



Economic and Social Council

Distr.: General
18 September 2017

Original: English

Economic Commission for Europe

Steering Committee on Trade Capacity and Standards

Working Party on Regulatory Cooperation and Standardization Policies session (WP.6)

Twenty-seventh session

Geneva, 28 (pm) - 30 November 2017

Item 9 (a) of the provisional agenda

Update from the Advisory Group on Market Surveillance

Report of the Advisory Group on Market Surveillance on its activities and its meetings

Mandate

The Working Party adopted the report of the Advisory Group on Market Surveillance (MARS Group) with agreed modifications in paragraphs 16 and 18 and requested the group to report on further development at the 27th session.

Summary

This document contains the report of the annual meeting of the MARS Group, held in Stockholm, Sweden from 11 to 12 September 2017 and is hereby submitted for adoption by the Working Party.

Proposed decision:

“The Working Party adopts the report of the MARS Group. It requests the Working Party to pursue a further extension of its mandate by the UNECE Executive Committee.

It also adopts its plan of work as detailed in the document.

The Working Party mandates the Secretariat to continue to report on an annual basis on its activities.”

GE.17-16311(E)



* 1 7 1 6 3 1 1 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



I. Introduction

1. The 15th MARS Group meeting was co-organized by UNECE WP.6 secretariat, by the MARS Group Bureau, the Swedish Board of Trade and the Swedish Board for Accreditation and Conformity Assessment. The Swedish Board of Trade kindly hosted the meeting in Stockholm, Sweden.
2. The meeting was attended by 21 experts from 6 UNECE member countries as well as by individual experts.
3. The agenda, as well as presentations made at the meeting, are available at <http://www.unece.org/index.php?id=46030#/>
4. The Deputy Director-General of the National Board of Trade of Sweden and the Deputy Director of the Ministry for Foreign Affairs of Sweden opened the meeting, referring to the needs for market surveillance authorities (MSAs) to have adequate means at their disposal, which required strengthening both analytical work and capacity-building activities.
5. The WP.6 Chair welcomed participants to the meeting, recalling current challenges confronting market surveillance authorities. The Chair of the MARS Group introduced the meeting agenda. She emphasized the important role of the group in promoting cooperation among MSAs as well as between MSAs and economic operators, and the MSAs continued need for guidance on operational activities.
6. The Secretary of the UNECE Working Party on Regulatory Cooperation and Standardization Policies placed the activities of the MARS Group within the institutional setting of the UNECE and current priorities. She also introduced the agenda of the upcoming meeting of the Working Party, which would be held in Geneva from 28 to 30 November inviting participants to attend and suggest topics and speakers.

II. Current developments

7. The Senior Advisor/National Market Surveillance Coordinator of the Swedish Board for Accreditation and Conformity Assessment (Swedac) introduced the “New Goods Package”. She explained that the European Commission was in the final stages of preparation of this proposed revision to the 2008 “Goods Package”.¹ She placed this new initiative in the context of the Commission’s Single Market Strategy, with focus on the activities in the field of market surveillance, including a stakeholder conference, public consultations as well as evaluations of 764/2008 and 765/2008.
8. These activities had revealed that both external factors (increase in online sales, products complexity, and imports from third countries) and endogenous drivers had resulted in an increase in non-compliant products on the EU markets. The contents of the proposed initiative were still not known in detail, but would aim at tackling the challenges that had been identified (help economic operators to comply; increase transparency of compliance; increase deterrence; reduce fragmentation of market surveillance within the EU and external border controls; and increase efficiency and dedicated resources).
9. Participants observed that following the publication of the New Goods Package, there could be a need for the MARS Group to revise the UNECE publication “Market Surveillance Terminology”.

¹ The 2008 Goods Package included Regulation 764/2008, Regulation 765/2008 and Decision 768/2008.

10. The Legal Adviser, National Board of Trade, complemented the previous presentation offering insight in the European Commission's proposals for the reform of the Regulation 764 on Mutual Recognition. The proposed document was still not available in its final form. The proposal was expected to respond to concerns expressed by stakeholders by clarifying the scope of the regulation, increasing the transparency for administrative decisions denying market access, and introducing a fast track appeal procedure and the possibility of a self-declaration of compliance.

11. The proposed legislative revision would be accompanied by EU-wide Action Plan to increase awareness of mutual recognition, introduce tools to enhance the knowledge of business and national administrations of the principle of mutual recognition and its functioning, build trust among the different Member States and set up cooperation mechanisms between the different national administrations involved.

12. The Senior Advisor/National Market Surveillance Coordinator of Swedac introduced her organization as the responsible public authority in Sweden for conformity assessment, accreditation, notified bodies, legal metrology and the coordination of market surveillance. She presented the current priorities of the national market surveillance, which included: review of the powers of MSAs, the development of best practices for market surveillance for products sold online and trade of second hand goods within the framework of the circular economy; improving reporting and evaluation and reviewing cooperation between customs and MSAs.

13. The Vice Chairperson of the UNECE WP. 6 and First Deputy President, UNMZ, presented recent changes in the legislation of the Czech Republic in the context of implementation of the EU New Legislative Framework (NLF). The Czech Republic had introduced a comprehensive legislative act that included the transposition of directives allied with the NLF and the adaptation of directly applicable EU regulations. The Act contains four chapters namely: making products available on the market; special provisions for certain products; market surveillance and sanctions for administrative offences.

14. The coordinator of General MS initiative reminded the group that the General Market Surveillance Model (GMSM) had been developed since 2007 and had been used by experts/authorities to design their market surveillance programs and plan MS actions. He went on to present a specific procedure of the GMSM offering guidance to MSAs in the choice of the number of samples when specific samples are taken from the market during a planned pro-active MS action and when the technical regulation does not provide number of samples to be taken. MSAs commented that they could not follow a stochastic approach in their activities due to their limited funds, and were therefore constrained to work based on a risk-based approach to inspections and tests. However the representative of Tukes Finland said that their administration has prepared such a "low level" sampling procedure which includes the principles for amount of samples taken from the market and sent to the testing house.

15. A professor from Matej Bel University in Slovakia shared her experience teaching standardization. The subject was very important because there is a clear need to provide the human capital for the standards infrastructure of tomorrow. The teaching approach needed to be multidisciplinary because students needed to have a background in different subjects, including economics, business, law, politics as well as technical training.

16. Not all students would need the same level of specialization: some needed to be aware of standards, although they would not themselves be developing them, others needed more in-depth knowledge. It was also important to have collaboration with quality/standards infrastructure institutions, which could provide, for example, opportunities for internships, or guest lectures.

17. The professor would follow up to questions that she received from participants regarding the potential for e-learning platforms and for the importance of standards for gender equality as a subject for the course. The Chair of the MARS Group said that Serbia provides online training to ensure continuous support to public administration reforms in accordance with the principle of professionalization, as well as to ensure the applications and further development of established standards and procedures in the processes that involve human resources management and referred participants to the website <http://suk.gov.rs/en/home/index.dot>

18. There was also a discussion on the importance of research on matters related to standardization. The UNECE Secretariat invited participants to submit papers on their experiences in market surveillance projects or other relevant matters to the “International Journal of Standardization”.

III. Market surveillance: experiences at national and regional levels

19. The DG of the Swedish Board for Accreditation and Conformity Assessment (Swedac) and incoming (from 2018) Chair of the European Accreditation (EA) opened the second day of the meeting by reflecting on the challenges for quality infrastructure of current trends including the increasing automation and digitization of production. He invited participants to refer to the strategy of EA for the period 2017 - 2025 (available at: <http://www.european-accreditation.org/brochure/ea-strategy-2025-full-document-v2>) particularly as it refers to enhanced cooperation with stakeholders and other interested parties and closer involvement in regulatory activities.

20. The project manager of the Swedish International Development Cooperation Agency and European Free Trade Association (SIDA/EFTA) project on Quality Infrastructure in the Western Balkans (QIWB) explained that the project aimed at enhanced economic integration with the EU/EFTA and the further development of a market economy in the region. More specifically, the project aimed at the full implementation of EU product legislation for construction products and electrical/electronic equipment. Project activities included: regional workshops and forums; “hands on training” activities; and the creation of a regional system for exchanging information about dangerous products that would probably be hosted by the CEFTA secretariat.

21. The Director of the Finnish Safety and Chemical Agency (TUKES) introduced her organization, which was responsible for product surveillance under a range of statutes and for several ministries and for carrying out national and international cooperation. She then presented TUKES internal guide for market surveillance of products sold online.

22. She explained that if the economic operator selling online was within Tukes jurisdiction and competence (located in Finland), the normal market surveillance proceedings were applied. Operators must comply with Finnish legislation if the website offers products to the Finnish consumers. If the website is in Finnish, it is regarded that the products are meant to be in the market of Finland. If the economic operator was located outside of Finland, then TUKES powers were limited to: informing the economic operator (“request for clarification”) cooperation (informing the MSA of the relevant member state). TUKES could not however take any administrative decisions and could only inform consumers on risks <http://marek.tukes.fi/> and if appropriate ensure follow up through the Rapid Alert System notifications / SGC / ICSMS. In practice, she stressed that the most important activity remained awareness raising campaign to give consumers practical tips concerning online shopping and advice on how to recognize a responsible shop and reliable product online.

23. The Director concluded by referring to new challenges for MSAs including: digitalization; new technologies (i.e. 3D printing, orders produced on-demand); new products and substances; new challenges (circular economy, sharing economy, drones delivery, the internet of things, nanotechnology); new trading methods (e-commerce, subcontracting, fulfilment houses, closed Facebook forums); new users (professional products becoming consumer products, products intended for adult use becoming products for children, age of users of devices and equipment continuously advancing) and risk-taking behavior.

24. All participants related to the new challenges that had been presented, and agreed these could be interesting subjects for subsequent discussions within the MARS Group and the UNECE WP. 6.

25. The Analyst of the Swedish Board for Accreditation and Conformity Assessment (Swedac) presented the findings of the first market surveillance project at the European level in the field of measuring instruments. The project had selected electrical energy meters and heat meters and twelve member states had participated.

26. Based on a common protocol and following relevant regulations, guidelines and harmonized standards, a total of 22 electricity meters that had been tested, of which 9 were non-compliant. As regards heat meters, out of 18 tested, 11 were non-compliant. Some of the products had been recalled from the market, while in others, the producers could put the products in conformity. The lessons learned from the project was that structured cooperation – in particular as regards the laboratory selection – could yield significant costs savings.

27. The coordinator of the WP.6 Group of Experts on Risk Management in Regulatory Systems (GRM) presented training material for a “Train-the-trainer” course on Market Surveillance. Participants were asked to comment the presented course materials and asked for more information about profile of the trainers. A discussion took place on the way forward of education on market surveillance.

28. The meeting then discussed the planning of the next WP.6 Plenary session, which was going to take place from 28th November to 30 November in Geneva. The annotated agenda and other draft documents for the session are available from <http://www.unece.org/index.php?id=42913#/>

29. The Secretariat presented a Draft Recommendation on “Standards and Regulations for Sustainable Development” which encouraged member states to adopt a risk-based approach for regulatory systems to support the 2030 UN Development Agenda. She encouraged participants to comment on the draft.

30. The Secretariat also introduced a proposal for focusing the activities of the Working Party on Sustainable Development, for changing the name of the Working Party and reorganizing its activities around the topics of standardization, regulatory cooperation, and quality infrastructure. Participants were invited to comment on the proposal.

IV. Conclusions

31. The Chair of the MARS Group summarized the conclusions of the meeting and presented the action items as follows:

- (a) To start the process for revision of the Market Surveillance terminology;
- (b) To develop further guidance on the challenges of e-commerce for MSAs;

(c) To enhance cooperation with education institutions and with the UNECE WP. 6 STARTed Group, as well as with the UNECE WP. 6 GRM Group;

(d) To explore the possibility of providing online training for economic operators;

(f) To continue establishing contacts between global and regional Market Surveillance Networks, encouraging them to participate in the WP.6 activities.

32. The WP.6 Chair thanked the group for lively and substantive discussion during the meeting and was looking forward to the annual session
