ECONOMIC COMMISSION FOR EUROPE

COMMITTEE FOR TRADE, INDUSTRY AND INTERPRISE DEVELOPMENT
Working Party on Regulatory Cooperation and Standardization Policies
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Items 4 and 9 of the provisional agenda

PROPOSAL FOR A MARKET SURVEILLANCE RECOMMENDATION

Use of Market Surveillance as a Means to Protect Consumers against Counterfeit Goods

Proposal from the UNECE “MARS” Group

This document contains a proposal that was discussed by the “MARS” Group at its meeting in Slovakia in April 2005. It is being presented for further consideration to the Second UNECE International Forum on Market Surveillance and Consumer Protection (24 and 25 October 2005) and to the 15th session of the Working Party.

The proposal is submitted for discussion and approval as a new UNECE recommendation (for the set of previous UNECE recommendations see document ECE/STAND/17/Rev.4, which is available on the WP.6 web page at http://www.unece.org/trade/ctied/wp6/major_doc.htm under “major reference documents”).

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PROPOSAL FOR A RECOMMENDATION
ON THE USE OF MARKET SURVEILLANCE AS A MEANS
TO PROTECT CONSUMERS AGAINST COUNTERFEIT GOODS

The Working Party on Regulatory Cooperation and Standardization Policies:

Recognizing consumer-protection concerns of the United Nations Member States and tasks for international organizations as highlighted in the General Assembly decision 54/449 of 22 December 1999 (United Nations Guidelines for Consumer Protection),

Stressing the importance of intellectual property rights protection for the civilized development of the international economy and for the economic development of countries,

Noting with regret existing problems and deficiencies in copyright protection in many countries in transition and developing countries,

Reiterating that this problem can be solved only through establishing a wide network and closer cooperation between all core stakeholders, namely State authorities (e.g. customs, police, and copyright agencies), industry and consumers,

Recognizing the threats to the health and safety of consumers posed by counterfeit and fake goods,

1. Recommends that interested Governments explore the possibility, wherever feasible and where the existing legal framework permits, to involve market surveillance authorities in the fight against counterfeit and pirate goods in addition to existing responsible state bodies through:

   (a) Introducing the responsibility for trade inspectors to assist in identifying counterfeit goods (in cooperation with other relevant state authorities on a national level) during routine market surveillance inspections;

   (b) After having examined all safety, health and other requirements as called upon by the national legislation, requesting trade inspectors to check at the final stage if an examined product is genuine; namely, if it is produced legally and if the use of a trademark or logo has been authorized by its owner or legal representative;

   (c) Involving in such verification, whenever feasible and depending on legal/institutional national framework, other interested state authorities and/or representatives of manufacturers and consumers.

2. Trusts that while implementation of this or similar approaches should not be a financial burden for trade inspectorates and should not replace/duplicate existing intellectual property rights enforcement tools, it would be beneficial to consumers and conducive to establishing “rule of the law” principles in society and to fair competition and business development.

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