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Item 10 (a) of the provisional agenda

Market Surveillance

Good Market Surveillance Policies and Practices

Draft recommendation submitted by the Advisory Group on Market Surveillance¹

Summary

The Advisory Group on Market Surveillance has prepared a draft recommendation for consideration by the Working Party.

The Recommendation aims at increasing the effectiveness of market surveillance by encouraging governments to prioritize this policy area in the allocation of resources both domestically and internationally, and by giving broad guidelines for the organization of administrative structure and activities.

¹ At its twentieth session, the Working Party recommended the further development of a guidance document for market surveillance authorities.

Good Practices in Market Surveillance Policies

The Working Party on Regulatory Co-operation and Standardization Policies,

Recognizing the need to ensure that products placed on the market or imported meet legal requirements on safety, health, environment, fair competition between economic operators, and any other aspects of public interest (hereinafter “legal requirements”),

Noting that market surveillance is an essential public response to addressing that need,

Noting the current differences in both legal, administrative and operative means for carrying out market surveillance among United Nations Member States,

Noting the lack of systematic guidance for setting up structures that meet basic and essential criteria for the enforcement of legal requirements on products made available on the market,

Considering the best practice developed internationally, including by the Advisory Group on Market Surveillance (MARS Group) and the Working Party on Regulatory Cooperation and Standardization Policies,

In the light of General Assembly decision 54/449 of 22 December 1999 (United Nations Guidelines for Consumer Protection),

Recommends that Governments should:

- N1. Organize market surveillance to ensure that products meet the legal requirements.
- N2. Give priority to establishing a legal basis for market surveillance activities, including adequate legal requirements for cooperation with economic operators and proceedings for applying proportionate restrictive measures in relation to marketing of products.
- N3. Appoint competent authorities to carry out market surveillance activities.
- N4. Consider risks identified and political priorities and provide for adequate and sufficient administrative capacities, resources and powers for market surveillance authorities to ensure fulfilment of the requirements set for products.
- N5. Establish effective mechanisms for horizontal and sectoral cooperation and coordination among market surveillance authorities, customs authorities and other stakeholders concerned at the national and international level.
- N6. Together with market surveillance authorities take advantage of and contribute to channels for cooperation and information exchange internationally.
- N7. Together with market surveillance authorities participate in regional and international cooperation efforts such as joint market surveillance actions.
- N8. Set national priorities for market surveillance according to the market conditions in the country, taking into account available information from regional and international information sources on products risks, and on product-related non-compliances.
- N9. Set annual and/or multi-annual plans at general and sectoral level for market surveillance.

N10. Together with market surveillance authorities, when planning and carrying out market surveillance activities take into account established principles of risk assessment.

N11. Encourage donors to recognize market surveillance as a priority in devising bilateral and multilateral technical assistance and cooperation projects.

Informative Annex

Checklist for the implementation of the Recommendation

A. Legal basis

1. Available legislation on consumer and user protection, including methods for collecting and informing of dangerous and non-compliant products (nationally/internationally).
2. Available horizontal or sector-specific legislation on enforcement of products defining:
 - product sector(s)
 - essential product requirements
 - responsible authority /authorities
 - powers of authorities
 - applicable penalties based on risk assessment of products
 - mechanisms to ensure confidentiality
 - mechanisms to ensure traceability
 - cooperation (a) between market surveillance and other relevant authorities and (b) between market surveillance authorities and other national stakeholders, including in methods for collecting and informing of dangerous and non-compliant products (nationally/internationally).
3. Legislation covering cross-border measures and cooperation mechanisms between market surveillance authorities and customs authorities.
4. Explicitly address possible interactions between product legislations at national and or regional level and other national laws (i.e. criminal law).

B. Political priorities

5. Available national statement (priority) of product safety, health, environment and any other aspect of public concern, including fair competition among economic operators.
6. Established national quality infrastructure, including a functioning system for accreditation and conformity assessment (inspection, certification, testing) and market surveillance.
7. Annual and/or multi-annual (e.g. 3-year) national market surveillance plans reflecting national priorities.
8. Participation in technical assistance and cooperation projects in market surveillance.
9. Participation in standardization work at the national, regional and international level.

C. Best practices

10. National enforcement plans reflecting surveillance priorities, for instance according to the UNECE “MS Model”.
 11. For national legislation and other documents related to market surveillance the terminology listed in the UNECE *A Glossary of Market Surveillance Terms* should be used.
 12. Availability of sector-specific surveillance plans and priorities.
 13. Enforcement methods comprising reactive and active surveillance techniques, as well as continuous follow-up routines.
 14. Methods for enforcement prioritization and surveillance prioritization, including risk assessment.
 15. Availability of information-technology tools for documentation, reporting, follow-up and statistical analysis of market surveillance activities.
 16. Penalties for economic operators are proportionate to the risks and dissuasive.
 17. Cooperation with stakeholders nationally (e.g. consumer and business organizations, industry, customs).
 18. Cooperation with other stakeholders internationally.
 19. Training of market surveillance officers and inspectors.
 20. Joint actions to assess risks of products as a basis for planning proactive market surveillance activities. Participation of non-EU countries should be supported.
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