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Item 10 of the provisional agenda

UNECE WORKSHOP

**“MARKET SURVEILLANCE – A COMMON STRATEGY OF THE
UNECE – EU UNDER THE REGULATORY CONVERGENCE”**

Organized by the UNECE Advisory Group on Market Surveillance

It is recalled that an ad hoc group of experts to advise Governments on market surveillance issues was established at the recommendation of the UNECE International Forum on Market Surveillance (29 October 2002, Geneva).

This paper summarizes the discussions held at the second UNECE “Workshop on Market Surveillance - A Common Strategy of the UNECE - EU under the Regulatory Convergence”, organized by the UNECE Advisory Group on Market Surveillance (“MARS” Group), and held at the High Tatras - Štrbské Pleso, Slovakia, in April 2004.

The paper was prepared by the organizer of the Workshop, the Slovak Office of Standards, Metrology and Testing, and is provided for information.

Introduction

1. A second Workshop of the Advisory Group on Market Surveillance (“MARS” Group) on “Market Surveillance – a Common Strategy of the UNECE – EU under the Regulatory Convergence”, took place on 5 and 6 April 2004 at the High Tatras - Štrbské Pleso, Slovakia. The Workshop was co-organized by the United Nations Economic Commission for Europe (UNECE) Working Party on Regulatory Cooperation and Standardization Policies (WP.6) and the Slovak Office of Standards, Metrology and Testing (SOSMT). It was linked to the 2003 Workshop “Market Surveillance in the Context of a “Wider” Europe: Current Approaches and Future Directions”, held in Piešťany, Slovakia, and organized by the MARS Group.
2. More than 30 delegates from the following countries took part: Belarus, Bulgaria, Croatia, Czech Republic, Hungary, Iceland, Romania, Slovakia, Ukraine and United States of America. Also participating was the WP.6 Chairman, Mr. Christer Arvius (Sweden), a representative of the UNECE secretariat and representatives of private-sector and consumer organizations.
3. Two main goals were defined for the Workshop: (a) to take up and continue the discussion at the 2002 UNECE International Forum on Market Surveillance and (b) to specify the object of interest and fields of activity for the MARS Group. The aim of this Group is to draw up effective and appropriate procedures that could be recommended to public institutions dealing with market surveillance.
4. The Working Party at its annual session in November 2003 had approved the results of the Piešťany Workshop and called on delegations to nominate experts to individual working groups as “facilitators”. See annex to the present report for a list of the eight main areas of work proposed for the Group.
5. In the Group’s activities SOSMT acts as a “facilitator” in the project of implementation of quality elements in the field of market surveillance. It will examine possibilities of adapting ISO 9000 or other quality management systems (e.g. CAF (Common Assessment Framework)) to the activities of market surveillance bodies and, in cooperation with the UNECE secretariat, will coordinate the work of the “facilitators”.
6. The aim of the Workshop was to report on the current activities of the groups of “facilitators” and submit initial proposals on particular tasks. The results of the Workshop will be presented to the fourteenth session of the Working Party for approval.
7. As part of the programme, the Workshop participants also participated in the meeting of the Central European Free Trade Agreement (CEFTA) Member States – Working Group “Technical Rules and Standards”, which aimed at examining problems in market surveillance.

Summary of discussions

8. The Workshop was opened by the Chairman of Working Party 6. He stressed the need for strengthening the national and common EU activities for cooperation and coordination in the field of market surveillance, which is included in the Council Resolution “Enhancing the Implementation of the New Approach Directives” of 10 November 2003. This Resolution specifies targets and proposes relevant measures and procedures in the field of conformity assessment and market surveillance. Instruments used to achieve these targets are, for example, the introduction of efficient legislation, utilization of a “safeguard clause procedure”, improvement of transparency and coordination by means of close cooperation between the administrative bodies of individual EU Member States.

9. The Secretary of the Working Party informed the meeting about market surveillance bodies in Europe and in the CIS which faced similar problems.

10. Mr. S. Lytvynenko, Head of the Department of Quality Control and Safe Works and Services of the Ukrainian State Committee for Technical Regulation and Consumer Policy, informed on issues in the field of market inspection in his country. There were considerable problems to uphold qualitative criteria in food, tobacco products, petrol and mineral water. The situation could be improved only by improving cooperation between local public bodies responsible for consumer protection and the relevant ministries. Information on consumer rights was important for improving consumer awareness. Central and eastern Europe faced problems with smuggling and counterfeiting of products. In order to prevent such activities, the market surveillance bodies should cooperate with customs bodies and police.

11. Action needs to be taken against the counterfeiting of branded products. Ukraine has made great progress in this during the last years. The representative of Procter&Gamble, Mr. J. Kennedy from the United States of America, confirmed this. It is difficult for inspectors to establish the authenticity of these products because the manufacturer alone is familiar with the distinguishing detailed signs or the trademark. This issue was of concern in the field of cosmetics in Ukraine, but the state inspectorates, in close cooperation with Procter&Gamble, managed to solve the problem successfully.

12. Delegates agreed to consider further practicalities and possibilities of including intellectual property rights (IPR) into a “model” trade inspection procedure. It was recalled that at the first Workshop in September 2003 a proposal had been made to include in an inspection procedure a verification of authenticity of the product. It was also pointed out that in some countries counterfeit goods fell within the competence of the police, or in the case of false marking, within that of consumer protection bodies.

14. In her presentation on Slovak experiences, Ms. N. Machútová, General Director of the Slovak Trade Inspection, said that to protect consumers from harmful, low-quality and counterfeit products, as well as to address the problem of smuggling, it is necessary to use legislative means and enlist the cooperation of the competent bodies. Slovakia, as a pre-accession country to the EU, had adapted its legislation to that of the European Union and had cooperated with other associated countries in the

TRAPEX system. On 1 May 2004 it would become part of the European Union system – RAPEX. This system allowed rapid notification of harmful products, ensuring their withdrawal from the Internal Market and better consumer protection. However, the system was not available to non-EU Member States.

15. She believed that it would thus be advantageous for countries that are not EU Members to retain and develop the TRAPEX system on a voluntary basis under the auspices of the United Nations. Although the system, as it currently stood, was expected to be discontinued by the end of 2004, approval should be sought for its further use or for the use of its software in the UNECE region or a similar system should be put in place. The software is owned by the General Inspectorate for Consumer Protection, Hungary.

16. Some potentially dangerous consumer products are being focussed on by the Czech market surveillance bodies: for instance, bikes, children's climbing frames, ladders and sport equipment, which may not meet the principle of general safety of the product. Mr. P. Hasman of the Czech Trade Inspection said that the Czech Republic intended to create a reference list of products and risks requiring special market surveillance activities.

17. Mr. D. Podhorský, President of SOSMT, informed the Workshop about the possibilities of building a basis for a mutually acceptable and liable functioning of market surveillance authorities by introducing quality system elements into their activities. In the long term this could lead to a new standard from the ISO 9000 series, dealing with market surveillance. He said that Slovakia was ready to produce a proposal for such a standard. As a medium-term solution, it might be possible to implement the CAF quality model which enabled a simple and easily applied system of self-evaluation within public-sector organizations. In order to establish quality systems, there was now the opportunity to use the current ISO 9000 standards, particularly EN ISO 9001:2000 "Quality Management Standard – Requirements", as well as ISO/IEC 17020:1998 "General criteria for the operation of various types of bodies performing inspection".

18. A representative of the SOSMT, Ms. M. Jurkovicová, presented the main feature of the CAF system and clarified the possibilities of the use and introduction of this instrument for improving the operation of market surveillance bodies.

19. Ms. O. Manafova (Bulgaria) proposed using the EU Project– Quality Infrastructure aimed at comparing the level in metrology, accreditation, testing and market surveillance – as a form of benchmarking (similar to CAF) also for market surveillance activities.

20. In the context of building a basis for mutually acceptable and liable functions of market surveillance authorities, there is a need to draw up "Guidelines on Good Practices in Market Surveillance Activities". Ms. B. Hreidarsdottir, Legal Consultant, UNECE, presented a framework which could serve as a basis for such guidelines.

Conclusions

21. At the closing of the Workshop, the Moderator, Ms. Kvetoslava Steinlova of SOSMT, made the following proposals:

- (a) To start compiling information on market surveillance and its structure in individual UNECE countries, including contact addresses.
- (b) To look for measures/good practices so as to improve, on a national level, the cooperation between organizations responsible for and carrying out market inspections on the one hand and these organizations and custom authorities and police on the other hand, and create a network of cooperation within the framework of UNECE.
- (c) To suggest solutions on how to improve, on a national level, cooperation between market inspection authorities and manufacturers and importers of brand name products, to enable the market authorities to identify counterfeit and non-authentic products when they proceed to carry out controls in the market. Experience from such cooperation should be posted on the UNECE website.
- (d) To recommend to Governments to consider introducing ISO 9000 quality standards or other quality systems (e.g. CAF) within the market surveillance authorities.
- (e) To stress the importance of improving cooperation between market inspection authorities in different countries and to examine possibilities of using TRAPEX (which will be discontinued by the end of 2004) or similar information exchange systems on dangerous products.
- (f) To begin work on drawing up “Guidelines on Good Practices in Market Surveillance Activities” to promote the general efficiency of market surveillance.
- (g) To start an exchange of information on matters relating to enhancing consumer awareness by cooperation with public authorities and organizations responsible for consumer protection.

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ANNEX

UNECE WORKSHOP
“MARKET SURVEILLANCE IN THE CONTEXT OF A “WIDER EUROPE”:
CURRENT APPROACHES AND FUTURE DIRECTIONS” AND
INAUGURAL MEETING OF THE UNECE ADVISORY GROUP ON MARKET SURVEILLANCE
(held in Piešťany, Slovakia, on 8 and 9 September 2003)

(for more information see the report of this meeting in document TRADE/WP.6/2003/13)

The “MARS” Group decided to establish an “institute of facilitators” to allow experts to contribute to the analysis and identification of good practices in relation to particular problems identified at the October 2002 Forum and at the Workshop in Piešťany and to invite UNECE Governments to contribute to the following work of nominated “facilitators” (sub-groups which are opened to all interested Governments/experts) with a view to developing proposals or recommendations concerning:

- (a) Terminology in the field of market surveillance
- (b) Information exchange/networking/database system, e.g. to consider the feasibility of transforming the current TRAPEX system into a regional voluntary notification system by opening it to all countries in the UNECE region that are interested in sharing information according to such a system
- (c) Reference list/check list (self-assessment) to be used by market surveillance practitioners
- (d) The possibility of adapting ISO 9000 or other quality management systems (CAF, etc.) to the work of market surveillance bodies/agencies
- (e) Product liability and legal framework (e.g. how to handle problems with regard to non-registered or “disappearing” companies)
- (f) Protection of consumers against fraud and counterfeited goods
- (g) Generic guidelines for good practices in market surveillance
- (h) Coordination of the work of facilitators, contacts with WP.6 and its Bureau.

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