



Council of European Producers of Materials for Construction
Conseil Européen des Producteurs de Matériaux de Construction
Vereinigung Europäischer Baustoffhersteller

EPAQ congress – Rome 22-23/09/2011

Construction Products Regulation

Regulation (EU) 305/2011 of the European Parliament and of the Council of 9 march 2011

What is changing for manufacturers

Pascal BAR

CEPMC welcomes CPR

- ❑ **This regulation will guarantee:**
 - Identical application in all the Members States (Regulation)
 - Identical application for all construction products manufacturers (article 4.1) assuring a "Level Playing Field" in the EU
- ❑ **The information provided on construction products is complete and reliable**
 - For all the essential characteristics relevant for an intended use, the value or class or NPD is provided in the DoP (article 6)
 - With this information
 - Members States and local authorities are able to check compliance of the product with the regulations applicable where the product is used
 - Users (contractors, designers, final clients) are able to check if the product is fit for the intended use they envisage
 - Manufacturers make one single assessment of the products valid where they are intended to place their product on the market and recognized by all the Members States and local authorities

Transitional arrangements

❑ Before 1/07/2013

- No obligation to change anything. Products fulfilling CPD are deemed to satisfy CPR (art 66)
- But manufacturers may anticipate and provide a DoP, elaborated on the basis of the certificate of conformity or the declaration of conformity already issued to CE mark their products in accordance with CPD (art 66.2)

❑ After 1/07/2013

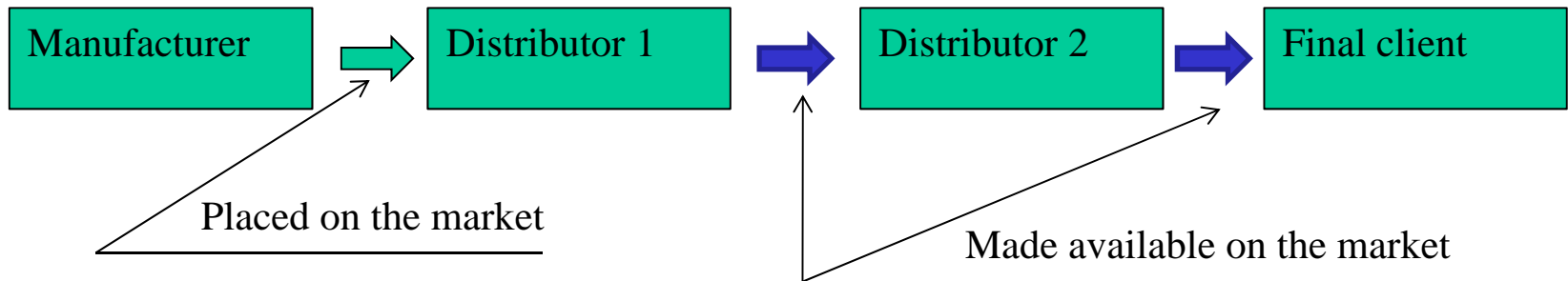
- For any Construction Products placed on the market (art 2.17) , a DoP shall be established in accordance with CPR provisions (art 4.1)
- All construction products made available on the market (art 2.16) have to be accompanied by a DoP and the CE marking shall be affixed (art 7.1)
- For construction products similar to others already placed on the market before 1/07/2013, the DoP may be established on the basis of the existing CE marking

Definitions

❑ Two definitions

- Placed on the market: *first making available on the market of a construction product*
- Made available on the market: *any supply for distribution or use, in the course of commercial activity, whether in return for payment or free of charge*

❑ These definitions do not refer to “product-type”, but to an individual physical product



Obligations of manufacturers, after 1/07/2013

- ❑ **Draw-up a Declaration of Performance as soon as a product is covered by an hEN or an ETA has been issued (article 4.1, 11.1)**
- ❑ **The DoP**
 - Expresses the performances of construction products in relation to the essential characteristics relevant for its intended use, in accordance with the relevant harmonised technical specifications hEN/ETA (art 6.1)
 - Shall be supplied with the product when it is placed on the market (art .1), and shall accompany it when it is then made available on the market (art 7.1)
- ❑ **The DoP shall contain**
 - Reference of the product-type (6.2.a) and Unique Identification Code of the product-type (Annex III)
 - System of Assessment and Verification of Constancy of Performance (6.2.b)
 - Reference number and date of the hEN or ETA, or specific documentation, used for the assessment of the performances of the product, for each essential characteristic (assessment methods used are the one's given in the hEN or ETA)

Obligations of manufacturers, after 1/07/2013

❑ The DoP shall contain

- Intended use of the product, in accordance with hEN/ETA
- List of the essential characteristics for the declared intended use in hEN/ETA
- The performances of, at least, one essential characteristic (no empty DoP)
- The performances by levels or classes, or in a description, for the essential characteristics for which the manufacturer shall declare the performance of the product (according to art 3.3)
- The performances by levels or classes, or in a description for essential characteristics related to the intended use, taking into consideration the provisions where the manufacturer intends the product to be made available on the market (NPD option for which No Performance is declared)
- The information referred to in REACH (article 31 or 33) shall be provided together with the DoP

- ❑ **Product-type means:** *the set of representative performance levels or classes of a construction product, in relation to its essential characteristics, produced using a given combination of raw materials or other elements in a specific production process*

❑ The DoP is supplied (art 7)

- in paper form or using electronic means (fax, mail)
- In any case, a paper copy is supplied if the recipient requests it
- The DoP may be made available on websites, under conditions which will be determined by delegated act

Obligations of manufacturers, after 1/07/2013

- ❑ **The assessment of the performances of the products are done applying technical harmonised specifications**
 - Harmonised European Product Standards (hENs)
 - Prepared by CEN with National Standardisation Bodies
 - On the basis of a mandate elaborated by the Commission
 - Annex ZA identify the clauses which support CPR, the rest is voluntary
 - Compulsory for all the products falling into the scope of the standard
 - ETAs
 - Prepared by EOTA and the TABs (Technical Assessment Bodies)
 - On a request from a manufacturer
 - Valid for one product, one intended use, one manufacturer

- ❑ **The Technical specifications (hEN/ETAs) mainly contain**
 - Intended use (generic description)
 - Relevant characteristics for an intended use
 - Test methods
 - Verification of the constancy of the performance and, possibly, classes and threshold levels

Obligations of manufacturers

□ **Verification of the constancy of the performance (article 28)**

- The manufacturers shall ensure that procedures are in place to ensure that the series production maintains the declared performance (art 11.3)
- In any case, manufacturers shall carry out a FPC, complying with hEN/ETA (1+, 1, 2+, 3, 4)
- When, relevant (systems 1+, 1 and 2+), a Notified certification control Body issues a certificate of conformity of the FPC on the base of:
 - Initial inspection of manufacturing plant or FPC
 - Continuous surveillance

□ **Assure traceability**

- Gives a unique identification of the product-type for which the DoP has been issued (art 6, 9, Annex III)
- Gives a reference number of the DoP (art 6, 9, Annex III)
- Give a type, batch or serial number or any other elements allowing the identification of the construction products made available on the market (11.4)

Obligations of manufacturers

- **Draw up a technical documentation (article 11.1§2)**
 - Describes all the relevant elements related to the required system of assessment and verification of constancy of performance
 - Includes tests reports and audits required in hEN or ETA
 - Kept 10 years after the construction product has been placed on the market
 - Supplied on a reasoned request from a competent national authority
 - In a language easily understood by that authority

Obligations of manufacturers

❑ CE marking

- Manufacturers shall affix the CE marking to those construction products for which the manufacturer has drawn up a DoP (art 8.2); **No CE when no DoP**
- CE marking = the manufacturer takes the responsibility of the conformity of the product to the DoP (art 8.2)
- CE marking complies with general principles set out in art 30 of regulation EC 765/2008 (art 8.1)

❑ Information accompanying the CE marking

- Affixed on the product, a label affixed to it, the packaging or accompanying documents (article 9.1)
- Followed by information (art 9.2)
 - Two digits of the year in which it was first affixed
 - Name and address of manufacturer, or identifying mark
 - Reference of hEN,
 - unique identification code of the product-type,
 - Reference number of the DoP,
 - Intended use
 - Level or class of the performance declared
 - Identification number of Notified Body if relevant

Obligations of manufacturers

❑ Other obligations of manufacturers

- To ensure accuracy, reliability and stability of the DoP, manufacturers shall carry out sample testing of construction products, investigate, if necessary keep a register of complains, of non conforming products and of products recalls and keep the distributors informed
- Ensure that the product is accompanied by instructions and safety information in a language determined by the Member State concerned
- Take the necessary immediate corrective measures, or withdraw or recall in case of not conformity
- Inform the competent national authorities of Member State in case of risk
- Provide with all the information and documentation to demonstrate the conformity of the products with the DoP further a reasoned request from competent national authorities, in a language easily understood. Cooperate with that authority to any action to eliminate risks

Rights of manufacturers

❑ Derogations

- “individual” and/or “non series” or made to measure product (art 5.1)
- “product” made on site, and used to be incorporated in a construction work under the responsibility of those responsible for the safe execution of the construction work (art 5.2)
- Specific product (traditional manufacture, heritage conservation, renovating of protected construction work, special architectural or historical merit (art 5.3)

❑ Simplified Procedures

- Formulated in art 36
- WT/WFT, shared IT and cascading continue to be usable for all manufacturers, to avoid tests for which the result is already known
- No change but stronger legal basis

Rights of manufacturers

- ❑ **For products placed on the market before 1/07/2013**, the DoP may be drawn up on the basis of certificate or declaration of conformity issued in accordance with CPD (no test, no audit, only transcription of existing data in the DoP)

- ❑ **Specific procedures**
 - Micro enterprises are authorized (art 37)
 - To replace the standardized methods to assess the product by others
 - Treat the construction products to which system 3 applies by system 4
 - Shall demonstrate compliance of the construction product with the applicable requirements and shall demonstrate the equivalence of the procedure with those laid down in hEN/ETAs

 - Products individually manufactured or custom made in a non series process (art 38) : the performance assessment may be replaced by a Specific Technical Documentation demonstrating compliance with the applicable requirements and equivalence of harmonized specifications

Rights of manufacturers

□ ETAs

- When a product cannot be fully assessed using an existing hEN, for a specific intended use, a manufacturer is authorised to request an ETA
- On the basis of this ETA, the manufacturer draw up a DoP and affix CE marking on the product
- ETApproval → ETAssessment

□ Obligation of Members States

- Not prohibit or impede manufacturers to make available or use a construction products bearing CE marking in their territory, when the declared performances correspond to the applicable requirements for such a use (art 8.4)
- Ensure that the use of such Construction product is not impeded by rules and conditions imposed by public bodies or private bodies acting as public bodies, or on the basis of monopoly position when the declared performances correspond to the requirements (art 8.5)
- The methods used by Members States in their requirements shall be in accordance with hEN (art 8.6)

Rights of manufacturers

- ❑ **Ownership of certificates, reports and information**
 - Information publicly available
 - Content of the DoP
 - Information provided on or with products, following the CE marking
 - Other information (certificates, results of tests, audit reports, technical data, description of the product tested) are the property of manufacturers. Notified bodies are obliged to respect a “duty of confidentiality”

Rights of manufacturers

□ Voluntary marks

- They are still usable
- But the CE marking shall be the only marking which attest conformity of the construction product with the declared performance (art 8.3§1)
- Members States shall not introduce any references in national measures to a marking attesting conformity with the DoP (art 8.3§2)
- No national marks introducing additional requirements to the DoP (art 8.5)
- Voluntary marks may be implemented to bring
 - A higher level of verification of the performance (determination of the product type) or FPC generalising third party when the DoP do not impose it
 - Guarantee the fitness for specific uses
- They play a role in the competition field, with a commercial purpose

Points which need to be clarified for the concrete implementation of CPR (1.07.2013)

❑ Derogations (article 5.1 and 5.2)

- The correct interpretation of articles 5 first and second bullet needs clarification (what are the products concerned, for which the derogation applies?)

❑ Dangerous : Hazardous substances (article 6.5)

- The concrete procedure to provide, together with the DoP, the information declared under REACH article 31 and according to the cases article 33, needs to be defined in operational terms
- The support of this information (paper, electronic form) needs to be defined

❑ Manner to supply the information included in DoP (article 7)

- The DoP is authorised to be supplied using electronic tools (fax, mails) (7.2)
- The content of DoP will be authorised to be supplied via web-sites under conditions which need to be determined by delegated acts (7.3)
- It is urgent (and requested by manufacturers) to define these conditions

Points which need to be clarified for the concrete implementation of CPR (1.07.2013)

- ❑ **Information accompanying the CE marking (article 9.2)**
 - Obligation to follow the CE marking with information on the product including “levels or classes declared”, and other information.
 - CEP MC would like to define accurately the consequences of this provision and define reasonable clauses to apply it properly.

- ❑ **Voluntary marks**
 - They are still useful for commercial purposes
 - What will be the exact space on which they can be developed beside CE marking?

- ❑ **Simplified procedure (article 36)**
 - Conditions to apply article 36 (WT/WFT, shared IT, cascading) and 27.5 (deemed to satisfy) need to be defined accurately as soon as possible, as this article is crucial for manufacturers.

Points which need to be clarified for the concrete implementation of CPR (1.07.2013)

- ❑ **Revision of existing harmonised products standards**
 - Adjustment of Annex ZA to the new terminology
 - Improvement, when necessary, of the definition of intended use(s)
 - Accurate description in hEN of the main “generic intended uses” of the products if relevant and if not already done;
 - Identification of the essential characteristics relevant for each intended use, in order to limit the number of those characteristics to be assessed.
 - Adjustment to the new provisions concerning system of assessment and verification of the constancy of performance

- ❑ **EAD/ETA**
 - Clarifications on the procedure, transitional arrangements
 - Designation of TABs by Members States (art 29, 30) according to new criteria defined in CPR (annex IV).

** The current approval Bodies acting under CPD to deliver ETAs will have to be re-notified by the Members States, according to CPR conditions*

Points which need to be clarified for the concrete implementation of CPR (1.07.2013)

❑ **Notified Bodies**

- Authorised to carry out third party tasks in the process of assessment and verification of consistency of performance
- Designation of notifying authorities responsible for the assessment and notification of the Notified Bodies (art 40 à 42)
- Notification of bodies designated to undertake certification procedure, audits and tests fulfilling the criteria defined in CPR (article 43 à 55)*

❑ **Contact Points**

- Designation, role and responsibility, resources, at national level (art 10)

❑ **Surveillance of the market**

- National organisation, resources, procedures
 - To make survey on the market
 - To instruct complaints

** The current Notified Bodies acting under CPD will have to be re-notified by the Members States, according to CPR conditions*

Points for which developments are predictable in future

- ❑ **Basic Requirements for Construction Works**
 - The extension of BRCW 3 and 6 to the complete life cycle, including manufacturing, demolition and recycling and the new BRCW 7 (sustainable use of natural resources) may (will) lead to define new provisions in harmonised standards on the basis of regulations which could (will) be adopted in Members States in Future
 - *Guidance are necessary*
- ❑ **Specific procedure for micro enterprises**
 - It will be important to observe how article 37 will influence the market.
- ❑ **Possible obligations concerning the declaration and the level of performance of products, defined at the European Level**
 - CPR introduces a legal basis (art 3.3)
 - to identify **Essential characteristics for which the manufacturer shall declare the performance** in the DoP, even in Member State which do not have any requirement
 - to determine **classes or threshold levels of performance** for essential characteristics of specific families of products, in relation with their intended use, at the European level.
 - These obligation to declare and/or these threshold levels would be applicable even in Members States which do not have regulation.



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More information

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- ❑ www.cen.eu/cenorm/
- ❑ www.eota.be