ECONOMIC COMMISSION FOR EUROPE **INF.28**

INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Safety Committee and the
Working Party on the Transport of Dangerous Goods
(Genève, 11-15 September 2006)

REPORTS OF INFORMAL WORKING GROUPS

Report of the informal working group on the revision of Chapter 6.2

Transmitted by the European Industrial Gases Association (EIGA)

Introduction

The following is the outcome of the deliberations of the informal working group acting on the instructions in TRANS/WP.15/AC.1/96 paras 39 to 41 and TRANS/WP.15/AC.1/98 paras 63 to 66, amended by TRANS/WP.15/AC.1/100, para. 100 and TRANS/WP.15/AC.1/102 §56 to 58.

Report from the Working Group

1. The working group met on 31st of May and 1st of June 2006 and representatives of Germany, Poland, Switzerland, the United Kingdom, the European Commission, the Independent Controllers Association (ACI) and the European Industrial Gases Association (EIGA) participated.
A further meeting was scheduled for the 29th and 30th of June 2006. This meeting had been postponed to 4th and 5th of September 2006 due to poor attendance. Representatives of Germany, Poland, Switzerland, the United Kingdom, the European Commission, and the European Industrial Gases Association (EIGA) participated the last meeting.

2. Attached are the notes of both meetings for information of the Joint Meeting: The working group has not yet approved the notes of the meeting on the 4th and 5th September 2006.

3. The working group followed the decision of the last session of the Joint Meeting and divided the provisions into two parts.
The provisions for
“mutual recognition, administrative control of construction and testing of pressure receptacles of 6.2 and tanks of 6.7 and 6.8” are proposed for section 1.8.x of ADR/RID,
and the provisions for
“procedures for conformity assessment and periodic inspections” are proposed for section 6.xx.2 of ADR/RID

The required/allowed procedures for conformity assessment are proposed in tables which will be placed in
- 6.2.2.xx for ADR/RID pressure receptacles
- 6.2.5.xx for UN pressure receptacles

- 6.7.xx for portable tanks and MEGCs
- 6.8.xx for ADR/RID tanks and battery vehicles/wagons

4. The draft proposal for the new section 1.8.x “mutual recognition, administrative control of construction and testing of pressure receptacles of 6.2 and tanks of 6.7 and 6.8” has been agreed by the working group and is attached for information of the Joint Meeting .
The provisions are structured to the following subsections
- Competent authorities
- Conformity assessment, periodic inspections, exceptional checks
- Market surveillance
- International co-operation, and
- Mutual recognition

The draft was finalised at the working group meeting last week therefore these information couldn’t be made available to the Joint Meeting earlier but the working invites everybody to send comments/suggestions to the chairman.

Nevertheless the working group is asking the Secretariats of the RID Safety Committee and the WP.15 to decide about the procedure proposed in 1.8.x.3.3.

Furthermore the working group is asking the Secretariats whether subsection 1.8.4 of ADR/RID includes the removal of names. If not, the text shall be improved**.**

5. The proposal for section 6.xx.2 “procedures for conformity assessment and periodic inspections” has been already drafted but not yet discussed finally.
The section will be structured to the following subsections
- General provisions
- Design type approval
- Supervision of the manufacturer
- Initial inspections and testing
- Periodic inspection and exceptional checks
- Surveillance of the applicant in house inspection service by inspection body
  - General provisions
  - Initial audit
  - Periodic audits
- Documentation
  - General requirements
  - Documents for design type approval
  - Documents for the supervision of the manufacturer
  - Documents for initial inspection and testing
  - Documents for periodic inspections and exceptional checks
  - Documents for the applicant in house inspection service

During the discussion the following question have been raised and the working group requests the Joint Meeting to discuss and decide.
Is it sufficient to certify compliance with ADR/RID and mutual recognition or is it necessary to stamp a mark of compliance?
If a mark should be stamped which mark should be used e.g. “μ” for mutual recognition?

Conformity assessment according to TPED shall be applied for pressure vessel of class 2 and three other substances of class 6.1(UN 1051) and class 8 (UN 1052, UN 1790).
Shall the requirements for conformity assessment of section 6.XX.2 also be applied for other tanks and battery vehicles/wagons of 6.7 and 6.8?

ADR/RID shall also allow posterior approvals of existing equipment. This should be covered by transitional provisions in 1.6.2.x.
A draft proposal of the UK delegation is attached for information.

The draft proposal of section 6.xx2 will be discussed finally by the working group at the next meeting, provided the experts of the subgroup will be available for revising the relevant drafts in advance.

6. The next meeting is scheduled for the 20th and 21st November 2006 or the 6th and 7th November 2006 depending on the availability of the experts which were not present at the last meeting.

7. The proposal shall be finalised by the end of the year following the time line. This needs further work of experts for inspection and conformity assessment. EIGA does not have these experts for supporting the work of the group.
For that reason EIGA reiterates its request to relinquish the chair to another body.

8. Attachments
- Notes of the meeting on 31st of May and 1st of June 2006 (with annex 1 only)
- Notes of the meeting on4th and 5th of September 2006 (with annex 1 only)
- Draft proposal for section 1.8.x of ADR/RID
-. Draft proposal of transitional provisions for section 1.6.2.x

Chapter 6.2 Working Group
NOTES AND ACTIONS FROM THE MEETING HELD AT BUNDESMINISTERIUM FÜR VERKEHR BAU UND STADTENTWICKLUNG , BONN ON 31 MAY / 1 JUNE 2006

	Action
Introduction The meeting was chaired by H. Puype (EIGA) who welcomed everybody and forwarded the apologies of several delegates. He informed that G. Oberreuter will participate partly. The chairman regretted the apologies of so many delegates. A list of members of the group is attached showing those present (see Annex 1). The draft agenda was adopted as proposed. In addition E. Laakso was briefing the Members about the developments at the EU about conformity assessment requirements in the new consolidated directive.	
NOTES AND ACTIONS FROM THE MEETING HELD ON 24/25/APRIL/2006 The report of the previous meeting was approved without changes.	
REPORT ON THE TASK FORCES (TF) The WG decided to continue the discussion of the paper presented by the TF lead by A. Leclerc for 6.xx.2 with the comments from G. Oberreuter. A. Leclerc started with some background information for the proposed draft. Section 6.xx.2.1.4 was reviewed by the WG. The WG noticed differences in the schemes for inspection and testing for UN- and ADR receptacles (see e.g. TRANS/WP.15/AC.1 2005/47 section 6.2.1.5 and 6.2.2.4). The JM is asked to harmonise. It was decided to move section 6.xx.2.2.about documentation at the end of chapter 6.xx.2 so that the section 6.xx.2.3 “Application of the procedures with quality assurance” became 6.xx.2.2 which was reviewed first. The WG could not agree on the allowance of private test facilities for in house inspection services and left it to the JM to decide. Furthermore the WG reviewed the tables describing the required procedures which should appear in the relevant sections of 6.2, 6.7 and 6.8. The draft document as amended during the meeting is attached as Annex 2. The section 6.xx.2.3 “Documentation” will be completed and distributed. The redrafted chapter 6.xx.2 will be distributed as a “clean” version and a version including the changes.	A. Leclerc A. Leclerc

G. Oberreuter distributed drafts for chapters 6.xx.1&3 which were not fully agreed by the TF just before the meeting. Therefore these chapters were discussed only in general. Both chapters will be redrafted taking into account - the decisions of the JM regarding the numbering - the agreed text of chapter 6.xx.2 - the remarks of the WG during the meeting The drafts will be distributed in due time. It was agreed to continue the discussion based on written comments only at the next meeting.	G. Oberreuter All
TIMELINE The WG will draft an Inf. paper after the next WG meeting for the September session of the JM. The Inf. paper shall include the reports of the meetings and a draft for the chapter conformity assessment.	
FUTURE MEETINGS The WG will continue to review the document for 6.xx.2 and the new documents for the sections of 6.xx. 1/3 at the next meeting that will be hosted by Germany in **Bonn on 29/30 June, 2006,** starting at 10.30 on the first day.	
AOB Without any AOB, the chairman thanked everybody for their participation and closed the meeting.	

Annex 1

Restructuring of Chapter 6.2 of ADR/RID
Working Group Meeting; 31st May & 1st June 2006 Bonn
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Chapter 6.2 Working Group
NOTES AND ACTIONS FROM THE MEETING HELD AT BUNDESMINISTERIUM FÜR VERKEHR BAU UND STADTENTWICKLUNG , BONN ON 4 / 5 SEPTEMBER 2006

Introduction

The meeting was chaired by H.Puype (EIGA) who welcomed everybody and forwarded the apologies of several delegates

The chairman regretted the apologies of so many delegates. A list of members of the group is attached showing those present (see Annex 1).

The draft agenda was adopted but the sequence of the items was changed.

In addition E.Laakso was briefing the Members about the developments at the EU about conformity assessment requirements in the new consolidated directive.

NOTES AND ACTIONS FROM THE MEETING HELD ON 31 MAY/1 JUNE2006

The report of the previous meeting was approved with the correction of the last sentence of page 1 which shall be read "…and a version including the changes."

DISCUSSION OF THE WORKING DOCUMENTS

3.1 Section 1.8.x

The WG decided to continue the discussion on the working draft for the new section 1.8.x (version 12th of June 2006) distributed by E. Laakso taking into account the written comments of the delegations of France and UK. E. Laakso informed the WG that the annexes have been distributed for information only.

Subsection 1.8.x.1 :

The WG agreed on the revised text emphasising that

- the competent authorities may delegate their functions to inspection bodies
- Contracting parties shall ensure that competent authority should meet the requirements of 1.8.x.2.3 if the functions are not designated to an inspection body.

Subsection 1.8.x.2:

The revised text was agreed.

ADR /RID 1.8.4 may be improved setting out more clearly that the update of the list includes also removal of names.

Subsection 1.8.x.3:

The revised text was agreed by the WG but the new paragraph 1.8.x.3.3 needs a decision of the Secretariats of RID safety committee and the of ECE WP.15

Subsection 1.8.x.4./5:

The revised versions were agreed.

It was stated that mutual recognition according to 1.8.x.5.2 already exists for portable tanks and MEGCs.

For the revised version of section 1.8.x see Annex 2

3.2 Section 6.xx.2

The WG discussed parts of the redrafted "clean" version of 6.xx.2 with the comments from the last meeting distributed by A. Leclerc.

The WG considered the proposed definitions first taking into account the agreed draft of section 1.8.x.with the following results:

- The agreed definitions of "conformity assessment" and "applicant" shall be proposed for section 1.2.
- The UK proposal with transitional provisions for posterior approvals for section 1.6.2.x (see Annex 3) shall be improved taking into account the relevant elements of the TPED Guidelines for reassessment
- Following TPED 6.xx.2 shall be applied for pressure vessel of class 2 and three other substances of class 6.1(UN 1051) and class 8 (UN 1052, UN 1790). JM is requested for decision whether it should be extended for all tanks and battery vehicles/wagons of 6.7 and 6.8.
- The JM shall decide whether a "the mark of compliance"should be stamped and which mark should be used.

Due to the absence of A.Leclerc the WG was not able to discuss the new draft of subsection 6.xx.2.3 "documentation" in detail. The WG asks the subgroup of A. Leclerc to revise this subsection taking into account

- The essential requirements of receptacles and tanks
- EN12972
- which document shall be kept by whom

The subsection may be structured separately for receptacles and for tanks.

The WG discussed and agreed the revised text of subsections 6.xx2.1."General provisions" and subsection 6.xx2.1.1 "Design type approval" (see Annex 4)

TIMELINE

The WG will draft an Inf. paper for the September session of the JM. The Inf. paper shall include the reports of the meetings the draft proposal for the Section 1.8.x, the structure of the section 6.xx.2 for conformity assessment and the draft proposal for transitional provisions for section 1.6.2.x.

The section of 6.xx.2 shall be finally discussed at the next meeting. The group of A. Leclerc is asked to revise the relevant parts before.

FUTURE MEETINGS

The WG will continue to review the document for 6.xx.2 at the next meeting which will be hosted by Germany in **Bonn on 20/21 or 6/7 November 2006,** (depending on the availability of A. Leclerc) starting at 10.30 on the first day.

AOB

Without any AOB, the chairman thanked everybody for their participation and closed the meeting.

Annex 1

Restructuring of Chapter 6.2 of ADR/RID
Working Group Meeting; 4/5 September 2006 Bonn
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Working Paper

for the meeting on the Working Group of the

Joint Meeting RID/ADR

on chapter 6.2 and TPED transfer,

Bonn, 29-30.06.2006

D R A F T

New section 1.8.x for RID/ADR

1.8.x Mutual Recognition and administrative control of design, construction and testing of Pressure receptacles specified in Chapter 6.2 and of tanks, battery-vehicles/wagons and MEGCs specified in Chapters 6.7 and 6.8

1.8.x.1 Competent authorities

1.8.x.1.1 For the application of the provisions of Chapters 6.2, 6.7 and 6.8, Contracting Parties shall designate **competent approval authorities** for the approval and **competent market surveillance authorities** for the market surveillance. Provisions of 1.8.4 apply to approval and market surveillance authorities.

1.8.x.1.2 Approval authorities and market surveillance authorities may delegate their functions in whole or in part. Provisions of 1.8.4 apply also to the delegates.

1.8.x.1.3 Approval authorities and market surveillance authorities, and their delegates respectively, shall be independent from each other.

Note: This shall not prevent the exchange of information between the two types of authorities and their respective delegates.

1.8.x.2 Conformity assessments, periodic inspections, exceptional checks

1.8.x.2.1 Competent approval authority may designate **inspection bodies** for conformity assessments, periodic inspections and exceptional checks as specified in Chapters 6.2, 6.7 and 6.8. Provisions of 1.8.4 apply also to inspection bodies.

1.8.x.2.2 The approval authority shall revoke or restrict the designation given, if he verifies that a designated body is no longer in compliance with the designation and the requirements of 1.8.x.2.3 or does not follow the procedures laid down in the provisions of RID/ADR. The approval authority shall inform immediately the Secretariats of the RID Safety Committee and the ECE WP.15 thereof. The Secretariats shall act in accordance with 1.8.4.

1.8.x.2.3 The inspection body shall

(a) have a staff with an organisational structure, capable, trained, competent and skilled, to satisfactorily perform its technical functions;

(b) have access to suitable and adequate facilities and equipment;

(c) operate in an impartial manner and be free from any influence which could prevent it from doing so;

(d) ensure commercial confidentiality of the commercial and proprietary activities of the manufacturer and other bodies;

(e) maintain clear demarcation between actual inspection body functions and unrelated functions;

(f) operate a documented quality system;

(g) ensure that the tests and inspections specified in the relevant standard and in the ADR are performed; and

(h) maintain an effective and appropriate report and record system in accordance with 6.2.5.6.6. [and 6.XX.2.3]

These requirements shall be deemed to be met, if the inspection body has been designated on the basis of a procedure in accordance with standard ISO 17020 as "Type A inspection body".

1.8.x.3 Market surveillance

1.8.x.3.1 Market surveillance authorities shall be authorised and provided with sufficient resources to carry out checks, require necessary information and take samples in the premises of manufacturers, owners or users in order to verify the conformity for a representative part with the requirements recorded in the certificates issued according to 6.xx.2 and with the provisions of RID/ADR.

1.8.x.3.2 Market surveillance authorities shall be authorised to take appropriate measures in case of non-conformity, including stopping or modification of production or testing, measures to ensure conformity on site, or interdiction of further transport or use.

1.8.x.3.3 If measures according to 1.8.x.3.2 are taken, the market surveillance authority shall immediately inform all Contracting Parties, the Secretariats of the RID Safety Committee and the ECE WP.15 and the body having issued the certificate of design type approval or inspection and testing concerned, for appropriate measures to be taken. The Secretariats shall publish this information in the context of 1.8.4. Such cases shall also be submitted to the Working Groups of 1.8.x.4.

1.8.x.4 International co-operation

1.8.x.4.1 Contracting Parties shall ensure that competent approval authorities and market surveillance authorities or their delegates regularly take part in the [two] **Working Group**[s] for information exchange and co-operation **of authorities** organised by the Secretariats of the RID Safety Committee and the ECE WP.15. The approval authority shall inform the inspection bodies it has designated thereof.

1.8.x.4.2 Contracting Parties shall ensure that inspection bodies, designated according to 1.8.x.2.1or a delegation of them, , regularly take part in the **Working Group** for information exchange and co-operation **of inspection bodies** organised by the Secretariats of the RID Safety Committee and the ECE WP.15.

[1.8.x.4.3 Contracting Parties shall ensure that all interested parties have access to the services of the approval and market surveillance authorities, their delegate(s) and the designated inspection bodies that are on the list of 1.8.4 and that the procedures are administered in a non-discriminatory manner.]

1.8.x.5 Mutual recognition

1.8.x.5.1 Contracting Parties shall recognise design type approvals, initial inspection and test certificates and periodic inspections and exceptional checks according to 6.xx.2 by an approval authority, its delegate or designated inspection body, if the issuing body is published by the Secretariat according to 1.8.4 and if the appropriate Contracting Party fulfils the provisions of 1.8.x.4.1 and 1.8.x.4.2, unless market surveillance according to 1.8.x.2 shows non-conformity with specifications in the design type approval or inspection and testing certificate or with provisions of RID/ADR.

[1.8.x.5.2 Mutual recognition shall cover the use , including filling, storing, emptying and refilling, on the territory of Contracting Parties complying with the provisions of 1.8.x.5.1, without further approvals or certificates by other Contracting Parties.]

1.8.x.5.3 Contracting Parties may by bilateral or multilateral agreement authorise competent authorities, their delegates or inspection bodies, which are authorised by another Contracting Party, to work on their territory. The procedures of monitoring the work of such authorities or bodies on the territory of a Contracting Party other than the one of the designation and the period of that authorisation may be laid down in that agreement.

ANNEX I

Option: Requirements for Inspection bodies

1. *[Independence]*

a) The body providing third party conformity assessment services shall meet the following criterion:

The body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the authorised representative of any of these parties. They shall not become directly involved in the design, manufacture/construction, marketing, installation, use or maintenance of these products, nor represent the parties engaged in these activities. They shall not provide consultancy related to the conformity assessment activities for which they are notified and relating to products intended to be placed on the market and/or put into service in the EU. This does not preclude the possibility of exchanges of technical information between the manufacturer and the body and the use of assessed products that are necessary for the operations of the body. The body shall ensure that activities of related bodies do not affect the confidentiality, objectivity and impartiality of its conformity assessment activities.

b) The in-house inspection body which forms a separate and identifiable part of an organisation involved in the design, manufacture, supply, installation, use or maintenance of the products it assesses and has been established to supply conformity assessment services to its parent organisation shall meet the following criterion:

The body and its personnel must be organisationally identifiable and have reporting methods within the parent organisation which ensure and demonstrate its impartiality. They must not be responsible for the design, manufacture, supply, installation, operation or maintenance of the products which they assess, and must not engage in any activities that might conflict with their independence of judgment and integrity in relation to their assessment activities. The body shall supply its services exclusively to the organisation of which it forms a part.

2. *[Impartiality, integrity]* The conformity assessment body and its personnel must carry out the conformity assessment activities with the highest degree of professional integrity and requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially from persons or groups of persons with an interest in the results of these activities. The procedures under which the body operates shall be administered in a non-discriminatory manner.

3. *[Technical competence]* The conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to such a body by the respective provisions of the Directive and for which it has been designated, whether those tasks are carried out by the body itself or on its behalf and under its responsibility. At all times and for each conformity assessment procedure and kind(s)/category of products for which it is

designated, the body shall have at its disposal the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks. It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

The personnel responsible for carrying out the conformity assessment activities shall have:

a) sound technical and vocational training covering all the conformity assessment activities of the relevant scope for which the body has been designated;

b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out such operations;

c) appropriate knowledge and understanding of the essential requirements, of the applicable harmonised standards and of the relevant provisions of the Directive and relevant implementing regulations;

d) the ability required to draw up the certificates, records and reports to demonstrate that the assessments have been carried out.

The impartiality of the conformity assessment body, its top level management and assessment personnel shall be guaranteed. The remuneration of the body's top level management and assessment personnel shall not depend on the number of the assessments carried out or on the results of such assessments.

4. *[Subcontracting]* Where the conformity assessment body subcontracts specific tasks connected with the assessment of conformity, it shall first ensure and be able to demonstrate that the subcontractor meets the requirements of the Directive and, in particular, the essential requirements for its competence. This does not release the body from the responsibility for the proper performance of the subcontracted tasks. In particular, the body shall maintain its responsibility for the determination of conformity and shall have the necessary competence, or have access to a qualified and experienced person in cases involving specialised activities, to form an independent assessment of the results of these subcontracted tasks. Activities may be subcontracted only where agreed by the client. The body shall keep at the disposal of the national authorities the relevant documents concerning the assessment of the subcontractor's qualifications and the work carried out by the subcontractor under the Directive.

5. *[Liability insurance]* The conformity assessment body shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

6. *[Confidentiality]* The personnel of the conformity assessment body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks under the Directive or any provision of national law giving effect to it (except vis-à-vis the competent administrative authorities of the Member State in which its activities are carried out). Proprietary rights shall be protected.

7. *[Participation in co-ordination and standardisation activities]* The conformity assessment body shall participate in, or ensure that its assessment personnel is informed of,

the relevant standardisation activities and the activities of the notified body co-ordination group established under the Directive and apply as general guidance the administrative decisions and documents produced as a work result of that group.

ANNEX II

Option: Requirements for Approval authorities

1. *[Legal responsibility]* Where the designating authority is part of a larger governmental entity, the designating authority shall be identified in a way that no conflicts of interest with governmental conformity assessment bodies (CABs) occur. Where the designating authority delegates, subcontracts or otherwise entrusts the assessment, designation or monitoring of CABs, the delegated, subcontracted or otherwise entrusted body shall be a registered legal entity and shall have arrangements to cover liabilities arising from its activities.

2. *[Structure]* The designating authority shall be responsible for its decisions relating to the assessment and attestation of competence. The designating authority shall document the duties, responsibilities and authorities of personnel who could affect the quality of the assessment and attestation of competence. The designating authority shall identify the top management having overall authority and responsibility in particular for:

a) the development of policies relating to the operation of the accreditation body;

b) the supervision of the implementation of the policies and procedures;

c) the decisions relating to the assessment and attestation of competence.

3. *[Impartiality]* The designating authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities. All designating authority personnel and committees, which could influence the assessment and attestation process, shall act objectively and be free from any undue pressures which could compromise impartiality. The designating authority shall ensure that each decision relating to the attestation of competence is taken by competent person(s) different from those who carried out the assessment. The designating authority shall not offer or provide any service that affects its impartiality.

4. *[Confidentiality]* The designating authority shall have adequate arrangements to safeguard the confidentiality of the information obtained. It shall not disclose confidential information about a particular CAB outside the designating authority without written consent of the CAB, except where the law requires such information to be disclosed without such consent.

5. *[Competence assessment activities]* The designating authority shall clearly describe its activities relating to competence assessment, referring to the relevant standards or other normative documents.

6. *[Management]* The designating authority shall establish, implement and maintain a management system. The management shall ensure effective communication of the needs of interested parties. The management shall also ensure that the policies are understood, implemented and maintained at all levels of the designating authority. The designating authority shall establish procedures to control all documents (internal and external) that relate to its competence assessment activities. The procedures shall define the controls needed.

7. *[Technical competence]* The designating authority shall have a sufficient number of competent personnel (internal or external) at its disposal that possess the education, training, technical knowledge, skills and experience necessary for handling the type, range and volume of work performed. The designating authority shall ensure that assessors and experts are familiar with the procedures, criteria and other relevant requirements for the assessment and attestation of competence and that they have undergone appropriate training and have thorough knowledge of the relevant assessment methods.

8. *[Monitoring]* The designating authority shall ensure the satisfactory performance of the assessment and the attestation decision-making process by establishing, implementing and maintaining procedures for monitoring the performance and competence of the personnel involved.

ANNEX III

Option: Requirements for Market Surveillance system

Member States shall organise and operate market surveillance as a public authority activity in accordance with the following essential requirements.

Member States shall:

a) Adopt national measures to organise and perform efficient and effective surveillance in order to ensure that products may be made available on the market only if they satisfy the relevant provisions of the Directives.

b) Designate authorities competent to monitor the conformity of products with the applicable provisions of the Directives and arrange for such authorities to have the necessary powers to take the measures incumbent upon them i.e. to carry out their duties with the speed required, in cases where the non-conformity of a product poses a risk to users.

c) Define the organisation of the national market surveillance system and the tasks of the competent authorities.

d) Organise an effective overall communication and co-ordination at national level between the market surveillance authorities (sectoral and local) and the other organisations which intervene in the field of safety of products, e.g. health and safety at work authorities or customs authorities, by defining the objectives, organisation and co-operation methods of their market surveillance authorities.

e) Empower the customs authorities to perform, at least, documentary and physical checks on products covered by Community legislation.

f) Have recourse to best practices and sound management of resources. They must, in particular, be able to detect serious cases of non-conformity. Priority shall be given to the fields in which the probability of risk is the highest or to cases which are of individual interest (complaints, accidents, etc).

g) Adopt rules concerning sanctions applicable to infringements of the national legislation (as adopted in line with Community law) and to outline an appropriate appeals procedure. The penalties provided for shall be effective, proportionate and dissuasive. Sanctions shall be used only where all other deterrent means (e.g. correctives measures, withdrawals, bans) have not succeeded in restoring safety conformity.

h) Organise market surveillance activities up to the final stage of use or consumption of a product through documentary, physical and, where appropriate, laboratory checks, from its placing on the market to its use and possible final withdrawal. The objective is to ensure that the market surveillance activities implemented reach a level such that manufacturers, importers and distributors, as well as users, know that products made available on the market are likely to be effectively controlled.

i) Ensure that market surveillance activities cover the full range of products subject to the Directives concerned, including, where appropriate, products for consumer and professional use.

j) Organise the market surveillance system in order to include the procedures necessary to:

- record and ensure the follow-up of complaints or reports concerning non-compliant products;
- monitor accidents and damage to health involving the products concerned;
- implement market surveillance programmes for categories of product or of risk.

k) Empower their market surveillance authorities to take the following actions, where necessary:

- carry out checks on the conformity of products after they have been placed on the market or, in some cases, after they have been put into service (e.g. unit manufactured products, etc);
- require that the necessary documents and information from the parties concerned are provided;
- take samples of product and submit them to the necessary inspections and/or tests;
- instigate the relevant enforcement procedures and, in case of serious and immediate risk, inform of the restrictive measures taken.

l) Take appropriate provisional measures, on the basis of a risk analysis carried out in accordance with the precautionary principle.

m) Ensure that market surveillance authorities observe confidentiality.

n) Allow competent national authorities to take part in the overall Community cooperation activities and ensure that all requests for mutual assistance containsufficient information to enable the requested authority to fulfil the request.

1.6.2.X Refillable pressure receptacles approved before 1 January 2009 shall be considered to be approved in accordance with Chapter 6.XX if:

- A competent approval authority or one of its delegated inspection bodies is provided with relevant documentation concerning the original approval, the standard or technical code to which they were manufactured and any other information such as restrictions on use or repairs carried out;

- The inspection body ascertains that the receptacles and their closure(s) afford at least the same degree of safety as pressure receptacles and closures conforming to the requirements of RID/ADR;

- The pressure receptacles are subjected to periodic inspection in accordance with section 6.XX.2.1.4 and

- The mark showing mutual recognition is applied.

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