GNB-CPR **GNB-AG**	**Coordination of the Group of Notified Bodies for the Construction Products Regulation (EU) No 305/2011**	**NB-CPR/21/885** **Operational conclusions** Issued 09 February 2022

Draft Operational conclusions of the 50th meeting of the GNB-CPR

19 October 2021, Ljubljana (Hybrid meeting)

Chair: Mr. Marjan Japelj, ZAG - President of the Group of Notified Bodies for the CPR

Attendants:

Full Members

Representatives of the Notified Bodies of:

- Austria (2 representatives – remotely attending)
- Belgium (1 representative – remotely attending)
- Bulgaria (1 representative – remotely attending)
- Czech Republic (1 representative – remotely attending)
- Denmark (1 representative – remotely attending)
- Estonia (1 representative – remotely attending)
- Finland (1 representative – remotely attending)
- France (2 representatives – remotely attending)
- Germany (2 representatives – remotely attending)
- Italy (2 representatives - physically attending)
- Norway (1 representative - physically attending)
- Poland (1 representative – remotely attending)
- Portugal (1 representative – remotely attending)
- Slovenia (1 representative - physically attending)
- Slovakia (1 representative - remotely attending
- Spain (1 representative – remotely attending)
- Sweden (1 representative – remotely attending)
- Switzerland (1 representative - physically attending)
- Turkey (1 representative – remotely attending)

Observers and guests

Representatives of:

- Institute IMS, Serbia (1 observer – remotely attending)
- European Commission Services (1 representative – remotely attending)
- GNB-CPR TechSec provided by Danish Technological Institute (2 representatives physically attending)
- Administrative Secretariat provided by Methods and planning (1 representative physically attending)

Notified bodies not represented

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

- Croatia
- Cyprus
- Greece
- Hungary
- 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)
- Netherlands
- Romania

1. Welcome and introduction

The President welcomed the participants and informed that the meeting would be recorded for the purpose of supporting the minuting.

The members introduced themselves, both those physically present in the meeting room and those attending remotely.

TechSec mentioned that the list of officials (monitoring report M/02 found in the library on CIRCABC) was not updated to correctly reflect the current members of the GNB Advisory Group. To enable TechSec to update the list of officials, members not correctly indicated by the list of officials were kindly asked participants to fill out an expression of consent and send it to TechSec. The template, NB-CPR ALL-18-166, is found on CIRCABC.

Action

Members not listed in the NB-CPR/M02 Officials of the GNB-CPR to submit an "expression of consent" (NB-CPR ALL 18-166) to TechSec.

2. Approval of the draft agenda

The draft agenda, NB-CPR 21/862 was approved, with the change, that item 6C was postponed to after item 9.

The Spanish representative expressed a wish to discuss a question about CE marks on test reports and certificates – also to be dealt with under item 9.

3. Draft Operational conclusions of the 49th GNB Advisory Group meeting

The draft operational conclusions, NB-CPR 21/868 was approved.

Comments regarding Brexit had been received from the Belgian mirror group. As the comments did not concern the correctness of the draft operational conclusions it was decided to deal with the comments under item 9.

4. Matters arising from minutes not dealt with on the Agenda and actions still outstanding after the 49th GNB Advisory Group meeting

TechSec informed that the agreed actions for TechSec indicated in Annex 1 of the draft operational conclusions of the 49th meeting had been completed.

However, regarding item 6C, no input had been received from the members. Hence, no proposal had been worked out for the improvement of the CPR.

The President suggested that a draft proposal should be worked out in cooperation between the President and TechSec. The proposal should then be circulated for comments amongst the members. As the representative of the Commission indicated that for a proposal to be taken into account by the Commission, it would have to be made very quickly.

It was agreed that the President and TechSec should draw up a proposal, which should be limited to only concern provisions of the CPR with direct effect on the work of notified bodies and the GNB coordination.

The proposal should at least concern the requirements for notified bodies to participate in the GNB Work, and the title of the certificates in AVCP system 2+.

On behalf of the Italian NBs, it was suggested that comments should be made regarding article 53(2) , which is very difficult to fulfil. Distinction should be made between on one hand restriction/suspension/withdrawal caused by failure by the manufacturer to ensure the constancy of

conformity, and on the other hand, restriction/suspension/withdrawal caused by other reasons, e.g. by failure to pay the NB's fee.

Action:
President and TechSec within 2 weeks to draw up a proposal for GNB comments on a revised CPR. Members should then have 1 week to comment on the proposal before TechSec shall do the final editing and forward to the Commission.

5. Dates of next meetings.

A 51th meeting
Date: 22 March 2022
Venue: Brussels

B 52nd meeting
Date: 18 October 2022
Venue: Slovenia

Action:
Administrative Secretariat and President to arrange for the 51st meeting to be held on 22 March in Brussels.

6. Work of GNB-CPR

A Effects of the COVID-19 pandemic on the work of GNB-CPR

The President informed about the current situation for the GNB. Since March 2020, some SG meetings had been postponed, while other SG meetings had been held as virtual meetings. In September, a SG11 meeting was held as a hybrid meeting, the current GNB-AG meeting also as hybrid meeting, while a SG06 meeting was scheduled in Denmark in November, mainly with physical attendance.

The President asked members to inform about their view on current effects of the pandemic on the work of notified bodies.

On behalf of the Italian NBs, it was explained that inside Italy and most of Europe, inspections are generally carried out onsite, as before the pandemic. However, for manufacturing plants outside Europe, remote surveillance is often used because of travel restrictions and quarantine requirements on return from abroad.

A French representative shared the experience that remote Sector Group meetings seem to attract a higher number of participants than face-to-face meetings. Therefore, it was suggested that remote SG meetings should be kept as a possibility, even after the pandemic. It was suggested that virtual meetings could be held in between face-to-face meetings.

TechSec explained that the internal rules were adapted in 2020 to allow for virtual meetings in exceptional situations like the pandemic. However, the internal rules also allow for virtual meetings in between. For instance, SG22 has decided to maintain a frequency of physical meetings at one per 18 months and two virtual meetings in between. TechSec considers that as being in line with the internal rules.

TechSec also confirmed that virtual meetings seem to generally attract higher participation.

A TechSec representative shared his personal experience from a high number of virtual SG meetings since March 2020. It seems like NB representatives who know each other well and

who are well into the subjects being discussed can achieve much in virtual meetings. It seems however more difficult to have new members involved. It also seems like it's more difficult in virtual meetings to reach compromises, to unite diverging viewpoints, and to close agreements.

The President concluded that virtual meetings have both advantages and disadvantages, and that virtual meeting will also be part of the future of the GNB – even after the pandemic.

B Competence of notified bodies – Status of initiative

TechSec informed about the status of the initiative.

In May, two test webinars had been held for members of the GNB Advisory Group. Many of the members had provided valuable feedback, which had been used for the further development of the training programme.

A series of 5 webinars is foreseen to be held in November and December.

On behalf of the French notified bodies it was said that language is important as not all NB assessment personnel would be able to participate if the language was English only.

TechSec explained that after all the webinars have been held, the educational materials would be made available to the GNB AG members for translation into their national languages. This will include the slides, the text accompanying the slides, and the questions following the presentations.

Action:
TechSec to plan and conduct the webinars, and subsequently, on request, make educational materials available to members of the GNB Advisory Group.

C Interaction between notification and accreditation
TechSec introduced by explaining that with Italy also applying accreditation as basis for notification, for all practical purposes, accreditation had become quasi mandatory.

An oral presentation made supported by a PowerPoint presentation.

The presentation left a number of open questions:
- Can EA introduce additional requirements for NBs? (E.g. "no reissuance of test reports?)
- Is EA-2/17 "a sectoral scheme"?
- Does EA-2/17 adequately cover the obligations of NBs? For instance, the use of testing facilities outside the laboratory of the NB and the operational obligations – including the focus on the constancy of performance?
- Is the concept of "only the preferred accreditation standard" in line with the "presumption of conformity", cf. CPR Art. 44?
- Would a Member State have any basis for requiring another accreditation standard than the "preferred one"?

The presentation concluded that continued dialogue with the accreditation community would be necessary.
TechSec suggested that the notified bodies should collect and submit to TechSec examples of additional requirements made by national accreditation bodies.

The French representative acting as EA liaison mentioned that most of the GNB comments had been taken on board with the current document EA 2/17. It was also said that EA seems to have a clear understanding of the CPR. Within the EA framework, training sessions had been held for assessors, and the national accreditation bodies generally showed a good understanding of the matter.

The EA liaison also mentioned that the new version of EA-2/17 had not been fully applied yet. When the new version is fully implemented in 2022, a new inquiry could be made amongst notified bodies, like the inquiry made a few years ago about the notified bodies' experience of the practices of the notifying authorities and the national accreditation bodies. Then there would be a basis for further discussion with the EA.

A question was raised about the status of UKAS, the UK accreditation body. The EA liaison confirmed that UKAS is still on the list of members of the EA:

On behalf of the Belgian notified bodies it was mentioned as a problem that EA-2/17 it is based on Decision 768/2008, from which the CPR departs at very many points.

Therefore, a separate guideline should be made for the CPR. The Belgian representative would be happy to assist.

On behalf of the French notified bodies, it was said that the Commission should define clearer positions on issues related to accreditation. For instance, it seems that some accreditation bodies object to subcontracting in AVCP system 3.

On behalf of the Commission, it was said that the Commission has been in dialogue with the EA. The Commission has no possibility to impose their views on the EA, but EA has indicated openness to dialogue and to the alignment of views. The Commission representative highlighted the importance of the role of the EA liaison. The Commission will also support the continued dialogue between the GNB and the EA.

The Commission representative also welcomed the idea that notified bodies should collect examples of requirements made by national accreditation bodies.

An Italian representative informed about an inquiry made in connection with the Italian transition to use of accreditation as basis for notification. That inquiry showed very big differences between the administrative practices of the accreditation bodies. For instance, the Italian accreditation body seems to require much more time for the assessment of notified bodies than what other national accreditation bodies require. This seems contrary to the objective of fair competition amongst notified bodies.

The President concluded that the members should collect examples of questions and problems in relation to accreditation as basis for the notification and thereby enable the GNB to discuss the matters with the EA.

Action:

All members to collect and submit to TechSec examples of questions and problems in relation to accreditation as basis for the notification

7. Development of AG guidance and agreed viewpoint

A Initial inspections during COVID-19 pandemic – NB-CPR 21/872r1

TechSec introduced the document NB-CPR 21/872r1 and explained that it was drawn up subsequent to the discussions at the previous meeting of the GNB Advisory Group. The

background is also described in the “explanatory note”, NB-CPR/21/876r1. At the 49th meeting of the GNB Advisory Group, it was agreed that the Commission should investigate if the March 2020 communication (Annex 1 of the Draft Position Paper) from the horizontal Unit B1 should be understood to open for deviation from the requirements regarding initial inspections. The horizontal Unit B1 had indicated that deviations from the requirements regarding initial inspection, in certain conditions, could be justifiable.

This prompted TechSec to analyse the situation and consider what guidance GNB could provide in that regard.

It was found very difficult to draw up guidance on that matter as the authority assigned to the GNB to issue guidance would be limited to situations where CPR leaves room for notified bodies to adapt their activities. The CPR does not leave any authority to the GNB to exempt notified bodies from their obligations.

Therefore, the proposed guidance does not define the circumstances in which notified bodies may deviate from the CPR. While emphasising the responsibility of the individual notified body, it only defines matters to take into consideration, and it provides guidance on the decision-making and documentation in that regard.

The first draft was circulated in May. By the end of the commenting period, comments had been submitted on behalf of the notified bodies of France, Poland, and Czech Republic.

In the revised version circulated in September, the Czech comments had been incorporated, as had part of the French comments. Unfortunately, TechSec had not found it possible to incorporate the comments from Poland. Therefore, it was found necessary to subject the revised document to discussion in the GNB Advisory Group.

Prior to the meeting, additional comments had been received from the Belgian and Danish mirror groups.

The Belgian mirror group had expressed general agreement with the principles of the draft position paper but was concerned that exceptional measures as remote initial inspections could linger even after the pandemic.

TechSec suggested that it could be made more explicit in the draft guidance that deviations would be justifiable only during the pandemic.

The Danish mirror groups had expressed that remote initial inspections would not have the same technical value as onsite inspections. Therefore, the Danish Mirror Group suggested that the draft should be withdrawn. However, if maintained, the paper should provide more directly applicable guidance.

TechSec explained that since the horizontal Unit B1 has assessed that the pandemic in certain conditions would make deviations justifiable, the GNB would not be in a position to contradict that. It would however be possible to include in the guidance that notified bodies should be aware that remote inspections would normally be considered to have a lower technical value than onsite inspections.

The president invited members to orally elaborate their comments.

On behalf of the Belgian notified bodies confirmed the opinions they had send in writing, i.e. that they are concerned that extraordinary measures would linger even after the pandemic.

TechSec indicated that it could be made more explicit in the position paper that the measures would only be applicably during the pandemic.

The Belgian representative considered that it would be necessary in the near future to discuss again the conditions for remote inspections.

On behalf on the French notified bodies, it was said that the French comments were submitted for the purpose of making the position paper more clear.

The Polish representative found it regrettable that the Polish comments had not been taken on board. Nonetheless, the Polish representative found it better to have the position paper approved as it is than not to have any guidance. However, the Polish representative would once more ask for the removal of the phrase about considering “societal needs” (see section 3.1 of the draft).

TechSec emphasised that the aspects listed in section 3.1 were only aspects to consider, but that no particular criteria were defined.

TechSec explained that the words “societal needs” could be replaced by “public interests”, as the role of notified bodies is normally understood to protect “public interests”. If there’s a shortage of certain construction products, it may be considered a public interest to have such products made available on the market.

TechSec further emphasised that nobody would have the authority to permit a notified body to deviate from the CPR. A notified body may – at its own responsibility – decide to deviate if it finds it justified to deviate, but it should be prepared that it could be challenged, either by the client, a competitor of the client, or a public authority. The notified body should be prepared to defend the deviation, ultimately in the court of justice.

An Italian member expressed that notified bodies should be aware of their responsibilities, and that remote initial inspections would always present a high risk. Therefore, rather than applying remote techniques notified bodies should cooperate on cross border inspections.

On behalf of the notified bodies of Norway, it was said that the experience gained during the pandemic should be used in the future, and that remote inspections should also be possible in the future normal situation.

On behalf of the Portuguese notified bodies, the information was provided that in Portugal all initial inspections had been carried out onsite, and so had most of the surveillance inspections. The question was raised whether or not a revised CPR would allow for remote inspections.

On behalf of the Commission, it was said that no information could be provided about the content of a future revised CPR. In a future CPR, it might have its benefits to specify where certain inspections should take place. However, it’s also a question how detailed provisions a future CPR should have. In the current CPR, initial inspections have to be on site. Therefore, remote initial inspections would be considered a deviation from the CPR, which should be a last resort only to apply when necessary and proportionate. In that regard, “necessary” would mean necessary for a “higher goal”. In comparison, for medical devices remote inspections would only be considered justified in case of shortage on the market of vital medical devices.

The Commission representative considered that the draft position paper well embraced the relevant considerations.

One behalf of the German notified bodies, emphasis was given to the responsibility of the individual notified body; the notified bodies will always have to carry out risk assessments - case by case.

On behalf of the Danish notified bodies, the question was asked if the draft position paper would have any validity as it could be seen as guiding contrary to the law. This could cause confusion.

The Commission representative explained that the March 2020 communication from the horizontal Unit B1, means that the Commission will not take action against Member States, which do not act against notified bodies deviating from the CPR, during the pandemic, if well justified.

On behalf of French notified bodies, it was expressed that the paper should define an expiry date for the possibility to conduct remote initial inspection and thereby deviate from the CPR.

TechSec considered it difficult to define such an expiry date as the communication from Unit B1 did not contain any such thing.

The President recognised both the need for a kind of time limit and that the GNB would not be in a position to define the end of the pandemic. Therefore, he suggested that the position paper itself should have an expiry date on 30 April 2022. If considered relevant at a later stage, the GNB Advisory Group would have the possibility to extend the validity. This was agreed.

Action:

TechSec to circulate a final draft with the following modifications:

- Throughout the draft, where relevant, emphasis that the guidance only applies during the pandemic.
- "Societal needs" to be replaced by "public interests"
- Adding a statement that the position paper will expire on 30 April 2022.

Members to satisfy themselves that the revised draft is in line with the agreement.

B Minor revisions of position paper on use of historical data

TechSec introduced the draft revised position paper and explained that the initiative for the revision came from the French notified bodies.

This is also described in the "explanatory note", NB-CPR/21/876r1.

The French notified bodies had suggested that the term "ongoing production" should be replaced by "regular production".

TechSec found it important to have a clear definition of the meaning of the term, whether it should be "on-going production" or "regular production".

Prior to the meeting, comments had been received from the Belgian notified bodies suggesting that "on-going production" should be maintained.

The Belgian representative expressed concerns that the revised clause 4.2.2 would introduce too narrow restrictions regarding the use of data from laboratories, which had not operated under a contract with the notified certification body.

TechSec explained that it was not the intention to introduce such restrictions, and that the draft leaves it as a possibility to use data from such a laboratory, if the previous national regime did not require subcontracting. The main intention of the revision is to avoid circumvention of the applicable AVCP system. Such circumvention may occur if a manufacturer of a product in AVCP system 1+ or 1 would have the testing carried out at a laboratory, which is not subcontracted by the notified certification body.

A discussion took place regarding the semantics of the terms "on-going production", "regular production", "current production", "permanent production" and just "production".

It was agreed to use the term "current production" together with the suggested definition. Consequential changes shall be made to the other position papers where the term "ongoing production" is used.

TechSec shall re-examine the proposed revision of clause 4.2.2 to ensure that all wordings are in line with the agreed intentions.

A final draft shall be circulated to allow the members to satisfy themselves that the draft is in line with the agreement. Unless objections are received within 2 weeks, the revised position paper is considered approved.

Action:

TechSec to circulate a revised position paper. Unless objections are received within 2 weeks the revised document will be considered approved.

The term "ongoing production" to be changed to “current production” in all position papers, where it is used.

C Minor revision of position paper on the Use of facilities outside the testing laboratory of the notified body

TechSec explained the background for the draft, which is also described in the explanatory note, NB-CPR 21/876r1.

The main reason for the revision is that the position paper has many references to clauses of ISO 17025, which has been revised and the structure of it changed.

Prior to the meeting, comments were submitted by the Belgian Mirror Group. These comments are found in the document NB-CPR 21/881.

The main comment is that the Belgian Mirror Group considers that CPR Article 46 is covering activities, which are not covered by ISO 17025. Therefore, the Belgian Mirror Group thinks that the position paper should make it clear that compliance with ISO 17025 would not always be possible when working to CPR Article 46.

The Belgian representative explained that witnessing a test would not be covered by ISO 17025. Moreover, the Belgian national accreditation body would not grant accreditation for work outside the notified body’s own laboratory, as they considered such activities not covered by ISO 17025.

TechSec explained that notified bodies would always have to comply with the requirements of CPR Article 43, the independence requirements of which would be more demanding than those of ISO 17025. Merely witnessing a test carried out by personnel of the manufacturer might not meet the independence requirements of Article 43.

However, TechSec expressed its agreement to adding a note to state that some national accreditation bodies may consider that work outside the notified body’s own laboratory would not be covered by ISO 17025, but that the principles of ISO 17025 should be followed irrespective of that.

On behalf of the Commission, it was said that Article 46 might be difficult to interpret, but it should not be understood as exempting from requirements of Article 43. It was also emphasised that Article 46 does not change or limit the responsibilities of the notified bodies, irrespective of any use of subcontractors or external facilities.

The Italian representatives mentioned that it would be a problem for notified bodies to let their own personnel operate equipment in the manufacturing plan, as that might not be covered by the insurance of the notified bodies.

A French representative, supported by a German representative suggested that point 2(7) of the draft should be left out as it might be considered as guidance for Member States. It was agreed to delete point 2(7) as the same information was already provided by the introduction of the draft.

Action:

TechSec to draw up a revised position paper with the following modifications:

- A note to recognise that some national accreditation bodies may not consider work outside the notified body's own laboratory as covered by ISO 17025,
- Leaving out point 2(7)

Members to satisfy themselves that the draft is in line with the agreement.

D GNB-CPR Guidance Base – New items

The President informed that on 14 October 2021, a new package of GuidanceBase items was uploaded for comments and/or approval.

As the deadline for comments was set at 25 November 2021, the GNB Advisory Group was not supposed to make any decisions whether or not the new items should be approved. However, the members were invited to ask questions and give comments.

The Belgian representative drew the attention to GuidanceBase item 0295. The said GuidanceBase item states that notified bodies cannot deviate from the assessment methods defined by the harmonised standards. The Belgian notified bodies are not convinced that the answer in Item 0295 is fully correct, as it does not take into account that a harmonised standard may allow for deviations, and that it is generally accepted that manufacturers for the purpose of FPC, in certain conditions may deviate.

After a brief examination of Item 0295, the President indicated the following:

1) The guidance only concerns the assessment of performance in systems 1+, 1, and 3. Hence it would not define any limits to methods applied by manufacturers for their FPC testing.
2) When a harmonised standard allows for alternative methods or for deviations from methods defined elsewhere, choosing one of the alternatives or applying one the permitted deviations would not be a deviation from the methods defined by the harmonised standard.

The President asked if it would be necessary to make the text more clear. The Belgian representative offered to suggest and improved text.

Action:

The Belgian Mirror Group to make a proposal for a revised Q&A to replace item 0295.

8. SG matters - General update including state of play of GNB documents.

TechSec informed that no requests had been received for matters to discuss.

The SG04 chairman, one of the Italian representatives, informed that a planned meeting in the SG04 working group for road barriers had been cancelled because of very few registrations. Normally, meetings of that working group are very well attended. The SG04 chairman considered that the reason might be the general deadlock for harmonised standards, which also applies to the harmonised standard for road barriers, EN 1317-5.

The chairman of SG06, also an Italian representative, informed that a meeting of SG06 would be held in November 2021. The last meeting of SG06 was held in November 2019 with approximately 50 participants. Due to the high number of attendants and considering the absence of urgent topics, the SG06 chairman had chosen to await the possibility of having a face to face meeting and not call for any virtual meetings.

A new position paper has been agreed by SG06 and will be uploaded for approval by the GNB Advisory Group.

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

As mentioned by the explanatory note, NB-CPR 21/876r1, the Belgian Mirror Group had forwarded comments regarding the information provided at the 49th meeting about the consequences of the Brexit.

The Belgian representative said that both the Belgian notified bodies and the Belgian notifying authority were very surprised by the information provided by the Commission representatives that all documents issued by former UK notified bodies and TABs would have no validity after the Brexit; in particular they were surprised that assessments of performance in AVCP system 3 and ETAs were considered invalid if issued by UK bodies.

The Commission representative agreed that the Brexit causes many difficulties for all kinds of economic operators. This would also be the case for the invalidity of documents issued by UK bodies.

Therefore, the Commission communicated at an early stage that economic operators should prepare for the situation after the Brexit. The Commission representative referred to the communications from the Commission on the impacts of the Brexit in which it is also stated that ETAs issued by UK TABs would cease to be valid.

For products placed on the market before the end of 2020, the Brexit would have no consequences. For product placed on the market after 1st of January 2020, valid documents are required.

It was also explained that the responsibility for the enforcement would lie with the Member States. It was also emphasised that only the European Court of Justice can provide the final authoritative interpretations.

The Belgian representative asked if the invalidity would also apply to test reports in AVCP system 3, drawn up by then notified laboratories of the UK.

The Commission representative confirmed that all certificates and assessments of performance issued by former UK notified bodies would be invalid after the end of 2020.

However, it may be possible for European notified bodies to issue new certificates and assessments of performance on the basis of information transferred to them from UK organisations. Certificates and assessment documents cannot themselves be transferred, only the information supporting the documents. It was explained that when placing a product on the market, a valid assessment of performance must be available. In that regard, the Commission representative reminded that products are individually placed on the market; product-types and product series are not as such placed on the market.

An Italian representative asked if the same would apply to assessments of performance issued by a continental notified body subsequently ceasing to operate.

TechSec recalled that it had been explained at a previous meeting that in such cases CPR Article 50(2) would apply. According to Article 50(2), the Member State would have the obligation to ensure that the files of a notified body ceasing to operate are transferred to another notified body or made available to the notifying authorities and market surveillance authorities. In the case of Brexit, there's no member state to carry that responsibility.

As mentioned by the explanatory note, NB-CPR 21-876r1, the French Mirror Group had requested a confirmation of the current guidance regarding dated and undated references of supporting standards.

A French representative explained that the understanding of dated and undated references is frequently discussed. The importance is emphasised by the fact that more and more harmonised standards are old versions and that the supporting standards, typically testing standards, referenced by them in many cases have been updated since the citation of the harmonised standard.

Currently, the matter is dealt with by GuidanceBase item 0039. The French representative suggested that guidance should be drawn up in the form of a position paper in order to make the guidance both more elaborate and more visible.

The French representative also explained that some French court decisions had been based on a different understanding than the understanding expressed by GuidanceBase item 0039.

The President suggested that TechSec should draw up a proposal for a position paper on the matter. TechSec agreed.

The Spanish representative informed that the Spanish Mirror Group had discussed the operational conclusions of the 49th meeting, section 7 about the consequences of the Brexit.

In section 7B No. 1, it is stated: “No particular rules or conditions have been identified for subcontracting work to UK organisations”. At this point, the Spanish accreditation body, ENAC, had indicated that in AVCP system 3 it would not accept the subcontracting of a UK laboratory. The explanation given was that in AVCP system 3, the basis for notification would be testing only – not subcontracting. Taking over historical data would be outside ISO 17025 and therefore considered not permissible for notified bodies.

In section 7C No. 1, it is stated: “In these circumstances, notified laboratories may consider evidence provided by UK laboratories as ‘historical data’ and may enter into agreements with the relevant UK laboratories”. Also in that context, ENAC seems not to find it permissible to take over “historical data”.

The Spanish mirror Group also raised a question about use of the CE logo on test report and certificates. In Spain it seems to be a widespread practice to put the CE logo on the reports and certificates they issue.

TechSec recalled that the question had been discussed at an AdCo meeting many years ago. At that meeting, a Commission representative explained that the CE mark was intended for use on products to indicate the products’ compliance with European legal requirements. It was never the intention that the CE mark should be used by notified bodies. On the other hand, it seemed unlikely that the Commission would take any action against notified bodies using the CE logo on their documents.

The Commission representative confirmed that the rules had not changed since the said AdCo meeting.

A French representative recalled that the current guidance on the issuance of certificates only allow notified bodies to use their own logo on certificates. This would obviously exclude the CE logo.

The German representative emphasised that the CE mark should be applied by manufacturers only.

The Belgian representative suggested that the position of ENAC should be discussed between the GNB and the EA. The French representative acting as liaison to the EA agreed but would await a written position from ENAC.

TechSec considered that the positions expressed by ENAC seemed contrary to the current GNB guidance. To satisfy ourselves that the current GNB guidance is correct, it would be helpful to have the position of ENAC in writing; preferably including the underlying reasons. The Spanish representative agreed to request ENAC to put their position in writing.

An Italian representative expressed the view that the conditions for subcontracting would be the same for subcontractors inside Europe as for subcontractors outside Europe.

The Commission representative mentioned that in a few cases the Commission had objected to the designation of notified bodies to be sure that the bodies designated would have the necessary personnel with the necessary knowledge.

Action:

TechSec to draw up a draft position paper on the meaning of dated and undated references. The Spanish representative to request ENAC to put in writing their position regarding subcontracting and use of historical data.

10. Report on SCC, Commission, and other matters

On behalf of the Commission, the below information was provided:

Since the last meeting, there have been no new citations of harmonised standards in the OJEU. New citations are not foreseen any time soon, except for standards drawn up on the basis of new standardisation requests. During the summer, a new standardisation request regarding space heating appliances was adopted. On the basis of that standardisation request, 5 or 6 standards are being developed.

On 11 October 2021, 14 EADs were cited in the OJEU.

One of these EADs is a new *variant* of an existing EAD. A new variant is indicated by the addition of "-v01", "-v02" etc. after the identification number. New variants are EADs with an enlarged scope of essential characteristics, but no changes to the methods and criteria of the already cited EAD. Therefore, a new variant will not supersede the existing EAD. Hence, several variants can live side by side.

About the review/revision of the CPR, the following information was provided that the

- The supporting study for the impact assessment has been published on the Commission website.
- On the basis of the supporting study, the Commission is preparing its impact assessment, which is to be published together with the Commission's proposal for the CPR revision. The impact assessment is subject to approval by the internal scrutiny board, from which several pertinent comments had been received on the first version. In particular, questions had been raised regarding the link between the CPR and the sustainable products initiative, which is another piece of legislation under preparation to tackle sustainability issues for all kinds of products. Therefore, the impact assessment is being revised in order to clarify that link.
- Without pre-empting the proposal, the Commission recalled that in the indicative options forming basis for the supporting study, the notified bodies generally have a central role.
- If the GNB would like to make proposals for improved wordings etc., such proposals should be made as soon as possible.

About the so-called CPR Acquis process, the Commission representative reiterated that the

objective is to provide the basis for future harmonised specifications. The CPR Acquis Steering Group has a meeting scheduled on 29 October 2021. The GNB President has been invited to take part in the Steering Group. The two first sub-groups, precast concrete products and structural metallic products, have already started their work.

The President mentioned that the GNB already have appointed experts for these two first sub-groups. Generally, the President considered that the sector group chairmen should be requested to nominate representatives of the GNB.

For the precast concrete products group, the SG13 chairman has been appointed. For the structural metallic products group, a member of SG17 has been nominated by the SG17 chairman.

The Commission representative mentioned that a meeting of the CPR Advisory Group, which had been scheduled for June 2021, had been postponed, but no new date had been fixed. Hence, no meeting of the CPR Advisory Group had been held since the 49th meeting of the GNB Advisory Group. Neither had any SCC meetings been held or scheduled.

Action

TechSec to inform the Commission representative of the appointed representatives of the GNB who will participate in working groups concerning the CPR acquis process.

11A. AdCo-CPR Group on Market Surveillance

No AdCo representative present.

11B. CEN

No CEN representative present.

11C. Construction Products Europe (CPE)

No CPE representative present.

11D. EOTA

No EOTA representative present.

11E. European Accreditation (EA)

No EA representative present.

11F. Small Business Standards (SBS)

No SBS representative present.

12. Any other business

No remarks

13. Closing of the meeting

The president thanked the participants

ANNEX 1: LIST OF AGREED ACTIONS

By whom	Agenda item	Status	Action and/or conclusion
Members	1		Members not listed in the NB-CPR/M02 Officials of the GNB-CPR to submit an "expression of consent" (NB-CPR ALL 18-166) to TechSec.
TechSec and President	4		President and TechSec within 2 weeks to draw up a proposal for GNB comments on a revised CPR. Members should then have 1 week to comment on the proposal before TechSec shall do the final editing and forward to the Commission.
Administrative Secretariat and President	5		Administrative Secretariat and President to arrange for the 51st meeting to be held on 22 March in Brussels, with the possibility to participate both physically and virtually.
TechSec	6B		TechSec to plan and conduct the webinars, and subsequently, on request, make educational materials available to members of the GNB Advisory Group.
Members	6C		All members to collect and submit to TechSec examples of questions and problems in relation to accreditation.
TechSec	7A		TechSec to circulate a final draft with the following modifications: - Throughout the draft, where relevant, emphasis that the guidance only applies during the pandemic. - "Societal needs" to be replaced by "public interests" - Adding a statement that the position paper will expire on 30 April 2022. Members to satisfy themselves that the revised draft is in line with the agreement.
TechSec	7B		TechSec to circulate a revised position paper. Unless objections are received within 2 weeks the revised document will be considered approved. The term "ongoing production" to be changed to "current production" in all position papers, where it is used.
TechSec	7C		TechSec to draw up a revised position paper with the following modifications: - A note to recognise that some national accreditation bodies may not consider work outside the notified body's own laboratory as covered by ISO 17025, - Leaving out point 2(7) Members to satisfy themselves that the draft is in line with the agreement.
Representative from Belgium	7D		The Belgian Mirror Group to make a proposal for a revised Q&A to replace item 0295.
TechSec	9		TechSec to draw up a draft position paper on the meaning of dated and undated references.
Spanish Mirror Group	9		The Spanish representative to request ENAC to put in writing their position regarding subcontracting and use of historical data.
TechSec	10		To inform the Commission representative of the appointed representatives of the GNB who will participate in working groups concerning the CPR acquis process.