

<p>GNB-CPR GNB-AG</p>	<p>Co-ordination of the Group of Notified Bodies for the Construction Products Regulation (EU) 305/2011</p>	<p>NB-CPR/19/793r4 Issued 14 January 2020 Approved Guidance</p>
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Position Paper:

Coverage of harmonised standards

*This amended position paper includes an amendment to section 2.5 regarding construction products for which the manufacturer intends to declare a performance outside the range of levels and classes allowed for by the harmonised standard. The changes are highlighted using “track changes”.
All other sections are identical to the previous approved version, NB-CPR 19/793r2.*

1 INTRODUCTION

When determining the procedure to apply to a construction product, the first consideration would be whether or not the product is covered by a harmonised standard.

CPR Article 4(1) states:

When a construction product is covered by a harmonised standard or conforms to a European Technical Assessment which has been issued for it, the manufacturer shall draw up a declaration of performance when such a product is placed on the market.

CPR does not specify directly how to determine if a construction product is covered by a harmonised standard.

Experience has shown that in some cases that determination may be difficult.

Moreover, before considering if a product is covered by a harmonised standard, it would be necessary to establish that the product at hand is in fact a construction product in the sense of CPR, which may also cause difficulties.

This position paper is intended to provide guidance for notified bodies when considering if a product is a construction product and if it is covered by a particular harmonised standard.

2 CRITERIA FOR CONSIDERING A PRODUCT COVERED BY A HARMONISED STANDARD

CPR Article 4(1) does not indicate any criteria for the determination whether or not a particular construction product is covered by a harmonised standard.

However, CPR Article 19(1) indicates criteria for drawing up an EAD. As ETAs and EADs can only be issued for construction products not covered or not fully covered by a harmonised standard, that article is also indirectly indicating criteria for assessing if a product is covered by a harmonised standard.

CPR Article 19(1) states:

Following a request for a European Technical Assessment by a manufacturer, a European Assessment Document shall be drawn up and adopted by the organisation of TABs for any construction product not covered or not fully covered by a harmonised standard, for which the performance in relation to its essential characteristics cannot be entirely assessed according to an existing harmonised standard, because, inter alia:

- (a) *the product does not fall within the scope of any existing harmonised standard;*
- (b) *for at least one essential characteristic of that product, the assessment method provided for in the harmonised standard is not appropriate; or*
- (c) *the harmonised standard does not provide for any assessment method in relation to at least one essential characteristic of that product.*

From the above, several criteria can be derived which all must be met for the construction product to be considered covered by a given harmonised standard.

- 1) The product is in fact a construction product
- 2) The product falls within the scope of the standard
- 3) For the essential characteristics for which the manufacturer intends to declare the performance, the harmonised standard defines methods for the assessment of performance.
- 4) The assessment methods defined by the harmonised standard are appropriate for the construction product
- 5) No other reasons exist for considering the construction product 'not covered'. In the below sub-clauses 2.1 to 2.5 it is described how to assess with regard to the individual criteria.

In Annex A is found an informative route diagram for the notified body's assessment whether or not a product is covered by a particular harmonised standard.

2.1. CRITERION 1: CONSTRUCTION PRODUCT

CPR Article 2(1) defines a construction product as follows:

'construction product' means any product or kit which is produced 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 with respect to the basic requirements for construction works;

This means that several conditions must be met:

- a) The product must be placed on the market.

CPR Article 2(17) defines *placing on the market*:

'placing on the market' means the first making available of a construction product on the Union market;

CPR Article 2(16) defines *making available on the market*:

'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;

In the normal understanding, to qualify as *placing on the market*, a sort of transaction must take place, which would normally involve a change of ownership of the product. If there's no such transaction, e.g. if a product is manufactured by the same organisation

that erects the construction works in which the product is being installed, the product may not be considered placed on the market.

- b) The product must be intended for incorporation in construction works or parts thereof.

To this end, emphasis is given to the use for which the product is offered on the market; not the way users may choose to apply it. For instance, a product supplied specifically for the use as a component of another (construction) product is normally not considered intended for incorporation in construction works.

- c) The incorporation for which the product is intended must be *permanent*. The meaning of *permanent* will depend on the nature of the product, the intended use, and the expected life/service time.

Products only to be used during the building process, e.g. scaffoldings and tarpaulins, may not be considered intended for permanent installation.

- d) The performance of the product must have an effect on the performance of the construction works with respect to at least one Basic Works Requirement. This means that for instance products which only have an effect on the visual appearance of the building would be excluded.

Only when all the above conditions are met, the product would qualify as a *construction product*. If just one of the above conditions is not met, the notified body would not be in a position to offer its services to the manufacturer.

If the product is not considered a construction product, the following criteria would be irrelevant.

2.2. CRITERION 2: THE SCOPE OF THE STANDARD

For a construction product to be covered by the scope of a harmonised standard, that construction product must fall within the general descriptions provided by the written scope of that standard. The construction product or its category will not necessarily have to be explicitly mentioned by the text of the scope as long as it appears reasonable to consider it covered by the descriptions provided. It goes without saying that the product cannot be explicitly excluded.

In some standards, the scope of the main body of the standard is different from the scope of its Annex ZA. In such cases, the scope of Annex ZA prevails.

For the interpretation of the written scope, the standardisation mandate may be helpful. Generally, the scope of a harmonised standard cannot be interpreted more broadly than the scope of the mandate on which it is based.

When assessing whether or not a product is covered by the scope, it should be taken into account if an EAD exists for similar products. However, the existence of an EAD does not necessarily mean that the product does not fall within the scope. The notified body remains responsible for its own assessment.

If a construction product is considered not falling under the scope of the standard, that construction product would be considered "*not covered*" by the harmonised standard.

2.3. CRITERION 3: ASSESSMENT METHODS DEFINED BY THE HARMONISED STANDARD

For each of the essential characteristics for which the manufacturer intends to declare the performance, the harmonised standard must provide an assessment method.

The absence of an assessment method for a particular essential characteristic may have different reasons:

- 1) The harmonised standard has defined one or more other essential characteristics with a relation to the same Basic Works Requirement,
- 2) The harmonised standard does not foresee the construction products covered by it to have any relation to the Basic Works Requirement concerned.
- 3) The essential characteristic is defined by the harmonised standard, but no common assessment method has been defined. For instance, that would be the case for quite a few harmonised standards with regard to the essential characteristic of “release of dangerous substances”.

If the manufacturer intends only to declare the performance in relation to essential characteristics for which assessment methods are in fact defined, the product is considered “covered”.

If the manufacturer intends to declare the performance of an additional essential characteristic for which the harmonised standard – irrespective of the reason - does not provide any assessment method, the product would be “*not fully covered*” by that harmonised standard.

Hence, if the manufacturer decides only to declare the performance related to essential characteristics for which the harmonised standard has defined assessment methods, the product would be considered “covered” by the harmonised standard.

As notified bodies have no responsibility for the product as such, a notified body is only supposed to consider if assessment methods are defined for essential characteristics for which the manufacturer requests its services.

2.4. CRITERION 4: APPROPRIATENESS OF ASSESSMENT METHODS

It also needs to be considered if the assessment methods defined by the harmonised standard for the essential characteristics for which the manufacturer intends to declare the performance would be appropriate for the product in question, taking into account the intended use, the design of the product etc.

That judgement must be done case by case and does of course involve a certain level of engineering competencies in the actual technical area.

It is emphasised that the notified bodies are not supposed to assess whether or not the assessment methods of the harmonised standard would be generally appropriate, but only if the methods would be appropriate for the specific product for which they are requested to make the assessment.

When assessing whether or not an assessment method is appropriate for a particular product, it should be taken into account if an EAD exists for similar products with different assessment method(s) for a closely related essential characteristic. However, the existence of such an EAD does not necessarily mean that the assessment method defined by the standard would not be appropriate for the product in question. The notified body remains responsible for its own assessment.

It is emphasised that the notified body will only need to consider the appropriateness of the assessment methods for those essential characteristics for which the manufacturer intends to declare the performance.

If it is concluded that the assessment method for an essential characteristic for which the manufacturer intends to declare the performance is *not* appropriate for the construction product, that construction product would be “*not fully covered*” by the harmonised standard.

However, if the manufacturer decides only to declare the performance related to essential characteristics for which the assessment methods are appropriate for the product, the product would be considered “covered” by the harmonised standard.

As notified bodies have no responsibility for the product as such, a notified body is only supposed to consider the appropriateness of the assessment methods for essential characteristics for which the manufacturer requests its services.

2.5. CRITERION 5: OTHER REASONS

As CPR Article 19(1) indicates *inter alia* the three reasons in litra a, b, and c of that article, it seems clear that other reasons may exist to consider a construction product *not covered* or *not fully covered* by a harmonised standard.

Below are mentioned two possible reasons for considering a construction product *not covered*; other reasons may exist.

1) ~~For instance, one reason could be if~~ The factory production control defined by the harmonised standard does not sufficiently take into account the specific conditions of the manufacturing process of the construction product concerned. That may be the case if the manufacturing technology of the construction product differs significantly from the manufacturing technology of the other construction products covered by the standard and which the technical committee considered when developing the harmonised standard. This may be the case even if the harmonised standard does not explicitly define or describe any manufacturing technologies.

2) The manufacturer intends to declare a performance outside the range of levels or classes allowed for by the harmonised standard, e.g. because

- the classification system used by a harmonised standard is not “open ended”, or
- the harmonised standard for certain essential characteristics has defined thresholds or limit values above or below which the performance cannot be declared.

3 ROLES AND RESPONSIBILITIES

The below sub-clauses 3.1 to 3.4 describe the roles and responsibilities of various parties with regard to the assessment whether or not a product is covered by a particular harmonised standard.

In Annex B is found an informative route diagram for the interaction between the notified body, the manufacturer and the technical assessment body for that assessment.

3.1. MANUFACTURER’S ASSESSMENT

The starting point is that the manufacturer has assessed that the construction product is covered by a harmonised standard. Of course, there may be a dialogue on the matter between the manufacturer and the notified body, but when formally requesting the notified body to carry out the relevant AVCP procedures the manufacturer must assume responsibility for his own assessment, i.e. that the product is covered by the harmonised standard.

If the manufacturer expresses doubts whether or not his product is covered, the notified body may inform the manufacturer of the possibility to consult a technical assessment body.

If a manufacturer assesses that his product is not covered or not fully covered, he may choose to apply for an ETA. This of course also goes for the case where he first assessed the products as covered and then changed his mind after having an application rejected by a notified body.

3.2. ASSESSMENT BY THE NOTIFIED BODY

When requested by the manufacturer to carry out AVCP procedures, the notified body will need to make its own assessment to either confirm or reject the assessment made by the manufacturer.

If the notified body confirms the manufacturer's assessment it may accept the task; if not it will have to reject it. In either case, the notified body must assume responsibility for its own decision.

If in doubt, the notified body may inform the manufacturer of the possibility to consult a technical assessment body.

The decision of the notified body would not be binding for neither the manufacturer nor other notified bodies.

However, notified bodies are supposed to "calibrate" their assessments by bringing up the matter in the relevant GNB sector group. If relevant the sector group may choose to request the responsible technical committee to express its opinion.

It should however remain clear that the responsibility for the concrete decision will be on the individual notified body.

3.3. ASSESSMENTS BY TECHNICAL ASSESSMENT BODIES

If requested by a manufacturer, a technical assessment body will need to make assessments similar to the above described. This position paper is not intended to provide guidance for technical assessment bodies.

The decision of the technical assessment body to consider a construction product covered, not covered, or not fully covered would be binding for neither the manufacturer nor notified bodies. However, notified bodies should take it into consideration if ETAs have been issued for similar products.

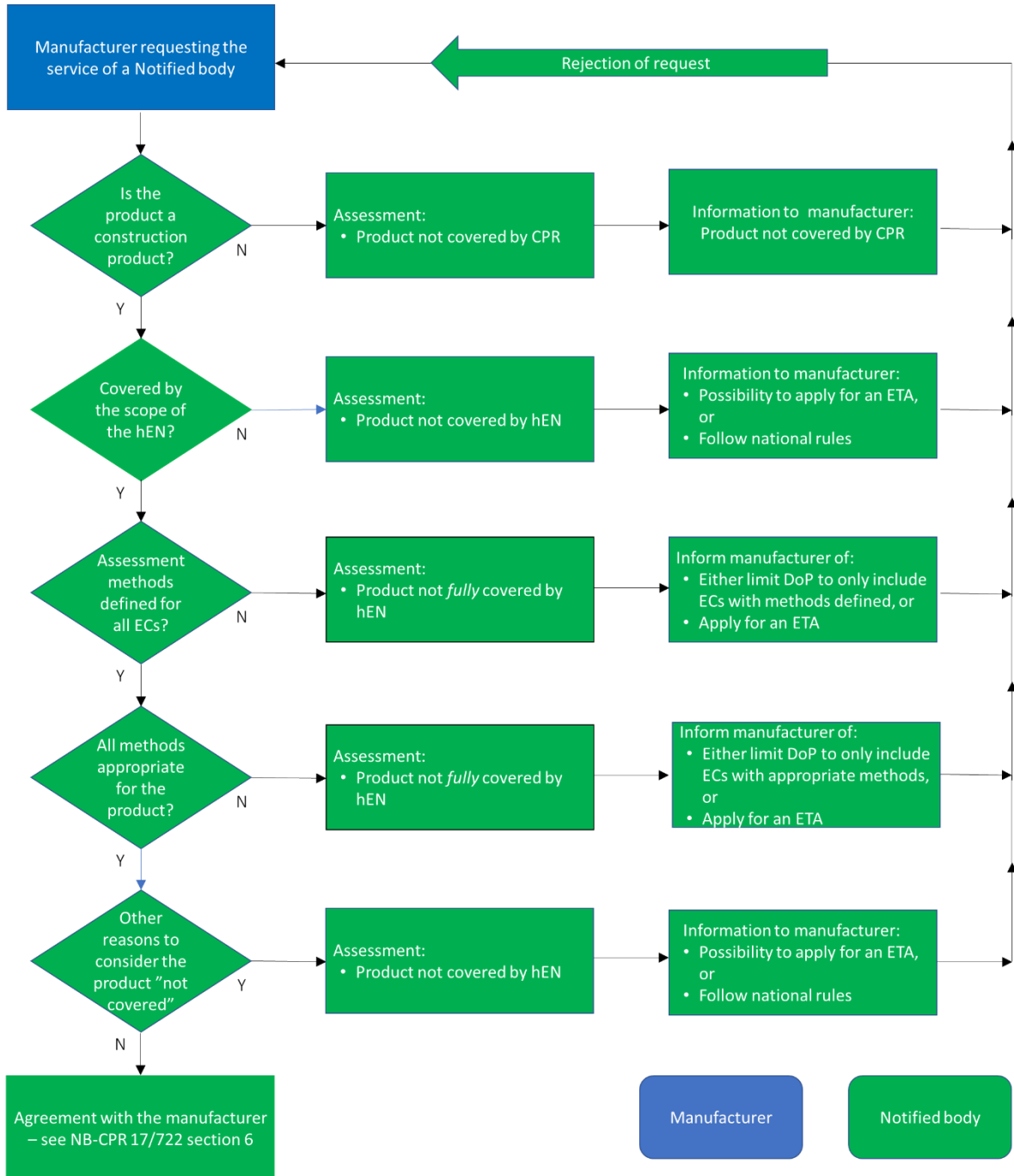
3.4. ASSESSMENTS BY MARKET SURVEILLANCE AUTHORITIES

The decisions of the manufacturer and the notified body to consider the construction product *covered* or *not covered* by the harmonised standard would not be binding for the market surveillance authorities, who will need to make their own assessments.

This position paper is not intended to provide guidance for market surveillance authorities.

ANNEX A (INFORMATIVE)

Route diagram for the notified body's assessment whether or not a construction product is covered by a harmonised standard.



ANNEX B (INFORMATIVE)

Route diagram for the interaction between the manufacturer, the notified body and the technical assessment body in relation to the assessment whether or not a construction product is covered by a harmonised standard.

