This Report has been elaborated to express a common view of EOTA Members on the Regulation (EU) No 305/2011, as well as to report Organisation’s activities and opinions to the EC, in order to fulfil the requirements established in Art 67 (2) of the CPR:

“By 25 April 2016, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation, including on Articles 19, 20, 21, 23, 24 and 37 on the basis of reports provided by Member States, as well as by other relevant stakeholders, accompanied, where relevant, by appropriate proposals”

The Report has been developed by the EOTA Executive Board on a basis of Organisation’s internal survey which took place in March and April 2014. It provides factual information and/or EOTA position on the content, implementation or application of specific articles of the CPR.

Main assumptions of the Report have been approved by the members of EOTA General Assembly held on 18th of June 2014.
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Introduction


The European Organisation for Technical Assessment (EOTA) established by the Technical Assessment Bodies (TABs) designated by the respective Member States is therefore responsible (among other essential activities) for the development and adoption of European Assessment Documents that are considered as harmonised technical specifications for innovative construction products, and coordination of the related actions of TABs involved. In order to contribute to the Commission report on implementation of the regulation (EU) No 305/2011, the Organisation carried out a complex analysis of the selected specific articles relevant for EOTA, starting from general assessment of the scope, ending with the Annexes to the regulation, as regards understanding, possible interpretation, application and developments, factual and statistical information, transition conditions and related costs, or proposal for future discussion or amendment.

The content of this EOTA Report shows the following areas that shall preferably be considered as the priorities for effective assessment of functioning of the Organisation and efficiency of the new CE marking process for innovative construction products. These are:

- European Assessment Document as European harmonised technical specification to be used as the performance assessment tool, including the impact of the selection of the essential characteristics to be contained in the document, according to the relevant choice of the manufacturer (and agreement between manufacturer and EOTA);
- The development process of European Assessment Document with procedural issues, including arrangements on the timelines and the 3rd party involvement;
- European Technical Assessment (not a harmonised specification) as documented assessment of performance of innovative construction product in relation to the essential characteristics and the consequences for the respective content of the Declaration of Performance and CE marking.
- Transfer from pre-standardisation area (EOTA) to standardisation route (CEN) together with the need for involvement of stakeholders, evaluation of the technical knowledge and required protection of the rights of manufacturers to use European Technical Assessment for a certain period of time;
- EOTA financing model, including proposed solution for estimation of the required level of EU support and expected contribution from the EU Member States.

Finally, by providing this report to the European Commission, the European Organisation for Technical Assessment would like to confirm the willingness to contribute to the future discussion and decision making process on the development and amendment of the Construction Products Regulation, in order to improve the effectiveness and competitiveness of the European market for innovative construction products and their manufacturers.
1. Scope of the CPR (Art 1)

The Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (so called Construction Products Regulation – CPR) introduces a concept of the CE-mark indicating only “conformity with the declared performance” and no longer “conformity with the harmonised technical specification”, as it is used to be under 89/106/EEC Directive (CPD). As the European Regulation it is also directly applicable in all Member States (MS) with no possibility of interpretation.

This approach has, amongst others, the following two consequences:

- The significance of the European technical specifications has been changed, as now they provide only common performance assessment tools and procedures, and not constitute a definition of a given product. Under CPR regime, the product is defined by the manufacturer in the Declaration of Performance with reference to the intended use(s), and harmonised technical specifications do not deal with application or use instructions any more.
- The national provisions of the Member States become more important, as they define requirements that influence the levels of performance of the essential product characteristics that shall be declared by the manufacturers.

From a technical point of view, the uniform focus on only allowing manufacturers to declare values for the characteristics, without relating these values to the technical threshold values relevant for the fitness for the specific application of the product, gives the CPR less technical value in comparison to the CPD. Especially for innovative products not covered by a harmonized standard, the lack of an assessment of the fitness for the specific application with regard to the type of construction works, its location, geometry, climatic actions on the given site, may be in some cases considered as a technical and commercial lacking of the CPR. As for those products proper description of application/use conditions is extremely important, it might be necessary for manufacturers to complement the Declaration of Performance (DoP) and the CE marking with additional application documents. Nevertheless, in most of the basic cases this approach may be perceived as a less demanding one for manufacturers, i.e. leaving aspects related to the application of a product in the field of national practices, outside of the scope of the Regulation (EU) No 305/2011.

In this context it has to be also taken into account that the Construction Products Regulation itself requires the manufacturer to provide together with the Declaration of Performance the instructions and information on safe use of the products.

As the CPR is focused on the role of manufacturers providing Declaration of Performance of construction products, it could be discussed, if the change from CPD to CPR brought any significant improvement to the situation of the other stakeholders e.g. designers, contractors, insurance companies, users (installers) of construction products, users of construction works and authorities from MSs in this aspect.

Furthermore, according to some EOTA Members, the transitional phase from the CPD to the CPR (2011 until 2013 and until today) requires additional awareness raising on the changes. The European Commission could consider to develop (or to support the development) guidelines for different stakeholders, taking into account their specific needs and possible experiences.

Another issue that has to be mentioned is the legislative quality that affects the effectiveness of the implementation of the Construction Products Regulation. Starting from the publication of the regulation (EU) 305/2011, different stakeholders requested many additional clarifications on the meaning and application of the articles or definitions. Whether solved finally by the EC or not, those problems indicate, that the regulation could be improved in the future in this aspect as well. It is worth also mentioning that soon after 1st of July 2013, the European Commission started the works on amendment of vital parts of the CPR which are Annex III and Annex V respectively. As the final outcome if this initiative was
expected after the end of May 2014, it could be also perceived as another change of operating conditions for manufacturers and for other stakeholders that may have negative financial implications.

2. Definitions (Art 2)

The definitions given in Art 2 determine a framework for common understanding of the legislative act and its implementation. Taking this into account, EOTA Members would like to request for further explanations of following definitions crucial for proper application of the Construction Products Regulation by the manufacturers, distributors, importers, national authorities, Notified Bodies, Technical Assessment Bodies or the other stakeholders:

- “Essential characteristics” – which are defined as characteristics of the construction product which relate to the basic requirements for construction works. Taking into account the role of this definition in a process of development of an EAD (list of essential characteristics agreed between manufacturer and EOTA according to the Art 24), it shall be clarified by the EC, if mentioned basic requirements cover only regulatory provisions, or they may be based on the voluntary choice of a manufacturer made in the case of products not covered by hEN.

- “Non series production process” - explanation of this definition (not included in Art 2) seems to be extremely important in the context of proper application of the Art 5 a) of the Construction Products Regulation, as regards derogations from the obligation to issue the Declaration of Performance (Art 4(1)).

- “construction works” – the definition shall refer to the results of the former discussions as conducted under regime of CPD. Clarification of the definition may be extremely important for the European industry – especially when considering the obligatory conditions of CE marking and DoP (for reference see the discussion on EN 1090-1 during 7th SCC-CPR meeting).

As mentioned explanations may be an issue of public interest, EOTA suggests including them as soon as possible in FAQ section of EC website.

3. BWRs (Art 3)

3.1. Essential characteristics for which performance shall be declared and threshold levels to be determined by EC delegated acts (Art 3(3) CPR)

As regards the EC procedures that are foreseen to be applied in this area, EOTA Members expressed the need for an initiative to propose an establishment of the time frames for development of the delegated acts on “obligatory” essential characteristics or performance threshold levels. The process shall be transparent and predictable for every stakeholder as a part determining a business environment. It should, in principle, cause as short delays as possible for manufacturers willing to put innovative products legally on the market.

A procedure of estimation of threshold levels and “obligatory” performances shall be fully transparent. This is regarding both the choice of experts, and the consultation process, that shall take into account at least the content of regulatory provisions applicable in the Member States. EC could consider returning to the concept of permanent Expert Groups (as used within the CPD regime) or apply another structured approach that will be recognised by all the stakeholders.
3.2. EOTA activities concerning implementation of new BWRs

The European Organisation for Technical Assessment implements the new elements of basic requirements for construction works (BWR) by including necessary essential characteristics in the harmonised technical specifications under its responsibility and management (the EADs). Whereas the Construction Products Regulation introduced new elements of BWR No 3, 4 and 6, the Organisation recognised new BWR No 7 as the item which requires enlarged activity. This BWR, as it is given in the Annex I to the CPR

"Sustainable use of natural resources
The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable and in particular ensure the following:
(a) reuse or recyclability of the construction works, their materials and parts after demolition;
(b) durability of the construction works;
(c) use of environmentally compatible raw and secondary materials in the construction works.”

shall be duly translated into a determined set of essential characteristics that could be included in the clauses of European Assessment Documents. This item is therefore connected with the need of development, verification and application of the Environmental Products Declarations based on CEN and ISO standards as determined in Recital (57) of the Preamble.

Taking this into account, EOTA established already in 2012 an Ad hoc working group BWR 7 in order to collect information on existing national regulations and requirements to be considered under BWR 7, and to develop a consistent approach in EOTA with regard to BWR 7 for the implementation in the EAD development and ETAs, and to support a general concept for handling of this new issue in the ETA process. In 2014 the group has been organised as regular Project Team on EOTA Technical Board level (PT 12 - Sustainability).

EOTA would like to offer participation in the implementation plan on BWR 7 (for reference see SCC document CPR 06/10/1) of the European Commission and provide its experience gained during this activity.

Other horizontal working groups in EOTA – being established on Technical Board level - are available to be consulted with respect to the interpretation of BWRs:
- PT 9 – Dangerous substances related to BWR No 3 “Hygiene, health and the environment” lies under responsibility of Project Team 9 (PT 9 – Dangerous substances)
- PT 4 – Fire issues
- PT 10 – Seismic Actions
- PT 11 – Acoustical issues

All groups are open for further collaboration with CEN horizontal groups and other stakeholders.

4. Content of Declaration of Performance (Art 6)

4.1. Reference to the ETA in the DoP (Art 6(2) c)

The availability of the information on the product performance is certainly one of the main targets of the CPR. However, according to some EOTA Members it shall be taken into consideration, that in certain cases the user (installer) may need to have a direct access to the additional information on the conditions that have to be ensured to achieve the declared performance of innovative – non standardized construction products (for example: description of the assembled system(s) related to the assumptions
on installation/assembly of product(s) on site). Under revision of the CPR it may be also taken into consideration to address certain duties to the user (installer) of construction product, similar as it has been introduced by the recast of the lift directive (95/16/EC).

This information could be also important in the context of proper proceeding with a product and the information that should be attached by the manufacturer according to the Art 11(6) of the CPR.

This creates a potential need for future discussion between the European Commission and the other stakeholders on the availability of the information contained in the ETA, on the document itself (e.g. public availability, language issues) and new actors that may obliged to perform certain tasks.

5. Use of CE marking (Art 8)

5.1. Role of CE marking as the only marking attesting the conformity with declared performance for products covered by ETA (issued for them) (Art 8(3) CPR)

According to Art. 26(2), the ETA is covering only those characteristics that have been agreed upon between manufacturer and TAB. With respect to the content of the DoP, Art. 6(3) g) is referring to the ETA, while the CE marking is based on the content of the DoP (Art. 9(2)). I.e., in the DoP a complete list of all essential characteristics shall be presented (using NPD option, where applicable), while the ETA and the CE marking will cover only the agreed characteristics (no NPD option shall be used). Therefore, what EOTA wanted to avoid initially (voluntary markings for essential characteristics covered by the EAD at least as placeholder) shall not work – the other markings are currently being linked not to the DoP but to the ETA (Art. 8(3)).

In order to improve the consistency of the system for products not covered by the harmonised standards, EOTA would like to propose that future revision of the Construction Products Regulation will take into account that either Art. 8(3) should refer to the relevant DoP instead of ETA, or the ETA should include all essential characteristics (using NPD option, where applicable) as mentioned in the EAD.

6. Rules for CE marking (Art 9)

6.1. Content of the information following CE marking (Art 9(2) CPR)

The Construction Products Regulation brought some significant changes also to the content of data which is accompanying the CE mark for construction product. According to some Members of EOTA, it could be also discussed, if current practice of identification of a year when CE marking has been first affixed (“last two digits”) is appropriate in the context of the needs of manufacturers, national authorities, contractors, or end-users of a construction product. For example, this could be replaced in the future by the date of manufacture or the date when certain (physical) product was CE marked.

Some respondents to the EOTA questionnaire also indicated that information within the CE marking on the performance declared may be too extensive. As the same technical information is currently included in the Declaration of Performance – which is supplied with the individual product or batch of products, or the European Technical Assessment, it could be considered in the future to leave only the reference to those document in this context.

7. Product Contact Points for Construction (Art 10)
7.1. Service from PCPs (Art 10 (3 and 4) CPR)

Under a new regulatory framework of the CPR, the Product Contact Points for Construction are given a very special role and responsibility that is to provide information using transparent and easily understandable terms, on the provisions within its territory aimed at fulfilling basic requirements for construction works applicable for the intended use of construction product.

According to EOTA Members in mid-2014 it may be too early to evaluate service from PCPs, but most of the respondents indicated that in many cases manufacturers

- do not receive the necessary detailed information on all relevant national provisions or rules that could determine the required level of performance of construction product with regard to the intended use in relation to the construction works, as well as the information on national limitations, exclusions, rules of the thumb etc.
- do not receive information within the delay of 15 working days
- seek for support of a European PCP rather than being obliged to contact national PCPs of all 27 Member States
- or seek for support at a European PCP and national PCPs.

8. Obligations of manufacturers (Art 11)

8.1. Obligation to attach instructions and safety information (Art 11(6) CPR)

As the manufacturers are obliged to ensure that 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, according to some EOTA Members, in the future, ETA document could be potentially considered as an attachment to the DoP, serving as a source of information according to 11(6). Future discussion on the revision of the CPR may take into account amended role of the ETA document in this aspect (which is also concerning its availability, language issues etc.).

9. EAD development (Art 19)¹

9.1. Requests corresponding to Art 19(1) a)

[the product does not fall within the scope of any existing harmonized standard]

Most of the concerns that influence the level of interest of the manufacturers to apply for the CE marking for innovative construction products (EOTA route), refer to the preservation of the previously acquired rights.

It should be taken into consideration whether in case of products falling under the scope of Art 19(1) a), b) and c) the manufacturer shall be entitled to use his Declaration of Performance and CE mark the product based on the ETA for at least during 5 years, in order to recoup the investment made (on condition that the product type was not changed etc.). Such authorization may be important in the situation, when CEN modifies assessment methods included in hENs or when for certain product two parallel developments can be on-going (hEN and EAD). According to the current rules set in Art 17(5), as soon as the hEN is published (and detail unique type of product as described in ETA is fully covered by this hEN) in the Official Journal of the European Union, the manufacturer should move to it (use harmonised standard as a relevant specification for AVCP tasks, the DoP and CE marking) before the end of the hEN coexistence period.

¹ EOTA only collects information with regard to the different cases of Art. 19 since mid of July 2014
This may be a kind of an uncertainty that affects negatively the competitiveness of innovative products and their manufacturers (very often SMEs).

9.2. Requests corresponding to Art 19(1) b)

[for at least one essential characteristic of that product, the assessment method provided for in the harmonized standard is not appropriate]

EOTA comment: See above

9.3. Requests corresponding to Art 19(1) c)

[the harmonized standard does not provide for any assessment method in relation to at least one essential characteristic of that product]

EOTA comment: See above

9.4. Conformity of EAD development procedure with Art 21 and Annex II (Art 19(2) CPR)

Principles of Art 21 and Annex II are implemented by the EOTA Consistency System Manual (EOTA CSM), which forms part of the EOTA Internal Regulations.

EOTA CSM consists of a set of guidance documents (GDs) and templates (Ts), notably specifying the EAD development procedure, time limits for procedural steps, tasks of RTAB, TAB and EOTA, relevant third party actions, recommendations for key elements of contracts with the manufacturer, and guidance for a harmonized approach with regard to the technical assessments and specific aspects.

9.5. Amendment of Annex II and supplementary rules from EC (Art 19 (3) CPR)

See comments on Annex II

9.6. Transfer of EAD into hEN (Art 19 (4) CPR)

According to Recital (18) of the Preamble and Art 19(4) of the CPR, technical knowledge included in the European Assessment Documents may serve, after consultation with the Standing Committee on Construction, as a basis for new European Commission standardization mandates. The transfer from pre-standardization area provided for innovative construction products to standardization (CEN) route should be conditioned by the achievement of the proper technical experience by the industry and assessment bodies. The process shall consider rights and obligations of all parties. In the light of the Construction Products Regulation, Construct 01/509 document developed under 89/106/EEC Directive shall not be treated as a proper reference – new conditions or procedures have to be established.

Taking into account the need for transparency for manufacturers and the other actors concerned it would be justified to establish a framework for an early cooperation between EC, CEN, EOTA and other stakeholders. After pre-consultation EC would be able to elaborate a draft mandate for SCC consultation.

It could be discussed, if proposal for a transfer from EOTA to CEN shall be elaborated by Advisory Panel consisting of all important parties. As such activity will be resource consuming, EC could consider providing financial support for the group.
Other issues to be taken into account in this aspect:

- What will be the product area concerned by the standardization works (transfer of whole EADs or some product groups only)? Will revision of concerned EADs be required to exclude those product groups – which will be resource consuming for EOTA?
- What could be the justification of the process to be started (how to measure or evaluate the level of technical knowledge – for example: by the number of the ETAss issued or by the existence of harmonized assessment methods)?
- The transfer of an EAD to an hEN shall not lead to a downgraded DoP and CE marking, especially if there are assessment aspects which cannot be systematized (have to be dealt with case by case) or relevant information which can be misplaced during standardization process (e.g. relevant design or application conditions). Taking into account this aspect, in many cases standardization route may not be effective for product kits.
- Possible timeframes (including protection of rights of the manufacturers legally obtaining ETAs and ongoing EOTA works and establishment of transitional periods). See also comment on Art 19(1).

Taking this into account, an official SCC-CPR document could be elaborated by EC, CEN and EOTA to establish a procedure implementing Art 19(4), including determination of the role and position of Advisory Panel.

10. **Information on implementation of the principles for the development and adoption of European Assessment Documents (Art 20 (1) CPR)**

Principles of Art 20, notably with regard to Art 20 (1) a, b, c, and f, are implemented by EOTA in a Management system manual, Consistency System manual (EOTA CSM) and a Code of ethics, all being part of the EOTA Internal Regulations.

In order to ensure an effective co-ordination of Technical Assessment Bodies (TAB) drafting and issuing European Technical Assessments (ETA), consistency of all European Technical Assessments (ETA) issued, the EOTA CSM provides for rules and practical information for implementation of procedures within the ETA process and the EAD development procedure (EOTA DP).

The EOTA CSM consists in particular of the following Guidance Documents and Templates focusing on the ETA process

- GD 01 – Step-by-Step procedure
- GD 03 – Key elements for a service agreement
- GD 04 – Guidance on EOTA Consultations for EAD/WP
- GD05old – Guidance on work program
- GD 06 + T06 – EAD format for drafting
- GD 07 – Guidance on how to write an ETA
- GD 08 – EOTA Glossary
- GD 09 – ETA based on ETAG used as EAD and EAD and Annexes
  - GD 09a – Annex_Presentation_EOTA Workshop January 2014
  - GD 09b – Annex_Implementation of Art 66 (3)_Use of ETAGs as EADs_ECrev2
- GD 10 – Guidance on Handling of ETAs
  - T00 – CHD
  - T01 – Templates_ETA process_E-mails and letters_May 2014
Furthermore, an effective exchange of experiences and of examples of best practice is established through the following measures:

- Focus subjects for the EOTA Technical Board: Determined subjects being prepared in advance in ad hoc groups and discussed in the TB
- TB workshops focussing on exchange of best practises
- Elaboration of Guidance documents for the horizontal issues relevant for the EAD development (Fire, sustainability, hazardous substances, durability, FCP)

Transparency of the process is ensured by supporting basic measures like information on the ETA route and publication of “Latest news” on the EOTA website www.eota.eu. With increased human resources in the Brussels based EOTA Secretariat information tools could be further developed.

According to EOTA regulations, TABs involved in the process are obliged to protect commercial secrecy and confidentiality. Efficiency of the procedure ensures appropriate cost-effectiveness for the manufacturer.

11. Financing of EAD development (Art 20 (2) CPR)

11.1. EOTA business model (costs of EAD development)

According to the Statutes, EOTA is a non-profit making Organisation which – using the scientific and technological expertise of its members – has the duty of developing and adopting EADs, and of supporting and co-ordinating its members with regard to the preparation and granting of ETAs. According the Art 20(2) EAD documents are elaborated by the TABs and EOTA collectively, with no cost for the manufacturer. As the efficiency this process depends, among others, on the proper financing received from the European Union, clear and predictable rules for the granting shall be established – see comment on Art 32

11.2. EOTA financing system (membership fee)

According to EOTA Statutes, the members pay a yearly member fee agreed in advance by the General Assembly. The same applies to observers to the General Assembly, except the EC and the Standing Committee of the EFTA States. The EOTA member fee consists of three parts:

1) a fixed fee per member,
2) a fee which is proportional to the country weighting factor according to clause 14 of Internal Regulations, and
3) a dynamic fee related to the number of ETAs issued by the respective body in the previous year.

The observer fee according to Article 19 of the Statutes is equal to the fixed fee per member.
New and resource-consuming tasks for the European Organisation for Technical Assessment together with the uncertainty in the area of EU financing, raised member fees to be paid in 2013 and 2014 to a level that is hardly acceptable for part of the members that don’t receive any financial contribution for EOTA - related activity from their national authorities. In order to support these European research institutes in their mission to serve the manufacturers of innovative construction products the European Commission could consider recommending to the Member States to cover at least a country fee that is a part of the EOTA member fee.

Furthermore no funds have been provisioned for the handling of tasks to ensure the establishment of best practices (incl. innovative technical assessments, translations, etc.) the promotion of greater efficiency and to provide better service to the industry.

Further comment – see Art 32

12. ETA requests (Art 21 CPR)²

12.1. Requests corresponding to Art 21(1) a)

[product is fully covered by a harmonized standard, the TAB shall inform the manufacturer that, in accordance with Article 19(1), a European Technical Assessment cannot be issued]

Technical Assessment Bodies reported only a few cases when Art 21(1) a) has been applied. Generally, respondents declared, that the issue is usually clarified with the manufacturer during the preliminary contacts at the initial stage of the process.

12.2. Requests corresponding to Art 21(1) b)

[where the product is fully covered by a European Assessment Document, the TAB shall inform the manufacturer that such a document will be used as the basis for the European Technical Assessment to be issued]

In order to improve the public understanding of ETA process, EOTA Members would like to ask for official confirmation from the European Commission, that Art 21(1) b) is fully applicable in case of ETAGs used as EADs, according to Art 66(3). The answer could be published on EC FAQ website.

12.3. Requests corresponding to Art 21(1)c)

[where the product is not covered, or not fully covered, by any harmonized technical specification, the TAB shall apply the procedures set out in Annex II or those established in accordance with Article 19(3)]

Analogically, as for Art 19(1), it should be taken into consideration whether in case of products covered by the European Technical Assessment issued for them, the manufacturer shall be entitled to be able to use his Declaration of Performance and CE mark the product based on the ETA for at least during 5 years, to recoup the investment made. Such authorization may be important in the situation, when CEN modifies assessment methods in hENs or when for certain product two parallel developments can be ongoing (hEN and EAD). According to the current rules set in Art 17(5), as soon as the hEN is published in the Official Journal of the European Union (and detail unique type of product as described in ETA is fully covered by this hEN), the manufacturer should move to it (use harmonised standard as a specification for AVCP tasks, the DoP and CE marking) before the end of the hEN coexistence period. This may be a kind of an uncertainty that affect negatively the competitiveness of innovative products and their manufacturers (very often SMEs).

² Statistics are given at the end of the report
12.4. Information to EOTA and EC on the of the request and the relevance to AVCP systems (Art 21(2) CPR)

According to the original wording of the Article 21(2), Technical Assessment Body receiving a request for a European Technical Assessment shall inform EOTA and the EC of the content of the request and of the reference to a relevant Commission decision for AVCP, which the TAB intends to apply for that product, or of the lack of such an EC decision. This approach may create inconsistency and influence negatively functioning of the process.

In order to improve the efficiency of the procedure EOTA has internally agreed the transfer of TAB’s obligation to EOTA Secretariat in order to provide for a uniform handling. This practice had been accepted by the EC. Nevertheless, as it is written now in the CPR, this practice could be interpreted as deviation from Art 21 (2) CPR).

It could be also discussed in the future, if an obligation to inform the EC about every single request is fully justified. Amended CPR could require such information only in the case of opening of new product areas or when AVCP decision is lacking.

When the AVCP system is missing, a proposal should be introduced at the beginning of the process (when reporting to the EC on the ETA request). An answer should be provided by the EC in reasonable time so that delays in the process are avoided. For the same reason, the need of a delegate act preparation must be avoided at the end of the process, when the 15 working days EC consultation takes place. Therefore, a consistent procedure for dealing with such situations (delegated act necessary) was agreed during 2nd Technical Board meeting under CPR in January 2014 and the practicalities agreed during a bilateral meeting with the EC on 12th June 2014 and a 15 working days consultation period in the SCC was confirmed in SCC 07.

The practicalities of this procedure are due to be evaluated.

12.5. Reaction of EC Services on missing AVCP decision (Art 21(3) CPR)

According to Art 21(3), when the Commission considers that an appropriate decision for assessment and verification of constancy of performance does not exist for the construction product, Article 28 shall be applied. However, according to the CPR, the EC is not supposed to react within a certain time frame in case of being informed by TAB that an appropriate AVCP decision is missing. This may be a potential delay that could affect an execution of a smart process and therefore cause the additional obstacles to the manufacturer concerned.

EOTA proposes to consider a 2 weeks period for the EC reaction in order not to delay the service to manufacturers within the ETA process and continuation of determination of the Work Programme. Such proposal has been already included in the EOTA Report to the 6th SCC (Document numbered by EOTA office as SCC 06/19/01, cl. C) 2b)). The document has not been formally recognized by the EC services as SCC-CPR document and it is not available on CIRCABC. The European Organisation for Technical Assessment expects the European Commission to publicly answer to mentioned proposal and to further clarify the interaction between EOTA and the EC in the ETA process.

13. Publication of references to EADs (Art 22 CPR)

First experience showed a need for the clarification of the different procedural steps at the level of interaction between EOTA and the EC and evaluation in practice in order to allow for a smart and timely ETA process.
14. Disagreement between TABs (Art 23 CPR)

14.1. Internal procedures on dispute resolution

EOTA Internal Regulations (IR) in Clause 16 provides an internal, multilevel procedure to resolve the differences of opinions that may arise among the members about the interpretation of EOTA documents (Statutes, Internal Regulations, EADs etc.). Difficulties arising in relation to the Regulation (EU) No 305/2011 which cannot be resolved by the EOTA internally will be brought before the EC.

In order to improve the effectiveness of the Organisation which provides services to the manufacturers of innovative construction products, EOTA Members propose to make an agreement between EOTA and EC on a certain time limits for the EC reaction in the case of application of the Art 23.

15. Content of EAD (Art 24 CPR)

Article 24 of the Construction Products Regulation has been implemented by EOTA in the framework of the Guidance Document 06. GD 06 document gives an overview on the structure and the general content of European Assessment Documents, including AVCP principles and reference to methods mentioned in Art 24 (3) CPR

According to the latest edition of GD 06 an EAD contains following clauses:

1. Scope of the EAD
   1.1 Description of the construction product
   1.2 Information on the intended use(s) of the construction product
   1.3 Specific terms used in this EAD

2. Essential characteristics and relevant assessment methods and criteria
   2.1 Essential characteristics of the product
   2.2 Methods and criteria for assessing the performance of the product in relation to essential characteristics of the product
   2.3 Criteria for the determination of the product-type(s)

3. Assessment and verification of constancy of performance
   3.1 System(s) of assessment and verification of constancy performance to be applied
   3.2 Tasks of the manufacturer
   3.3 Tasks of the notified body
   3.4 Special methods of control and testing used for the assessment and verification of constancy of performance (if relevant)

4. Reference documents

Annex X Identification of the construction product

Current EAD format reflect the outcomes of the (still on-going) discussion between EOTA Management, members of EOTA, the European Commission and the other stakeholders. However, as the EAD development procedures have to evolve in order to improve the service provided to the manufacturers of innovative product, the GD 06 document would be updated as well.

One of the most required changes to the content of EAD, according to members of EOTA, is that the principles for the applicable factory production control (Art 24 (2) CPR) to be applied during the ETA elaboration could be also set out in the document. The implementation of these principles and the inspection of the FPC should be carried out before issuing of the ETA, in order to avoid problems raised during this implementation affecting the performances that may require a revision of the issued ETA.
16. **Objections against EADs (Art 25 CPR)**

16.1. **Commission interferences in the context of EAD’s citation (Art 25 (2 and 3) CPR)**

The Construction Products Regulation has changed significantly the meaning and purpose of the harmonised technical specifications. This concerns especially the new category of harmonised specification which is the European Assessment Document that is replacing in the system the European Technical Approval Guidelines - ETAG (which did not play a role of harmonised specifications under the CPD). Taking into account the content of Art 24(1), the European Commission could clarify whether a Member State can introduce formal objection, when an essential characteristic, relevant for the intended use(s) in this Member State, is not mentioned at all in the EAD (the manufacturer is not interested either in the relevant essential characteristic or in this MS’s market). As the European Assessment Document is a harmonised technical specification that is cited in the Official Journal of the European Union it may be perceived by many stakeholders as relevant for all EU Member States. Even if under CPR regime EAD seems to be a document tailored to the specific needs of manufacturer it may be required in the future to provide additional information on where in EU it may be applied.

17. **ETA (Art 26 CPR)**

17.1. **General content of the ETA (Art 26 (2) CPR)**

The European Technical Assessment (ETA) includes the performances to be declared, by levels or classes, or in a description, of those essential characteristics that are agreed by the manufacturer and the TAB receiving the request for the ETA for the declared intended use, and technical details necessary for the implementation of the system of AVCP.

Considering future revision of the CPR, possibility of a new role for ETA could be taken into account. The use of the document now is clearly determined by the choice of essential characteristics relevant for the intended use(s) of the product concerned and the rights of certain MSs in accordance with Art 8(4).

It could be discussed, how such a concept contributes to the ideas of technical harmonization together with free movement of goods and what may be the influence of the existence and application of “local ETAs” (with a very narrow range of characteristics, according to the choice of manufacturer) on the vision and image of CE marking. In such situation it could be even considered in the future to indicate (for example on CE marking) the Member States or regions where certain ETA covered products may be used (or distributed).

As the ETA is concerning innovative construction product for applications of which the contractors (or building control bodies) may not have proper experience, it shall be treated as more than a snapshot of the technical performance of the product. It shall then include product definition, intended use, performances, AVCP, and specific conditions where relevant for the declared performances, after the assessment has been carried out. The need for information about these specific conditions should be set out in the EAD, but not detailed in this document. Such information could be considered to be included in the ETAs in the future.

Regarding the current general concept of ETA understood as an “assessment document” it might be noted that proper use of innovative products covered by ETAs in certain MS may be conditioned by...
additional use of national application documents referring to local technical regulations and national requirements. As it may be an additional barrier for the manufacturers, it shall be considered, whether the future ETA role could be changed in order to come back to the idea of “approval for application”. Such a change of the philosophy shall be duly discussed as it may potentially affect the competitiveness of the manufacturer of innovative product in this context. According to some opinions the issue of application shall be left in national area (outside of the scope of the CPR).

It should be also mentioned that when the current ETA provides only for a snapshot of a performance, it does not take into account future experience with the innovative product and the related assessment methods. While having relevant provisions in the EAD format or framework document, respectively, it should be considered if the ETA format in the future could reflect such a situation accordingly.

Analogically as for Art 19(1) and 21(1) c), it should be taken into consideration whether in case of products covered by the European Technical Assessment issued for them, the manufacturer shall be entitled to use his Declaration of Performance and CE mark the product based on the ETA for at least during 5 years to recoup the investment made. Such authorization may be important in the situation when CEN modifies assessment methods in hENs or when for certain product two parallel developments can be on-going (hEN and EAD). According to the current rules set in Art 17(5), as soon as the hEN is published in the Official Journal of the European Union (and detail unique type of product as described in ETA is fully covered by this hEN), the manufacturer should move to it (use harmonised standard as a specification for AVCP tasks, the DoP and CE marking) before the end of the hEN coexistence period. This may be a kind of an uncertainty that affects negatively the competitiveness of innovative products and their manufacturers (very often SMEs).

17.2. Format of the ETA

On the 31.10.2013 the Commission Implementing Regulation (EU) No 1062/2013 of 30 October 2013 on the format of the European Technical Assessment for construction products was published in the Official Journal of the European Union. Regulation 1062/2013 has been implemented by EOTA through development of the Guidance Document GD 07 “Guidance on How to write an ETA?” and a layout model of the ETA in order to provide for a European wide recognisable certificate.

According to the members of EOTA, the presentation of information in the ETA should be improved taking into account the elaboration of the DoP by the manufacturer. The form of the ETA shall clearly distinguish between the essential characteristics and their performance and the other information.

Current Annex III of the CPR does also foresee the indication of the authorized representative (point 5). As the Art. 12 (2) is defining at least the tasks given in 2(a, b, c), European Commission could also consider that in future the ETA format cl. 4 could be improved in this way as well.

18. Levels or classes of performance (Art 27 CPR)

18.1. Use of the levels or classes adopted by the EC (Art 27(2))


By the day of the reporting EOTA was involved in the following written consultations of the European Commission, involving notably experts nominated by Member States, concerning draft delegated acts:
on classifying without testing or without further testing the fire-related performance of following
construction products under Construction Products Regulation (EU) No 305/2011:
- uncoated wood floorings in accordance with EN14342,
- wood-based panels under EN13986 and solid wood panelling and cladding under
  EN14915,
- metal lath, beads and feature profiles to be used with gypsum products.

18.2. Use of classes established by standardization bodies in EADs (Art 27(4))

According to the Article 27(4), when relevant for certain product, EOTA uses in the European
Assessment Documents classes of performance established previously in a harmonised standard
(reference published already in OJEU) by the European standardisation bodies.

18.3. Establishment of classes or threshold levels by EOTA – with respect
to the regulatory needs of the MSs (Art 27(4 and 7))

The effective application of the Construction Product Regulation in the area of innovative construction
products depends on the possibility of direct use of the experience and technical achievements of the
Organisation gained under the framework of 89/106/EEC Directive. As regards the validity of the
performance classes and threshold levels given in the ETAGs established under CPD, according to the
arrangements between EC and EOTA, they may be considered as adopted due to the fact that all
ETAGs have been consulted with the Member States and so far no objection on them have been raised.

Regarding the Article 27(4), it contains a specific provision that enables EOTA to establish the threshold
levels or performance classes in harmonised technical specifications under its responsibility, namely
European Assessment Documents - in order to properly define certain components or elements, when
necessary:

“When deemed appropriate, the organisation of TABs may, with the agreement of the Commission and
after consulting the Standing Committee on Construction, establish in the European Assessment
Document classes of performance and threshold levels in relation to the essential characteristics of a
construction product within its intended use as foreseen by the manufacturer”

By the letter of 12.02.2014 addressed to EOTA, the EC requested to be informed early in the EAD
development procedure (EAD DP) about threshold levels and performance classes to be introduced in the
EADs. According to EOTA, when it is necessary to consult the SCC in each case, the timeframes of
Annex II can be possibly not met. In order to improve the effectiveness of the EAD development process,
the agreement with the EC and the Standing Committee on Construction could be considered on the
fast-track procedure and proper time limits. It could also be distinguished between technical threshold
levels (possible without consultation) and regulatory threshold levels in this case.

During the 7th meeting of the SCC-CPR held on 16th of June 2014 it has been clarified with EC that
threshold levels and performance classes will be communicated with the Work programme (WP) to the
EC by EOTA. For consultation of the SCC the EC considers a written consultation – timeframe for
comments within SCC is 15 working days.

At the time of this report, for one product being subject to an ETA request EOTA has proposed a
performance class to be introduced in an EAD, which is already provided in a prEN.

As regards classes and threshold levels used in ETAGs, Commission confirmed that all ETAGs have
been adopted on SCC level and therefore these classes and threshold are considered to continue to be
used.
19. Assessment and verification of constancy of performance (Art 28 CPR)

19.1. Establishment of AVCP systems by delegated acts (Art 28(2) CPR)

The availability of the relevant Assessment and Verification of Constancy of Performance system for a given product seems to be one of the crucial elements influencing the efficiency of EAD development process. In the case when the AVCP system is missing for a certain product, a proposal should be introduced at the beginning of the process (when reporting to the EC on the ETA request). An answer should be provided by the EC in reasonable time so that delays in the process are avoided. For the same reason, the need of a delegate act preparation must be avoided at the end of the process, when the 15 days EC consultation takes place. EOTA suggests that mandatory timeframes for the adoption of the delegated acts (within the EC) could be established by the SCC, as the lack predictability is seriously affecting the effectiveness of the service provided to the manufacturers. See also comment on Art 21(2).

On 7th of May 2014 European Commission started a consultation of a Delegated Act, developed in order to enable the application of relevant Commission Decisions developed under the regime of 89/106/EEC Directive also to the assessment and verification of constancy of performance for products covered by European Assessment Documents under Construction Products Regulation, for the products within the scope of the respective Commission Decisions. Before this Delegated Act becomes operational, EOTA will indicate specific systems for AVCP, basing on relevant Commission Decision, but will not include bibliographic reference to this Decision in the text of European Assessment Document directly.

At the time of this report, for one product being subject to an ETA request EOTA has proposed an AVCP, where no applicable AVCP decision is available and has ask the EC for considering a proper AVCP decision.

20. Designation of TABs (Art 29 CPR)

20.1. TABs designated by the MS acc. to Art 29(1)

Member States are designating Technical Assessment Bodies (TABs) within their territories. On the 1st of July 2014 – one year after the Construction Products Regulation entered into force – the picture of designations for the specific product areas, and notably those listed in Table 1 of the Annex IV of the Regulation (EU) No 305/2011 looks quite complete.
In nearly all Member States of the European Union TABs can be contacted for European Technical Assessments (ETA), except Bulgaria, Cyprus, Estonia, Greece, Latvia, Luxemburg and Romania. Whereas Romania and Greece are eager to appoint TABs, EOTA has not received any information from Bulgaria, Cyprus, Estonia, Latvia and Luxemburg.

Out of the EEA countries, Norway has appointed a TAB and in Switzerland the legislative designation procedure is going to be finalised by 2014. Turkey is equally eager to deal with ETAs and hence remains an EOTA member.

In 12 countries only one body is coordinating all the European Assessment activities. In 9 countries TABs were also designated with a specific knowledge in certain product areas, like ceramics, bridges, fire or wood. In the UK European Technical Assessments are not offered for sanitary appliances. Therefore, EOTA has more members than under CPD.

12 countries out of the 21 in the EEA and EU having already appointed TABs, recognized the need to offer services to manufacturers in all areas of construction products found, also for those not explicitly listed in the Annex IV. EOTA takes care that also for other product areas, views and information on such technical assessments are coordinated within a European context.

20.2. TABs in NANDO acc. to Art 29(2)

Although the designation of the Technical Assessment Bodies lies in the sole responsibility of the Member States, a gap appeared in the beginning of the CPR era with regard to the related information by electronic means on NANDO. EOTA members reported that the length of the process of notification of Technical Assessment Bodies (formally designated by the Member States) in NANDO, according to Art 29(2) of the CPR, caused significant delays as regards providing services to the manufacturers. As in a consequence those delays were seriously limiting the competitiveness of the manufacturers of innovative products in the beginning. Improvements have been made.
The discussions between the MS, EOTA and the EC on the applicability of ETAGs being developed under CPD also had a serious impact on the reliability of the ETA route in the beginning. The EC only agreed only in March 2014 on the applicability of ETAGs against the commitment by EOTA to develop the ETAGs within a certain time frame into EADs, beyond the ongoing ETA process as define in the CPR. All ETAGs used as EADs are made available on the NANDO website in June 2014. At the moment of this report, the European Commission (having frozen the NANDO database for the CPD entries) is updating the notifications of Notified Bodies (NBs) against ETAGs used as EAD. This delayed process has a serious impact on the functioning of the construction market in Europe.

20.3. Additional information on impact on EAD development (coverage of product groups)

European wide the picture of assessment bodies is balanced. The different interpretation of the term “notably” in Art. 29 (1) and the differences in the designation procedure in the MS resulted in a smaller number of designated bodies for other products than explicitly mentioned in Annex IV, and thus in a lack of coverage in half of the MS.

20.4. Evaluation of EC guidelines for carrying out the evaluation of TABs and designation procedure

Proper evaluation of the Technical Assessment Bodies designated by the respective Member States contributes to the overall quality of the European assessment system for innovative construction products. Having regard to this, the EC “advices” for carrying out the evaluation of TABs could be elaborated in a form of official EC Guidelines, in close cooperation with EOTA and MS. Available explanatory document (CPR 002-6-1) of a general nature, shall be clarified in the context of Annex IV Table 2, possibly revised and amended. The issue has been discussed during 6th SCC-CPR meeting (CPR 06/12/1) and SCC Members were invited to send comments by the end of February 2014. No final conclusion has been made available to EOTA.

During future discussion on the EC Guideline, it shall be also taken into consideration that some Member States use accreditation scheme for designation and evaluation of Technical Assessment Bodies and others not.

21. Requirements for TABs (Art 30 CPR)

21.1. Requirements for TABs (Art 30 (2, 3) CPR)

In order to maintain a proper quality of the service provided to the manufacturers of innovative construction products, EOTA member Institutes are obliged to fulfil the general requirements for TABs as included in Annex IV Table 2. It has to be underlined that, due to change of the EU legislation, for former European Approval Bodies designated under 89/106/EEC Directive, transformation into Technical Assessment Bodies was leading to the significant growth of administrative costs (usually covered individually by those institutions). TABs reported that this is mainly related to:

- Development of new procedures and consistency system;
- Changes to organisational structure;
- Cost of increased activity of TAB experts on EOTA level (travelling costs, working hours etc.);
- Cost of accreditation process;
- Financial loss (e.g. lost contracts) caused by the delays in national designation or notification in NANDO and pending clarification linked to CPR implementation in the EOTA field.
According to the limited initial information received from the EOTA Members, mentioned administrative costs could be estimated at the level of 10000 – 100000 EUR per institute.

21.2. **TABs being withdrawn (Art 30 (3) CPR)**

No TABs have been withdrawn by the date of reporting. Greece, which had designated the national standardisation body ELOT under CPD, intends to designate another body.

**22. Coordination of TABs (Art 31 CPR)**

**22.1. Establishment of EOTA (Art 31(1, 2, 3))**


According to the CPR, Organisation’s duties have to reflect new obligations resulting from the regulation. Taking this into account, amended Statutes were endorsed by the European Organisation for Technical Assessment General Assembly on 11 June 2013 and published in the Annexes to the Belgian Official Journal N 13121725 of 02 August 2013.

The whole cost of transition has been covered by the Organisation and participating TABs. It has been estimated at the level of more than 1 Mio EUR (including additional working hours, travel costs, lawyers, conferences, workshops, IT works…). As the implementation of the CPR is an ongoing process this cost will possibly increase.

**22.2. Coordination of TABs (Art 31 (4a) CPR)**

According to the Statutes of the Organisation, coordination of TABs is established and supported by the presence of the following organs of EOTA:
- the General Assembly,
- the Executive Board and
- the Technical Board

**22.3. EOTA General Assembly (EOTA GA)**

The General Assembly of EOTA consists of all members of EOTA. The General Assembly is empowered with full powers to take decisions in particular on the following subjects:
1. Adoption and modifications of the Statutes and of the Internal Regulations;
2. Acceptance, withdrawal and exclusion of members;
3. Acceptance and withdrawal of observers;
4. Election of the officers and members of the Executive Board except the Secretary General;
5. Discharge of the officers and members of the Executive Board;
6. Appointment of the Secretary General;
7. Appointment of an independent financial auditor;
8. Approval of contracts with other employees;
9. Adoption of the yearly budget;
10. Approval of the yearly accounts and of the report of the auditor;
11. Establishment of member fees and observer fees;
12. Approval of tenancy agreements;
13. Adoption of EADs for which no agreement can be achieved in the Technical Board;
14. Communication of observations concerning a member not fulfilling its tasks in accordance with the procedures set out in the CPR to the EC, the Standing Committee on Construction and the Member State which designated the TAB;
15. Dissolution and liquidation of the Organisation.

22.4. EOTA Executive Board (ExBo)

The Executive Board consists of the officers and at least three other representatives of TABs, appointed by the General Assembly upon proposal of the President. The Executive Board is in particular responsible for:

1. Negotiations with the EC and with the Standing Committee of EFTA;
2. Liaison with other European Organisations;
3. Proposals to the General Assembly on the Statutes and the Internal Regulations of EOTA and any changes of them as may become necessary;
4. Budgetary matters of EOTA, in particular proposals for the General Assembly on the annual budget, the annual fees of the members and observers, and the follow-up of the annual accounts of EOTA;
5. Proposals to the General Assembly on the appointment of the President, the Treasurer, the Chair of the Technical Board, the Secretary General and an independent financial auditor;
6. Proposals for the management of technical and administrative matters;
7. Proposals for strategic and other issues.

22.5. EOTA Technical Board (EOTA TB)

The Technical Board consists of a nominated representative from each TAB. The Technical Board is responsible for the management of all technical issues of EOTA, and in particular for the following issues:

1. The creation of EAD working groups;
2. The working procedures for EAD working groups;
3. The coordination of EAD working groups;
4. The adoption of EADs;
5. Any other technical issue related to EADs and ETAs.

Day to day coordination of TABs is under responsibility of EOTA Secretariat.

Information exchange is provided by the EOTA Intranet and publicly available EOTA website.

22.6. Personnel of EOTA, TABs (Art 31 (4, 5) CPR)

22.6.1. Factual information:

The Organisation has 8 officers, a President, a Treasurer, a Technical Board Chairman, the EOTA Secretary General and further officers nominated by TABs. The Secretary General is responsible for the functioning of the EOTA Secretariat.

23. Cooperation with other stakeholders (Art 31 (4a) CPR)

According to the Art 6 of the Statutes, EOTA is committed to work in close co-ordination with the EC, the Standing Committee on Construction and the Standing Committee of the EFTA States, European
Standardisation Organisations, European Manufacturing Associations, European Contractors’ Associations, European Technical Organisations and European Research Associations.

EOTA organizes regularly meetings of the Stakeholder Advisory Group. The agenda of these meetings shall cover topics of common interest, especially concerning the development of EADs, the relation of harmonized standards and EADs, the enhancement of the internal market and the facilitation of the use of construction products.

External information for stakeholders is provided by the EOTA website (www.eota.eu), notably under the heading “Latest news”.

23.1. EOTA Stakeholder Advisory Group (EOTA SAG)

Internal Regulations, 2013 - Clause 20 “Stakeholder Advisory Group”

“EOTA will co-operate with all European Organisations in the field of building and construction for whose members the work of EOTA is of relevance and whose involvement can in turn support the work of EOTA.

For this purpose EOTA shall organise regularly meetings of the Stakeholder Advisory Group (SAG). The agenda of these meetings shall cover topics of common interest, especially concerning the development of EADs, the relation of harmonised standards and EADs, the enhancement of the internal market and the facilitation of the use of construction products.

For European Organisations requesting a broader co-operation, the terms of this co-operation shall be decided by the EOTA General Assembly.”

The Stakeholder Advisory Group (SAG) is defined by the EOTA Executive Board and is chaired by the President of EOTA. The SAG will provide recommendations to the EOTA Executive Board in the following areas:

• Implementation of the CPR
• EAD and ETA process: Quality systems and procedures promoting greater efficiency and providing a better service to industry
• Feed-back on tasks fulfilled by TABs
• Communication
• International and stakeholder recognition
• Partnerships with other organizations
• Legal viability and Financial stability
• Other areas that the SAG deems important to the viability of the organization.

23.1.1. Structure:

The SAG is comprised of a representative of the key parties representing the interest of the construction sector and the EOTA Executive Board. The EOTA Executive Board will approve the members of the SAG. The SAG, at its discretion, can make recommendations to EOTA for adding members who it believes will broaden the perspective of the SAG.

23.1.2. Responsibilities:

The SAG meets on a yearly basis, and at any other time as needed. The EOTA President and the EOTA Executive Board provides EOTA with documented recommendations at EOTA’s General Assembly meeting. Each SAG member, at its discretion, can also provide EOTA Executive Board with
recommendations at any time it deems important to do so. Each recommendation shall include reasoning for the recommendation, plans for implementation incl. resource needs, and derived benefits for EOTA, its members and stakeholders.

23.2. Consultation of Stakeholders (Art 31 (4a) CPR)

EOTA supports the direct exchange of TABs and stakeholders in the construction sector. This has a positive impact on the effective development of EADs. Enhancing competence through regular exchange of best practices and information on new technical developments are only some of our priorities.

Furthermore, EOTA is willing to work in cooperation with concerned construction stakeholders aiming at defining strategic and policy goals for the ETA route.

This has been laid down in EOTA Statutes (Art 6.2) and Internal Regulations (Clause 20), 2013.

The following measures have been taken:

- For the support of the development of EADs according to the CPR, representatives from relevant organisations providing sound expertise on technical matters of European Standardisation Organisations, European Manufacturing Associations, European Contractors’ Associations, European Technical Organisations and European Research Associations may be invited to the public part of all related meetings of the EOTA Technical Board (EOTA TB) in the capacity of observers (Art 6 of EOTA Statutes). These meetings take place 3 to 4 times a year, mostly in Brussels. Nominated representatives are included in all relevant TB consultations with regard to the EAD development.
- With regard to the development of ETAG used as EAD into EAD according to the agreement with the European Commission in spring 2014, participation of industry is welcomed in the new ETAG WGs depending on the needs for the concerned EAD. Applications of European organisations are decided individually in the TB.
- A Stakeholder Advisory Group (EOTA SAG), meeting once a year in Brussels, has been established aiming at discussing topics of common interest, especially concerning the development of EADs, the relation of harmonised standards and EADs, the enhancement of the internal market and the facilitation of the use of construction products.

24. Exchange of best practices (Art 31 (4b) CPR)

Exchange of best practices is one of the key elements in order to enhance knowledge and competence of Technical Assessment Bodies. Exchange of best practices is implemented in EOTA through a two angle approach:

1. Exchange between TABs on relevant subjects related to the ETA process in so called TB workshops
2. Dissemination of best practices from TAB to TAB through so called TAB Inhouse seminars, organised per country.
3. Exchange between concerned industry and TABs with regard to specific subjects, i.e. ETA model, and on horizontal subjects like dangerous substances (EOTA PT 9), sustainability (EOTA PT 12) and fire (EOTA PT 4).
4. Exchange of EOTA and key stakeholders on higher partite events
For example, the following workshops/seminars etc took place in 2013/2014:

- 2013-10-10 TB WS – ETA process – Step-by-Step
- 2013-10-15 General Assembly seminar – ETA: a fact – EOTA and stakeholders
- 2014-01-30 TB WS Part 1 – ETA process under CPR – Art 21 (1)b of the CPR and ETAGs used as EAD
- 2014-04-03 TB WS Part 2 – Elaboration of an EAD – Art 21 (1)c in conjunction with Annex II of the CPR
- 2014-05-26 DIBt Inhouse seminar on the ETA process, Germany
- 2014-06-17/18. Presentations of EOTA and stakeholders in conjunction with Building Test Expo
- 2014-07-17 BBA Inhouse Seminar on the ETA process, for UK TABs, UK

25. **Coordination of EAD development procedure in EOTA (Art 31 (4c) CPR)**

Principles of EAD development process are implemented by EOTA Step-by-Step procedure “Draft EOTA Guidance Document 01 – ETA process: EAD Procedure (Step-by-Step)” (GD 01) and related documents: GD02, GD 03, GD 04, GD 05 and GD 06 and GD 06a and templates for a smart communication. Those documents have to be respected by all the Technical Assessment Bodies. They are part of the EOTA Internal Regulations, 2013.

25.1. **Development and adoption of EADs (Art 31 (4d) CPR)**

Development and adoption of EADs is the primary duty of European Organisation for Technical Assessment (Art 2 of the Statutes). Principles of the ETA process including the EAD development procedure (EAD DP) are implemented by EOTA Step-by-Step procedure “Draft EOTA Guidance Document 01 – ETA process: EAD Procedure (Step-by-Step)” (GD 01) and related documents, notably GD 04, 05, 06 and GD 06a. Those documents have to be respected by all the Technical Assessment Bodies. They are part of the EOTA Internal Regulations, 2013.

25.2. **Evaluation and Improvements for EAD development procedure (Art 31 (4e) CPR)**

Evaluation and improvement for EAD development procedure is carried out within EOTA by the AHG Step-by-Step, an ad hoc group established by the Executive Board and consisting of representatives of Technical Assessment Bodies and some members of the Executive Board, the TB Chairman and the EOTA Secretariat.

Implementation of the ETA process rules took place in 2013, a first evaluation started end of 2013 and led to revised Guidance Documents in June 2014. Regular evaluations are scheduled.

A model for an EAD has been agreed within EOTA in early 2013 and discussed with the European Commission throughout autumn 2013 and beginning of 2014. This led to additional amendments of already adopted EADs in EOTA.

25.3. **Fulfilment of Tasks by TABs (Art 31 (4f) CPR)**

Information on activity of Technical Assessment Bodies is collected and available at the Secretariat of European Organisation for Technical Assessment.
26. **Publication of EADs and ETAs (Art 31 (4g) CPR)**

Adopted EADs are available in full text for all TABs from the end of the observation period of the European Commission acc. to Annex II.7 of the CPR.

Bibliographic information of ETAs is ensured through two separate public databases on the public website of EOTA (www.eota.eu); One for ETApprovals issued under CPD, the other for ETAssessments issued under CPR. Both databases provide for downloading facilities of the ETAs. This tool is not used so far by EOTA.

EADs are published on the EOTA public website when the product is CE marked and EOTA has been respectively informed.

27. **Union financing (Art 32 CPR)**

27.1. **Ad hoc grants, FPA (Art 32 CPR)**

27.1.1. Factual information:

The eligibility of European Union financing of EOTA was stipulated as following:

28 of 300 possible points for “relevance”, 7,67 of 10 points on “visibility”, 17,67 of 20 points on “impact”, 15 of 20 points on “quality”, 13,33 of 20 points on “budget and cost-effectiveness”.

- In 2013 grant agreement SI2.672390 was concluded between EOTA and the EC for a duration of 7 months from 01.07.2013 until 31.01.2014 for a total amount of 200,000 € being 46,87 % of the eligible cost.

- In 2014 grant agreement SI2.685283 was concluded between EOTA and the EC for a duration of 11 months from 01.02.2014 until 31.12.2014 for a total amount of 360,000 € being 46,42 % of the eligible cost.

The European Commission and EOTA will arrange for a framework partnership agreement for a duration of 4 years with the possibility of a 1 year prolongation.

According to the Article 32, EOTA may expect proper financing from the European Union, as it is given specific tasks by the Construction Products Regulation. Having regard to this, clear rules for the calculation of EC financial support (grant) shall be elaborated in the context of reflection of Organisation’s duties acc. to Art 31(4) of the CPR. A proper financial contribution from the EC could ensure proper efficiency of assessment and further CE marking system for innovative products and their manufacturers.

Therefore, EOTA would like to propose that the level of financial support from the European Commission could be linked to the total value of the activity that is currently being coordinated by the Organisation, as stated in the Construction Products Regulation. According to the draft approximations, overall annual cost of ETA related works in the EU is currently exceeding the value of 6 Mio EUR. Taking this into account, EOTA could estimate the cost of activity resulting from Art 31(4) at the certain level of the percentage of the total value of ETAs issued. This could be used in the future as a relevant basis for calculations of future EC grants.

28. **Use of Appropriate Technical Documentation (Art 36 CPR)**
28.1. **Application of Art 36(1)**

The application of simplified procedures as established under the Construction Products Regulation shall lead to the reduction of costs incurred by the manufacturers. As this may be also affecting innovative products, it has to be taken into account that Art. 36(1) c) is including EADs (harmonized technical specification) - differently than a) and b). However, in case there is an EAD (i.e. a hEN will not be applicable) the manufacturer has to cooperate with a Technical Assessment Body in order to obtain a European Technical Assessment. Then the TAB will be responsible for the assessment of the relevant data incl. e.g. whether results from component providers can be taken into account.

It could be clarified by the European Commission, in what extent ATD may be used in this aspect, or in other words, is it foreseen that ETA could be completely replaced by such an Appropriate Technical Documentation? The answer could be published at the EC FAQ website.

29. **Simplified procedures & micro-enterprises (Art 37 CPR)**

29.1. **Use of simplified procedures (Art 37 CPR)**

Use of simplified procedures by micro-enterprises is not allowed in the case of products covered by the ETA issued for them.

30. **Notified Bodies (Art 39 CPR)**

30.1. **Bodies notified (by the MSs) to EADs or ETAGs used as EADs (Art 39 (1) CPR)**

The availability of the notified bodies responsible for AVCP tasks is an important and necessary element determining the possibility for the manufacturer to follow the process on the way to the CE marking. Before the date of 19\textsuperscript{th} of March 2014 EC Services consistently refused to provide NANDO tool that would enable the Member States to notify bodies against ETAGs used as EADs according to Art 66(3). Such situation resulted in serious market distortion since the 1\textsuperscript{st} of July 2013, not allowing manufacturers of innovative construction products covered by ETAGs to obtain requested new ETAs under CPR and forbidding them the access to CE-marking. According to the agreements between EOTA and European Commission on the application of the transitional arrangements in the area of ETAGs used as EADs, NANDO finally became operational on 27\textsuperscript{th} of May 2014. Finalisation of detailed information of NBs against ETAGs used as EADs via all search possibilities is still outstanding at the day of this report.

For more information see as well EOTA position on application of Art 66(3)

30.2. **Requirements for notified bodies (Art 43 CPR)**

30.2.1. **Evaluation of requirements for bodies notified to EADs or ETAGs used as EADs**

The competences of the personnel of notified bodies performing AVCP tasks influence the credibility of the whole system of harmonised expression of the performance as established by the Construction Products Regulation. This is an extremely important aspect, especially when innovative products and their manufacturers are concerned. However, Art 43 of the CPR does not provide any specific requirement for NB’s personnel to have an appropriate knowledge of EADs, ETAGs used as EADs and ETAs. Such lack of requirement on knowledge of harmonized technical specifications covering
innovative construction products seems to be a serious and essential gap in a context of a basic background of verification of the competences of staff involved in AVCP tasks. Taking this into account revised CPR could include an additional clause for NBs based on EADs or ETAGs used as EADs according to the Art 66(3).

30.3. Notification procedure (Art 48 CPR)

30.3.1. Evaluation of notification procedure for bodies notified to EADs or ETAGs used as EADs

For more information see EOTA position on Art 39 and 66(3).

30.4. Information on changes to the notification (Art 50 CPR)

30.4.1. Withdrawn notifications to EADs or ETAGs used as EADs (Art 50 (1) CPR)

no data available at the date of the report

31. Procedure to deal at national level with construction products presenting a risk (Art 56 CPR)

31.1. Products covered by ETA that do not meet declared performance

The Construction Products Regulation shall also bring an improvement in the area of market surveillance and protection of the users of construction products. However, according to members of EOTA, additional information on the application of Art 56 may be required. EOTA expects that it will be clarified by the European Commission, how the risk will be assessed that product will not contribute properly to fulfilment of BWRs by the construction works in case when this product doesn’t actually meet its declared performance.

32. Delegated acts (Art 60 CPR)

32.1. Delegated acts on essential characteristics or threshold levels of performance (Art 60 a)

No information is available at the day of this report.

32.2. Delegated acts on the amendment of Annex II (Art 60 d)

No information available on amendment of Annex II. For more information see EOTA position on Annex II.

32.3. Delegated acts on Annex III, Table I of Annex IV and Annex V (art 60 e)

declaration of performance on construction products was published on 28th of May 2014 (and is applicable on the 3rd day after publication)


For more information see EOTA position on Annex III and Annex V.

32.4. Delegated acts on classes WT or WFT (Art 60 g)

First series of delegated acts on classification WT/WFT should come into force at the end of 2014.

32.5. Delegated acts on the adaptation, establishment and revision of the systems of AVCP (Art 60 h)

On 7th of May 2014 European Commission started a consultation of a Delegated Act, developed in order to enable the application of relevant Commission Decisions developed under the regime of 89/106/EEC Directive also to the assessment and verification of constancy of performance for products covered by European Assessment Documents under Construction Products Regulation, for the products within the scope of the respective Commission Decisions. Before this Delegated Act becomes operational, EOTA will indicate specific systems for AVCP, basing on relevant Commission Decision, but will not include bibliographic reference to this Decision in the text of European Assessment Document directly. According to the information received during the 7th meeting of the SCC-CPR held on 16th of June 2014 Delegated Act should be operational at the end of 2014/beginning 2015.

33. Transitional arrangements (Art 66 CPR)

33.1. Use of ETAGs as EADs (Art 66 (3) CPR)

By letter of 27.06.2013 the European Commission informed Member States about the applicability of new ETAGs and ETAG amendments elaborated under CPD. The Commission invited all Member States to publish the following ETA Guidelines in their official language and considered July 1st, 2013 as the date of availability of these Guidelines:

- New ETAG 028, 030, 032;
- Amended ETAGs 001, 002, 003, 004, 006, 007, 018, 026, 027, and 029.

Transitional provision in Article 66(3) of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products (CPR) states that Guidelines for European Technical Approval (ETAGs) published before 1 July 2013 in accordance with Article 11 of Directive 89/106/EEC (CPD) may be used as European Assessment Documents (EADs).

Before 19th of March 2014 the European Commission was constantly expressing its objection for direct application of Art 66(3) of the CPR. The EC denying direct use of this article of regulation stated that “continuous use of ETAGs as EADs for a period longer than necessary for the smooth transition” is excluded, and requested that European Organisation for Technical Assessment (EOTA) would
immediately start to converse all 35 ETAGs comprising 95 specific parts into EADs. The EC denied also the possibility to notify bodies acting as third party in the procedures of assessment and verification of constancy of performances (AVCP) in the area of products covered by ETAGs (used as EADs) as electronic notification tool used between the Member States and Commission (NANDO) did not allow for entry of “ETAG”.

This approach resulted in serious market distortion since the 1st of July 2013, making it difficult for the manufacturers of construction products covered by ETAGs to obtain requested new ETAs under CPR and forbidding them the access to CE-marking. It has to be underlined that this was a severe limitation of competitiveness of innovators (very often Small and Medium Enterprises).

From the very beginning, the European Organisation for Technical Assessment, acting within the range of its responsibilities, has been continuously cooperating with the Commission Services and EU Member States in order to enable manufacturers their way to CE marking. The item has been a subject to intensive correspondence between stakeholders, several physical meetings have been also taking place.

Finally, during the meeting with the representatives of the Member States that was held on 19th of March 2014, the European Commission confirmed that the aim of the CPR co-legislators has been to ensure that the consolidated technical knowledge which found its place in the European Technical Approval Guidelines (ETAGs) elaborated under the Construction Products Directive could be used to provide the technical basis for issuing ETA assessments (ETA). It is then for EOTA to decide if for a manufacturer’s request an ETAG can be used without changes, or, if changes are necessary, a European Assessment Document (EAD) first needs to be elaborated. This means that the existing technical content of the ETAG is sufficient to provide the basis for the Technical Assessment Bodies (TABs) to proceed directly to the product assessment in order to issue an ETA. This practice has been executed by TABs within EOTA since the publication of the Commission Implementing Regulation (EU) No 1062/2013 of 30 October 2013 on the format of the ETA and until now EOTA has been informed about more than 600 ETAs being issued by TABs.

As technology and experience further develops and innovation is a steady fact in manufacturing processes, the ETAGs published until June 2013 under CPD will be revised and merged in European Assessment Documents in accordance to the Construction Products Regulation (EU) No 305/2011 (CPR). Revision is necessary and appropriate, when changes of technical nature occur. A technical change is considered in case of a completely new assessment method resulting in different product performance, or new classification needs, or changes in the applicable AVCP system (if necessary). The EC Services and EOTA agreed in a bilateral meeting, on 15.04.2014, on an indicative timetable for the development of ETAGs into EADs. The EC intended to make this table available on NANDO by 1 June 2014 (factual information: NANDO has been made operational for ETAGs used as EADs on 27th of May 2014).

As regards EOTA internal procedures, information for TABs, how to proceed with ETAGs used as EADs is given in GD 09.

33.2. Use of ETApp as ETAss (Art 66(4) CPR)

According to the Art 66(4), European Technical Approvals issued under CPD regime may be used by the manufacturers as European Technical Assessments until the end of their validity, which means 2018 at the latest. Starting from the beginning of the application of the CPR the manufacturers of innovative construction products reported that for some European Technical Approvals issued before 1st of July 2013 (so called “late ETApps”) the Member States didn’t have enough time to notify bodies responsible to perform AVCP.

tasks under 89/106/EEC Directive. This problem was discussed during 6th meeting of the SCC and following consultation meeting held on 19th of March 2014.

According to the EC document “Implementation of CPR Art 66(4) Notifying Bodies for European Technical Approvals issued late before 01/07/2013” sent to the representatives of the Member States on 19th of March 2014:

“A manufacturer who wants to use his “late” European Technical Approval to market his product shall contact on his own initiative NBs designated under the CPR for products similar to his product. The manufacturer can search first indicatively in the NANDO-CPD site for NBs designated under the CPD for similar products and then the manufacturer can verify which of these NB have been again notified under the CPR. The manufacturer can so select some of these CPR NBs in order to explore if they can provide AVCP tasks for his product covered by the European Technical Approval. As the notification via NANDO is not possible an electronic notification procedure by e-mail with parallel written notification to the Commission services and the other Member States will be applied. The NB and the manufacturer can then proceed to the final agreement and AVCP tasks can start be provided. The NB will confirm to its notifying authority that it has undertaken the AVCP tasks.

[…]

The legal basis for the above procedure is CPR Art 66(4) itself combined with the obligation of the Member States authorities to accept a product covered by an ETA issued in accordance with CPD, Art 9 before 1 July 2013 to be placed and be made available on the market throughout the period of validity of the ETApproval.”

Taking into account the issue of Art 66(3) – see above for more information - solution proposed by the European Commission has been highly detrimental for AVCP bodies competent in the field of innovation that do not operate in the field of harmonized standards. As notification to ETAGs (used as EADs) was not possible after 1st of July 2013 until 27th of May 2014, those bodies have been excluded from their business activity and their competitiveness is concerned. However, even if mentioned bodies are notified to ETAGs according to Art 66(3), it could be understood that an e-mail procedure still will be required in mentioned case.

34. Information on Annexes to the CPR

34.1. Annex I

For more information see factual information on application of the Art 3

34.2. Annex II

The Annex II is implemented and detailed by EOTA in the Step-by-Step procedure “Draft EOTA Guidance Document 01 – ETA process: EAD Procedure (Step-by-Step)” (GD 01) and related documents, notably GD02, GD 03, GD 04, GD 05 and GD 06, 06a, 09, 10.

At the beginning of the application of the CPR, clause 8 in Annex II in its current form could be perceived by some stakeholders as blockage of the process (in brief, according to common understanding, if for the first EAD no ETA will be issued and no CE marking will take place, the further use of the EAD is blocked). This item needed clarification for the proper application of the regulation EU No 305/2011.

Another issue that required a deep discussion between the European Commission and EOTA was concerning the version of the EAD that shall be made available by EOTA, according to the wording of
the Annex II – the "adopted" EAD and later on the "final" EAD (where an adjustment of the EAD after issuing of the ETA is necessary). According to the time schedule indicated in the Annex II ("after CE marking") both could be considered as possible in relevant cases. This issue had to be clarified together with the issue of notification of AVCP bodies based on an EAD.

The European Organisation for Technical Assessment, acting within the range of its responsibilities, has been continuously cooperating with the Commission Services and EU Member States in order to enable manufacturers of innovative construction products their way to CE marking. The item has been a subject to intensive correspondence between stakeholders, several physical meetings have been also taking place.

The following is the summary of conclusions resulting from discussions between EC and EOTA which may serve as an explanation of the key issues corresponding to the Annex II:

### 34.2.1. The process for CE-marking of products covered by an ETA:

Articles 19 to 26 and Annex II describe the process to be followed for issuing an ETA by a Technical Assessment Body (TAB). In essence, an ETA shall be issued by a TAB, at the request of a manufacturer, on the basis of an EAD established by EOTA in accordance with the procedures set out in Article 21 and Annex II to the CPR.

The ETA will serve for the preparation of the Declaration of Performance (DoP) and of the CE-marking by the manufacturer. However, the performance assessments contained in ETAs will frequently (for systems 1+, 1 and 2+) need to be complemented by additional AVCP tasks undertaken by NBs before the manufacturer can draw up the DoP. In these cases, only after all necessary AVCP tasks are undertaken, the manufacturer is obliged to draw up the DoP, affix the CE-marking and place the product on the market with the CE mark.

### 34.2.2. The publication of EADs by the European Commission:

Annex II to the CPR requests EOTA to communicate to the Commission a number of information during the process of adoption of EADs, which would allow the Commission to scrutinize the legality of the EADs (see points 5 and 7 of Annex II to the CPR) as well as to plan a timely publication of the references of EADs (see points 3 and 8 of Annex II to the CPR) into:

1. the Official Journal of the EU (OJEU): this publication serves to provide legal force to the EAD, as required by Article 22 of the CPR; and
2. NANDO: this is the information tool notably used for notification of NBs by Member States (see Articles 48 and 49 of the CPR).

As indicated in Article 22 and point 8 of Annex II to the CPR, the Commission can only publish the references of the final EADs in the OJEU (and therefore in NANDO) after:

1. the first ETA is issued by the responsible TAB on the basis of the adopted European Assessment Document, and
2. EOTA has adopted the final EAD mentioned under point 8 of Annex II to the CPR (i.e. the EAD adapted, if necessary, based on the experience gained with the ETA) and has sent a copy thereof to the Commission, together with a translation of its title in all the official languages of the Union.

As soon as the Commission receives the titles of the EAD in all languages, the publication into the OJEU can be launched and completed in a few weeks (from 1 to 5 weeks depending on the size of the text to be published and the planning of the Publications Office).

Such publication (of the EAD references) in the OJEU is necessary to allow the notification of NBs pursuant to Article 48 of the CPR.
This means that the reference of the adopted final EAD will be published in the OJEU before the product is CE marked, as allowed by the second sentence of point 8 of Annex II to the CPR.

34.2.3. The availability of EADs by EOTA

3.1. After the CE mark: Besides the publication of references of EADs by the Commission (in the OJEU), the last sentence of Annex II mandates EOTA to "keep the EAD available by electronic means as soon as the product has been CE-marked”. This latter availability will need to be ensured by EOTA after all the necessary AVCP tasks mentioned under section 2 are undertaken and the manufacturer affixes the CE-mark in accordance with the CPR.

3.2. After publication of the EAD reference in the OJEU but before the CE mark: Apart from this general availability, Member States consider that their notifying authorities need to have access to the full text of the adopted final EADs as soon as available, before the product is CE marked, in order to allow them performing their notification tasks foreseen under Article 48 of the CPR. The references of EADs published in NANDO are considered insufficient for allowing notifying authorities to perform the above-mentioned tasks.

The availability of the full text of the adopted final EADs to notifying authorities before the product is CE marked is necessary for the notification of NBs. Such availability should be allowed because only the "development" of EADs should be covered by the protection of confidentiality and commercial secrecy mentioned under point 1 of Annex II and Article 20(1)(c) of the CPR. In general, such confidentiality should be considered lifted with the "adoption" of an EAD on EOTA level.

Based on the limits of the confidentiality of the process for developing EADs, on request EOTA should provide the full text of the adopted final EADs cited in the OJEU to notifying authorities, following an individual request, for the purpose of undertaking their tasks under Article 48 of the CPR, even before the product is CE marked.

3.3. Before the publication of the EAD reference in the OJEU: In order to prepare (and accelerate) the notification of NBs, a manufacturer may agree that EOTA could also make available adopted EADs before their reference is published in the OJEU (i.e. EADs adopted under point 7 of Annex II to the CPR). Furthermore, nothing prevents the manufacturer to approach NBs and notifying authorities before the EAD reference is published in the OJEU, in view of preparing the future assessment and notification.

34.2.4. The notification of NBs

After the reference of an EAD has been inserted in NANDO, Member States may start the formal notifying of the appropriate NBs. The list of NBs will be publicly available in NANDO pursuant to the notification procedure described in Articles 48 and 49 of the CPR. The duration of this process depends on the availability of the necessary information as well as on the timing indicated in Article 48(5) of the CPR (i.e. 2 weeks with / 2 months without accreditation).

Where appropriate, the manufacturer will then turn to one of the NBs available in NANDO for conducting the necessary AVCP tasks before he/she can place the CE marked product on the market.

34.3. Possible general improvements – that would possibly require future amendment of Annex II:

Annex II shall provide only general conditions for the efficient EAD development procedure. As requested by some stakeholders, in future this could be more performance based, giving more flexibility to all the parties involved. As the process is concerning a business activity of the Technical Assessment Bodies, notified bodies and product manufacturers, basically it may be more adaptable, leaving more freedom to the enterprises signing the contract. The structure of Annex II could be then re-designed to exclude possibility of system errors and to reflect the nature of assessment of innovative product. It may also take into account at least following specific issues of an EAD development process:
A procedure for developing, adopting and clustering EADs without a request from the manufacturer – on request from EOTA (conversion of ETAGs, revision and/or clustering of EADs, conversion of a CUAP);

Annex II could differentiate EAD development procedure for “new” European Assessment Documents, European Assessment Documents based on ETAGs or European Assessment Documents based on CUAPs.

Clarification of the rules for intervention of the Commission representative; and

Limitation of third party interventions in the bilateral contract between the manufacturer and the TAB;

Translations of EAD titles when no TAB is available (or competent) within the Member State;

Some AVCP tasks carried out by the Notified Body should be made formally possible before the issuing of ETA, even when reference to EAD in OJEU is not available – mechanism of pre-notification could be considered.

Another approach to the EAD procedure could also take into account the requirement for the harmonised technical specification covering innovative construction products to reflect the current and up-to-date level of technical and scientific knowledge. Therefore it could be justified in the future to establish a procedure for EOTA to introduce a regular 5 year review of the European Assessment Documents, similarly to the procedure implemented by the European Committee for Standardization (CEN). If such a procedure will be implemented, a clear rule has to be established on the use of ETAs based on outdated (withdrawn) EADs and their validity.

Discussion on potential changes in the field of EAD procedure could also possibly result in a demand for a new definition and understanding of role of ETA and EAD. For example, according to the CPR, it is no longer the ETA which is the harmonised technical specification, but the EAD. This may lead to the following problems/inconsistencies:

- Since also the EAD is relatively "individual", the real difference between EAD and ETA may be perceived as unclear by some stakeholders (see for example the problems with points 7 and 8 of Annex II);
- When it is necessary to develop a large number of EADs, it will possibly lead to a duplication of work for Technical Assessment Bodies and EOTA (therefore the two steps EAD-ETA could be merged in the future);
- In spite of the fact that the EAD is formally the harmonised specification, in reality it is only the ETA which specifies the product and its performance finally (hence in practice the "real" specification is the ETA);
- On the other hand, a category of a more generally applicable document which could simplify the drafting of ETAs for a certain family of products is missing.

Taking into account the competitiveness of the European manufacturers of innovative construction products, EOTA has already started internal deliberations on the required content of future amendment of Annex II, including items indicated above. Therefore EOTA declares its willingness to participate in future activities connected with mentioned amendment, when initiated by the European Commission.

34.4. **Annex III**

The Declaration of Performance is obviously the most significant and important tool that serves to the implementation of the Construction Products Regulation. Therefore its format shall reflect and comply with all relevant articles of the CPR, however, it should also give appropriate flexibility to the manufacturers, especially when innovation is concerned. In order to contribute to the continuous development of the regulation, EOTA identified following problems concerning the original version of the Annex III:
- Requirement to provide the information on the elements identifying the product (Point 2 of the DoP). Such obligation created burden for the manufacturers and this was certainly not in line with the Art 6 of the CPR.

- Annex III did not provide AVCP tasks for NB in case of products covered by the ETAs. This could create confusion for manufacturers concerned as well as for NBs and TABs. The original form of the Annex III could have been interpreted as leaving AVCP tasks to TABs (which is not consistent with the Annex V).

- Reference to the EAD which was not in line with the content of DoP according to Art 6.


See information on art 60 e) 34.5. Annex IV

The Annex IV to the Construction Products Regulation establishes a fundamental set of constituents for the assessment scheme for innovative construction products. Structural inconsistency between Annex IV and NANDO database should be then clarified. This is concerning product category “others” that is available in the EC electronic system (NANDO), but currently not included in the Annex IV to the CPR, and missing product areas such as ventilation ducts, solar panels etc. Clarification of the problem is important from the point of view of national authorities, TABs and the manufacturers. This is also a question of a procedure, how to act with the product falling out of the categories given in Annex IV. Clear rules have to be also developed on establishment of new product groups as a reflection of the technical progress and the process of incorporation new groups into Annex IV in the future.

EOTA members have given the examples of products not covered by the categories of the Annex IV which are likely to be covered by EOTA future works. Those are:

- Ventilation and air conditioning product (or more widely HVAC+R)
- Structural sections and decks made from fiber reinforced polymers (FRP/Glassfiber Composites)
- Products involved in condition monitoring buildings and health of inhabitants and permanently installed sensor or detectors.

According to EOTA, the issue shall be clarified on a level of Standing Committee on Construction.

34.6. Annex V

Reasonable distribution of tasks between different parties involved in a system of Assessment and Verification of the Constancy of Performance (AVCP) seems to be a crucial element for effective functioning of the CPR. From the EOTA’s point of view, one of the weaknesses of the original version of Annex V is that it does not provide that NBs recognize any tasks carried out already by the TABs. The NBs shall therefore accept the work done by TABs, preventing duplication of work and in the consequence of cost for the manufacturer in System 1+, 1 and 2+. They shall not unnecessarily repeat tasks related to information and data that is already available. The same applies to the tasks for notified laboratory under System 3 and obligations of manufacturer under System 4 when ETA shall be considered as assessment of the performance of the product. From EOTA’s point of view, those issues constituted background and justification for amendment of the Annex V to the CPR.

See information on art 60 e)

Even though the basic problems concerning AVCP tasks have been solved by the Delegated Regulation, there are still some matters that need further clarification. When implementing the procedures for innovative construction products, it shall be taken into account that the cornerstones for the AVCP activities are defined in the EAD, and the FPC tasks are finally completely defined in the Agreed control plan (agreement made between the Manufacturer and the TAB) which as well which includes confidential aspects related to the product and manufacturing process. In that respect, it is required to perform an initial inspection of the FPC system implemented by the manufacturer. When a notified body has to be involved, that NB has to refer to the EAD, the ETA, and the Agreed control plan when duly performing its task. In the case where the product is an innovation, the manufacturer may face the situation that no NB at all is already notified for his product. As mentioned under point concerning Annex II some procedure of pre-notification shall be considered. See also comment on Art 24.
35. Statistical information on EOTA work – 30.06.2014

![ETA Requests](image)

![ETAs based on ETAG used as EAD](image)

![EAD development](image)