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Item 5 of the provisional agenda

Group of Experts on Risk Management in Regulatory Systems

Revision of Recommendation T on Standards and Regulations for Sustainable Development

Submitted by the Bureau

Summary

Following the panel discussion of the thirty-first annual session of the Working Party on Regulatory Cooperation and Standardization Policies (WP.6) on the theme “Circular economy and regulatory cooperation and standardization”, the Group of Experts on Risk Management in Regulatory Systems (GRM) proposes some additions to *Recommendation T on Standards and Regulation for Sustainable Development*. These additions aim to integrate the points raised during this panel discussion. The additional text is underlined in the below text; all other text is from the original document (ECE/CTCS/WP.6/2018/5).

The text of the recommendation is presented to the Working Party for discussion and adoption.

Proposed decision

“Member States approve the revised *Recommendation T on Standards and Regulations for Sustainable Development*, in response to the theme of the 69th Commission Session. They mandate the secretariat to report on its implementation. They encourage the donor community to make available resources for capacity-building projects to assist member States in its implementation.”

Introduction

1. The Working Party on Regulatory Cooperation and Standardization Policies,
 - (a) Taking special note of how the 2030 Agenda for Sustainable Development now represents a cornerstone for the United Nations in all sectors of its activity,
 - (b) Wishing to enhance the contribution of standards to the realization of the 2030 Agenda,
 - (c) Wishing to further strengthen cooperation between regulatory authorities and agencies of the member States and standards development bodies and the United Nations in the implementation of the 2030 Agenda,
 - (d) Wishing to further broaden the application of risk management tools by regulatory authorities (in building regulatory frameworks),
2. Affirms that:
 - (a) A systematic management of the risks inherent to the 2030 Agenda is a prerequisite for achieving the Sustainable Development Goals;
 - (b) A standards-based approach that is consistent with World Trade Organization rules constitutes a solid basis for regulating in view of the realization of the 2030 Agenda,
3. Taking into account that:
 - (a) The social, economic and environmental dimensions of the Sustainable Development Goals and targets are currently covered by a very broad range of legislative and regulatory systems and jurisdictions;
 - (b) In order to contribute to the achievement of the Sustainable Development Goals and targets, a broad range of risks shall be effectively and efficiently managed within regulatory frameworks, as described in Recommendation R;
 - (c) Many standards, United Nations agreements and conventions, as well as other regulatory frameworks that are already in use are relevant to achieving Sustainable Development Goals;
 - (d) Implementation of the Sustainable Development Goals requires developing regulatory processes and building risk-based regulatory systems that would be proportionate to risks that are relevant to the Sustainable Development Goals' targets in terms of regulatory requirements, conformity assessment and surveillance processes;
 - (e) Standards and guidelines remain a challenge given the divergent use of definitions and methods. There is a lack of coherence and consistency in conceptual frameworks and methodologies with respect to management of risks in regulatory systems of the sectors linked to the Sustainable Development Goals, and the implementation of risk management practices through regulatory regimes;
 - (f) The use of standards by policymakers and business would not only help integrate standards into regulatory systems, but also enhance the design of regulatory systems while providing clarity for institutions in the development of their programmes in a more systematic and coherent manner,
4. Recommends that:
 - (a) Regulatory authorities should use risk management tools – including standards to build the regulatory frameworks that are needed to operationalize the Sustainable Development Goals.
 - (b) Regulatory authorities should use the risk management approaches that are based on standardized risk management processes and harmonized definitions.
 - (c) Considering the Sustainable Development Goals' targets as objectives of a regulatory system, the risk management frameworks defined in Recommendations P

and R of the Working Party in combination with other tools and methodologies should be applied to design processes required for economic operators, consumers, communities, regulators and legislators, and other societal stakeholders to be involved in managing the risks related to the achievement of the Sustainable Development Goals' targets.

- (d) Regulatory authorities are encouraged to base the regulatory frameworks aimed at the implementation of the 2030 Agenda on the annexed checklist.

Annex

Checklist for risk-based regulatory systems for the implementation of the 2030 Agenda for Sustainable Development

A. Setting regulatory objectives

1. When setting regulatory objectives, the Sustainable Development Goals' targets should be analysed within the given national and international contexts to identify clear regulatory objectives and develop a sound implementation strategy from a regulatory and operational perspective.
2. The Sustainable Development Goals and their targets should be reviewed regularly to identify intersections and interdependencies, for example, any given Sustainable Development Goal may depend on another Sustainable Development Goal being reached. Some of the Sustainable Development Goals' targets may be relevant for the achievement of other targets. Some interdependencies may – instead – complicate the simultaneous achievement of different goals and targets. Results of such analysis should be considered when establishing cooperation among regulatory authorities.

B. Risk identification and assessment in regulatory frameworks linked to Sustainable Development Goals

3. Regulatory authorities should use data-driven approaches in risk identification and assessment when such data is available. Data and modelling play an important role in risk analysis to characterize the risks in terms of causes, events and consequences. Tolerance criteria must be established to evaluate the risks of regulatory options within the national policy context.
4. Proactive stakeholder involvement is key in risk identification.
5. Regulatory authorities should avoid applying the approach of looking at risk in isolation from the bodies that make decisions. This means avoiding focusing on smaller risks that we know how to control but focus instead on the big risks that threaten several Sustainable Development Goal outcomes.
6. Risk management and assessment activities including key indicators should be underpinned by current scientific knowledge through formalized and independent advisory processes. Such an approach will ensure that the risks perceived by stakeholders and regulators are examined against existing scientific and technical evidence providing transparency while fostering support from stakeholders. This will enhance the science-informing policy and policy-informing science paradigms and approaches but will require exchange of best practice.
7. Risk-based regulation design and delivery must be subject to continuous review because risks can change as circumstances change. A product, activity or service may become higher or lower risk and therefore require a different level of regulatory control. Reviewing regulations and regulatory practices can face opposition from vested interests in the status quo and will also need to have resources allocated to the review, which may not fit with political priorities. For these reasons, such regulatory review requires independent oversight of the regulatory authority, such as from an advisory board, to provide objective assessment.

C. Regulation development within regulatory frameworks linked to Sustainable Development Goals

8. The contribution of the concepts and practices of circular economy to the Sustainable Development Goals presents regulatory challenges that need to be addressed.

- Regulations designed to encourage or mandate recycling or other circular strategies requirements need to be realistic in what can be achieved, in terms of
 - what is actually possible with the volumes and types of recycled goods available in that market,
 - what will be commercially viable, considering current recycling technology and cost, and
 - what is the impact on the entire global value chain that would produce materials and parts for the recycling process and parts.
- Where products or materials are changed following the principles of circular economy, they should, as much as possible, be treated as new products or materials. Consequently, the risks and application of any appropriate standards, regulations and conformity assessment procedures should be reassessed for amendments.
- Products changed following the principles of circular economy still need to be safe. Current regulatory frameworks are mostly designed for products being placed on the market for the first time, often following a lengthy period of design and testing. While too prescriptive an approach to applying these regulatory frameworks to second generation products may discourage the circular approach, failing to apply regulatory checks may lead to dangerous goods being placed on the market. Regulatory authorities need to find a combination of designing new regulatory frameworks and applying current ones that will support development of circular economy yet preserve current levels of safety.

9. In case the achievement of a Sustainable Development Goal requires regulatory intervention, regulations, standards and guidelines should be developed from the premise that “people want to comply”. The mechanisms of implementation and awareness-raising must be efficiently integrated within the operations of a given sector to be effective at reaching a given objective, including through the adoption of guidelines and relevant enforcing jurisdiction.

10. Implementation of risk treatment strategies can create new risks in other areas and this should be explicitly taken into account by Governments when devising risk mitigation measures and regulations. Review of the relationship among risks and risk treatment strategies should be performed on a cross-sectoral level before the implementation of the strategies. Sustainable Development Goals impacts should be translated into cross-sectoral risk evaluation criteria. Governments should develop approaches for assessing overall residual risk as an integrated parameter that takes into account all risks and mitigation strategies.

11. The following relationships among risks should be explicitly addressed by regulatory authorities when devising risk treatment strategies and regulations:

- risks that increase criticality of another risk (noting decreases too),
- risks that absorb other risks (e.g. mining coal also risks workforce casualties),
- risks that are independent,
- risks, which treatment strategies increase criticality of other risks.

12. The optimal methodology for comparing risks overall is to examine the impacts on Sustainable Development Goals, usually simplified to the key Goals for that case.

D. Market surveillance and enforcement

13. Enforcement is a necessary component of any regulatory system. Sufficient resources should be allocated to its planning and its execution. In the presence of regulatory failures, including high levels of non-compliance, instead of introducing new regulations, policymakers would be well advised to analyse the regulatory system in its entirety, including the need for employee training, the difficulty of implementing regulations within daily

operations, the capacity of the sector to implement the regulation, as well as the extent of intentional violations.

14. Local market surveillance authorities and enforcement bodies play a vital role in the achievement of the Sustainable Development Goals, since they are responsible for enforcing all regulations, no matter by which authority and at which level it was set (e.g. including international regulations).

15. When possible, approaches described in Recommendation S should be used to support the existing qualitative methods as a prioritization tool that would allow enforcement authorities and regulators to focus their attention on products/businesses/activities that are (1) most threaten the achievement of the Sustainable Development Goals when non-compliant, and (2) most likely to be non-compliant (with the highest probability of non-compliance).
