
Title Short:

Application of conformity assessment modules

Fiche Nb:

10

Subject:

Obligation for the legislator to determine the appropriate level of test

Last Update:

18/03/2011

Category:

Accreditation and conformity assessment

Legal basis:

Decision, art 4.6 first indent

Legislative references:

- **Regulation No 765/2008/EC** of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation No 339/93/EEC – Published in the [OJEU L 218/30 of 13/08/2008](#)
- **Decision No 768/2008/EC** of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC – Published in the [OJEU L 218/82 of 13/08/2008](#)

ISSUE TO BE ADDRESSED:

Article 4.6 of the Decision states that

*“when applying the modules referred to in paragraph 1 and wherever applicable and relevant, the legislative instrument **shall**:
(a) where product checks and/or verification are performed, determine the products concerned, **the appropriate tests**, (...).”*

However, very often, it is the harmonised standards that already set out the relevant test conditions and procedures. It is inappropriate to require the legislative instrument to determine the appropriate tests, as this could lead to overlapping and inconsistencies with the relevant requirements contained in the standards.

SOLUTION ENVISAGED:

The term "and wherever applicable" should be clarified to mean "**insofar as** applicable" and exclude those cases where the relevant harmonised standards already determine the appropriate testing conditions and procedures.