GNB-CPR position paper

Subcontracting of NB work

1 FOREWORD

Even though the changes from CPD to CPR are generally considered an evolution rather than a revolution, significant changes were made with regard to responsibilities of notified bodies and their use of subcontractors.

In the CPD regime, as well laboratories, inspection bodies and certification bodies could be notified for the same harmonised specifications and the same essential characteristics under the same AoC system.

Under CPD, for products/essential characteristics in AoC systems 1 and 1+, the testing could be done by a notified testing laboratory, the auditing by a notified inspection body, and the certification by a notified product certification body. Each of the three bodies involved would often have their own notification.

It was an option for member states to require their notified certification bodies only to subcontract work to bodies notified for the relevant function.

In the CPR regime, there's only one type of notified body for each system of AVCP.

- In AVCP systems 1+ and 1, only *product certification bodies* are notified
- In AVCP system 2+, only *FPC certification bodies* are notified,
- In AVCP system 3, only *testing laboratories* are notified.

In line with the New Legislative Framework, CPR gives emphasis to the responsibility of the notified bodies for their subcontractors and for the assessment and approval of them.

Previously, it has been normal practice that manufacturers first made separate agreements with (accredited and/or notified) laboratories and inspection bodies and afterwards presented the evidence of testing and inspection to a notified certification body. That practice is not in line with CPR and shall not be applied in a CPR context.

This document does not provide any guidance on the use of historical data[1] and the relationship between historical data and subcontracting.

2 DEFINITIONS

- *Notified body*

[1] *The GNB Advisory Group has appointed a task group on historical data. When that task group has finished its work the present document may be amended.*

- Notified certification body
  Body notified in accordance with CPR Art. 48 to function in AVCP systems 1+, 1, or 2+.
- Notified testing laboratory
  Body notified in accordance with CPR Art. 48 to function in AVCP system 3.

- *Subcontractor*

  A natural or legal person different from the notified body carrying out tasks on behalf of the notified body.

3 GENERAL PRINCIPLES

3.1 One single notified body for each essential characteristic

It is fundamental that the full responsibility for the notified body function lies with a single notified body.

A notified body will need to be able to carry out all parts of the tasks assigned to it in accordance with the relevant system of AVCP.

CPR Article 43(6) states:

(6) *A notified body shall be capable of carrying out all the third party tasks in the process of assessment and verification of constancy of performance assigned to it in accordance with Annex V in relation to which it has been notified, whether those tasks are carried out by the notified body itself or on its behalf and under its responsibility.*

3.2 Responsibility for the assessment of subcontractors

In CPR, the responsibility for assessing subcontractors lies solely with the notified body subcontracting tasks.

In particular, the subcontracting notified body shall ensure that the subcontractor meets all requirements of CPR Article 43.

CPR Art. 45(1) states:

(1) *Where a notified body subcontracts specific tasks connected with the third party tasks in the process of assessment and verification of constancy of performance or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 43, and shall inform the notifying authority accordingly*.

3.3 Responsibility for the work of subcontractors

It is basic that the notified body shall assume full responsibility for the entire notified body work assigned to it – even when the work is conducted by subcontractors.

CPR Art. 45(2) states:

(2) *The notified body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.*

3.4 Transparency with regard to the manufacturer

In line with the general operational obligations for notified bodies, cf. CPR Art. 52, a notified body can only employ a subcontractor with the express agreement of the manufacturer.

CPR Art. 45(3) states:

(3) *Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.*

3.5 Transparency with regard to the notifying authority

As the quality of work carried out by subcontractors may have a significant bearing on the quality of the entire notified body function it seems natural that the notified body will need to inform the notifying authority about any subcontractor it may employ.

CPR Art. 45(4) states:

(4) *The notified body shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under Annex V.*

4 Systems of AVCP

The main tasks for notified bodies as defined by CPR Annex V are:

	System 1+	System 1	System 2+	System 3
Certification decision	X	X	X	
Assessment of performance[2]	X	X		X
Initial inspection	X	X	X	
Continuing surveillance	X	X	X	
Audit-testing	X			

There are no limits defined to how big a portion of its tasks a notified body will need to carry out itself or how big a portion it may have carried out on its behalf. However, in systems 1+, 1 and 2+ the notified certification body cannot subcontract the certification decision.

4.1 AVCP systems 1+ and 1.

In AVCP system 1+, the notified product certification is responsible for the below assessments and verifications.

- Assessment of performance (only for products covered by hENs)
- Initial inspection
- Continuing surveillance
- .Audit testing (only in system 1+)

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[2] *For construction products for which an ETA has been issued, the assessment of performance is the responsibility of the Technical Assessment Body.*

The starting point is that the assessments and verifications shall be carried out by the notified product certification body itself. However, the notified product certification may decide to subcontract the tasks in accordance with CPR Art. 45 – fully or partially.

The assessment of performance may be subcontracted, fully or partially, normally to a testing laboratory. The initial inspection and the continuing surveillance may be subcontracted, fully or partially, normally to an inspection body[3] or to another certification body.

For all activities forming basis for the decision on the issuing, restriction, suspension or withdrawal of the certificate not carried out by the notified product certification body a subcontracting agreement (see section 5.5) shall be made with the body carrying out the task.

No such activities shall be carried out without a subcontracting agreement.

4.2 AVCP system 2+

In AVCP system 2+, the notified FPC certification is responsible for the below assessments and verifications.

- Initial inspection
- Continuing surveillance

The initial inspection and the continuing surveillance may be subcontracted - fully or partially - normally to an inspection body[2] or to another certification body.

For all inspection and surveillance activities forming basis for the decision on the issuing, restriction, suspension or withdrawal of the certificate not carried out by the notified FPC certification body itself a subcontracting agreement (see section 5.5) shall be made with the body/bodies carrying out the task.

No such activities shall be carried out without a subcontracting agreement.

4.3 AVCP system 3

In AVCP system 3, the notified testing laboratory is responsible for the assessment of performance on the basis of testing (based on sampling carried out by the manufacturer), calculation, tabulated values or descriptive documentation of the construction product.

The assessment of performance may be subcontracted, fully or partially, normally to another testing laboratory.

For all activities forming basis for the assessment of not carried out by the notified testing laboratory itself a subcontracting agreement (see section 5.5) shall be made with the body/bodies carrying out the task.

No such activities shall be carried out without a subcontracting agreement.

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[3] *The term "inspection body" is not defined by CPR. Any organisation performing inspection activities must meet the requirements of CPR Article 43.*

5 Assessment of subcontractors

5.1 General

As each notified body is fully responsible for the work carried out by subcontractors and for the ensuring that subcontractors meet all requirements of CPR article 43, it lies implicit that the notified body will need the freedom to decide whether or not to employ a subcontractor.

As the operations of notified bodies are all in the harmonised sphere, the national accreditation bodies are excluded from defining any additional rules with regard to the notified bodies assessment of subcontractors. For instance, a national accreditation body cannot require notified bodies accredited by that NAB to accept to use other accredited bodies as subcontractors or only to use accredited subcontractors.

Irrespective of the basis of the assessment the notified body shall document and periodically review its assessments of subcontractors.

5.2 Accredited subcontractors

An accreditation of a subcontractor may form part of the basis for the notified body's assessment of that subcontractor. However, an accreditation does not in any way limit the responsibility of the notified body for the assessment of the subcontractor and does not limit the responsibility of the notified body for the work of the subcontractor.

It must be emphasised that none of the harmonised accreditation standards cover all requirements of CPR Article 43. For instance, the independence requirements of CPR are stricter than the corresponding requirements in the accreditation standards. Hence, an accreditation to a harmonised accreditation standard, e.g. ISO 17025 or ISO 17065, can never serve as evidence or even indication that the subcontractor meets all requirements of CPR Article 43.

5.3 Notified subcontractors

As for accreditations, if a subcontractor holds a CPR notification the notified body may take that into account when assessing that subcontractor but the notified body remains fully responsible for the assessment of the subcontractor and the notification of the subcontractor will not in any way limit the responsibilities of the notified body.

It should be noted that in AVCP systems 1+ and 1 a laboratory cannot be notified. However, the laboratory may hold a notification covering the same test method in AVCP system 3. Such notification may of course be taken into account when assessing the subcontractor.

CPR has opened the possibility for testing laboratories to obtain a so-called "horizontal notification" referring to test/assessment methods instead of harmonised specifications.

Such horizontal notifications allow the notified testing laboratories to operate in AVCP system 3 across of harmonised specifications. However, for notified bodies operating in systems 1+ and 1, using as subcontractor a testing laboratory with a horizontal notification would not move the responsibilities away from the notified product certification body to assess the testing laboratory with regard to its fulfilment of CPR Article 43. It should also be emphasised that in systems 1+ and 1, a horizontal notification would not have any formal significance.

However, a horizontal notification may be taken into account by the notified body when assessing the competence of the laboratory.

5.4 In-house laboratories and inspection bodies of manufacturers

As subcontractors are required to meet the same requirements with regard to impartiality and independency as notified bodies, notified bodies cannot subcontract any work to a laboratory or an inspection body belonging to the manufacturer or otherwise affiliated with the manufacturing organisation. An accreditation to ISO 17020 or ISO 17025 would not make any difference.

5.5 Subcontracting agreement

The notified body shall make written agreements with its subcontractors.

It is recommended that at least the below matters should be covered by the agreement.

- The parties and their roles
- The activities to be carried out by the subcontractor
- The basis for the assessment carried out by the notified body
- An obligation for the subcontractor to inform about any changes affecting the basis for the assessment, including but not limited to:
  - personnel
  - facilities
  - status of any accreditation or notification
  - ownership or relations that may affect the independency of judgement
- Liabilities in case of misconduct