

Rules to be applied in carrying out the Technical Appraisal and Technical Application Document procedure

In the rest of this document, the term 'Technical Appraisal' shall refer to both Technical Appraisals and Technical Application Documents without distinction.

The first part of this document is intended to serve as a supporting document for discussions between CSTB and the Applicant starting from the initial contact phase, specifying the division of tasks between the Applicant and CSTB for each of the actions required to carry out the procedure.

The second part of this document contains all of the sections of the CCFAT's Internal Regulation defining the status, duties and prerogatives of Applicants.

In this document, the following terms are defined thusly:

- **Rapporteur:** the person designated by CSTB as the Rapporteur for applications submitted to a Specialised Group in charge of preparing the Technical Appraisal. The Rapporteur may, while maintaining responsibility for the actions incumbent upon them, appoint an Examiner to act on their behalf throughout the various steps of the procedure.
- **Examiner:** the person from CSTB appointed by the Rapporteur to carry out certain tasks of the Rapporteur, particularly the task of examining the Applicant's technical file.
- **Applicant:** the signatory of the application form, or the person who the signatory appointed on said form to represent them in relations with CSTB.
- **Chair:** the Chair of the Specialised Group (GS) in charge of preparing the Technical Appraisal.

Division of tasks between the Applicant and CSTB

In accordance with the Internal Regulation of the CCFAT, the Technical Appraisal procedure includes four successive phases:

- 1.) Initial contact: this phase ends with the acceptance letter;
- 2.) The phase in which the Applicant's file is put together, including all substantiating technical information: it ends with a 'declaration of admissibility' letter from CSTB;
- 3.) Examination phase: this phase ends with the production of the draft presentation report and the draft Technical Appraisal in the GS, shortly before moving into group work;
- 4.) The phase in which the final Technical Appraisal is developed: this corresponds to the steps from the presentation in the GS to the publication of the Technical Appraisal.

Phase 1: Initial contact, technical examination prior to issuance of the acceptance letter

Before a response is provided to an application and it is officially declared that it has been accepted, the Applicant must have sufficiently supported their provisional file to convince the Rapporteur that the procedure may come to fruition.

In all cases where it is not clear that the procedure can be successfully completed, the Rapporteur, potentially assisted by the Chair and any other expert of the Rapporteur's choosing, may discuss with the Applicant to ensure that:

- from the standpoint of understanding the roles of each party:

- the Applicant is aware that putting together the file is entirely their responsibility. The Applicant is solely responsible for putting together evidence and for taking any decision related to the type, number, relevance and precision of pieces of evidence;
- the Applicant is aware that they retain complete control over their entire file that they put together, and the Examiner may not under any circumstances intervene in taking a decision about what evidence to provide. The Applicant is reminded that they are responsible for paying all costs for obtaining evidence and that, therefore, they are solely responsible for deciding to produce the evidence;
- however, if the Applicant wishes, they may receive advice from the Examiner about how to understand the precedents set by the Specialised Groups and how to present their file;

- from a technical standpoint, the Applicant:

- has explicitly defined the proposed field of use;
- has clearly listed the non-traditional aspects of the system and is aware of their nature and the difficulties caused by the evaluation of risks related to their presence;
- already has the main pieces of evidence substantiating the proposed field of use;
- will be able to gather, in phase 2, within six months, the pieces of evidence identified as missing at that stage, given the human and financial resources that the Applicant intends to dedicate to obtaining them;
- has positioned their pieces of evidence in relation to the available precedents set by Specialised Groups;
- has, either personally or via a third party designated and mandated by them, the necessary technical skills for having technical discussions with the Examiner. In any case, this condition is only considered met if the person discussing with the Examiner is a technical specialist not only of the product, but also, particularly, of the requirements that apply to works in the proposed field of use. Failure to meet this condition may significantly extend lead times during the file compilation phase or may even result in cancellation of the application during the procedure.

At this point, it is useful to distinguish between two types of evidence that will make up the technical file:

- evidence considered essential by the Rapporteur because of applicable regulations and the precedents set by Specialised Groups and without which the file may not be admissible;
- evidence that may be advisable to provide in addition to the essential evidence so that the Technical Appraisal is formulated without severely restrictive conditions related to uncertainties that remain significant in the absence of the corresponding evidence.

Note: finding the balance between the evidence to be provided in light of the claimed field of use to obtain a Technical Appraisal with the most favourable conditions is a task for study missions outside the scope of the Technical Appraisal procedure.

After these discussions, the Rapporteur notifies the Applicant of their conclusions, which are as follows:

- if they find that all of the above points have been met, they send a decision report containing the positions and commitments taken by the Applicant;
- if they find that the above points 1.1 to 1.6 are not all met, they explain to the Applicant that they will receive a written record of the interview, which will indicate that the application cannot be accepted. The Applicant will be directed towards other procedures that are a better fit for their resources and their case (for example, ATEX, studies, research). It is also possible to suggest to the Applicant that they resubmit their application at a later date once the above conditions have been met.

Note: application acceptance happens once the provisional file is finalised and the administrative aspects are fulfilled in accordance with Article 18 of the CCFAT Internal Regulation.

Phase 2: Applicant puts together the file of evidence

The Examiner takes no responsibility during this phase, which is entirely incumbent upon the Applicant, as indicated above. The Examiner may only provide advice considered useful for developing the technical file, notably by reminding the Applicant of the list of essential evidence previously mentioned in phase 1.

Potential smaller group:

Before finalisation of the file, the Rapporteur may decide to consult all or part of the GS and any invited individuals according to the necessary technical skills in order to deliberate on cases in which precedents should be established prior to the examination phase. This method offers the advantage of significantly improving the efficiency of deliberations in the full GS. It also helps orient the Applicant in putting together their file.

Once all of the evidence has been gathered, within no more than six months, with or without consultation of the GS depending on the position of the Applicant in regard to established precedents, the Applicant will be informed that their file will be judged 'examinable' (phase 3) as it is, without the option to add additional evidence at a later date. Without objection from the Applicant, the Examiner will then proceed to acceptance of the technical file.

If the essential evidence is still not available after six months and the Applicant confirms that their file is still not complete:

- the Rapporteur and the Applicant may agree on extended deadlines for the finalisation of the file;
- the Rapporteur has the authority to terminate the procedure. They will officially inform the Applicant, stating that they did not uphold one of their commitments made during the interview prior to acceptance. CSTB will reimburse 80% of the examination costs and written notification of cancellation of the procedure will be sent.

Once the Applicant's file has been accepted, they can no longer change any of the content of any of the pieces of technical evidence in their file.

Phase 3: Examination of the Technical Appraisal application

During this phase, the Examiner must **disprove or validate each piece of evidence provided in the technical file, excluding all other evidence. They must then prepare a presentation report and a draft Technical Appraisal for the GS.**

In principle, the Examiner must not accept any substantial modification to the file they are examining while they are examining it!

If the Applicant forgot a piece of evidence that they deem useful or if they wish to change a piece of data, that represents a non-conformity in the procedure that must be reported to them. The Examiner may accept the change if it does not in any way delay their examination; however, they are not obligated to do so.

If the requested change is significant and increases or delays the examination work, the change should not be accepted and the Examiner should suggest that the Applicant apply for an addendum, which may make use of the evidence that arrived too late to be incorporated into the original file. If the Applicant confirms in writing their request for modification of the original file and refuses to continue examination without acceptance of the modification, then the Examiner must halt the procedure. The Examiner, based on the letter from the Applicant, then closes the procedure in progress and reimburses 40% of the examination fees. The procedure can then be restarted as a new application, with a revised technical file, the lead time clock will be reset to zero and a flat fee will be charged according to the price scale in effect at the time of the new application, without taking into account the previous application.

Presentation of the application to the GS:

Additionally, at the end of this phase, a draft Technical Appraisal is written. This draft is to be produced entirely by the Examiner: this includes both the 'Appraisal' and 'Technical File' portions. That second part is written based on the information provided by the Applicant in their technical file. The Examiner has total latitude in determining the degree of precision for the Technical File. **This Technical File is a synoptic document, a few pages long.** It should be detailed enough for the reader of the Technical Appraisal to be able to clearly identify the non-traditional particularities of the

system. It is not necessary to include items in the file related to traditional techniques, other than for information and for the readability of the document. The Examiner need only cite the references corresponding to the reference documents. Similarly, the Examiner should not reproduce test reports or experimental references already produced; they need only cite these documents as references.

Finally, the Technical Appraisal is not intended to serve as a technical sales document for the product, via a detailed Technical File that constitutes a full catalogue of the manufacturer's product ranges, resulting in a voluminous Technical Appraisal. The Examiner, who has authority over the form given to the document they produce, must ensure that Technical Appraisals are readable and practical.

It should be noted that, at the end of this phase, the Examiner must obtain in writing any observations and comments from the Applicant about the draft Technical Appraisal and the examination report on the evaluation of the evidence from the Applicant's file with regard to the assessment criteria defined when compiling said file.

All of the documents and any comments from the Applicant are then presented to the GS. The Applicant may take part in the meeting to provide any clarifications and to state their point of view.

Phase 4: Development of the final Technical Appraisal

The Specialised Group reaches a conclusion on the content of the draft Technical Appraisal.

These conclusions may include possible recommendations or technical requirements.

The Applicant shall then be notified of all relevant information upon conclusion of the session.

Within a period not exceeding one month, the Applicant may request that the Specialised Group's conclusions be reconsidered pursuant to a complementary file leading to additional examination by CSTB (cost defined by the price scale). If there remains disagreement regarding the Specialised Group's conclusions, the Applicant may appeal to the CCFAT within no more than three weeks of being notified. Once this deadline or the deadline for providing additional elements specified by the Specialised Group has passed, the application will be dismissed.

If the Applicant does not call the conclusions of the Specialised Group into question, the Rapporteur shall, no later than one month after the Applicant is notified of the Specialised Group's conclusions and after receiving the final elements requested for the file:

- finalise the preparation of the Technical Appraisal and submit it to the Chair of the Specialised Group to verify that the document, as written, accurately reflects the conclusions of the GS;
- then send the document to the Applicant.

After a period of 15 days from the date of that notification, the Technical Appraisal shall be released to the public, unless the Applicant appeals to the CCFAT.

The Applicant, according to the CCFAT Internal Regulation

Status

The Commission and Specialised Groups may only examine files presented:

- for products: by the manufacturer, licensor or licensed manufacturer;
- for systems: by the owner of the system or licensed operator.

Note: several companies may jointly apply by substantiating their mutual commitments necessary with regard to the Technical Appraisal's claims. [Internal Regulation, Article 5].

Duties

Initial contact

The Applicant sends a Technical Appraisal application to CSTB for a product or system in the form of a provisional file.

For products or systems falling within the scope of a document issued by a Specialised Group, the Applicant must relate their application to the content of these documents [Internal Regulation, Article 13].

The Applicant shall state on the standard form:

- their full identity;
- the exclusive trade name for the product or system that is the subject of the application;
- a brief description of the product or system and its field of use (geographical area, types of works, etc.);
- the statement that they own the intellectual property for the proposed product or system or that they hold a licence for it;
- identification of the manufacturing sites for materials and components manufactured for the product or system that is the subject of the Technical Appraisal application;
- where applicable, a request to extend the Technical Appraisal to licensees;
- their unconditional acceptance of this Internal Regulation and their commitment to enforce compliance with this Internal Regulation by potential licensees.

[Internal Regulation, Article 14].

The Applicant shall provide a full description of the product or system and of the method for producing works for which it is intended to be used. This description must provide for the identification and the full limits of the work and its components.

[...]

The description must also make it possible to prove that the product or system falls within the scope of the Technical Appraisal process as defined under Article 3, by highlighting the non-traditional aspect(s) of the product or system. [Internal Regulation, Article 15].

The Applicant shall provide a list of reference projects, which must clearly and unequivocally designate all works related to the claimed field of use, their purpose, their quantity, their location for possible examination, the time of their construction and the identity of the stakeholders. [Internal Regulation, Article 16].

When references are outside the claimed territory, the list must specify all information related to the local context that may assist the examination.

The Applicant shall support their claims with a collection of all findings, interpretations, and inferences based on observation of the behaviour of works in service by which they intend to provide proof of the stated properties, for those that are demonstrable, and all the evidence for those that remain subject to evaluation.

[...]

This collection shall also highlight the elements that may help determine the uniformity of the products and methods used. [Internal Regulation, Article 17].

The Applicant pays administrative fees [Internal Regulation, Article 18].

Compilation of the Technical File

The Applicant shall conduct or have conducted all testing required for completing the collection of substantiating documents.

Should there be one or more shared Technical Specifications Documents pertaining to the family of the product or system that is the subject of the application, the Applicant may refer thereto in their file.

The Applicant shall define the elements of the file that are covered by industrial or professional secrecy and the terms and conditions for their disclosure to the Specialised Group [Internal Regulation, Article 20].

The Rapporteur and the Applicant shall agree upon any additional lead times, taking into account the constraints of testing and providing substantiating documents [Internal Regulation, Article 21].

Writing the draft Appraisal

The report and draft Technical Appraisal shall be submitted within this period to the Applicant, who shall be invited to provide in writing their agreement or observations within no more than one month [Internal Regulation, Article 23].

Prerogatives

Before the Technical Appraisal is published, the Applicant may decide to withdraw their application. [Internal Regulation, Article 29].

During compilation of the technical file

Should they deem the presentation documents or the Applicant's explanations of the evidence insufficient, members may invite the Applicant to conduct further testing or investigations in order to provide the necessary substantiation. Such additional evidence shall be compiled with the Applicant's consent and at their expense by bodies proposed by

the Applicant and selected by the Rapporteur. The Specialised Group shall decide in case of disagreement regarding this choice.

During writing of the presentation documents for the Specialised Group

After the period of four months of application examination expires, the Applicant may at any time request that the case be presented 'as is' on the day this request is made [Internal Regulation, Article 28].

During examination of the application by the Specialised Group

The Applicant may take part in the Specialised Group meeting to provide any clarifications and state their point of view, upon their request or that of a Group member.

After examination of the application by the Specialised Group

Within a period not exceeding one month, the Applicant may request that the Specialised Group's conclusions be reconsidered pursuant to a complementary file leading to additional examination by CSTB (cost defined by the price scale) [Internal Regulation, Article 24].

During the period following notification (of the Appraisal after the conclusions of the Specialised Group), the Applicant may file a claim with justification and ask the Commission to examine the case [Internal Regulation, Article 26].