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Item 5 of the provisional agenda

Draft recommendation “Crisis Management in Regulatory Systems”

Note by the secretariat¹

Summary

This document presents a draft recommendation on crisis management in regulatory systems. Crisis management is one of the crucial functions of the risk management process and the document offers specific guidance on how this function can be implemented.

The recommendation complements the general recommendation “Risk Management in Regulatory Systems” (document ECE/TRADE/C/WP.6/2011/4), which sets out the general principles of performing the main risk management functions within a regulatory system.

The draft recommendation is submitted for further discussion and approval by the Working Party.

¹ The group is mandated to develop and share best practice, “including if relevant in the form of recommendations” (see the Group’s terms of reference, adopted at the twentieth session of the Working Party (document ECE/TRADE/C/WP.6/2010/2, annex)).

I. Background information

1. The objective of the Group of Experts on Risk Management in Regulatory Systems is to develop best practice and recommendations on the use of risk management tools in regulatory systems.

2. The present draft recommendation on “Crisis management in regulatory systems” is the first in the series of recommendations aimed at providing specific guidance on how to implement each of the main functions of the risk management process.

3. These functions are presented in the draft of the general recommendation “Risk Management in Regulatory Systems”, which includes an overview of how risk management functions are distributed among various regulatory stakeholders, and which include:

- (a) Setting the regulatory objectives;
- (b) Developing asset inventory: identifying and managing the assets being protected;
- (c) Risk identification: identifying the risks to these assets;
- (d) Risk analysis and evaluation: understanding the most important risks);
- (e) Choosing risk treatment strategies;
- (f) Implementing risk treatment strategies;
- (g) Crisis management (including developing a plan to deal with disruption-related risk);
- (h) Monitoring, reviewing and improving the risk management process.

4. The recommendation highlights the role of regulatory authorities in all phases of crisis management, including preparation, stabilization, continuing critical functions, recovery and follow-up. Implementation of this recommendation will require the participation of all regulatory stakeholders, including regulatory authorities, standardization bodies, economic operators, conformity-assessment bodies and market-surveillance authorities. Applying the recommendation will:

- (a) Increase the overall preparedness for crises and provide specific tools that can be applied to manage crises efficiently;
- (b) Allow for more effective cooperation among regulatory stakeholders in a crisis situation;
- (c) Help avoid disproportionate regulation in a crisis situation or in the aftermath of a crisis.

II. Text of the recommendation

A. The Working Party on Regulatory Cooperation and Standardization Policies:

Recognizing the role of technical regulation, conformity assessment and market surveillance in preventing and addressing crises in various fields,

Noting that some risks are almost impossible to identify, and that all risks, even if identified, cannot be totally mitigated,

Recognizing the common interest of all regulatory stakeholders, including economic operators and consumers, in developing and applying tools that allow to effectively anticipate, and if necessary, resolve situations of crises,

Stressing that in many cases crises have led to imposing disproportionate regulations,

Underlining that some of the risks that are identified and accepted within a regulatory system require developing contingency plans that can be applied by regulators and other stakeholders,

Stressing that “crisis management” is an integral function of the risk management process of any regulatory system (see “General Recommendation”), and that effective preparedness and/or response to crises requires systemic management of risks, and vice versa,

Taking into account international and national standards related to risk management, such as, for example, ISO 31000:2009, AS/NZS 5050:2010, ISO 9001:2008 and ISO 27001:2005,

And with the objective of promoting a culture of responsible management of risks and increased preparedness for crises, including more effective coordination among all parties that can be involved in crises.

B. Recommends that:

R1. Regulatory authorities should recognize that situations that are beyond the capacity of normal organizational structures and processes to deal with effectively require sufficient resources and prior planning in accordance with available international best practice.

R2. Regulatory authorities should design and implement crisis management functions as an integral part of the risk management process as presented in the general framework “Risk Management in Regulatory System”.

R3. Regulatory authorities, taking into account the internal and external context of a regulatory system, available resources, regulatory objectives, communication technologies and other factors, in a situation of crisis should design the crisis management function so that it provides effective coordination of the actions taken by various stakeholders, including conformity assessment bodies, market surveillance authorities, economic operators and consumers. The crisis management processes should permit managing the following phases: preparation for a crisis, stabilization, continuing critical functions, recovery and follow-up.

R4. Crisis management should be described in the legislation that establishes a regulatory system.

R5. A crisis management unit (or any other form of assigning responsibility for crisis management) functioning within a regulatory system should be endowed with the necessary resources, which may include:

- (a) Access to emergency funding;
- (b) People with the required skills, experience and competence;
- (c) Tools, methods and supporting infrastructure for managing a crisis;
- (d) Communication systems;
- (e) Information and knowledge management systems.

R6. Regulatory authorities establish contingency plans and build contingent capacity that can be quickly released in a crisis as a tool to reduce the impact of a risk in case it occurs. Regulators, in coordination with other stakeholders, develop, test and implement:

- (a) Generic contingency plans with general responses for risks, whether or not they were identified, to allow effective responses to any incidents in the early hours of a crisis;
- (b) Where appropriate, specific contingency plans for risks identified and processed within the system.

Contingency plans specify²:

- (a) Version, date and issuing authority;
- (b) Purpose and scope;
- (c) Activation criteria;
- (d) Cross-reference and linkages to other plans;
- (e) Roles, accountabilities and responsibilities;
- (f) Process descriptions;
- (g) Details for accessing resources;
- (i) Communication and consultation requirements;
- (j) Schedules of critical information including contact lists, maps and plans;
- (k) Description of possible techniques for:
 - (i) Stabilization;
 - (ii) Continuing critical functions;
 - (iii) Recovery.

R7. Regulatory authorities prepare communication and consultation processes as a part of crisis management in order to:

- (a) Build awareness, confidence and understanding of crisis management processes by regulatory system stakeholders;
- (b) Effectively exchange information and consult with stakeholders in situations of crises, in particular to provide information to stakeholders in early hours after the crisis;
- (c) Encourage, where appropriate, the use of opportunities provided by alternative media.

R8. Regulatory authorities ensure that in situation of a crisis appropriate mechanisms are established for, at least, the following:

- (a) Providing immediate focus on affected individuals;
- (b) Launching of reliable data collection processes;
- (c) Activating a crisis management team (which may include a subject expert, top management, crisis people, affected individuals, etc);
- (d) Organizing a follow-up to a crisis.

² For details, please see AS/NZS 5050:2010.

R9. In organizing a follow-up to a crisis, regulatory authorities should gather the related data and analyse the causes of the crisis, as well as effectiveness and relevance of actions taken during the immediate response period. Data related to a crisis constitute an input into regular risk identification performed within a regulatory system³. Adoption and continuation of regulatory measures related to special crisis are subject to the normal review processes.

R10. Regulatory authorities should participate in regional and international cooperation efforts and implement international best practice in the field of crisis management.

R11. Donors should give top priority to capacity-building activities for crisis management and contingency planning, especially to train officers responsible for technical regulation, conformity assessment and market surveillance activities.

³ See ECE/TRADE/C/WP.6/2011/4 (draft of the general recommendation “Risk Management in Regulatory Systems”).