

NVTB comments on the Proposal for a New Regulation on Construction Products

NVTB is the Dutch Association for Construction Supply and represents the construction products industry in the Netherlands.

NVTB welcomes the Commission proposal for a new Construction Products Regulation which aims at solving the implementation issues producers have been facing and bringing to the attention of the European Commission. NVTB and its members discussed the proposal and provides input which will also help reaching the goals set by the European Commission in the Green Deal.

The principles in the proposal which NVTB welcomes:

- Strengthening of the Single market
- Keeping the standardisation system at the core of the system
- Maintaining the CE marking to guarantee free movement of construction products in the EU
- Clarifying the procedures to develop EADs/ETAs
- Strengthening the role of market surveillance authorities

Alongside these positive aspects presented by the Commission in its legal proposal, there are three issues raising high concern among our members:

- The assessment of sustainability
- The underestimation of possibilities for digitalisation to facilitate the functioning of the CPR
- The introduction and usage of delegated acts

Ad 1: The assessment of sustainability

NVTB points out that the ultimate level for assessment of sustainability is not the construction product but the building of constructed work over its entire life cycle. The CPR proposal should refer to the EN 15804:2012+A2:2019 for providing the necessary data for enabling the assessment on the level of buildings and constructed works in different EU Member States. The EU has itself introduced [Level\(s\) \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0018) and can't limit the scope of sustainability to individual intermediate products as construction products. The resulting sustainability performance depends not only on the production but also the application, usage and eventually the end-of-life scenario for the building / constructed work and the products and materials used in that building / constructed work. Therefore, the simplified traffic light system introduced in article 22 (5), will not satisfy the needs for an overall integral assessment on sustainability of buildings and constructed works. NVTB proposes to reconsider and, with reference to the European Green Deal and the Circular Economy action plan, use the CPR to enable MS's to regulate the sustainability of buildings and constructed over their whole life cycle. This requires the deliverance of data in conformity with the aforementioned EN standard.

Ad 2: The underestimation of possibilities for digitalisation to facilitate the functioning of the CPR

The CPR covers information needs for all economic operators along the value chain. This may also include the market surveillance and can reduce administrative burdens for both private and public operators. NVTB proposes to stress the importance and varied potential of digitalisation and its members consider digitalisation to be a key enabler for achieving the goals of circularity and sustainability. This however, requires a more active and precise role in the CPR and NVTB proposes to refer to standards for classification of construction products to be included. Additionally reference to standards for communication and transactions may accelerate the implementation of these standards leading to a higher efficiency in the whole construction sector and contributing to the objectives of the CPR.

Ad 3: The introduction and usage of delegated acts

The introduction of secondary legislation in the form of delegated acts raises concern among our members as the process towards these delegated acts need ample checks and balances. The demarcation on what issues should be resolved in the CPR and which may or can only be addressed in delegated acts, prompts the question how these relate to legislation in the various Member States and how they influence legal objectives and policy development in the Member States. Without strict procedural guidelines NVTB fears new risks for the practical application of the new CPR in the internal market for construction products.

Apart from these high concerns, NVTB points to a not exhaustive number of unclarities in definitions and wording:

- Construction products that have already been assessed and are reused should not be subject to the rules that apply to new construction products (???). However, used construction products that have never been placed on the Union market before, should be subject to the same rules as new construction products, given that such products have never been assessed
- ‘construction product’ means any formed or formless physical item, including its packaging (???) and instructions for use, or a kit or assembly combining such items, that is placed on the market or produced for incorporation in a permanent manner in construction works or parts thereof within the Union, with the exception of items that are necessarily first integrated into an assembly, kit or other construction product prior to being incorporated in a permanent manner in construction works
- The definition of ‘Economic operator’ covers almost everyone and it is unclear whom holds what responsibility.
- ‘harmonised technical specifications’ were hEN’s and EAD’s and does no longer include EAD’s
- ‘intended use’ is not predefined (may differ per manufacturer)
- A used product is a product that is not waste (???)
- remanufactured product is a product that is not waste ... and that has been subject to a transformative process going beyond repair, cleaning and regular maintenance ???