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TECHNICAL HARMONIZATION AND STANDARDIZATION POLICIES*

Note by the secretariat

This draft document is presented to delegations for information on the activities of the Working Party on Technical Harmonization and Standardization Policies (WP.6). It contains the description of the project prepared by the ad hoc Team of Specialists on Standardization And Regulatory Techniques ("START" Team).

It is recalled that the formation of the Team was endorsed by the Committee at its third session in June 1999.

* This paper is being submitted without formal editing.

**PROJECT FOR A GLOBAL MODEL FOR IMPLEMENTING GOOD REGULATORY PRACTICE FOR
THE PREPARATION, ADOPTION AND APPLICATION OF TECHNICAL REGULATIONS
VIA THE USE OF INTERNATIONAL STANDARDS**

Foreword

1. The Project reproduced below has been suggested and prepared by the UN/ECE *ad hoc* team of specialists on Standardization And Regulatory Techniques ("START").

2. The START Team was established in September 1999. It works under the auspices of the UN/ECE Working Party on Technical Harmonization and Standardization Policies (WP.6) which, at its ninth session in May 1999, decided to establish this team to examine the relationship between international standardization and technical regulations. The formation of the team has been confirmed by the UN/ECE Committee for Trade, Industry and Enterprise Development.

Introduction

3. Discussions within different international organizations and fora show a clear desire to harmonize technical regulations with a view to limiting obstacles to international trade and to facilitating market access. Some international technical regulations exist, but they tend to be cumbersome, burdened with details and difficult to formulate. As a consequence such regulations, once in place, can be difficult to amend. Detailed agreements between a large number of regulatory authorities are frequently difficult to obtain, and such regulations tend not to achieve full consensus.

4. An international regulatory system comprised of broad, common regulatory objectives might be easier to develop and might more easily find consensus. For the detailed requirements that implement common regulatory objectives recourse could be had to the established mechanisms of international standardizing bodies, which provide a forum for all interested parties (not only regulatory authorities), and have established a degree of trust at the international level.

5. These problems were recognized by the UN/ECE Working Party on Technical Harmonization and Standardization Policies (WP.6), which, as mentioned in the foreword, commissioned a team of specialists to investigate the question - the START (Standardization and Regulatory Techniques) Team. The work of the Team is intended to promote guidelines on efficient legislation for regulatory authorities and to provide a mechanism for co-operation between regulatory authorities, standardizers and industry, so that legislation can make appropriate use of standards.

6. There are major policy activities in this area, particularly under the WTO/TBT Agreement. However, WP.6 and its members believe it would be both appropriate and useful to develop further the practical dimensions of the provisions in that the WTO/TBT Agreement into a general mechanism for the coexistence of internationally recognized technical regulations and international standards. Information for the development of the following proposed provisional "global model" has also been derived from useful work in

other international fora. These include the WTO's work in trade policy review, the OECD's work in regulatory reform and international standards, and APEC's and ASEM's work in creating guidelines on technical regulations.

7. It is, for example, assumed that whenever a new or revised technical regulation is being prepared, regulators should follow the principles set out in the WTO/TBT Agreement (in particular, that technical regulations should be based on relevant international standards, when they exist or their completion is imminent, except when such standards would be ineffective or inappropriate for the technical regulation in question; that technical regulations should not be more trade-restrictive than necessary and should be non-discriminatory).

8. However, the draft Global Model proposed goes further than the provisions of the TBT Agreement. It is aimed at creating a mechanism to facilitate and accelerate the harmonization of technical regulations; to increase their implementation and use at global level through international standardization; and to further reduce barriers to trade that arise from divergent technical rules, and means of determining compliance with them, at the regional and national levels.

9. The draft Global Model under preparation by the START Team will be submitted for formal consideration, discussion and approval to the tenth session of the Working Party (6-8 November 2000). Other international fora and private sector initiatives to reduce technical barriers to trade will, by appropriate means, be informed and invited to comment on the draft Global Model.

The legal basis for the proposed model

10. It is thought that the proposed Global Model would be primarily useful to government officials dealing with preparation of technical regulations. The Model could be given legal status if it were formalized as an agreement between countries that are ready to use the proposed best practices and procedures as a basis for their co-operation in harmonizing technical legislation. This could be linked to the preparation of a proposed International Agreement on technical harmonization issues, the content of which is currently being considered by the UN/ECE Working Party on Technical Harmonization and Standardization Policies. The proposed International Agreement is envisaged as a framework agreement with horizontal undertakings, to be complemented with protocols on specific subjects. Thus, the Global Model might become one of the protocols to that agreement. Drafts of the proposed Agreement (document TRADE/WP.6/1999/16) and of its protocols (document TRADE/WP.6/1999/16/Add.1) are publicly available on the web site of the UN/ECE. (<http://www.unecce.org/trade/stdpol> under "major working documents").

The content of the Global Model

Mechanisms and processes for the harmonization of technical regulations

11. The Model addresses the need for internationally recognized technical regulations, either where no technical regulation exists or where non-harmonized technical regulations exist in a number of countries. In addition to the principle of harmonizing technical regulations, the nature of such internationally recognized technical regulations might be adjusted to define common regulatory objectives that would reference international standards in order to fulfil or implement those objectives. In both cases it is proposed that such international technical regulations could either be linked to existing international standards or generate a call for the development of new international standards.

12. A distinction is necessary between the specifications applicable to products, as such, and the conformity assessment requirements to be used to ensure that the products placed on the market conform to the characteristics required. The global model is intended to cover both these issues.

Identification of the need, and elaboration of international technical regulations

13. The Model will address the issue of how to identify a need for harmonization of existing and new technical regulations (including through the existing notification procedures in the WTO). It will also cover the process of preparing and adopting an international technical regulation, and the common regulatory objectives that the regulation is intended to address, and will suggest an administrative procedure which countries interested in the joint preparation of such a technical regulation might follow.

Additional procedures for the preparation and implementation of international standards

14. The model is intended to provide for reference to standards as a means to meet the defined, common regulatory objectives. It will address the question of how international standardization bodies can be approached to provide standards to meet the technical product requirements of an international technical regulation, and the responsibilities of countries participating in the preparation of an Internationally Recognised Technical Regulation to support relevant technical work done in international standardization bodies.

Placing compliant products on the market

15. If a system of international technical regulation is to be effective in opening trade, there should be a mechanism to avoid unnecessary conformity assessment procedures for products that comply with it. Determining, and where appropriate, assuring conformity with international technical regulation will also be covered.

16. Although it has become clear that the supplier's declaration of conformity is the favoured method of determining compliance with rules, certification issues will also be covered, including the mutual recognition of certificates issued by recognized certification bodies, and how conformity with an international technical regulation could be claimed or demonstrated by a supplier. Market surveillance and protection issues will also be covered. Finally, the Global Model will address the issue of how potential disputes might be resolved.

Draft detailed rules

17. Detailed requirements will be set out in annexes to the draft Global Model on the administrative procedures for registration and establishment of an international technical regulation; procedures for the technical work; a model for an internationally recognized Standardization Request; the elements to be included in an international technical regulation ("Model international technical regulation's"); questions of marking or otherwise attesting to conformity with an international technical regulation; and finally a glossary of technical terms.