



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Industrial Transformation and Advanced Value Chains
Clean Technologies and Products
Sustainable Construction

GUIDELINES FOR THE EVALUATION OF TECHNICAL ASSESSMENT BODIES

Under the Construction Products Regulation (EU) No 305/2011

This document has been conceived as a guidance document of the Commission Services addressed to Member States.

1. Introduction

The aim of this document is to provide guidelines to Member States for carrying out their evaluation of Technical Assessment Bodies (TABs) pursuant to the Construction Products Regulation (EU) No 305/2011 (the CPR).

According to Article 29(3) of the CPR, Member States are in charge of the monitoring the activities and competence of TABs they have designated, and of their evaluation in relation to Table 2 of Annex IV to the CPR.

Member States have also been tasked to inform the Commission about these designation and monitoring activities and of the results thereof.

In accordance with Article 29(4),

“[t]he Commission shall adopt guidelines for carrying out the evaluation of TABs, after consulting the Standing Committee on Construction”.

The full implementation of the CPR has started on 1 July 2013, with 18 TABs designated and confirmed in NANDO-CPR at that time. By now, this number has grown to 46; out of them, 12 have been designated for a given period of time. In these circumstances, the adoption of the guidelines for the evaluation activities would appear an appropriate prerequisite for the respective Member States when reconsidering these designations at the end of their validity period.

2. Background

During the consultations for the preparations of the CPR, one of the foremost criticisms included in the contributions was directed at the credibility of the previous system, building on the then applicable Construction Products Directive (89/106/EEC; the CPD). The stakeholders did not have much confidence on the outcomes of the procedures based on the CPD or on the relevance of the CE marking as the end result. Therefore, the popularity of the voluntary options available under the CPD, i.e. the possibility of attaining the CE marking through European Organisation for Technical Approvals (EOTA), had not reached any significant levels.

One of the three main objectives brought forward in the Commission proposal for the CPR was consequently to reinforce the credibility of the system. The proposal introduced new and stricter criteria for the notification of bodies carrying out third party tasks in the context of assessment and verification of constancy of performance. Even more pertinently for the issue at hand, the proposal also defined “*stringent criteria [...] for the designation of Technical Assessment Bodies (TAB)*”, and continued to assume that such developments would bring about a greater acceptance of the CE marking by Member States authorities and by the users of construction products, as the only marking attesting compliance of these products with their declared performances. While this objective was uniformly supported during the whole legislative process, the said stringent criteria became part of the adopted CPR and form the contents of Table 2 of Annex IV to it.

To attain this objective, it became evident in the subsequent discussions on the application of the CPR that the letter of the law would not turn out sufficient if the practices were not efficiently monitored. Therefore, so as to ensure the necessary uniform implementation of the new Regulation, these aspects had to be accommodated to the procedures created for the designation of TABs.

For these purposes, the Commission services prepared a document to provide practical advice for Member States when they are designating TABs according to Article 29 of the CPR, using the IT system available for these purposes, i.e. NANDO-CPR. This document was forwarded to all Member States, as foreseen in the Standing Committee on Construction established under Article 64 of the CPR, on 7 November 2011. The document comprises, in its Annex, a list of 10 questions (see Annex I) which operationalize the issues listed in Table 2 of Annex IV to the CPR. Within the designation of a TAB, the respective Member State has thus been expected to forward this information to the Commission services, by inserting into NANDO-CPR also a document containing the requested answers. These practices, followed by all designations of TABs confirmed in NANDO, have resulted in easily comparable and verifiable information sets, and thus have considerably enhanced the transparency of the whole system.

3. Guidance for Member States

In order to fulfil the obligation set out in Article 29(4) of the CPR, the Commission has established the present document which contains the guidelines foreseen to be followed by Member States when carrying out the evaluation of TABs.

The Standing Committee on Construction was consulted on this issue in its 6th meeting held on 13 – 14 February 2014, in which context the opportunity was awarded also for subsequent written comments on the topics to be dealt with in these guidelines and on the contents of the guidance to be included in them. All comments received, either during the said meeting or afterwards in writing, have been taken into account at face value when drafting this document.

3.1. Frequency of evaluation

Especially for those TABs which have been designated for an unlimited period of time, a decision has to be taken about the **frequency** of their evaluation. While the optimal frequency could be set somewhat lower, indicatively at the level of two years, it has been considered useful to establish a maximum number of years, after which time this evaluation would have to be carried out.

Member States are thus guided to engage in this evaluation at the latest within five years intervals from the preceding evaluation or from the first designation of the respective TAB, whichever option is pertinent.

3.2. Factual basic data to be compiled and used

As the **monitoring** of TABs, to be carried out by the respective Member States, also comprises (or is linked to) **informing** the Commission about these matters, it has been regarded as rational to combine these transmissions to the context at hand. Member States are customarily compiling certain basic data of the functioning of their respective TABs: notably the number of European Technical Assessments (ETAs) requested and issued, the TAB's participation into the development of European Assessment Documents (EADs), and the percentage related to the application of the CPR of all activities of the organisation serving as a TAB. These pieces of information thus form the natural factual base of the evaluation to be carried out.

3.3. Use of the answers to 10 questions

The obvious starting point for the core evaluation is formed by the **answers** that the designating authorities of Member States have transmitted to the Commission concerning **the 10 questions** included in the abovementioned document distributed on 7 November 2011 to all Member States as practical advice on how to operate the new NANDO-CPR. The first check to be carried out during the evaluation process consists of assessing whether this information has changed in any way. These eventual changes in the pertinent circumstances would then also have to be signalled to the Commission services pursuant to Article 29(3) of the CPR.

3.4. Focal areas

Member States should concentrate on certain **focal areas** when carrying out the evaluation at hand.

In particular, it is widely agreed that Member States should concentrate their monitoring activities on the procedures for changes within the existing TABs (their organisation or functioning), and consequently also signal to the Commission services such changes.

Moreover, the issue of the independence of TABs from undue influence should be kept well in mind when Member States are carrying out these evaluations; this matter has continuously been of interest for Member States and for the European Parliament during discussions both before and after the adoption of the CPR.

The same kind of general attention has been demonstrated (even more broadly) towards ensuring the full respect of good administrative behaviour within TABs, which area should thus also remain in the focus of the evaluations in question.

Annex I

List of questions which operationalize the requirements listed in Table 2 of Annex IV to the CPR

1. Under which **national legislation** has the TAB been established? Which **legal personality** does it entail?
2. How has it been ensured that the TAB remains **independent** from the stakeholders and from any particular interests?
3. Which steps have been taken to guarantee the following **qualifications of the staff** of the TAB:
 - **objectivity and sound technical judgement;**
 - detailed knowledge of **regulatory provisions** concerning **access to means of assessing;**
 - general understanding of **construction practice** concerning product areas it has been designated for;
 - detailed knowledge of specific **risks** involved in the construction process;
 - detailed knowledge of existing **harmonised standards and test methods** concerning product areas it has been designated for, demonstrated notably by prior experience in the field of issuing ETAs;
 - appropriate **linguistic skills;** and
 - appropriate knowledge of the relationship between manufacturing processes and product characteristics related to **factory production control.**
4. Which factors does the **remuneration** of the TAB personnel depend on?
5. How has it been ensured that the TAB has **access to means and equipment for assessing the performance** of construction products within product areas it has been designated for?
6. Since a TAB shall have a proven record of respect of **good administrative behaviour**, how has this been demonstrated? Has the TAB been involved in court cases or administrative procedures against it, brought up by its clients? If so, what is the status or which have been the outcomes of such cases or procedures?
7. What kinds of **confidentiality policy** and supporting **procedures** have been put in place in the TAB?
8. What kind of a **document control system** has been established for the TAB?
9. Which mechanisms are in use for **internal audit and management review** within the TAB?
10. What kind of a **procedure** has been established to deal with **appeals and complaints**? Within corresponding circumstances, how many such processes have taken place during the last five years and how long have they taken on an average?