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Working Party on Technical Harmonization and
Standardization Policies

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Item 7(b) of the provisional agenda

COMMENTS ON THE DRAFT PROJECT FOR

**“AN INTERNATIONAL MODEL FOR IMPLEMENTING GOOD REGULATORY
PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF
TECHNICAL REGULATIONS VIA THE USE OF INTERNATIONAL STANDARDS”**

This paper contains the list of comments made on the text and on the concept of an “International Model” during its presentations at different fora and informal discussions with experts.

The paper was elaborated by the ad hoc Team of Specialists on STandardization And Regulatory Techniques (“START” Team) at its meeting in September 2000.

The purpose of the paper is to ensure transparency of the Team’s work and to explain how comments on the Model raised by delegations and experts were addressed by the Team in revising the text of the Model.

This is a working document, presented for information to delegates with a view to facilitate discussions on issues under agenda item 7(b)

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COMMENTS ON THE “INTERNATIONAL MODEL” AND ITS CONCEPT

1. The “Model” has been presented to the session of the WTO Committee on Technical Barriers to Trade (25 February and 19 May 2000), to a special OECD meeting on technical barriers to trade (16-17 March 2000) and also to an ASEM (Asia-Europe Meetings) meeting (1 March 2000).

2. An informal experts meeting on the “Model” was convened on 7 June 2000 by the UN/ECE. Participants to the Informal Meeting expressed their support for the “Model” as one of the means of harmonizing technical regulations (TRs) and thus facilitating market access for private companies. As a result of the discussions at the Meeting the following sectors were identified as potential pilot projects for the “Model”:

- A. earth-moving machinery;
- B. lifts;
- C. electrotechnical goods;
- D. telecommunication equipment;

A number of issues and proposals were also raised which are listed below. They will require detailed comments and consideration from the START Team (The list below also includes comments made earlier at WTO, OECD and other fora and during informal discussions with delegations).

Note: Versions of the draft "Model" of 9 June and of 15 September 2000 mentioned below are available as documents TRADE/WP.6/2000/8 and TRADE/WP.6/Informal/1.

Comment/Proposal	How it is addressed in the "Model"
General Comments	
1. The “Model” constitutes a “supranational infrastructure” for the development of technical regulations (TRs) and conformity assessment procedures (CAPs)	The “Model” advocates a set of principles and procedures in an intergovernmental agreement. Common regulatory objectives for different products or sectors will have to be implemented at the national level to effectively enter into force as mandatory technical regulations.
2. Why is the UN/ECE the “place” for preparing such a “Model”?	The need and rationale for the work within the UN/ECE on the Model is stated in paras 1-2 and the mandate is recalled in para 3 of the 9 June version of the model. (Note that UN/ECE member States account for 2/3 of international trade)
3. What is the added value of the “Model” and is there any demonstrated interest in its sectoral application?	The meeting of 7 June helped to identify a number of industrial sectors, which would be interested in the application of the model.

Comment/Proposal	How it is addressed in the "Model"
4. The "International" concept for the "Model" is too ambitious for a regional organization.	The model is developed in the UN/ECE, but its application is foreseen to be open to all UN members. It may be useful to recall that within the UN/ECE member countries have already agreed on international harmonization in various fields, some of these agreements are global and involve also countries outside the region (for example WP.29 for motor vehicle parts, CEFACT, WP.7 on perishable foodstuff).
5. The concept of the "Model" should be "global" and not "international" to prevent "patchy" solutions (Example 3-4 countries preparing joint CROs).	Global coverage is the primary aim of international harmonization under the "Model". In some sectors, broad transnational participation may, however, be a second best option (for example, see the number of countries covered by regulations adopted under WP.29).
6. The scope of technical regulations to be covered is extremely ambitious	The 'Model' is open for general application by sectors, some pilot sectors have been explored.
7. Danger of "promoting" new regulations ("over- regulation") in countries where they do not exist.	Trigger mechanisms for the identification of the need for harmonization and the call for participation include, inherently, the option for other countries to reject the idea of regulating in the proposed field..
8. The "Model" does not take into account obligations of countries under WTO, in particular under WTO TBT Agreement.	The intention of the "Model" is that it should be fully coherent and complementary. Specific comments or suggestions for improvements are always welcome.
Comments on the text of the "Model"	
9. Role of the Technical Advisory Panel in relation to international standardization request (ISR) and final standards proposed by the international standardizing bodies (ISBs) (see paras. 13-16)	Clarifications made in the text of 9 June.
10. To assure that the group of countries working on common regulatory objectives (CROs) (and on international standardization request (ISR)) is also active in the associated standardization work within the international standardizing bodies (ISBs).	Clarifications made in the text of 9 June
11. Dispute settlement provisions in the draft "Model"– is there a need for a dispute resolution mechanism in the 'Model' or should WTO exclusively take care of disputes?	Free circulation of products covered by CROs developed under the 'Model' may necessitate a mechanism to take necessary action against countries that create technical barriers to trade despite having agreed on CROs and free circulation of compliant products. Such a dispute resolution mechanism should also be at hand for countries which have agreed on CROs under the 'Model' but are not members of the WTO.

Comment/Proposal	How it is addressed in the "Model"
12. Bureaucratic process for establishing CROs, ISR, etc.	Legitimate interests of countries in the protection of public health, safety and environment necessitates to some extent detailed administrative provisions. Suggestions for improvement are always welcome provided that public interests can be safeguarded.
13. Supplier's declaration of conformity (SDOC) should not in general become a preferred means of attesting conformity (as noted in the "Model" para. 19)	Clarifications made in the text of 9 June and 15 September (SDOC not referred to as the preferred means of attesting conformity).
14. On the use of internationally recognized standards (IRSs) (legal nature of IRSs): See para 18 of draft of 9 June which gives an impression that IRSs would be mandatory	Modification made in revision of 15 September: the IRSs are not mandatory as such, but remain voluntary for use and application. If used, the countries would presume compliance with the associated CRO
15. Means to establish mutual confidence in the competence of conformity assessment bodies (CABs): See para 20 of draft of 9 June	New text added in revision of 15 September taking into account the need for prior consultations concerning the competence of CABs
Comments on the work of the START Team	
16. Process of the START Team transparency	Draft versions of the 'Model' are continuously submitted to UN/ECE governments and to various international fora. The START Team is open for participation by representatives from interested countries
17. START Team should be opened to all interested countries.	See above comment
18. Industry should raise awareness of their problems among regulators and policy makers.	The START Team encourages collaboration between all interested parties. The starting point for the work of the team is, however, the regulatory aspects of harmonization.
19. Regulators should be involved in the development of the "Model".	See above comment

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