



**Economic and Social
Council**

Distr.
GENERAL

ECE/TRADE/C/WP.6/2009/17
14 September 2009

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE ON TRADE

Working Party on Regulatory Cooperation and
Standardization Policies

Nineteenth session
Geneva, 24-26 November 2009
Item 6 of the provisional Agenda

REGULATORY COOPERATION

**Report of the meeting of the Bureau, the rapporteurs and coordinators,
the Team of Specialists on Standardization and Regulatory Techniques (“START” team),
and the Advisory Group on Market surveillance (“MARS” group),
held in Stockholm, 27-29 May 2009**

Note by the secretariat

1. The ad hoc Team of Specialists on Standardization and Regulatory Techniques (“START” team) was established by the Working Party at its ninth session.
2. Its terms of reference (TRADE/WP.6/2001/8/Add.1, annex 2) were last revised in 2001. In 2009 the Group had its mandate extended until 2011 by the UNECE Executive Committee at its meeting on 4 May 2009 (see www.unece.org/trade/ct/ct_2009/ct_09_011E.pdf)
3. The report of the meeting of the “START” Team, held in Stockholm from 27 to 29 May 2009, is presented for information to the Working Party.

I. ADOPTION OF THE AGENDA

4. The agenda was adopted with minor changes to the order of the items.
5. The Chairperson welcomed participants to the meeting and presented the timetable of the three days. The participants then introduced themselves and the organizations that they represented.

II. FOLLOW-UP TO THE WP.6 ANNUAL SESSION IN NOVEMBER 2008 AND PREPARATION OF THE 2009 SESSION AND CONFERENCE ON RISK ASSESSMENT AND MANAGEMENT

6. Participants took note of the report of the annual session of the Working Party (WP.6). The Bureau regretted that the document did not contain the decisions as originally adopted by the Working Party. It requested the secretariat to see if it was possible to have these decisions compiled as an annex to the report of the next session.
7. The meeting reviewed the provisional agenda for the WP.6 annual session in 2009 and no changes were proposed. The possible revision of Recommendation L, and Recommendation D was discussed.
8. Risk assessment and management tools were used in all the areas of work of WP.6 in particular in the development of regulations and norms, in standardization activities, and in planning, executing and evaluating market surveillance actions and activities. At the same time, different organizations and authorities used substantially different approaches, and there is little shared best practice. The aim of the Risk Assessment and Management Conference was to start an exchange of experiences on these topics. This might then lead on to the development of common methodologies and recommendations.
9. The Coordinator of the Conference updated participants on the status of the organization of the event. A number of potential speakers had been contacted, targeting in particular governmental authorities, standardization and certification bodies, research institutions and professional risk-management organizations.
10. Several speakers have already confirmed their participation, while contacts with others are ongoing. No confirmations had yet been received from governmental authorities, nor market surveillance authorities, and efforts in the coming months would focus on involving them more actively.
11. The participants in the Bureau meeting were invited to work in groups to elaborate on the topics to be discussed at the Conference. They pointed in particular to the role of risk management in market surveillance, and in the choice of regulatory instruments. Organizers were also warned of the possible use of the Conference by some speakers as an opportunity for promoting the activities of their organizations.

III. SECTORAL PROJECTS: EARTH-MOVING MACHINERY

12. The Convenor of the Sectoral Initiative on Earthmoving Machinery (SIEMM) introduced the common regulatory objectives (CROs), which had been developed by the Initiative in 2004. He reported that the model had been discussed in the Russian Federation, China, India and South America.

13. Since in general all countries referred to the same ISO standards in their legislation, the first part of the International Model was broadly acceptable. However, the compliance clause in the current CROs only contained one option: the supplier declaration of conformity (SDoC). This did not meet the requirements of some of the developing countries, where there was not sufficient trust in the business sector for that declaration to be a suitable tool. For this reason, the Sectoral Initiative was working on a revision of the CROs.

14. The new CROs needed to allow for producers to avail themselves of the services of external certifiers. It was also important that the manufacturer and an accredited third party for conformity assessment should have a stable framework for cooperation. Conformity-assessment testing that had already been done by the manufacturer could then be used by the third party, within specific guidelines. The end goal of the process should be to build capacity at the manufacturer's premises, so that in the long run the supplier declaration of conformity (SDoC) would become the alternative of choice.

15. The proposed CROs were still being discussed with a number of stakeholders, including ISO/CASCO¹, Governments and certification bodies. The final version of the proposed CROs would be prepared in time for the WP.6 annual session. The Chairperson observed that the experience of the Sectoral Initiative on Earthmoving Machinery (SIEMM) could be replicated in other sectors.

IV. MARKET SURVEILLANCE GROUP: UPDATE AND FUTURE WORK

16. The convenor of the General Market Surveillance Procedure (GMSP) Initiative presented an updated version of the document. It had been improved after discussions with several market surveillance authorities in Slovakia.

17. The GMSP referred in particular to non-food products where harmonized legislation existed, and detailed procedures in three main areas: planning, execution and stakeholder contacts. The model would be completed by sub-procedures and a glossary.

18. The discussion focused on the following questions on how to continue developing the GMSP:

- (a) Should it be a training document or the basis for a common approach?
- (b) Should it focus on the European Union or aim at being a truly international tool?

¹ ISO/CASCO is ISO's policy development committee on conformity assessment reporting to the ISO Council.

- (c) Should it focus on products covered by the new approach or on other products tool?
- (d) Which sub-procedures should be developed as a priority?

19. Participants agreed on the following points:

(a) The GMSP should be a training document. The target of the training should be market surveillance rather than the general public;

(b) The document could be complemented by an update of the UNECE document on “Market Surveillance in the UNECE region”;

(c) The GMSP should be developed in such a way that any country could use it. The wording should therefore refer to CROs or national legislation, rather than EU legislation. It should not focus on a particular legislative framework but on its enforcement. There was a need to strive to find elements of commonality among different approaches. Where this was not possible the EU approach could be taken as an example, possibly included as an annex. Other countries could similarly develop annexes regarding their own;

(d) One major difficulty was deciding on what to include in the model, because the definition of MS was not unique and while for some countries the whole life cycle of the product should be covered, for others this was not so. Also, different systems gave different roles to the many stakeholders involved in the different phases of a product’s life cycle, from design to disposal;

(e) The GMSP should not aim at developing new procedures (for example, as regards sampling) but rather refer to an existing toolbox;

(f) The new approach was the one that covered the largest number of products and was therefore the most useful reference for the EU. As other countries gave other examples, they could be added in. The model should also set out the role of MS in the different sectors, with reference to the “Guide to the implementation of directives based on the New Approach and the Global Approach” (normally referred to as the “blue book”, see: http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf);

(g) Further consultations were needed to decide which sub-procedures to prioritize.

20. The GMSP would be further refined in line with those comments. Participants were encouraged to take part in future teleconferences and send written comments to assist in this process.

21. Participants also identified common challenges in the area of MS:

(a) MS authorities needed to better coordinate at a national level, so as to avoid having multiple checks on one same producer;

(b) New legislation often did not define in detail that was responsible for enforcement;

- (c) The requirements were at times too difficult and costly to check;
- (d) The resources allocated to MS were highly insufficient.

22. The following points were also made:

(a) Economic operators were held responsible for their products but often did not have the resources to check all the inputs in their production process. This could result in the producers not wanting to source from abroad, or to source only from specific countries (especially a concern as regards new EU environmental legislation);

(b) One of the responsibilities of MS authorities was to ensure fair competition. If they focused only on the dangerous products they could not meet that important obligation. The subject could be further discussed at the Conference on Risk Assessment and Management;

- (c) Management tools were needed more than sophisticated equipment.

23. The Working Group on Market Surveillance of the CIS Interstate Council on Standardization, Metrology and Market Surveillance had held its thirteenth session in Chisinau on 26 and 27 March. The representative of the Republic of Moldova reported on the discussions and decisions taken. In particular, the Working Group:

(a) Had expressed interest in strengthening its collaboration with the WP.6 particularly with the "MARS" Group;

(b) Had considered the GMSP document as a good support and guide for market surveillance activities and requested the "MARS" Group to consider translating at least a part of it into Russian so that it could be discussed in more detail at the 14th meeting of the Working Group;

(c) Would develop a common guide or recommendation on the use of risk assessment in market surveillance to avoid overlap and maximize results of control activity;

(d) Had discussed a document on "Collaboration among market surveillance authorities" which aimed at improving the exchange of information among market surveillance authorities on dangerous products on the market. That document, which was currently available only in Russian, would be made available in English for the WP.6 2009 annual session;

(e) Had recommended to the national market surveillance authorities to transpose into national legislation the EU regulation 765/2008/EC to the extent possible. For that reason, training and information sessions about the "New Approach" were very important.

24. The Group would hold its next meeting in Baku in October 2009.

25. The Chairperson of the "MARS" Group undertook to translate a part of the document into Russian as part of the documentation for the Group's meetings, to be held in Bratislava in the 41st or 42nd week of the current year.

26. Inputs from the CIS Working Group to the Conference on Risk Assessment and Management would also be sought.

27. The Coordinator of the Initiative on Market Surveillance definitions presented a list of terms and definitions for market surveillance. The list had been discussed at a teleconference meeting in March 2009.

28. The terms and definitions were taken from international standards (ISO) and from the latest EU legal instruments. The discussion focused on:

(a) Additional sources that could be used as a basis for the terminology (e.g. the WTO TBT Agreement);

(b) Other terms that could be added to the ones already in the table;

(c) The fact that different organizations give different meanings to terms.

29. The Coordinator agreed to prepare a new version of the document based on the discussion and send it for comments to the Working Group. Other countries would then be invited to add their own definitions alongside those of the EU.

V. SECTORAL INITIATIVE ON THE SAFETY OF PIPELINES

30. Accidents on international pipelines endanger human lives and the environment, cause serious revenue losses and contribute to build in a general public hostility towards pipelines. A presentation was made on the need for further international efforts in this domain.

31. A Recommendation on the Safety guidelines/good practices for pipelines had been approved in 2006 under the auspices of the Conference of the Parties to the Convention on Transboundary Effects of Industrial Accidents and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes. This instrument was not sufficiently specific for use by industry. A more effective approach was to develop a sectoral project on the basis of the WP.6 International Model to improve regulatory approaches on a worldwide basis, with reference to international standards.

32. Prior to the meeting, a questionnaire had been prepared and translated into Russian. Its purpose was to document existing practices in this field. The questionnaire had been sent to a number of authorities and contacts, and replies had been received from five countries (Belarus, Brazil, Canada, Kazakhstan and Turkey).

33. It was important to involve some of the countries of the European Union, especially because there was no harmonized legislation in this area. The secretariat, in collaboration with interested delegations, would continue to collect answers from other countries and regions. It would also prepare a summary report of answers received to date.

34. The report, as well as the compiled answers, would be presented to the Working Party. At its annual session, the Working Party would then be called upon to decide on setting up the sectoral initiative and discussing its terms of reference.

VI. SECTORAL INITIATIVE ON EQUIPMENT FOR EXPLOSIVE ENVIRONMENTS

35. The Sectoral Initiative had started its work in 2007 with a presentation of different regulatory systems back to back with the meeting of the Working Party. It was decided that a questionnaire was needed to document the existing regulatory frameworks. The questionnaire had been answered by Australia, Brazil, the European Union, the Russian Federation and the United States.

36. The Initiative's terms of reference had been approved by the Working Party in November 2008. Currently, the Initiative was preparing common regulatory objectives (CROs) in this sector. The first draft of the CROs had been prepared at a meeting held in parallel to the Bureau meeting and presented to all participants.

37. The CROs would cover each of the IECEx² sectors (mining, refinery, chemical plants, mills) and would deal with different kinds of hazards (gas explosion, dust explosion, mechanical and electrical equipment, etc). They would cover the entire life cycle of the products and facilities (from placing the product on the market, to installation, repair, inspection and maintenance).

38. The draft CROs would be further refined and presented to the annual IECEx meeting in Melbourne and the UNECE WP.6 meeting in Geneva.

VII. SECTORAL INITIATIVE ON TELECOM

39. The Convener of the Sectoral Initiative on Telecom reported that there had been little interest in implementing the proposed CROs. There could, in the future, be a use for the CROs in the context of the WTO Doha Round and in the context of the review of the Information Technology Agreement.

VIII. PROPOSALS FOR TECHNICAL ASSISTANCE

40. The secretariat had prepared several projects for technical assistance but had as yet not been able to raise any funds.

IX. STRUCTURE AND ROLE OF THE BUREAU AND RAPPORTEURS

41. The participants discussed the structure of the WP.6 Bureau and the role of its rapporteurs. It was decided that at the next annual session, the Bureau would propose to nominate Ms. Maria Bizgu as the Coordinator of Liaison with the CIS Working Group on

² International Electrotechnical Commission System for Certification to Standards Relating to Equipment for use in Explosive Atmosphere.

Market Surveillance of the Interstate Council on Standardization, Metrology and Certification, and Mr. Willem Kool, as the Rapporteur on Metrology. Both would be acting in their new functions until the annual session.

42. Rapporteurs had an important function, being tasked to report to the Working Party about developments in other organizations, but had not been active at the last few sessions. Discussions on the Bureau's structure would also continue informally.

X. REPORTS ON RECENT MEETINGS AND PARTICIPATION IN FORTHCOMING EVENTS

43. The Chairperson of the Working Party reported on his participation in the Expert Panel on the Review of the European Standardization System. The Panel has a mandate to review the future role and scope of the European Standardization System, including also informal standards, up to the year 2020. The Panel is composed of 30 eminent persons coming from European standardization bodies and business associations and academia and some member States. A first presentation by the Expert Panel on the findings from its work would take place on World Standards Day, and the final report would be published in December.

44. The secretary of the Working Party reported on her participation in the meetings of the ISO/CASCO newly established Strategic Alliance and Regulatory group "STAR" Group. She invited the delegations to request to join the "STAR" group, so as to relay to ISO/CASCO the expertise built by the "MARS" Group.

XI. OUTREACH

45. Participants discussed the need for a brochure explaining the roles played by different organizations in regulatory cooperation and standardization matters. The brochure could illustrate the specific role played by UNECE vis-à-vis other governmental and non-governmental organizations in this specific field.

46. The secretariat had published an updated version of the recommendations, which was distributed to participants. The recommendations were also available for download on the website. A new brochure on regulatory cooperation had also been published, and was similarly available for download and for distribution.

47. The website <http://www.unece.org/trade/wp6/welcome.htm> had been thoroughly revised and reorganized. The secretariat invited comments on the new website by email from the participants.

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