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Item 9 of the provisional agenda

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**

This paper summarizes the discussions held at the Workshop on Market Surveillance in the Context of a “wider Europe” and at the inaugural meeting of the UNECE Advisory Group on Market Surveillance, which were held in Slovakia in September 2003. The Advisory Group made a proposal on its terms of reference, which is reproduced as an addendum to this document.

It is recalled that establishing an ad hoc group of experts to advise Governments on market surveillance issues was proposed at the UNECE International Forum on Market Surveillance (29 October 2002, Geneva) and was supported by the Working Party at its twelfth session.

Action by the Working Party is foreseen with regard to paragraph 33 and the addendum to this document (TRADE/WP.6/2003/13/Add.1).

Summary of discussions of workshop

1. A Workshop on, “Market Surveillance in the context of a “wider Europe”: current approaches and future directions”, was held in Piestany, Slovakia, on 8 September 2003. The Workshop was organized by the United Nations Economic Commission for Europe (UNECE) Working Party on Technical Harmonization and Standardization Policies (Working Party 6) at the invitation of the Government of Slovakia and the Slovak Office of Standards, Metrology and Testing.
2. The Workshop was a follow-up to the UNECE International Forum on Market Surveillance (29 October 2002, Geneva), which identified a number of issues of concern to Governments regarding market surveillance, and called for continuing to work on these matters, inter alia, by proposing to establish a group of experts.
3. About 40 delegates from the following countries took part in the workshop: Austria, Belarus, Czech Republic, Iceland, Republic of Moldova, Slovakia, Sweden and Ukraine. Representatives of the European Commission and the UNECE secretariat took part in the meeting. Representatives of private-sector companies and of consumer organizations also participated.
4. The Workshop had a dual purpose: to pursue further the discussions initiated at the October 2002 Forum and to discuss areas of work for the new Advisory Group on Market Surveillance, which held its first meeting in conjunction with the Workshop.
5. The President of the Slovak Office of Standards, Metrology and Testing, Mr. D. Podhorsky, opened the Workshop. He reported on the challenges and problems faced by countries in transition in their market transformation reforms, on “new approach” directives and market surveillance. He also made some proposals on the future direction of the work, e.g. on the possibilities of applying quality management schemes for increasing the efficiency of market controls and of the consumers/users’ confidence in products placed on the market.
6. The Chairman of the Working Party, Mr. C. Arvíus, highlighted the role of the Working Party as an international forum for providing advice and assistance to countries in transition and on the latest projects launched at the UNECE on regulatory convergence and conformity assessment, including issues of market surveillance. In particular he referred to the “International Model for Technical Harmonization”, saying that this Model had triggered activities to explore the possibilities for international sectoral arrangements in the areas of ICT products and earth-moving machinery as well as activities in support of regional regulatory convergence in the CIS and in the Balkan countries.

7. Delegates pointed out that the expansion of trade in the European region, particularly in the expanding regional grouping of the EU, called for greater emphasis on market surveillance activities and their efficiency in protecting consumers/users. In the context of a “wider Europe” it means that public authorities must have confidence in their counterparts. This should be based on an understanding of how market surveillance is organized and run in different countries.

8. A wide variety of regulatory approaches and different activities were presented by the Slovak public authorities (Ms. N. Machutová and Mr. V. Kasana) responsible for safety and market controls (occupational safety, controls of industrial machines and equipment, products for general consumers, etc.).

9. Representatives of the Czech Republic and Slovakia spoke on the activities of their market surveillance bodies and recent legal and organizational changes as well as measures undertaken by the Government with a view to accelerating the process of approximating national legislation and institutional frameworks to the requirements of the EU.

10. Representatives of the CIS region (Belarus, Republic of Moldova, Ukraine) provided information on: the serious difficulties faced by their market surveillance bodies in protecting consumers against dangerous, sub-standard and counterfeit goods on their markets; about manufacturers’ liability problems due to “disappeared” manufacturers or vendors who were not (or not properly) registered companies. It was noted that, for example, in Russia out of 3.5 million registered legal entities 46% are “dormant” or “dead” companies.

11. A representative of the Slovak Office of Standards, Metrology and Testing reported on the results of a questionnaire on market surveillance activities (replies had been received from the Czech Republic, Kazakhstan, Republic of Moldova, Russian Federation, Slovakia, Ukraine, Uzbekistan).

12. The speaker from the European Commission, Mr. J. Putzeys, highlighted the European Union’s (EU) policy with regard to administrative and technical cooperation between its member States in the area of market surveillance. He described and analyzed the objectives in the area of market surveillance, the role of national authorities and the methods to be used, within the framework of the EU regulatory system and its single market requirements. It was also mentioned that market surveillance activities should be defined taking into account the categories of products concerned.

13. Representatives of Austria, Mr. W. Lentsch, Federal Ministry for Economic Affairs and Labour, and Sweden, Mr. A. Femrell, SWEDAC, spoke on their national approaches to meeting the requirements set out in the respective EU directives, as well as coordination activities and principles to take into consideration when creating a system of market surveillance cooperation.

14. Mr. Lentsch also provided information on the results of EC missions to candidate countries to assess implementation of the EU General Product Safety Directive. He presented an analysis of the following countries (Bulgaria, Cyprus, Czech Republic, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia). On the basis of these peer reviews he made the following general observations on product safety: there were significant differences in the way the directive had been applied; few pro-active market surveillance campaigns, few products under market surveillance (mainly - toys, electrical appliances); more developed market surveillance in the food sector; little involvement of customs; generally low testing capacities; few supportive injury statistics. In the area of consumer policy, the following observations had been made: generally insufficient financial support; need for training of personnel; need to raise the interest of consumers and to strengthen consumer organizations; and the need to improve information procedures and the cooperation between different stakeholders. Based on these comments, EU candidate countries had undertaken necessary corrective actions to improve the legal and especially administrative framework and supportive environment for market surveillance.

15. A representative of the private sector said that conformity requirements set by Governments should be well considered and justified so that they do not become a barrier to trade and an additional cost, which is eventually paid by the consumer. Any measures aimed at unifying and harmonizing conformity assessment requirements and market surveillance procedures are therefore welcomed by the private sector.

16. Representatives of a consumer organization and a public authority for consumer protection (Ukraine) referred to typical problems faced by consumers and of different ways of informing and educating the consumer.

17. A special presentation was devoted to cooperation between customs and market surveillance agencies, based on the example of Slovakia. A question was raised as to how to organize an adequate framework for permanent cooperation and coordination between the relevant public bodies on a national and regional level.

18. The issue of cross-border cooperation covered in a presentation on the Transitional System for Rapid Exchange of Information on Dangerous Products (TRAPEX) system by a Hungarian expert. There was general agreement on the necessity to continue such information exchange. One possibility would be to consider expanding and opening the TRAPEX system to other interested countries in the UNECE region.

19. The main debate was on two issues: what is the scope for market surveillance and what efficient and good practices and procedures could be identified and recommended to public authorities.

20. There were discussions on whether market surveillance should deal with such non-traditional (in western Europe) aspects as control of quality of goods, fraud and counterfeiting. Representatives of the CIS region were of the opinion that consumers could not objectively assess the safety and quality of goods on the market, which required the intervention of public authorities (information on numerous problems of this kind was provided). They also said that in some countries the consumer organizations are not mature enough to ensure effective protection of consumers.

21. Representatives of private companies and consumer associations spoke in favour of joint activities of public authorities, consumers and manufactures which could favour setting up a safety net against dangerous products, unfair completion, counterfeits, various deceptive practices.

22. During the debate it was suggested that in order to protect manufacturers from unfair competition and consumers from fraudulent claims, inspectors could verify the conformity of a product in areas beyond those related to safety. Thus, during routine market surveillance, experts could verify not only the fulfilment of legal requirements of a product (safety, labelling requirements, etc.) but also whether actual parameters of a product correspond to those declared/claimed by a manufacturer/trader (e.g. product's performance, its technical or quality characteristics). Such verification could also concern trademark/logo issues to check if an inspected product is a genuine product (i.e. whether the use of a trademark/logo has been properly authorized by its legal owner).

23. Such procedures, in the opinion of some participants - including those from the private sector - should not result in additional costs for inspectors but would create an additional "safety net" against counterfeit goods, which are usually of bad quality and, in many cases, also dangerous for consumers.

24. At the same time, the point was made that even the most sophisticated market surveillance bodies are not in a position to control and test every product on the market. Hence, Governments aiming at establishing an efficient market surveillance system should be aware of the importance of transparency, the ethical and moral aspects, and the need to win the confidence of all clients, all of which will require a dialogue with manufacturers and consumers (However, as discussions showed, in some countries their level of understanding and willingness to get involved are not yet mature enough to obtain "ideal" results).

25. A significant part of the debate was devoted to examining how to provide information and other types of assistance to consumers to help to raise their awareness of dangerous or low quality goods. One approach includes demands from authorities for additional labelling and/or product specific requirements (which was called upon by some participants), however, in some cases this could, de facto, decrease the liability of manufacturers and contribute to confusion and misunderstanding on the part of consumers.

26. It was generally agreed that an efficient market surveillance system should be based on: a legal framework (including product liability and consumer protection laws and instruments for enforcement for public authorities); a supportive environment (an effective court system, consumer organizations, etc.); the administrative capacity for market surveillance (testing laboratories, qualified personnel, etc.). In this respect, the question of how to finance such activities was raised.

27. As a follow-up to this meeting, it was suggested that UNECE should continue the practice of holding regular meetings with all major stakeholders in market surveillance activities. Participants welcomed the establishment of the new UNECE Advisory Group on Market Surveillance as a forum for a dialogue to identify solutions and good practices. This should considerably increase the protection of consumers.

28. At the end of the Workshop, the Chairman of WP.6 and the participants expressed their gratitude to the Government of Slovakia and the Slovak Office of Standards, Metrology and Testing for their hospitality and for the excellent organization of the meeting.

Summary of proceedings of the inaugural meeting of UNECE Advisory Group on Market Surveillance

29. The inaugural meeting of the Advisory Group on Market Surveillance was held in Piestany, Slovakia, on 9 September 2003 in conjunction with the Workshop on Market Surveillance.

Scope of the activities of the Group and its terms of reference

30. The chairman of the Working Party 6 reminded delegates of the decisions taken at the UNECE International Forum on Market Surveillance, by Working Party 6 (at its twelfth session) and by the Committee for Trade, Industry and Enterprise Development (at its seventh session in May 2003) regarding the establishment of an ad hoc group of experts on market surveillance.

31. The representative of the UNECE secretariat informed delegates about the interest expressed by public authorities from a number of UNECE member States in participating in this Group. However, for financial reasons some delegates from transition countries had been unable to be present at the current meeting, but they had confirmed their willingness to contribute to the future work of the Group.

32. After discussions on the scope of its activities, the Group agreed that it would concentrate on matters identified both at the October 2002 Forum (a list of concerns raised at the Forum was reproduced in annex 2 to document TRADE/WP.6/2002/17) and at the Workshop on Market Surveillance.

33. The newly formed Advisory Group decided on its name, "Advisory Group on Market Surveillance" (acronym: "MARS" Group), appointed its chairman, Mr. D. Podhorsky, and discussed and made proposals on its terms of reference (reproduced as an addendum in document TRADE/WP.6/2003/13/Add.1). This proposal is being presented to Working Party 6 for adoption at its thirteenth session in November 2003.

34. The Group discussed and agreed on its future areas of activity and modalities of work. It also decided to organize a number of informal open-ended sub-groups (headed by facilitators) for interested experts to discuss concrete issues. Proposals from facilitators will be forwarded to the "MARS" Group with a view to deciding which practices/approaches would be the most efficient. The Group will then submit the final proposals to the Working Party for approval as recommendations for member States in the UNECE region.

Conclusions of the meeting

35. As a result of the debate the Group agreed:

- (a) To invite UNECE member Governments to join the "MARS" Group and to contribute to its activities;
- (b) To remind Governments of the importance of strong support for market surveillance network in order to protect consumers and workers and protect the market from unfair competition;
- (c) To establish under the "MARS" Group an "institute of facilitators" to permit experts to contribute to analyzing and identifying good practices in relation to particular problems identified at the Forum and Workshop, and to invite UNECE member Governments to contribute to the work of nominated "facilitators" (sub-groups which are open to all interested Governments/experts) in the areas listed below with a view to developing proposals or recommendations concerning:

- (a) Terminology in the field of market surveillance
(Facilitators: Mr. A. Femrell, SWEDAC and Mr. S. Kouzmine, UNECE secretariat)
- (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 which are interested in sharing information according to such a system
(Facilitator: Mr. I. Geri, Hungarian General Directorate for Consumer Protection)
- (c) Reference/check list (self-assessment) to be used by market surveillance practitioners
(Facilitators: Mr. W. Lentsch, Austrian Federal Ministry for Economic Affairs and Labour; Ms. M. Populova, Czech Trade Inspection)
- (d) Possibility of adapting ISO 9000 or other quality management systems (CAF etc.) to the work of market surveillance bodies/agencies
(Facilitator: Slovak Office of Standards, Metrology and Testing)
- (e) Product liability and legal framework (e.g. how to handle problems with regard to non-registered or “disappearing” companies)
(Facilitators: Ms. N. Machutova, Slovak Trade Inspection; Mr. V. Nazarenko, Belarus Committee on Standardization, Metrology and Certification)
- (f) Protection of consumers against fraud and counterfeited goods
(Facilitators: Mr. S. Lytvinenko, Ukrainian Committee on Standards; Czech Trade Inspection; Mr. I. Krejci, P&G)
- (g) Generic guidelines for good practice in market surveillance
(Facilitator: Ms. B. Hreidarsdottir; Ms. M. Bizgu, Moldovan Department of Standards)
- (h) Coordination of the work of facilitators, reporting to WP.6 and its bureau
(Chairman of the “MARS“ Group, Mr. D. Podhorsky, and Mr. S. Kouzmine, UNECE secretariat)

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