.			
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**71. Article 17(2) - Rules and conditions for the affixing of CE marking**

Note: This article is fully covered in the cluster Standardization

2. The CE marking shall be followed by:			
(a) the two last digits of the year in which it was first affixed;			
(b) the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity;			
(c) the name and the registered address of the authorised representative, or the identifying mark allowing identification of the name and address of the authorised representative easily and without any			

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ambiguity where the manufacturer does not have a place of business in the Union or where the manufacturer chooses to have an authorised representative;			
(d) the unique identification code of the product-type, the permalink to the manufacturer's products registration(s) in Union databases and the precise location therein where the product can be found;			
(e) the permalink to the manufacturer's own product presentation website, if any there is any;			
(f) the reference number of the declaration of performance; and			
(g) the identification number of the notified body, if applicable.			
The items listed in points d) to f) may be replaced by a permalink to the combined declaration of performance			

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and of conformity (electronic CE marking).			
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**72. Article 24(6) - *Obligation of importers***

Note: This article is fully covered in the cluster Economic operators

6. The importer shall indicate its name, registered trade name or registered trade mark, its place of business, its contact address and, where available, electronic means of communication on the product or, where that is not possible, on its packaging or in a document accompanying the product.			
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**73. Article 56(2) - *Notification procedure***

Note: This article is fully covered in the cluster Notifying authorities and notified bodies

2. They shall notify the Commission and the other Member States, notably using the electronic notification tool			
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<p>developed and managed by the Commission.</p> <p>Exceptionally, for cases set out in Annex VI, for which the appropriate electronic tool is not available, a hard copy of the notification shall be accepted.</p>			
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74. **Article 57(2) - Identification numbers and lists of notified bodies**

Note: This article is fully covered in the cluster Notifying authorities and notified bodies

<p>2. The Commission shall make publicly available the list of bodies notified under this Regulation, including the identification numbers that have been allocated to them and the activities for which they have been notified, notably using the electronic notification tool developed and managed by the Commission. The Commission shall ensure that this list is kept up-to-date.</p>			
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Text of proposal	National positions		Questions
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**75. Article 78 - EU construction products database or system**

Note: Article 78(3) is also listed in subsection **Error! Reference source not found.**

1. <i>The Commission is empowered to supplement this Regulation by means of delegated act according to Article 87, by setting up a Union construction products database or system that builds to the extent possible on the Digital Product Passport established by Regulation (EU) ... [Regulation on ecodesign for sustainable products].</i>			
2. Economic operators may access all information stored in that database or system which regards them specifically. They may request that incorrect information is corrected			
3. <i>The Commission may, by implementing acts give access to this database or system to certain authorities of third countries that apply voluntarily this Regulation or that have regulatory systems for</i>			

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<i>construction products similar to this Regulation provided that these countries:</i>			
<i>(a) ensure confidentiality,</i>			
<i>(b) are partners of a mechanism for lawful transfers of personal data compliant with the Regulation (EU) 2016/679</i>			
<i>(c) commit to engage actively by notifying facts that might trigger the need for action of market surveillance authorities, and</i>			
<i>(d) commit to engage against economic operators infringing this Regulation from their territory.</i>			
<i>Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88(1).</i>			



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**76. Article 89 - Electronic applications, decisions, documentation and information**

1. All applications from or to notified bodies or TABs and decisions made by these bodies or authorities made in accordance with this Regulation can be provided on paper or in a commonly used electronic format provided that the signature is compliant with Regulation (EU) No 910/2014 and the signing person is entrusted to represent the body or economic operator, according to the law of the Member States or Union law respectively.			
2. All documentation required by Article 19(7), Article 21(3), Articles 64 to 66 and Annex V can be provided on paper or in a commonly used electronic format and in a way that permits downloads via unmodifiable links (permalinks).			

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<p>All information obligations set up by Article 7(3), (4) and (6), Article 19(1), (3), (5) and (6), Article 20(2) and (3), Article 21(6) to (9), Article 22(2), points (f) and (i), Article 23(5), Article 24(6), Article 25(2), Article 26(4), Article 27(2), Articles 28 to 39, Article 41(3), Article 44(3), (4), (6) and (7), Article 45(3), Article 46(2), Article 47, article 49(5), Article 50(11), Article 53(1), Article 58(1), Article 59(2), Article 61, Article 70(1), (2), (4) and (6), Article 71(2), Article 72(1), (3) and (5), Article 76, Article 77, Article 78(3), Article 79(2), Article 79(3), Article 80(2), Article 82(1) to (3), (6) and (7) and Article 91 can be satisfied by electronic means. However, information to be provided in accordance with Annex I Part D and harmonised technical specifications</p>			
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Text of proposal	National positions		Questions
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specifying it shall be provided on paper for products not labelled “not for consumers” or “only for professional use”. Moreover, consumers may request any other information to be provided on paper.			
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## G. Economic operators

Note: This section deals with the economic obligations common for ALL economic operators, as well as with SPECIFIC OBLIGATIONS for different type of Economic operators. Some paragraphs regarding their cooperation with Market surveillance are listed also separately in cluster related to Market Surveillance

LV: general call for a sufficient transitional period for producers to adapt and comply with the new requirements

### 77. Article 19 - Obligations of all economic operators

Note: Article 19(4) is listed in cluster Market Surveillance and Article 19(6) is in the cluster Consumers and Article 19(2) is in the cluster Implementing acts

G1	1. An economic operator shall take all necessary measures to ensure continued compliance, including of products, with this Regulation. Where non-compliance of the economic			
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Text of proposal	National positions		Questions
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	operator or of a product has been stated and corrective action has been requested by a market surveillance authority in accordance with Article 70(1), the economic operator shall submit progress reports to that authority until that authority decides that the corrective action can be closed.			
G2	<i>2. Where diverging statements of non-compliance of an economic operator or of a product and requests for corrective action emanate from authorities of different Member States, an economic operator shall take differentiated measures, subject to where the products are intended to be made available on the market or directly installed. Where this is not possible or where a more severe measure imposed by one Member State encompasses the less severe measure imposed by another, the more severe measure shall</i>			

Text of proposal	National positions		Questions
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	<i>be taken. Where these rules do not lead to a clear result, the Member States concerned and the Commission, and, on their request, other Member States shall try to find a common solution and, if need is, adopt an implementing act in accordance with Article 33.</i>			
G3	3. An economic operator shall, on request of an authority, communicate any economic operator or other actor to that authority:			
G4	(a) who has supplied it with a product, including components or replacement parts of products, or services, with relevance for a product, and the quantity of that supply;			
G5	(b) to who it has supplied a product, including components or replacement parts of products, or services, with relevance for a product, and the quantity of that supply;			
G6	(c) who is involved in financial and other collateral services			

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	linked to the making available or direct installation of products. When identifying the operators referred to in first subparagraph, an economic operator shall inform the authority about to all connected data, including			
G7	<ul style="list-style-type: none"> <li>(i) addresses of the operators referred to in the first subparagraph;</li> <li>(ii) contact details of these operators</li> <li>(iii) email addresses, websites and social media profiles of these operators</li> <li>(iv) tax and company registration numbers of these operators;</li> <li>(v) bank accounts of these operators; and</li> </ul> names, addresses, contact details of natural or legal			

Text of proposal	National positions		Questions
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	persons acting for those operators.			
G8	<p><i>4. An economic operator shall be able to present all documentation and information referred to in this Chapter to authorities for a period of ten years after they have last been in possession or dealing with the product in question, unless they are permanently available via the product registration database or system established in accordance with Article 78. It shall present the documentation and information within 10 days of receipt of a request by the respective authority.</i></p>	<p>LV: to increase the period to 30 days and provide the possibility to request for an extension of period with reasoned justification IT: This period should be reduced in case of products presenting a risk</p>	<p>LV: time for manufacturer qualitatively prepare necessary information</p>	
G9	<p>5. An economic operator shall provide all the requested <u>data into the database or system established in accordance with Article 78</u> within <u>two months</u> after the availability of that database or system has been stated in a publication of the Official Journal and bear the</p>	<p>LV: generally supports the establishment of the database IUT: 2 months - This period should be adapted in relation of the products placed on the market.</p>		

Text of proposal	National positions		Questions
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	fees of registration linked thereto. <u>It shall at least bi-annually verify the correctness of the provided data.</u>	LV: considers this obligation as disproportionate		LV: evaluate justification and possible risks of this requirement
G10	An economic operator shall register into its respective national system established in accordance with Article 77(5).			
G11	An economic operator shall make available to consumers and users communication channels, including telephone numbers, <u>e-mail</u> or dedicated sections of its website and social media page, allowing it to communicate any accident, other incident or safety issue it has experienced with the product.	IT: to be amended as follow “ <i>e-mail having legal validity</i> ”		
G12	<i>6. An economic operator may inform authorities of any likely infringement of this Regulation it becomes aware of. Where this economic operator considers that non- conforming products present a risk to human safety or to the environment, it shall</i>			



Text of proposal	National positions		Questions
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	<i>immediately inform the competent authorities of the Member States in which it made the product available thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.</i>			
G13	7. An economic operator subject to certification by a notified body or supplying services or parts to manufacturers shall permit notified bodies to have access to its documentation and to its premises to the extent that this is needed for the activities of the notified bodies. It shall produce correct information for notified bodies and shall correct any incorrect information. Moreover, this economic operator shall inform the notified body within one month of all changes that might affect the compliance with this Regulation			

Text of proposal	National positions		Questions
	Suggestion	Justification	

78. **Article 20 - Procedural rights of economic operators**

G14	1. Any definitive or interim measure, decision or order taken or made by authorities pursuant to this Regulation against an economic operator and the natural or legal persons acting on their behalf shall state the exact grounds on which it is based.			
G15	2. Any such measure, decision or order shall be communicated without delay to the relevant economic operator and the natural or legal persons acting on their behalf, who shall at the same time be informed of the remedies available to them under the law of the Member State concerned and of the time limits to which those remedies are subject.			

Text of proposal	National positions		Questions
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G16	3. Before a measure, decision or order referred to in paragraph 1 is taken or made, the economic operator concerned shall be given the opportunity to be heard within an appropriate period of not less than 10 working days, unless there is urgency of the measure, decision or order, based on health or safety requirements or other grounds relating to the public interests covered by this Regulation.			
G17	4. If the measure, decision or order is taken or made without the economic operator being given the opportunity to be heard, the economic operator shall be given that opportunity as soon as possible thereafter and that measure, decision or order can be reviewed promptly by the market surveillance authority.			
G18	5. Member States shall ensure that any measure covered by this Article can be appealed,			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	with or without prior administrative appeal procedure, before a competent court. That court shall also be competent for deciding on the suspensive effect of the appeal or interim measures to be imposed by the court in view of both the public interest and the interests of the economic operator.			
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#### 79. Article 21 - Obligations of manufacturers

Note: Article 21(5) is listed in the cluster Consumers, article 21(6) is listed in section implementing Acts.

G19	1. The manufacturer shall determine the product type, respecting the boundaries set up therefore by the definition provided in Article 3 point (31). The product type shall be processed in accordance with the applicable assessment and verification system set out in			
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Text of proposal	National positions		Questions
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	Annex V. The manufacturer shall draw up a declaration of performance and a declaration of conformity in accordance with Articles 9 and Articles 11 to 15 and affix the CE marking in accordance with Articles 16 and 17.			
G20	2. The manufacturer shall refrain from any claim about the characteristics of a product that is not based on:			IT: does this provision refer to essential characteristic or inherent product requirements?
G21	(a) the assessment method contained in a harmonised technical specification where the relevant characteristic is covered by such; or			
G22	(b) where no such assessment method exists, an assessment method which represents the most effective and advanced method to achieve an accurate assessment.			IT: What this provision means? Is it related to non harmonised products placed on the market in according with DGSP?
G23	3. The manufacturer shall, as the basis for the declarations referred to in paragraph 1, draw up a technical documentation describing the			

Text of proposal	National positions		Questions
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	intended use including the precise conditions for use and all the elements necessary to demonstrate performance and conformity.			
G24	That technical documentation shall contain the mandatory or facultative calculation of environmental, including climate sustainability assessed in accordance with harmonised technical specifications adopted under this Regulation or with Commission acts adopted under this Regulation.			
G25	The second subparagraph 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 for new products.			
G26	4. The manufacturer shall ensure that procedures are in place to ensure that series production maintains the			

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	declared performance and conformity. Changes in the production process, in product design or in characteristics, and changes in the harmonised technical specifications by reference to which performance or conformity of a product is declared or by application of which its performance or conformity is verified, shall be adequately taken into account and, in case the product's performance or conformity is affected, shall trigger a re-assessment in accordance with the relevant assessment procedure.			
G27	The manufacturer shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance and of the conformity of a product, carry out sample testing of products placed or made available on the market, and, if necessary,			

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	keep a register of complaints, of non-conforming products and product recalls, and shall keep importers and distributors informed of any such monitoring.			
G28	The procedures referred to in the first subparagraph, the sample tests referred to in the second subparagraph and the application of the applicable system of Annex V shall be described in the technical documentation referred to in paragraph 3.			
G29	<i>5. The manufacturer shall ensure that its product bear a manufacturer-specific type number and a batch or serial number. If this is impossible, the required information shall be provided on the packaging, on an affixed tag or, as last resort, in a document accompanying the product.</i>			
G30	<i>The manufacturer shall in the same way as set out in the first</i>			



Text of proposal	National positions		Questions
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	<p><i>subparagraph label a product as “Only for professional use” if it is not intended for consumers or other non-professional users. Products not labelled “Only for professional use” shall be deemed to be also intended for non-professional users and consumers in the meaning of this Regulation and the Regulation (EU) ... [Regulation on General Product Safety].</i></p> <p><i>The manufacturer shall, in a visible manner, display to customers before it is bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications</i></p>			
G31	<p><i>6. When making a product available on the market in a certain Member State, the</i></p>			

Text of proposal	National positions		Questions
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	<i>manufacturer shall ensure that the product is accompanied by the information set out in harmonised technical specifications and in Annex I Part D in a language determined by the Member State concerned or, in absence of such determination, in a language which can be easily understood by users.</i>			
G32	<i>The Commission may, by means of implementing acts determine the format and the way of transmission of information to be provided by the manufacturer in accordance with the first subparagraph.</i>			
G33	<i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).</i>			
G34	7. The manufacturer shall upload the data of the declaration of performance, of the declaration of conformity, the information referred to in			

Text of proposal	National positions		Questions
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	paragraph 6 and the technical documentation in the EU product database or system established in accordance with Article 78.			
G35	8. The manufacturer who has reason to believe that a product which it has placed on the market is not in conformity with requirements of this Regulation or adopted in accordance with this Regulation, shall immediately take the necessary corrective measures to bring that product into conformity, or, if appropriate, to withdraw or recall it. If the issue is linked to a supplied component or an externally provided service, the manufacturer shall inform the supplier or service provider and the manufacturer's national competent authority thereof; the latter shall transmit the respective information to the national competent authority responsible for the			

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	supplier or service provider and suggest appropriate measures.			
G36	9. Where the product presents a risk or is likely to present a risk, the manufacturer shall within two working days thereof inform the authorised representative, importers, distributors, fulfilment service providers, and online marketplaces involved in the distribution, as well as the competent national authorities of the Member States in which the manufacturer or – to its knowledge – other economic operators made the product available. The manufacturer shall, to that effect, provide all useful details and, in particular, specify the type of the non-compliance, the frequency of accidents or incidents and the corrective measures taken or recommended. In case of risks caused by products which have already reached the final user			

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	or consumer, the manufacturer shall also alert the media and inform them about appropriate measures to eliminate or, if not possible, to reduce the risks. In case of a “serious risk” in the meaning of Article 3, point (71) the manufacturer shall withdraw and recall the product at their own cost.			
G37	10. The manufacturer shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.			

#### 80. Article 22 - Additional environmental obligations of manufacturers

Note: Some aspects of this article are dealt with elsewhere: Article 22(5) Additional environmental obligations of manufacturers and remanufacturing and reuse Article 22 - Additional environmental obligations of manufacturers, Article 22(4,5) is also listed in subsection Delegated Acts

G38	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			
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Text of proposal	National positions		Questions
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	<p>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.</p>			
G39	<p>2. Unless product safety or the safety of construction works is thereby negatively impacted, the manufacturer has the following obligations:</p> <p>(a) design and manufacture products and their packaging in such a way that their overall environmental, including climate sustainability reaches</p>			

Text of proposal	National positions		Questions
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	the state of the art level, unless a lower level:			
G40	(i) is proportionate when compared to the environmental sustainability improvement triggered by them at the level of the construction works; and			
G41	(ii) is necessary to improve the environmental sustainability at the level of the construction works.			
G42	(b) under the conditions set out in point (a)(i) and (ii) give preference to recyclable materials and materials gained from recycling;			
G43	(c) respect the minimum recycled content obligations and other limit values regarding aspects of environmental, including climate sustainability contained in harmonised technical specifications;			
G44	(d) prevent premature obsolescence of products, use reliable parts and design products in such a way that			

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	their durability does not fall beyond the average durability of products of the respective category;			
G45	(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);			
G46	(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;			



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G47	(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;			
G48	(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			

Text of proposal	National positions		Questions
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	recycling in accordance with the following point;			
G49	(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;			
G50	(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.			
G51	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			

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	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.			
G52	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.			
G53	<i>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,</i>			

Text of proposal	National positions		Questions
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	<p><i>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.</i></p>			
G54	<p><i>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</i></p>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>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).</i>			
G55	6. The manufacturer shall affix the traffic light label in the way set out in the delegated acts adopted in accordance with paragraph 5.			

#### 81. Article 23 - Obligations of authorised representative

Note: Article 23(4,5) is listed in the cluster Market Surveillance

G56	1. A manufacturer may appoint, by a written mandate, any natural or legal person established within the Union as a single authorised representative. A manufacturer not established in the Union shall appoint a single authorised representative.			
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Text of proposal	National positions		Questions
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G57	2. Authorised representatives shall act with due care in relation to the obligations of this Regulation. They shall be liable for gross negligence or conscious infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.			
G58	3. The authorised representative shall perform the tasks specified in the mandate. The mandate shall allow the authorised representative to carry out at least the following tasks and shall give the authorised representative the following rights:			
G59	(a) keep the declaration of performance and the technical documentation at the disposal of national market surveillance authorities;			
G60	(b) provide the market surveillance authorities with all the information and			

Text of proposal	National positions		Questions
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	documentation necessary to demonstrate the conformity of the product with the declaration of performance and compliance with other applicable requirements in this Regulation at their reasoned request;			
G61	(c) terminate the contract where the manufacturer infringes this Regulation and inform thereof the competent national authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business;			
G62	(d) when having reason to believe that a product in question is non-compliant or presents a risk, inform the national competent authorities of the Member States where the product is placed on the market and the national competent authority of his own place of business thereof; and			

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G63	(e) cooperate with the market surveillance authorities, at their request, on any action taken – to eliminate risks posed by products covered by the mandate of the authorised representative; or – to remedy non-conformities.			
G64	The drawing up of technical documentation shall not form part of the authorised representative's mandate, but may become subject to a separate contract between the manufacturer and the authorised representative.			
G65	4. The authorised representative shall verify the compliance of the product with requirements regarding marking, labelling, instructions for use, declaration of performance and conformity. The authorised representative shall also verify at a documentary level that the			



Text of proposal	National positions		Questions
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	manufacturer satisfies his obligations set out in Article 19(4) to (6), Article 21(1) to (3) and (5) to (7), Article 22(1) and Article 22(2) points (f) and (i), and Article 27(6).			
G66	5. Where an authorised representative considers that there is a non-compliance mentioned in the paragraph 4, the authorised representative shall ask the manufacturer to remedy the non-compliances. The manufacturer shall thereon stop the placing on the market and ask other economic operators involved in the distribution to stop their commercial activities, until the authorised representative regards the infringements as remedied. Where the non-compliances are not remedied within one month whilst products possibly continue to be made available on the market, the authorised representative <u>shall be allowed</u>	IT: Civil law is MS prerogative. Alternative wording: <i>“Shall not becomes liable in accordance with</i>		

Text of proposal	National positions		Questions
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	to terminate his contract with <u>the manufacturer</u> and thereof inform the national competent authorities of the Member States where the products are placed on the market and the national competent authority of his own place of business. The latter shall coordinate joint actions of all competent authorities, unless the national competent authorities agree on another national competent authority to coordinate.	<i>national laws on contractual and extra-contractual liability”</i>		
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## 82. Article 24 - Obligations of importer

Note: Article 24(1) is listed in the cluster Market Surveillance and Article 24 (6) in the cluster Digitalisation

G67	<i>1. The importer shall place on the Union market only products which are compliant with this Regulation. Before placing a product on the market, the importer shall verify at a documentary level that the manufacturer has complied with the obligations set out in Article 21(1), (3) and</i>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>(5) to (7) and in Article 22(2), points (f) and (i). It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.</i>			
G68	2. The importer shall verify that the intended use of the product has been precisely and correctly determined by the manufacturer and shall ensure that the product is accompanied by a clear indication of the information set out in harmonised technical specifications and in Annex I Part D in a language determined by the Member State concerned which can be easily understood by users. The importer shall, in a visible manner, display to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this			

Text of proposal	National positions		Questions
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	Regulation or harmonised technical specifications.			
G69	3. The importer shall ensure that, while a product is under its responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.			
G70	4. After having assembled all available product information from the manufacturer and the de-installer, the importer shall in particular scrutinise used and remanufactured products, namely with regard to damages or indications for loss of performance or non-compliance and changed mechanical or chemical properties, and assess all risks; when necessary to ensure safety or the protection of the environment, the importer shall reduce the intended use or refrain from selling. This			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	obligation shall also apply to used and remanufactured products for which no declaration of performance is mandatory.			
G71	5. Where an importer considers or has reason to believe that the product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, the importer shall not place the product on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Regulation or until the declaration of performance is corrected. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the geographically responsible national competent authority thereof.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G72	6. <i>The importer shall indicate its name, registered trade name or registered trade mark, its place of business, its contact address and, where available, electronic means of communication on the product or, where that is not possible, on its packaging or in a document accompanying the product.</i>			
G73	7. The importer shall investigate complaints, and, if necessary, keep a register of complaints, of non-conforming products and of product withdrawals or recalls, and shall keep manufacturers and distributors informed of any such monitoring.			
G74	8. The importer selling to final users shall also fulfil the obligations incumbent on distributors.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

### 83. Article 25 - Obligations of distributors

Note: Article 25(2) is listed in the cluster Market Surveillance and Article 25(3) is listed in the cluster Consumers

G75	1. When making a product available on the market, the distributor shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.			
G76	<i>2. When making a product available on the market, the distributor shall fulfil the obligations incumbent on importers in accordance with Article 24(1) to (5) whilst references to “placing on the market” shall be understood as “further making available on the market”.</i>			
G77	<i>3. The distributor shall ensure that no products are sold to consumers or other non-professional users which are</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>labelled “for professional use only”. These products shall, in their premises, online and on paper publicity material, be presented as products for professional use only.</i>			
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**84. Article 26 - Cases in which obligations of manufacturers apply to importers and distributors**

G78	1. An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer pursuant to Articles 21 and 22, where:			
G79	(a) there is no manufacturer in the meaning of this Regulation;			
G80	(b) it places a product on the market as manufacturer under its name or trademark;	IT: The borderline between importer and manufacture should be better delimited,	IT: considering that a manufacturer is the person who manufactures a product or has a product designed or manufactured, so that the difference with lit. b) is in the hand of the notified body, if AVC system requires it.	
G81	(c) it modifies a product in such a way that compliance			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	with the declaration of performance and of conformity or with the requirements set out in and in accordance with this Regulation may be affected;			
G82	(d) it treats a product in a way that changes the hazards or increases the level of risk caused by it during its life-cycle;			
G83	(e) it makes a product available on the market with an intended use that is different from the intended use attributed by the manufacturer in the performance and conformity assessment procedure; or			
G84	(f) it claims for it characteristics deviating from the characteristics claimed by the manufacturer.			
G85	2. Paragraph 1 shall also apply to:			
G86	(a) an importer of used or remanufactured products, unless the used or remanufactured product have			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	been placed on the Union market before being used;			
G87	(b) an importer or distributor of used products who does either of the following:			
G88	(i) subjects those used products to a transformative process going beyond repair, cleaning and regular maintenance after being de-installed;			
G89	(ii) opts for assuming the role of the manufacturer.			
G90	3. Paragraph 1 shall not apply where the economic operator only:			
G91	(a) adds translations of the information supplied by the manufacturer;			
G92	(b) replaces the outer packaging of a product already placed on the market, including when changing the pack size, if the repackaging is carried out in such a way that the original condition of the product cannot be affected by it and that the information to be provided in accordance with this			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	Regulation is still correctly provided.			
G93	4. An economic operator providing the activities listed in paragraph 3 shall inform thereof the manufacturer or its authorised representative, regardless of whether they own the products or whether they provide services. It shall carry out the repackaging in such a way that the original condition of the product cannot be affected by the repackaging and that the information to be provided in accordance with this Regulation is still correctly provided. The economic operator shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Regulation.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

**85. Article 27 - Obligation of fulfilment service providers, brokers, online marketplaces, online sellers, online shops and online search engines**

Note: Article 27(2) is listed in the clusters Market Surveillance and Consumers

G94	1. When contributing to the making available on the market or direct installation of a product, fulfilment service provider or broker shall act with due care in relation to the obligations of this Regulation. It shall be liable for infringement of this Article and of Article 19 in accordance with national law on contractual and extra-contractual liability.			
G95	2. <i>A fulfilment service provider, online seller or broker shall:</i>			
G96	<i>(a) display, in a visible manner, to customers before they are bound by a sales contract, including in case of distance selling, <u>the information which shall be labelled pursuant to this Regulation or harmonised technical specifications;</u></i>	IT: The wording seem too extended, especially for online sales.		

Text of proposal	National positions		Questions
	Suggestion	Justification	

G97	<i>(b) verify that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and Article 22(2), points (f) and (i);</i>			
G98	<i>(c) fulfil the obligations laid down in Article 24(5), whilst references to “placing on the market” shall be understood as “supporting the making available on the market”;</i>			
G99	<i>(d) eliminate all offers for products which are non-compliant or likely to be risky in the meaning of Article 21(9) last sentence on their own initiative or, within two working days, on request of the market surveillance authorities;</i>			
G100	<i>(e) inform concerned authorities on the measures taken in accordance with points (b), (c) and (d);</i>			
G101	<i>(f) support product withdrawals or recalls, regardless of whether initiated</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>by authorities, the manufacturer, the authorised representative or the importer. In cooperation with the economic operator concerned, the fulfilment service provider or broker shall inform consumers directly of product withdrawals or recalls</i>			
G102	<i>It shall keep the concerned authorities informed of any action taken.</i>			
G103	3. An online marketplace shall:			
G104	(a) design and organise its online interface in such a way that it allows third party traders to provide to the customers of these traders any information referred to in paragraph 2, point (a);			
G105	(b) establish a single contact point for direct communication with Member States' authorities in relation to non-compliant, under-performing or unsafe product. This contact point may be the same as the one referred to in [Article			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	20(1)] of Regulation (EU) .../... [the General Product Safety Regulation] or [Article 10(1)] of Regulation (EU) .../... [the Digital Services Act];			
G106	(c) give an appropriate answer without undue delay, and in any event within five working days, in the Member State where the online marketplace operates, to notices related to notification of accidents and other incidents with products received in accordance with [Article 14] of Regulation (EU) [.../...] on a Single Market for Digital Services (Digital Service Act) and amending Directive 2000/31/EC;			
G107	(d) cooperate to ensure effective market surveillance measures, including by abstaining from putting in place obstacles to such measures;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G108	(e) inform the market surveillance authorities of any action taken;			
G109	(f) establish a regular and structured exchange of information on offers that have been removed on the basis of this Article by online marketplaces;			
G110	(g) allow online tools operated by market surveillance authorities to access their interfaces in order to identify non-compliant products;			
G111	(h) upon request of the market surveillance authorities, when the online marketplace or its online sellers have put in place technical obstacles to the extraction of data from their online interfaces, allow those authorities to scrape such data for product compliance purposes based on the identification parameters provided by the requesting market surveillance authorities.			



Text of proposal	National positions		Questions
	Suggestion	Justification	

G112	4. As far as powers conferred by Member States in accordance to Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, for all products covered by this Regulation, to order an online marketplace to remove specific illegal content referring to a non-compliant product from its online interface, to disable access to it or to display an explicit warning to end users when they access it. Such orders shall comply with [Article 8(1)] of Regulation (EU) .../... [the Digital Services Act].			
G113	5. An online marketplace shall take the necessary measures to receive and process in accordance with [Article 8] of Regulation (EU) .../...[the Digital Services Act] the orders referred to in paragraph 4.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G114	6. The paragraphs 1 and 2, paragraph 3, points (b) to (i) and paragraphs 4 and 5 shall also apply to manufacturers, importers, distributors or other economic operators offering products online without involvement of an online marketplace (“online shops”).			
G115	7. The paragraph 3, points (d) to (h) shall also apply to online search engines.			
G116	8. A fulfilment service provider shall ensure that the conditions during warehousing, packaging, addressing or dispatching, do not jeopardise the products’ compliance with the requirements set out in this Regulation.			

**86. Article 28 - Obligations of 3D-printing service providers and of providers of moulds, of 3D-printing datasets, and of 3D-printing materials**

G117	1. A 3D-printing service provider shall:			
G118	(a) refrain from placing on the market or directly installing products for clients without			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	satisfying the obligations incumbent on manufacturers;			
G119	(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;			
G120	(c) 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.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G121	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. Providers of moulds and of 3D-datasets intended to produce items covered by this Regulation shall assess and document the fulfilment of requirements of this Regulation with regard to the produced items.			
G122	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 <u>10 such items for each intended use</u> 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-	IT: The number should be reduced,	IT: considering the value of some items and the goal of the provision.	

Text of proposal	National positions		Questions
	Suggestion	Justification	

	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.			
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**87. Article 29 - Obligations of economic operators de-installing or dealing with used products for re-use or remanufacturing**

Note: This article is also listed in the cluster Environmental sustainability

G123	1. An economic operator de-installing used products for re-use or re-manufacturing shall establish protocols on the place, conditions and presumed length of use of the de-installed product and make them available together with the products, regardless whether it exert its activity on its own behalf or for somebody else. The economic operator shall also make the protocols available on request to authorities, to later users of these products and to owners			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	of the construction works in which they were re-installed.			
G124	2. Where an economic operator brokers, sells or otherwise makes available de-installed used products on its own behalf or for somebody else, it shall also fulfil the obligations of importers or distributors with regard to used products.			

**88. Article 30 - Obligations of suppliers and service providers involved in the manufacturing of products**

G125	1. A supplier or service provider involved in the manufacturing of products shall:			
G126	(a) provide to manufacturers, notified bodies and authorities all available information on the environmental sustainability of their supplied component or service;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G127	(b) ensure the correctness of such information namely by respecting this Regulation and correct any errors made by communication to all their clients and, if potentially useful, to notified bodies and authorities;			
G128	(c) permit, in absence of such information, their customers to assess that environmental sustainability on their own expense and support that assessment, namely by giving access to all documents, including those of commercial character, relevant for that assessment;			
G129	(d) permit notified bodies to verify the correctness of any calculation of the environmental sustainability and support that verification;			
G130	(e) permit notified bodies to verify the performance and compliance of the supplied component or service and support that verification.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G131	<p>2. Where a supplier or service provider has been informed in accordance with the last sentence of Article 21(8), it shall forward that information to his other clients who have, in the last 5 years, received components or services which are identical with regard to the issue in question. In case of a serious risk as defined in Article 3, point (71) or a risk falling under the last sentence of Article 21(9), the supplier or service provider shall also inform the national competent authorities of the Member States where products with that component or manufacturing service have been made available on the market or directly installed; where it cannot identify these Member States, it shall inform all national competent authorities.</p>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

#### 89. Article 31 - Double use and pseudo products

G132	1. A manufacturer of double use products shall satisfy the obligations of this Regulation for all the items of the respective type, unless they are specifically marked as “not for construction”.			
G133	2. Other economic operators dealing with double use products shall fulfil the obligations incumbent on them in accordance with this Regulation. In their commercial contracts, they shall establish an obligation of their clients to do the same and not to sell or to use items for construction which are marked as “not for construction”.			
G134	3. For items suitable for construction for which the manufacturer has never intended such use and which, therefore, have not been CE-marked (“pseudo products”), other economic operators shall:			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G135	(a) not acquire or sell them as items being intended for construction without undergoing the procedures set out in this Regulation to be undergone by manufacturers;			
G136	(b) ensure by presentation that they cannot be understood as being intended for construction; and			
G137	(c) establish a contractual obligation of their clients to do the same and not to use these items for construction.			

## 90. Article 32 - Online and other distance sales

G138	1. Products offered for sale online or through other means of distance sales shall be deemed to be made available on the market if the offer is targeted at clients in the Union. An offer for sale shall be			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	considered to be targeted at clients in the Union if the relevant economic operator directs, by any means, its activities to a Member State. Inter alia, an offer shall be considered to be targeted at clients in the Union where:			
G139	(a) the economic operator uses an official language of a Member State, unless selling to the Union is explicitly excluded by effective means;			
G140	(b) the economic operator uses the currency of the Member States or a cryptocurrency covered by Regulation (EU) [...]47 unless, in the latter case, selling to the Union is explicitly excluded by effective means;			
G141	(c) the economic operator has the used internet domain name registered in one of the Member States or uses an internet domain that refers to the Union or one of the Member States; or			

Text of proposal	National positions		Questions
	Suggestion	Justification	

G142	(d) the geographical areas to which dispatch is available includes a Member State.			
G143	2. Member States shall designate a single centralised market surveillance authority responsible for detecting products offered from economic operators outside the Union to clients on their territory online and via other distance sales methods.	IT: Should be clarified if the authority is competent also for products assessment or only for detecting products involved.		

## 91. Article 33 - Implementing acts on economic operators' obligations and rights

Note: This Article is also listed in subsection Implementing Acts

G144	<i>Where this is necessary to ensure a harmonised application of this Regulation and only to the extent necessary to prevent diverging practices creating an uneven playing field for economic operators, the Commission may adopt implementing acts</i>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>providing details on how to execute the obligations and rights of economic operators contained in this Chapter.</i>			
G145	<i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

## H. Consumers

Note: In this section, the paragraphs establishing the obligation of economic operators related to consumers protection are covered, the whole range of economic operators obligations is dealt with in the cluster Economic operators, and in Article 89 (cluster Digitalisation).

### 92. Article 19(6) – *Obligations of all economic operators*

H1	6. An economic operator may inform authorities of any likely infringement of this Regulation it becomes aware of. Where this economic operator considers that non- conforming products present a risk to human safety or to the environment, it shall immediately inform the competent authorities of the Member States in which it made the product available thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

93. Article 21(5) – *Obligation of manufacturers*

H2	5. The manufacturer shall ensure that its product bear a manufacturer-specific type number and a batch or serial number. If this is impossible, the required information shall be provided on the packaging, on an affixed tag or, as last resort, in a document accompanying the product.			
H3	The manufacturer shall in the same way as set out in the first subparagraph label a product as “Only for professional use” if it is not intended for consumers or other non-professional users. Products not labelled “Only for professional use” shall be deemed to be also intended for non-professional users and consumers in the meaning of this Regulation and the Regulation (EU) ... [Regulation on General Product Safety].			

Text of proposal	National positions		Questions
	Suggestion	Justification	

H4	The manufacturer shall, in a visible manner, display to customers before it is bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications.			
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**94. Article 25(3) – *Obligation of distributors***

H5	3. The distributor shall ensure that no products are sold to consumers or other non-professional users which are labelled “for professional use only”. These products shall, in their premises, online and on paper publicity material, be presented as products for professional use only.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

95. **Article 27(2) - Obligation of fulfilment service providers, brokers, online marketplaces, online sellers, online shops and online search engines**

H6	2. A fulfilment service provider, online seller or broker shall:			
H7	(a) display, in a visible manner, to customers before they are bound by a sales contract, including in case of distance selling, the information which shall be labelled pursuant to this Regulation or harmonised technical specifications;			
H8	(b) verify that the manufacturer has complied with the obligations set out in Article 21(1), (3) and (5) to (7) and Article 22(2), points (f) and (i);			
H9	(c) fulfil the obligations laid down in Article 24(5), whilst references to “placing on the market” shall be understood as “supporting the making available on the market”;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

H10	(d) eliminate all offers for products which are non-compliant or likely to be risky in the meaning of Article 21(9) last sentence on their own initiative or, within two working days, on request of the market surveillance authorities;			
H11	(e) inform concerned authorities on the measures taken in accordance with points (b), (c) and (d);			
H12	(f) support product withdrawals or recalls, regardless of whether initiated by authorities, the manufacturer, the authorised representative or the importer. In cooperation with the economic operator concerned, the fulfilment service provider or broker shall inform consumers directly of product withdrawals or recalls. It shall keep the concerned authorities informed of any action taken.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

96. **89(2)** – *Electronic applications, decisions, documentation and information*

H13	2. All documentation required by Article 19(7), Article 21(3), Articles 64 to 66 and Annex V can be provided on paper or in a commonly used electronic format and in a way that permits downloads via unmodifiable links (permalinks).			
H14	All information obligations set up by Article 7(3), (4) and (6), Article 19(1), (3), (5) and (6), Article 20(2) and (3), Article 21(6) to (9), Article 22(2), points (f) and (i), Article 23(5), Article 24(6), Article 25(2), Article 26(4), Article 27(2), Articles 28 to 39, Article 41(3), Article 44(3), (4), (6) and (7), Article 45(3), Article 46(2), Article 47, article 49(5), Article 50(11), Article 53(1), Article 58(1), Article 59(2), Article 61, Article 70(1), (2), (4) and (6), Article 71(2),			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<p>Article 72(1), (3) and (5), Article 76, Article 77, Article 78(3), Article 79(2), Article 79(3), Article 80(2), Article 82(1) to (3), (6) and (7) and Article 91 can be satisfied by electronic means. However, information to be provided in accordance with Annex I Part D and harmonised technical specifications specifying it shall be provided on paper for products not labelled “not for consumers” or “only for professional use”. Moreover, consumers may request any other information to be provided on paper.</p>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

## I. Notifying authorities and notified bodies

Note: The cluster Notifying authorities and notified Bodies is divided into subsections: Assessment and verification systems and Notifying and NB.

### Assessment and verification systems

#### 97. Article 6 - Assessment and verification systems and their product specific modalities

This article is also listed in subsection Delegated Acts

I1	<i>1. 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 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</i>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>assessment and verification systems to the same product family or category when differentiating by essential characteristic or product requirement.</i>			
12	<i>2. In order to facilitate and to harmonise the application of the requirements or obligations contained in Annex V, the Commission is empowered to supplement this Regulation, by means of delegated acts in accordance with Article 87, by specifying these requirements and obligations for a given product family or category</i>			
13	<i>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 amend this Regulation, by means of delegated acts in accordance with Article 87, by introducing additional assessment or</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	<i>verification steps in the systems of Annex V.</i>		
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## 98. ANNEX V

I4	Annex V - Assessment and verification systems (AVS)	ES: Either a calculation method is required or the requirement should be withdrawn from the proposed regulation.	ES: Annex V introduces minimum numbers of checks to be undertaken by notified bodies under the assessment and verification systems for each of the systems. These fixed numbers (50, 40, 30, 20) are not appropriate to address the required certainty of spot-checks as the number of products and the number produced items could vary significantly.	
I5	The manufacturer shall correctly determine the product type pursuant to Article 3, point 31, and the corresponding product category on the basis of the applicable harmonised technical specification. Where a notified body is involved in assessment and verification, the notified body shall verify	IT: to clarify the wording and the related Definition (31) 'product type' under art. 3, that states that identical items of different		IT: Can the same product, tested once be supplied by different manufacturer with reference to the same test results? Is it possible to share TT, or reissue of the same test reports for another manufacturer? Is it possible to use historical data as stated at recital n.35 of Reg. 305/2011 (To avoid duplicating tests already carried out, a manufacturer of

Text of proposal	National positions		Questions
	Suggestion	Justification	

	these determinations, <u>including the verification that no identical items are declared to be of a different type.</u>	manufacturers also belong to different product types;		a construction product should be allowed to use the test results obtained by a third party)?
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#### System 1+

I6	1. System 1+ – Full notified body control <u>including audit sample testing</u>	IT: The term “ <i>audit sample testing</i> ” is new. It’s not clear if it’s intended to have different meaning from the well-known term “audit testing”. The correct term may be “including sampling and audit testing”.		
I7	(a) The manufacturer shall carry out:			
I8	(i) factory production control;			
I9	(ii) further testing of samples taken at the manufacturing plant in accordance with the prescribed test plan;			
I10	(iii) verification whether the technical documentation contains full proof of the correct application of this Regulation with regard to the assessment of performance;			
I11	(iv) verification whether the technical documentation			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	contains full proof of conformity with product requirements under this Regulation.			
I12	(b) The notified body shall issue the certificate of performance and of conformity on the basis of:			
I13	(i) confirmation of the correct determination of the product type and of the product category;			
I14	(ii) an assessment of the performance of the product on the basis of type testing (including sampling of the item(s) to be taken as representative of the type), type calculation or tabulated values and, in all these cases, review of the documentation of the product;			
I15	(iii) initial inspection of the manufacturing plant and of factory production control;			
I16	(iv) audit-testing of samples taken before placing the product on the market;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I17	(v) full verification of the tasks under paragraphs (a) (iii) and (iv).			
I18	(c) The notified body shall provide continuous surveillance, assessment and evaluation of factory production control. On this occasion, it shall undertake a check of 50 random points falling under the paragraphs (a) (ii) to (iv) and withdraw the certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 50 points and the other verifications to be made in accordance with this paragraph.			

#### System 1

I19	2. System 1 – Full notified body control without audit sample testing			
I20	(a) The manufacturer shall carry out:			
I21	(i) factory production control;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I22	(ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan;			
I23	(iii) verification whether the technical documentation contains full proof of the correct application of this Regulation with regard to the assessment of performance;			
I24	(iv) verification whether the technical documentation contains full proof of conformity with product requirements of this Regulation.			
I25	(b) The notified body shall issue the certificate of performance and of conformity on the basis of:			
I26	(i) confirmation of the correct determination of the product type and of the product category:			
I27	(ii) an assessment of the performance of the product on the basis of type testing			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	(including sampling of the item(s) to be taken as representative of the type), type calculation or tabulated values and, in all these cases, review of the documentation of the product;			
I28	(iii) initial inspection of the manufacturing plant and of factory production control;			
I29	(iv) full verification of the tasks under paragraphs (a) (iii) and (iv).			
I30	(c) The notified body shall provide continuous surveillance, assessment and evaluation of factory production control. On this occasion, it shall undertake a check of 40 random points falling under the items (a) (ii) to (iv) and withdraw the report or certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 40 points and the other verifications to be made in			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	accordance with this paragraph.			
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#### System 2+

I31	3. System 2+ – Notified body focusing on the factory production control			
I32	(a) The manufacturer shall carry out:			
I33	(i) an assessment of the performance of the product on the basis of testing (including sampling of the item(s) to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;			
I34	(ii) factory production control;			
I35	(iii) testing of samples taken at the factory in accordance with the prescribed test plan;			
I36	(iv) verification whether the technical documentation contains full proof of the correct application of this Regulation with regard to the assessment of performance;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I37	(v) verification whether the technical documentation contains full proof of conformity with product requirements of this Regulation.			
I38	(b) The notified body shall issue the certificate of conformity of the factory production control on the basis of:			
I39	(i) confirmation of the correct determination of the product type and of the product category and confirmation of the correct assessment of the performance of the product on the basis of the review of the documentation of the product;			
I40	(ii) initial inspection of the manufacturing plant and of factory production control;			
I41	(iii) full verification of the tasks under paragraphs (a) (iv) and (v).			
I42	(c) The notified body shall provide continuous surveillance, assessment and			

Text of proposal	National positions		Questions
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	evaluation of factory production control. On this occasion, it shall undertake a check of 30 random points falling under the paragraphs (a) (iii) to (v) and withdraw the certificate in case it detects more than 2 non-compliances or one particularly grave non-compliance, amongst these 30 points and the other verifications to be made in accordance with this paragraph.			
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#### System 3+

I43	<p>4. System 3+ – Notified body's control of environmental sustainability assessment</p> <p>(a) The manufacturer shall carry out the assessment of the performance of the product in relation to essential characteristics or product requirements related to environmental sustainability and keep it updated.</p>	<p>IE: The scope of the assessment for environmental sustainability is not entirely clear and a more clear definition would be welcomed.</p> <p>ES: description of this system is not clear in regard to the question whether it constitutes verification, validation or management system certification.</p>		<p>ES: Further elaboration of this system 3+ in line with international standards and the present state of the art is required.</p>
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Text of proposal	National positions		Questions
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I44	(b) The notified body shall, in particular in view of input values, assumptions made and compliance with applicable generic or product category specific rules:			
I45	(i) verify the manufacturer's initial and updated assessment;			
I46	(ii) validate the process applied to generate that assessment.			

### System 3

I47	5. System 3 – Notified body focusing on the product type determination			
I48	(a) The manufacturer shall carry out:			
I49	(i) an assessment of the performance of the product on the basis of testing (including sampling of the item(s) to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;			
I50	(ii) factory production control;			



Text of proposal	National positions		Questions
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I51	(iii) verification whether the technical documentation contains full proof of the correct application of this Regulation with regard to the assessment of performance;			
I52	(iv) verification whether the technical documentation contains full proof of conformity with product requirements of this Regulation.			
I53	(b) The notified body shall issue the certificate of performance and of conformity on the basis of:			
I54	(i) confirmation of the correct determination of the product type and of the product category and confirmation of the correct assessment of the performance of the product on the basis of type testing (based on sampling carried out by the manufacturer), type calculation or tabulated values and, in all these cases, review of the documentation of the product;			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I55	(ii) undertaking a check of 20 random points falling under the paragraphs (a) (iii) and (iv) and refuse the issuing of a certificate in case it detects more than 2 non-compliance or one particularly grave non-compliance, amongst these 20 points and the other verifications to be made in accordance with this paragraph.			
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#### System 4

I56	6. System 4 – Manufacturer's self-verification and self-certification			
I57	(a) The manufacturer shall carry out:			
I58	(i) an assessment of the performance of the product on the basis of testing (including sampling of the item(s) to be taken as representative of the type), type calculation, tabulated values or descriptive documentation of that product;			

Text of proposal	National positions		Questions
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I59	(ii) confirmation of the correct determination of the product type and of the product category on the basis of type testing, type calculation or tabulated values and, in all these cases, review of the documentation of the product;			
I60	(iii) factory production control;			
I61	(iv) verification whether the technical documentation contains full proof of the correct application of this Regulation with regard to the assessment of performance;			
I62	(v) verification whether the technical documentation contains full proof of conformity with product requirements of this Regulation.			
I63	(b) There is no task for the notified body.			

I64	7. For all the systems above the following shall apply:			
I65	(a) Inspection of the manufacturing plant shall			

Text of proposal	National positions		Questions
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	cover the entire technical part of the plant, at least with regard to the following elements, which shall ensure a continuous orderly manufacturing process:			
I66	(i) appropriate competence of the personnel;			
I67	(ii) appropriateness of the technical equipment;			
I68	(iii) appropriateness of the facilities and other conditions influencing the manufacturing;			
I69	(iv) outline of the intended factory production control.			
I70	(b) Factory production control shall cover the process from receipt of the raw materials and components to the dispatch of the product once the production has started ('gate to gate' approach). It shall assess whether this process is designed and optimised in view of the goal that the products conform with the product type and therefore reach the performances declared in the			

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	<p>declaration of performance and are compliant with the requirements set out in or under this Regulation.</p> <p>(c) Further testing of samples shall constitute of testing of an adequate number of products, as defined in harmonised technical specifications, with regard to conformity with the product type, with zero tolerance for non-conformity, unless another tolerance is defined in the harmonised technical specifications.</p>			
171	<p>(d) Verification of items shall, to 50 %, target items which are most likely to contain deficiencies and, to another 50 %, target items chosen at random.</p>			
172	<p>(e) Verification of environmental sustainability shall constitute of the verification of all calculations and verification of 10 samples of company-specific or secondary data factored in,</p>			

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	with zero tolerance for incorrectness. In that context, the notified body shall verify whether the applicable rules on modelling and calculation laid down in the applicable harmonised technical specification or methodology provided by the Commission are followed.			
I73	In case an IT tool provided by the Commission is used, the verification focuses on the correct use of the tool. Where secondary data is used, the notified body shall check whether the correct data sets, prescribed by applicable product-specific calculation rules contained in the applicable harmonised technical specification or methodology provided by the Commission, are used. Where company-specific data is used, the reliability of that data needs to be verified. To that end, the notified body shall undertake			

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	an audit of the manufacturing plant to which they refer and shall examine all data relating to suppliers and service providers. Notified bodies may extend their audit to suppliers and service providers who are obliged to cooperate in accordance with Article 30.			
I74	(f) Where the above mentioned failure rates have been trespassed or where a grave error or the intention to cheat has been detected, the notified body <u>shall refuse issuing a certificate for at least one year or withdraw the certificate whilst permitting issuing a new one only after one year.</u>	LV: calls for the regulation to abandon the cancellation of the certificate for 1 year, replacing it with suspension of the certificate or narrowing of its scope.	LV: When detecting the number of non-conformities identified, the project does not intend to apply, for example, suspension of the certificate, narrowing of its scope (as provided for in EN ISO/IEC 17065 "Conformity assessment. Requirements for institutions that certify products, processes and services"), but immediately cancellation. Excluding an existing producer (or one trying to start production) upon detection of 3 (currently - interpretable) discrepancies from the market for 1 year may be a disproportionate penalty. In addition, can lead to a situation where the company is re-	

Text of proposal	National positions		Questions
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			registered to another legal entity, trying to avoid such a penalty.	
I75	(g) Notified bodies that are undertaking tasks under Systems 1+, 1, and 3 as well as manufacturers that are undertaking tasks under Systems 2+ and 4 shall consider the European Technical Assessment issued for the product in question as the assessment of the performance of that product. Notified bodies and manufacturers shall therefore undertake the tasks referred to in points 1.(b)(ii), 2.(b)(ii), 3.(a)(i), 5.(a)(i) and 6(a)(i), respectively, only where there is evidence that these have not or not appropriately been executed by the TAB.			



Text of proposal	National positions		Questions
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Notifying and NB

#### 99. Article 47 – Notification

I76	Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party tasks in the assessment and verification of performance, assessment of conformity and of the verification of environmental sustainability calculations for the purposes of this Regulation (hereinafter referred to as ‘notified bodies’).			
I77	Member States shall inform the Commission of their national procedures for the assessment and notification of bodies to be authorised to carry out these tasks. The Commission shall make that information publicly available.			

Text of proposal	National positions		Questions
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#### 100. Article 48 - Notifying authorities

178	1. Member States shall designate a notifying authority responsible for setting up and carrying out the necessary procedures for the assessment and notification of the bodies to be authorised to carry out third-party tasks in the assessment and verification process for the purposes of this Regulation, and for the monitoring of notified bodies, including their compliance with requirements laid out in Article 50.			
179	2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by their national accreditation bodies in accordance with Chapter II of Regulation (EC) No 765/2008. Member States			

Text of proposal	National positions		Questions
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	shall instruct their national accreditation body to take as a basis for accreditation only the precise legal body applying for accreditation and to assess that body against the relevant requirements and tasks laid down in this Regulation.			
I80	3. Where the notifying authority delegates the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity that body shall be a legal person and shall comply with the requirements laid down in Article 49. In addition, it shall have arrangements to cover liabilities arising from its activities.			
I81	4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraphs 2 and 3.			
I82	5. The Commission shall provide for the organisation of			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	exchange of experience between the Member States' national authorities responsible for policy on notification and notifying authorities.			
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#### 101. Article 49 - Requirements relating to notifying authorities

Note: Article 49(5) is also listed in cluster Market Surveillance, Article 49 (6) is listed in subsection Implementing Acts

I83	1. The notifying authority shall be established in such a way that no conflicts of interest with notified bodies occur.			
I84	2. The notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.			
I85	3. The notifying authority shall be organised in such a way that each decision relating to notification of a body to be authorised to carry out third party tasks in the assessment			

Text of proposal	National positions		Questions
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	and verification process is taken by competent persons different from those who carried out the assessment.			
I86	4. The notifying authority shall not offer or provide activities performed by notified bodies, or consultancy services on a commercial or competitive basis.			
I87	<i>5. The notifying authority shall safeguard the confidentiality of the information obtained. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.</i>			
I88	<i>6. The notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks. <u>The Commission may adopt implementing acts laying down</u></i>	ES: We propose to delete the quoted text.	ES: this empowers the Commission to define minimum staffing resources. The requirement is in	

Text of proposal	National positions		Questions
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	<i>a minimum number of full-time equivalences considered sufficient for the proper monitoring of notified bodies, where appropriate in relation to specific conformity assessment tasks. Where monitoring is carried out by a national accreditation body or a body referred to in Article 48(3), this minimum number shall apply to that body.</i>		contradiction to the subsidiary principle.	
I89	<i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88(2).</i>			

## 102. Article 50 - Requirements for notified bodies

I90	1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.			
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Text of proposal	National positions		Questions
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I91	2. A conformity assessment body shall be established under national law and have legal personality.			
I92	<p>3. A conformity assessment body shall be independent of the organisation or the product it assesses.</p> <p>It shall <u>be independent of any and all business tie</u> with organisations having an interest in the products it assesses, manufacturers, their trade partners or their shareholding investors, as well as <u>with other notified bodies and their business associations, parent companies or subsidiaries</u>. This does not preclude the notified body from carrying out assessment and verification activities for competing manufacturers.</p>	<p>ES: We propose to <b>delete the quoted text</b>. “<i><del>“be independent of any and all business ties ... with other notified bodies and their ... parent companies”</del></i>”.</p>	<p>ES: This requirement is in no way justified and would in practice require to withdraw notification of the majority of presently notified bodies.</p> <p>ES: this requires the personnel of the notified body that is taking assessment decisions has to be employed under the national law of the notifying Member State. This requirement will lead to problems in case a notified body as subsidiaries (locations) in other Member States in which the personnel will normally be working on a contractual basis of the local law.</p>	
I93	A body belonging to a business association or professional federation representing undertakings involved in the			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such an independent body.			
I94	4. A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the products which it assesses, nor the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the notified body or the use of products for personal purposes.			



Text of proposal	National positions		Questions
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I95	A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the assessment and verification process shall not become directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those products, nor represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement and integrity related to the activities for which they have been notified nor provide consultancy services.			
I96	A notified body shall ensure that activities of its parent or sister companies, its subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of its assessment and/or verification activities.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I97	The establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of personnel to specific tasks and the conformity assessment decisions may not be delegated to a subcontractor or a subsidiary.			
I98	5. A notified body and its personnel shall carry out the third party tasks in the assessment and verification process with the highest degree of professional integrity and requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.			

Text of proposal	National positions		Questions
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I99	<p>6. A notified body shall be capable of carrying out all the third party tasks in the assessment and verification process assigned to it in accordance with Annex V in relation to which it has been notified, whether those tasks are carried out by the notified body itself or on its behalf and under its responsibility.</p> <p>At all times and for each assessment and verification system and for each kind or category of products, essential characteristics and tasks in relation to which it has been notified, the notified body shall have the following at its disposal:</p>			
I100	(a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the assessment			

Text of proposal	National positions		Questions
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	<p>and verification process. Personnel responsible for taking assessment decisions shall be employed by the notified body under the national law of the notifying Member State, shall not have any other potentially conflicting loyalty obligation or potential conflict of interest, shall be competent to verify the assessments made by other staff, external experts or subcontractors. Its number shall be sufficient to ensure business continuity and a consistent approach to conformity assessments;</p>			
I101	<p>(b) the necessary description of procedures according to which the assessment process is carried out, ensuring the transparency and the ability of reproduction of these procedures. This shall include a qualification matrix matching relevant personnel, their respective status and tasks</p>			

Text of proposal	National positions		Questions
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	within the conformity assessment body with the conformity assessment tasks in relation to which the body intends to be notified;			
I102	(c) appropriate policies and procedures in place that distinguish between the tasks it carries out as a notified body and other activities;			
I103	(d) the necessary procedures to perform its activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.			
I104	A notified body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it intends to be notified in an appropriate manner and shall have access to all necessary equipment or facilities.			

Text of proposal	National positions		Questions
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I105	7. The personnel responsible for carrying out the activities in relation to which the body intends to be notified, shall have the following:			
I106	(a) sound technical and vocational training covering all the third party tasks in the assessment and verification process within the relevant scope for which the body has been notified;			
I107	(b) satisfactory knowledge of the requirements of the assessments and verifications it carries out and adequate authority to carry out such operations;			
I108	(c) appropriate knowledge and understanding of the applicable harmonised technical specifications and of the relevant provisions of the Regulation;			
I109	(d) the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the			

Text of proposal	National positions		Questions
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	verifications have been carried out.			
I110	<p>8. The impartiality of the body, its top-level management and assessment personnel shall be guaranteed.</p> <p>The remuneration of the body's top-level management and assessment personnel shall not depend on the number of assessments carried out or on the results of such assessments.</p> <p>9. A notified body shall take out liability insurance unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the assessment and/or the verification performed.</p>			
I111	10. The personnel of the notified body shall be bound to observe professional secrecy with regard to all information			

Text of proposal	National positions		Questions
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	gained in carrying out its tasks under Annex V, except in relation to the competent administrative authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.			
I112	11. A notified body shall ensure that its assessment personnel is informed of the relevant standardisation activities and shall participate in, and ensure that its assessment personnel is informed of, activities of the notified body coordination group established under this Regulation and shall apply as general guidance the administrative decisions and documents produced as a work result of that group.			



Text of proposal	National positions		Questions
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### 103. Article 51 - Presumption of conformity

I113	A conformity assessment body to be authorised to carry out third party tasks in the assessment and verification process which demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with the requirements set out in Article 50 in so far as the applicable harmonised standards cover those requirements.			
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### 104. Article 52 – Formal objection

I114	Where a Member State or the Commission has a formal			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	objection to the harmonised standards referred to in Article 51, the provisions of Article 11 of Regulation (EU) 1025/2012 shall apply.			
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#### 105. Article 53 – Subsidiaries and subcontractors of notified bodies

I115	1. Where a notified body subcontracts specific tasks connected with the third party tasks in the assessment and verification process or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 50, and shall inform the notifying authority accordingly.			
I116	2. The notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	established. The relevant notified bodies shall establish procedures for the on-going monitoring of the competence, activities and performance of its subcontractors or subsidiaries, taking into account the qualification matrix referred to in Article 50(6) point (b).			
I117	3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.			
I118	4. The notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under Annex V.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

**106. Article 54 - Use of facilities outside the testing laboratory of the notified body**

I119	1. On request of the manufacturer and where justified by technical, economic or logistic reasons, notified bodies may decide to carry out the tests referred to in Annex V, for the assessment and verification systems 1+, 1 and 3 or have such tests carried out under their supervision, either in the manufacturing plants using the test equipment of the internal laboratory of the manufacturer or, with the prior consent of the manufacturer, in an external laboratory, using the test equipment of that laboratory.			
I120	Notified bodies carrying out such tests shall be specifically designated as competent to work away from their own test facilities and shall in that regard comply with the requirements laid down in Article 50.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I121	2. Before carrying out the tests referred to in paragraph 1, notified bodies shall verify whether the requirements of the test method are satisfied and shall evaluate whether:			
I122	(a) test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed; and			
I123	(b) the quality of the test results is ensured.			
I124	Notified bodies shall assume full responsibility for the tests in their entirety, including the accuracy and traceability of calibration and measurements, and for the reliability of the test results			

#### 107. Article 55 - Application for notification

I125	1. A body to be authorised to carry out third party tasks in			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	the assessment and verification process shall submit an application for notification to the notifying authority of the Member State in which it is established.			
I126	2. The application shall be accompanied by a description of the activities to be performed, the assessment and/or verification processes for which the body claims to be competent, the qualification matrix referred to in Article 50(6), point (b), an accreditation certificate, where one exists, issued by the national accreditation body within the meaning of Regulation (EC) No 765/2008, attesting that the body meets the requirements laid down in Article 50. The accreditation certificate shall relate only to the specific conformity assessment body applying for notification and not take account of the capacities or			

Text of proposal	National positions		Questions
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	personnel of parent or sister companies. It shall be based, in addition to relevant harmonised standards, on the specific requirements and assessment tasks.			
I127	3. Where the body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 50.			

#### 108. Article 56 - Notification procedure

Note: Article 56(2) is listed specifically in the cluster Digitalisation

I128	1. Notifying authorities may notify only bodies which have satisfied the requirements laid down in Article 50.			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

I129	<p>2. They shall notify the Commission and the other Member States, notably using the electronic notification tool developed and managed by the Commission.</p> <p>Exceptionally, for cases set out in Annex VI, for which the appropriate electronic tool is not available, a hard copy of the notification shall be accepted.</p>			
I130	<p>3. The notification shall include full details of the functions to be performed, reference to the relevant harmonised technical specification and, for the purposes of the system set out in Annex V, the essential characteristics for which the body is competent.</p> <p>However, reference to the relevant harmonised technical</p>			



Text of proposal	National positions		Questions
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	specification is not required in the cases set out in Annex VI.			
I131	4. Where a notification is not based on an accreditation certificate as referred to in Article 55(2), the notifying authority shall provide the Commission and the other Member States with all documentary evidence which attests to the body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 50.			
I132	5. A notification may become valid only where no objections are raised by the Commission or the other Member States within 2 weeks of notification, where an accreditation certificate is used, or within 2 months of notification, where an accreditation certificate is not used.			

Text of proposal	National positions		Questions
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I133	The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 57(2) by the Commission. The Commission shall not list a body if it is aware or becomes aware that the relevant body does not meet the requirements laid down in Article 50.			
I134	6. The body concerned may perform the activities of a notified body only after the notification has become valid. Only such a body shall be considered as a notified body for the purpose of this Regulation.			
I135	7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.			

Text of proposal	National positions		Questions
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#### 109. Article 57 - Identification numbers and lists of notified bodies

Note: Article 57(2) is listed in the cluster Digitalisation

I136	1. The Commission shall assign an identification number to each notified body.			
I137	It shall assign a single such number even where the body is notified under several Union acts.			
I138	2. <i>The Commission shall make publicly available the list of bodies notified under this Regulation, including the identification numbers that have been allocated to them and the activities for which they have been notified, notably using the electronic notification tool developed and managed by the Commission.</i>  <i>The Commission shall ensure that this list is kept up-to-date.</i>			

Text of proposal	National positions		Questions
	Suggestion	Justification	

#### 110. Article 58 - Changes to the notification

I139	1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 50, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification as appropriate, depending on the seriousness of the failure to meet those requirements or to fulfil those obligations.			
I140	2. In the event of withdrawal, restriction or suspension of notification or where the notified body has ceased its activity, the notifying Member State concerned shall take the appropriate steps to ensure that the files of that body are either processed by another notified			

Text of proposal	National positions		Questions
	Suggestion	Justification	

	body or kept available for the responsible notifying and market surveillance authorities at their request.			
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#### 111. Article 59 - Challenge of the competence of notified bodies

I141	1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.			
I142	2. The notifying Member State shall provide the Commission, on request, with all information related to the basis for notification or the maintenance of the competence of the body concerned.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I143	3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.			
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## 112. Article 60 - Operational obligations for notified bodies

I144	1. Notified bodies shall, in accordance with Annex V:			
I145	(a) assess the performance and the conformity of products;			
I146	(b) verify the conformity of products and of the manufacturer;			
I147	(c) verify the constancy of performance of products;			
I148	(d) verify the calculation of environmental sustainability calculations undertaken by the manufacturer.			
I149	These tasks are hereafter referred to as “assessments and verifications”.			

Text of proposal	National positions		Questions
	Suggestion	Justification	

I150	<p>2. Assessments and verifications shall be carried out with transparency as regards the manufacturer, and in a proportionate manner, avoiding an unnecessary burden for economic operators. The notified bodies shall perform their activities taking due account of the size of the undertaking, the sector in which the undertaking operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.</p> <p>In so doing, the notified bodies shall nevertheless respect the degree of rigour required for the product by this Regulation and the part played by the product for the fulfilment of all</p>			
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Text of proposal	National positions		Questions
	Suggestion	Justification	

	basic requirements for construction works.			
I151	3. Where, in the course of the initial inspection of the manufacturing plant and of factory production control, a notified body finds that the manufacturer has not ensured the constancy of performance and conformity of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate.			
I152	4. Where, in the course of the monitoring activity aiming at the verification of conformity and of the constancy of performance of the manufactured product, a notified body finds that a product no longer has the same performance to that of the product-type, it shall require the manufacturer to take appropriate corrective measures and shall suspend or			



Text of proposal	National positions		Questions
	Suggestion	Justification	

	withdraw its certificate if necessary.			
I153	5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.			
I154	6. When taking assessment decisions, including when deciding on the need to suspend or withdraw a certificate or approval decisions in light of possible non-compliances, notified bodies shall apply clear and pre-determined criteria.			
I155	7. Notified bodies shall ensure rotation between the personnel carrying out different assessment tasks.			

### 113. Article 61 - Information obligations for notified bodies

Text of proposal	National positions		Questions
	Suggestion	Justification	

I156	1. Notified bodies shall inform the notifying authority of the following:			
I157	(a) any refusal, restriction, suspension or withdrawal of certificates;			
I158	(b) any circumstances affecting the scope of, and conditions for, notification;			
I159	2. Notified bodies shall provide the other bodies notified under this Regulation carrying out similar third party tasks in accordance with the assessment and verification systems and for products covered by the same harmonised technical specification with relevant information on issues relating to negative and, on request, positive results from these assessments verifications, and therein in particular any refusal, restriction, suspension, or withdrawal of certificates or test reports. On request from other notified bodies or an			

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	authority, a notified body shall confirm the status of certificates or test reports issued by it.			
I160	(c) any request for information on assessment or verification activities carried out which they have received from market surveillance authorities; and			
I161	(d) on request, third party tasks in accordance with the systems of assessment and verification carried out within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.			
I162	3. Where the Commission or the market surveillance authority of a Member State submits a request to a notified body established on the territory of another Member State relating to an assessment carried out by that notified body, it shall send a copy of that request to the notifying of			

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	that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body unless there is a legitimate reason for not doing so.			
I163	4. Notified bodies shall share with the market surveillance or notifying authority concerned, as appropriate, evidence on all of the following:			
I164	(a) another notified body does not comply with the requirements laid down in Article 50 or its obligations;			
I165	(b) a product placed on the market does not comply with this Regulation;			
I166	(c) a product placed on the market, due to its physical condition, is likely to cause a serious risk.			

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#### 114. Article 62 - Implementing acts on notified bodies' obligations and rights

Note: This article is also listed in subsection Implementing Acts

I167	<i>Where this is necessary to ensure a harmonised application of this Regulation and only to the extent necessary to prevent diverging practices leading to unequal treatment of and creating an uneven playing field for economic operators, the Commission may, adopt implementing acts providing details on how to execute the obligations of notified bodies contained in Articles 60 and 61.</i>			
I168	<i>Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 88(2).</i>			

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#### 115. Article 63 - Coordination of notified bodies

I169	The Commission shall ensure that appropriate coordination and cooperation between bodies notified pursuant to Article 47 are put into place and properly operated in the form of a group of notified bodies. Coordination and cooperation in the groups referred to in paragraph 1 shall aim at ensuring the harmonised application of this Regulation.			
I170	Notified bodies shall participate in the work of that group, directly or by means of designated representatives.			
I171	Notified bodies shall apply as general guidance the administrative decisions and documents produced by that group.	ES: to add to the article: “ <i>The documents (administrative decisions and documents) created by the Group of NBs should be reviewed, debated and voted by the Commission and Member States before being applied, to ensure that these documents are in line with the regulation and with the criteria of the authorities.</i> ”		

Text of proposal	National positions		Questions
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## 116. ANNEX VI

Note: Due to the complexity of Annexes, please, do see the Annex VI in the official proposal document.

I172	ANNEX VI Essential characteristics for which a reference to a relevant harmonised technical specification is not required in the context of notification of notified bodies			
I173	1. Reaction to fire.			
I174	2. Resistance to fire.			
I175	3. External fire performance.			
I176	4. Noise absorption.			
I177	5. Emissions of dangerous substances.			
I178	6. Environmental sustainability			

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## J. TABs

### 117. Article 37 - Obligations of the TAB receiving a request for a European technical assessment

Note: This article is also listed in the cluster Standardization

J1	1. The TAB receiving a request for a European technical assessment from a manufacturer, a group of manufacturers or the manufacturers' association shall inform the applicant if the product is covered, fully or partially, by a harmonised technical specification or European assessment document as follows:			
J2	(a) where the product is fully covered by a harmonised technical specification, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers' association that, in accordance with Article 35(2), a European technical assessment cannot be issued;			



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J3	(b) where the product is fully covered by a European assessment document the reference of which has been cited in the Official Journal, the TAB shall inform the manufacturer, the group of manufacturers or the manufacturers' association that such a document will be used as the basis for the European technical assessment to be issued;			
J4	(c) where the product is not covered by any harmonised technical specification or European assessment document and where no such harmonised technical specification is intended to be adopted in the next two years, or no such or European assessment document is already in the procedure of developing pursuant to Annex III, the TAB shall apply the procedures set out in Annex III			

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	or those established in accordance with Article 35(4).			
J5	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, which the TAB intends to apply for that product, or of the lack of such a Commission decision.			
J6	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(1).			

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#### 118. Article 39 - Dispute resolution in cases of disagreement between TABs

Note: This article is also listed in the cluster Standardization

J7	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.			
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#### 119. Article 43 - Designating authorities

J8	1. Member States wishing to designate technical assessment bodies shall designate a single authority in charge of technical assessment bodies (hereafter: the “designating authority”). Designating authorities shall satisfy the requirements for notifying authorities set out in			
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	Articles 48(1) and Article 49. The designating authority shall not be eligible for designation in accordance with Article 44(1).			
J9	2. Unless otherwise specified in this Chapter, the provisions applicable to notifying authorities and to notification procedures apply also to designating authorities and to the designation procedures. However, <u>Member States may not use accreditation.</u>	LV: calls for accreditation to be established in the framework as the only way of designation of TABs	LV: this could lead to circumvention of requirement imposed on the TABs	

## 120. Article 44 - Designation, monitoring and evaluation of TABs

Note: Article 44(1) is also listed in subsection Delegated Acts

J10	<i>1. Member States may designate Technical Assessment Bodies (TABs) within their territories for one or several product areas listed in of Annex IV, Table 1. The Commission is empowered to amend this table by delegated acts adopted in accordance</i>			
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	<i>with Article 87 to adapt it to technical progress.</i>			
J11	<i>Member States shall communicate the name of the technical assessment body, its address and the product areas referred to in the first sentence to the Commission.</i>			
J12	2. The Commission shall publish the list of those TABs that satisfy applicable legal requirements referred to Article 45(1) and (2) by electronic means and indicate the product areas for which they are designated and any limitations in the most precise possible way. The Commission shall publish any updates to that list.			
J13	3. The designating authority designated in accordance with Article 43 shall monitor the activities and competence of the TABs designated in their			

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	<p>respective Member State, and where necessary their subsidiaries and subcontractors, and evaluate them in relation to the respective requirements set out in this Chapter. The designating authority shall instruct the TABs wherever there is an infringement of law or common practice agreed between the Member States and the Commission. In case of repeated infringement of the law, it may revoke the designation of the TAB.</p>			
J14	<p>Member States shall inform the Commission of their national procedures for the designation of TABs, of the monitoring of their activity and competence, and of any changes to that information.</p>			
J15	<p><i>4. TABs shall, without delay, and at the latest within 15 days, inform the relevant Member State and notified authority of any changes which</i></p>			

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	<i>may affect their compliance with the requirements set out in this chapter or their ability to satisfy their obligations under this Regulation.</i>			
J16	5. The Commission may investigate the compliance of TABs with the requirements set out in this chapter, as well as the fulfilment by the responsible designating authorities of their monitoring obligations.			
J17	6. TABs shall, upon request by the relevant designating authority, supply all relevant information and documents, required to enable the authority, the Commission and the Member States to verify compliance.			
J18	7. Where a TAB no longer complies with the requirements of this Regulation, the Member State shall withdraw the designation of that TAB for the relevant product area and inform the Commission and			

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	the other Member States thereof. Articles 58 and 59 apply.			
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#### 121. Article 45 - Requirements for TABs

J19	1. A TAB shall be competent and equipped to carry out the assessment in the product area for which it has been designated. The decision making staff and at least half of the technical competent staff of the TAB shall be located in the designating Member State.			
J20	2. The TAB shall satisfy the requirements set out in Annex IV, Table 2 within the scope of its designation. Article 50(1) to (5), Article 50(6) points (a) and (b), Article 50(7), (8) and (10) and Article 51 shall apply.			
J21	3. A TAB shall have made publicly available its			



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	organigram and the names of the members of its internal decision-making bodies.			
J22	Where a TAB no longer complies with the requirements referred to in paragraphs 1 and 2, the Member State shall withdraw the designation of that TAB for the relevant product area and inform the Commission and the other Member States thereof.			

## 122. Article 46 - Coordination of TABs

J23	1. The TABs shall establish an organisation for technical assessment (“organisation of TABs”) under this Regulation.			
J24	2. The organisation of TABs shall at least carry out the following tasks:			

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J25	(a) investigate the potential for new harmonised technical specifications and inform the Commission of such potential;			
J26	(b) organise the coordination of the TABs and, if necessary, ensure cooperation and consultation with other stakeholders;			
J27	(c) ensure that examples of best practice are shared between TABs to promote greater efficiency and provide a better service to industry;			
J28	(d) develop and adopt European assessment documents;			
J29	(e) coordinate the application of the procedures set out in Article 65(2) and in Article 66(1), as well as provide the support needed to that end;			
J30	(f) inform the Commission of any question related to the preparation of European assessment documents and of any aspects related to the interpretation of the procedures			

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	set out in Article 65(2) and in Article 66(1) and suggest improvements to the Commission based on experience gained;			
J31	(g) communicate any observations concerning a TAB not satisfying its tasks in accordance with the procedures set out in Article 65(2) and in Article 66(1) to the Commission and the Member State which designated the TAB;			
J32	(h) report annually to the Commission on the fulfilment of the tasks referred to above, and in particular on the geographical distribution of the TABs, the allocation of European assessment document development tasks to the TABs and the performance and the independence of TABs; and			
J33	(i) ensure that adopted European assessment documents and references to			

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	European technical assessments are kept publicly available in all EU languages.			
J34	The organisation of TABs shall asset up a secretariat in order to carry out these tasks.			
J35	3. Member States shall ensure that the TABs contribute with financial and human resources to the organisation of TABs. The value of the contribution of each TAB shall not be less than 2% of its annual budget or turn-over.			
J36	4. The weight in the decision making process of the organisation of TABs shall not depend on the TABs' financial contribution, the number of European assessment documents developed or the number of European technical assessments issued by them.			
J37	5. The Commission shall be invited to participate in all meetings of the organisation of TABs.			

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J38	6. The Commission may make the financing of the organisation of TABs, regardless of via grants or public tenders, subject to the fulfilment of certain organisational and performance requirements, including with regard to a fair geographic distribution of TABs.			
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#### 123. ANNEX IV

Note: Due to the complexity of the Annexes, please see the Annex IV in the official proposal document. The Annex IV consist of tables and it is not suitable to transfer it to the format of this supporting document.