



Economic and Social Council

Distr.: General
7 September 2021

Original: English

Economic Commission for Europe

Steering Committee on Trade Capacity and Standards

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

Thirty-first session

Geneva, 24–26 November 2021

Item 4 of the provisional agenda

Advisory Group on Market Surveillance

Report on activities under the Advisory Group on Market Surveillance

Submitted by the Chair of the Advisory Group

Summary

This document sets out the report of the nineteenth annual meeting of the Advisory Group on Market Surveillance (MARS), that was held virtually on 13 July 2021. It is hereby submitted for endorsement by the Working Party.

Mandate

At the informal virtual consultation of the Steering Committee on Trade Capacity and Standards (SCTCS) of June 2020, MARS was requested to continue to report on its activities on an annual basis. This Group also requests the renewal of its mandate for a further two-year period from the thirty-first session SCTCS until the end of the thirty-third session as presented in Annex I of document ECE/CTCS/WP.6/2021/10.

Proposed decision:

“The Working Party adopts the report of MARS. It mandates the secretariat and the Advisory Group to continue to report on an annual basis on its activities.”

I. Nineteenth annual meeting of the Advisory Group on Market Surveillance

1. The nineteenth annual meeting of the Advisory Group on Market Surveillance (MARS) on 13 July 2021 was organized by the Bureau of the Working Party on Regulatory Cooperation and Standardization Policies (WP.6), its secretariat and the Bureau of MARS. It was held as a virtual meeting. The meeting was attended by over thirty-six experts, twenty of whom were women, from sixteen ECE and non-ECE member States. Individual experts also attended in their own capacity. The agenda, as well as presentations made at the meeting, are available online.¹

2. The meeting was opened by the Chair of WP.6 and the Secretary to the Steering Committee on Trade Capacity and Standards (SCTCS). Participants were informed of recent developments within WP.6 and the planning for the WP.6 annual session.

A. Market surveillance in the context of new challenges where the risk-based approach is essential

3. The Chair of MARS thanked the secretariat for the assistance in organizing this virtual meeting and welcomed the participants. She opened the discussion with a presentation on risk-based market surveillance in the context of the challenges introduced by COVID-19. She highlighted that risk assessment is a useful tool that helps market surveillance authorities to adapt their activities with a view to prevent irregularities and protect public interests such as health and safety. She highlighted solutions taken by countries faced with COVID-19 which confirmed the importance of risk assessment supported by electronic databases and information technology (IT) tools. She stressed the need for information management systems that integrate appropriate databases, such as a registry of economic operators, for exchanging information on risks. She concluded with the importance of quality management systems as these contribute to standardizing market surveillance procedures and risk assessment procedures. The COVID-19 pandemic has accentuated the need for such systems in order to mitigate the impact of the pandemic while at the same time ensuring that products on the market are safe.

4. The Director of the Office of the Executive Director of the Nigerian Export Promotion Council (NEPC) and Vice-Chair of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) International Trade Procedures Programme Development Area presented the market access of Nigerian products in other markets and the impact of COVID-19. She outlined some of the strategies which could improve market access: harmonized product testing, recognition of product testing for equivalent markets, harmonized and digitalized certification processes, involvement of export markets in product recalling, among other. She also referred to existing tools that can be put into practice such as recommendation M and N of WP.6 and the e-business standards and recommendations of UN/CEFACT.

B. Impact of COVID-19 on regulatory activities and market surveillance

5. Personal protection equipment (PPE) has been a key commodity in the fight against COVID-19. The standards for such products are key in identifying what is needed and the authorizations required. But then, as underlined by the National Board of Trade of Sweden, there can be multiple agencies involved in authorizations which requires a certain level of coordination between them. Some products may not even require such stringent standards to be effective.

6. This multiplicity of agencies involved in market surveillance was also highlighted by the Ministry of Trade of Turkey, underlining that the competent authority will often depend on the type of product. Though the vast majority of products conform with safety regulations,

¹ <https://unece.org/info/Trade/WP.6-Meetings/events/357856>.

6 per cent of those inspected are non-compliant and unsafe. The key has been to raise public awareness in the areas of product safety, market surveillance and conformity assessment. This awareness will be key with the rise in direct consumer importations through e-commerce.

C. Recent developments in market surveillance

7. International cooperation is a key factor to improving market surveillance and compliance mechanisms for future member States of the European Union (EU) in their accession process. Examples were provided from the German *Physikalisch-Technische Bundesanstalt* (PTB) on a regional cooperation project in South-East Europe² and on a regional cooperation with the countries of the eastern partnership.³ These projects aim to help countries in the region to adopt European regulations such as 2019/515,⁴ 2019/1020,⁵ 2016/425⁶ or Directive 2006/42/EC.⁷

8. The EU Regulation 2019/1020 is of direct pertinence to market surveillance and aims to improve compliance upfront, strengthen market surveillance cooperation, modernize the framework in light of e-commerce and provide more effective controls at EU borders. It establishes the central role played by economic operators, taking responsibility for products put on the market and providing necessary declarations on request of market surveillance authorities. The regulation further strengthens cooperation between market surveillance authorities at a national level, between member States and at the European Union level.

D. Deliverables by the Advisory Group

9. In 2018, WP.6 decided to update its *Market Surveillance Glossary*.⁸ This is to respond to the development of e-commerce, new actors entering the market, and more advanced concepts of market surveillance aiming to increase effectiveness. Some of the terms which are being introduced include “conformity rate”, “information society service provider”, “online interface”, “corrective action”. Some terms are proposed to be modified, including “market surveillance”, “withdrawal”, “technical regulation”, “technical specification”. The updated glossary will be circulated soon.

10. An update was also provided on the joint publication being developed with the International Trade Centre. This guide will come in support of the *Recommendation V on Addressing Product Non-Compliance Risk in International Trade* (ECE/CTCS/WP.6/2021/5).

II. Conclusions

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

- (a) To continue the exchange of information and experience among Market Surveillance Authorities (MSAs), especially with regards to the planning of

² www.see.ptb.de.

³ www.eastern-partnership.ptb.de.

⁴ Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008.

⁵ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011.

⁶ Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC.

⁷ Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC.

⁸ Decision 17, ECE/CTCS/WP.6/2018/2.

inspections and the challenges presented by the growth of e-commerce and potential cybersecurity threats

- (b) To finalize a revision of the *Market Surveillance Glossary*
 - (c) To develop guidance on cooperation between MSAs and customs
 - (d) To Review *Recommendations M on Use of Market Surveillance Infrastructure as a Complementary Means to Protect Consumers and Users against Counterfeit Goods* in view of a possible update
 - (e) To update the “Global and regional market surveillance networks”⁹
 - (f) To enhance cooperation with the WP.6 Group of Experts on Risk Management in Regulatory Systems (GRM), the WP.6 START-Ed initiative and relative education institutions as well as with UN/CEFACT
 - (g) To develop further the Market Surveillance Model Initiative covering all phases of market surveillance for planning of inspections to unsafe product recall
12. These action items would be carried out contingent on the availability of resources.
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⁹ https://unece.org/DAM/trade/wp6/documents/ref-docs/ECE-CTCS_WP6_2015_12_Annex_A.pdf.