



**Economic and Social
Council**

Distr.
GENERAL

ECE/TRADE/C/2006/18/Add.2
ECE/TRADE/C/WP.6/2006/13/Add.1
30 November 2006

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE ON TRADE

First session
Geneva, 21-23 June 2006

Working Party on Regulatory Cooperation and
Standardization Policies

Sixteenth session
Geneva, 19-22 June 2006

REPORT OF THE FIRST SESSION OF THE COMMITTEE ON TRADE

REPORT OF THE WORKING PARTY ON REGULATORY COOPERATION
AND STANDARDIZATION POLICIES ON ITS SIXTEENTH SESSION

Addendum

UNECE International Forum on Common Regulatory Language for Global Trade
held on 20 and 21 June 2006

Conclusions, summary of presentations and discussions

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I. INTRODUCTION

1. An International Forum on a common regulatory language for global trade took place on 20 and 21 June 2006 under the joint auspices of the Committee on Trade and the Working Party on Regulatory Cooperation and Standardization Policies (WP.6) of the United Nations Economic Commission for Europe (UNECE). The purpose of the Forum was to provide an overview of rules and processes that help facilitate efficient technical regulations at multilateral, regional and national levels; to clarify various regulatory concepts; and to have a broad exchange of views.

2. The topic of a common regulatory language for global trade was discussed in three working sessions dedicated to: good regulatory and standard setting practices (Session I); international and regional approaches to regulatory cooperation (Session II); and UNECE instruments to promote regulatory cooperation and convergence (Session III).

3. During the Forum, presentations were made by representatives from governmental and non-governmental organizations at the international multilateral and regional levels both in the UNECE region and in other regions. The following concepts were highlighted: harmonization and alignment of national standards with international standards; regulatory convergence; regulatory cooperation and dialogue between Governments and regulatory authorities; good regulatory practices; regulatory reform; the quality of technical regulations; and, in that context in particular, regulatory impact assessment.

II. SUMMARY OF PRESENTATIONS AND DISCUSSIONS

A. Opening session

4. The Forum was opened by the UNECE Executive Secretary, Mr. Marek Belka. In his speech, Mr. Belka noted the importance of regulatory activities to economic development and cooperation in the world and that the ability of harmonized standards to significantly improve a

country's competitiveness in international markets. He emphasized the role played by the UNECE in the process of regulatory convergence in the UNECE region, and recalled that the Forum had been organized in order to share national experiences with regulatory frameworks and to examine how these frameworks affect trade.

5. Mr. Alexander Šafarik-Pštrosz, Chairman of the Committee on Trade, and Mr. Christer Arvíus, Chairman of the Working Party on Regulatory Cooperation and Standardization Policies, reported on the ongoing strategies and working programmes of these respective bodies.

6. An introductory presentation was made by Mr. Alan Bryden, Secretary-General of the International Organization for Standardization (ISO). Mr. Bryden described a new global framework for technical harmonization, which comprises not only the agreements within the framework of the World Trade Organization (WTO), but also regional and bilateral trade agreements, major new emerging economies, regulatory reforms, good regulatory practices, global companies and the increasing impact of non-governmental organizations. He argued that consensus based international standards could be seen as a toolbox for regulators, and gave examples of the complementarity of International Organization for Standardization (ISO) standards with regulations. An ISO/IEC Guide on the use of ISO and IEC standards in relation with regulations was planned for publication in 2007.

B. Session I: Good Regulatory and Standards-Setting Practices

7. Mr. Margers Krams, Chairperson, Committee on Technical Barriers to Trade (TBT), WTO, gave a presentation about Good Regulatory Practice (GRP) in the context of WTO work. He mentioned that although the concept did not per se constitute a provision of the TBT Agreement, it was one of the key issues in the ongoing Fourth Triennial Review of the Agreement. Mr. Krams briefly outlined the TBT Agreement and its key principles, focusing on the activities of the TBT Committee. He explained the role of the ongoing Triennial Review and the role of the GRPs within the Review, which included three elements: choice of policy instruments; efficient and effective regulation, including regulatory impact assessment; and regulatory cooperation between WTO members.

8. Mr. Anthony Kleitz, Head of the Trade Liberalisation and Review Division, Trade Directorate, Organisation for Economic Co-operation and Development (OECD), presented the features of GRP based on four widely accepted principles: giving priority to the objective rather than the methods used to achieve the objective; transparency in the development and application of technical regulations/standards and conformity assessment procedures; effective impact assessment; and national and international cooperation among regulatory authorities. Two other important issues were the question of compliance with national technical regulations/standards and the principle of necessity.

9. A number of issues were raised during the debate, including: the choice of conformity assessment procedures, good practice for the use of standards in national technical regulations, avoiding unnecessary (when objective can be achieved with other means) or excessively restrictive (for trade and business) regulations, definition of supplier's declaration of conformity, and joint OECD-APEC work on GRP.

C. Session II: International and Regional Approaches to Regulatory Cooperation

10. Ms. Liliana Brykman, DG Enterprise, the European Commission, presented “The European Commission’s Better Regulation Package”, a core element of the European strategy on growth and jobs (“The Lisbon Agenda”). She noted that the European Commission (EC) pays close attention to better regulation in order to ensure that the regulatory process is of the highest quality and that the principle of subsidiarity is fully respected. The Commission’s goals are the necessary modification of regulatory approaches to foster the competitiveness of the European Economy and the promotion of a better regulatory environment both for European business and for citizens of the EU. The new regulatory strategy relies on the EC legal principles of necessity and proportionality, impact assessment, screening of pending EC legislation, and simplification of existing EC legislation.

11. Mr. Mohan Denetto, Smart Regulation Implementation, Privy Council Office, Canada, explained the challenges which the Government and regulatory authorities had encountered in bilateral or trilateral regulatory cooperation in North America. He gave an overview of the regulatory cooperation between Canada, the United States and Mexico, which is characterized by a complex web of institutions, relationships and agreements, and mentioned the objectives and challenges of this cooperation. He emphasized the importance of arriving at mutual priorities and of increasing transparency in the regulatory process between the members of the North American Free Trade Agreement (NAFTA).

12. Mr. Yuko Hayashi, Ministry of Economy, Trade and Industry, Japan, spoke on regulatory and standardization cooperation among Asia-Pacific Economic Cooperation (APEC) economies. His presentation included an overview of APEC and the activities of its Sub-Committee on Standards and Conformance, with a focus on issues related to the alignment of national standards with international standards, Good Regulatory Practice (GRP), recognition of conformity assessment (APEC Mutual Recognition Agreement (MRA)), technical infrastructure development, and trade facilitation (within the Trade Facilitation Task Force set up in 2005 to promote information exchange about specific trade concerns). Regarding the Good Regulatory Practice (GRP), a common definition, which is not binding for APEC members, had been adopted. This common definition requires a “good” regulation to: be transparent and non-discriminatory; be performance-based; be linked to international standards or be aligned with international standards; refer to the standards which are necessary to achieve the legitimate regulatory objectives; and be subject to review.

13. Mr. Fernando Goulart, INMETRO, Brazil, covered a wide range of topics concerning regulatory cooperation in Latin America within the framework of the Common Market of the South (MERCOSUR). Mr. Goulart gave an overview of the institutional framework of MERCOSUR with a particular focus on the activities in Working Subgroup No 3 on Technical Regulation and Conformity Assessment, which seeks to eliminate possible technical barriers and to harmonize technical regulations among MERCOSUR members. Mutual recognition agreements have also been used as a tool to facilitate trade. The Working Subgroup No 3 collaborates with other MERCOSUR Working Subgroups on issues related to health, customs,

communications, transport, the environment, industry, agriculture and energy within the sphere of technical regulation. The work of MERCOSUR has achieved significant success, and more than 264 technical regulations have been harmonized (of which 68% were in the foodstuffs area).

14. The presentation on “Regulatory initiatives in countries with economies in transition” by Mr. Grigory Elkin, Chairman, Commonwealth of Independent States (CIS) Interstate Council for Standardization, Certification and Metrology, enlightened delegates about the reform process in the field of normative regulation in the CIS region. Mr. Elkin outlined the ongoing strategy of harmonization of technical regulations and standards at the CIS level, the Interstate programme for developing interstate models for technical regulations (which include the application of the “UNECE International Model for Technical Harmonization”) and the Interstate programme of work on harmonization in CIS countries. The programme has contributed to the growth of adopted interstate standards (during the last decade this number has grown from 583 to 5,180) as well as to the harmonization of interstate standards with international and European standards.

15. A number of issues were raised in the discussion, including: cooperation and coordination of regulatory activities at the regional and sub-regional levels, accreditation at the regional level, and the appeals procedure in the conformity assessment field.

D. Session III: UNECE Instruments to Promote Regulatory Cooperation and Convergence

16. Mr. Christer Arvius, Chairperson of the Working Party, presented the main features of the UNECE “International Model for Technical Harmonization” as well as regional and sectoral implementation projects initiated using the Model. He recalled that the Model is a voluntary framework, based on the principles of regulatory cooperation between Governments to achieve regulatory convergence, with the aims of specifying high levels of health and safety and improving market access.

17. Mr. Olivier Kervella, Chief of the Dangerous Goods and Special Cargoes Section within the UNECE Transport Division, reported on “UNECE regulatory and standards-setting activities in transport”, providing an overview of major areas of standardization, means of standardization and procedures for developing regulations and standards in transport. Areas covered included: transport infrastructure, construction of road vehicles, transport of dangerous goods, inland navigation, road traffic safety, contract of carriage (road transport) and transport facilitation. Mr. Kervella pointed out that recommendations, resolutions and legal instruments are the means of standardization. He analysed the advantages and disadvantages of these means and the conditions of their implementation. Finally, he discussed specific procedures for developing regulations and standards: adoption by working parties, new legal instruments, and amendments to existing legal instruments. He also recalled that the UNECE cooperates closely with standardization bodies such as the ISO, the International Electrotechnical Commission (IEC), the European Committee for Standardization (CEN) and bodies within the framework of the EU.

18. UNECE regulatory and standards-setting activities in the energy area were presented by Mr. George Kowalski, Director of the UNECE Sustainable Energy Division. He outlined the issue of the opening-up and liberalizing the natural gas and electricity market, the importance of the EU agreed market access rules in this area, and the impact of the process for business and Governments. The role of the UNECE and interest in the area were explained. Another focus of

his presentation was the background, rationale and content of the United Nations Framework Classification (UNFC) for fossil energy and mineral reserves and resources and the support provided to this work by Governments, the business community and international organizations.

19. Ms. Tea Aulavuo of the Policy and Review Section of the UNECE Environment, Housing and Land Management Division made a presentation on “UNECE regulatory and standards-setting activities in environment”. She explained the process of elaboration of UNECE Environmental Conventions and their Protocols and gave an overview of existing agreements in this sphere, including: the Convention on Long-range Transboundary Air Pollution and its eight Protocols; the Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol; the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and its two Protocols; the Convention on the Transboundary Effects of Industrial Accidents and its Protocol; and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and its Protocol. Ms. Aulavuo also summarized the benefits of the environmental agreements and explained the role of the Committee on Environmental Policy.

20. More information on the presentations described above can be found on the UNECE website(http://www.unece.org/trade/wp6/other_events/forum_06/presentations.htm).

III. CONCLUSIONS OF THE FORUM

21. As the result of the debate, the participants:

- (a) Welcomed the timely initiative of the UNECE in holding such an event, and thanked the speakers for their excellent, informative presentations;
- (b) Noted the relative growth of national regulatory and conformity assessment procedures as technical obstacles to international trade;
- (c) Stressed the importance of elaborating and promoting good regulatory practices and took note of the discussions on these matters underway at the WTO;
- (d) Confirmed that regulatory dialogue can and should be continued in all relevant international, regional and bilateral forums as a means of transparency, confidence-building and facilitation of trade and market access;
- (e) Encouraged Governments to follow good regulatory practices (including consultations with all relevant stakeholders) and to make use of voluntary standards instead of mandatory regulations whenever possible, or to make reference in legal and normative acts to the use of relevant international or internationally recognized (i.e. widely used regional and national) standards;
- (f) Further encouraged Governments to enter into regulatory dialogue with their trading partners and, whenever feasible, to make recourse to internationally accepted regulatory approaches and tools such as the “UNECE International Model for Technical Harmonization”;

- (g) Invited the Chairpersons of UNECE sectoral committees to make proposals for cross-sectoral projects based on the ideas presented at the Forum;
- (h) Requested the Bureau of the Working Party on Regulatory Cooperation and Standardization Policies and the Committee on Trade to review the issues raised during the Forum and consider how they might be taken into account in the programme of work;
- (i) Requested the secretariat to publish the proceedings of the Forum with a view to encouraging the dissemination of the information to interested parties at the national level.

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