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**ECONOMIC COMMISSION FOR EUROPE**

COMMITTEE ON TRADE

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Item 4(b) of the provisional agenda

**REGULATORY COOPERATION AND STANDARDIZATION POLICIES**

**Renewal of the mandate of the two sub-groups:  
Advisory Group on Market Surveillance and  
Ad hoc Team of Specialists on Standardization and Regulatory Techniques**

Note by the secretariat\*

The Working Party, at its eighteenth session, in 2008, recommended renewing the mandate and activities of the Advisory Group on Market Surveillance and its Bureau also requested the extension of the ad hoc Team of Specialists on Standardization and Regulatory Techniques. According to the guidelines and procedures of the Committee on Trade, “If a sub-group requests a renewal of its mandate, the parent body must submit a request for renewal to the Committee” (ECE/TRADE/C/2007/15, para. 47).

The Working Party hereby requests the Committee to approve these recommendations and submit them to the UNECE Executive Committee for approval.

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\* This document was submitted late for processing as clearances from relevant parties were received late.

## **I. ADVISORY GROUP ON MARKET SURVEILLANCE**

1. The Working Party on Regulatory Cooperation and Standardization Policies promotes the least possible restrictive approaches to regulate safety, health and other legitimate concerns of Governments. In most UNECE member States today, the emphasis for enforcing regulations has shifted from pre-market controls to control of products already placed on the market; i.e. from certification to market surveillance. Effective market surveillance, therefore, is an essential part of the implementation of modern regulatory frameworks.

2. The Working Party began to address market surveillance towards the end of the 1990s, with some members of the Commonwealth of Independent States explicitly requesting advice on “good practices”. Following its International Forum on Market Surveillance, in 2002, the Working Party recommended that a team of experts on that subject be created. The Advisory Group on Market Surveillance (“MARS” Group) held its first meeting in September 2003 and the Working Party approved its terms of reference in November 2003. See Annex I.

## **II. RESULTS**

3. Since the last renewal of its mandate, in 2006, the principal achievements of the Group are as follows:

(a) Recommendation M, “Use of market surveillance infrastructure as complementary means to protect consumers and users against counterfeit goods”, adopted by the Working Party in 2007;<sup>1</sup>

(b) First draft of the general market surveillance procedure, for review by the Working Party in 2008;<sup>2</sup>

(c) Second UNECE International Forum “A Common Regulatory Language for Global Trade” (Geneva, 20-21 June 2006);

(d) International Seminar on Product Safety and Counterfeiting (Geneva, 5-6 November 2007);

(e) Annual meetings were held to discuss national and regional challenges as regards market surveillance (Bratislava, September 2006, October 2007 and October 2008).

## **III. MEMBERSHIP**

4. The “MARS” Group membership includes the following:

(a) Governmental experts from national market surveillance authorities of UNECE member States

(b) Standards-setting organizations

(c) Certification bodies

(d) Test houses

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<sup>1</sup> [www.unece.org/trade/wp6/documents/2008/wp6\\_2008\\_006e.pdf](http://www.unece.org/trade/wp6/documents/2008/wp6_2008_006e.pdf)

<sup>2</sup> [www.unece.org/trade/wp6/documents/2008/WP6\\_2008\\_002a1e.pdf](http://www.unece.org/trade/wp6/documents/2008/WP6_2008_002a1e.pdf)

- (e) International schemes for conformity assessment
- (f) Business
- (g) Civil society
- (h) Consumer organizations
- (i) International organizations

#### **IV. FUTURE ACTIVITIES**

5. The Group is revising the draft general market surveillance procedure. This document is intended as a guide for market surveillance authorities in how to oversee national markets to ensure product compliance with national regulations. Submitted to the Working Party for review in 2008, it is expected to eventually be issued as a recommendation.

6. The Group is also working on a recommendation on definitions used in market surveillance and has established contacts with the International Organization for Standardization (ISO) Committee on Conformity Assessment to discuss possibilities for joint work.

7. The Group is considering organizing an international conference on risk assessment and risk management back to back with the nineteenth session of the Working Party. The conference would review the experience in the use of risk-assessment tools in market surveillance.

#### **V. REQUEST FOR EXTENSION OF MANDATE**

8. Following its review of the work of the Group, the Working Party, at its eighteenth session, decided to extend the Group's mandate. It hereby requests the Committee to endorse the extension of the mandate (see annex 1) until the end of 2011. No additional resource requirements are foreseen for the continuation of this work and no changes to the scope of the work are being requested.

#### **VI. AD HOC TEAM OF SPECIALISTS ON STANDARDIZATION AND REGULATORY TECHNIQUES**

9. In 1999, the Working Party created an ad hoc Team of Specialists on Standardization and Regulatory Techniques ("START" Team). The Team was to examine how non-tariff barriers to trade could be reduced by (a) limiting the content of related regulations to the essential requirements for meeting regulatory objectives, and (b) referring to international standards as the preferred means of setting out detailed requirements, including for conformity-assessment.

10. In accordance with its terms of reference, the Team works under the guidance of the Working Party and reports to it (see annex II). Any reports and recommendations of the Team are of a preliminary and unofficial character only and subject to endorsement by the Working Party.

11. Since its creation, the Team has held consultations with Governments, international organizations and private companies to explore their concerns in regulatory convergence areas. It

has devised an “International Model for Technical Harmonization”, Recommendation L, which comprises a set of voluntary mechanisms and principles for good regulatory practices.<sup>3</sup> The International Model can be used by countries wishing to align their regulatory regimes in specific sectors or product areas.

12. Currently, there are three “sectoral initiatives” under way, each following the International Model”:

- (a) Telecom
- (b) Earth-moving machinery
- (c) Equipment for explosive environments

## **VII. SECTORAL INITIATIVES: PURPOSE AND RESULTS**

13. Since the last renewal of its mandate, in 2005, the Team has held four meetings. The meetings dealt primarily with supervising the implementation of the three sectoral initiatives: on telecom, earth-moving machinery and equipment for explosive environments.

### **A. Sectoral initiative on earth-moving machinery**

14. The Working Party launched the sectoral initiative on earth-moving machinery in 2003, supported by representatives of Europe, North America and Japan. Its objective is to create a greater market for earth-moving machinery, and harmonize safety standards. In November 2004, the Working Party endorsed the proposal for a common regulatory objective for earth-moving machinery.<sup>4</sup>

15. An international team has been promoting the general principles of the project in China, India, Russia, and some Latin American countries. It has been doing so both by promoting the adoption of the ISO/Technical Committee (TC) 127 standards as national standards and recommending the use of the technical requirements in the ISO/TC 127 standards as the basis for future regulations.

16. The Task Force held several meetings, the latest in May 2008, in Edinburgh, United Kingdom, back to back with a meeting of ISO/TC 127. On that occasion, the Convener gave the Technical Committee a status update on its activities.

17. In their present form, the common regulatory objectives fail to adequately take into account the conditions and demands of developing countries or countries with economies in transition regarding conformity assessment and certification. The sectoral initiative has obtained a mandate from the Working Party to revise the “compliance cause” of the common regulatory

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<sup>3</sup> [www.unece.org/trade/ctied/wp6/documents/wp6\\_02/wp6-02-07e.pdf](http://www.unece.org/trade/ctied/wp6/documents/wp6_02/wp6-02-07e.pdf)

<sup>4</sup> Machines as described in ISO 6165.

objectives, and in particular to explore different options to be used when a supplier's declaration of conformity is unacceptable.<sup>5</sup>

## **B. Sectoral initiative on equipment for explosive environments**

18. The sectoral initiative on equipment for use in explosive environments was launched in November 2007. Its objective is to overcome the fragmentation of the market in this sector by:

- (a) Fostering the use of relevant International Electrotechnical Commission (IEC)/ISO standards by the industry;
- (b) Promoting globally harmonized legislation;
- (c) Ensuring mutual acceptance of test procedures and test results among the test houses;
- (d) Striving for comparable installation, maintenance and repair procedures of the equipment.

19. The principal results of the work are as follows:

- (a) A survey took place on the current regulatory environment in this sector in major markets (Australia, European Union, Russian Federation, United States of America).
- (b) Three meetings were held (Geneva, November 2007, Paris, September 2008, Geneva, November 2008) to discuss the methodology and the results of the survey ;
- (c) The sectoral initiative was presented to a meeting of the IEC system for certification of equipment used in explosive atmospheres (IECEx Scheme) (Paris, October 2008).

20. The Working Party, at its eighteenth session, adopted the terms of reference of the initiative.

21. A first draft of common regulatory objectives for the initiative will be presented to the forthcoming meeting of the START Team in May 2009, and to a meeting of the IECEx Scheme in August 2009.

## **C. Sectoral initiative on telecom**

22. The sectoral initiative on telecom was launched in 2002. The specific purpose of its Task Force is to develop common regulatory objectives for information and communication technology (ICT) products.<sup>6</sup>

23. The Task Force held five meetings between 2002 and 2005, and developed common regulatory objectives for the following types of equipment<sup>7</sup>: personal computers; PC peripherals;

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<sup>5</sup> ECE/TRADE/C/WP.6/18, para.57.

<sup>6</sup> Common regulatory objectives constitute agreements between interested countries on regulatory convergence in support of legitimate requirements and resulting in greater open market access.

<sup>7</sup> [www.unece.org/trade/wp6/sectoral/telecom/tele\\_bkgrd.htm](http://www.unece.org/trade/wp6/sectoral/telecom/tele_bkgrd.htm)

legacy Public Switched Telephone Network terminals; Bluetooth, Wireless Local Area Network; Global Standard for Mobile Telecommunication; and international mobile telecommunications.

24. Since interest in applying the International Model to the ICT sector has been limited, this sectoral initiative has not been very active recently. Nevertheless, the possible use of the International Model in the context of ICT-sector negotiations at the World Trade Organization (WTO) could be explored, depending on the final outcome of the Doha Round.

## **VIII. MEMBERSHIP**

25. The START Team membership includes:

- (a) Governmental experts from UNECE member States
- (b) Standards-setting organizations
- (c) Certification bodies
- (d) Test houses
- (e) International schemes for conformity assessment
- (f) Business
- (g) Civil society
- (h) Consumer organizations
- (i) International organizations

## **IX. FUTURE ACTIVITIES**

26. The Team is now working to:

- (a) Monitor the implementation of the completed telecom initiative;
- (b) Monitor revision of the earth-moving machinery initiative;
- (c) Monitor the progress of the initiative on equipment for explosive environments;
- (d) Launch a new sectoral initiative on pipeline safety to promote existing international standards and best practices in this sector, as well as enhance safety and environment protection around such facilities(as requested by Belarus and the Russian Federation);
- (e) Identify other sectors in which member States may be interested in working on aligning their regulatory regimes.

## **X. REQUEST FOR EXTENSION OF MANDATE**

27. Following its review of the work of the Team, the Working Party, at its eighteenth session, decided to extend the Team's mandate (see annex II). It hereby requests the Committee to endorse the extension of the mandate until the end of 2011. No additional resource requirements are foreseen for the continuation of this work and no changes to the scope of the work are being requested.

## **Annex I**

### **TERMS OF REFERENCE OF THE ADVISORY GROUP ON MARKET SURVEILLANCE (“MARS” GROUP)<sup>1</sup>**

#### **I. ESTABLISHMENT OF THE ADVISORY GROUP**

1. The establishment of a group of experts group on market surveillance matters was suggested at the UNECE International Forum on Market Surveillance (29 October 2002, Geneva), which was organized in conjunction with the twelfth session of the Working Party on Technical Harmonization and Standardization Policies (WP.6), 28-30 October 2002, Geneva. The WP.6 recommended to establish such a Group and this was approved by the seventh session of the UNECE Committee for Trade, Industry and Enterprise Development (May 2003).

#### **II. NEED FOR ACTION**

2. Market players like public authorities, manufacturers, retailers, importers, and consumers/users need transparent rules of play. Consistent and effective procedures in the field of the protection of consumers and workers are a precondition to address this concern. Improved co-ordination and creation of “good practices” for market surveillance authorities is of great importance. Such co-operation and co-ordination is essential for the good functioning of both national markets and for the UNECE region at large in order to eliminate distortion of competition and to protect the consumers. Transparent and consistent “good practices” will also contribute to the facilitation of international trade.

#### **III. OBJECTIVES OF THE ADVISORY GROUP**

3. The general task of the Advisory Group of experts on MARKet Surveillance (“MARS” Group) is to contribute to the activities of the Working Party on Technical Harmonization and Standardization Policies (WP.6) aimed at creating conditions conducive to the development and promotion of global trade and economic cooperation.

The specific tasks of the Group are:

- (a) To provide for an interaction on a national/regional/international level between all players concerned, including public authorities, manufacturers, retailers, importers, and consumers/users against goods not in conformity with legislation being placed on the market;
- (b) To increase transparency and attract attention to the responsibilities of public authorities and their staff for market surveillance with regard to their accountability in the chain of control;

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<sup>1</sup> The Terms of Reference (TRADE/WP.6/2003/13/Add.1) were renewed by the Working Party on Regulatory Cooperation and Standardization Policies at its fifteenth session in October 2005 (TRADE/WP.6/2005/15, paragraph 102(e)).

(c) To identify good practices and methods ensuring fulfilment of legitimate objectives (such as protection of human health or safety, animal or plant life or health, or the environment and to ensure fair competition) in existing legislation;

(d) To promote (and when necessary initiate) coherent good practices and to elaborate relevant recommendations concerning market surveillance within the UNECE region.

#### **IV. COMPOSITION OF THE ADVISORY GROUP, ITS MEMBERSHIP AND PARTICIPATION IN ITS MEETINGS**

4. Members of the Group are representatives from UNECE Member States. It may also include representatives from other United Nations Member States.

5. The Group is open to participation by experts from international organizations as well as to representatives of the private sector and non-governmental organisations (NGOs) as observers in their personal capacity.

6. The Group may establish sub-groups of experts to prepare projects requiring specific expertise, which are expected to become a part of the general activities of the Group. The Group can work with interested governments and organizations on financing and implementation of such projects.

7. The UNECE secretariat will provide necessary support to the Group and its sub-groups within available resources.

#### **V. REPORTING**

8. The Group works under the guidance of the Working Party on Regulatory Cooperation and Standardization Policies (WP.6) and reports to it. The Group works on the understanding that its final proposals or recommendations will be decided by the WP.6 as an intergovernmental body.

## ANNEX II

### TERMS OF REFERENCE OF THE AD HOC TEAM OF SPECIALISTS ON STANDARDIZATION AND REGULATORY TECHNIQUES (START TEAM)<sup>1</sup>

#### I. Establishment of the START Team

1. The establishment of the START Team was suggested at the UNECE International workshop on implementation and use of international standards (18 May 1999, Geneva) which was organized in conjunction with the ninth session of the Working Party on Technical Harmonization and Standardization Policies (17-19 May 1999, Geneva). The Working Party supported and approved this proposal. The establishment of the Team was endorsed by the third session of the UNECE Committee for Trade, Industry and Enterprise Development (8-10 June 1999) to which the Working Party is reporting.

#### II. Objectives

2. The general task of the Team is to contribute to the activities of the Working Party on Technical Harmonization and Standardization Policies (WP.6) aimed at creating conditions conducive to the development and promotion of global trade and economic cooperation.

3. The specific task of the Team is to examine the possibilities for reducing non-tariff barriers to trade by limiting the content of related regulations to the essential requirements for meeting regulatory objectives and using reference to international standards as the preferred means for setting out detailed requirements, including conformity assessment requirements.

4. The Team works under the guidance of the UNECE Working Party on Technical Harmonization and Standardization Policies (WP.6), in accordance with terms of reference adopted by WP.6 and reports to it. Any reports and recommendations of the Team have preliminary and unofficial character and are subject to endorsement by WP.6.

#### III. Composition of the Team, its membership and participation in its meetings

5. The Team is composed of experts with the collective expertise to address the specific task defined for it.

6. The Team is composed of the members of the enlarged Bureau of the WP.6 (including coordinators and rapporteurs) and of specialists appointed by UNECE member-states and invited by the Team.

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<sup>1</sup> The Terms of reference were adopted on 1 December 1999 by the Working Party on Technical Harmonization and Standardization Policies, and extended by the Committee on Trade, Industry and Enterprise Development at its ninth session in 2005 (TRADE/2005/7).

7. The Team is open to participation by experts from interested United Nations Member States and international organizations as well as to representatives of the private sector as observers in their personal capacity. The Team works on the understanding that final recommendations and proposals of the Team will be endorsed by the Working Party 6 as an inter-governmental body.

8. The Team can establish sub-groups of specialists to prepare projects requiring specific expertise, which are expected to become a part of general activities of the Team.

9. The UNECE secretariat provides necessary support to the Team and its sub-groups within available resources.

#### **IV. Reporting**

10. The Team reports to the Working Party on Technical Harmonization and Standardization Policies.

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