

FIEC is the European Construction Industry Federation, representing via its 31 National Member Federations in 27 countries (24 EU & EFTA and Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as "global players", carrying out all forms of building and civil engineering activities.
Recognised "Sectoral Social Partner" (employers)



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FIEC position paper

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The « Goods Package »

■ FIEC requests the exclusion of construction products from the entire scope of the « Goods Package ».

In general, FIEC welcomes the Commission's « Goods Package » in the sense that we agree with the fact that reinforcement of market surveillance measures is essential.

However, the two legislative proposals of this package do not take into account the special needs of construction products, which are intermediary products generally used by professionals in the construction sector as opposed to ordinary consumers. Instead, the construction sector needs a specialised market surveillance system, where surveillance is carried out by experts in construction products. Indeed, existing sector-specific instruments should be better implemented and strengthened.

■ The « compliance and enforcement » legislative proposal

This draft regulation interacts and overlaps with the **Construction Products Regulation (CPR)**. Considering the ongoing discussions around the possible revision of the CPR – the outcomes of which are still very open – this legislative proposal creates even more uncertainty and confusion as regards the surveillance of construction products in the future (e.g. different terminology).

While the aim of this draft regulation is to set up a unique framework, FIEC believes that a sector-specific instrument would be more appropriate. The construction sector needs a specialised market surveillance system, with a specific framework and authorities who are also specialised in the construction sector.

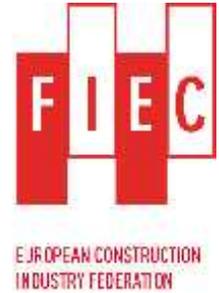
■ The « mutual recognition » legislative proposal

This draft regulation introduces, amongst other things, a **voluntary mutual recognition declaration** (article 4), to be filled in by economic operators and sent to the competent authorities of the Member State of destination. If supplied, this declaration should be used as the main (and only) basis for confirming that the goods are lawfully marketed in another Member State.

However, non-harmonised/regulated construction products are assessed on the basis of existing national standards or other relevant procedures. Consequently, the requirements, testing and evaluation procedures are focused only on those aspects that are tailored to their respective market of origin. This means that national authorisation for non-regulated or partially regulated construction products complies with national building requirements of the country of origin but not necessarily with the country of destination.

Also for non-harmonised construction products the responsibilities and competence of certification bodies and market surveillance authorities are limited to products intended to be placed on the national market. Products placed on other (EU or non-EU) markets are outside the scope and jurisdiction of these bodies. Products placed on the market under mutual recognition procedures are therefore not monitored in the same way as products by the same manufacturer intended to be placed on the national market. This issue has not been addressed by the new proposal.

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In any case, FIEC insists that this new mutual recognition declaration does not replace the Declaration of Performance required under the Construction Products Regulation, when this is relevant.

■ Unintended negative consequences of the two draft regulations

- The draft regulations will put at risk the existing systems in those countries which have higher or different national standards e.g. those countries with different climates which require different construction products to meet the specific national needs
 - Consequently the safety of the users of constructions products as well as the safety of e.g. buildings’ inhabitants will be put at risk
 - Infrastructure projects (e.g. motorways, bridges) may not meet the expected standard or other national criteria to be adequate for intensive use.
- Contrary to the intention of these regulations, existing market surveillance systems for construction products will not be reinforced. Therefore the desired improvement in the confidence of users, regarding the evaluation undertaken by market surveillance authorities will not be achieved.
- The regulation on market surveillance leaves open the question of who is liable for what in case of failure.
- There is a risk of increased costs generated by the need for additional tests and questions over who is responsible for covering these costs, which are likely to be disproportionate.
- An overall consequence of the above, is that professional users of construction materials will simply refuse to purchase products that require costly additional testing. This will have the counter-productive effect of restricting the market, rather than facilitating the single market that the proposals aim to enhance.

■ FIEC proposes the following amendments:

Proposal for a Regulation on “compliance and enforcement” ANNEX – point 42

<i>Commission’s proposal</i>	<i>Amendment</i>
<p>Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5–43);</p>	<p>DELETED</p>

Proposal for a Regulation on “mutual recognition” Article 2 – paragraph 6 (c) new

<i>Commission’s proposal</i>	<i>Amendment</i>
	<p>[6. This Regulation does not apply to:]</p> <p>(c) construction products</p>