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Report of the Advisory Group on Market surveillance

Report of the Joint Meeting of Experts of the Advisory Group on Market Surveillance (MARS Group) and the Group of Experts on Risk Management in Regulatory Systems (GRM) in Virtual Space (11 – 12 June 2020)

Summary

This document contains the report of the joint meeting of experts of the Advisory Group on Market Surveillance (MARS Group) and the Group of Experts on Risk Management in Regulatory Systems (GRM), which was held virtually via teleconferences from 11 to 12 June 2020. It is hereby submitted for adoption by the Working Party.

Proposed decision:

“The Working Party adopts the report of the joint meeting of MARS and GRM Groups. It requests the Working Party to adopt their plans of work as detailed in the document.

The Working Party mandates the Secretariat to continue to report on an annual basis on the activities of the MARS and GRM Groups.”

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I. Introduction

1. The joint meeting of experts of the Advisory Group on Market Surveillance (MARS Group) and the Group of Experts on Risk Management in Regulatory Systems (GRM) was organized by the UNECE WP.6 secretariat, MARS Group Bureau, the GRM Chair and Co-ordinators and the WP.6 Bureau, held virtually via a series of teleconferences.
2. The meeting was attended by over 65 experts from 19 UNECE and non-UNECE UN member countries. Individual experts also attended in their own capacity.
3. The agenda, as well as presentations made at the meeting, are available at <http://www.unece.org/index.php?id=53790>
4. The Director of the Division on Economic Cooperation and Trade at UNECE and the Chair of the Working Party opened the meeting, and the Secretary of UNECE WP.6 informed participants of developments since the Annual Session.

II. Session 1: Risk informed policymaking and market surveillance

5. The presentations by the Chairs of the GRM and MARS groups set the respective mandates of these intergovernmental bodies in relation to the ongoing health and economic crisis. They focussed, respectively, on the centrality of developing risk management solutions based on the most achievable and acceptable levels of risk, and on the importance of coordinating regional and global efforts for risk-informed policymaking and market surveillance. The Vice-Chair of the Working Party shared the national experiences of risk-based approaches and market surveillance in Belarus, which include a combination of measures to protect internal markets from dangerous products at the level of the national government and within the Eurasian Economic Union markets.

III. Session 2: Presentations and discussion on the impact of COVID on regulatory activities and market surveillance

6. The COVID-19 outbreak led to increased recourse to the number and diversity of products and equipment subject to mandatory third-party conformity assessment. Testing, inspection and certification were increasingly recognized as important tools to ensure compliance of medical devices and personal protective equipment with relevant regulations. In the longer term, this can have positive consequences as it will reduce unintentional non-compliance and make intentional non-compliance easier to identify.
7. The representative of the Testing, Inspection and Certification (TIC) Council informed the group that during the COVID-19 outbreak, and as economies re-open, the industry had stepped up cooperation with authorities, including by taking legal action, and had supported business continuity for essential products and services i.e. by confirming the implementation of safety protocols.
8. The Legal Adviser of the National Board of Trade of Sweden presented a study from the National Board of Trade showing that mandatory origin labelling facilitated informed consumer decision-making and could also make it increasingly difficult for companies to sell their products in different Member States. The representative of the Ministry of Trade, General Directorate of Product Safety and Inspection of Turkey highlighted their country's measures in response to the pandemic, which included preventative steps and the prioritization of medical equipment in inspection processes.

9. The Question and Answer session focused on remote certification practices, the definition of risk, the impact of testing on risk reduction, measures for risky goods, and consequences for non-compliance.

IV. Session 3: Demonstration of the impact of COVID on Supply Chains

10. A risk specialist made a live demonstration of an Asian Development Bank (ADB) database showing the impact of COVID-19 on international supply chains. The platform uses data visualizations and artificial intelligence algorithms to fill data gaps and support informed government-decision-making. During the question and answer session, the speaker highlighted the importance of timely and abundant information in mitigating anomalies in data trends.

V. Session 4: GRM discussion on deliverables for the WP.6 annual session

11. A representative of the private sector reported about the work of the GRM in response to the outbreak. He explained that the group had been working on how to increase awareness about the importance of including crisis management provisions as part of good regulatory practice and ensure that authorities can respond to serious risks that cannot be avoided.

12. The Group had concluded that the UNECE Recommendation P, approved by WP.6 in 2011, retained its relevance. The Group had also prepared draft changes to Recommendation P – considering the lessons learned from the current health emergency and previous crisis - that would be tabled for discussion and adoption at the WP. 6 Annual Session in November 2020. Before proceeding further, the group had decided to conduct an international survey, which will soon be launched. The conclusions from the survey would contribute to inform the revision of the Recommendation P.

13. The Chairman of the Mirror Technical Committee of ISO 31000 from Turkey discussed Recommendation P as a crisis management mechanism within a regulatory framework. He highlighted the scope of the aforementioned survey, which supports data-informed decision-making and attempts to address ‘known unknowns’.

14. The co-coordinator of GRM recalled that Recommendation V, which addresses product non-compliance risk in international trade, had been tabled for adoption at the 2019 Session of the WP. 6. The WP. 6 had agreed to the overall approach and had asked the GRM to further refine this deliverable for a second reading at the 2020 Annual Session.

15. The speaker reaffirmed the importance of an integrated approach to risk management, which brings together competent authorities, compliance rules, and different facets of the inspection process.

16. The second co-coordinator of the GRM Group showcased how Recommendation R and P had successfully been implemented in several countries, worldwide. He elaborated on the risk treatment strategies that supervisory bodies can adopt. He encouraged online training on risk management for regulators, based on Recommendation R, which applies the ISO 31000 standard to regulatory systems.

VI. Session 5: Recent developments in market surveillance

17. The Senior Policy Officer of the European Commission provided an overview of the implementation of the European Commission Regulation (EU) 2019/1020 on market surveillance for non-food products. The core objectives of the new regulation were to address the issue of non-compliant products on the EU markets by strengthening cooperation and effectiveness and modernising the framework to cover new supply chains and on-line sales.

18. The Deputy Director, Department for Technical Regulation and Accreditation, Eurasian Economic Commission presented the activities of the organization in the sphere of the post-market controls (market surveillance). The speaker outlined principles and approaches of state control (surveillance), aimed at harmonizing legislation among the Eurasian Economic Union Member States.

VII. Session 6: Deliverables by the MARS Group to the WP.6 annual session

19. The session discussed progress made by the MARS group on deliverables planned for the 2020 Working Party Session. The co-coordinator of the GRM informed participants about ongoing work to finalize the “Guide on Risk Management for border regulatory agencies”. The Guide will be issued as a double logo publication of UNECE and the International Trade Centre (ITC). He discussed the role of product regulators and the need for regulatory integration with regards to customs risks and product non-compliance.

20. An update on progress made on the revision of the Market Surveillance glossary revision was provided by the project leader and the MARS Chair. They highlighted the glossary’s objectives of providing common definitions and terminology in market surveillance for non-food products, especially considering the emergence of e-sales and digital markets.

21. A Project Coordinator of the Physikalisch-Technische Bundesanstalt (PTB) from Germany gave an overview of two ongoing technical cooperation projects in support of the market surveillance authorities of the UNECE region, respectively with the countries of the Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) and of Southeast Europe (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia). Both projects are financed by the German Ministry for Economic Cooperation and Development (BMZ).

VIII. Planning for the 30th UNECE WP.6 annual session (2 - 3 November 2020, Geneva, Switzerland)

22. The Secretary of WP.6 shared hopes for an in-person meeting on 2nd and 3rd November in the Palais des Nations, Geneva, which would be shorter than in previous years. She said that the meeting would discuss changes to the WP. 6 terms of reference (ToRs), an action that had been requested as follow up to the independent evaluation of the Working Party. She presented a first draft of the proposed ToRs.

IX. Conclusions

23. Acknowledging the non-binding nature of the following points given the virtual nature of the meeting, the Chair of the MARS Group summarized the conclusions of the meeting and presented the action items as follows:

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- (a) GRM/MARS group member states called upon the ECE secretariat to step up the collection of facts, sharing of experiences and development of best practises as inputs for the revision of Recommendation P to respond better to emerging risks, such as pandemics;
- (b) As an immediate follow-up to the meeting, the ECE secretariat will launch a survey to document how authorities have used and are using risk management and emergency management resources in the context of the pandemic;
- (c) Member States are invited to present how their standards-related activities contributed to the containment of the COVID emergency at the next meeting of the UNECE Working Party on Regulatory Cooperation and Standardization Policies (WP.6), scheduled for 1-2 November 2020 in Geneva, Switzerland;
- (d) An informal online consultation of members of the GRM and MARS groups could be organized in September/October to consult on deliverables for the Annual Session and identify opportunities for further collaboration. Reduced latency in data would be an item of discussion. Experts from OECD Regulatory Policy Committee could be invited as observers;
- (e) Member States will have the opportunity to comment on GRM deliverables, observing a deadline in mid-July to allow time for timely submission;
- (f) Cooperation between MARS and GRM could be enhanced by:
- Inviting market surveillance experts and customs administrations to the GRM meetings to share their expertise on risk-based market surveillance,
 - Progress work on the Glossary of Market Surveillance Terms,
 - Discuss and share information about relevant challenges for market surveillance authorities where risk-based expertise is essential (i.e. transposition, e-commerce);
- (g) To publish the revised Market Surveillance Glossary electronically;
- (h) To further discuss best practice for cooperation between MSAs and customs;
- (i) To initiate the process of updating recommendation M relating to the use of market surveillance infrastructure as a counterfeit and piracy mechanism;
- (j) To update the contacts database and document on “Network of regional networks”; and
- (k) To enhance cooperation with educational institutions and with the UNECE WP.6 START-Ed Group, and continue cooperation with the UNECE WP.6 GRM Group.
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