GNB-CPR GNB-AG	Coordination of the Group of Notified Bodies for the Construction Products Regulation (EU) No 305/2011	NB-CPR/23/951 **Operational conclusions** Issued 21 March 2024

Draft Operational conclusions of the 55th meeting of the GNB-CPR

24 October 2023, Serris (FR)

Chair: **Mr. Yannick Lemoigne, President of the GNB-CPR**

Attendants:

Full Members

Representatives of the Notified Bodies of:

- Austria (2 representatives)
- Belgium (1 representative)
- Bulgaria (1 representative)
- Czech Republic (1 representative)
- Denmark (1 representative)
- Estonia (1 representative and)
- Finland (1 representative)
- France (2 representatives)
- Germany (2 representatives)
- Italy (2 representative)
- Netherlands (1 representative)
- Norway (1 representative)
- Poland (2 representative)
- Portugal (1 representative)
- Slovenia (1 representative)
- Slovakia (1 representative)
- Spain (1 representative)
- Sweden (1 representative)
- Switzerland (1 representative)

Observers and guests

Representatives of:

- European Commission Services (1 representative by online connection in the beginning of the meeting)
- The Sector Group 18 chairman
- Construction Products Europe (CPE), 1 representative
- Small Business Standards (1 representative)
- GNB-CPR TechSec provided by Danish Technological Institute (2 representatives)
- Administrative Secretariat provided by Methods and planning (1 representative)

Notified bodies not represented

Notified bodies of the following countries were not represented in the meeting:

- Croatia
- Iceland (No notified bodies appointed for CPR)
- Ireland
- Latvia
- Liechtenstein (Notified Bodies of Liechtenstein participate in the Swiss Mirror Group and may hence be considered represented by the Swiss member)

- Lithuania
- Luxemburg
- Malta (No notified bodies appointed for CPR)
- Romania
- Türkiye

1. Welcome and introduction

The President welcomed the participants and informed that no representatives of the Commission Services would -be physically present. Instead, the Commission representative would join by means of an online connection, but only between 09:00 and 09:30.

Therefore, the President suggested that the items depending on the participation of the Commission Services, items 6B and 10, should be dealt first, even before the introduction of the members.

(The online intervention by a representative of the Commission Services is reported under items 6B and 10).

2. Approval of the draft agenda

TechSec presented a slightly revised draft agenda, NB-CPR 23/932r2. Compared to the draft agenda uploaded before the meeting, the only difference would be updated references to two documents:

- NB-CPR 23/933r3, Explanatory note, and
- NB-CPR 23/941r1, Comments received regarding documents on the draft agenda-

The revised draft agenda does not reflect the altered sequence of the items due to the limited participation by the Commission Services.

With that remark, the draft agenda was approved.

3. Draft Operational conclusions of the 54th GNB Advisory Group meeting

TechSec informed that a single comment had been received from the Polish Mirror Group regarding Item 7A, No.2, "Assessment of performance based on testing already carried out". Under that item it is said that testing may be carried out under accreditation, but the assessment of performance as such would not be an activity covered by accreditation".

The Polish Member informed that the Polish accreditation body has actually issued accreditations covering the assessment of performance in AVCP system 3.

The President asked Members if they were aware of similar practice from other national accreditation bodies. That seemed not to be the case.

The French representative who acts as liaison to the European Accreditation (hereinafter "the EA liaison") informed that there seemed to be a general move amongst national accreditation bodies to issue accreditations covering classification reports, but not all national accreditation bodies are doing that.

As the comments submitted by the Polish Mirror Group do not question the correctness of the draft operational conclusions, no correction would be required.

The draft operational conclusions were approved.

4. Matters arising from minutes not dealt with on the Agenda and actions still outstanding after the 54th GNB Advisory Group meeting

TechSec informed that the agreed actions on TechSec had been done.

However, on item 8B, *"Request GNB experts appointed for CPR Acquis subgroups 01 and 20 to submit brief reporting"*, a written report had only been received from the expert appointed for the horizontal subgroup on environmental sustainability. Oral reports had been provided to sector groups 13 and 4 on the acquis process for precast concrete and thermal insultation respectively.

The President highlighted the importance of written feedback to the GNB Advisory Group, as matters of horizontal nature cannot be dealt with by the sector groups.

It was agreed that TechSec should draw up a template to make it easy for the appointed expert to provide the reporting and to give emphasis to matters of horizontal interest.

On Item 4, *The Commission representative to check with the Commission Services if it would be possible to find financial support for the sector groups*, the Commission Services has indicated that technical support will be provided for the initiation of the horizontal group on environmental sustainability. The technical support will be provided by the DTI within the framework of a contract on provisions of technical assistance. Similar technical support may possibly be provided to sector groups that are to deal with new standards.

On Item 6A, *The Commission representative to investigate if the Commission would find it justified to deviate from the requirement that initial inspections must be carried out on site if the Ukraine war makes it unsafe to visit the manufacturing plant*, the Commission Services provided the information that the matter had been subject to internal consultation in DG Grow. It was concluded that for the time being, the Commission Services could not point to any justification for departing from the procedural requirements under the CPR. Hence, initial inspections shall be carried out onsite, also in Ukraine. Possibly, future legislation on emergency measures will allow for departing from such requirements.

On Item 6B *Members to nudge potential candidates for the chairs of SG01, SG09, SG14, SG17, SH01, and SH03, TechSec informed that chairs had been appointed in SG17 and SH03, i.e. that members should still seek to encourage potential candidates to nominate themselves.*

On Item 9 *Polish member to provide TechSec and President with detailed information about deficiencies of EN 12101-6 and reasoning why it should be de-harmonised,* one of the Polish representatives informed that the action was pending consultations with other Polish notified bodies.

Action:

- Actions on items 6B and 9 remain open

5. Dates of next meetings

A 56th meeting

Date: 04 April 2024

Venue: Brussels

B 57th meeting

Date: 22 October 2023

Venue: To be decided (Brussels, Copenhagen, and Warsaw were suggested)

The above dates and the venue of the 56th meeting were confirmed.

Provided that a revised CPR has been adopted, the 56th meeting will be held in connection with a GNB Conference on 03 April 2024.

Action:

Administrative Secretariate and the President to arrange for the 56th meeting to be held on 04 April 2024 at a venue in Brussels..

All Members to save the dates 03 and 04 April 2024 for a conference on the new CPR (03 April 2024) and GNB Advisory Group (04 April 2024), both to be held in Brussels.

TechSec, Administrative Secretariat, and President to clarify the budgetary limits for the GNB-AG meetings

Members to propose venues for the 57th meeting - within the budgetary limits.

6. Work of GNB-CPR

A Progress of the CPR revision – Planning of a GNB conference

The representative of the Commission Services informed that the text of the new CPR might be available in February or March 2024. Therefore, he suggested that 3rd of April should be kept as a tentative date for a GNB conference. By the end of the year, it should be possible to have more precise indications. However, it would obviously not make sense to have the conference without knowing the contents of the new CPR.

He also indicated that the Commission Services might be able to host the conference. To investigate the possibilities, the Commission Services would need a preliminary programme and an estimate of the number of participants.

Regarding the estimate, it was considered if a questionnaire could be circulated amongst the notified bodies so that they could indicate their interest in participating. However, it was also recognised that such a questionnaire might not give a very precise picture.

Instead, it was decided that the President and TechSec should submit an estimate on the basis of the level of attendance to the conference held in 2012 on the transition from the CPD to the CPR, and on the number of notified bodies today compared to the number in 2012. Together with that estimate, the President and TechSec should also workout and submit a draft programme for the conference.

Action:

President and TechSec to submit by Mid-November to the Commission Services a draft programme for a conference and estimated number of participants.

B Progress on the definition of AVCP system 3+

The Commission representative informed that the Commission intends to introduce AVCP system 3+ in the current CPR by means of a delegated act.

A draft delegated act was first tabled for the CPR Advisory Group in June 2023. A further elaborated draft is expected to be sent for open public consultation soon.

Action:
TechSec to send out call for comments and prepare a common GNB position on the proposed AVCP system 3+, for the purpose of the open public consultation.
Members to provide comments on the draft delegated act on AVCP system 3+

C Information according to CPR Art. 53(2)
The President introduced the subject by referring to the explanatory note and by highlighting that the requirement of CPR Article 53(2) to share relevant information with other notified bodies only applies in case of negative results of assessments and verifications. It should be clear that the requirement does not apply in case of voluntary measures by the manufacturer, e.g. to cease the cooperation with a notified certification body. A large portion of the notifications circulated by email or by CIRCABC concerns the situation where a manufacturer has unilaterally decided to bring an end to a certification.

On behalf of the German notified bodies, it was suggested that the "relevant information" to share would concern the technical issues leading to a negative assessment or verification, rather than the fact that a certificate had been withdraw, and that the addressee of that information should be the technical committees, so that they could take it into account when further developing the harmonised standards.

The EA liaison suggested that the matter should be discussed with the EA.

The President agreed that EA should be involved at a certain point but that the GNB should decide first on its own position.

A Member expressed that the national accreditation bodies were the ones causing the problems by requiring notified bodies to inform other notified bodies, even when there's no technical reason.

On behalf of the Swedish, Estonian, and Danish notified bodies, it was suggested that a common database or information page could be a solution. The President did not express disagreement but mentioned that we do not have such common database.
One of the Italian representatives expressed that CIRCABC would not be the right tool for such information.

The SG18 chair suggested that information on 'negative assessments' could be dealt with by the sector groups.

On behalf of the Slovenian notified bodies, it was suggested to check how similar situations are dealt with under other harmonisation legislations.

TechSec mentioned that since Article 53(2) is taken almost directly from the NLF. Therefore, it needs to be interpreted in the light of the NLF, with the necessary adaptations to the common technical language approach of the CPR.

The President summarised the discussions and concluded that there is a need for clarification on:

- What is a 'negative assessment'?
- What is 'relevant information' ?
- How to 'provide information' ?

TechSec agreed to draw of a paper for the purpose of that clarification.

D Changes to the NANDO website

The President informed that no feedback had been received from the Commission Services. The Commission is aware that the new website is not very well adapted to the construction product sector. In that regard, the President mentioned that the "old" NANDO allowed users to easily obtain information on the versions of harmonised standard and applicable systems of AVCP. etc. The new website does not give the same easy access to that information.

The Commission Services has not been able to give any time frame for the improvement of the website.

E Cooperation with notifying authorities (and National Accreditation Bodies / EA)

The EA liaison provided information on some issues.

- Regarding the issue previously discussed about the position of the Spanish accreditation body, ENAC, regarding historical assessment data, EA has not received any information from ENAC.
- Regarding horizontal notification in AVCP system 3, it seems that national accreditation bodies have different approaches. Some national accreditation bodies seem not to consider it permissible for a notified body holding a horizontal notification to make refence in a test report to the harmonised standard for the product. Moreover, some national accreditation bodies seem to consider that a laboratory can only be notified for a harmonised standard if they can cover all essential characteristics laid down in that standard.
  The French accreditation body, COFRAC has drawn up a document on the subject, but it seems that that document does not represent any consensus.

On the last point, TechSec recalled that the concept of horizontal notification was introduced in the CPR to make it possible for specialised notified laboratories, e.g. fire laboratories, to cover a wide range of products without going through the administrative procedures related to each of the harmonised standards. When a notified laboratory holding a horizontal notification reports the assessment of performance of a given product, the laboratory shall both refer to the harmonised standard covering the product and the assessment method applied. Without the reference to the harmonised standard, it cannot be demonstrated that the assessment of performance actually concerns a product covered by a harmonised standard.

On behalf of the Italian notified bodies, the question was raised if it would be possible to be notified for a harmonised standard without covering all the essential characteristics defined by it. In some standards, there are essential characteristics for which only very few laboratories can test and for which no Italian notified bodies were ever requested by manufacturers to do testing. However, the Italian accreditation body requires, as prerequisite for notification, that laboratories demonstrate competence for ALL essential characteristics.

The President said that it seemed obvious that the accreditation bodies had different approaches. While some national accreditation bodies require laboratories to be able to cover all essential characteristics, others only require laboratories to cover one or two. Therefore, the GNB should communicate with the EA to explain the conditions.

On behalf of the Belgian notified bodies, doubts were expressed why horizontal notification would at all be a matter for the accreditation bodies. The Belgian representative recalled that accreditation and notification are two separate acts.

The president confirmed that notification and accreditation are separate acts but said that many Member States rely on their national accreditation bodies, also for the notification.

Regarding AVCP System 3+, the EA liaison, informed that EA has not considered how to operate under that system.

On behalf of the Swiss notified bodies it was asked what accreditation standard(s) to use in support of notifications in AVCP System 3+, if for instance it could be ISO 17029.
The EA liaison informed that EA had not communicated any position in that regard.
The President said that Member States were responsible for the notifications and therefore can define their procedures in that regard.
TechSec added that in principle a candidate notified body can decide for itself what harmonised accreditation standard they will use in support of an application for notification. None of the harmonised accreditation standards cover all requirements for notified bodies, but in case of System 3+, ISO 17029 might be the one with the best coverage.

Action:
President and TechSec to draw up a letter to European Accreditation.

F Status of Sector Groups
TechSec introduced the subject by referring to the explanatory note, NB-CPR 23/913r2, in which a table is indicating the status of the various sector groups.
Calls for chair candidates have been uploaded for SG01, SG09, SG14, SH01, but no nominations have been received.
In Sector Group 17, a new chair has been elected.
In sector groups 13, 16, 18, 19 and 22 the chairs have been re-elected. TechSec thanked all the newly elected and the re-elected chairs for their willingness to put effort into the GNB work.

A new horizontal sector group, SH03 on Environmental Sustainability has been established and a chair has been elected.
TechSec invited members to encourage notified bodies and organisations expecting to become notified bodies for environmental sustainability to join SH03.

The President emphasised the importance of members to encourage notified bodies to nominate themselves for chair of the sector groups for which no chair candidates have been nominated.

A Polish representative asked how to become members of SH03.
TechSec informed that individuals can send a request to TechSec. As there are not yet any notified bodies for environmental sustainability, as an exception, members of SH03 will be listed in the List of Officials.

7. Development of AG guidance and agreed viewpoint

7A Draft position paper on Kits – NB-CPR 23/935

TechSec informed that comments had been received from the mirror groups of Austria, Belgium, France, and Netherlands.
The comments are collected in the document NB-CPR 23/941r1 together with TechSec's suggestions regarding the incorporation of the comments.

In particular, some comments from the Belgian Mirror Group seemed to indicate rather fundamental disagreement regarding the definition of a "kit". TechSec considered that that fundamental disagreement had to be resolved before moving on with the draft position paper.
Whereas the draft position paper has been worked out assuming that all components of a kit must be placed on the market by one single manufacturer, the understanding expressed by the Belgian Mirror Group seemed to be that a kit shall comprise at least two components from one manufacturer and may comprise additional components from one or more other manufacturers.
After receiving the comments from the Belgian Mirror Group, TechSec had carefully re-read the definitions provided by CPR Article 2.
TechSec recognised that the wording of CPR Article 2 could be understood to leave room for the understanding expressed by the Belgian Mirror Group. However, when read in conjunction with other definitions in CPR Article 2, it clearly appears that a kit is special form of a construction product. It also appears clearly from Article 2(1) that a construction product must be placed on the market by one manufacturer.

The Belgian representative expressed surprise over the different understandings. The comments provided by the Belgian Mirror Group were submitted assuming that they expressed the general consensus, also amongst the TABs. For instance, it was the general opinion in Belgium, that a manufacturer could supply two or more components of a kit and then describe supplementary component, e.g. bolts and screws for putting together the components, but not necessarily supply these screws and bolts as part of the kit.

On behalf of the German notified bodies, the opposite position was expressed, i.e. that also the said screws and bolts had to be supplied by the manufacturer. It was explained that the manufacturer could not assume responsibility for the whole kit if not all parts were supplied by the manufacturer.

The President explained that whereas the former directive did not provide any definition of a kit, only a guidance paper had been drawn up, the CPR gives a clear definition. From that definition it should be clear that only when the manufacturer supplies all components the CPR definition of a kit would be fulfilled. If the manufacturer does not supply all components but supplies specifications to which the user can purchase components from other suppliers, that may be considered "systems" or "virtual kits", but it would not be covered by the CPR definition of a kit.
The President asked if any other mirror groups than the Belgian would disagree. That seemed not to be the case.

The Belgian representative mentioned that on the market there are very many such incomplete kits with CE marking. He considered that the agreed understanding could cause trouble on the market.

On behalf of the Dutch notified bodies, it was recalled that for the installation of a kit, components may be necessary that are not supplied by the manufacturer. When such components are not necessary for assembling the kit, they do not have to be supplied by the manufacturer.

On behalf of the Slovak notified bodies, it was mentioned that some EADs may describe "systems", and that ETAs have been issued for kits where not all components are supplied by the manufacturer.
The President said the definition made by the CPR shall apply. One may consider such "incomplete kit" as a virtual kit, but it would not be a kit in the sense of the CPR.

On behalf of the Slovenian notified bodies it was suggested that the position paper should include some examples to better explain the boundaries of the kit definition.
The President suggested that the position paper could include a table to explain the boundaries.

On behalf of the Italian notified bodies, it was suggested that the position paper should avoid using the term "system" as that term may lead to confusion. It was agreed that "system" should be avoided.

The president highlighted another important issue, namely the instructions provided by the manufacturer.
It seems evident that it's not part of the notified body task to assess the documents accompanying construction products. Nonetheless, the notified bodies need the instruction to be able to assemble the kit.
TechSec explained that the reasoning behind the draft position paper was that even though notified bodies are not supposed to assess documents accompanying construction products, it is fundamental that a notified body shall issue a certificate only if the manufacturer has ensured the constancy of performance. If the instructions for assembly do not make it plausible that users will assemble the components correctly, it may be hard to say that the manufacturer has ensured the constancy of performance.
However, the general opinion of the members seemed to be that GNB guidance should not address any kind of assessment as to the ability of the instructions to allow for the correct assembling by users.

Regarding the assembling of the kit for the purpose of testing as basis for the assessment of performance, a German representative emphasised that the responsibility lies with the notified body.
The President recalled that the test report shall describe how the kit was assembled.

It was agreed that TechSec should draw up a revised draft.

Action:
On the basis of discussion in the GNB-AG, rework the draft position paper NB-CPR 23/935 on the work of notified bodies in relation to kits and upload for comments and approval. The word "system" to be left out; guidance on how to consider manufacturers' instructions not to be included.

7B Draft position paper on reporting of the assessment of performance in AVCP system 3 - NB-CPR 23/936

Written comments had been received from the mirror groups of Belgium, France and the Netherlands.

The President introduced the topic by expressing that the written comments seemed not to indicate any fundamental disagreement.

On behalf of the Belgian notified bodies, it was suggested that "Appropriate Technical Documentation" (ATD) should not be listed as a possible basis for the assessment of performance, as they considered that when CPR Article 36 is applied, CPR Annex V does not apply, and consequently there would be no involvement of a notified body.

On behalf of the Italian notified bodies, it was explained that CPR Annex V always applies, but that it often seems to be applied incorrectly when CPR Article 36 is applied. According to the Italian notified bodies, "Cascading ITT" (CPR Article 36(1)c) is often applied without any involvement of a notified body.

TechSec explained that according to CPR Article 36, manufacturers may replace type-testing or type-calculation with ATD. This means that when CPR Article 36 is applied, a notified laboratory may assess the performance on the basis of ATD instead of testing or calculation.

On behalf of the German notified bodies, it was explained that when cascading ITT is applied, the manufacturer has to draw up "Appropriate Technical Documentation" to establish the connection between the test reports provided by the system house and the Declaration of Performance drawn up by the manufacturer who applies the cascaded test results.

The president recalled that failure of manufacturers to involve notified bodies would not be an issue for the GNB to resolve, that would be left to the market surveillance.

Further, the President suggested that the discussions should focus on the draft position paper itself.
The president invited members to bring up their comments on the paper, if any. With regard to the written comments provided before the meeting, the President asked members to reflect on the answers provided by TechSec and indicate if they thought that their comments had not been properly dealt with.

The SG18 chair expressed surprise that it seemed not to be a requirement to indicate the trade name of the product in the assessment of performance report.
TechSec explained that for most manufacturers it might seem natural to request the indication of the trade name, but that manufacturers would also have the right to have a code or other kind of internal reference for the identification of the product. In fact, a notified laboratory would not need to know the trade name of the product in order to carry out the assessment of performance. Therefore, it seems that indication of the trade name can only be optional.
However, in most cases the manufacturer would probably request the indication of the trade name, which would then be indicated as information provided by the manufacturer.

The President added, that for the manufacturers' communication with market surveillance authorities, it would be helpful to have the trade name indicated.
The SG18 chair explained that the underlying question would be, to whom the Assessment of Performance Report would be intended.
The President explained that the assessment of performance report is for the manufacturer who may then use it as evidence, if evidence is requested.

It was agreed that TechSec shall draw up a revised draft taking into account the comments received and that the draft should be circulated for approval.

The Slovenian Member asked if it would be possible to have additional written comments taken into account. The President confirmed that additional comments would be considered, assuming that the comments would not be fundamental.

Action:
TechSec to incorporate Members' comments into the draft position paper NB-CPR 23/936 on the reporting of assessment of performance" in AVCP system 3 and upload for approval.

7C Draft position paper on Working to ETAs and EADs

Written comments had been received from the mirror group of Belgium and from EOTA.

TechSec informed that the comments received had been dealt with in the document NB-CPR 23/941 and invited the Belgian representative to consider if the answers given by TechSec would be satisfactory.
The Belgian Representative asked if it wouldn't be better to integrate the draft position paper into the existing position paper NB-CPR 17/722 on the systems of AVCP. Moreover, some of the Belgian notified bodies had got the impression that the draft represented a certain criticism against the TABs and that it was suggested that notified bodies should check the work of TABs.
TechSec explained that the draft had been drawn up as a separate document because that was the decision at the previous meeting. To incorporate the draft into the existing position paper on the systems of AVCP would be possible but would involve extra work.
TechSec explained that the draft position paper reflects that certain responsibilities apply both to the TAB and to the notified body. For instance, both the TAB and the notified body would be responsible to work to the correct system of AVCP as defined by a Commission decision. To be sure to work to the right system of AVCP, the notified body needs to read the Commission decision. The notified body cannot pass on the responsibility to the TAB. TechSec wondered if it would be such elements that could have been perceived as a criticism against the TABs.

The President confirmed that no bias against EOTA was intended. However, it should be recognised that part of the background for the draft position paper was that TechSec had received questions from notified bodies about some ETAs that seemed to deviate from the EADs on which they should be based.
It was never the intention to criticise the TABs, let alone to offend them. The President invited members to point it out if any wordings of the draft would be offensive.

The Belgian representative mentioned that an ETA can only be changed if requested by the manufacturer. A TAB cannot change an ETA because a notified body has pointed out a mistake in it. Therefore, the paper should make it clear that the notified body should communicate with the manufacturer who can then contact the TAB.
The President agreed.

On behalf of the Slovenian notified bodies, it was indicated that some parts of the draft position paper seemed to provide guidance for TABs rather than for notified bodies. The draft could also leave the impression that notified bodies should check that other actors are meeting their responsibilities.

TechSec expressed agreement to the viewpoints expressed by the Slovenian representative and invited the Slovenian notified bodies to point out the parts of the draft position paper where they consider that guidance is provided for TABs and where it is found that the draft suggests that notified bodies should go beyond the role assigned to them by the CPR.

It was agreed that the Slovenian notified bodies should forward written comments, which TechSec would then incorporate into a revised draft.

Action:

Slovenian member to send comments on draft position paper NB-CPR 23/937 on the notified bodies' verification of constancy of performance in relation to ETA and EADs.

TechSec to incorporate Members' comments into the draft position paper NB-CPR 23/937 on the notified bodies' verification of constancy of performance in relation to ETA and EADs, and upload for approval.

7D Draft position paper on maintenance of certificates in extraordinary situations (replacing NB-CPR 20/852)

Written comments had been received from the Belgian Mirror Group only.

The President introduced by reminding members that the draft position paper only concerns the maintaining of certificate, not the initial inspections. The Commission had informed that they found that currently, initial inspection on site is a requirement that notified bodies cannot depart from.

As a general comment, the Belgian representative considered that it may not be relevant to have guidance like the draft position paper. In cases it's not possible to reach the manufacturer it may be necessary for a notified body to withdraw a certificate. That would be the same no matter the reason why it's not possible to visit the manufacturing plant. Alternatively, the Belgian representative considered that if the position paper is kept it should be limited to cases where the notified body is prevented from visiting the manufacturing plant.

The President expressed that there is a need for the guidance. He found it necessary to distinguish between the more limited situations like a strike or a fire in a factory and the more wide-reaching extraordinary situations. Whereas the limited situations like a strike or a fire in a factory can be dealt with by the individual notified bodies, the large-scale situations have to be managed in a coordinated manner.

TechSec recalled the situation in 2020 where it showed necessary rapidly to draw up guidance on the COVID-19 situation. Given the circumstances, first TechSec, with the support of the Commission Services and some individual GNB-AG members, had to draw up an informal document that was later amended and approved as a GNB position paper, which turned out to be very useful for many notified bodies. From the viewpoint of TechSec, the GNB should be prepared for similar future situations by adopting guidance on how to deal with such extraordinary situations.

The SG18 chair suggested that more guidance should be available for notified bodies on the suspension and withdrawal of certificates.

TechSec recalled that position paper NB-CPR 17/722 describes the actions of restricting, suspending and withdrawing certificates. These actions would be the same if the action is a result of an extraordinary situation or if the reason is failure by the manufacturer under more stable conditions.

The President added that one purpose of the draft position paper is to guide notified bodies to keep up their surveillance and thereby avoid unnecessary suspensions and withdrawals.

On behalf of the Italian notified bodies, it was said that situations related to single manufacturers cannot be compared to the extraordinary situations dealt with in the draft position paper. It was said that if a factory is burned down, then the certificate might not be the biggest problem. For instance, in Ukraine, there are many manufacturing plants operating in spite of the war that makes it unsafe for notified bodies to go there. These manufacturers depend on their certificates being kept valid.

The President concluded that no fundamental objections had been brought up. Accordingly, the conclusion would be that TechSec should incorporate the comments received and then upload the position paper as approved.

Additionally, the President informed about a situation where a national accreditation body had required a notified body to withdraw a certificate issued to a Russian manufacturer. The requirement for withdrawal was reasoned by the inability of the national accreditation body to carry out on-site monitoring in Russia.

Action:
TechSec to incorporate Members' comments into the draft position paper NB-CPR 23/938 on the maintenance of certificates in extraordinary situations considering, and upload as approved.

7E Minor revision of position paper on use of external facilities - NB-CPR 14/594

No written comment had been made in advance.

TechSec explained that revision concerned two points:

1) At the last meeting of the GNB Advisory Group, information was shared about an arrangement between a manufacturer and a notified body where the manufacturer in fact would carry out testing assigned to the notified body while the notified body would have the possibility to monitor the testing online.
   In the revised draft, it has been made clear that this should not happen.

2) Information had been received that some notified bodies not having their own laboratory would apply facilities of manufacturers.
   In the revised draft it has been made clear that to use external facilities, notified bodies need also to have their own facilities.

On behalf of the Belgian notified bodies, it was asked what "own facilities" means in this context.

TechSec explained that it means either an inhouse laboratory of the notified body or the laboratory of a subcontractor.
The Belgian representative remarked that subcontracting can be done with different laboratories for different manufacturers.

A German representative recalled firstly that use of external facilities is not considered as subcontracting. Secondly, he recalled that notified bodies need to demonstrate their competence continuously.

TechSec explained that CPR Article 46 does not derogate from CPR Article 43. This means that when working to CPR Article 46, notified bodies also need to comply with all provisions of CPR Article 43.

CPR Article 43(6) requires notified bodies *to capable of carrying out all the third party tasks in the process of assessment and verification of constancy of performance assigned to it in accordance with Annex V.* The same article requires notified bodies to have *access to all necessary equipment or facilities.*

For a body notified for systems 1+ or 1, this means that it must be capable to carry out the testing and, in that respect, have access to the necessary equipment.

On top of that, CPR Article 46 requires notified bodies applying Article 46 to be *specifically designated as competent to work away from their own accredited test facilities.*

From the above it seems evident that a notified body cannot apply external facilities unless they have either an inhouse laboratory or a subcontracting agreement with a laboratory allowing them to demonstrate competence as well as access to the necessary equipment.

The President concluded that there were no fundamental objections to the draft revised position paper.

Action:
TechSec to upload the draft revised position paper, NB-CPR 14/594r6 as approved.

7F GNB-CPR GuidanceBase

TechSec informed that a new package of questions and answers had been discussed in the preparatory meeting and that the package would be uploaded for comments and approval by the GNB Advisory Group.

8. SG matters.

8A General update including state of play of GNB documents

The SG18 chair thanked for the invitation to attend the meeting. He informed that generally SG18 meetings are well attended, though not all notified bodies attend.

SG18 is considering establishing a working group focussing on strength graded timber. By considering strength graded timber in a working group it might leave more room in the sector group to also discuss other products, under harmonised standards and EADs.

The SG18 chair also informed that normally, SG18 meetings are one and a half day meetings and asked if the GNB Advisory Group would be content with that.

TechSec expressed that nothing in the internal rules would prevent one and a half day meetings. However, SG18 should take into account that long meetings may make it more expensive for NBs to attend and thereby "raise the threshold" for participation. Generally, TechSec can only be expected for one day.

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The President confirmed that such matters are decided by the sector groups.

8B Reporting from GNB experts for the CPR Acquis

A written report had been received from the French representative who is appointed as GNB Expert for the Thematic Subgroup on environmental sustainability – see document NB-CPR 23/939.

The French representative highlighted the following points:

- It is being discussed which databases to use. Several databases exist, both national databases, industry databases, and European databases. The question is if the Acquis group will need to compare the databases and make the choices.
- The above choice may have large impact on the future work of notified bodies.
- The draft delegated act on system 3+ is expected to go for open public consultation.

All notified bodies are invited to send comments.

Next meeting of the subgroup was not scheduled yet.

The President emphasised that even though the draft delegated act on system 3+ speaks about the "performance of the products", it should be understood that the work of notified bodies under system 3+ will focus only on the environmental sustainability performance, and not on the product as a whole.

Further, the President mentioned that the Commission Services seems to be very responsive to constructive input from the GNB. For instance, in the original draft it was said that the notified body should verify the software used by the manufacturer. After comments provided by notified bodies explaining that the same software might be used by a number of manufacturers the Commission Services had adjusted the text.

The Slovenian representative asked about the effect the changed wording in the draft delegated act, namely the change from "verification" to "validation".

The French representative explained that "verification" might be understood as confirming the correctness, which might not fit very well to the work to be done.

TechSec explained that it may to a wide extent be up to the GNB to put meaning into the terms by defining a good practice for bodies under system 3+.

The Dutch representative explained that the verification/validation terminology can be found in ISO 17029. In short, validation is about assessing the assumptions while verification is about the output of a process.

On behalf of the CPE, a question was raised about the connection between the GNB and the Acquis groups. The President explained that GNB is invited to appoint experts for the various acquis groups. Generally, the experts appointed are either SG chairs or experts nominated by SG chairs. In relation to the thematic subgroup on environmental sustainability, the French representative volunteered in the absence of a horizontal sector group, SH03, which has been established in the meantime.

Action:

TechSec to provide a reporting form for GNB Experts participating in the CPR Acquis. Reporting to GNB-AG should focus on horizontal matters.

9 National Mirror Group matters - Opportunity for National Mirror Group Representatives to report on key issues.

An Italian representative informed about the withdrawal of notification of a notified product certification body with more than 600 active certificates. By reference to CPR 50(2) the Italian notifying authority wrote to the manufacturers holding certificates that they should contact another notified certification body to have a confirmation of the validity of the certificate issued

by the body whose notification had been withdrawn. Therefore, manufacturers are now requesting notified product certification bodies to confirm the validity of these certificates.
That situation has given rise to concerns amongst Italian notified bodes and to the question if they are at all in a position to give such confirmation.

The President informed that also French notified bodies had been approached by manufacturers requesting confirmation of the validity of certificates issued by the formerly notified Italian body. He recalled that the notifying authorities are responsible for ensuring that the files of that body are processed by another notified body or made available to market surveillance, but the CPR does not say how a notified body shall process these files. To take over a certification without any assessment would seem doubtful in the light of ISO 17065. A notified certification body may use data transferred from the formerly notified body as basis for a certification decision, but it would also have the right to reject the data. The notified body would be required to take responsibility for their own decision.

TechSec informed that a GuidanceBase Item (No. 0373) would be proposed to tackle the situation. The item to be proposed makes it clear that a notified body cannot confirm the validity of a certificate issued by a body that lost its notification.

The Dutch representative reflected over the discussions in the Dutch Mirror Group, that to a wide extent focused on certain wordings and expressions in draft position papers. Normally, it is found that the draft position papers are well prepared, and that commenting would not be necessary.
On the same line, the Dutch representative expressed gratitude over the assistance provided over the years by legal officers of the Commission, who with their legal background were able to explain very well the legal conditions and possible interpretations. The Dutch representative wondered if the Commission would offer a legal officer to support the GNB work; also considering the sometimes complex legal context of the guidance.

The President informed that the Commission officer who is currently appointed as the main contact for the GNB has a technical background, and that the decision lies with the Commission.
The President also agreed that in particular in relation to the new CPR it may be relevant to request legal support by the Commission.

As a concluding remark in relation to the national mirror groups, the President emphasised the importance of the national representatives to bring back to the national mirror groups the explanations given in the GNB Advisory Group. As there can be different traditions in the different member states, some of the conclusions of the GNB Advisory Group may require explanations, that can only be provided by the national mirror group representatives.

10. Report on SCC, Commission, and other matters

The Commission officer who was connected online provided the below information regarding the revision of the CPR:

- The "trilogue" where the Parliament and the Council negotiate with the support of the Commission Services, was progressing.
- At the time of the meeting, the trilogue had concluded on matters related to standardisation and the to the obligations of economic operators.
- Obligations of notified bodies and related processes had not been covered. Neither had Annex V.
- It was expected that the final agreement would be concluded in February or March 2024.

Therefore, the tentative date for a notified bodies conference, 03 April 2024, could be kept as tentative.

- It had been discussed if the powers delegated to the Commission to amend Annex V seemed to be maintained.
- The transition to the New CPR may take rather long time, but it will be possible as soon as the new CPR is in force to issue standardisation requests.
- For products covered by existing harmonised standards, the work of notified bodies will continue under the current CPR.

Five standards have been submitted for assessment by the Commission. All five are expected to be cited soon.

The draft delegated act on AVCP System 3+ is expected to go for consultation amongst the Member States soon.

The Commission officer also expressed sincere recognition of the GNB efforts to establish a horizontal sector group on environmental sustainability, SH03.

With regard to the previously raised question about commission support for the GNB work, the officer explained that the Commission would provide support specifically for the SH03 in the form of support from consultants contracted by the Commission for the technical implementation of the CPR.

Possibly, in 2024 it may be possible to find more support for the GNB work.

Regarding the previously raised question about possibilities to conduct initial inspections without physical presence at manufacturing plants in Ukraine, the Commission officer informed that the subject had been consider in the Commission Services, but that no such possibilities have been found.

However, it seems likely that future legislation on cases of emergency will leave room for such exceptions from legal requirements.

11A. AdCo-CPR Group on Market Surveillance

TechSec passed on greetings from the AdCo President who was unable attend this meeting, but who intended to come to the next meeting.

The week before the GNB Advisory meeting, an AdCo meeting had been held where TechSec participated. TechSec informed that AdCo was focusing on rebranding and that TechSec had been asked to give a presentation on the GNB Guidance on rebranding. Given the context, TechSec had focused on the documentation that rebranding manufacturers should be able to present to market surveillance authorities.

TechSec informed that AdCo had discussed the situation where a manufacturer requests repetitive testing until a satisfactory result is obtained. In that connection TechSec had been asked how notified bodies should consider that situation. TechSec had indicated that the notified bodies' considerations would depend on the system of AVCP. In systems 1+ and 1, the notified certification body would have responsibility for the sampling. A new sample should be taken only if there's a change to the product or if there's a reason to believe that the first result obtained would not be reliable. In system 3, the laboratory may test the samples brought by the manufacturer. The laboratory would not have to question if any changes had been made.

In that connection, TechSec asked Members if there would be a wish for guidance on such matters.

On behalf of the German Mirror Group, it was expressed that there would be no such need.

The Belgian representative asked if the AdCo had discussed any further the previously discussed issue of measurement uncertainties and production variabilities.

TechSec informed that the issue had not been on the agenda of the AdCo. However, in the meeting, TechSec had had the opportunity to recap the outcome of the discussions in the GNB Advisory Group.

The President recalled that in a previous meeting of the AdCo, AdCo members had raised questions about the measurement uncertainties in relation to test results obtained when market surveillance takes samples. In that connection, TechSec had given an explanation supported by a PowerPoint slide provided by the Polish Mirror Group in which possible rules were illustrated for the acceptance or rejection of a sample.

That explanation seemed to be welcomed by the AdCo members.

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11B. CEN

No CEN representative present.

11C. Construction Products Europe (CPE)

The CPE representative thanked for the possibility to participate and the possibility to submit comments on the draft position papers.

11D. EOTA

No EOTA representative present.

11E. European Accreditation (EA)

No EA representative present.

11F. Small Business Standards (SBS)

No remarks.

12. Any other business

On behalf of the Polish Mirror Group the question about meeting venues was brought up. To some Members, Brussels may not necessarily be the most convenient venue. It was suggested that other venues could be chosen, e.g. Copenhagen or Warsaw.

The President recalled that there are certain budgetary constraints to respect. It should be clarified with the Administrative Secretariat what the limits are. Then members can suggest venues within those limits

Action:

See item 5.

13. Closing of the meeting

The President thanked the participants and closed the meeting at 16:00.