

Working Party on Regulatory Cooperation and Standardization Policies

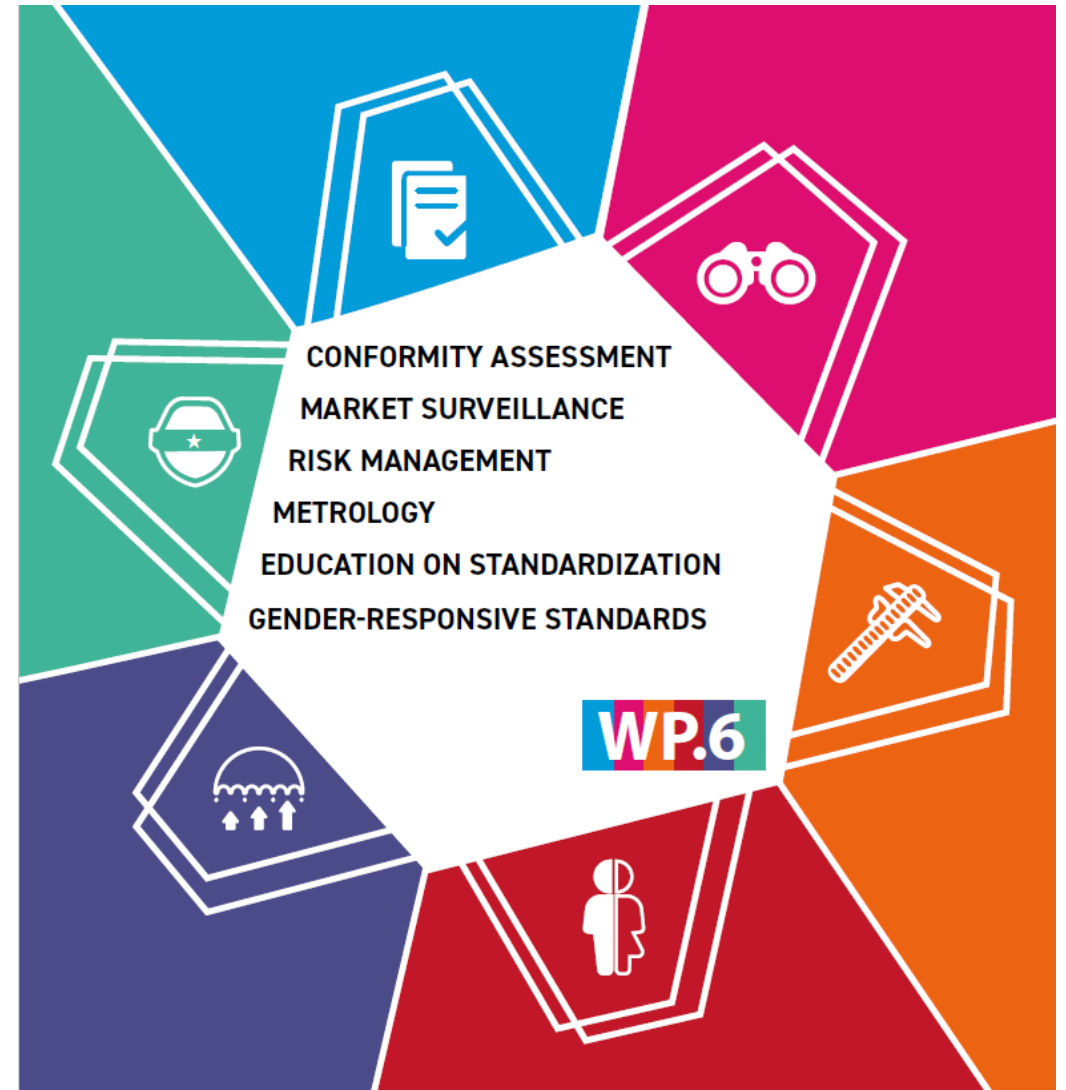
Market surveillance role in combatting counterfeit products

Background: History of Recommendation M

Lance Thompson
Secretary WP.6; Secretary MARS

UNECE – [Working Party 6](#)

21/02/2023, Geneva



Recommendation M



- Recommendation M on Use of Market Surveillance Infrastructure as a Complementary Means to Protect Consumers and Users against Counterfeit Goods
- Approved and published in 2007
- WP.6 Secretary at that time: Serguei Kouzmin
 - Thank you to Mr. Kouzmin for having provided much of the details in this presentation



Depositphoto

Rec. M recommended practice



WP.6 recommends that Governments explore the possibility, wherever feasible and where the national legal framework permits, to involve their market surveillance authorities in the fight against counterfeit goods - in a complementary way to existing national legal mechanisms - by implementing the following procedures:

(a) To provide mechanism for cooperation and coordination of market surveillance activities on the national level between market surveillance, customs and other authorities concerned,

(b) To give the possibility to right holders to inform (with documented proof) the market surveillance and other relevant state authorities on counterfeit goods,

(c) To enable market surveillance authorities to identify suspected counterfeit goods made available on the domestic market (in cooperation with other relevant authorities) during market surveillance activities, including, where appropriate, resorting to laboratories to test the goods,

(d) After having examined the compliance with all applicable requirements of the national legislation, also to enable market surveillance authorities to check if the goods might infringe intellectual property rights, and, whenever feasible and without prejudice to the national legislation on confidentiality, to involve other relevant authorities and intellectual property right holders,

WP.6 trusts that implementation of these procedures should neither create financial burdens for market surveillance authorities nor replace or duplicate existing intellectual property rights enforcement tools. It would be rather beneficial to consumers/users, and conducive to establishing "rule of the law" principles in society and to fair competition and business development.

A bit of history...



- In the beginning of the 2000's:
 - IPR protection was primarily with customs and police
 - These agencies often lacked the technical means to test for counterfeits
 - IPR protection was not a priority for these agencies (due to insufficient funds)
 - Market surveillance agencies
 - Had the relevant technical competences and testing laboratories
 - Had examples of counterfeit goods being uncovered during routine checks
 - Research at the time demonstrated that additional IPR control layer to market surveillance procedures would, in principle, not cost more



Depositphoto

The basic principle



- Counterfeits often display anomalies
 - (for example, in the quality of materials or in the work product)
- A market surveillance inspector could convey any concerns to the IPR owner or to the relevant IPR body



Depositphoto



Depositphoto

Reactions

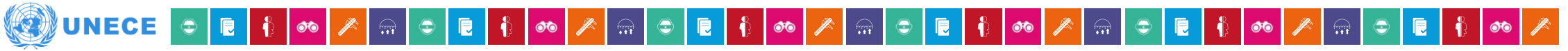


- Concern was raised that involving market surveillance in IPR protection process might lead to a confusion about institutional frameworks, terms of reference and areas of responsibility
- Businesses and companies demonstrated overwhelming support



Depositphoto

Why the wording of the 2007 recommendation



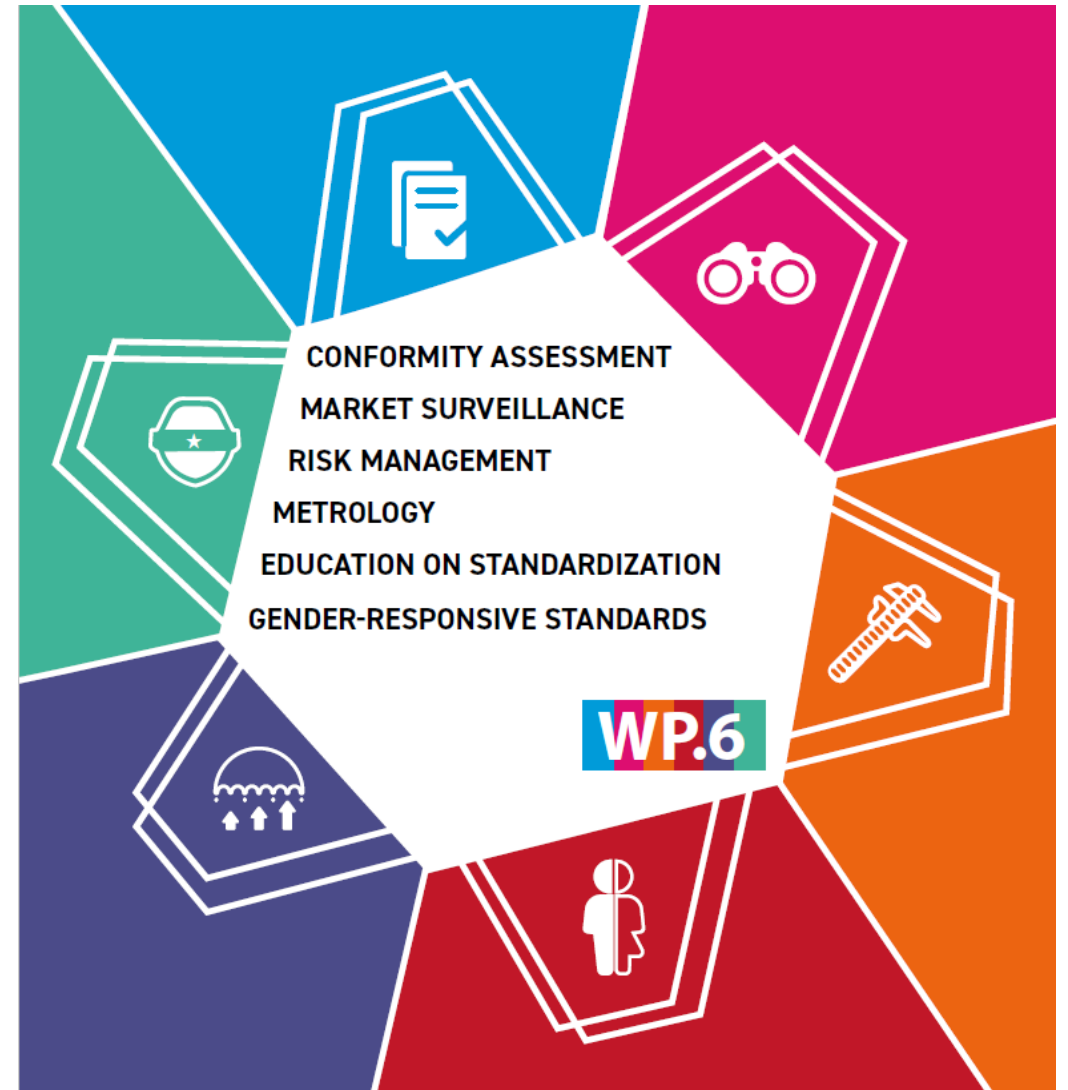
- Recommendation wording was softened. (did not suggest integrating IPR into terms of reference of market surveillance agencies) as there was some reluctance to revise mandates of existing IPR protection authorities.
- It was suggested that market surveillance agencies add IPR controls to existing inspection procedures, wherever feasible, at their discretion and within their current activities and budgets.



Depositphoto

Working Party on Regulatory Cooperation and Standardization Policies

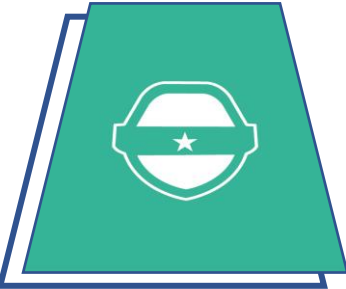
Market surveillance within
Working Party 6



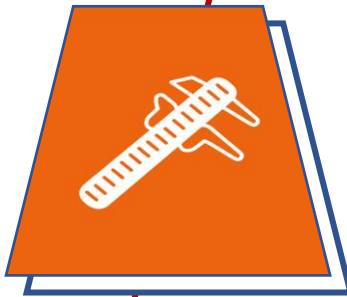
Quality Infrastructure



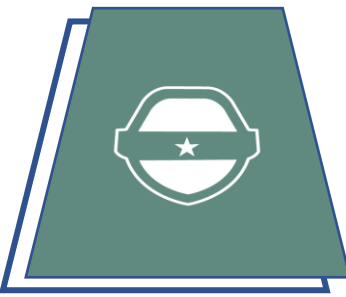
National Regulatory Framework on QI



International Standardization



Metrology



National Technical Regulations



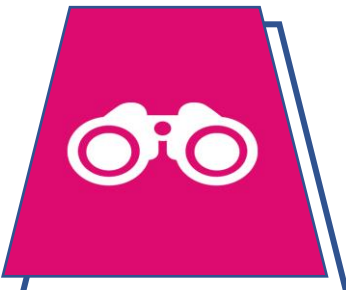
Accreditation



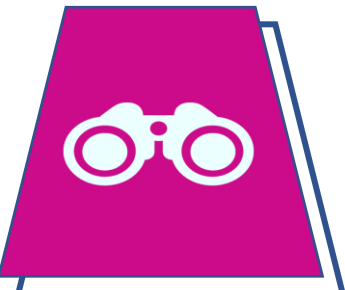
Gender Responsive Standards



International Regulatory Cooperation



Conformity Assessment



Market Surveillance



Risk Management



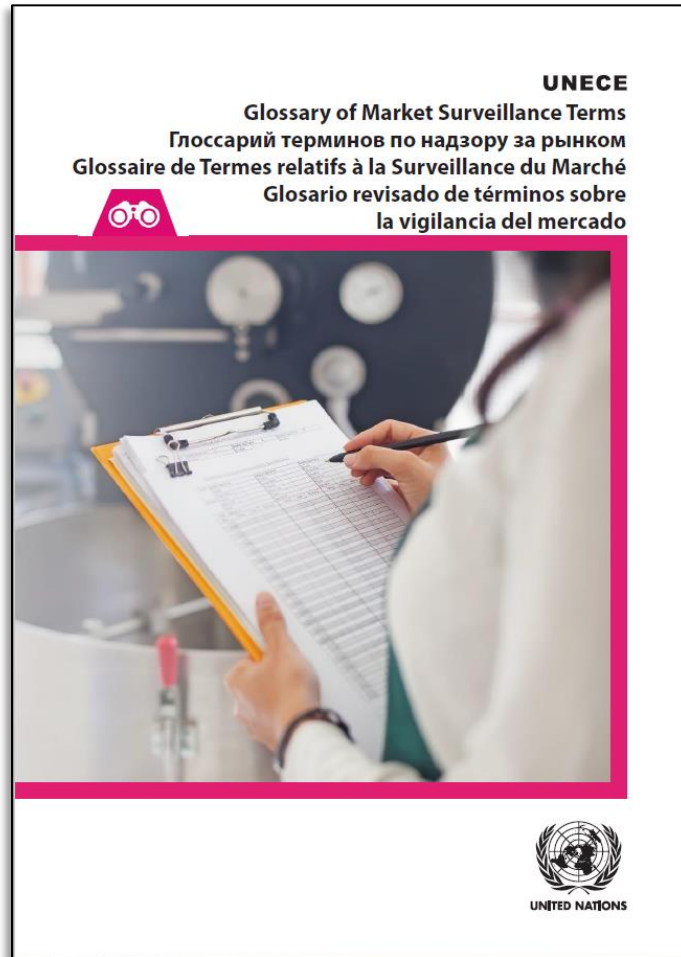
Education on Standardization

Quality Infrastructure: Market Surveillance – WP.6 references



- Recommendation M on Use of Market Surveillance Infrastructure as a Complementary Means to Protect Consumers and Users against Counterfeit Goods
- Recommendation N on Good Market Surveillance Policies and Practices
- Recommendation S on Applying Predictive Risk Management Tools for Targeted Market Surveillance
- Template for exchanging information between Market Surveillance Agencies
- Multilingual Glossary of Market Surveillance Terms
- Market Surveillance in the ECE Region

Multilingual glossary of market surveillance terms



- Purpose: to promote better understanding & harmonize terms used
- Main sources used: ISO standards / EU regulations / WTO documents
- English, French, Russian, Spanish
- Updated in 2023:
 - <https://unece.org/trade/publications/glossary-market-surveillance-terms-ecetrade389rev1>

Subgroups

Working Party on Regulatory Cooperation and Standardization Policies



MARS
Advisory Group
on Market
Surveillance



GRM
Group of Experts
on Risk
Management in
Regulatory
Systems



GRS
Team of
Specialists on
Gender-
Responsive
Standards



START
Ad-Hod Team of
Specialists on
Standardization
and Regulatory
Techniques



START-Ed
Initiative on
Education on
Standardization

Upcoming meetings in 2023

Working Party on Regulatory Cooperation and Standardization Policies



- **MARS**
 - Webinar 21/02; 26/05 (annual)
- **GRM**
 - 19/01; 16/03; 25/05 (annual); 16/07; 14/09; 22/11 (in person – tbc)
- **GRS**
 - 22/03; 24/05 (annual); 06/07; 14/09; 22/11 (in person – tbc)
- **START**
 - 23/05 (annual: pipeline & EEE)
- **START-Ed**
 - 01/03; 26/05 (annual); 11/10



WP.6 FORUM
Working Party on Regulatory Cooperation and Standardization Policies
Virtual | 22 – 26 May 2023



WP.6 ANNUAL SESSION
Working Party on Regulatory Cooperation and Standardization Policies
Geneva | 23 – 24 November 2023

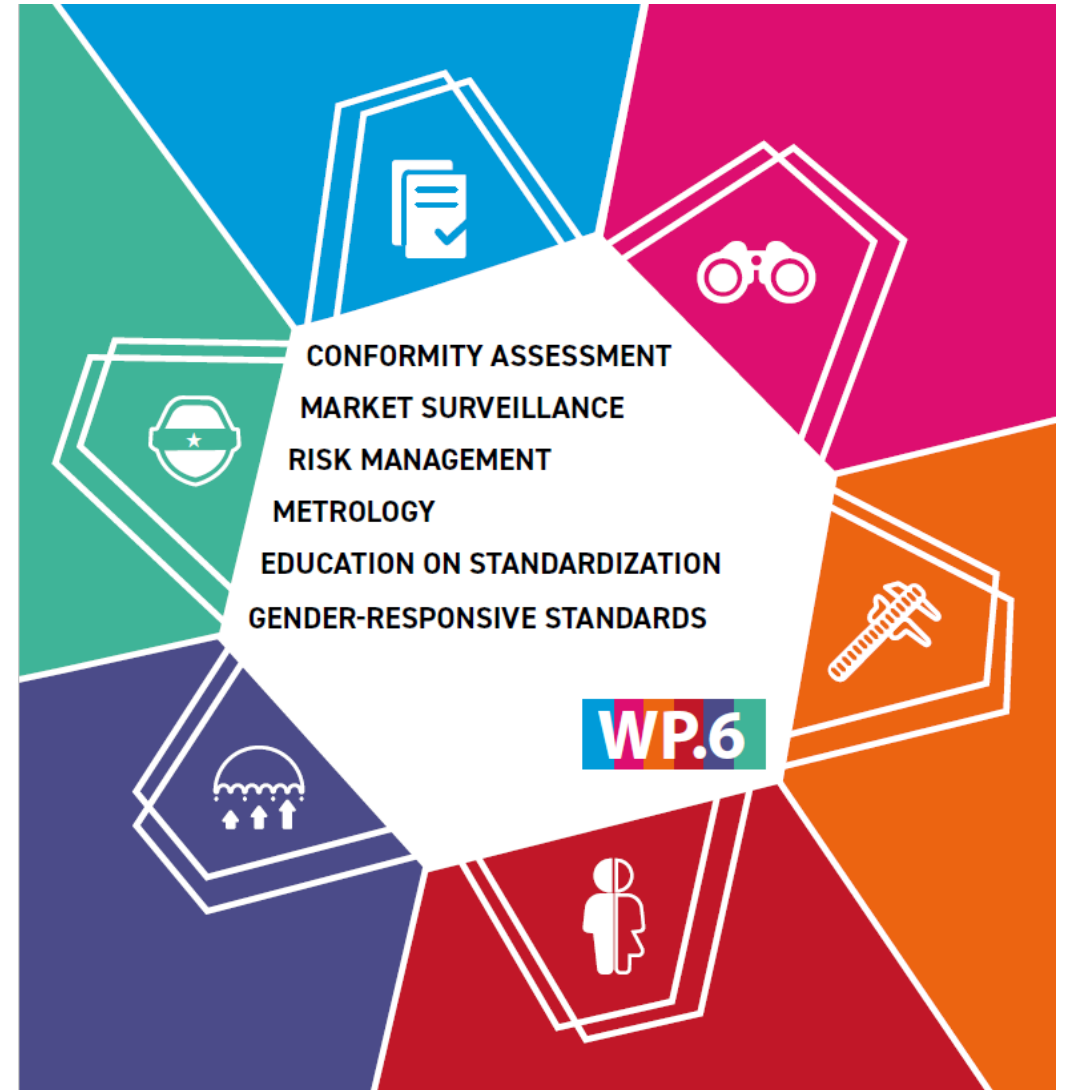


Market Surveillance to Protect Against Counterfeit Goods
Working Party on Regulatory Cooperation and Standardization Policies
Virtual | 21 February 2023



Bringing standards to supply chain experts: Launch of the WP.6 START-Ed Focal Point Network
Working Party on Regulatory Cooperation and Standardization Policies
Virtual | 1 March 2023

Working Party on Regulatory Cooperation and Standardization Policies



Merci ありがとうございました Hvala Ačiū
شكرا جزيلاً Mahalo Дякую Teşekkür ederim
Рахмат Dankon ඔබට ස්තූතියි Sagbol Ευχαριστώ
Tack Çox sağ ol Dziękuję Ci Obrigado
მადლობთ תודה 감사합니다 धन्यवाद Dankon
Natur nuhun Баярлалаа Хвала вам Dankon
Tak skal du have Diolch Хвала вам
Спасибо Go raibh maith agat Faleminderit Paldies
Grazzi Dank je Рахмат сага Faafetai Rahmat
Grazie Mulțumesc Ačiū Благодаря ти Danke
Gracias 谢谢 සුභආඥා Takk skal du ha
Salamat Aitäh Dankie Þakka þér fyrir
Ви благодарам Dėkuji Köszönöm Дзякуй
धन्यवाद Gràcies Asante
Kiitos

Thank you

Lance Thompson
Secretary WP.6; Secretary MARS

UNECE – [Working Party 6](#)

21/02/2023, Geneva