

Future of the CPR - alternative option potential implementation

Draft 2021/06/17

This document was developed by Construction Products Europe as one of the potential ways to implement the alternative option developed together with FIEC, EBC and SBS described in the document *Future of the CPR - alternative option 2021.06.07*.

Introduction

The European Commission published on the 15th of April 2020 five options for the future of the Regulation 305/2011, CPR¹. After some discussions with Member States representatives, they formed the basis for two separate consultations, one until the end of August 2020 and the second until the 25th of December 2020.

While discussing their answers, several stakeholders found that even though many elements suggested by the Commission were interesting, none of the options was workable or satisfactory. The Commission started in parallel the consolidation of the CPR acquis (harmonised technical specifications and delegated acts in the context of the CPR) as preliminary technical work for the future of the CPR using option B as a work reference.

The European Commission with the support of a consultancy firm is drafting the impact assessment report of the options presented in the consultation. The preliminary results reported option A (no legislative change) as the preferred option and option E (repeal of the CPR) as the worst option. Considering the situation and the need for a pragmatic solution, our organisations decided to act and develop an alternative option called which could be also considered a variation of option B. The result is available in the document *Future of the CPR - alternative option 2021.06.17* and includes a comparison between option B and the alternative option. That document was used as basis to draft this detailed technical proposal in collaboration with a legal expert.

This document includes an explanation of the content highlighting the most relevant points and linking them to the concept and to the relevant articles in the detailed technical proposal. The updated diagrams are included in the last chapters and the complete text is at the end.

Scope of the CPR

Article 1 describes the subject matter of the regulation and now it includes generic product requirements in addition to essential characteristics, but they will act in the same way: other type of declared performance but following the same principles. This approach is expected to fulfil the expectations of the European Parliament and Member States considering when dealing with information needs as described in the European Parliament implementation report.

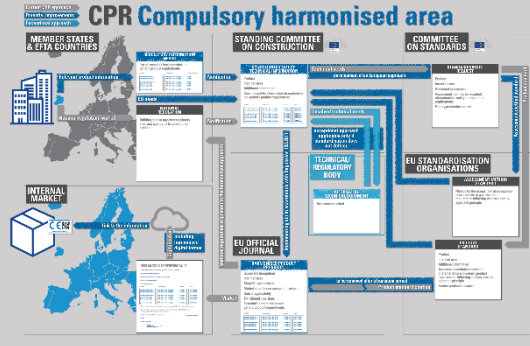
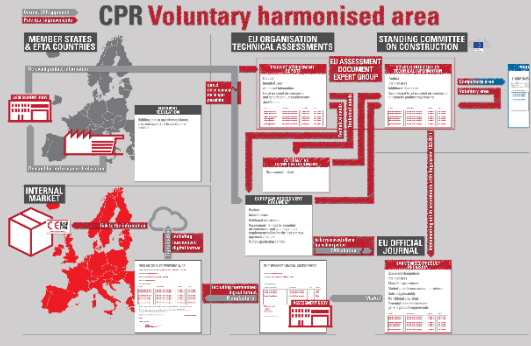
Article 2, Article 4, Article 5, Article 11 and Article 12 clarify the application of the regulation to all construction products, but three areas are defined.

The proposal includes references to the non harmonised area because defining it facilitates the implementation of articles related to it including the rules to transfer products from the non harmonised area to the voluntary or the compulsory harmonised area.

The names used were selected in relation to the requirement to issue a DoP to place the product on the market: Compulsory DoP, voluntary DoP or forbidden DoP.

Compulsory harmonised area	Voluntary harmonised area	Non harmonised area
Compulsory CE marking and Declaration of	Voluntary CE marking and Declaration of	CE marking and

¹ European Commission Refined indicative options for the review of the Construction Products Regulation, <https://ec.europa.eu/docsroom/documents/40762>

Compulsory harmonised area	Voluntary harmonised area	Non harmonised area
Performance	Performance	Declaration of Performance not allowed
	European Technical Assessment required	
		
Rules and products in this area described in the relevant harmonised product provision (hPP)	Rules and products in this area described in the relevant harmonised product provision (hPP)	

Article 2 also describes the collision rules with other regulations. By default, all regulations need to be applied coherently but the following are cited in separate clauses:

Regulation	Collision rules	Reference
Product related safety aspects	CPR prevails	Article 2 (5)
Content or release of hazardous substances	If exist, the other regulation prevails	Article 2 (6)
Environmental sustainability	CPR prevails	Article 2 (7)

Definitions

Article 3 includes definitions. Some important points described in the definitions are:

- Reused products are now construction products subject to the regulation (Article 3 (1)) but only if they are placed on the market again (contractors disassembling products and installing them in other construction works are not placing the product on the market again).
- Kit definition is not modified because harmonised product provisions (hPP) are expected to clarify the concept in a case-by-case approach (Article 3 (2)).
- Essential characteristics are redefined (Article 3 (4)).
- Generic product requirements are added and defined in parallel to essential characteristic (Article 3 (5)) to satisfy additional regulatory needs for which there is a common agreement at European level in relation to safety, environment, etc.
- Basic requirements are included in the definitions, but articles related to them were removed (Article 3 (6)), because they created problems from the technical point of view but are a useful concept to link products and construction works.
- Concept of harmonised product provision (hPP) introduced as the legal text published in the OJEU following the implemented act process defining the requirements to place a product on the market (Article 3 (12) and details in Article 13). References to European product standards within the compulsory harmonised area to the EAD in the voluntary harmonised area and to ATD in case they are required are included.
- Standards and technical specification redefined as supporting documents (Article 3 (13) to (16) and further developed in Articles 15, 16 and 18). Harmonised standards were removed to separate the regulatory and

the technical areas in line with the current approach of the EC on this field (James Elliot ECJ ruling interpretation).

- New definition for alternative technical document (ATD) as alternative source of technical information when the standardisation approach does not deliver (Article 3 (17) and details in Article 17).
- Factory production control now include reconditioning of reused products (Article 3(32)).

Derogations from drawing up a DoP

Derogations are now improved and included in Article 6 (2):

- Product made to measure and installed under certain conditions but only if they are not manufactured in an industrial process
- Product manufactured on the construction site.
- Product manufactured in a non-industrial process, traditional manner or in relation to heritage conservation.

More derogations can be established by delegated acts but only if there is not economic transaction in the process. This approach was included to avoid this clause to be misused.

DoP content and supply – compulsory and voluntary harmonised areas

The content of the DoP depends on the harmonised product provision (hPP) instead of the harmonised standard (Article 7 (1)). The most relevant changes are the following:

- It can contain generic product requirements (Article 7 (1)).
- Reference to the European product standards is included (Article 7 (2)).
- Declaration follows a harmonised data template to facilitate digitalisation (Article 7 (3)(b)).
- Declaration of pass/fail is allowed (Article 7 (3)(d)).
- NPD is replaced by empty to keep consistency with machine readable DoP (Article 7 (3)(f)).

Supply of the DoP now includes the option allowed by the delegated act on making available DoP on websites (Article 8 (1)) and the obligation to deliver the document in a human and machine-readable format according to Building Information Model (BIM) principles as an alternative to the creation of a centralised European database of DoP (Article 8 (3)). In any case machine-readable formats are not coded files, they can be an excel file following the harmonised structure to be developed by manufacturers of any size with very limited efforts.

CE marking – compulsory and voluntary harmonised areas

The rules related to CE marking for construction products are simplified from the current version of the CPR, but the legal meaning does not change, only the content (Article 9 (7)). CE labels are composed of the following items:

- CE marking.
- Manufacturer.
- Reference number to the DoP.
- A way to access it.
- Additional information, as described in the hPP.

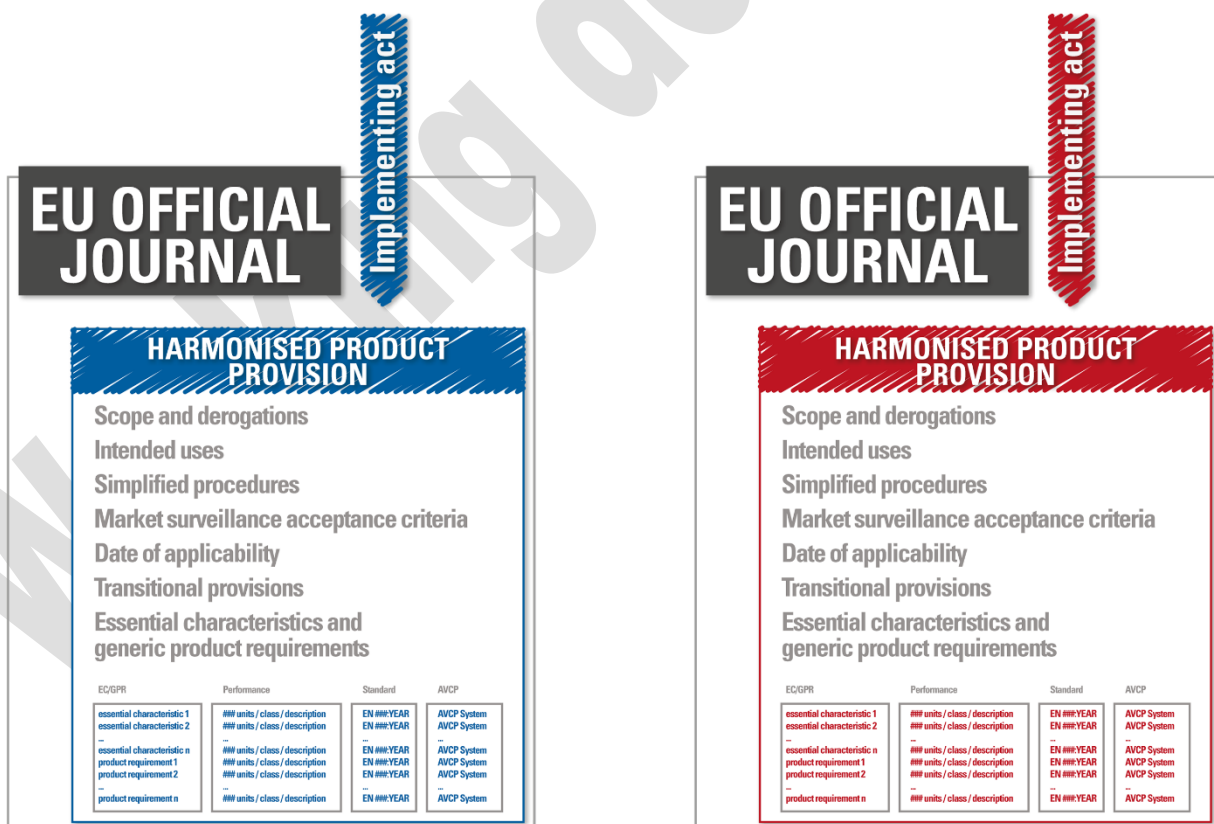


Harmonised Product Provision (hPP) – compulsory and voluntary harmonised areas

The legal documents dealing with the rules allowing placing products on the market are no longer included in harmonised standards or European Assessment Documents. Harmonised Product Provisions take this role in both areas (compulsory and voluntary). In any case, European product standards and EAD are the reference technical documents used.

The document is adopted as an implemented act (Article 13 (2)) with the support of the Standing Committee on Construction (Article 68) and published in the OJEU in all European Union languages (free of charge). It contains the following (Article 13 (3) and (4)):

- Scope defining the compulsory or the voluntary harmonised area
- Derogations
- Reference to the relevant European product standards, EADs or ATD (the last restricted to certain conditions).
- Intended uses
- List of relevant characteristics
- List of generic product requirements
- Applicable assessment method for each essential characteristic
- Applicable method for demonstrating compliance with each generic product requirement
- The way to express the performance for each essential characteristic in accordance with the assessment method, indicating if the performance shall be declared using classes, pass/fail criteria, thresholds values and any other type providing technical information
- AVCP system (Article 21)
- Simplified provisions (Article 22)
- Market Surveillance sampling and acceptance criteria.
- Date of applicability and transitional provisions
- References to additional documents

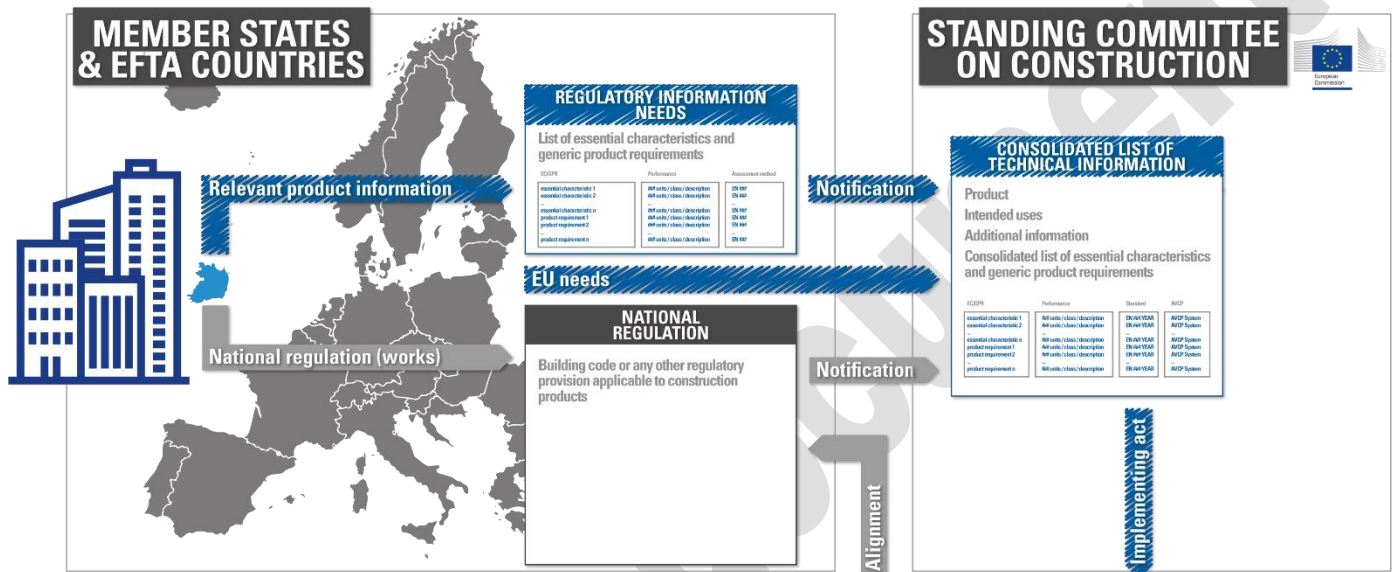


The hPP now contains classes, thresholds, AVCP system and declaration without testing/calculation clauses. Therefore, there is no need for separate delegated acts on these topics.

This approach is expected to reduce the complexity of the system and to facilitate access to the information.

When the content of the hPP is developed in response to the relevant technical information required by Member States. Article 14 describes the procedure used to develop a consolidated list of essential characteristics, generic product requirements and assessment methods to be included in the hPP from the point of view of Member States (Article 14 (1)).

The clause about the consolidated list also includes a provision to transfer the content of an Alternative Technical Document to become a standard (Article 14 (5)).

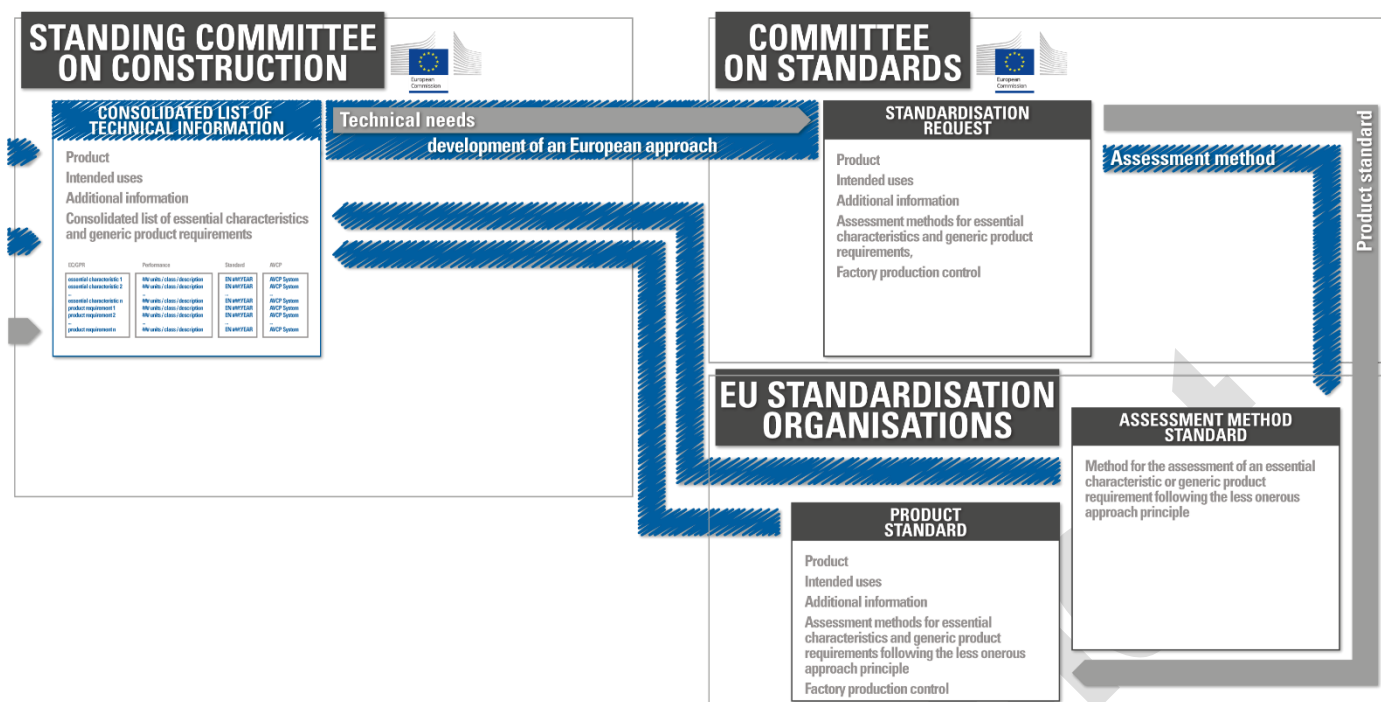


Technical specifications are European product standards, European standards, international standards, European Assessment Documents (EAD) and Alternative Technical Documents (ATD). They are referred in the hPP giving priority to European product standards and support the definition of:

- The procedure needs to be approved by the Standing Committee on Construction (Article 15 (2) and Article 68 (2)).

European product standards are the default document to be referred in hPP. European standards can be used but only in relation to the assessment of essential characteristics or generic product requirements.

If necessary, they can be developed or amended to fulfil technical needs (Article 16 (1)). Their development follows the provisions of Regulation 1025/2012 (Standardisation Regulation) according to the needs identified by the European Commission with the support of the members of the Standing Committee on Construction (Article 16 (5) and (6)).



Alternative technical documents

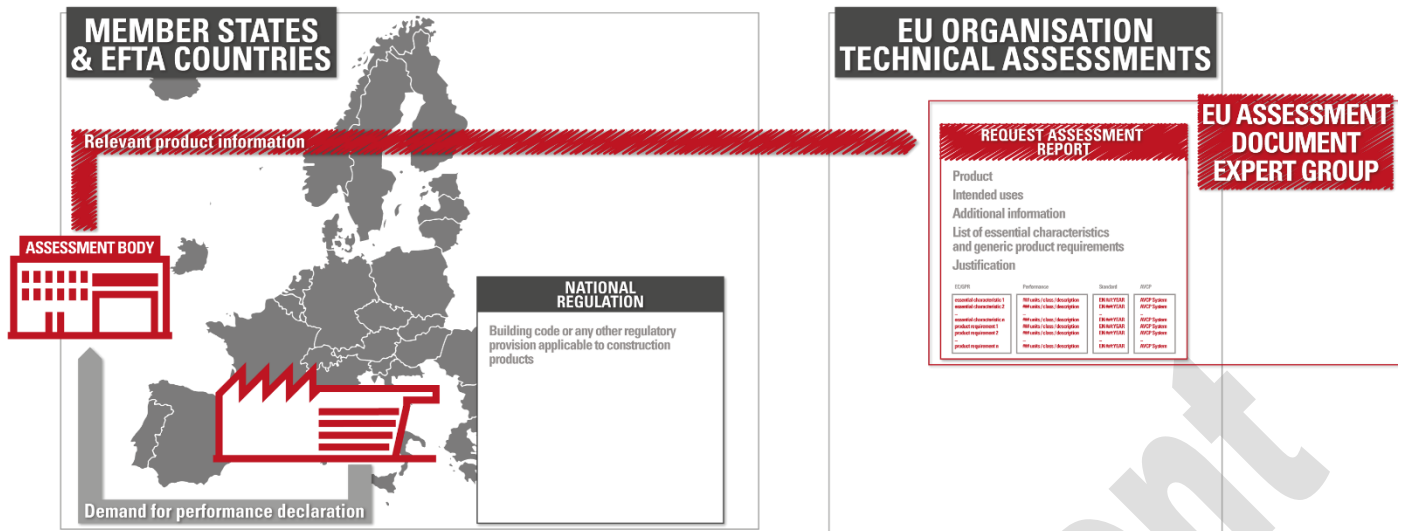
In case standardisation organisations are not able to satisfy the technical demands of the EC supported by the Standing Committee on Construction, a route to develop alternative technical documents is described (Article (17)). The development needs to follow similar rules to the development of European standards but in a parallel process. The results can be referred in hPP and be the basis of European product standards and European standards. Their development is monitored and managed by the EC and the Standing Committee on Construction. The process also requires the participation of relevant stakeholders in the same way expressed by the standardisation regulation.



ATD should be publicly available (Article 17 (9)) and can be used both in the compulsory and in the voluntary harmonised areas.

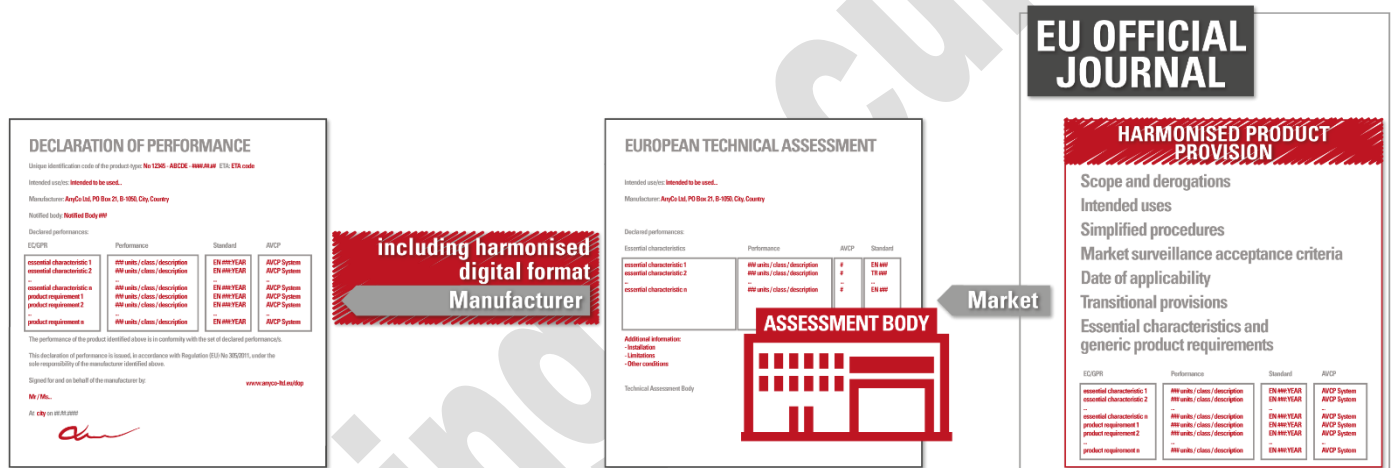
European Technical Assessments (ETA) – only voluntary harmonised area

A manufacturer or a group of them may request a European Technical Assessment (ETA) from a Technical Assessment Body (TAB) triggering the regulatory process allowing the CE marking and drawing up a DoP within the voluntary harmonised area (Article 18).



The TAB is expected to assess if the product and intended uses are in one of the following areas:

- Compulsory harmonised area, in this case CE marking and DoP is compulsory according to the relevant hPP without the need for an ETA.
- Voluntary harmonised area, in this case the TAB can issue an ETA according to the relevant hPP to be used by the manufacturer or group of manufacturers to draw up the DoP (Article 18 (2) and (3)).



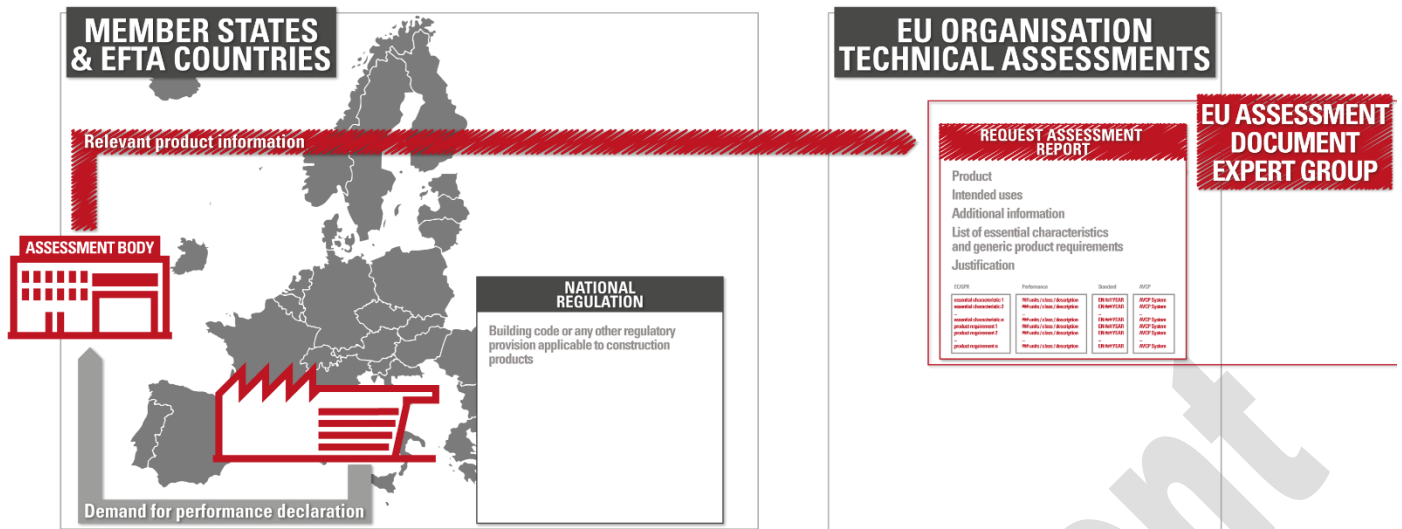
- Non harmonised area, in this case the procedure to integrate the product and the intended uses in the harmonised area is launched by the TAB, see next clauses.

Request Assessment Report – only voluntary harmonised area

When the request from a manufacturer or group of them is related to a product out of the harmonised area, the relevant TAB needs to develop a Request Assessment Report (RAR) to be the basis for the future hPP for this product. The document must include (Article 19 (6) and (7)):

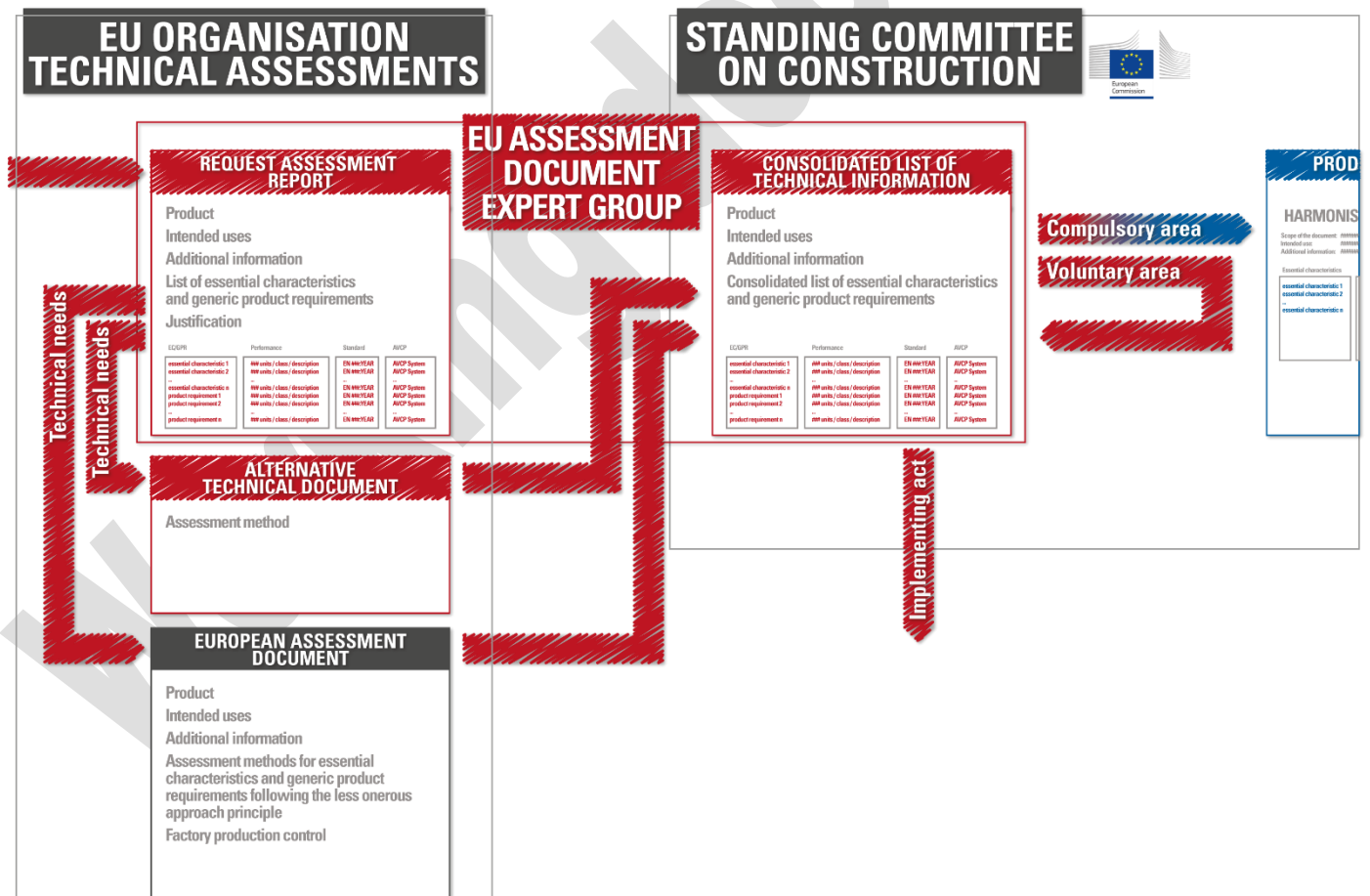
- an evaluation of the request
- a recommendation for hPP amendment or new development
- an impact assessment of the hPP
- detailed justification of the needs.

The RAR developed by the TAB finally is presented to the European Commission by the European organisation of TABs.



European Assessment Document development – only voluntary harmonised area

The final decision to amend or draft a new hPP to cover the request from an ETA by a manufacturer or group of manufacturers corresponds to the European Commission with the assistance of the European Assessment Document Expert Group (EADEG). This group will assess the RAR and suggest to the European Commission the next steps including drafting or amending Alternative Technical Documents and European Assessment Documents by the organisation of TABs (Article 20 (3) to (5)) and drafting or amending the relevant hPP (Article 20 (7) and (8)). This process may be subject to confidentiality agreement with the manufacturer.



The legal procedure related to the development and publication of the hPP are the same for the compulsory and the voluntary harmonised area (Article 13).

Obligations of economic operators – compulsory and voluntary harmonised areas

Most of the content related to the obligations of economic operators were slightly amended and reordered but the core of the content remains unchanged (Articles 23 to 32).

Technical Assessment Bodies and their organisation – only voluntary harmonised area

Designation, monitoring, evaluation and requirements for TABs and the role of the European organisation of TABs remain unchanged, only adaptation to the new procedures was included (Articles 33 to 39).

Notified bodies – compulsory and voluntary harmonised areas

The text related to notified bodies was revised to introduce the requirement for accreditation (Article 49 (1)), the rest of the system remains unchanged (Articles 40 to 56).

Market surveillance – compulsory and voluntary harmonised areas

Clauses related to market surveillance were updated to integrate the revision of the regulation on this field at European level and to facilitate coordination between authorities (Articles 57 to 63).

Delegated acts

The new hPP approach eliminates the need for most of delegated acts, only the following are included:

- collision rules
- exceptions from drawing up a DoP;
- EAD format
- period for which the manufacturer shall keep the technical documentation and the declaration of performance after the construction product has been placed on the market
- Annex – Data Templates
- Annex - AVCP
- Annex - SCC members

Exercise and revocation of the delegation and objections to delegated acts remain unchanged (Articles 64 to 67).

Committees

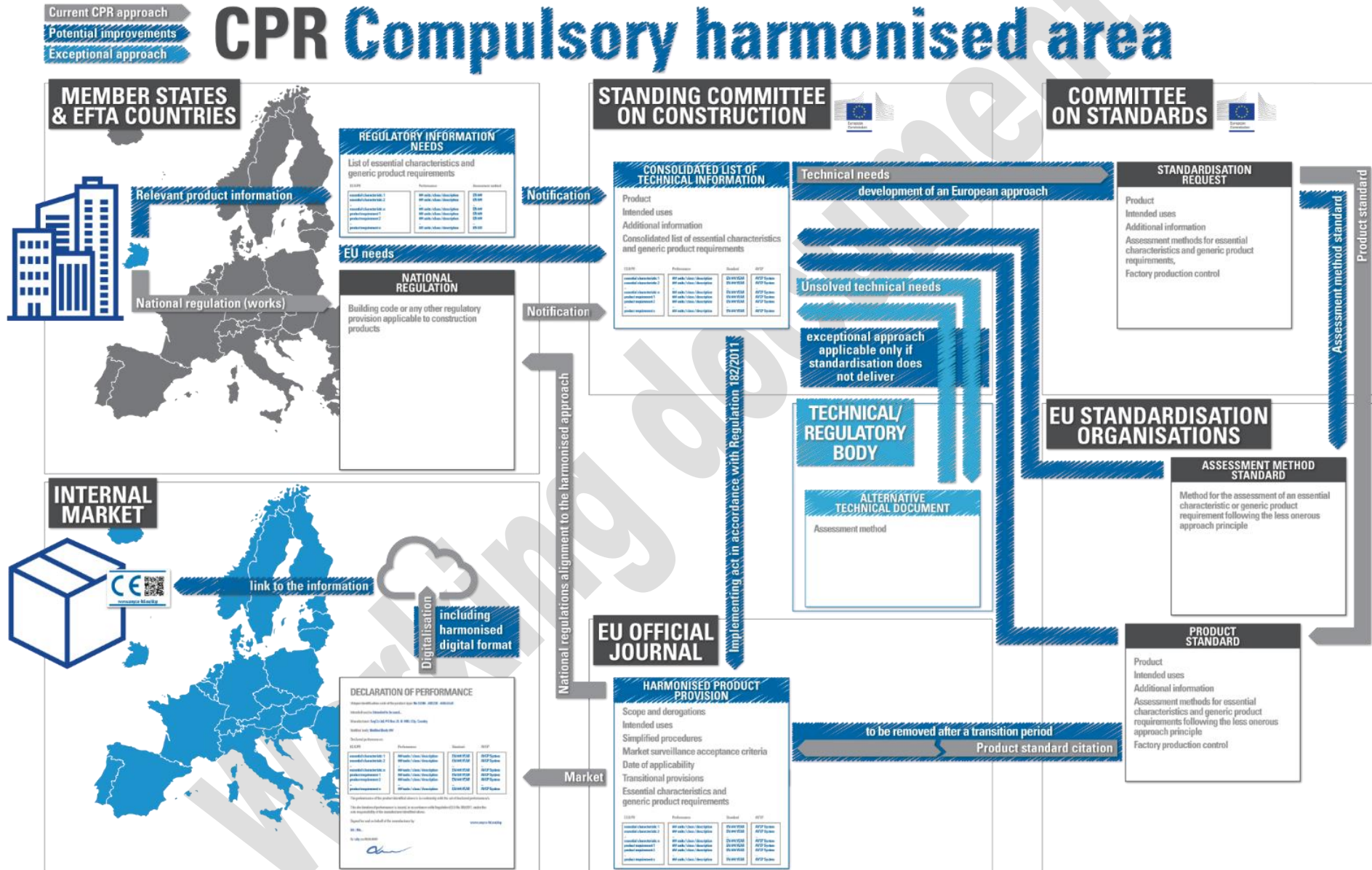
The Standing Committee on Construction is defined as the committee assisting the European Commission in the implemented acts using the common procedure, including vote (Article 68). In other words, this group will be in charge of approving the hPP. The members include CEN, EOTA and stakeholders.

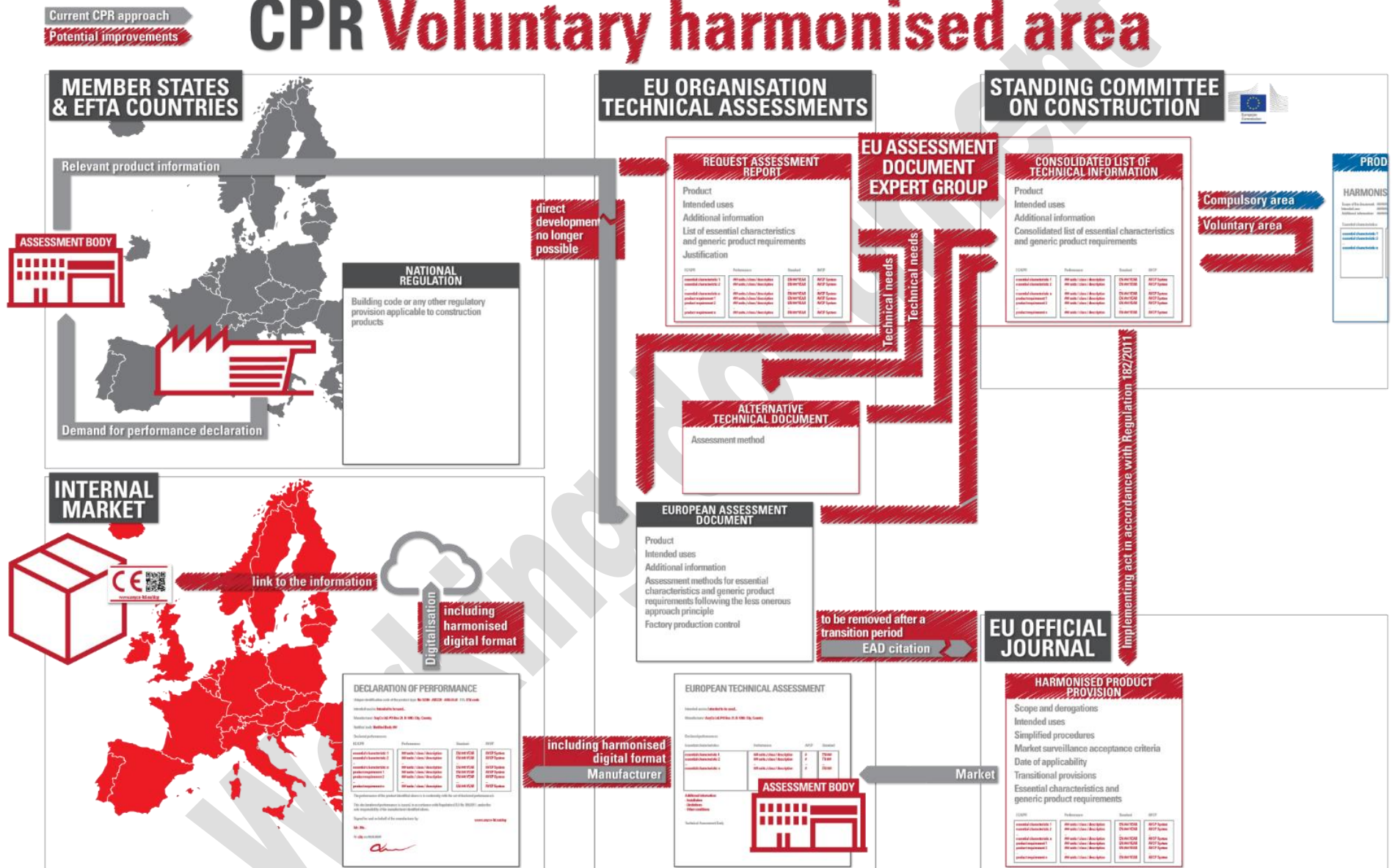
The European Assessment Document Expert Group is defined as an advisory group (Article 69) because in the end the recommendations of this group will be transposed to hPP to be voted by the Standing Committee on Construction.

Repeal and transitional provisions

The European Commission is expected to develop hPP for each product family and as soon as they are published in the OJEU, they will become the legal reference for CE marking and DoP. Considering the possibility to refer to harmonised standards in hPP as technical reference, the process should be smooth (Article 70 and 71).

Complete diagram describing the compulsory harmonised area





CPR detailed technical proposal

Chapter I General provisions

Article 1 Subject matter

1. This Regulation lays down conditions for the placing or making available on the market of construction products.

It establishes harmonised rules on how to express the performance of construction products in relation to their essential characteristics and their generic product requirements.

Article 2 Scope

1. This Regulation shall apply to all construction products.

2. The provisions of this Regulation shall also apply in case other legislations make reference to more specific provisions subject to Union legislation.

3. In case a construction product falls within the scope of other sector-specific Union legislations as well, the respective legislations and this Regulation shall apply coherently to that product.

4. In case a construction product is subject to other Union legislations that lay down further requirements, which are compatible with the respective provisions of this Regulation, all of these rules shall apply coherently to that product.

If such requirements are incompatible with this Regulation, the respective provisions of this Regulation shall prevail.

5. In case construction products are subject to other Union legislations, which regulate in a more specific manner particular product-related safety aspects, these other Union legislations shall not apply to construction products, in so far as the relevant safety-related aspects are described as essential characteristics to be declared according to the provisions of this Regulation, or are established as generic product requirements to be complied with according to the provisions of this Regulation.

6. In case construction products are subject to other Union legislations, which restrict or regulate in a more specific manner the placing or making available on the market of construction products in relation to their content or release of hazardous substances, the respective other legislations shall prevail.

7. In case construction products are subject to other Union legislations, which regulate in a more specific manner particular product-related aspects of environmental sustainability, these other Union legislations shall not apply to construction products, in so far as the relevant sustainability-related aspects are described as essential characteristics to be declared according to the provisions of this Regulation, or are established as generic product requirements to be complied with according to the provisions of this Regulation.

8. In case a construction product becomes a component of another product that is subject to other Union harmonisation legislation, that other harmonisation legislation shall apply to the construction product in its quality as component.

When requiring technical information as regards the component, the product information established according to this Regulation shall be used.

9. Where this Regulation lays down harmonised rules on how to express the performance of construction products in relation to their essential characteristics, or their generic product requirements, it shall integrate, wherever possible, the requirements of overlapping Union legislations into the respective hPP.

10. The Commission may adopt delegated acts in accordance with Article 64 to define more closely which Union legislations provisions shall be excluded from application to construction products.

Article 3 Definitions

For the purposes of this Regulation the following definitions shall apply:

1. 'construction product' means any product or kit which is produced or reused and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works;

Reuse means that a product is placed again on the market by an economic operator at the end of its previous use in its previous condition or reconditioned.

2. 'kit' means a construction product placed on the market by a single manufacturer as a set of at least two separate components that need to be put together according to the manufacturer's instructions to be incorporated in the construction works;

3. 'construction works' means buildings and civil engineering works;

4. 'essential characteristics' means the characteristics of the construction product for which the performance may be expressed according to the applicable hPP;
5. 'generic product requirement' means those requirements that are related to characteristics or inherent properties of the construction product for which the performance may be expressed according to the applicable hPP;
6. 'basic requirements for construction works' means the requirements in relation to construction works taking into account in particular the health and safety of persons involved and the impact of these works on the environment throughout the life cycle of the works;
7. 'performance of a construction product' means the performance related to the relevant essential characteristics and, where appropriate, to the relevant generic product requirements, expressed by level or class, by a value, by pass/fail criteria or in a description using the necessary technical elements;
8. 'level' means the result of the assessment of the performance of a construction product in relation to its essential characteristics, expressed as a numerical value;
9. 'class' means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product;
10. 'sector-specific Union legislation' means legislations that lay down conditions for the placing or making available on the market of products in relation to a specific economic sector;
11. 'product-type' means the set of representative performance levels or classes of a construction product, in relation to its essential characteristics, and where relevant its generic product requirements, produced using a given combination of raw materials or other elements in a specific production process;
12. 'harmonised product provision (hPP)' means implementing act in accordance with Regulation 182/2011, that
 - establishes the relevant essential characteristics and generic product requirements of single construction product or a group of construction products in relation to the product areas described in [##Annex – Product Areas##] and to the European product standards, EADs and ATDs; and
 - as regards methods and criteria for assessing the performance and requirements, refers to technical specifications
13. 'technical specification' means European standards, European product standards, international standards, European Assessment Documents (EAD), and, where appropriate, Alternative Technical Documents (ATD);
14. 'European standard' means a standard adopted by a European standardisation organisation defined in Article 2 (8) of Regulation 1025/2012;
15. 'European product standard' means a European standard defining a construction product as such by means of technical elements, in particular descriptive and/or technical performance criteria, and by addressing, where applicable, quality, use, safety and/or other aspects related to the products life-cycle or parts thereof;
16. 'international standard' means a standard adopted by an international standardisation body, in accordance with Article 2 (9) of Regulation 1025/2012;
17. 'Alternative Technical Document (ATD)' means a technical specification in accordance with Article 2 point 4 (d) of Regulation 1025/2012 adopted by other organisations or bodies than the European standardisation organisations according to Regulation 1025/2012 excluding international standards;
18. 'European Assessment Document (EAD)' means a technical specification adopted by the organisation of TABs in support of issuing European Technical Assessments;
19. 'European Technical Assessment' means the documented assessment of the performance of a construction product, in relation to its essential characteristics and its generic product requirements, in accordance with the respective European Assessment Document;
20. 'intended use' means the foreseen use of a construction product as defined in the applicable hPP;
21. 'making available on the market' means any supply of a construction product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
22. 'placing on the market' means the first making available of a new or a reused construction product on the Union market;
23. 'economic operator' means the manufacturer, importer, distributor, authorised representative or the fulfilment service provider;
24. 'manufacturer' means any natural or legal person who manufactures a construction product or who has such a product designed or manufactured, and markets that product under his name or trademark;
25. 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the

importer, who makes a construction product available on the market;

26. 'importer' means any natural or legal person established within the Union, who places a construction product from a third country on the Union market;

27. 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;

28 'fulfilment service provider' means any natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved as defined in Regulation 2019/1020;

29. 'withdrawal' means any measure aimed at preventing a construction product in the supply chain from being made available on the market;

30. 'recall' means any measure aimed at achieving the return of a construction product that has already been made available to the end-user;

31. 'accreditation' has the meaning assigned to it by Regulation (EC) No 765/2008;

32. 'factory production control' means the documented, permanent and internal control of production in a factory or of the process to recondition a reused product, in accordance with the relevant harmonised technical specifications;

33. 'life cycle' means the consecutive and interlinked stages of a construction product's life, from the extraction and supply of the raw material through production, transport, construction, disposal and use phase until the end-of-life and reuse, recycling or disposal;

Chapter II Conditions for placing and making available on the market construction products

Article 4 General condition

1. A construction product may only be placed or be made available on the market if it is safe and contributes to the environmental sustainability of the construction works in which is installed.

2. A construction product should be considered as safe if it presents no or only a minimal risk for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions.

3. A construction product should be considered as contributor to the environmental sustainability of the construction works in which is installed if it complies

with the relevant provisions laid down in this Regulation or by means of this Regulation relating to the extraction/manufacturing of the basic materials, the manufacturing of the product, its transport, its maintenance, its potential to remain as long as possible within a circular economy and its end of life phase.

4. The evaluation scale of product-related safety and sustainability characteristics or requirements should be the technical specifications the applicable hPP refers to.

Article 5 Declaration of performance

1. When a construction product belongs to the compulsory harmonised area according to Article 11 (1), the manufacturer shall draw up a declaration of performance according to the applicable hPP when such a product is placed on the market.

2. According to Article 12, in case a manufacturer voluntarily requested an ETA for a specific construction product and the requested ETA has been issued, the manufacturer shall draw up a declaration of performance in relation to the applicable hPP when placing this product on the market.

3. If a construction product does not belong to the compulsory harmonised or voluntary harmonised area, the manufacturer shall refrain from drawing up a declaration of performance.

4. When a construction product is placed on the market in accordance with a hPP, information in any form about its performance in relation to the essential characteristics, and where appropriate, to the generic product requirements, as defined in the applicable hPP, may be provided only if included and specified in the declaration of performance.

5. In case subject to Article 4 (4) (c), the manufacturer may voluntarily state the safety and sustainability of the respective product that is not covered by the relevant technical specification referred to in hPP.

6. By drawing up the declaration of performance, the manufacturer shall assume responsibility for the conformity of the construction product with such declared performance or performances of one or more the essential characteristics as well as, where applicable, for the compliance with the generic product requirements. 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.

7. For the construction products included in the compulsory harmonised or voluntary harmonised area, Member States shall not require other or further product related technical information than provided by the declaration of performance.

Article 6 Derogations from drawing up a declaration of performance

1. By way of derogation from Article 5 (1), without prejudice to Article 5 (2) and (3) and without prejudice to Union legislation provisions stipulating the declaration of essential characteristics or the demonstration of the compliance of certain generic product requirements, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product on the market, if the applicable hPP contains a provision for derogation.

2. The hPP may foresee a derogation from drawing up a declaration of performance, in particular in the following cases:

(a) the construction product is manufactured in response to a specific order in a non-industrial manufacturing process and installed in a single identified construction work. In this case, the product is installed either by the same manufacturer who manufactured the product and who is responsible for the safe incorporation of the product into the construction works, in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules; or, the product is installed by another economic agent provided the manufacturing of the product by the manufacturer and the installation by that economic agent are jointly based on a clearly defined local market context outlined by the specific order in relation to the respective construction work, or;

(b) the construction product is manufactured on the construction site for its incorporation in the respective construction works in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules, or;

(c) the construction product is manufactured in a non-industrial process in a traditional manner or in a manner appropriate to heritage conservation, in particular for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.

3. The Commission may adopt delegated acts in accordance with Article 64 to define more closely under which conditions manufacturers may refrain from drawing up a declaration of performance. The conditions shall refer to situations where a construction product is de facto not placed or made available on the market, in particular where the manufacturing and the

installation of a product are forming an economic transaction in the context of a specific construction work.

4. If the manufacturer decides not to draw up a declaration of performance, Article 5 (4) shall apply. National provisions presupposing the declaration of essential characteristics may not require the manufacturers to draw up a declaration of performance.

Article 7 Content of the declaration of performance

1. The declaration of performance shall express the performance of construction products in relation to the essential characteristics, and where applicable, to the generic product requirements of those products in accordance with the relevant hPP.

2. The declaration of performance shall contain, in particular, the following information:

(a) the unique identification code of the product-type for which the declaration of performance has been drawn up;

(b) the system or systems of assessment and verification of constancy of performance of the construction product, as set out in hPP for each essential characteristic;

(c) the reference to the applicable section or sections of the hPP;

(d) the reference to the applicable European product standards, when relevant.

3. The declaration of performance shall in addition contain:

(a) the intended use or uses for the construction product, in accordance with the applicable hPP;

(b) the list of essential characteristics, as determined in the hPP for the declared intended use or uses according to [##Annex – Data Template##];

(c) the complete performance information of at least one of the essential characteristics of the construction product, relevant for the declared intended use or uses;

(d) where applicable, the performance of the construction product, by levels or classes, by values or pass/fail information, or in a description, in order to demonstrate the achievement of the relevant generic product requirement;

(e) where applicable, all generic product requirements of the construction product as determined in the hPP;

(f) for the listed essential characteristics and product features for which no performance is declared, the relevant fields shall be left blank;

(g) when a European Technical Assessment has been issued for that product, the reference to it.

4. The declaration of performance shall be drawn up using the model set out in [##Annex – DoP Template##].

Article 8 Supply of the declaration of performance

1. A copy of the declaration of performance of each product which is made available on the market shall be supplied either in paper form or by electronic means, in particular made available on a website.

2. Economic operators making available a copy of the declaration of performance on a website shall ensure that

(a) the declaration of performance is not altered after it has been made available on the website

(b) the website where the declarations of performance drawn up for construction products have been made available is monitored and maintained so that the website and the declaration of performance are available free of charge to recipients of construction products for the applicable period of time referred to in Article 29 (2).

Manufacturers shall ensure that every single product, or batch of the same product, they are placing on the market is linked to a given declaration of performance by means of the unique identification code of the product-type.

3. The declaration of performance shall be made available in a human and machine-readable format according to [##Annex - DoP Template##] and [##Annex – Data Template##].

4. A paper copy of the declaration of performance shall be supplied only if the recipient requests it. A digital copy of the declaration of performance shall be supplied in an easily readable format and only if the recipient requests it.

5. The declaration of performance shall be supplied in the language or the languages required by the Member State where the product is made available.

Article 9 CE marking

1. If a declaration of performance has been drawn up by a manufacturer for a construction product, the CE marking shall be affixed to it, when the construction product is placed on the market.

2. By affixing or having affixed the CE marking, a manufacturer indicates taking responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements and other required obligations laid down in this Regulation.

If in accordance with Article 2 other relevant Union harmonisation legislation providing for affixing the CE marking applies to the same product, by affixing or having affixed the CE marking, the manufacturer also indicates taking responsibility for the conformity of the product with all applicable requirements and other required obligations laid down in that other relevant Union harmonisation legislation.

3. As regards the placing or making available on the market or the use of construction products subject to the compulsory harmonised area, Member States shall not introduce or require other or additional marks than the CE marking for construction products.

They shall not introduce any references in national provisions and administrative or judicial measures to a marking attesting conformity with the declared performance in relation to the essential characteristics and/or the generic product requirements subject to the compulsory harmonised area other than the CE marking. Where such implicit or explicit references exist, they shall be withdrawn.

4. 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 construction products bearing the CE marking.

5. A Member State shall ensure that the use of construction products 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.

6. The CE marking shall be affixed visibly, legibly and indelibly to the construction 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, to the accompanying documents or to the invoice.

7. The CE marking shall be followed by 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, the reference number of the declaration of performance and, if applicable, the manner to obtain the relevant copy of the declaration of performance available on a website.

8. Specific information from the declaration of performance shall be affixed next to the CE mark if required by the hPP.

9. In addition, the general principles set out in Article 30 of Regulation (EC) No 765/2008 shall apply to the CE marking.

Article 10 Product Contact Points for Construction

1. Member States shall designate Product Contact Points for Construction pursuant to Article 9 (1) of Regulation (EU) 2019/515.
2. Articles 9 to 11 of Regulation (EU) 2019/515 shall apply to Product Contact Points for Construction.
3. Each Member State shall ensure that the Product Contact Points for Construction provide information, using transparent and easily understandable terms, on the technical rules applicable to a specific construction product in the territory in which those Product Contact Points are established.

This also includes information on how the performance data in the declaration of performance are used in calculations of national design values or other performance data required for the use of construction products and how these design values or other data are calculated.

4. Product Contact Points for Construction shall be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.

Chapter III Harmonised area

Article 11 Compulsory Harmonised Area

1. The compulsory harmonised area covers the aggregated product scopes of all hPP, defined for each hPP according to article 13 (3) (a).
2. If a construction product is explicitly excluded from the scope of a hPP, that product shall not be considered to belong to the compulsory harmonised area.
3. As regards the placing or making available of construction products on the market, the compulsory harmonised area is exclusively subject to Union regulatory competence. As regards the compulsory harmonised area, Member States shall refrain from regulating additional or deviating provisions prohibiting or impeding the placing or making available of construction products on the market. In this case, in particular, Member States shall refrain from requiring technical information such as essential characteristics, generic product requirements of construction products or the assessment methods in relation to construction products.
4. On condition that Member States respect the common technical language laid down in this Regulation, Member States may set technical requirements for the use of construction products in relation to their essential characteristics and/or generic product requirements in relation to basic requirements

for construction works, as long as these provisions do not prohibit or impede the free movement of the respective construction products.

5. The methods used by the Member States in their technical requirements for construction works, as well as other national rules in relation to the essential characteristics or generic product requirements of construction products, shall be in accordance with the applicable hPP.

6. If a Member State has identified needs for additional technical information according to Article 13 (3), it shall request the Commission to adapt the applicable hPP taking into account the regulatory or information needs of that Member State as well as the technical progress.

7. Within six months after receiving a justified request from the Member State according to paragraph 6, the Commission, assisted by the Standing Committee on Construction, shall decide to establish or to amend or not to establish or not to amend a hPP taking into account the regulatory or information needs of that Member State as well as the technical progress according to the relevant product standards.

If the Commission, after consulting the Standing Committee on Construction, decides not to establish or amend a hPP, it shall duly justify its decision.

8. Until the establishment or amendment of a hPP, the compulsory harmonised area shall be considered to be exhaustively regulated.

Article 12 Voluntary Harmonised Area

1. The voluntary harmonised area covers the aggregated product scopes of all hPP, defined for each hPP according to Article 13 (3) point b.
2. If a manufacturer decides to voluntarily request an ETA from a TAB, and after the ETA has been issued by the TAB, the product shall be considered to belong to the voluntary harmonised area.
3. When a construction product belongs to the voluntary harmonised area, the provisions of Article 11 (3) to (7) apply by analogy.

Article 13 Harmonised Product Provision

1. To establish or to amend a harmonised Product Provision (hPP), the Commission shall adopt an implementing act for a single construction product or a group of construction products in relation to the product areas described in [##Annex - Product Areas##].
2. In order to ensure the uniform implementation of this Article, the Commission shall adopt implementing acts in accordance with the procedure referred to in Article 68 (2).

3. Each hPP shall contain provisions about technical information, in particular:

(a) a detailed scope, defining the compulsory harmonised area, excluding explicitly construction products or a group of products from the scope and the situations for which the manufacturer may derogate from drawing up a declaration of performance in accordance with Article 7;

(b) a detailed scope, defining the voluntary harmonised area;

(c) the reference to the relevant European product standards, EADs and ATDs;

(d) the intended use(s) covered by the hPP;

(e) a list of all relevant essential characteristics which may be declared;

(f) where necessary, the relevant generic product requirements, from the list set out in [##Annex - Product Requirements##], which the construction product or the group of products in relation to product areas described in [##Annex - Product Requirements##] covered need to comply with;

(g) the applicable assessment method for each essential characteristic;

(h) where relevant and appropriate, the applicable method for demonstrating compliance with each generic product requirement;

(i) the way to express the performance for each essential characteristic in accordance with the assessment method, indicating in particular if the performance shall be declared using classes, pass/fail criteria, thresholds values and any other type providing technical information; in case, the hPP provides a class to be declared or requires a class to be achieved, the hPP should also allow for declaring a numerical value;

(j) the applicable assessment and verification of constancy of performance system (AVCP system) for each essential characteristic;

(k) where relevant, the applicable assessment and verification of constancy of performance system (AVCP system) for each generic product requirement;

(l) simplified procedures in relation to the modular elements of the AVCP system;

(m) the applicable acceptance criteria when products are sampled from the market for testing by the competent Market Surveillance Authority;

(n) the date of binding applicability and the end of the co-existence period.

4. Where appropriate and in order to describe the relevant scope and technical information needed, in accordance with paragraph 3, the hPP shall refer to the relevant parts of technical specifications as defined in Article 3 (13):

(a) in case of products according to Article 11 (1), a European product standard or parts thereof or to the technical specification referred to in the respective European product standard;

(b) in case of products according to Article 12 (1), an EAD or parts thereof or to the technical specification referred to in the respective EAD;

5. Where the necessary technical information is not covered by the relevant European product standard, or when the technical information does not satisfy the regulatory needs, the Commission, assisted by the Standing Committee on construction will request its revision or development according to the provisions in Article 16.

6. Any reference to technical specifications as defined in Article 3 (13) or parts thereof in a hPP shall be dated.

7. When a hPP is to be established or amended, the Commission shall carry out an evaluation to determine whether the relevant technical information required is already covered by an existing technical specification.

8. When a specific construction product or group of construction products are not included in the compulsory harmonised area, the Commission, assisted by the Standing Committee on Construction, shall determine if a hPP is to be amended.

9. When a hPP is to be established or amended, the Commission should consider establishing or amending the scope in such a manner that the respective construction product or group of construction products will be subject to the provisions of the compulsory harmonised area. In this case, the Commission should give priority to making direct reference to technical information contained in European product standards, European standards, international standards, and where appropriate, to ATDs.

10. For all modular elements of the AVCP systems, the Commission shall foresee one or several simplified procedures in the hPP in relation to the respective single construction product or the group of products in relation to the product areas described in [##Annex - Product Areas##].

In particular, for factory production control audits simplified documentation checks shall be foreseen, wherever possible.

Wherever possible, product testing by the manufacturer as well as, where applicable, audit testing by the NB should be replaced by less onerous methods, such as process controls.

11. Wherever possible, for the modular AVCP elements type testing or type calculation, the hPP shall foresee in a simplified procedure by which the performance of one or several essential characteristics may be declared and/or the compliance of generic product requirements may be demonstrated without testing or calculation (WT/WC).

12. The Commission shall adopt the hPP within the period of time defined by the Standing Committee on Construction.

The Commission shall publish a list of all hPP in force on its website and publish any updates to that list.

13. The Commission may adopt delegated acts in accordance with Article 64 to amend [##Annex – EAD Format##].

Article 14 Consolidated list of technical information

1. Carrying out the evaluation according to Article 13 (7), the Commission shall list all technical information required.

The list shall indicate which technical information is addressed by existing technical specifications in relation to a single construction product or a group of products in relation to the product areas described in [##Annex - Product Areas##], references should give priority to information contained or referred in European product standards.

Assisted by the Standing Committee on Construction, the Commission shall establish a consolidated list, which contains the relevant European product standards, the relevant technical information, in particular, on essential characteristics and, where applicable, generic product requirements, and the relevant existing assessment methods of the construction products, that shall be covered by a hPP. The list shall respect the regulatory information needs of Member States.

Member States shall cooperate with the Standing Committee on Construction to deliver all information needed to establish this list. They shall also inform the Standing Committee on Construction if their national law provides provisions that concern the technical information of the list.

2. Where, in the course of that evaluation, the Commission finds that the respective technical information is fully covered by existing European product standards; reference should be made to the respective information of these standards.

3. In case where different options of technical information are available, in particular if several assessment methods exist for one essential characteristic or generic product requirement, the Commission, assisted by the SCC, should decide to which technical information respectively to which assessment method the hPP should refer to giving priority to information contained or referred in European product standards.

Where a decision in favour of one of the available options or assessment methods is not possible, the Commission shall request the development of a harmonised assessment method from the European standardisation organisations, according to the procedure set out in Article 10 of the Regulation 1025/2012.

4. Where, in the course of that evaluation, the Commission finds that the required technical information is not covered or not fully covered by an existing European product standard, the Commission, assisted by the Standing Committee on Construction, should issue a new standardisation request to the European standardisation organisations, according to the procedure set out in Article 10 of the Regulation 1025/2012, to develop the required European product standard.

5. The Commission shall also evaluate whether technical information that is covered by an ATD should be transferred to a European standard or a European product standard and issue a new standardisation request to the European standardisation organisations according to the procedure set out in Article 10 of the Regulation 1025/2012. In this case, the European standardisation organisations should consider adopting the existing technical information.

Article 15 References to Technical Specifications

1. In accordance with Article 13 (4), a hPP should make reference to the relevant parts of an existing technical specification giving priority to European product standards, in particular if the specification contains technical information on:

(a) the products covered;

(b) the methods and criteria for assessing the performance of the construction products in relation to their essential characteristics, and, where appropriate, to their generic product requirements;

(c) 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 construction products in relation to

their essential characteristics and, where applicable, their generic product requirements;

(d) the applicable factory production control, which shall take into account the specific conditions of the manufacturing process or the reconditioning of the construction products concerned;

2. To make a reference to an international standard containing the information set out in paragraph 1, the Commission shall follow the procedure laid down in Article 68 (2).

Article 16 European standards and European product standards

1. European product standards and when necessary European standards which are required to provide technical information that should be referred to in a hPP, shall be established by the European standardisation organisations listed in Annex I to Regulation 1025/2012.

Where standards do not exist, the Commission may request them on the basis of requests issued by the Commission in accordance with Article 10 of the Regulation 1025/2012 after having consulted the Standing Committee on Construction referred to in Article 68 of this Regulation.

2. The requests shall select from the consolidated list according to Article 14 (1) the relevant aspects of technical information needed to establish or amend the hPP which should make reference to the respective European product standard or parts of it and when necessary to European standards.

3. In consideration of Article 10 (3) of Regulation 1025/2012, if the European standardisation organisation refuses the request or it passes the set deadline of the request, the Commission with the support of the Standing Committee on Construction shall organise a conciliation meeting with the European standardisation organisation. In case of final disagreement, The Commission may delegate this request to another organisation or body. In this case, the Commission may request to establish an alternative technical document according to Article 17.

4. The Standing Committee on Construction shall be the committee assisting the Commission in accordance with Article 22 (1) of Regulation 1025/2012 and Article 68 (3) of this Regulation.

5. When a European product standard or a European standard shall be amended, the Commission, assisted by the Standing Committee on Construction, issues a new request to the European standardisation organisation, following the procedure and principles set out in this Article.

6. Where the Commission accepts a new or amended European product standard or European standard, and when a product provision for all elements on the consolidated list according to Article 14 is available, the Standing Committee on Construction should set a deadline for the Commission to adopt the implementing act, in accordance with Article 13 (1012).

Article 17 Alternative Technical Documents

1. When the conditions in Article 16 (3) apply, the Commission may request other organisations or bodies than the European standardisation organisations defined in Article 2 (8) of Regulation 1025/2012 to draft an alternative technical document to provide technical information that shall be referred to in a hPP within a set deadline. ATDs shall take into account the public interest as well as the policy objectives in the request. The Commission shall determine the required technical information as to the content to be covered by the requested ATD and a deadline for its adoption.

2. Accordingly to Article 16 (2), the request for ATDs shall take into account the consolidated list established by the Commission, in accordance with Article 14.

3. The decisions referred to in paragraph 1 shall be adopted in accordance with the procedure laid down in Article 68 (2) of this Regulation after consultation with the Standing Committee on Construction set up by Article 68 (3).

4. The relevant organisation or body shall indicate, within one month following its receipt, if it accepts the request referred to in paragraph 1.

Where the organisation or body refuses the request, the Commission, assisted by the Standing Committee on Construction, shall request another organisation or body, following the procedure and principles set out in this Article.

5. In addition to the technical information outlined in Article 15 (1), ATDs shall provide additional technical information required by the respective standardisation request, in particular on the scope for which the technical information is applicable.

6. The relevant organisation or body shall encourage and facilitate an appropriate representation and effective participation of all relevant stakeholders in the development of the requested ATD.

7. By means of progress reports, the contracted organisations or bodies shall inform the Commission about the activities undertaken for the development of the requested ATDs. The Commission, assisted by the Standing Committee on Construction, together with the contracted organisations or bodies shall assess the

compliance of the documents drafted by the contracted organisations or bodies with its initial request.

8. When an ATD needs to be amended, the Commission, assisted by the Standing Committee on Construction, shall first consider transferring the complete necessary technical information to a European standard or a European product standard, following the procedures set out in Article 16. Where a transfer is not possible, the Commission, assisted by the Standing Committee on Construction, issues a new request to the relevant organisation or body, following the procedure and principles set out in this Article.

9. Where the Commission accepts a new or amended ATD, and when a technical specification is available for all elements on the consolidated list according to Article 14, the Standing Committee on Construction should set a deadline for the Commission to adopt the hPP in accordance with Article 13 (12).

10. The organisation requested shall make publicly available by electronic means the ATD accepted by the Commission.

Where the organisation requested is not able anymore to make the ATD publicly available, the Commission shall make that ATD publicly available by electronic means.

Article 18 European Technical Assessments

1. An economic operator or a group of them may request from a TAB an European Technical Assessment (ETA) for a specific construction product, if the specific construction product is not subject to the compulsory harmonised area, or if the construction product is subject to the compulsory harmonised area but the intended uses and/or the requested essential characteristics of the construction product are not or not fully covered by an existing hPP in the compulsory harmonised area.

2. When an economic operator or a group of them requests an ETA in accordance with paragraph 1, and the specific construction product and its intended uses are fully covered by an existing hPP within the voluntary harmonised area according to Article 12 (1), and all the requested essential characteristics are included in the hPP, the TAB shall issue an ETA on the basis of the applicable hPP.

3. According to the relevant part of the hPP, the European Technical Assessment shall include the results of the performance assessment of those essential characteristics agreed by the economic operator or a group of them 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 AVCP system.

Where relevant, it shall also include the results demonstrating the compliance with the generic product requirements.

The results of the performance assessment shall be expressed by levels or classes, pass/fail results, numerical values or in a description, allowing for the manufacturer to draw up a declaration of performance using them as a basis

4. In order to ensure the uniform implementation of this Article, the Commission shall adopt implementing acts to establish the format of the European Technical Assessment in accordance with the procedure referred to in Article 68 (2).

Article 19 Obligations of the TAB receiving a request for a European Technical Assessment

1. In case of Article 18 (2), the TAB shall issue an ETA on the basis of the applicable hPP and proceed according to Article 18(3).

2. When a TAB receives a request in accordance with Article 18 (1) it shall assess whether the intended uses and the requested essential characteristics are fully covered by an existing hPP.

3. Where, as a result of the evaluation according to paragraph 2, the competent TAB finds that the specific construction product and intended uses for which the ETA is requested is fully covered by an existing hPP in the compulsory harmonised area according to Article 11 (1), and all the requested essential characteristics are included in the hPP, the TAB shall inform the economic operator that the request does not fulfil the conditions of Article 18 (1) for issuing an ETA.

4. Where, as a result of the evaluation according to paragraph 2, the competent TAB finds that the specific construction product and intended uses for which the ETA is requested is fully covered by an existing hPP in the voluntary harmonised area according to Article 12 (1), the obligations in Article 18 (2) shall apply.

5. Where, as a result of the evaluation according to paragraph 2, the competent TAB finds that the specific construction product and/or intended uses for which the ETA is requested is not covered or not fully covered by an existing hPP in the compulsory harmonised area according to Article 11 (1) or in the voluntary harmonised area according to Article 12 (1), the TAB shall prepare a draft Request Assessment Report (RAR).

6. The RAR shall include the conclusions and recommendations resulting from the evaluation of a

specific request for an ETA. In particular, it shall include the following parts:

- (a) an evaluation of the request;
- (b) a recommendation for the technical information to be amended to an existing hPP or to be included in a new hPP
- (c) an evaluation of the possible impact of the requested amendments according to point b on the market and other products covered by the relevant section of the hPP.

7. The evaluation part of the RAR as referred to in paragraph 6 point a shall include the reasons presented by the economic operator for requesting an ETA and the TAB's evaluation of these reasons, in particular the grounds on which the economic operator justify that:

- (a) the specific construction product is not covered or not fully covered by the scope of an existing hPP;
- (b) the intended uses are not covered or not fully covered by the scope of an existing hPP;
- (c) the additional essential characteristics needed for the safe handling and/or the safe and sustainable use of the specific construction product in a construction work over its full life cycle and justification of their qualification as essential characteristics or generic product requirements;
- (d) the additional assessment methods to be used for the assessment of performance and a technical justification that the existing methods are not specific enough or are not applicable.
- (e) deviations from the other provisions stipulated in an existing hPP including those related to the essential characteristics and generic product requirements.

8. The recommendation part of the RAR as referred to in paragraph 6 (b) shall include, where relevant and appropriate, the technical information in relation to Article 13 (3) (b) and (d) to (n), highlighting the new parts.

9. Where according to paragraph 5 a RAR is required, the TAB shall send the request of the economic operator for an ETA along with the RAR to the organisation of TABs for its submission to the Commission.

Article 20 Procedure for developing a European Assessment Document

1. Upon receiving a request for an ETA along with its corresponding draft RAR from a TAB, the organisation of TABs shall review and, if necessary, amend the draft report and submit it to the Commission.

2. The Commission, assisted by the European Assessment Document Expert Group (EADEG), in accordance with Article 69(2), shall evaluate the RAR, whether a new EAD should be developed or an existing EAD should be amended.

3. Where the Commission assisted by the EADEG finds that no EAD should be developed or amended, Article 13 (7) to (9) shall apply. In this case, the Commission may request the organisation of TABs to develop or amend an ATD according to Article 17 (1).

4. Where the Commission finds that a new EAD should be developed or an existing EAD should be amended, the organisation of TABs is required to implement the request of the Commission.

5. The organisation of TABs shall share with the responsible TAB which received the request for the ETA the amended or new EAD.

6. Where the Commission has adopted an hPP referring to an EAD, the organisation of TABs shall publish free of charge the EAD.

7. When subject to confidentiality agreement with the manufacturer, the publication of the amendment or new relevant hPP shall be delayed until the ETA is issued by the TAB.

8. When all assessment methods and technical information are available, the Commission, assisted by the EADEG in accordance with Article 69 (2), shall validate the EAD and send the draft hPP to the organisation of TABs within 30 days after all technical information is available.

Article 21 Assessment and verification of constancy of performance

1. Assessment and verification of constancy of performance (AVCP) of construction products in relation to their essential characteristics as well as the assessment and verification of the compliance with the relevant generic product requirements shall be carried out in accordance with one of the systems set out in [##Annex - AVCP##].

2. In each hPP, the Commission shall establish and may amend, taking into account in particular the effect on the health and safety of people, and on the environment, which system or systems are applicable to a given construction product or a given group of products in relation to their essential characteristics and generic product requirements. The Commission shall choose the least onerous system or systems consistent with the fulfilment of the relevant requirements set in hPP.

Article 22 Simplified procedures

1. In determining the product-type, a manufacturer may replace type-testing or type-calculation demonstrating that:

(a) the construction product, covered by a hPP, which the manufacturer places on the market corresponds to the product-type of another manufacturer or a group or association of manufacturers, and already tested in accordance with the relevant hPP. When these conditions are fulfilled, the manufacturer is entitled to declare performance and the compliance corresponding to all or part of the test results of this other product. The manufacturer may use the test results obtained by another manufacturer or group or association of manufacturers only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those test results; or

(b) the construction product, covered by a hPP, which the manufacturer places on the market is a system made of components, which the manufacturer assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics and/or generic product requirements in accordance with the relevant technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance and compliance corresponding to all or part of the test results for the system or the component provided to him. The manufacturer may use the test results obtained by another manufacturer or system provider only after having obtained an authorisation of that manufacturer or system provider, who remains responsible for the accuracy, reliability and stability of those test results.

2. If the construction product referred to in paragraph 1 belongs to a group of products for which the applicable system for assessment and verification of constancy of performance is system 1 + or 1, as set out in [##Annex - AVCP##], the procedurally simplified declaration referred to in paragraph 1 shall be verified by a notified product certification body as referred to in [##Annex - AVCP##].

Chapter IV Obligations of economic operators

Article 23 Area to which the obligations of economic operators apply

The obligations of economic operators laid down in this Chapter shall apply to the placing or making available of all construction products covered by this Regulation

whether they are in the compulsory harmonised or voluntary harmonised area or not, in relation to the respective provisions applicable to the construction product concerned.

Article 24 General obligations of cooperation with market surveillance authorities

1. Manufacturers, importers, distributors or fulfilment service providers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation, in a language which can be easily understood by that authority.

2. Manufacturers, importers, distributors or fulfilment service providers shall cooperate with that authority, at its request, on any action taken to eliminate the risks for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions, or for the environmental sustainability risk posed by the non-compliance of construction products with the requirements laid down by this Regulation or by means of this Regulation, which they have placed or made available on the market.

3. Member States may regulate on sanctions in cases where an economic operator having its seat in the territory of that Member State does not cooperate appropriately.

Article 25 Reasons to believe

1. Manufacturers, importers, distributors or fulfilment service providers who consider or have reason to believe that a construction product which they have placed or made available on the market does not comply with the applicable requirements laid down in this Regulation or by means of this Regulation, shall immediately take the necessary corrective measures to bring that construction product into conformity, or, if appropriate, to withdraw or recall it.

2. Where the product presents a risk for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions, or for the environmental sustainability, manufacturers, importers, distributors or fulfilment service providers shall immediately inform the competent national authorities of the Member States in which they made the construction product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Article 26 Obligations of manufacturers

1. Manufacturers shall draw up a declaration of performance in accordance with Articles 5 and 7, and affix the CE marking in accordance with Article 9.

Manufacturers shall, as the basis for the declaration of performance, draw up technical documentation describing all the relevant technical information related to the required system of assessment and verification of constancy of performance.

2. Manufacturers shall keep the technical documentation and the declaration of performance for a period of 10 years after the construction product has been placed on the market.

Where appropriate, the Commission may, by means of delegated acts in accordance with Article 64, amend that period for product areas or for groups of construction products on the basis of the expected lifetime or part played by the construction product in the construction works.

3. Manufacturers shall ensure that procedures are in place to ensure that series production maintains the declared performance. Changes in the product-type and in the applicable hPP shall be adequately taken into account.

Manufacturers shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of construction products placed or made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and of product recalls, and keep distributors informed of any such monitoring.

4. Manufacturers shall ensure that their construction products bear a type, batch or serial number or any other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the construction product.

5. Manufacturers shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying it, their name, registered trade name or registered trademark and their contact address. The address shall indicate a single point at which the manufacturer can be contacted.

6. When making a construction product available on the market, manufacturers shall ensure that the product is accompanied by instructions and safety information in a language which can be easily understood by users determined by the Member State in which the construction product was made available.

That information shall be adapted to the specific risk of the construction product for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions.

Article 27 Authorised representatives

1. A manufacturer may appoint, by written mandate, an authorised representative.

2. An 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:

(a) keep the declaration of performance and the technical documentation at the disposal of national surveillance authorities for the period referred to in Article 26 (2);

(b) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation;

(c) cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by construction products covered by the mandate of the authorised representative.

3. If the mandate with the authorised representative includes the drawing up of technical documents, the manufacturer remains responsible of these documents.

Article 28 Obligations of importers

1. Importers shall place on the Union market only construction products which are compliant with the applicable requirements of this Regulation.

2. Before placing a construction product on the market, importers shall ensure that the assessment and the verification of constancy of performance has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation referred to in the second subparagraph of Article 26 (1) and the declaration of performance in accordance with Articles 5 and 7. They shall also ensure that the product, where required, bears the CE marking, that the product is accompanied by the required documents and that the manufacturer has complied with the requirements set out in Article 26 (4) and (5).

Where an importer considers or has reason to believe that the construction product does not comply with the applicable requirements laid down in this Regulation or by means of this Regulation, the importer shall not place the construction product on the market until it complies with these requirements.

Furthermore, where the construction product presents a risk for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions, or for the environmental sustainability, the importer shall inform the manufacturer and the market surveillance authorities thereof.

3. Importers shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying the product their name, registered trade name or registered trademark and their contact address.

4. Importers shall ensure that, when making a construction product available on the market, the product is accompanied by instructions and safety information in a language determined by the Member State concerned which can be easily understood by users.

5. Importers shall ensure that, while a construction product is under their responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.

6. Importers shall, when deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of construction products placed or made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and of product recalls, and shall keep distributors informed of any such monitoring.

8. Importers shall, for the period referred to in Article 26 (2), keep a copy of the declaration of performance at the disposal of the market surveillance authorities and ensure that the technical documentation is made available to those authorities, upon request.

Article 29 Obligations of distributors

1. When making a construction product available on the market, distributors shall act with due care in relation to the requirements of this Regulation.

2. Before making a construction product available on the market distributors shall ensure that the product, where required, bears the CE marking and is accompanied by the documents required under this Regulation and by instructions and safety information in a language which can be easily understood by users determined by the Member State in which the construction product was made available.

Distributors shall also ensure that the manufacturer and where relevant, the importer have complied with the requirements set out in Article 26 (4) and (5) and Article

28 (3) respectively. Article 26 (6) shall apply by analogy to distributors.

Where a distributor considers or has reason to believe that the construction product does not comply with the applicable requirements laid down in this Regulation or by means of this Regulation, the distributor shall not make the construction product available on the market until it complies with these requirements.

Furthermore, where the product presents a risk for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions, or for the environmental sustainability, the distributor shall inform the manufacturer or the importer thereof, and the market surveillance authorities.

3. A distributor shall ensure that, while a construction product is under his responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.

Article 30 Obligations of fulfilment service provider

1. Fulfilment service provider shall place or make available on the Union market only construction products which are compliant with the applicable requirements of this Regulation.

2. Where a fulfilment service provider places on the Union market construction products from a third party, Article 28 shall apply for the obligations of the fulfilment service provider for these products.

3. Where a fulfilment service provider makes available a construction product on the market, Article 29 shall apply for the obligations of the fulfilment service provider for these products.

Furthermore, fulfilment service provider shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying it, their name, registered trade name or registered trademark and their contact address. The address shall indicate a single point within the Member State at which the fulfilment service providers can be contacted.

Article 31 Cases in which obligations of manufacturers apply to importers, distributors and fulfilment service provider

1. An importer, distributor fulfilment service provider or any other economic agent, such as the user of the construction product, shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer pursuant to Article 26, where he places a product on the market under his name or trademark or modifies a

construction product already placed on the market in such a way that conformity with the declaration of performance may be affected.

2. Without prejudice to paragraph 1, when an importer, distributor fulfilment service provider or any other economic agent, such as the user of the construction product, has placed a construction product on the market under his name or trademark without modifying the construction product in such a way that conformity of that product with the declaration of performance may be affected, he is not obliged to repeat the testing or certifying of that product, if he is possession of the original declaration of performance.

Article 32 Identification of economic operators

For the period referred to in Article 26 (2), economic operators shall, further to a reasoned request from a competent national authority, identify the following:

- (a) relevant economic operator who has supplied them with a product;
- (b) relevant economic operator to whom they have supplied a product.

Chapter V Technical assessment bodies

Article 33 Designation, monitoring and evaluation of TABs

1. Member States may designate TABs within their territories, notably for one or several product areas listed in [##Annex – Product Areas##]

Member States which have designated a TAB shall communicate to the other Member States and the Commission its name and address and the product areas for which that TAB is designated.

2. The Commission shall make publicly available by electronic means the list of TABs indicating the product areas for which they are designated, endeavouring to achieve the highest possible level of transparency.

The Commission shall make any updates to that list publicly available.

3. Member States shall monitor the activities and competence of the TABs they have designated and evaluate them in relation to the respective requirements set out in [##Annex – Product Requirements##].

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.

Article 34 Requirements for TABs

1. A TAB shall carry out the assessment and issue the European Technical Assessment in a product area for which it has been designated.

The TAB shall satisfy the requirements set out in [##Annex – Product Area##] within the scope of its designation.

2. A TAB shall make publicly available its organigram and the names of the members of its internal decision-making bodies.

3. Where a TAB no longer complies with the requirements referred to in paragraph 1, 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.

Article 35 Coordination of TABs

1. The TABs shall establish an organisation for technical assessment.

2. The organisation of TABs shall at least carry out the following tasks:

(a) organise the coordination of the TABs and, if necessary, ensure cooperation and consultation with other stakeholders;

(b) ensure that examples of best practice are shared between TABs to promote greater efficiency and provide a better service to industry;

(c) coordinate the application of the procedures set out in Article 19, as well as provide the support needed to that end;

(d) develop and publish European assessment documents;

(e) 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 set out in Article 19 and suggest improvements to the Commission based on experience gained;

(f) communicate any observations concerning a TAB not fulfilling its tasks in accordance with the procedures set out in Article 19 to the Commission and the Member State which designated the TAB;

(g) ensure that European Assessment Documents and references to European Technical Assessments are kept publicly available.

The organisation of TABs shall have a Secretariat in order to carry out these tasks.

3. Member States shall ensure that the TABs contribute with financial and human resources to the organisation of TABs.

Article 36 Union financing

To be defined by the EC.

Article 37 Financing arrangements

To be defined by the EC.

Article 38 Management and monitoring

To be defined by the EC.

Article 39 Protection of the Union's financial interests

To be defined by the EC.

Chapter VI Notifying authorities and notified bodies

Article 40 Notification

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party tasks in the process of assessment and verification of constancy of performance under this Regulation (hereinafter referred to as 'notified bodies').

Article 41 Notifying authorities

1. Member States shall designate a notifying authority that shall be 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 process of assessment and verification of constancy of performance for the purposes of this Regulation, and for the monitoring of notified bodies, including their compliance with Article 44.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by their national accreditation bodies within the meaning of, and in accordance with, Regulation (EC) No 765/2008.

Article 42 Requirements relating to notifying authorities

1. The notifying authority shall be established in such a way that no conflicts of interest with notified bodies occur.

2. The notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

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 process of assessment and verification of constancy of performance is taken by competent persons different from those who carried out the assessment.

4. The notifying authority shall not offer or provide activities performed by notified bodies, or consultancy services on a commercial or competitive basis.

5. The notifying authority shall safeguard the confidentiality of the information obtained.

6. The notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 43 Information obligation for Member States

Member States shall inform the Commission of their national procedures for the assessment and notification of bodies to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 44 Requirements for notified bodies

1. For the purposes of notification, a notified body shall meet the requirements set out in paragraphs 2 to 11.

2. A notified body shall be established under national law and have legal personality.

3. A notified body shall be a third-party body independent from the organisation or the construction product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of construction products which it assesses, can on condition that its independence and the absence of any conflict of interest are demonstrated, be considered to be such a body.

4. A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the construction products which it assesses, nor the authorised 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.

A notified body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not become directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those construction 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. This shall, in particular, apply to consultancy services.

A notified body shall ensure that activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of its assessment and/or verification activities.

5. A notified body and its personnel shall carry out the third party tasks in the process of assessment and verification of constancy of performance with the highest degree of professional integrity and requisite technical competence in the specific field and must 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.

6. A notified body shall be capable of carrying out all the third party tasks in the process of assessment and verification of constancy of performance assigned to it in accordance with [##Annex – AVCP##] 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.

At all times and for each system of assessment and verification of constancy of performance and for each kind or category of construction products, essential characteristics and tasks in relation to which it has been notified, the notified body shall have the following at its disposal:

(a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third-party tasks in the process of assessment and verification of constancy of performance;

(b) the necessary description of procedures according to which the assessment of performance is carried out, ensuring the transparency and the ability of reproduction of these procedures; it shall have appropriate policies and procedures in place that distinguish between the tasks it carries out as a notified body and other activities;

(c) 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.

A notified body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it is notified in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the activities in relation to which the body has been notified, shall have the following:

(a) sound technical and vocational training covering all the third-party tasks in the process of assessment and verification of constancy of performance within the relevant scope for which the body has been notified;

(b) satisfactory knowledge of the requirements of the assessments and verifications they carry out and adequate authority to carry out such operations;

(c) appropriate knowledge and understanding of the applicable hPP and of the relevant provisions of the Regulation;

(d) the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the verifications have been carried out.

8. The impartiality of the notified body, its top-level management and assessment personnel shall be guaranteed.

The remuneration of the notified 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.

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.

10. The personnel of the notified body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks under [##Annex – AVCP##], except in relation to the competent administrative authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. A notified body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the 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.

Article 45 Presumption of conformity

A notified body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance which demonstrates its conformity with the criteria laid down in the relevant international harmonised accreditation 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 44 in so far as the applicable international harmonised accreditation standards cover those requirements.

Article 46 Subsidiaries and subcontractors of notified bodies

1. Where a notified body subcontracts specific tasks connected with the third party tasks in the process of assessment and verification of constancy of performance or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the same requirements set out in Article 44, and shall inform the notifying authority accordingly
2. The notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. The notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under [##Annex – AVCP##].

Article 47 Use of facilities outside the testing laboratory of the notified body

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 – AVCP##], for the systems of assessment and verification of constancy of performance 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's of that laboratory.

Notified bodies carrying out such tests shall be specifically designated as competent to work away from their own accredited test facilities.

2. Before carrying out those tests, the notified body shall verify whether the requirements of the test method are satisfied and shall evaluate whether:

- (a) test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed;
- (b) the quality of the test results is ensured.

Article 48 Application for notification

1. An accredited body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. The application shall be accompanied by a description of the activities to be performed, the assessment and/or verification procedures for which the accredited body claims to be competent, an accreditation certificate 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 43.

Article 49 Notification procedure

1. Notifying authorities may notify only bodies which have satisfied the requirements laid down in Article 44 and which are accredited.
2. They shall notify the Commission and the other Member States, notably using the electronic notification tool developed and managed by the Commission.

Exceptionally, for cases set out [##Annex – AVCP##], for which the appropriate electronic tool is not available, a hard copy of the notification shall be accepted.

3. The notification shall include full details of the functions to be performed, reference to the relevant technical specification and, for the purposes of the system set out in [##Annex – AVCP##], the essential characteristics and/or the generic product requirements for which the body is competent.

However, reference to the relevant technical specification is not required in the cases set out in [##Annex – AVCP##].

6. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 50 Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to each notified body.

It shall assign a single such number even where the body is notified under several Union acts.

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.

Article 51 Changes to the notification

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 44, has lost its accreditation 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. It shall immediately inform the Commission and the other Member States accordingly, notably using the electronic notification tool developed and managed by the Commission.

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 body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 52 Challenge of the competence of notified bodies

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.

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.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a notified body does not meet, or no longer meets, the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including withdrawal of notification, if necessary.

Article 53 Operational obligations for notified bodies

1. Notified bodies shall carry out third party tasks in accordance with the systems of assessment and verification of constancy of performance provided for in [##Annex – AVCP##].

2. Assessments and verifications of constancy of performance 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.

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 basic requirements for construction works.

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 of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate.

4. Where, in the course of the monitoring activity aiming at the verification of the constancy of performance of the manufactured product, a notified body finds that a construction 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 withdraw its certificate if necessary.

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.

Article 54 Information obligations for notified bodies

1. Notified bodies shall inform the notifying authority of the following:

(a) any refusal, restriction, suspension or withdrawal of certificates;

(b) any circumstances affecting the scope of, and conditions for, notification;

(c) any request for information on assessment and/or verification of constancy of performance activities

carried out which they have received from market surveillance authorities;

(d) on request, third party tasks in accordance with the systems of assessment and verification of constancy of performance carried out within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2. Notified bodies shall provide the other bodies notified under this Regulation carrying out similar third party tasks in accordance with the systems of assessment and verification of constancy of performance and for construction products covered by the same hPP with relevant information on issues relating to negative and, on request, positive results from these assessments and/or verifications.

Article 55 Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for policy on notification.

Article 56 Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified pursuant to Article 40 are put into place and properly operated in the form of a group of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that group, directly or by means of designated representatives, or shall ensure that the representatives of notified bodies are informed thereof.

Chapter VII Market surveillance and safeguard procedures

Article 57 Reasons to believe

1. Where the market surveillance authority of one Member State has sufficient reason to believe that a construction product presents a non-compliance, it shall carry out an evaluation in relation to the product concerned, in accordance with Article 59.

The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

2. A reason to believe that there is a non-compliance must be assumed, in particular, when:

(a) the construction product or group of construction products do not achieve the performance as declared in the declaration of performance or do not comply with the applicable generic product requirements;

(b) the construction product or group of construction products present a risk for the health or safety of users or third parties when used under normal or reasonably foreseeable conditions;

(c) even if the product is in compliance with this Regulation, the construction product presents inherent risks;

(d) the economic operator does not fulfil all obligations according to Chapter IV.

Article 58 Complying construction products which nevertheless present a risk

When the construction product is compliant to the requirements laid down by this Regulation or by means of this Regulation, but it presents inherent risks, the provisions set out by this Chapter shall apply by analogy.

Article 59 Procedure to deal at national level with construction products presenting a non-compliance

1. Where, in the course of the evaluation, the market surveillance authority finds that the construction product is non-compliant to the requirements laid down in this Regulation or by means of this regulation, it shall without delay require the relevant economic operator to take all appropriate and proportionate corrective actions to bring the product into compliance with those requirements, notably with the declared performance, or to withdraw the product from the market, or recall it within a reasonable period, commensurate with the nature of the non-compliance, as the authority may prescribe.

The market surveillance authorities shall inform the notified body accordingly, if a notified body is involved.

Article 18 of Regulation (EU) No 2019/1020 shall apply to the measures referred to in this paragraph.

2. Where the market surveillance authorities consider that the non-compliance is not limited to their national territory, they shall inform, in accordance with Article 34 (4) of Regulation 2019/1020, the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the construction products concerned which that economic operator has placed or made available on the market throughout the Union.

4. Where the relevant economic operator, within the period referred to in (...) paragraph 1, does not take adequate corrective action, the market surveillance authority may:

(a) take all appropriate provisional measures to prohibit or restrict the placing or making available of the construction product on the national market;

(b) withdraw the construction product from that market or to recall it.

The market surveillance authority shall inform the Commission and the other Member States, without delay and in accordance with Article 34 (4) of Regulation 2019/1020, of those measures.

5. Where in the course of the evaluation, the market surveillance authority finds that the construction product presents a serious risk, Article 60 shall apply.

6. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant construction product, the origin of the construction product, the nature of the non-compliance alleged and, where relevant, the risk involved, the nature and duration of national measures taken as well as the arguments put forward by the relevant economic operator.

7. The Market surveillance authority of a Member States other than the market surveillance authority of 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 noncompliance of the construction product concerned, and, in the event of disagreement with the notified national measure, of their objections.

8. Where, within 15 working days 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 the market surveillance authority of one Member State in relation to the construction product concerned, that measure shall be deemed justified.

9. If the measure is deemed justified in accordance with paragraph 8, Member States shall ensure that appropriate restrictive measures are taken without delay in respect of the construction product concerned, such as withdrawal of the product from their market.

Article 60 Serious risk

1. A construction product presents a serious risk when, based on a risk assessment and taking into account the normal and foreseeable use of the product, the combination of the probability of occurrence of a hazard causing harm for the health or safety of users or third parties and/or for the environment and the degree of severity of the harm is considered to require rapid intervention by the market surveillance authority,

including cases where the effects of the risk are not immediate;

2. Where, having performed an evaluation pursuant to Article 59 (1), a market surveillance authority finds that a construction product presents a serious risk, it shall cooperate rapidly with the relevant economic operator and shall take together all appropriate corrective action and/or appropriate measures to ensure that the construction product concerned, which is available on the market, no longer presents a serious risk.

3. If the cooperation with the economic operator is not rapidly possible to be effective or if the cooperation is not leading to appropriate action or appropriate measures to eliminate the serious risk, the market surveillance authority shall take all appropriate measures to eliminate the serious risk.

4. When the serious risk has been eliminated, the market surveillance authority may require, when relevant, the respective economic operator to take all appropriate and proportionate corrective actions to bring the product into compliance, in accordance with Article 59.

5. The economic operator shall ensure that any corrective action is taken in respect of all the construction products concerned which that economic operator has made available on the market throughout the Union.

6. The Member State shall 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 construction 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.

7. The Commission shall without delay enter into consultation with the Member States and the relevant economic operator(s) and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide whether the measure is justified or not and, where necessary, propose appropriate measures.

8. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operator(s).

Article 61 Cooperation between Member States

When in the course of the evaluation according to Article 59 a market surveillance authority of one Member State needs additional information, it may request the market surveillance authority of the

Member State concerned to provide it, if such information can be provided.

Article 62 Union safeguard procedure

1. Where, within 15 working days of receipt of the information referred to in Article 59 (4), no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by the market surveillance authority of one Member State in relation to the construction product concerned, that measure shall be deemed justified.

2. Where, within the period referred to in paragraph 1, 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 operator(s).

The Commission shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the measure is justified or not. The Commission shall address its decision to all Member States and shall immediately communicate it to them and to the relevant economic operator(s).

3. If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant construction product is withdrawn from their markets, within their responsibility, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

Article 63 Union safeguard procedure for hPP

1. Where the national measure is considered to be justified and the non-compliance of the construction product is attributed to shortcomings in a hPP, the Commission shall, without delay, take the appropriate measures to amend the hPP in accordance with Chapter III.

2. In case of paragraph 1, if the respective hPP is referring to European standards, European product standards or EADs, the Commission may require opinions of the relevant European standardisation body or bodies or of organisation of TAB. These opinions shall be delivered without delay.

3. When the Commission has decided that the noncompliance of the construction product is not attributed to shortcomings in the respective hPP, the Commission shall, without delay, inform all Member States.

Chapter VIII Final provisions

Article 64 Delegated acts

For the purposes of achieving the objectives of this Regulation, in particular removing and avoiding restrictions on making construction products available on the market, the following matters shall be delegated to the Commission in accordance with Article 65, and subject to the conditions laid down in Articles 66 and 67:

(a) the Union legislation provisions excluded from application to construction products in accordance with Article 2.

(b) the conditions on which manufacturers may refrain from drawing up a declaration of performance in accordance with Article 6;

(c) the amendment of [##Annex – EAD Format##], in accordance with article 13;

(d) the amendment of the period for which the manufacturer shall keep the technical documentation and the declaration of performance after the construction product has been placed on the market, in accordance with Article 26, based on the expected life time or the part played by the construction product in the construction works;

(e) the adaptation of [##Annex – Data Templates##] in response to technical progress.

(f) the adaptation of [##Annex – DoP Templates##] in response to technical progress.

(g) the adaptation of [##Annex – AVCP##] in response to technical progress.

(h) the amendment of [##Annex – SCC members ##].

Article 65 Exercise of the delegation

1. The power to adopt delegated acts referred to in Article 64 shall be conferred on the Commission for a period of 5 years from DD of MMMM of YYYY. The Commission shall draw up a report in respect of the delegated power at the latest 6 months before the end of the 5-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 62.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 66 and 67.

Article 66 Revocation of the delegation

1. The delegation of power referred to in Article 64 may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Article 67 Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of 3 months from the date of notification.

At the initiative of the European Parliament or the Council, that period shall be extended by 3 months.

2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 68 Standing Committee on Construction

1. The Commission shall be assisted by a Standing Committee on Construction.
2. Where reference is made to this paragraph, Articles 5 of Regulation (EU) No 182/2011 shall apply.
3. Where a direct or indirect reference is made to Article 5 of Regulation (EU) No 182/2011, the Standing Committee on Construction shall be the committee assisting the Commission in accordance with Article 3 (2) of Regulation 182/2011, without prejudice to Article 69.

4. Where the Commission needs to be assisted by expert groups, these latter may be composed by the Standing Committee on Construction without prejudice to Article 69.

5. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

6. The Standing Committee on Construction shall adopt rules of procedures, in accordance with Article 3 (2) of Regulation 182/2011.

7. Member States shall ensure that the members of the Standing Committee on Construction are able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.

8. The Standing Committee on Construction shall work in cooperation with the European standardisation organisations, the European organisation for technical assessments and the European stakeholder organisations referred in [##Annex – SCC members##].

Article 69 European Assessment Document Expert Group

1. As regards the elaboration of the relevant technical assessment in the voluntary harmonised area, the Commission shall be assisted by a European Assessment Document Expert Group (EADEG).

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. If Member States delegate experts in the EADEG, they shall ensure that the members of the EADEG are able to carry out their functions in a manner that avoids conflicts of interest, and that they preserve confidentiality where they are involved in the assessing the requests in the voluntary harmonised area.

Article 70 Repeal

1. Regulation (EU) No 305/2011 is repealed. References to the repealed regulation shall be construed as references to this regulation.

2. All delegated acts subject to the repealed Directive 89/106/EEC and the repealed Regulation (EU) No 305/2011 shall be repealed as soon as the technical information is included in the relevant hPP.

Article 71 Transitional provisions

1. As regards the transitional period until a hPP is available covering all necessary technical information for the manufacturer to draw up a declaration of

performance in accordance with that hPP, the Commission shall, without delay, make reference to hEN according to Article 17 of Regulation (EU) No 305/2011, or the EADs and ETAs issued before DD of MMMM of YYYY in accordance with Regulation (EU) No 305/2011.

2. Construction products which have been placed on the market in accordance with Regulation 305/2011 before DD of MMMM of YYYY shall be deemed to comply with this Regulation.

3. Manufacturers may draw up a declaration of performance on the basis of a cited hEN, before DD of MMMM of YYYY in accordance with Regulation (EU) No 305/2011, as long as the construction product does not fall within a hPP, or has been expressly excluded from the scope of a hPP.

4. Manufacturers may use European Technical Assessments issued in accordance with Article 26 of Regulation (EU) No 305/2011 before Day Month Year as long as the construction product does not fall within a hPP or has been expressly excluded from the scope of a hPP.

Article 72 Reporting by the Commission

To be defined.

Article 73 Entry into force

This Regulation shall enter into force on the ## day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Annex – Product Areas

To be defined.

Annex – Product Requirements

To be defined.

Annex – AVCP

To be defined.

Annex – DoP Template

To be defined.

Annex – EAD Format

To be defined.

Annex – SCC members

To be defined.

Annex – Data Template

1. Data templates are defined by the respective hPP including essential characteristics, properties and attributes.

2. A data template is identified by the reference code of the applicable section or sections of the hPP which has been used.

3. A data template shall contain all relevant information according to Article 5.

4. Declared performance shall be expressed as a list of technical information elements in relation to the relevant essential characteristics and generic product requirements.

5. For the purpose of establishing data templates, essential characteristics and generic product requirements consist of properties, each of them shall include at least one property required to express the performance, and one AVCP property to define the applicable system for the essential characteristic.

6. All relevant properties belonging to one essential characteristic or generic product requirement are related to each other and are required to be filled with the relevant information.

7. For the purpose of establishing data templates, each property shall include the following attributes to express the performance, which are described in the applicable hPP:

(a) Reference document providing information about how to perform the assessment of the performance including the specific clauses, if relevant;

(b) Levels or classes, pass/fail alternatives, values or a description to allow for expressing a performance;

(c) Units according to the International System of units or unitless;

(d) Relation between the performance declared and the performance expected, if relevant;

(e) List of possible values, if relevant;

(f) Unique identification code of the technical element in the context of this Regulation;

8. Table 1 describes the data template for the declared performance.

Essential characteristic	Property	Reference document	Declaration	Unit	Relation	Enumerated values	Unique identification code
EC/GPR 1	Prop. 1 related to EC/GPR 1	Document relevant to Prop. 1	Declared value for Prop. 1	Unit in which Prop. 1 is expressed	Relation between the declared value for Prop. 1 and the expected performance	List of possible values of Prop.1	Unique identification code of Prop. 1
	Prop. 2 related to EC/GPR 1	Document relevant to Prop. 2	Declared value for Prop. 2	Unit in which Prop. 2 is expressed	Relation between the declared value for Prop. 2 and the expected performance	List of possible values of Prop. 2	Unique identification code of Prop. 2
	...	...	...	...	...	...	...
	Prop n related to EC/GPR 1	Document relevant to Prop. n	Declared value for Prop.n	Unit in which Prop. n is expressed	Relation between the declared value for Prop. n and the expected performance	List of possible values of Prop.n	Unique identification code of Prop. n
	AVCP applicable to EC/GPR 1		AVCP system	unitless	system	Valid AVCP systems for EC/GPR 1	Unique identification code of AVCP applicable to EC/GPR 1
EC/GPR 2	Prop. 1 related to EC/GPR 2	Document relevant to Prop. 1	Declared value for Prop. 1	Unit in which Prop. 1 is expressed	Relation between the declared value for Prop. 1 and the expected performance	List of possible values of Prop.1	Unique identification code of Prop. 1
	Prop. 2 related to EC/GPR 2	Document relevant to Prop. 2	Declared value for Prop. 2	Unit in which Prop. 2 is expressed	Relation between the declared value for Prop. 2 and the expected performance	List of possible values of Prop. 2	Unique identification code of Prop. 2
	...	...	...	...	...	...	...
	Prop n related to EC/GPR 2	Document relevant to Prop. n	Declared value for Prop.n	Unit in which Prop. n is expressed	Relation between the declared value for Prop. n and the expected performance	List of possible values of Prop.n	Unique identification code of Prop. n
	AVCP applicable to EC/GPR 2		AVCP system	unitless	system	Valid AVCP systems for EC/GPR 2	Unique identification code of AVCP applicable to EC/GPR 2

...

EC/GPR n	Prop. 1 related to EC/GPR n	Document relevant to Prop. 1	Declared value for Prop. 1	Unit in which Prop. 1 is expressed	Relation between the declared value for Prop. 1 and the expected performance	List of possible values of Prop.1	Unique identification code of Prop. 1
	Prop. 2 related to EC/GPR n	Document relevant to Prop. 2	Declared value for Prop. 2	Unit in which Prop. 2 is expressed	Relation between the declared value for Prop. 2 and the expected performance	List of possible values of Prop. 2	Unique identification code of Prop. 2
	...	...	...	...	...	...	...

Prop n related to EC/GPR n	Document relevant to Prop. n	Declared value for Prop.n	Unit in which Prop. n is expressed	Relation between the declared value for Prop. n and the expected performance	List of possible values of Prop.n	Unique identification code of Prop. n
AVCP applicable to EC/GPR n		AVCP system	unitless	system	Valid AVCP systems for EC/GPR n	Unique identification code of AVCP applicable to EC/GPR n

Table 1 - Data template for the declared performance