GNB-CPR AG	Guidance from the Group of Notified Bodies for the Construction Products Regulation 305/2011/EU	NB-CPR/AG/13/010r1 Issued: 27 June 2013 **APPROVED – GUIDANCE**

GNB-CPR AG position paper

Transition arrangements from the CPD to the CPR for NBs

General scope, limitations and aim of this guidance for notified bodies

The Construction Products Regulation (CPR) is based on the use of harmonised technical specifications, and these often require the involvement of a conformity assessment body to demonstrate compliance. Such bodies must be designated by the Member States as notified bodies (NBs). CPR Articles 43(11) and 55 require the formation of a group of notified bodies, and that NBs should participate in its work. Article 43(11) states that the notified body "shall apply as general guidance the administrative decisions and documents produced as a work result of that group". The GNB-CPR is the group referred to by Article 43(11).

This position paper contains guidance for notified bodies (NBs) involved in the assessment and verification of constancy of performance (AVCP) of construction products or their factory production control (FPC) to harmonised technical specifications. The purpose is to help NBs work equivalently and come to common judgments. This guidance contains informative material (which NBs should or may follow), and normative guidance (which NBs shall follow, or at least work equivalently to as circumstances demand).

The primary document for NBs is the edition of the relevant harmonised technical specification that is currently cited in the Official Journal of the EU, or the European Technical Assessment, to which the manufacturer works. This guidance is thought necessary to provide clarity and completeness for NBs so that they can work equivalently. It **supplements and makes practical for NBs** the relevant harmonised technical specifications. This position paper should **not** contradict nor extend the scope of the work and role of a NB, nor impose additional burdens on the manufacturer, beyond those laid down in the CPR and the relevant harmonised technical specifications.

This guidance should be considered valid until guidance from the Commission has changed on relevant matters. Whereupon, the paper should be considered for withdrawal/revision and be replaced by new guidance as necessary.

This position paper was approved in its original form by Advisory Group on 20 March 2013, and in its revised form on 25 June 2013.

At the 33rd Advisory Group, 20 March 2013, and the 74th SCC meeting, 25 and 26 March 2013, it became clear that transition arrangements for construction products CE marked to European Technical Approvals were different to those for construction products CE marked to harmonised European standards. In addition, concerns were expressed that notified bodies had commenced issuing certificates to the CPR before 1 July 2013, and the inclusion of a warning against this was requested. This revision addresses these issues. A link to the Commission's Europa website with FAQ on the CPR has also been added and the position paper upgraded from INFORMATIVE to GUIDANCE due to the addition of normative guidance which notified bodies shall follow.

1 The CPD and CPR

The Construction Products Directive (89/106/EEC) was notified to Member States on 27 December 1988, and required Member States to bring into force the laws, regulations and administrative provisions to comply with its provisions within 30 months of that date.

The Construction Products Regulation (305/2011/EU) is direct legislation with binding legal force throughout every Member State of the EU[1]. (Member States must implement Directives such as the CPD through national legislation.) It came into force on 24 April 2011, and repealed the Construction Products Directive, but the key articles relating to assessment and verification of constancy of performance apply only from 1 July 2013.

CPR Article 66 'Transitional provisions' is as follows:

1. *Construction products which have been placed on the market in accordance with Directive 89/106/EEC before 1 July 2013 shall be deemed to comply with this Regulation.*
2. *Manufacturers may draw up a declaration of performance on the basis of a certificate of conformity or a declaration of conformity, which has been issued before 1 July 2013 in accordance with Directive 89/106/EEC.*
3. *Guidelines for European technical approval published before 1 July 2013 in accordance with Article 11 of Directive 89/106/EEC may be used as European Assessment Documents.*
4. *Manufacturers and importers may use European technical approvals issued in accordance with Article 9 of Directive 89/106/EEC before 1 July 2013 as European Technical Assessments throughout the period of validity of those approvals.*

CPR Article 68 'Entry into force' is as follows:

This Regulation shall enter into force on the 20th day following its publication in the Official Journal of the European Union*.*

However, Articles 3 to 28, Articles 36 to 38, Articles 56 to 63, Articles 65 and 66, as well as Annexes I, II, III and V shall apply from 1 July 2013.

2 Definitions in the CPR

The CPR Article 2 gives definitions of many of the terms used in the regulation. Some of the terminology is somewhat different to that used with the CPD.

3 Re-notification of NBs and issuing documents under the CPR

3.1 Notification status

Notifications of bodies under the CPD will cease to be valid on 1 July 2013. Bodies should seek notification under the CPR well in advance of this date. However, it should be noted that there are changes to the types of bodies that can be notified.

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[1] *The regulation becomes binding in other countries that have signed a specific agreement with the EU and incorporated the Regulation into their own national legislation. NBs should check the status of the CPR with the national authorities of countries outside of the EU if they have any doubts.*

Under the CPD, Commission Guidance Paper 'A' Section 3.3 recognized four types of bodies:

- bodies performing product certification;
- bodies performing FPC certification;
- bodies performing FPC inspection;
- testing laboratories (including bodies performing calculation).

Also, there were variations between Member States regarding whether organizations subcontracting work from NBs, such as inspection or testing towards product certification, may or must be notified.

The CPR Annex 5.2. recognises only three types of notified bodies:

(1) product certification body;

(2) factory production control certification body;

(3) testing laboratory (a laboratory which measures, examines, tests, calibrates or otherwise determines the characteristics or performance of materials or construction products).

Thus inspection bodies will not be able to become notified under the CPR. Also, it is understood that notification of certification and testing bodies will only be possible at the level of the relevant system(s) in the harmonised technical specification and as stated in CPR Annex V.1 (e.g. it will not be possible to be notified as a testing laboratory for a harmonised technical specification at AVCP system 1+ or 1).

3.2 Issuing documents under the CPR

In accordance with CPR Articles 48(5) and 68, a NB shall not issue certificates of constancy of performance of the construction product, certificates of conformity of the factory production control, test reports or reports giving the determination of the product type in accordance with the CPR before:

- it is notified under the CPR for the relevant task, and;
- Annex V comes into force, 1 July 2013.

4 Status of work carried out on a hEN under the CPD if a NB is re-notified to the CPR

4.1 AVCP system 3

In accordance with CPR Article 66, a test report issued by a body that was notified for the testing at the time the report was issued remains valid, and may be used by the manufacturer to support their declaration of performance for the construction product under the CPR. Provided the declared characteristics of the construction product and FPC remain unchanged, there is no need to re-test, or to issue a revised version of the test report unless:

- the harmonised EN has changed to include other test/assessment methods for the essential characteristics for which the manufacturer intends to declare the performance;

and

- these changes in the test/assessment methods would have effected changes in the declared performance;

and/or

- the product-type[2] has changed.

4.2 AVCP system 2+

In accordance with CPR Article 66, an EC certificate of factory production control issued under the CPD may be used by the manufacturer to support their declaration of performance for the construction product under the CPR.

The notified factory production control certification body shall continue to undertake or subcontract scheduled inspection visits. It is not necessary for the body to issue a revised certificate, drafted in accordance with the CPR, unless the body chooses to do so, or the manufacturer requests a revised certificate. If a certificate is revised, the new version shall conform with the latest approved version of NB-CPR/AG/03/003 '*Generic forms for NB certificates*'.

4.3 AVCP system 1 or 1+

In accordance with CPR Article 66, an EC certificate of conformity issued under the CPD may be used by the manufacturer to support their declaration of performance for the construction product under the CPR.

The notified product certification body shall continue to undertake or subcontract scheduled inspection visits, and audit tests under AVCP system 1+. It is not necessary for the body to issue a revised certificate, drafted in accordance with the CPR, unless the body chooses to do so, or the manufacturer requests a revised certificate. If a certificate is revised, the new version shall conform with the latest approved version of NB-CPR/AG/03/003 '*Generic forms for NB certificates*'.

5 Status of work carried out on a hEN under the CPD if re-notification of the NB to the CPR is delayed, not granted or the body does not seek re-notification

5.1 General

These provisions apply to a body that was considered to be properly notified under the CPD for conformity tasks on a harmonised standard (hEN), but has not (yet) been re-notified under the CPR, has not been granted notification under the CPR, or is not seeking re-notification. They do not apply to a body whose work was found not to be in conformity with the CPD, and as a consequence was de-notified. Neither do they apply to a body working on a European Technical Approval (ETA).

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[2] *CPR Article 2 Definitions defines "product-type" as the set of representative performance levels or classes of a construction product, in relation to its essential characteristics, produced using a given combination of raw materials or other elements in a specific production process;*

5.2 AVCP system 3

In accordance with CPR Article 66, a test report issued by a body that was properly notified for the testing at the time the report was issued remains valid, and may be used by the manufacturer to support their declaration of performance for the construction product under the CPR so long as the declared characteristics of the construction product and FPC remain unchanged unless:

- the harmonised EN has changed to include other test/assessment methods for the essential characteristics for which the manufacturer intends to declare the performance;

and

- these changes in the test/assessment methods would have effected changes in the declared performance;

and/or

- the product-type[2] has changed.

5.3 AVCP system 2+, 1 or 1+

The GNB understands from Commission Services that, in accordance with CPR Article 66.2, a notified body's certificate will be considered to remain valid until the next surveillance visit (for System 1+, the next audit test or surveillance visit) is due if 1 July 2013 has passed but the NB has not yet been notified under the CPR. However, if the manufacturer wishes to continue CE marking their construction product, and the original NB has not become notified under the CPR, he will need to find a replacement NB before the surveillance visit (or audit test) is due.

6 Work by a NB on an ETA written in accordance with the CPD

6.1 General

Under the CPD, for a construction product CE marked using the ETA route, the European Technical Approval is the harmonised technical specification, prepared by an Approval Body. European Technical Approvals are prepared to conform with an ETA Guideline (ETAG) if one exists for the product family or to an internal EOTA document if without ETA Guideline. But under the CPR, the European Assessment Document (EAD), which replaces the ETAG and CUAP, is the harmonised technical specification (CPR Articles 2(12) and 19), whilst the European Technical Assessment provides a snapshot of the assessment of the performance of the construction product (CPR Article 2(13)).

In accordance with CPR Article 66 (4), European Technical Approvals issued under the CPD before 1 July 2013 may be used for the remaining duration of their 5-year life.

6.2 AVCP system 3

In accordance with CPR Article 66, a test report issued by a body that was properly notified for the testing at the time the report was issued remains valid. It may be used by the manufacturer to support their declaration of performance for the construction product under the CPR. This is on the basis of their declaration of conformity with the European Technical Approval under the CPD, being

valid for the remaining duration of that Approval and provided that the declared essential characteristics of the construction product and FPC remain unchanged unless:

- the test/assessment methods cited in the European Technical Approval have changed to include other essential characteristics for which the manufacturer intends to declare the performance;

and

- these changes in the test/assessment methods would have effected changes in the declared performance;

and/or

- the product-type[2] has changed.

6.3 AVCP system 2+, 1 or 1+

Notification is to the relevant harmonised technical specification. Under the CPD, a NB was often notified to the European Technical Approval or European Technical Approval Guideline. Under the CPR, bodies assessing or verifying construction products under European Technical Assessments shall be notified to the relevant EAD. Because of this change to what constitutes the harmonised technical specification, under the CPR there will be no technical specification covering a European Technical Approval, and so it is not possible for a NB assessing or verifying a European Technical Approval to be notified under the CPR for that Approval or Approval Guideline. But NANDO will continue to show bodies notified under the CPD, although no new notifications to the CPD will be possible after 30 June 2013.

At the 74th SCC meeting (25, 26 March 2013, Brussels) consensus was reached that, to enable European Technical Approvals to be supported for the remaining duration of their 5-year life, a body notified on NANDO CPD for a particular Approval or Approval Guideline and considered competent by the Notifying Authority may continue verifying the Approval.

In accordance with CPR Article 66, an EC certificate of factory production control (system 2+) or an EC certificate of conformity (systems 1 or 1+) issued under the CPD may be used by the manufacturer to support their declaration of performance for the construction product under the CPR.

The certification body notified under the CPD shall continue to undertake or subcontract scheduled inspection visits, and audit tests under system 1+. It is not possible for the body to issue a revised certificate that is drafted in accordance with the CPR, as the Approval or Approval Guideline is not a harmonised technical specification under the CPR. It is however assumed that a CPD notified body which was notified for an Approval or Approval Guideline will be able to re-issue an existing certificate for an Approval after the 30 June 2013.

7 GNB position papers written for the CPD

7.1 General

It will take time for GNB position papers written for the CPD to be revised to address the CPR. Papers written for the CPD should be taken as applying to the CPR unless their provisions are not in accordance with the CPR.

7.2 Sector Group position papers

The great majority of GNB Sector Group position papers are written to address individual or small groups of harmonised European standards. These standards include harmonised annexes, normally titled Annex ZA, that address the CPD. These standards will be considered for revision in accordance with CEN's usual 5-year cycle. Thus the position paper will remain correct in most respects, but the NB will need to be aware of changes in the way that the harmonised standard and position paper should be interpreted to take the transition to the CPR into account.

Some of GNB Sector Group position papers are written to address ETAGs. CPR Article 66(3) states "*Guidelines for European technical approval published before 1 July 2013 in accordance with Article 11 of Directive 89/106/EEC may be used as European Assessment Documents.*" Thus these position papers should also remain correct in most respects. It should be noted that under the CPR the European Assessment Document will be the harmonised technical specification, whilst under the CPD the European technical approval was the harmonized technical specification.

If the contents of any GNB Sector Group position paper appear to be in conflict with the CPR, the NB should bring its concerns to the attention of the Sector Group, which should advise the NB if necessary, and also consider a fast-track revision of the paper to resolve any conflicts.

7.3 Advisory Group position papers

Most of the GNB Advisory Group position papers address broad issues that will have changed to some extent as a result of the transition from the CPD to the CPR. The Technical Secretariat, the President and Advisory Group will work to revise these papers as soon as possible. In the interim, NBs should be aware of the requirements of the CPR, and conform to GNB position papers except when they appear to be in conflict with the CPR.

If the contents of any paper appear to be in conflict with the CPR, the NB should bring its concerns to the attention of the Technical Secretariat, for advice if necessary, and to ensure that the issue is considered during revision of the paper. The Technical Secretariat will refer the issue to the Advisory Group if appropriate.

8 Availability of guidance on the CPR

8.1 Status of Commission guidance

At the GNB-CPD Conference on the CPR (18 October 2012, Brussels), it was stated that:

- The Commission Guidance Papers on the CPD will remain as an archive of useful information, and can be referred to as agreed guidance when not in conflict with the CPR.
- The 'Blue Guide' continues to be seen as useful guidance but parts of it are out of date. The guide is currently being updated to cover the New Legal Framework. However it should be remembered that the CPD was not a New Approach Directive and the CPR is not New Legal Framework legislation.

It is possible that the Commission may produce an informative document giving its views on some of the issues where clarification of the CPR has been requested. However, any such informative document would not be given the status of "guidance".

The Commission has also drafted 14 frequently asked questions (FAQ) on the CPR with answers. These have been placed on the Europa website (http://ec.europa.eu/enterprise/sectors/construction/faq/index_en.htm).

8.2 Issues on which the GNB is seeking clarification

NB-CPD/11/469 was issued as a list of issues relating to the CPR on which the GNB was seeking clarification. For many issues which have not yet been clarified by Commission Services or the SCC, the document gives proposed draft answers that GNB expects or hopes will represent the Commission's position. This document is revised periodically, as new questions are raised, and the appropriate answers to some of the earlier questions become clearer.