



EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels, 04/06/2019
Ares(2019) MdM

Opinion

Title: Evaluation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products

(version of 03 April 2019)*

Overall opinion: POSITIVE

(A) Context

The EU regulates construction products to promote the single market. EU regulation does not set specific product requirements. Instead, it defines a common technical language for describing construction product performance. Member States decide how construction products can be used, but must not require further testing or certification for CE marked products. In this way, EU rules can remove some barriers to cross-border trade in construction products.

The current EU rules came into force in 2013. An implementation report in July 2016 found several issues of concern. A November 2016 Commission Communication launched a process to examine these issues more closely and possibly revise the EU construction products Regulation.

This evaluation assesses how the EU construction products Regulation has worked so far. It examines how markets have evolved, what compliance costs have been, and what may be at the root of problems with implementation. Evaluation findings may feed into future proposals to revise EU regulation. There would be a separate impact assessment for any such proposals.

(B) Main considerations

The Board appreciates the honest and self-critical approach of this evaluation.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following key aspects:

* Note that this opinion concerns a draft evaluation report, which may differ from the final version.

- (1) The report does not sufficiently expose the reasons why the standardisation system, market surveillance and simplification measures for SMEs did not work well.**
- (2) The analysis focuses mainly on macroeconomic effects of the Regulation, which are inherently difficult to identify given the variety of products and types of producers covered by the Regulation. It does not gauge how well or poorly the Regulation has performed in different subsectors or market segments.**
- (3) Some conclusions are not well supported by the evidence, including that the benefits of this regulation outweigh its costs.**
- (4) The analysis inappropriately aggregates stakeholder responses when different respondent groups are likely to have divergent views.**

(C) Further considerations and recommendations

(1) The report should explore in more detail the reasons behind the identified problems. The evaluation should show what works and why, and what does not work and why not. In particular, the report should provide more analysis about the shortcomings of the standardisation system, the uneven and ineffective market surveillance, and the simplification measures for SMEs. The report should distinguish when they stem from poor implementation or from flaws in the design of the Regulation.

(2) It would be useful to revise the intervention logic to describe more clearly the channels through which the Regulation affects outcomes. This would help to identify more systematically potential sources of costs and benefits, and potential gaps in design or in implementation. The report should elaborate on policy goals that go beyond removing obstacles to the Internal Market, such as possible safety aspects.

(3) The analysis would benefit from examples of how the Regulation performed in certain subsectors or market segments. Even if such analysis is not exhaustive, it would shed light on how the standards work in practice. It would also help to illuminate factors behind shortcomings that the report describes, and clarify under which conditions the Regulation has worked. The report could also elaborate further on the macroeconomic impact of the Regulation based on previous studies.

(4) The evaluation should better support its conclusions with evidence. The report could also provide a more comprehensive picture of the benefits of the Regulation, even if it is not always possible to quantify them, or if some of them are only indirect benefits that materialise outside the scope of the Regulation. It should make clear that the regulation has preempted further regulation at the Member State level. The conclusions should better highlight the confusion on the role and meaning of the particular use of the CE label by this Regulation. The report should also revise its statement that the results of the consultation on coherence are inconclusive, since as much as one third of the respondents point to inconsistencies and gaps in the Regulation.

(5) The report could have a closer look at the results of the consultation activities to go deeper into the categories of respondents. The report should go beyond aggregating responses when different stakeholder groups are likely to have different views. It should

try to explain the apparent contrast between the negative assessment of effectiveness and the positive responses from stakeholders. The evaluation should also better justify why there were no targeted efforts to obtain broader inputs from consumers, construction workers and NGOs.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG may proceed.

The Board advises the lead DG to take these recommendations into account before launching the interservice consultation.

Full title	Evaluation of Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products
Reference number	PLAN/2017/972
Date of RSB meeting	29 May 2019