EUROPEAN COMMISSION
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Regulatory policy
Regulatory approach for the free movement of goods and market surveillance

NOTE TO THE SENIOR OFFICIALS GROUP ON STANDARDISATION AND CONFORMITY ASSESSMENT POLICY

Title:	**CERTIF 2012-06 REV1 – Notified Bodies - The use of the notified bodies number for activities not required by EU legislation**		
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Doc. N.:	**SOGS N663 REV1 EN**	**Issue Date:**	2012-09
Version:	REV1	**Meeting:**	2012-10-11
Status:	Adopted		

Abstract:

The objective of the present paper is to lead to a common understanding on the use by notified bodies of their status and numbers on test reports – and on documents that confirm test results by other entities without the notified body having done any testing itself. The idea is to prevent any practices that might lead to additional burdens not envisaged by legislation and practices that could undermine the credibility of the system of notified bodies.

Keywords:	**Notified Bodies, test reports, manufacturer's declaration**
References:	**Regulation (EC) no 765/2008 setting out requirements for accreditation and market surveillance relating to the marketing of products, Decision (EC) 768/2008 on a common framework for the marketing of products**

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Brussels, 2012-04-19
CERTIF 2012-06
SOGS N663 EN

1. Objective of the paper

This paper aims to provide a common understanding on the interpretation of Regulation (EC) 765/2008 ("the Regulation") and Decision (EC) 768/2008 ("the Decision") in relation to the use by notified bodies of its status and number on certain test reports and in relation to requests by customs authorities.

2. Background

There have been instances where customs authorities have requested that importers present test reports produced or validated by notified bodies – even if the relevant European legislation is based on the manufacturer's declaration of conformity in that case. This adds a supplementary layer of requirements, not provided for by the relevant product legislation.

In response to these requests, some notified bodies have started providing validated test reports for activities that are not required by the relevant legislation or simply endorsing test results and issuing reports with their notified body numbers, sometimes without actually conducting any tests themselves.

Article 4(1) of Decision 768/2008 states that "Where Union harmonisation legislation requires conformity assessment to be carried out in respect of a particular product, the procedures which are to be used shall be chosen from among the modules set out and specified in Annex II".

Article 6 of the Decision states that "Where Union harmonisation legislation requires conformity assessment, it may provide for that assessment to be carried out by public authorities, manufacturers or notified bodies".

Article R13 of the Decision states that "Member States shall notify the Commission and the other Member States of bodies authorised to carry out third party conformity assessment tasks under this [act]".

Article R23(3) of the Decision states "The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and product or products concerned and the relevant attestation of competence".

Art. R27 of the Decision states:

(1)"Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in… [the relevant part of the legislation]."

3. Problem description

The situation described presents two problems. Firstly, customs authorities are requesting test reports produced or validated by a notified body regarding a conformity assessment procedure which does not foresee intervention of a notified body (e.g. module A). This adds an additional administrative layer for importers and manufacturers that is not required by the specific legislation. This undermines the very purpose of harmonising legislation which aims to provide a uniformly high level of protection of the public interests it addresses, leaving no scope for supplementary national requirements.

Secondly, notified bodies are using their notified body numbers in relation to activities that are not required by the legislation under which they were notified. When a conformity assessment body delivers a test report it is in its capacity as a conformity assessment body; only in its capacity as notified body can it deliver EC type certificates – a certificate bearing in particular the name and number of the notified body. Where a body which has been notified under particular EU legislation for the purpose of carrying certain specific tasks uses its notification credentials when carrying out tests and preparing reports that are not required under that legislation (or when merely endorsing the results of tests carried out by another body) the reputation and credibility of the whole system of conformity assessment under that legislation is put at risk.

4. Solution

Problem 1

While national authorities should request all the necessary technical documentation concerning certain products, they should not go over and beyond what is required by and possible under the relevant product legislation so as to avoid imposing unnecessary burdens on economic operators and creating practices amongst notified bodies that clearly contravene the effectiveness of the conformity assessment system established by the New Legislative Approach. They are entitled to test or have products tested if they have doubts.

Problem 2

In no circumstances should a notified body issue a test report carrying its notified body name and number in relation to tests that are not specified in the legislation, whether those tests were carried out by the body itself or by another body. Moreover it should be underlined that notified bodies may only use their name and number in relation to conformity assessment activities carried out under the specific conformity assessment module that foresees for a notified body to act.