

<b>GNB-CPR</b> <b>GNB-AG</b>	<b>Coordination of the Group of Notified Bodies for the Construction Products Regulation</b> <b>(EU) No 305/2011</b>	<b>NB-CPR/20/858</b> <b>Operational conclusions</b> Issued 08 February 2021 <u><i>Revised 17 February 2021</i></u>
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## **Revised ~~D~~raft Operational conclusions of the 48<sup>th</sup> meeting of the GNB-CPR**

### **20 October 2020, Virtual 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)
- Belgium (1 representative)
- Bulgaria (1 representative)
- Croatia (1 representative)
- Cyprus (1 representative)
- Czech Republic (1 representative)
- Denmark (1 representative)
- Finland (1 representative)
- France (2 representatives)
- Germany (2 representatives)
- Ireland (1 representative)
- Italy (2 representatives)
- Norway (1 representative)
- Poland (2 representatives)
- Portugal (1 representative)
- Slovakia (1 representative)
- Slovenia (1 representative)
- Spain (1 representative)
- Sweden (1 representative)
- Switzerland (1 representative)
- Turkey (1 representative)

##### **Observers and guests**

Representatives of:

- Romanian NB 2728 (2 observers)
- Notified bodies of Spain (1 observer in addition to the above/mentioned representative)
- Estonian NB 2325 (1 observer)
- Institute IMS, Serbia (1 observer)
- European Commission (2 representatives)
- GNB-CPR TechSec provided by Danish Technological Institute (2 representatives)

##### **Notified bodies not represented**

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

- Greece
- Hungary
- Iceland (No NBs appointed for CPR)

- Latvia
- Liechtenstein\*)
- Lithuania
- Luxemburg
- Malta (No NBs appointed for CPR)
- Netherlands

\*Information provided that NBs of Liechtenstein participate in the CH national mirror group

### **Revision:**

Following a request submitted on behalf of the Polish notified bodies a correction has been made to section 7F.

In section 7E, two erroneous document references have been corrected

## **1. Welcome and introduction**

The President welcomed the participants.

Due to the COVID-19 situation the meeting was held as a Webex meeting.

Information was provided that the meeting would be recorded for the purpose of supporting the minuting of the meeting.

## **2. Approval of the draft agenda**

The revised draft agenda, NB-CPR 20/849r1 was approved.

On behalf of the French notified bodies, a request was made to discuss "Information on Brexit" under agenda item 15, Any Other Business.

## **3. Draft Operational conclusions/Minutes of the 46<sup>th</sup> GNB Advisory Group meeting**

On behalf of the French notified bodies, comments had been submitted regarding items 7B and 7F of the draft operational conclusions, NB-CPR 19/832. The comments had been incorporated in the revised draft operational conclusions, NB-CPR 19/832, which were approved.

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## **4. Matters arising from minutes not dealt with on the Agenda and actions still outstanding after the 46<sup>th</sup> GNB Advisory Group meeting**

TechSec informed that the agreed actions for TechSec indicated in Annex 1 of the draft operational conclusions of the 46<sup>th</sup> meeting had been carried out,

- On behalf of the French notified bodies, information was shared that the performance of CIRCABC was unsatisfactory as some hyperlinks in email notifications were not responding to clicks.
- A wish to obtain a list of the GNB-AG members' e-mail addresses was expressed. TechSec informed that on CIRCABC, actually there's a list of GNB officials including e-mail addresses (Document NB-CPR M/02 found in the folder "monitoring reports"). However, due to the general data protection rules, only individuals who have expressed their consent can be listed. Members of the GNB-AG wishing to be on the list of officials are kindly requested to fill out the form in document NB-CPR/ALL 18/166 (found in the CIRCABC folder "Templates and forms") and send it to TechSec.

## **5. Dates of next meetings.**

### **A Confirmation of extension of presidency**

Prior to the meeting, TechSec had requested members not in favour of the extension of the presidency of Mr. Marjan Japelj for a new 2 years' term to notify TechSec. As no such notifications had been received, and as no disagreement was expressed in the meeting, Mr. Japelj was congratulated on the extension of his presidency.

### **A 49<sup>th</sup> meeting**

Date: 23 March 2021

Venue: Brussels, If the COVID-19 pandemic will not allow for a physical meeting, a virtual meeting may be held.

## **B 50<sup>th</sup> meeting**

Date: 19 October 2021

Venue: Slovenia

### **Action:**

Administrative Secretariat and President to arrange for the 49th meeting to be held on 23 March 2021 in Brussels or alternatively as a virtual meeting.

## **6. Work of GNB-CPR**

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

TechSec informed about the actions taken to deal with the situation. Notably, the internal rules have been adjusted to formally allow for web-meetings and the adjusted internal rules have been formally adopted by correspondence.

Members expressed that the intensity of the GNB work has been lowered due to the cancellation of meetings, and that it needs to be considered how to improve the efficiency of the work of the GNB.

The President noticed that only very few national mirror groups had forwarded comments on the proposed position papers, which had been uploaded in advance of the meeting. The President emphasised the importance of maintaining the activity of the national mirror groups during the pandemic.

TechSec explained that for the purpose of enhanced efficiency, the proposal for further amendments to the internal rules have been made and put on the agenda under item 7B. Part of the proposal is to set the deadline for comment on documents for approval at a GNB-AG meeting at two weeks before the meeting, Then TechSec would have one week to process the comments and upload a document consolidating all comments, and the Members would have the last week before the meeting to consider all comments and prepare for the meeting.

No further proposals were made but a member suggested that the GNB-AG should be prepared for a long-lasting pandemic without physical meetings.

### **B Effects on NB work - New Market Surveillance Regulation, Regulation (EU) 1020/2019**

TechSec informed about a recent analysis of the Market Surveillance Regulation with regard to its impacts on the work of notified bodies for the CPR. The analysis is found in the document NB-CPR 20/855.

The main conclusions are:

- No changes to the obligations of notified bodies.
- For economic operators, some new obligations may arise, but no notified body intervention is envisaged in that regard.
- "European Testing Facilities" are introduced in the legal text, but not yet established,
- High degree of freedom for market surveillance authorities to exchange information.
- Consolidation of the understanding of "placing on the market" as including the on-line offering of goods for sale.

A member had noticed that the Market Surveillance Regulation requires a legal entity established in the Union to assume responsibility for the product and asked if notified bodies should indicate that legal entity in the certificates. TechSec explained that since notified bodies are not supposed to carry out any legal compliance certification, NBs would not be required to check if such a legal entity had been established, let alone indicate it in certificates. However, it may be good service to inform third country manufacturers of the requirement.

Members asked if the analysis made by TechSec was supported by the Commission. On behalf of the Commission, it was said that the Commission cannot issue any authoritative interpretations, but that no errors had been identified in the analysis made by TechSec.

### **C Competence of notified bodies – Status of initiative**

TechSec informed that due to the COVID-19, no real progress had been made since last meeting. The Commission had indicated that for the year 2020, no funds seemed to be available. Also for the year 2021 the possibilities appeared to be limited.

Moreover, even if funding had been available, due to the COVID-19 it would not have been possible to arrange training sessions involving physical presence.

To promote the initiative, TechSec is now exploring with the Commission if part of unspent TechSec travel budget could be relocated to allow TechSec to develop educational materials.

This was well received.

#### **Action:**

TechSec to continue dialogue with the Commission on partial relocation of travel budget.

### **D Notified Bodies not represented in the GNB Advisory Group**

In order to increase the level of participation to the GNB-AG meetings, a letter has been sent to the notifying authorities of Member States whose notified bodies had not been represented in the Ljubljana meeting.

At the meeting in Ljubljana, the notified bodies of 10 Member States were not represented. At this virtual meeting, notified bodies of two of those Member States were represented by full members while two others were represented by observers.

The information was provided that the notified bodies of Liechtenstein do take part in the Swiss National Mirror Group. Hence, notified bodies of Liechtenstein may be considered informally represented by the representative of the Swiss notified bodies.

### **E Accreditation and notification matters**

TechSec informed that in accordance with the decision at the 46<sup>th</sup> meeting, letters had been sent to European Accreditation (EA) on two matters:

- Reply to EA regarding the GNB position on the reissuance of test reports,
- Comments regarding the EA document EA 2/17.

Subsequently, EA had issued a revised version of the document EA-2/17 which seems to have taken into account a large portion of the GNB comments.

The French representative who has been appointed as EA liaison informed that the revised version of EA-2/17 has an annex (Annex E) specifically addressing the CPR. She also passed on the information that she had accepted to assist the EA to provide training for accreditation assessors with regard to CPR.

Additionally, the information was provided that EA may review/revise its position regarding reissuance of test reports.

## **7. Development of AG guidance and agreed viewpoint**

### **A Draft guidance on maintenance of certificates during the COVID-19**

Prior to the meeting, comments had been submitted on behalf of the Mirror Groups of France, Germany, Poland, and Slovenia. These comments are collected in the document NB-CPR 20/854 together with comments by TechSec.

On the basis of the comments submitted, just before the meeting TechSec had uploaded a revised draft, NB-CPR 20/852r1.

The representatives of the French notified bodies explained that their comments primarily aimed for precision, and that they were content with the way their comments were incorporated in the revised draft.

Additionally, the French representatives suggested to add to section 4 of the draft a reference to IAF's list of Q&As concerning COVID-19. This was agreed.

A lengthy discussion took place regarding the use of remote auditing. In particular, it was discussed if remote auditing should be permitted to substitute on-site surveillance inspections. In the proposal it is stated that remote auditing cannot replace or substitute on-site inspections, meaning that the notified certification body must visit the manufacturing plant as soon as it becomes possible again.

Some members expressed that many notified bodies have obtained good experience of remote auditing, whilst others considered that remote auditing would never be as effective as on-site inspections.

The president emphasised the necessity to distinguish between surveillance for the purpose of maintaining already issued certificates and the initial inspection for the purpose of issuing new certificates. As the draft position paper only concerns maintenance of certificates, initial inspection should not be discussed in this context, but rather under item 7F.

Views were exchanged on the pros and cons of use of remote auditing techniques, both with regard to initial inspection and continuing surveillance. However, the draft position paper, NB-CPR 20/852 only concerns the latter.

TechSec explained that from a practical point of view, the only implication of not permitting remote auditing techniques to substitute on-site inspection would be that the notified certification body is required to visit the manufacturing plant as soon as it becomes possible and warranted.

Members expressed their general agreement that remote auditing should only be permitted during the pandemic.

Hence, it was agreed to make it explicit in section 6.3 of the draft position paper that remote auditing techniques may be applied as (part of) additional AVCP activities.

#### **Action:**

TechSec to rewrite chapter "6.3 Additional AVCP activities" and circulate the updated document for a two weeks period for minor comments.

More extensive comments may be incorporated in a future version.

#### **B Draft revised terms of reference for the GNB Advisory Group, NB-CPR IR/2 –**

**NB-CPR 20/835r1**

TechSec presented the content of the draft and explained the intentions, which were also indicated in the "explanatory note", NB-CPR 20/850.

Comments had been submitted on behalf of the French notified bodies and dealt with as described in the document NB-CPR 20/854.

Additionally, the President suggested that should the President fall short for a meeting, it should be possible for the President to appoint a substitute to chair that meeting. This was agreed.

A member expressed that documents with "last minute amendments" should be available at least some days before the meeting. TechSec confirmed that that was included by the proposal.

**Action:**

TechSec to upload as approved a revised version of IR/2.

**C Draft informative position paper: Assessment of performance in system 3,****NB-CPR 19/810r2**

- **CPR Analysis**
- **Voluntary template**

At the 46<sup>th</sup> meeting, it was concluded that TechSec should work out an analysis of the role of notified bodies in AVCP system 3.

TechSec presented the main conclusions of the analysis, including:

- The distinction between *assessment of performance* carried out by the notified laboratory and the *determination of product-type* carried out by the manufacturer
- The methods for assessment of performance by the notified laboratory may include testing, calculation, tabulated values and descriptive documentation as provided for by the harmonised standard
- That the manufacturer shall take into account variations over time in the actual performance,
- That the assessment of performance may be considered a “snapshot” while the verification of constancy of performance is an ongoing activity in which the notified laboratory has no role (in system 3).

Generally, members agreed to the analysis. A member added that manufacturers would be entitled to pick a “safe-side” sample in order to take variations into account. Another member suggested that in reality the verification of constancy of performance may start even before the assessment of performance, as part of the manufacturer’s product development. TechSec did not disagree but considered the product development not being covered by the CPR.

On behalf of the Commission, agreement was expressed with the content of the presentation.

Regarding the revised proposal for an “Assessment of Performance Report”, document NB-CPR 19/810r1, comments had been submitted by the French notified bodies, see NB-CPR 20/854.

To accommodate the comments, prior to the meeting TechSec had uploaded a revised draft, NB-CPR 19/810r2.

A number of Members, including representatives of the Belgian, French, and Spanish notified bodies expressed no support for the proposal and that they did not see any added value.

The President explained the reasons for making the proposal but had to recognise that it did not seem possible to form the necessary degree of consensus.

Hence, the President concluded that the proposal had to be withdrawn.

**D Draft position paper - Transfer of certificates - NB-CPR 19/812r1**

Prior to the meeting, written comments were received from the French Mirror Group. In the document NB-CPR 19/854 the comments are collected with the supplementary comments by TechSec.

Several members, including the French, German, Polish, and Portuguese members, expressed that they did not see any added value in publishing the proposed guidance.

TechSec informed that TechSec frequently receives questions about transfer of certificates.

A representative of the Commission found the proposal highly relevant as also the Commission receives questions about transfer of certificates. The Commission representative found the draft position paper well prepared and that it clearly describes the conditions for transfer, most importantly that the accepting NB must take full responsibility, that testing would not necessarily have to be repeated, and emphasises the independency of subsidiaries of NBs. In fact, the Commission had been using the draft position paper when explaining the conditions for transferring certificates.

The Commission also considered the document of value to other stakeholders, for instance manufacturers who would need to understand the conditions for having certificates transferred.

On behalf of the German notified bodies it was said, without questioning the correctness of the content of the draft position paper that transfer of certificates was a well-known activity which certification bodies had been doing for many years. Hence, it seemed unnecessary to provide guidance.

On behalf of the French notified bodies, it was suggested that the Commission should communicate to the notifying authorities about the subject.

The Commission indicated that even if the draft position paper was not sustained by the GNB Advisory Group, the content of it might still be useful.

The president concluded that – even though it seemed to be clear that not all notified bodies are aware of the conditions for transfer of certificates – it also seemed to be clear that there was no consensus supporting the approval of the draft position paper. Hence the proposal had to be withdrawn. As relevant, the Guidance base may be used for more specific questions on the matter.

## **E Interlaboratory comparisons for notified bodies,**

**NB-CPR ~~19/836~~20/836**

Prior to the meeting, written comments were received from the German and Slovenian Mirror Groups. In the document NB-CPR~~19/854~~20/854, the comments are collected with the supplementary comments by TechSec.

TechSec introduced the draft and explained the reasoning behind it. In particular it had been noticed that sector groups were conducting interlaboratory comparisons differently and that some SGs seemed to consider interlaboratory comparisons as being outside their formal competence.

On behalf of the Slovenian notified bodies it was suggested to make it clearer that the adoption of the position paper would not mean that laboratories would be required to participate in any interlaboratory comparison decided by a sector group.

This was supported by several members.

TechSec agreed and confirmed that the draft guidance is primarily aimed at sector groups rather than the individual notified bodies, and that it would still be the responsibility of the individual



notified bodies to decide which schemes to take part in. Hence, the position paper shall not add to the obligations of notified bodies. TechSec emphasised that it is the role of neither the GNB nor the sector groups, to monitor if notified bodies participate in interlaboratory comparisons. That would be the responsibility of the notifying authorities.

Some members expressed doubts regarding the need for guidance on the matter. TechSec responded that the different approaches by SG had made it clear to TechSec that there was a need.

A representative of the commission explained, without taking any position regarding the needs for the draft position paper, that the Group of Notified Bodies would have the opportunity to draft guidance for such activities and thereby ensure emphasis to technical insight. If rules were made by regulators, the notified bodies might find that technical insight was given less weight.

The President concluded that the draft should be approved with a clarification that the position paper does not add to the obligations of the notified bodies.

Action:

TechSec to upload as approved the document NB-CPR 20/836 with an adjusted text making it clearer that the position paper is not adding to the obligations of notified bodies.

## **F GNB-CPR Guidance Base – New items**

On 21 August 2020, TechSec uploaded for approval a package of 3 Q&As; Nos. 0280 through 0282.

Comments had been only received on item No. 280, which essentially states that initial inspection shall be done on-site, not by remote auditing techniques.

Several members expressed that in the current COVID-19 situation, initial inspection by remote means should be permitted.

The following arguments for permitting initial inspection by remote auditing were brought forward:

- When a NB is prevented from visiting the manufacturing plant, the manufacturer would be excluded from the market unless initial inspection can be done remotely;
- Not permitting initial inspection by remote means would be contrary to the obligation on NBs to operate in a non-discriminatory way;
- Manufacturers may “go shopping” to find NBs willing to carry out initial inspections remotely, if their regular NBs will not.

A lengthy exchange of views took place on the use of remote auditing techniques. Some considered remote auditing most useful while others considered that some processes cannot be properly assessed unless the auditor is physically present. For instance, noise in production facilities may limit the possibility of meaningful conversation. Others emphasised that remote auditing would not permit an auditor to “use his senses” in the manufacturing plant.

On behalf of the Norwegian notified bodies, it was said that good experience had been obtained by using remote auditing techniques.

To structure the discussion, the President suggested to consider two questions separately.

1. Should remote initial inspection be allowed generally?
2. Should remote initial inspection be permitted as an exception during the COVID-19 pandemic?

The members expressing views on the two questions generally answered “no” to question No. 1 and “yes” to question No. 2.

One member suggested that during the pandemic, it should be permitted to carry out remote initial inspection, which should then be followed by an on-site inspection as soon as possible.

On behalf of the Polish notified bodies it was suggested to change the existing guidance to ~~generally~~ permit remote initial inspections during the pandemic.

TechSec explained that the already approved position paper, NB-CPR 17/722 clearly states that initial inspection must be carried out on-site. Moreover, it seems difficult to interpret CPR Annex V as allowing for initial inspection anywhere else than at the manufacturing plant. Therefore, it did not seem possible to reach any other conclusion than that the initial inspection shall be done on-site.

However, it may be relevant to clarify in which cases an initial inspection would be necessary. For instance, TechSec would not always consider it necessary to carry out an initial inspection in case of a new product from an already certificated manufacturer, provided that all significant manufacturing processes had been assessed at a previous inspection.

On behalf of the Commission, it was recalled that the reason for involving notified bodies in the AVCP is to ensure a high level of protection of public interests. The Commission does not consider the COVID-19 situation as allowing for any lowering of the level of protection; especially considering that construction products are being used in buildings intended to last for many decades. It would not be acceptable if buildings embedding construction products made during the pandemic turned out not to have the expected level of safety etc.

It was emphasised that in the current situation, there was no evidence of manufacturers being excluded from the market because initial inspections cannot be done electronically. At the moment, travelling may be difficult, more expensive and troublesome than normally, but not impossible. Moreover, notified bodies are geographically spread over Europe. Hence, if a manufacturer's preferred notified body cannot visit the manufacturing plant, it may still be possible to find one who can.

The Commission representative also explained that exclusion of initial inspection by remote means could not be considered “discrimination”. In legal terms, it was explained, discrimination means that *similar situations are treated differently*. The situations would not be considered similar for two manufacturers of which the one already has had an initial inspection carried out and the other does request an initial inspection in the COVID-19 situation. Therefore, treating the two cases differently would not be considered discrimination.

However, the representative of the Commission emphasised that the Commission has stated clearly, that safety levels cannot be lowered and that remote activities can only be used as a supplementary means to minimize risks while postponing on-site audit.

The President concluded that in the absence of consensus on the matter, GuidanceBase item 0280 could not be approved and would hence have to be withdrawn.

Neither could consensus be obtained to make any exceptions from the current guidance in NB-CPR 17/722 which requires initial inspection to be carried out on-site.

Action:

TechSec to leave out Item No. 0280 when uploading a revised version of the GuidanceBase.

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

### **SG06: Meaning of undated references to supporting standard when the current standard doesn't have the method needed.**

An Italian member who is also the chairman of SG06 explained the problem. The harmonised standard for fire doors, EN 16034, refers by undated reference to EN 12605 for the assessment of durability of self-closing. However, in 2018, EN 12605 was withdrawn and replaced by EN 12604. Unfortunately, the current version of EN 12604, the 2017-version, does not have any method for the assessment of durability of self-closing.

The President suggested that since SG06 holds a high level of technical expertise on the matter, SG06 should work out a solution. However, the SG06 chairman considered the problem as legal rather than technical.

A Commission representative informed that the matter had been brought to the attention of the CPR Advisory Group, but no conclusion had been reached. It would however be interesting to hear the views of the sector group,

A member suggested that since EN 12604:2017 is less than 5 years old, a request could be made for an amendment to the standard to reinstate the assessment method.

It was agreed that the SG06 chairman will discuss the matter with the technical committee, CEN/TC33, which is responsible for EN 12604.

Action: The SG06 chairman to liaise with TC33 regarding an amendment to EN 12604.

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

On behalf of the French notified bodies, a request was made for a modification to the approved position paper NB-CPR 19/792 on the use of historical data.

Section 4.2.2 of the approved position paper defines that In AVCP systems 1+, and 1, Historical Assessment Data must originate from an independent 3<sup>rd</sup>-party laboratory.

It was suggested to add that independent 3<sup>rd</sup>-party laboratory must be under the control of a notified certification body.

The French mirror group will forward a written proposal.

Action: The French Mirror Group to forward written proposal regarding for the amendment of NB-CPR 19/792.

## **10. Report on SCC, Commission, and other matters**

The representatives of the Commission gave a short briefing on the current situation.

- There is no progress regarding the adoption of new and revised harmonised standards. There are no new/revised hENs in the pipeline for the time being.
- Approximately 100 harmonised standards have been withdrawn by CEN, meaning that the current harmonised standard is not the most recent edition from CEN.
- Frequently, new EADs are being cited in OJEU
- The review of CPR is still ongoing. Notified bodies are recommended to follow the work. The Commission is expected to present a first proposal late in 2021 regarding whether or not to revise the CPR and, if relevant, which direction the revision should take.

## **11. EOTA Matters**

No EOTA representation at the meeting

**12. CEN matters**

No CEN representation at the meeting

**13. AdCo-CPR Group on market surveillance**

No AdCo representation at the meeting

**14. Construction Products Europe (CPE) matters**

No CPE representation at the meeting

**15. Any other business**

As requested by the representatives of the French notified bodies, the Commission representatives were asked to give an update on the Brexit situation. However, as negotiations were still ongoing, the representatives were not in a position to provide any information aside from what can be read in the newspapers.

Interested members group were recommended to visit the Commission's Q&A on Brexit.

Questions were asked about the status of documents issued by notified bodies in the UK. The Commission representative said that certificates issued by UK NB's would most likely lose validity after 2020. Same might apply to test reports.

**16. Closing of the meeting**

The meeting ended 17:30.

The president thanked the participants and would be looking forward to the next meeting to take place in Brussels.

## ANNEX 1: LIST OF AGREED ACTIONS

By whom	Agenda item	Status	Action and/or conclusion
Administrative Secretariat and President	5		Administrative Secretariat and President to arrange for the 49th meeting to be held on 23 March 2021 in Brussels or alternatively as a virtual meeting.
TechSec	6C		TechSec to continue dialogue with the Commission on partial relocation of travel budget
TechSec	7A		TechSec to rewrite chapter “6.3 Additional AVCP activities” and circulate the updated document for a 2 weeks period for minor comments. More extensive comments to be incorporated in a future version.
TechSec	7B		TechSec to upload as approved a revised version of IR/2
TechSec	7E		TechSec to upload as approved the document NB-CPR 20/836 with an adjusted text making it clearer that the position paper is not adding to the obligations of notified bodies.
TechSec	7F		TechSec to leave out Item No. 0280 when uploading a revised version of the GuidanceBase.
SG06 Chair	8		The SG06 chairman to liaise with TC33 regarding an amendment to EN 12604
French Mirror Group	9		The French Mirror Group to forward written proposal regarding for the amendment of NB-CPR 19/792