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Item 5 (a) of the provisional agenda

Proposals to amend the ATP: Pending issues

Discussion document on references to standards

Transmitted by the Government of the Netherlands

Summary

Executive summary:	This document provides additional information on the issue of references to standards.
Action to be taken:	Discussion and decision in principle.
Related documents:	ECE/TRANS/WP.11/2013/16 and ECE/TRANS/WP.11/228 paragraph 61

Introduction

1. The Netherlands introduced document ECE/TRANS/WP.11/2013/16 at the 69th session of WP.11. The principle behind this document was that if a reference is made to another document the contents should be checked for conflicts with the ATP. Standards are the most obvious documents to be referenced.

2. A number of questions arose from the discussion and the results of the voting, two in favour and one against, can be interpreted as showing that more information is needed to form an opinion. This document aims to give additional information on this subject.

(a) What is the position of UNECE on including references to standards?

3. On 19 November 2013, the UNECE Working Party on Regulatory Cooperation and Standardization Policies organized a conference on the subject of references to standards (see http://www.unece.org/fileadmin/DAM/trade/wp6/Recommendations/Rec_D.pdf (English) or http://www.unece.org/fileadmin/DAM/trade/wp6/Recommendations/Rec_D_r.pdf (Russian)) In its recommendations, it states that to limit barriers to trade, regulatory

authorities should whenever possible make use of international, regional and national standards in regulatory work (see recommendation D.1). It also states in recommendation D.2 that the voluntary nature of standards should be respected. In other words, the application of the reference should be optional or indicative. However, mandatory references are an option if a voluntary reference is seen as unsuitable.

4. The recommendations also contain considerations for the least restrictive way for the availability of standards.

(b) National legislation prevents adoption of references to standards in the annexes to ATP

5. The main argument used is that legislation is in the public domain, freely available, and standards are generally not freely available. The other question is whether this is a problem if the use of the standard is optional, in the sense that if the standard is applied the relevant requirements are deemed to be met. Another argument could be that a standard should only address a limited group of specific users, for instance manufacturers of equipment or testing stations.

6. References to standards are introduced already in many UNECE or EU regulations, for instance see chapters 6.2 and 6.8 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) (see <http://www.unece.org/fileadmin/DAM/trans/danger/publi/adr/adr2013/English/VolumeII.pdf>). Even in the annexes to ATP there are currently 10 references to standards, of which references to EN 13486 and EN 12830 were included in recent years and their application is even mandatory.

(c) What are the benefits of adopting references to standards?

7. The size of the legislation can remain limited because only basic requirements need to be included to supply the legal basis. This reduces the work for translators and limits discussion on technical details for policy advisors when including this in national legislation. Job rotation and savings on public spending may lead to less detailed knowledge in government bodies in the future. Development of standards in specialized working groups would help to deal with these details. However, it should be checked whether they are suitable before making the reference and during revision of these standards. In some cases application should be limited in the regulation or sometimes a part of a standard should not be used for the regulation. This can be expressed in a table (see below). For industry, there are benefits in that transporters and manufacturers can communicate more easily about the specifications of equipment and international trade may be improved.

(d) Example of wording regulating standards

8. Based on earlier versions of ADR, the following example of a table with referenced standards is given below. Because most standards of TC 413 are still under development it may still be possible to modify them to ensure their consistency with the ATP. It is likely that CEN would be prepared to participate in this process.

The requirements for construction and testing of equipment are considered to have been complied with if the following standards are applied:

<i>Applicable to paragraphs</i>	<i>Reference</i>	<i>Valid to use to</i>	<i>Title/Scope of document</i>
Annex 1, appendix 2, section 4 with the exception of 4.2.2 (a) (as example)	EN 16440-1:[2015]	1-1-2017 (<i>remark: in general when a new version is included with improvements, the old version may only be used until the given date</i>)	Mechanical refrigeration systems with forced air circulation evaporator or convection and optional heating devices
