GNB-CPR GNB-AG	Co-ordination of the Group of Notified Bodies for the Construction Products Regulation, (EU) No. 305/2011	NB-CPR/23/937r3 Issued: 23 August 2024 **Approved Guidance**

Position Paper:

Verification of constancy of performance of construction products for which an ETA has been issued

1 INTRODUCTION

As an ETA is considered as the assessment of performance for the product for which it has been issued, notified bodies shall not carry out any assessment of performance for those products, irrespective of the system of AVCP. Hence, there will be no role for notified laboratories in relation to products for which an ETA has been issued. Accordingly, this position paper is only relevant for notified FPC certification bodies (system 2+) and notified product certification bodies (systems 1+ and 1).

This position paper is intended to provide guidance for notified certification bodies providing services in relation to products for which ETAs have been issued. It shall be applied in conjunction with the position paper NB-CPR 17/722, *Guidance to notified bodies on the Assessment and Verification of Constancy of Performance under the Construction Products Regulation*.

When the product for which an ETA have been issued is supplied as a kit, this position paper shall be applied together with the position paper NB-CPR 23/935.

2 BASIC CONSIDERATIONS

1) Notified bodies shall carry out their tasks in accordance with the systems of Assessment and Verification of Constancy of Performance (AVCP) defined by CPR Annex V, which was revised in 2014[1]. Generally, the contents of the systems of AVCP do not depend on the type of harmonised technical specification, i.e. whether it is a harmonised standard or a European Assessment Document complemented by an ETA issued for the concerned product.
However, Article 1.6 of the revised Annex V of the CPR defines that notified bodies shall consider a European Technical Assessment as the assessment of the performance of the product. Therefore, notified bodies shall not carry out the assessment of performance in systems 1+, 1, and 3.
Hence, in relation to a product for which an ETA has been issued, notified bodies shall only carry out verification of constancy of performance, not any initial assessment of performance.
Nonetheless, as the purpose of the verification of constancy of performance is to ensure that

[1] Commission Delegated Regulation (EU) No 568/2014 of 18 February 2014 amending Annex V to Regulation (EU) No 305/2011 of the European Parliament and of the Council as regards the assessment and verification of constancy of performance of construction products

products will have the declared performance, notified bodies will need to assess if the declared performance is maintained by the current production. The division of responsibilities between the Technical Assessment Body (TAB) and the notified body emphasises the need to clearly distinguish between the initial assessment of performance carried out by the Technical Assessment Body and the continuing assessments carried out by the notified body as part of the verification of constancy of performance.

2) The CPR requires ETAs to include the performance to be declared, and technical details necessary for the implementation of the system of assessment and verification of constancy of performance. Any further provisions[2] of an ETA may not have any basis in the CPR. Once a TAB has issued an ETA, that TAB will have no role in the verification of constancy of performance. Neither will the TAB have any possibility to withdraw or otherwise invalidate an already issued ETA.

3) The verification of constancy of performance depends on the correctness of the assessment of performance. Therefore, to carry out a credible verification of constancy of performance the notified body will need to satisfy itself, as part of its contract review, that the ETA has been issued in accordance with the European Assessment Document (EAD) to which it refers. In case of discrepancies, the notified body would not be in a position to verify the conformity of the current production with the declared performance.

4) Notwithstanding the responsibility of the TAB for the assessment of performance of the product for which it has issued an ETA, the manufacturer remains responsible for the determination of the product-type. Hence, the manufacturer may decide to declare a more conservative performance than the performance stated by the ETA. In case of such conservative declarations, the verification of constancy of performance by notified bodies should be carried out with reference to the declared performance.

5) For products not covered or not fully covered by a harmonised standard, notified bodies can only verify the constancy of performance of a product if it conforms to an ETA that has been issued for it, on the basis of the pertinent EAD. Therefore, for the purpose of verification of constancy of performance, notified bodies would need certainty of the conformity of the product with the ETA and that it is covered by the related EAD.
Generally, the EADs should refer to the relevant harmonised standards for essential characteristics which are common to products under harmonised standards.

6) The first ETA under a given EAD will be issued before the EAD has been cited in the OJEU. Therefore, manufacturers may express the wish for a certificate to be issued by the notified body, even before the EAD has been cited in the OJEU. In that respect, it is recalled that generally notified bodies are notified with reference to harmonised technical specifications and that an EAD would not be a harmonised technical specification until it has been cited in the OJEU. Hence, no bodies can be notified to an EAD until that EAD has been cited.

7) European Assessment Documents (EADs) may be superseded by new versions, which may include changes to the methods and criteria for assessing the performance. In such cases, the CPR seems to leave room for different interpretations with regard to the continued applicability of ETAs issued under the superseded EAD. Notified bodies should be aware that the Commission has suggested that the CPR should be understood to allow manufacturers to continue declaring the performance to an ETA, even if the EAD on which it is based has been superseded by a significantly changed version.

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[2] As an example of such further provisions could be mentioned that some ETAs. require the manufacturer to inform the TAB about future changes to the product.

8) In line with the above-mentioned suggestion by the Commission, manufacturers may choose to continue applying an ETA issued to a later superseded version of an EAD. In such cases, notified certification bodies may be requested to verify the constancy of performance with reference to a superseded version of an EAD. For that purpose, notified certification bodies may need to maintain notification to the superseded EAD version[3].

9) Furthermore, should the product, its intended use, or its manufacturing process change in a significant way affecting conformity with the assessed performance of at least one essential characteristic of the product, the manufacturer may contact the TAB that issued the ETA, for the purpose of, if necessary, the revision of that ETA, and maybe of the related EAD. The NB should be kept informed thereof.

10) The conditions for the rebranding of products for which ETAs have been issued are not identical to the conditions for the rebranding of products covered by harmonised standards. In particular, it should be recognised that rebranding of products may be considered to prerequisite additional ETAs.

3 ADDITIONS TO NB-CPR 17/722

The position paper NB-CPR 17/722, Guidance to notified bodies on the Assessment and Verification of Constancy of Performance under the Construction Products Regulation, describes most of the elements of the work of notified bodies.

That position paper applies both to products falling under a harmonised standard and to products for which an ETA has been issued. However, in relation to products for which an ETA has been issued there are certain specificities that notified bodies should be aware of. Below are indicated additions to specified sections of NB-CPR 17/722 to apply in such cases.

NOTE: To facilitate the application of current GNB guidance, when GNB Position Papers make reference to other GNB Position Papers, the number of the position paper is normally indicated without the version number of the position paper, as the most recent version should be indicated. All references in this position paper to NB-CPR 17/722 are based on the version “NB-CPR 17/722r8”. That should however not preclude the application of later approved versions.

3.1 ADDITIONS TO NB-CPR 17/722 SECTION 4.1, GENERAL UNDERSTANDING OF AVCP

For construction products for which an ETA has been issued, that ETA is considered the assessment of performance, cf. CPR Annex V, 1.6. Therefore, irrespective of the system of AVCP notified bodies shall not carry out the initial assessment of performance for those products. As part of the verification of constancy of performance, notified certification bodies are required to ensure that the manufacturer has ensured the constancy of performance which includes an assessment of the effectiveness of the FPC as regards the performance of the current production under systems 1+ ,1 , and 2+.

3.2 ADDITIONS TO NB-CPR 17/722 SECTION 4.3, CHOICE OF AVCP SYSTEM

NB-CPR 17/722 section 4.3 is only concerned with harmonised standards. However, the content of it shall also apply when the harmonised specification is an EAD.

[3] It cannot be excluded that some Member States will not maintain notifications to superseded EAD versions.

3.3 ADDITIONS TO NB-CPR 17/722 SECTION 4.6, APPLICATION OF AVCP SYSTEM(S)

For products for which an ETA has been issued, the TAB is responsible for applying the correct system of AVCP when drawing up the ETA.

Notified certification bodies need to satisfy themselves that the system of AVCP indicated by the ETA[4] and its supporting EAD would be applicable to all essential characteristics for which the notified body is requested to verify the constancy of performance.

If it is found, for one or more of the essential characteristics, that the indication of AVCP system in the ETA is not in line with the Commission Decision or EAD, the notified body shall inform the manufacturer and shall not carry out the verification of constancy of Performance.

With the consent of the manufacturer, the notified body may contact the TAB in order to take into account the viewpoints of the TAB.

3.4 ADDITIONS TO NB-CPR 17/722 SECTION 5, OVERVIEW OF THE AVCP SYSTEMS

The table of the systems of AVCP applies with the following modification:

The ETA is considered as the initial assessment of performance (See CPR Annex V.1.6. Therefore, notified bodies shall not carry out any assessment of performance in any of the systems of AVCP.

This means that for products for which an ETA has been issued, the activities of systems 1 and 2+ are identical[5].

3.5 ADDITIONS TO NB-CPR 17/722 SECTION 8.2, INSPECTION METHODOLOGY

It is emphasised that the notified body is responsible for the identification of the locations where significant manufacturing processes take place and for ensuring that these locations are subjected to the initial inspection.

In that respect, the indication in the ETA of "manufacturing plant(s)" would not be binding for the notified certification body[6]. If significant manufacturing processes are carried out at other locations than the manufacturing plant indicated by the ETA, e.g. by suppliers to the manufacturer, the notified certification body will need to carry out inspection(s) at those locations.

3.6 ADDITIONS TO NB-CPR 17/722 SECTION 8.3, VALIDITY OF THE ASSESSMENT OF THE PERFORMANCE OF THE CONSTRUCTION PRODUCT

Also for products for which an ETA has been issued, the notified body needs to satisfy itself that the assessment of performance, namely the ETA, will form a suitable basis for the verification of constancy of performance.

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4 Commission implementing Regulation (EU) No 1062/2013 requires the TAB to indicate in the ETA the AVCP system applied, with reference to its legal base.

5 Though the activities under AVCP systems 1 and 2+ are identical for products for which an ETA has been issued, the responsibilities of the NB and the certificates are different. See position paper NB-CPR 14/612.

6 For the purpose of the ETA, the TAB is responsible for the definition of the "manufacturing plant(s)", cf. Commission implementing regulation (EU) No 1062/2013. The notified certification body is responsible for its own decision regarding which locations to inspect.

The validation conducted by the notified body shall include the elements listed in NB-CPR 17/722, section 8.3 with the following modifications.

- First pin regarding sampling applies directly;
- Second pin regarding correctness of methods applies. In particular, the notified body shall satisfy itself that the assessed performance is expressed in line with the provisions of the EAD. In the absence of indications to the contrary the notified body may assume that the TAB has correctly applied the methods defined by the EAD;
- Third pin: Regarding the documentation of the assessment of performance, the ETA may be considered to document the assessment of performance; the TAB may also have issued an assessment report that may provide additional information relevant to the validation.
- Forth pin: Only in the cases defined by CPR Article 27(4), EADs may define mandatory threshold levels. Where such thresholds are defined by the EAD, the notified body needs to satisfy itself that the assessed performance is in accordance with that threshold;
- Fifth pin: In the absence of indications to the contrary, notified bodies may assume that the TAB has ensured that personnel involved in the assessment of performance were suitably qualified and competent to perform the assessment of the performance;
- Sixth pin: In the absence of indications to the contrary, notified bodies may assume that the TAB has ensured the correct calibration of the equipment used to perform the assessment of the performance;
- Seventh pin: In the absence of indications to the contrary, notified bodies may assume that the TAB has ensured the competence of any testers/calculators/assessors to whom activities have been subcontracted;
- Eighth pin: The ETA is supposed to indicate/clearly identify the product(s) covered by it;
- Ninth pin: Not relevant for products for which an ETA has been issued.

The above does not mean that the notified body as such shall verify or approve the work of the Technical Assessment Body. However, the notified body must enable itself to carry its own responsibilities.

If the notified certification body finds that the ETA cannot serve as basis for the verification of performance, it shall inform the manufacturer and shall not issue a certificate.

With the consent of the manufacturer, the notified body may communicate with the issuing TAB; both in order to take into account the viewpoints of the TAB and to allow the TAB to improve the ETA.

3.7 ADDITIONS TO NB-CPR 17/722 SECTION 8.4, INSPECTION OF THE MANUFACTURING PLANT AND OF FACTORY PRODUCTION CONTROL

For products for which an ETA has been issued, the EAD shall set out *"Principles for the applicable factory production control to be applied"* (See CPR Article 24(2).

In the EAD, the principles may be indicated notably as "cornerstones". The notified body shall assess whether or not the FPC carried out by the manufacturer does adhere to the principles set out in the EAD.

3.8 ADDITIONS TO NB-CPR 17/722 SECTION 8.4.1, EFFECTIVENESS OF FACTORY PRODUCTION CONTROL

Also for products for which an ETA has been issued, the objective is to ensure the constancy of performance. In that regard, it should not be sufficient to verify that the FPC carried out by the manufacturer is in line with the principles of the FPC defined by the EAD and in compliance with the control plan attached to the ETA.

The notified certification body shall carry out the inspection so that it can verify that the FPC effectively ensures that the current production maintains the declared performance.

Though the notified certification body shall not carry out the initial assessment of performance of products for which an ETA have been issued, the notified certification body shall carry out an assessment of the FPC in relation to products for which an ETA has been issued. As for products covered by a harmonised standard, only when the notified certification body finds that the manufacturer ensures that the ongoing production will have the declared performance, a certificate can be issued.

3.9 ADDITIONS TO NB-CPR 17/722 SECTION 8.4.2, EXTENT OF ASSESSMENT OF FPC

Also in case of product for which an ETA has been issued, notified bodies assess the FPC regarding its effectiveness in terms of ensuring the constancy of performance.

3.10 ADDITIONS TO NB-CPR 17/722 SECTION 8.4.3, FPC REQUIREMENTS OF HARMONISED SPECIFICATIONS

As mentioned above, EADs shall set out principles for the FPC. However, as the CPR only requires *principles*, the manufacturer is assumed to have a certain degree of freedom to adapt those principles for the FPC to the specific situation of the manufacturing plant.

Moreover, ETAs may have confidential annexes named “control plan” describing more concretely the foreseen FPC. However, as that control plan is not directly called up by the CPR, no particular basis has been identified for considering the control plan as binding, neither for the manufacturer nor the notified body. However, the control plan may serve as a starting point for the assessment by the notified certification body.

If the notified certification body finds that the control plan attached to the ETA would not be sufficient to ensure the constancy of performance, it shall inform the manufacturer. With the consent of the manufacturer, the notified certification body may also inform the issuing TAB.

NOTE: In order to optimise the technical work, the TAB may at its own discretion, on request or with consent of the manufacturer, involve a notified body, or a potential notified body (according to its technical skills), in the assessment process. In that case, the ETA and the “control plan” can be best suited to the product and the manufacturing processes, describing the means for ensuring the constancy of performance.

3.11 ADDITIONS TO NB-CPR 17/722 SECTION 11.2, METHODOLOGY FOR THE ASSESSMENT AND EVALUATION OF FACTORY PRODUCTION CONTROL

As indicated in section 3.5, initial inspection may cover locations other than the manufacturing plant indicated by the ETA, if significant manufacturing process take place at other locations.

That applies also to the continuing surveillance.

As indicated in section 3.8, initial inspection shall aim at verifying that the FPC effectively ensures that the current production maintains the declared performance. This applies also to the continuing surveillance.

4 ADDITIONS TO NB-CPR 19/813

4.1 ADDITIONS TO NB-CPR 19/813 SECTION 3.1, BASIC SCENARIO

If the product is not covered by a harmonised standard, in addition to the description in NB-CPR 19/813 section 3.1, both manufacturers, Company A and Company B may have ETAs issued for "Product A" and "Product B" respectively.

4.2 ADDITIONS TO NB-CPR 19/813 SECTION 6.2, ASSESSMENT OF PERFORMANCE

If the product is not covered by a harmonised standard, NB-CPR 19/813, section 6.2 does not apply. The ETAs issued for "Product A" and "Product B" would be considered the assessment of performance of "Product A" and "Product B" respectively.

5 CONFORMITY WITH THE ETA AND COVERAGE BY THE EAD

5.1 Conformity with the ETA

For the purpose of the verification of constancy of performance, notified bodies shall satisfy themselves that:

1) The construction product conforms to the product description provided as part of the ETA;

2) The manufacturing takes place at the manufacturing plant indicated by the ETA.

Conformity with the ETA may necessarily presume that all significant manufacturing processes take place at the indicated manufacturing plant. However, to justify the conformity with the ETA, one or more significant manufacturing processes should take place there. The manufacturer is free to have particular parts or processes carried out elsewhere, e.g. by external suppliers.

In other respects, the ETA may refer to the location of the ETA holder, who would not necessarily be the physical producer of the product[7]

[7] Article 15 of the CPR defines that an importer or distributor shall be considered a manufacturer, where he places a product on the market under his name or trademark or modifies a construction product already placed on the market in such a way that conformity with the declaration of performance may be affected.

If the notified body finds that the product is not in conformity with the ETA, it shall inform the manufacturer accordingly and shall not issue a certificate.

5.2 Coverage by the EAD

To verify the constancy of performance, the notified body shall satisfy itself that the construction product indeed falls under the EAD referenced by the ETA.

It is recalled that it is the responsibility of the TAB to issue ETAs only for products falling under the EAD referenced by the ETA.

Similarly, it is the responsibility of the notified certification body to issue and maintain certificates only for products covered by the EAD, complemented by the ETA, referenced by the certificate.

If the notified body finds that the product is not covered by the EAD, it shall inform the manufacturer accordingly and shall not issue a certificate.