

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	REFIT Sectoral Fitness Check of the construction sector		
LEAD DG RESPONSIBLE UNIT	DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SME's UNIT C1, CLEAN TECHNOLOGIES AND PRODUCTS	DATE OF THIS ROADMAP	25/04/2016
TYPE OF EVALUATION	Fitness Check	PLANNED START DATE	Q2 / 2015
	Ex post	PLANNED COMPLETION DATE	Q1 / 2017
	Mixed	PLANNING CALENDAR	http://ec.europa.eu/smart-regulation/evaluation/index_en.htm
This indicative roadmap is provided for information purposes only and is subject to change.			

A. Purpose
(A.1) Purpose
<p>The purpose of this Sectoral Fitness Check is to evaluate the efficiency, the coherence, the effectiveness, the relevance and EU added value of the selected EU legislative texts with respect to the achievement of the objectives for a more competitive and sustainable construction sector, in particular for SMEs. Results from the work on the Sectoral Fitness Check will also feed into preparations for Commission action to address regulatory barriers in key business services and construction as announced in the Single Market Strategy.</p> <p>The Sectoral Fitness Check will pay particular attention to identifying any synergies (e.g. improved performance, simplification, lower costs, reduced burdens) or inefficiencies (e.g. excessive burdens, overlaps, gaps, inconsistencies and/or obsolete measures) within the group of legislative texts assessed which may have appeared over time, and help to identify the cumulative impact of the interventions covered, covering both costs and benefits.</p>
(A.2) Justification
<p>The Commission announced its intention to undertake Sectoral Fitness Checks of EU legislation affecting the construction sector in its Communication (COM (2012) 433 of 31.07.2012) on "Strategy for the sustainable competitiveness of the construction sector and its enterprises". The Communication suggested conducting sectoral Fitness Checks to reduce the administrative burden on construction operators and improve the functioning of the Internal Market in the construction sector. It stated that "In order to ensure a better functioning of the Internal Market for construction products and services, it is important that the legal framework is as clear and predictable as possible and that administrative costs are proportionate to the objectives pursued. This will require a more systematic analysis of the various regulatory approaches and administrative provisions that govern the implementation of EU legislation concerning the construction sector".</p> <p>Furthermore, the June 2014 update on REFIT (COM(2014)368) and SWD(2014)192) identified construction as a sector requiring an assessment of the variety of regulatory costs induced by specific EU legislations. A cumulative cost assessment was originally planned and mentioned in those two documents. However, considering the benefits that EU legislation could bring to the sector and the expectations put forward by the Communication on identifying legislative, overlaps, gaps, inconsistencies and obsolete measures, a Sectoral Fitness Check is considered more appropriate.</p>

The Commission Work Programme 2015 (Annex 3 to COM(2014) 910, page 11) foresees amongst the REFIT actions a "Sectoral Fitness Check of the most relevant EU legislation impacting on the construction sector in the area of internal market and energy efficiency, to be started in 2015".

B. Content and subject of the evaluation

(B.1) Subject area

Retrospective assessment of the fitness of EU legislation (in the areas of Internal Market, energy efficiency, environment, health and safety¹) in relation to the competitiveness and sustainability of the construction sector.

(B.2) Original objectives of the intervention

The Communication COM (2012) 433 identified the sustainable competitiveness as the general objective for the construction sector up to 2020. One of the specific objectives was to improve the functioning of the Internal Market for construction products and services, in order to have a clear, simple and predictable legal framework for construction products and services, and to ensure that costs resulting from EU legislation are proportionate to the objectives pursued.

Indeed, the construction sector is regulated at many levels (e.g. products, works, professional qualifications, occupational health and safety, environmental impact, etc.) and many aspects are Member States' competences. The legal acts impacting on the construction sector are designed not only for the construction sector and have different objectives (as shown in the intervention logic). The different acts affecting the sector are perceived by part of the industry as a source of excessive burden and legal uncertainty. A systematic analysis of the various legal acts affecting the sector aims at showing how various EU legal acts interact and impact the construction industry and identify possible areas of improvement. This is the reason why it is proposed to conduct the Sectoral Fitness Check.

(B.3) How the objectives were to be achieved

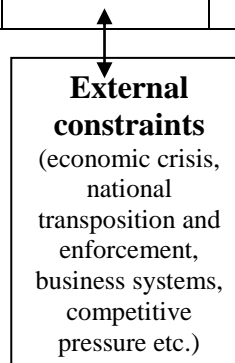
EU legislation in the areas mentioned above has different features, in terms of policy objectives, mechanisms and resources, which need to be recognised and taken into account throughout the Sectoral Fitness Check. This represents a methodological challenge for the Sectoral Fitness Check, because the assessed legislation is not primarily targeting the construction sector.

One of the first tasks to be developed under the Sectoral Fitness Check will be to develop an appropriate intervention logic addressing the specific features and objectives of this Sectoral Fitness Check. A preliminary conceptual framework is shown below.

AREA	ACTS	PROCESS	OUTPUT	OUTCOME	IMPACTS	Construction competitiveness and sustainability
Internal Market	<ul style="list-style-type: none"> • Accreditation and Market Surveillance • Mutual recognition • CPR • Machinery • Professional Qualifications • Services directive • Etc. 	<ul style="list-style-type: none"> • Technical harmonisation and assessment • Principles and rules for national administrative procedures + guidance • Etc. 	<ul style="list-style-type: none"> • Harmonised rules on product declaration and CE marking • Mutual recognition • Etc. 	<ul style="list-style-type: none"> • Lower barriers to free circulation • Lower regulatory burden on enterprises 	<ul style="list-style-type: none"> • Increased competition in the construction market and adjacent markets 	

¹ See C.1. for more details on the legal texts covered.

Energy efficiency	<ul style="list-style-type: none"> • Energy Performance of Buildings • Energy Efficiency • Ecodesign and energy labelling • Etc 	<ul style="list-style-type: none"> • National plans and implementation measures • Energy certification • Inspection and control • Etc. 	<ul style="list-style-type: none"> • Minimum requirements • Common methodologies • Etc. 	<ul style="list-style-type: none"> • Improvement of the energy performance of buildings, systems, equipment and products 	<ul style="list-style-type: none"> • Job creation • New specialisations • Energy security • Climate change • Social cohesion (reducing fuel poverty)
Environment protection	<ul style="list-style-type: none"> • Eco-label • EMAS • Waste framework • Environmental Impact Assessment • Industrial emissions • Etc. 	<ul style="list-style-type: none"> • Criteria for relevant product groups • Common EU registers • Sectoral reference documents • Etc 	<ul style="list-style-type: none"> • Licenses for eco-labels and EMAS registrations • Increased recycling facilities for CDW • Increased use of Best Available Technologies • Etc 	<ul style="list-style-type: none"> • Creating a market for products with reduced environmental impact • Increased availability of reference information on environmental performance 	<ul style="list-style-type: none"> • Improved environmental performance of organisations • Increased resource efficiency • Reduced environmental impact of products
Health and Safety	<ul style="list-style-type: none"> • Product safety and liability • Temporary or mobile construction sites • Etc. 	<ul style="list-style-type: none"> • National implementing measures (risk assessment, information, training, preventive & protective services, health surveillance, etc.) • Etc. 	<ul style="list-style-type: none"> • Better knowledge of risks • Better planning of measures • More informed decision making 	<ul style="list-style-type: none"> • Risks avoided and/or minimised • Reduced exposure 	<ul style="list-style-type: none"> • Reduced incidence of occupational accidents, work-related diseases and health problems • Well-being of employees and building occupants • Saved health care costs



C. Scope of the evaluation/FC

(C.1) Topics covered

The purpose of this Sectoral Fitness Check is to assess the impact (both positive and negative) on the competitiveness and sustainability of the construction sector of the most relevant EU legislative texts (and related national transposition or implementation measures) corresponding to the following areas of EU legislation: Internal Market², energy efficiency³, environment⁴, health and safety⁵. The list of individual legal

² Internal Market legislation means here horizontal and sectorial legislation governing the single market of goods and services, public procurement, posting of workers, recognition of professional qualifications, etc.

³ Energy efficiency legislation is this related to energy efficiency in products, equipment and buildings.

⁴ Environmental legislation meant here is this related to air, water, habitats, waste, emissions, noise, chemicals or eco-label.

⁵ For example, EU legislation concerning product liability and safety, safety and health of workers, etc.

texts to be assessed was defined in the course of the Sectoral Fitness Check and is available on the following website: http://ec.europa.eu/growth/sectors/construction/index_en.htm).

This assessment will be conducted in parallel to other reviews on specific legal acts, such as the Construction Products Regulation (EU) No 305/2011) or the Energy Performance of Buildings Directive (2010/31/EU) among others. While these reviews are looking at the application of the current legal framework, the Sectoral Fitness Check will analyse the costs and benefits of the selected legal acts for the construction sector as well as the interactions between the group of legal acts assessed keeping in mind that the assessed legislation does not primarily target the construction sector. The Sectoral Fitness Check will contribute to those assessments and in turn, will also feed those exercises.

Concerning the identification of a representative type of industrial activity pertinent in relation to all four legislative areas, the Sectoral Fitness Check will look at enterprises active in construction and renovation of residential, non-residential and public buildings.

For the purposes of the Sectoral Fitness Check, a broad definition of the construction sector should be used, including construction contractors (NACE Rev 2, codes 41 and 43), the professional services (NACE Rev 2, code M71), construction products and equipment manufacturers (NACE Rev. 2, sections B and C) and the real estate sector (NACE Rev. 2 code L).

The Sectoral Fitness Check should pay specific attention to the impact on SMEs, as they represent more than 90% of the enterprises of the sector.

From the geographical point of view, the Sectoral Fitness Check should cover the EU-28.

In terms of temporary scope, the assessment will cover the period 2004-2014.

(C.2) Issues to be examined

The main questions to be addressed by the Sectoral Fitness Check are as follows:

1. Concerning efficiency: what are the cumulative costs and benefits associated with the implementation and transposition of identified EU legislation for the construction sector, in particular for its SMEs? Are the benefits achieved at costs that are affordable for the sector, or is there evidence that the legislative requirements have caused unnecessary regulatory burden for the construction sector? How do the cumulative costs and benefits differ across the EU? What factors influence the costs and benefits, in particular with regard to national transposition? How are the various aspects related to inefficiencies and unnecessary burden addressed by Member States and the affected industry sector in terms of cooperation and coordination?
2. Concerning coherence: to what extent do all the analysed pieces of EU legislation work together sufficiently well and provide the construction sector with a clear and predictable regulatory framework? Are there any inconsistencies, overlaps (e.g. in terms of scope and definitions) or gaps that can be identified across the identified EU legal acts? If yes, which are the inconsistencies, overlaps or gaps? To what extent can the inconsistencies and overlaps be attributed to provisions in the existing EU legislative framework or to implementation and/or transposition at national (including regional and local) level and/or to existing national legislative frameworks? To what extent are these gaps addressed by other EU legal acts or a recent revision of the analysed pieces of EU legislation? To what extent do 'shortcomings' in EU legislation, or in its implementation/transposition at a national level, impact on the performance of the construction sector?
3. Concerning effectiveness: to what extent has the identified EU legislation contributed to achieving the objectives of a competitive and sustainable construction sector? What are the unintended positive or negative consequences and collateral effects of the EU legislation in question? What are the obstacles that still stand in the way of achieving the objectives of a competitive and sustainable construction sector?
4. Concerning relevance: to what extent are the different EU acts identified relevant to the needs and challenges identified for a competitive and sustainable construction sector?
5. Concerning EU added value: What is the added value of the different acts identified for the construction sector, especially for SMEs? What would happen to the construction sector if that legislation or some of its specific provisions were to be removed? Do the needs and challenges addressed by the legislative acts continue to require action at EU level?

All the questions refer to impacts on the construction sector. However, it has to be borne in mind that the legal acts assessed were not necessarily designed only for the construction sector. Although it is beyond the scope of this exercise to perform a full evaluation of those acts, some qualitative data of their impacts outside the construction sector will be considered in order to provide the appropriate context for the current Fitness Check.

(C.3) Other tasks

Two support studies, a public consultation and a workshop are planned as part of the Sectoral Fitness Check.

The outcomes of the Sectoral Fitness Check will be presented in the form of a Commission Staff Working Document.

D. Evidence base

(D.1) Evidence from monitoring

Regarding cross-border services, 'performance checks' that were made in 2011-2012, assessed the cross-impact of various EU legal acts affecting construction enterprises and identified certain misapplication of EU legislation and needs for clarification (SWD(2012) 147 final).

Concerning other legal texts assessed under the Sectoral Fitness Check, the assessment of the relevance of any existing monitoring data will be done in the course of the Sectoral Fitness Check, because monitoring evidence typically measures the achievements of the objectives of each legislative act, not the impacts on the construction sector (see section C.1.).

(D.2) Previous evaluations and other reports

The following data will be considered: impact assessments, reports and evaluations of the relevant pieces of EU legislation finally chosen; relevant EU and national studies; industry reports.

(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)

The assessment of the existence and implications of such data relevant for the Sectoral Fitness Check will be undertaken in the course of the current Fitness Check.

(D.4) Consultation

The main stakeholders to be addressed are:

Member States and construction industry (individual firms and associations).

Consultation activities will include the following:

- A "Mirror Group" will ensure regular involvement and consultation of interested parties during the progress of the Sectoral Fitness Check, including among others Member States, industry and social partners.

- Other targeted (online questionnaire and interviews) stakeholder consultations will be organised in the context of the external studies.

- A 12-weeks open online public consultation will be launched in Spring 2016 (it will be published on the 'Your Voice in Europe' website).

- Furthermore, the findings of the draft final study reports will be discussed (tentatively in end May-beginning June 2016) at a validation workshop with relevant stakeholders, including sector associations, representatives of governments, NGOs and other organisations.

(D.5) Further evidence to be gathered

Primary data collected on the ground from industry and stakeholders and statistics reports (Eurostat, etc.) will need to be gathered as part of the support studies.

E. Other relevant information/ remarks

N.A.