

## UBAtc information sheet

### Transition from Directive 89/106/EEC to Regulation 305/2011

2012/10/01

#### 1. Introduction

On 4 April 2011 the Regulation (EU) no. 305/2011 of the European Parliament and the Council of 9 March 2011 for establishment of harmonised conditions for the trading of building products and repealing Directive 89/106/EEC of the Council was published in the Official Journal of the European Union. This Regulation came into force on 24 April 2011 but as the articles 3 up to and including 28, the articles 36 up to and including 38, the articles 56 up to and including 63, the articles 65 and 66 and the appendices I, II, III and V only apply from 1 July 2013, the industry will only be confronted with the consequences of this Regulation on this date.

This document only deals with the aspects which are relevant for the European technical approvals that have been awarded, on-going applications for European technical approvals and future applications. For further information regarding the transition we are pleased to refer you to FPS Economy, SMEs, Self-Employed and Energy, Directorate General Quality and Safety, Service for Approvals and Regulations in Construction (BOCOVA), available on the Internet ([http://economie.fgov.be/fr/binaries/0088-12-01\\_tcm326-163712.pdf](http://economie.fgov.be/fr/binaries/0088-12-01_tcm326-163712.pdf)) and the BBRI website which also provides information regarding this ([www.bbri.be/go/ce](http://www.bbri.be/go/ce)).

#### 2. Terminology

One of the changes is that in future European technical **assessments** will be the alternative route to harmonised standards as a specification on the basis of which the manufacturer must obtain the CE marking rather than the European technical **approvals**. A European technical **assessment** is the documented assessment of the performance of a building product with reference to its essential characteristics. Essential characteristics are the characteristics of the building product which are connected with the basic requirements for building works, in principle the characteristics regulated in at least one country of the European Economic Area. European technical assessments are made in accordance with the relevant **European assessment document**, a document which is established by the organisation of technical assessment bodies with a focus on the issuing of European technical assessments. In short, where European technical approvals were previously issued on the basis of an ETA-Guideline or Common Understanding of Assessment Procedure (CUAP), European technical assessments will in future be issued on the basis of a European assessment document. A marked difference between the European technical approval and the European technical assessment is the fact that the European technical approval is also a declaration of fitness for the intended use which the European technical assessment is not.

In order to prevent misunderstandings, the following terminology and abbreviations will be used within the framework of UBAtc activities:

- European technical **approvals** (ETA)
- European technical **assessments** (NL: ETB; FR: ETE; EN: ETAss)
- European assessment document (EAD)

### **3. European technical approvals issued (ETA)**

#### **3.1 General**

In accordance with article 66 of the Regulation, manufacturers and importers may use European technical approvals which are issued in accordance with article 9 of Directive 89/106/EEC prior to 1 July 2013 as European technical assessments for their complete period of validity.

As an additional service UBAtc asbl proposes issuing a purely administrative extension for all ETAs issued by the UBAtc<sup>1</sup> if this is desired by the holder of them. The validity thus obtained will then apply until 30.6.2018 at the latest.

A technical condition which applies is that the product, production and internal production control are still in line with the description specified in the ETA. An administrative condition is that the period of validity lapses after 30.6.2013. If one of the two conditions is not met, a new ETA application must be submitted in good time (see §5.2 of this document).

We emphasise that these applications may not require any technical evaluation. In that case §5.2 of this document will apply.

#### **3.2 Procedure**

In order to make a claim for this purely administrative renewal, an application must be submitted prior to **1 May 2013** by means of the new application form in which this option is provided (option B).

In order to maximise the period of validity of the new version of the ETA, these ETAs will, regardless of the date of application, be issued by the UBAtc in June 2013. For this purpose the 30 day procedure – the procedure by which the applicant has the opportunity to submit comments on the approval text prior to it being issued – will start in May 2013.

#### **3.3 Cost**

The cost for issuing a renewal of this nature is specified in the table below and it takes into account the period of validity of the version of the ETA which will be replaced.

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<sup>1</sup>This is possible for ETAs which were issued prior to 1.11.2009 by the FPS Economy, SMEs, Self-Employed and Energy, Directorate General Quality and Safety, Service for Approval and Regulations in Construction (BOCOVA) or ETAs which were issued from 1.11.2009 by UBAtc asbl.

End of period of validity of the ETA to be renewed	Cost for the renewal <sup>2</sup>	
	ETAs issued by FPS Economy, before 1.11.2009	ETAs issued by UBAtc asbl, from 1.11.2009
From 1.7.2013, but before 1.7.2014	3470,-	2950,-
From 1.7.2014, but before 1.7.2015	3035,-	2510,-
From 1.7.2015, but before 1.7.2016	2600,-	2080,-
From 1.7.2016, but before 1.7.2017	2165,-	1640,-
From 1.7.2017	1730,-	1205,-

**Table 1: Cost for renewal of the ETA already issued by the UBAtc**

#### **4. European technical approvals (ETAs) still to be issued for which an application was already submitted**

##### **4.1 General**

All on-going applications are screened by the approval operators who are responsible for the relevant dossiers. If they assume that no difficulties are anticipated with the timely delivery of the ETA they will not contact you especially with regard to this.

If it is possible that the ETA cannot be issued in good time, i.e. not before 1.7.2013, then the approval operator will contact you to discuss the steps to be taken.

##### **4.2 ETA applications which cannot be dealt with in good time**

If an ETA application cannot be dealt with in time, i.e. issued before 1 July 2013, the applicant has the option of declaring his intention - on an informal basis - to continue his application as if it were an application for a European technical assessment. This action should ideally be taken as quickly as possible, i.e. as soon as it is apparent that the application is in this position. This is necessary since this will put the UBAtc and above all EOTA in a position to deal with the services of the European Commission in the most efficient possible manner.

A declaration of intention can be registered per se or be registered as an alternative if an ETA application cannot be dealt with in good time; for this purpose, see the new application form in which these options are provided (options D and E).

The applicant can only submit a formal application for a European technical assessment from 1 July 2013. This means that if the applicant declared his intention in advance, this will still need to be confirmed after 1 July 2013, after which the necessary contractual agreements between the UBAtc asbl and the applicant will be put in place. A formal European technical assessment application can be submitted from 1 July 2013; for this purpose see the new application form where these options are provided (option F).

<sup>2</sup> All prices are valid for the year 2012 and will be adapted every year on the basis of the following equation:  $h = h_0 \times (S / S_0)$ , where:

h adapted price

h<sub>0</sub> base price

S vale of the general index "S" as published by the Federal Public Service Economy, S.M.E., Self-employed and Energy – during the last trimester of the year that precedes the relevant year

S<sub>0</sub> value of S for the last trimester of 2011

Costs will be invoiced in one go upon receipt of the dated and signed declaration of admissibility.

Applications which cannot be dealt with, i.e. issued prior to 1 July 2013 can be part of one of the following situations.

Situation	Steps to be taken if the ETA cannot be issued before 1.7.2013
ETA Guidelines, accepted by EOTA, confirmed by the services of the European Commission and, in principle, published by the Member States, which can be applied as EAD without changes in the documents	European technical assessments can be developed, making use of the ETAG as if it were an EAD.
ETA Guidelines, accepted by EOTA, confirmed by the services of the European Commission and, in principle, published by the Member States, which cannot be used as EAD without prior changes in the document <sup>3</sup>	An EAD must be developed and accepted in accordance with Regulation 305/2011.
ETA Guidelines, accepted by EOTA, but not yet confirmed by the European Commission	An EAD must be developed and accepted in accordance with Regulation 305/2011.
ETA Guidelines or amendments which have not yet been processed by EOTA <sup>4</sup>	An EAD must be developed and accepted in accordance with Regulation 305/2011.

Note: It is self-evident that EOTA will where necessary make use of the technical documentation already available.

**Table 2: Steps to be taken if the ETA, based on an ETAG, cannot be issued before 1.7.2013**

Situation	Steps to be taken if the ETA cannot be issued before 1.7.2013
CUAPs accepted by the approval bodies within EOTA	An EAD must be developed and accepted in accordance with Regulation 305/2011.
CUAPs which have not yet been developed (not yet accepted by the approval bodies within EOTA)	An EAD must be developed and accepted in accordance with Regulation 305/2011.
Applications for providing an ETA which still require the authorisation or confirmation of the services of the European Commission	An EAD must be developed for building products which come under a non-harmonised or incompletely harmonised standard

Note: It is self-evident that EOTA will where necessary make use of the technical documentation already available.

**Table 3: Steps to be taken if the ETA, based on a CUAP, cannot be issued before 1 July 2013**

<sup>3</sup> EOTA has procedures to assess when an ETAG can no longer be used as EAD without prior changes.

<sup>4</sup> In principle no applications dealt with by the UBAtc fall into this category

## 5. New applications

### 5.1 General

These paragraphs describe the procedures relating just to the existing ETAs which cannot be extended purely administratively on 30 June 2013. These are those ETAs which were issued by the UBAtc<sup>1</sup> for which the period of validity expires before 1 July 2013 or if the product, production or the internal production control are no longer in line with the description recorded in the ETA and from ETA applicants with products for which no ETA has so far been issued.

### 5.2 Existing ETAs

A standard application for renewal must be submitted for the renewal of these ETAs. As these renewals may demand technical work, it is necessary that the application is submitted in good time, i.e. as quickly as possible; for this purpose see the new application form in which this option is provided (option C).

### 5.3 ETA applications for which no ETA has yet been issued

A standard application for renewal must be submitted for the renewal of these ETAs. On the date of publication and distribution of this information sheet it is probable that a new ETA application can no longer be issued in good time. Therefore the new application form provides the possibility of making a declaration of intention with the ETA application regarding the submission of a formal application for a European technical assessment; (for this purpose see the new application form in which these options are provided (options A and D).

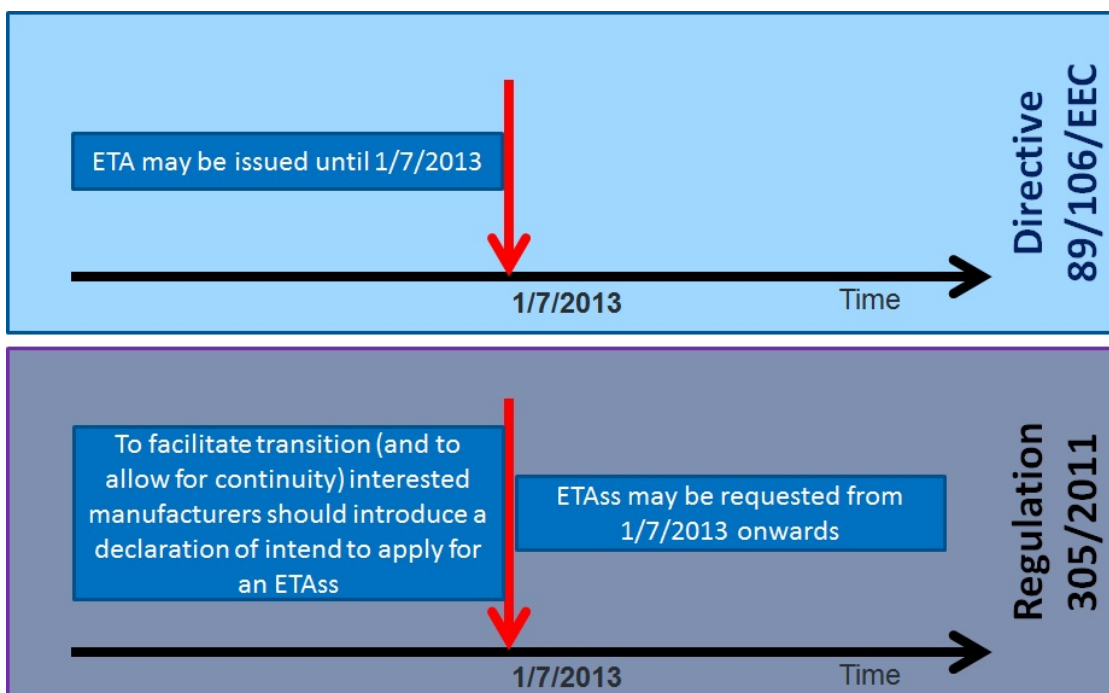


Figure 1: Schematic overview of the transition period

## **6. Cost for a European technical assessment**

The specification of the cost of a European technical assessment is not yet possible since the procedure for their development has not yet been set down. On the basis of the currently available information we assume that the cost will be the same or somewhat higher, as timing to perform specific tasks is stricter than was previously the case.

In any case formal European technical assessment applications can only be submitted from 1 July 2013 and at that moment the UBAtc will be in a position to stipulate the cost.

This document shows that much evolution is taking place on a European level. The UBAtc has ensured that one of its employees can keep a very close eye on the evolution so that the UBAtc can inform its clients thoroughly and in good time. Although this document was drawn up with the utmost care it is not inconceivable that we may have to return to it in due course, in order to provide additional information on certain topics. This applies for the paragraphs which describe the procedures relating to application for a European technical assessment in particular.