

EOTA INTERNAL REGULATIONS

November 16, 2017

Throughout this document, the terms and abbreviations have the same meaning as defined in the Statutes.

Clause 1 General

The aim of the Internal Regulations is to set out the way EOTA works and the rights and duties of its Members in relation to EOTA and to the issuing of ETA's, in order to complement and define the rules already fixed in the Statutes approved by the extraordinary General Assembly of April 15, 2015 and published in the Belgian Official Journal on May 7, 2015.

The Internal Regulations have been amended by the General Assembly in its meeting on 16/11/2017.

OFFICERS

Clause 2 Selection

As a general rule, EOTA will see to it that the President, the Chair of the Technical Board and the Treasurer, as Officers, will be representatives of Technical Assessment Bodies, preferably of different Member States.

The appointment of the President, the Treasurer and the Chair of the Technical Board must be made by a procedure which guarantees the equality of chances between the member organisations. This result can be achieved by a rotation of these tasks between the member organisations.

The maximum in transparency must be observed in connection with the appointment of all EOTA Officers.

Clause 3 Secretary General

In addition to the duties given in Article 13 of the Statutes, the Secretary General has in particular the following duties, namely to:

- notify at regular intervals the Executive Board on all matters relating to EOTA;
- inform in general terms all Members on important matters relating to EOTA;
- monitor the fulfilment of EOTA's tasks as the organisation for technical assessments according to Article 31(4) of the Regulation (EU) 305/2011 (hereinafter referred to as "CPR") and to inform the Executive Board thereof, especially in cases where action is required;
- prepare all supporting documents related to Union Financing to EOTA (e.g. operating grants, grant agreements for actions) under the supervision of the Executive Board, and to keep these documents on file; the same applies for financing by the EFTA States;
- draft, update and maintain the internal and external communication tools and outputs of EOTA, using preferably electronic communication means and inform thereto regularly the Executive Board on their development; within this framework the Secretary General supervises centralised publications of and on EOTA and its activities and the development of the EOTA website;
- monitor the progress of all actions financed by the Union and to report to the Executive Board and to the relevant EOTA bodies thereof regularly; the same applies for financing by the EFTA States;

- ensure that the organisation and the working practices used for the preparation and adoption of European Assessment Documents (EAD) are in accordance with the procedure according to Annex II of the CPR, with the EOTA Statutes and with these Internal Regulations;
- manage and give guidance to the Technical Assessment Bodies (TAB) and the working groups of EOTA to achieve their targets;
- ensure that all documentation produced by EOTA, its Members and the working groups are in accordance with the requirements in terms of format, layout and content, as established by the CPR and by EOTA.

The Secretary General is responsible for the functioning of the EOTA Secretariat. In this respect the Secretary General takes the responsibility for the personnel (supervision, planning and work allocation) and for the purchase of equipment within the budgetary limits fixed by the Executive Board.

The Secretary General is responsible for the setting up and maintenance of a management system aiming at optimizing efficiency of the EOTA Secretariat and at the fulfilment of the obligations of EOTA according to the CPR and other relevant European and Belgian law. The system will be documented in a management system manual.

The Secretary General is responsible for the current co-operation with the EC and the Standing Committee of the EFTA States and for the current liaison with related organisations such as CEN, the group of Notified Bodies and stakeholders in close co-operation with the Executive Board.

The Secretary General is empowered to authorise expenditure, to sign cheques and to perform all bank operations on behalf of EOTA, within the budgetary limits fixed by the Executive Board and subject to continuous control by the Treasurer of EOTA.

All items of expenditure performed by the Secretary General will be subsequently reviewed and approved by the EOTA's Auditor.

PERSONNEL OF THE EOTA SECRETARIAT

Clause 4 Personnel of the EOTA Secretariat

The personnel of the EOTA Secretariat work under direct supervision of the Secretary General under the provisions established by Belgian law and regulations.

Recruitment, dismissal and salary level are, on proposal of the Secretary General, the duty of the Executive Board, subject to approval by the General Assembly.

The personnel of the EOTA secretariat and the General Secretary are bound to respect the required confidentiality with regard to ETAs, EADs and internal matters of EOTA, especially concerning commercial secrecy of applicants and holders of ETAs.

FINANCIAL AFFAIRS

Clause 5 Financial Working Group

The General Assembly appoints upon proposal of the Executive Board a Financial Working Group (FWG). The FWG shall consist of at least three Members with sound knowledge in dealing with financial matters of an organisation like EOTA or its Members.

The meetings of the FWG are chaired by the Treasurer and attended by the Secretary General within the Secretary General's duties according to clause 4.

The Financial Working Group assists the Treasurer in all financial matters, in particular in performing an appraisal of income and expenses for setting up the budget, including fees for Members and Observers, and in controlling the financial situation with regard to operational grants and grant agreements for actions from the Union and EFTA.

The Financial Working Group makes suggestions to the Executive Board with the aim of appointing or confirming the Treasurer and the Auditor.

Clause 6 Auditor

The Auditor is appointed for a period up to two years and starts at the date agreed and set by the General Assembly. The appointment of the Auditor can be renewed.

The Auditor can be invited to meetings of the Financial Working Group, the Executive Board and the General Assembly if need be, e.g. in order to explain the Auditor's reports.

Clause 7 Member and Observer fees

Member fees are due yearly before the 1st of May.

The Member fee consists of two parts:

- 1) a fixed fee per Member,
- 2) a fee which is proportional to the country weighting factor according to clause 11.

Upon proposal of the Executive Board, the General Assembly fixes each year:

- a) the amount of the fixed fee according to 1),
- b) the repartition key between the total amounts of fees according to 1) and to 2).

In the absence of a decision taken by the General Assembly, the fees that applied for the previous year continue to apply.

In case of delay in payment, interest will be charged as a penalty. Starting date of the penalty is 1 May.

The rules for this penalty are:

- 2% above European Central Bank interest rate for main refinancing operations on 01/05 of each year, and
- 0,5% per month to be added whilst the debt remains outstanding.

The invoice of this penalty will be sent together with the invoice for the Member fee of the next year.

The EC or the Standing Committee of the EFTA States and the relevant Member State will be informed on non-paid Member fees by the President of EOTA according to Article 5.6 of the Statutes.

When a Technical Assessment Body joins EOTA, it will pay a Member fee for that year proportional to the number of months of membership.

When a Technical Assessment Body leaves EOTA, it cannot claim any reimbursement for the fees paid.

The Observer fee according to Article 15 of the Statutes is equal to the fixed fee per Member according to 1) as specified above. When an Observer has been accepted by the General Assembly, it will pay a Member fee for that year proportional to the number of months of observership.

Clause 8 Allocated Funds

The amounts assigned to the accounts 'allocated funds for social liabilities' and 'other allocated funds' can only be used for covering the costs of a possible liquidation of EOTA. Each year, the Treasurer will evaluate the social liabilities and the liquidation costs, called "actual liquidation charges".

The social liabilities will be evaluated on the basis of case law decisions, in particular on the basis of the so-called 'grid Claeys' which provides a formula for calculation of the required provision.

The liquidation costs will be calculated taking into account costs resulting from breaking the rental agreement or various other contractual obligations.

If the allocated funds are not sufficient to cover the social liabilities and the liquidation costs, the Treasurer will inform the Executive Board of the possible difference between the existing amounts and the required amount. Each year, any surplus will by priority be allocated to the funds required for social liabilities and other allocated funds until the cumulative value of the funds will at least correspond to the actual liquidation charges.

GENERAL ASSEMBLY

Clause 9 Composition

Each Member shall nominate one official representative for the General Assembly. The official representative may be accompanied by not more than two persons as Observers or advisors.

The EOTA secretariat shall be informed before the meeting in case the official representative is accompanied by (another) person(s).

Clause 10 Matters for the Meetings

As a rule, for all matters a reporter shall be designated in the agenda, and an explanatory note shall be prepared and sent to the Members not later than one week before the meeting. In exceptional cases, especially if only minor issues will be reported, the explanatory note can be replaced by an oral report.

However, the President will endeavour to allow sufficient time for free discussion of suggestions from the Members present.

As a rule, reports will be presented at the meeting:

- by the President on strategic and legal issues,
- by the Secretary General on operative issues,
- by the Treasurer on financial issues, and
- by the Chair of the Technical Board on technical issues.

Clause 11 Voting procedures

In all voting procedures, the counting of the votes shall be carried out applying the weighting factors as stated in table 1.

For matters for which, according to the Statutes, the votes are expressed by Spokesbodies present or validly represented, the majority according to the Statutes relates to the total of weights of all Spokesbodies present or validly represented (i.e. the result is the quotient of the sum of the weighted votes in favour divided by the sum of weights of all Spokesbodies present or validly represented).

For matters for which, according to the Statutes, the votes are expressed by Spokesbodies present or validly represented, which represent a Member State having designated a TAB in the respective product area, the majority according to the Statutes relates only to the total of weights of Spokesbodies present or validly represented, which represent a Member State having designated a TAB in the respective product area (i.e. the result is the quotient of the sum of the weighted votes in favour divided by the sum of weights of all Spokesbodies present or validly represented, which represent a Member State having designated a TAB in the respective product area).

In the case of written procedures, no reaction in due time counts as approval.

Table 1: Weighting factors for voting

France	29
Germany	29
Italy	29
Turkey	29
U.K.	29
Poland	27
Spain	27
Romania	14
Netherlands	13
Belgium	12
Czech Rep	12
Greece	12
Hungary	12
Portugal	12
Austria	10
Bulgaria	10
Sweden	10
Switzerland	10
Croatia	7
Denmark	7
Finland	7
Ireland	7
Lithuania	7
Norway	7
Slovakia	7
Cyprus	4
Estonia	4
Latvia	4
Luxembourg	4
Slovenia	4
Iceland	3
Malta	3
TOTAL	401

TECHNICAL BOARD

Clause 12 Composition

Each Member shall nominate one official representative for the Technical Board. The official representative may be accompanied by not more than two persons as Observers or advisors.

The EOTA secretariat shall be informed before the meeting in case the official representative is accompanied by (another) person(s).

Clause 13 Duties

The Technical Board is responsible for all technical activities of EOTA, coordinating the common position of all relevant Members.

The Technical Board is in particular responsible for:

- all tasks of EOTA in relation to the procedure for adopting a European Assessment Document according to Annex II of the CPR; and
- the monitoring of the consistency processes which are applied for the issuing of European Technical Assessments.

The adoption of an EAD in the working group of TABs as created by the Technical Board according to Article 9.1. of the Statutes and based on the designation of the product area according to Annex IV of the Regulation (EU) No 305/2011, is deemed to be an adoption by the Technical Board.

In any case of disagreement on Technical Board level, notably in case of non-consensus on adoption of an EAD in the working group of designated TABs, and initiation of related voting procedure pursuant to Article 9.10 of the Statutes, clause 11 applies accordingly.

The TB also creates and manages horizontal Project Teams, Working Groups and Ad hoc Groups, created to handle horizontal or particular technical aspects of the work related to the drafting of European Assessment Documents and European Technical Assessments.

EUROPEAN TECHNICAL ASSESSMENTS

Clause 14 Consistency Processes

In order to ensure an effective co-ordination of TABs drafting and issuing ETAs, an equal quality of all ETAs issued, an effective exchange of experiences and of examples of best practice, the TABs shall follow the procedural rules when drafting and issuing ETAs, laid down in the Consistency System Manual (EOTA CSM).

The same applies to the development procedure of a European Assessment Document (EAD DP). Thus, The Consistency System Manual specifies the principles laid down in Art. 20 (1) of the Regulation (EU) 305/2011.

GOVERNANCE AND ARBITRATION

Clause 15 Management system and Code of Conduct

In its work within EOTA, the Members shall strictly respect the commonly agreed procedures and rules and shall work in a consensus seeking spirit.

Apart from the Statutes and these Internal regulations, the following documents shall be applied:

- Management system manual
- Consistency system manual
- Code of conduct

These documents are developed and maintained under the responsibility of the Executive Board. Their adoption by the General Assembly may take place through a written procedure, if the Executive Board so decides.

Clause 16 Settlement of Disputes

If differences of opinion arise among the Members about the interpretation of EOTA documents (Statutes, Internal Regulations, EADs etc.) the President, together with the Chair of the Technical Board and the Secretary General, will endeavour to settle the matter.

If, in spite of all efforts, it is impossible to resolve the dispute, the matter should be referred to the General Assembly for its decision depending on the issue as fixed in the Statutes.

The General Assembly may set up an Arbitration Committee to examine the question, fixing its scope and functioning.

Difficulties arising in relation to the CPR which cannot be resolved by the General Assembly will be brought before the EC.

Clause 17 Insurance

A TAB shall take out liability insurance unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the assessment and/or the verification performed.

Clause 18 Suspension or withdrawal of membership

If the Executive Board intends to propose to the General Assembly to suspend or to withdraw the membership of a Member according to Article 5.7 of the Statutes, the following procedure shall be applied:

The Executive Board sends a written documentation to all Members stating the reasons why the membership should be suspended or withdrawn. This document shall in particular mention the Articles or points of the CPR, of these Statutes or of the Internal Regulations which have been violated by the Member concerned.

The Member concerned may react within one month against this documentation with a written statement which shall be sent to the EOTA secretariat and to all Members.

If the Executive Board upholds its intention to suspend or to withdraw the membership, the issue will be put on the agenda of the next General Assembly.

The General Assembly shall allow the Member concerned to vindicate itself before a decision is taken by voting.

If the General Assembly decides to suspend or to withdraw the membership, the Member concerned can appeal. In this case the General Assembly shall set up an Arbitration Committee, consisting of the President,

the Secretary General, two Members of the General Assembly, and a lawyer chosen by the Member concerned and a lawyer chosen by EOTA, to examine the question.

The conclusion of the Arbitration Committee will be submitted in writing to the General Assembly for final decision.

CO-ORDINATION WITH THE EC

Clause 19

EOTA will work in close co-operation with the EC on all levels of EOTA. The Executive Board is responsible for the co-ordination of the co-operation.

Invitations and agendas for all EOTA meetings of the General Assembly and the Technical Board shall be sent through the EOTA Secretariat to the EC.

CO-OPERATION WITH OTHER EUROPEAN ORGANISATIONS

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. 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.

LICENSE OF COPYRIGHT AND CONFIDENTIALITY

Clause 21

License of Copyrights to EOTA

In the framework of the Berne Convention of September 9, 1886 regarding the Protection of Literary and Artistic Works, each TAB grants to EOTA, for the duration of the copyrights concerned, a worldwide, exclusive and royalty-free licence to use in connection to its business the copyright protected EADs or ETAGs used as EADs, Technical Reports (TRs) and other EOTA Documents, made during the term of each TAB's membership of EOTA by themselves, their representatives in the EOTA Technical Board, as well as their representatives, representatives of European industrial associations and of other European scientific-technical organisations and experts in EOTA Working Groups and Task Groups (hereinafter jointly referred to as "Copyright Protected Documents").

This license covers all languages and all forms of exploitation of the Copyright Protected Documents known at present, in particular, but non-restrictively: (i) the right to reproduce and publish by all means and via all graphical support systems by print, press, photocopy, microfilms, and via all magnetic, computerized and numerical support systems, memory cards, CD-ROMs, films, photographs, slides, tele distribution, cable, satellite, diskettes, USB and on-line documents servers, (ii) the right to amend and translate, (iii) the right to distribute (by selling or other means) and (iv) the right to rent or lend.

Each TAB maintains the right to use the EADs and other Copyright Protected Documents for the purpose of issuing ETAs.

Each TAB ensures that the documents, work and/or material, used for the purpose of preparing and drafting Copyright Protected Documents, are not encumbered by copy- or any other right of a third party or that permission to use and exploit protected documents, work and/or materials has been duly and regularly obtained.

In that respect, each TAB ensures to have concluded with any such third party an agreement determining that any document, work and material provided by this third party, is not encumbered by copy- or any other right of any other party or that permission to use and exploit copyrighted work has been duly and regularly obtained.

For the purpose of this provision, EOTA shall not be held liable in case of any (alleged) violation of copy- or other right of a third party pursuant to the exploitation by EOTA or its Members of the Copyright Protected Documents.

In the event EOTA is, or in case its Members are accused by a third party because of an (alleged) violation of a copy- or other right of that third party, pursuant to the exploitation by EOTA or its Members of the Copyright Protected Documents, the Member guarantees to safeguard EOTA and/or its Members against any claim of such third party and to participate voluntarily in any legal proceedings in that regard (articles 1134, subsection 3 and 1135 Belgian Civil Code).

EOTA recognizes to its Members the right to make free use of EADs, Technical Reports and other EOTA Documents owned by EOTA, for the purpose of distributing, reproducing, publishing, translating and amendment in accordance with the Statutes, Internal Regulations and other EOTA internal documents, by any means and free of charge.

This license is covered by Belgian Copyright Law as incorporated into the Belgian Economical Code.

Clause 22 Confidentiality

22.1. Distinction is made between “Third Party Confidential Information” and “Internal Confidential Information”.

22.2. **“Third Party Confidential Information”** in general means and refers to technical and other information provided by a Third Party and which is not generally known among, or readily accessible to persons within the circles that normally deal with the kind of information in question. It includes e.g. information comprising or relating to concepts, discoveries, data, designs, ideas, methods, models, essays, research plans, manufacturing methods, procedures, designs for experiments and tests and results of experimentation and testing (including results of research or development), specifications, drawings, manuals, information, methods and processes for synthesis thereof.

The Third Party Confidential Information shall however be considered confidential only if that information has been clearly identified in writing as confidential by the Third Party communicating this information. All other information is presumed to be non-confidential.

An ETA request is in any case considered as Third Party Confidential Information, whether or not identified as confidential. Related information to the EC pursuant to Art. 21 of the CPR and information required in the EOTA consultations amongst TABs shall be done in neutral form, meaning in particular that the disclosure of the identity of the manufacturer and the trade name of the product is forbidden.

“Third Party” means a person, body or organization etc. who is not EOTA itself, a Member of EOTA or a TAB not yet Member of EOTA. Generally it is the manufacturer or its representative having made a request for an ETA.

Information described in the technical file as submitted by the Third Party according to Annex II no 1 of the CPR and any other information that has not explicitly been identified as confidential by the responsible TAB to EOTA and the other TABs, is presumed to be non-confidential.

Product information, information about the intended use as foreseen by the manufacturer, as well as details on the manufacturing process that are necessary to understand the content of the EAD and to evaluate the results of the product's assessment as provided for in the ETA, is to be disclosed in the EAD. The TAB at which the manufacturer made his request to issue an ETA, thus being responsible for the elaboration of the EAD, shall inform that third party thereof prior to receipt of the technical file and shall ensure that third party's explicit consent via the agreement on the commercial secrecy and confidentiality according to Annex II no 1 of the CPR.

The disclosure of Third Party Confidential Information not comprised in the technical file needs prior written approval by the third party, except if that Third Party Confidential information:

- a) were/became publicly known when the Third Party made its request for an ETA;
- b) becomes publicly known without the intervention of the TAB, EOTA & its Members or the third party concerned;
- c) are to be made public on the basis of legal or regulatory provisions (in particular the provisions of the CPR including the developing of the EAD, e.g. decision on AVCP system, decision on threshold levels and/or performance classes), or on the basis of a judicial order. In case of a judicial order EOTA, its Member or the TAB not yet Member of EOTA who has been obliged to disclose such information must inform the party that issued the information on beforehand about the timing and the content of such announcement. Furthermore, they will inform the manufacturer generally about the legal or regulatory provisions which will or might lead to the disclosure of such information.

In case EOTA deems it necessary to disclose Third Party Confidential Information for a proper understanding of an EAD, it requests written approval of that Third Party. EOTA recommends the RTAB, and that RTAB agrees, to convince the Third Party to recognize and agree not to unreasonably refuse such disclosure.

EOTA, its Members and TABs not yet Member of EOTA shall not use Third Party Confidential Information directly or indirectly for any purpose other than for the production of EADs and/or the issuing of ETAs; they warrant to communicate Third Party Confidential Information solely within their organisations to the concerned people ("need to know" basis).

The fact that a request for issuing of an ETA has been made shall no longer be considered Third Party Confidential Information after issuing of the ETA based on this request.

22.3. "Internal Confidential Information" means or refers to all product and/or production process related (technical) information elaborated or used by EOTA, its Members or a TAB not yet Member of EOTA within the work of elaborating EADs or issuing ETAs (for example: technical information comprised in the Evaluation Report) and is related to non-disclosure of information to any Third Party.

Internal Confidential Information is assumed to be confidential for an undetermined period, unless specified otherwise in writing or foreseen in the CPR.

Members and TAB's shall not use Internal Confidential Information directly or indirectly for any purpose other than for the production of ETA's; the Members and TAB's warrant to communicate the Internal Confidential Information solely to those of its managers and/or employees who need it to elaborate EADs or issue ETAs.

COMMUNICATION AND PUBLICITY

Clause 23

Reference to membership of EOTA

Members of EOTA have the right to state their membership where and when they wish. In doing so, they will use the provisions of Clauses 23 and 24 below.

Members have the right to promote their involvement in EOTA by:

- using the logo and name of EOTA in a coherent way,
- providing a link to EOTA from their websites in an easily accessible way,
- providing a description of ETA services in their own language on their own website.

Clause 24 Languages, publication

For legal documents, the title of the Organisation is fixed in Article 1.1 of the Statutes.

On the printed and official matters of EOTA, the abbreviation “EOTA” will be usually followed by the English title accompanied by the mention i.n.p.a., a.i.s.b.l. or i.v.z.w. as appropriate.

All Members are entitled to use in all other documents the abbreviation “EOTA”, followed or not by a translation of the title in one of the official languages of the European Union or EFTA.

All business within EOTA is performed in English, EADs are elaborated in English language and stored in EOTA.

The adopted final EADs and a list of references to ETAs, will be available at the EOTA Secretariat in English language and can, at EOTA’s discretion, be consulted on the EOTA website www.eota.eu.

Every ETA issued, shall be stored at the EOTA Secretariat in the original English version as communicated by the TAB. In case any interpretation issue arises, the original version issued by the TAB is to be considered the authentic version.

Clause 25 Logo and wordmark

EOTA owns the following trademarks:

- The Benelux Trademark “EOTA” registered on February 7, 2008 under the number 0833802 and for the classes 6, 19 and 42;
- The Community Trademark “EOTA” registered on October 2, 2008 under the number 006462683 and for the classes 6, 19 and 42;
- The International Trademark “EOTA” registered on May 5, 2008 under the number 966165 and for the classes 6, 19 and 42

Whenever the name EOTA is used under the form of a logo, each Member or the EOTA Secretariat shall use the logo fixed as follows (see Annex A to the Internal Regulations):



- Rectangular logo containing the “white” letters EOTA on a “blue” background, the O being replaced by a circle of 12 white mullets, their points not touching.
- This replaced O (12 stars in a circle) has, at the centre of the stars the same height as the letters;
- the letter type is Futura standard book;
- the colours are defined in the pantone colour code:
 - letters and stars: “negative” (for “white”);
 - background: “Pantone reflex blue” (for “blue”);
- dimension of the rectangle : H/B = 0,37;
- height of the letter/height of the rectangle: HL/H = 0,71, except for the letter A.

In case of electronic use, the colours are defined as:

- Dark blue: R = 0 G = 0 B = 156
- Hex: 00009C

The use of the EOTA logo is strictly reserved to the EOTA secretariat, EOTA Members and organisers of events duly authorised thereto in writing by EOTA or one of its Members and according to the “EOTA logo and regulations governing the use of the trademark EOTA” as enclosed to these Internal Regulations.

Clause 26

EOTA Communication Policy

The Secretary General is responsible for drafting and maintaining up to date the information material relevant to describe the activities of EOTA in a general way. This includes the management of the EOTA website, including the database on the issued ETAs, and of the general EOTA publications. To this end the Secretary General will regularly submit to the General Assembly a report on the developments in this field and proposals for improvement where necessary.

In doing so, the Secretary General is, where needed, assisted by a Communication Group whose Members are nominated by the General Assembly, upon proposal of the Executive Board.

Annex A: “EOTA logo and regulations governing the use of the trademark EOTA”