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COMMITTEE FOR TRADE, INDUSTRY AND
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WORKING PARTY ON TECHNICAL HARMONIZATION
AND STANDARDIZATION POLICIES
Ninth session, 17-19 May 1999
Item 10 of the provisional agenda

**DRAFT INTERNATIONAL AGREEMENT ON
TECHNICAL HARMONIZATION ISSUES**

Introduction

It is recalled that, at its eighth session, the Working Party discussed different modalities of fostering cooperation among ECE member States on technical harmonization issues and decided to prepare a first draft of an international agreement on technical harmonization. The Committee for Trade, Industry and Enterprise Development at its session in June 1998 endorsed this idea.

During the discussions at the eighth session concerning potential format and scope of an agreement, delegations favoured the option of preparing a framework agreement with horizontal obligations, to be complemented with "sub-agreements"/protocols on specific subjects. At the meeting of office-bearers, rapporteurs and coordinators in Stockholm in October 1998, it was decided with a view to facilitating discussions to use texts of recommendations already approved by the Working Party (Recommendations on Standardization Policies (ECE/STAND/17/Rev.3)) at the initial stage of preparation of the drafts both of an agreement and of its annexes/protocols.

This document is presented for comment to delegations, which are also kindly asked to submit their ideas on future potential areas to be covered by protocols to the agreement (trade policy issues and/or specific industrial sectors). This document contains the draft of the agreement and drafts of its protocols are contained in the addendum to it (document TRADE/WP.6/1999/16/Add.1).

**AGREEMENT CONCERNING THE ESTABLISHMENT OF A PROCEDURE
FOR IMPLEMENTING ECE PROTOCOLS ON STANDARDIZATION AND
TECHNICAL HARMONIZATION ISSUES**

THE CONTRACTING PARTIES

HAVING AUTHORITY to enter into such an Agreement under paragraph 1(a) of the Terms of Reference of the UN/ECE and Chapter XIII of the Rules of Procedure of the UN/ECE, Rule 50;

RECOGNIZING the right of subnational, national and regional authorities to adopt and maintain technical regulations in the areas of health, safety, environmental protection and energy efficiency that are more stringent than those established at the international level;

STRESSING also that this Agreement does not prejudice the rights and obligations of a Contracting Party under existing international agreements on health, safety and environmental protection or under the Agreements concluded within the World Trade Organization (WTO), including the Agreement on Technical Barriers to Trade (TBT);

BEARING IN MIND the potential value to international trade, consumer choice and product affordability of increasing convergence in existing and future technical regulations and their related standards;

TAKING INTO ACCOUNT that standards have a voluntary nature which distinguishes them from technical regulations, application of which is mandatory;

RECALLING the four main objectives set by the UN/ECE Working Party on Technical Harmonization and Standardization Policies for its work, namely:

- the safeguard of public health and safety;
- the improvement of the environment;
- the promotion of scientific and technological cooperation;
- the removal of technical barriers to international trade resulting from disparate standards and technical regulations and their application;

RECALLING also the Recommendations on Standardization Policies (ECE/STAND/17/Rev.3) agreed upon by the above-mentioned UN/ECE Working Party and intending to apply the principles contained therein;

CONSIDERING that the harmonization of standards and technical regulations should preferably be carried out at the international level but that technical harmonization at the regional and sub-regional levels or bilaterally may constitute useful steps towards the desired harmonization at the international level;

REITERATING that minor divergencies between national and regional standards and technical regulations and those of other countries or of regional and international regulatory and or standardizing bodies without real influence on the level of performance from the point of view of health, safety, environmental protection and energy efficiency should not constitute insurmountable technical barriers to international trade;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Purpose

- 1.1 The purpose of this agreement is
 - 1.1.1 To achieve high levels of safety, environmental protection and energy efficiency whilst reducing or eliminating unnecessary technical barriers to international trade.
 - 1.1.2 To draw the attention to problems which can arise from insufficient coordination of international or regional technical regulations and standardization activities or from the lack of such coordination, and to define specific measurements to attain more effective coordination.
 - 1.1.3 To avoid the duplication of conformity assessment procedures which are not justified on grounds of safety and public health.
 - 1.1.4 To call on the Governments to take concrete actions to harmonize principles, methods and means of elaboration, presentation, implementation and confirmation of standards, technical regulations and conformity assessment procedures in order to establish mutual confidence with the ultimate goal of mutual recognition and acceptance of goods produced in conformity with international standards.
 - 1.1.5 To ensure increased awareness and understanding by governmental bodies, private standardizing organizations, business operators and the general public of the benefits of the multilateral trading system and of countries' rights and obligations under WTO and, in particular, under the WTO Agreement on Technical Barriers to Trade and the WTO Code of Good Practice for the preparation, adoption and application of standards by standardizing bodies.
 - 1.1.6 These objectives should be achieved through the procedures laid down in the specific protocols to this agreement.

ARTICLE 2

Definitions

- 2.1 For the purposes of this Agreement and in accordance with recommendation J of the ECE Recommendations on Standardization Policies, the definitions concerning standardization and related activities in ISO/IEC Guide 2-latest version shall apply.
- 2.2 As regards other terms, the definitions used by the WTO also apply to this Agreement.

ARTICLE 3

Contracting Parties and Consultative Status

- 3.1 Countries that are members of the Economic Commission for Europe (UN/ECE), regional economic integration organizations that are set up by ECE member countries and countries that are admitted to the ECE in a consultative capacity in accordance with paragraph 8 of the ECE's Terms of Reference, may become Contracting Parties to this Agreement.
- 3.2 Countries that are members of the United Nations and that participate in certain activities of the ECE in accordance with paragraph 11 of the ECE's Terms of Reference, and regional economic integration organizations set up by such countries, may become Contracting Parties to this Agreement.
- 3.3 Any specialized agency and any organization, including intergovernmental organizations and non-governmental organizations, that have been granted consultative status by the Economic and Social Countries of the United Nations, may participate in that consultative capacity in the deliberations of the Executive Committee described under Article 4 on matters of particular concern to that agency or organization.

ARTICLE 4

Executive Committee

- 4.1 The representatives of Contracting Parties shall constitute the Executive Committee of this Agreement and shall meet at least annually in that capacity.

- 4.2 The Rules of Procedure of the Executive Committee are set forth in the annex to this Agreement.
- 4.3 The Executive Committee shall:
- 4.3.1 be responsible for the implementation of this Agreement, including the setting of priorities for activity and preparing the specific protocols to the Agreement;
- 4.3.2 set up such ad hoc expert groups as may be necessary to determine the scientific and technological merit of claims for equivalence or excellence of technical regulations and standards;
- 4.3.3 consider the recommendations and reports by ad hoc groups of experts set up by the Committee;
- 4.3.4 fulfil such other functions as may be appropriate under this agreement.

ARTICLE 5

Issue Resolution

- 5.1 Issues between two or more Contracting Parties concerning the interpretation or application of this Agreement and its Protocols shall, so far as possible, be resolved through consultations or negotiations between or among them. Where this process fails to resolve the issues, the Contracting Parties concerned may agree to request the Executive Committee to resolve the issues as provided for in the annex.

ARTICLE 6

Becoming a Contracting Party

- 6.1 Countries and regional economic integration organizations specified in Article 3 may become Contracting Parties to this Agreement by either:
- 6.1.1 signature without reservation as to ratification, acceptance or approval;
- 6.1.2 signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval;
- 6.1.3 acceptance; or

6.1.4 accession.

6.2 The instrument of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 7

Signature

7.1 This Agreement shall be open for signature beginning

7.2 This Agreement remains open for signature until its entry into force.

ARTICLE 8

Entry into Force

8.1 This Agreement and its annex, which constitute an integral part of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of five (5) countries and/or regional economic integration organizations have become Contracting Parties pursuant to Article 6.

8.2 If, however, paragraph 11.1 of this Agreement is not satisfied fifteen (15) months after the date specified in paragraph 7.1, then this Agreement and its annex, which constitute an integral part of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of eight (8) countries and/or regional economic integration organizations have become Contracting Parties pursuant to Article 6. Such date of entry into force shall not be earlier than sixteen (16) months after the date specified in paragraph 7.1.

8.3 For any country or regional economic integration organization that becomes a Contracting Party to the Agreement after its entry into force, this Agreement shall enter into force sixty (60) days after the date that such country or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession.

ARTICLE 9

Withdrawal from agreement

- 9.1 A Contracting Party may withdraw from this Agreement by notifying the Secretary-General of the United Nations in writing.
- 9.2 Withdrawal from this Agreement by any Contracting Party shall take effect one year after the date on which the Secretary-General receives notification pursuant to paragraph 9.1 of this Article.

ARTICLE 10

Amendment of agreement

- 10.1 A Contracting Party may propose amendments to this Agreement and the annex to this Agreement. Proposed amendments shall be submitted to the Secretary-General, who shall transmit them to all Contracting Parties.
- 10.2 A proposed amendment transmitted in accordance with paragraph 13.1 of this Article shall be considered by the Executive Committee at its next scheduled meeting.
- 10.3 If there is a consensus vote in favour of the amendment by the Contracting Parties present and voting, it shall be communicated by the Executive Committee to the Secretary-General who shall then circulate the amendment to all Contracting Parties.
- 10.4 An amendment circulated under paragraph 10.3 of this Article shall be deemed to be accepted by all Contracting Parties if no Contracting Party expresses an objection within a period of six (6) months after the date of such circulation. If no such objection has been expressed, the amendment shall enter into force for all Contracting Parties three (3) months after the expiry of the period of the six (6) months referred in this paragraph.
- 10.5 The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If such objection has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever.

ARTICLE 11

Depositary

The Depositary of this Agreement shall be the Secretary General of the United Nations. In addition to other depositary functions the Secretary General shall, as soon as possible, notify the Contracting Parties of:

- 11.1 Signatures, acceptances, and accessions in accordance with Article 6.
- 11.2 Notifications received in accordance with Article 6.
- 11.3 The dates on which this Agreement shall enter into force for Contracting Parties in accordance with Article 8.
- 11.4 Notifications of withdrawal from this Agreement received in accordance with Article 9.
- 11.5 The date of entry into force of any amendment to this Agreement in accordance with Article 10.

ARTICLE 12

Secretariat

The Secretariat for this Agreement shall be the Executive Secretary of the UN/ECE. The Executive Secretary shall carry out the following secretariat functions:

- 12.1 Organize the meetings of the Executive Committee and the Working Parties.
- 12.2 Transmit to the Contracting Parties reports and other information received in accordance with the provisions of this Agreement; and
- 12.3 Discharge the functions assigned by the Executive Committee.

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ANNEX

COMPOSITION AND RULES OF PROCEDURES OF
THE EXECUTIVE COMMITTEE

Article 1

Membership in the Executive Committee shall be limited to Contracting Parties.

Article 2

All Contracting Parties shall be members of the Executive Committee.

Article 3

- 3.1 Except as provided in paragraph 3.2 of this Article, each Contracting Party shall have one vote.
- 3.2 If a regional economic integration organization and one or more of its Member States are Contracting Parties to this Agreement, the regional economic integration organization shall, in matters within its competence, exercise its right to vote with a number of votes equal to the number of its Member States that are Contracting parties to this Agreement. Such an organization shall exercise its right to vote only for those of its Member States that do not exercise their right, and vice versa.

Article 4

In order to cast its own vote, a Contracting Party shall be present. A Contracting Party need not be present for the casting of a vote by its regional economic integration organization.

Article 5

- 5.1 A quorum consisting of not less than half of all the Contracting Parties shall be present for the taking of a vote.
- 5.2 For purposes of determining a quorum under this Article, and determining the number of Contracting Parties needed to constitute one-third of the Contracting Parties present and voting under paragraph 7.1 of Article 8 of this Annex, a regional economic integration organization and its Member States shall be counted as one Contracting Party.

Article 6

- 6.1 The Executive Committee shall, at its first session each calendar year, elect a Chairman and Vice-Chairman from its membership. The Chairman and Vice-Chairman shall be elected by a two-thirds affirmative vote of all Contracting Parties present and voting.
- 6.2 Neither the Chairman, nor the Vice-Chairman, shall come from the same Contracting Party more than two years in succession. In any year, the Chairman and Vice-Chairman shall not come from the same Contracting Party.

Article 7

- 7.1 Decisions by the Executive Committee shall be by a consensus vote of the Contracting Parties present and voting. A present and voting Contracting Party that objects to a matter for which a consensus vote is necessary for adoption shall provide a written explanation of its objection to the Secretary-General within sixty (60) days from the date of the vote. If such Contracting Party fails to provide such explanation during that period, it shall be considered as having voted in favour of the matter on which the vote was taken. If all Contracting Parties that objected to the matter so fail, the vote on the matter shall be considered to have been a consensus vote in favour of the matter by all persons present and voting. In that event, the date of the vote shall be considered to be the first day after that 60-day period.
- 7.2 All other matters requiring resolution may, at the discretion of the Executive Committee, be resolved by the voting process set forth in paragraph 7.1 of this Article.

Article 8

Contracting Parties that abstain from voting are considered as not voting.

Article 9

The Executive Secretary shall convene the Executive Committee whenever a vote is required to be taken under Article 5 or 6 of this Agreement or whenever necessary to conduct activities under this Agreement.
