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WORKING PAPER

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From:	BG delegation
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	BG comments on Article 34 (following the WP meeting on 21 January)

14 January 2019

377	Article 34 Information and communication system	Article 34 Information and communication system	Article 34 Information and communication system	Article 34 Information and communication system
ARTICLE 34 - PARAGRAPH 1				
378	1. The Commission shall develop and maintain an information and communication system for the collection and storage of information, in a structured form, on issues relating to the enforcement of Union harmonisation legislation. The Commission, single liaison offices, and authorities designated in accordance with Article 26(1) shall have access to that system.	1. The Commission shall develop and maintain an information and communication system for the collection, <i>processing</i> and storage of information, in a structured form, on issues relating to the enforcement of Union harmonisation legislation <i>with the aim of sharing this data among Member States and allow the Commission to monitor market surveillance activities.</i> <i>This system shall have a public interface with key information in all Union languages and inform</i>	1. The Commission shall <u>further</u> develop and maintain an information and communication system for the collection and storage of information, in a structured form, on issues relating to the enforcement of Union harmonisation legislation, <u>with the aim of improving the sharing of data between Member States and providing a comprehensive overview of market surveillance activities, results and trends.</u> The Commission, <u>market surveillance authorities,</u> single liaison offices, and authorities designated in accordance with Article 26(1) shall have	1. The Commission shall <u>further</u> develop and maintain an information and communication system for the collection, <u>processing</u> and storage of information, in a structured form, on issues relating to the enforcement of Union harmonisation legislation, <u>with the aim of improving the sharing of data among Member States, including for the purpose of requests for information referred to in Article 22, and providing a comprehensive overview of market surveillance activities, results and trends and</u>

Commented [A1]: There are too many changes and reinsertion of texts already agreed in tough negotiations in the Council! We cannot accept such changes.

		<i>end-users about market surveillance activities and their results.</i> The Commission, single liaison offices, <i>market surveillance authorities</i> and authorities designated in accordance with Article 26(1) shall have access to that system. AM 195	access to that system.	<u><i>allowing the Commission to monitor market surveillance activities.</i></u> The Commission, <u>market surveillance authorities</u>, single liaison offices, and authorities designated in accordance with Article 26(1) shall have access to that system. <i>This system shall have a public interface with key information in all Union languages and inform end-users about market surveillance activities and their results.</i>
ARTICLE 34 - PARAGRAPH 1 a (new)				
378 A			<u>1a. The Commission shall further develop and maintain an IT interface to national systems.</u>	<u>1a. The Commission shall further develop and maintain an IT interface to national systems.</u>
ARTICLE 34 - PARAGRAPH 2				
379	2. Single liaison offices shall enter the following information in the system:	2. Single liaison offices shall enter the following information in the system:	2. Single liaison offices shall enter the following information in the system:	2. Single liaison offices shall enter the following information in the system:
ARTICLE 34 - PARAGRAPH 2 - POINT a				

Commented [A2]: Against the last one!

Commented [A3]: Reservation on that last para.

Commented [A4]: We don't see the need of such requirement.

380	(a) the identity of the market surveillance authorities in their Member State and areas of competence of those authorities pursuant to Article 11(1);	(a) the identity of the market surveillance authorities in their Member State and areas of competence of those authorities pursuant to Article 11(1);	(a) the identity of the market surveillance authorities in their Member State and areas of competence of those authorities pursuant to Article 11(1);	(a) the identity of the market surveillance authorities in their Member State and areas of competence of those authorities pursuant to Article 11(1);
ARTICLE 34 - PARAGRAPH 2 - POINT b				
381	(b) the identity of the authorities designated by their Member States as authorities in charge of controls on products at the external borders of the Union.	(b) the identity of the authorities designated by their Member States as authorities in charge of controls on products at the external borders of the Union.	(b) the identity of the authorities designated by their Member States as authorities in charge of controls on products at the external borders of the Union;	(b) the identity of the authorities designated by their Member States as authorities in charge of controls on products at the external borders of the Union
ARTICLE 34 - PARAGRAPH 2 - POINT b a (new)				
381A		<i>(ba) the national market surveillance strategy drawn up by their Member State pursuant to Article 13.</i> AM 196		
ARTICLE 34 - PARAGRAPH 2 - POINT c (new)				
381B			<u>(c) the national market</u>	<u>(c) the national market</u>

			<u>surveillance strategy drawn up by their Member State under Article 13 and the results from the review and assessment of the market surveillance strategy drawn up by their Member State.</u>	<u>surveillance strategy drawn up by their Member State under Article 13 and the results from the monitoring, review and assessment of the market surveillance strategy drawn up by their Member State.</u> <i>(incorporate AM 196 and para. 3(c))</i>
ARTICLE 34 - PARAGRAPH 3				
382	3. Market surveillance authorities shall enter the following information into the system:	3. Market surveillance authorities shall enter the following information into the system:	3. Market surveillance authorities shall enter the following information into the system:	3. Market surveillance authorities <i>in relation to products made available on the market in their territory, for which an in-depth check of compliance has been carried out</i> without prejudice to Article 12 of Directive 2001/95/EC and Article 19 of this Regulation, <u>and where applicable, in relation to products entering the Union market for which the process for the release for free</u>

Commented [A5]: Why that word is included here? BG is against its inclusion.
Basically, we were even again the text in para 3(c) in GA. Review and assessment is already a very strong requirement.

Commented [A6]: Newly suggested wording is not well drafted. Tough for reading.

				<u>circulation has been suspended in accordance with Article 27, in their territory</u> , shall enter the following information into the system: (drafting from row 387 Council text)
ARTICLE 34 - PARAGRAPH 3 - POINT a				
383	(a) details of the national market surveillance strategies strategy drawn up by their Member State under Article 13;	(a) details of the national market surveillance strategies strategy drawn up by their Member State under Article 13;	(a) details of the national market surveillance strategies strategy drawn up by their Member State under Article 13;	(deleted - see row 381B)
ARTICLE 34 - PARAGRAPH 3 - POINT b				
384	(b) any partnership arrangements entered into by them under Article 7	(b) any partnership arrangements entered into by them under Article 7 AM 197	(b) any partnership arrangements entered into by them under Article 7;	
ARTICLE 34 - PARAGRAPH 3 - POINT c				
385	(c) the results from the monitoring, review and assessment of the market surveillance strategy drawn up by their Member State;	(c) the results from the monitoring, review and assessment of the market surveillance strategy drawn up by their Member State;	(c) the results from the monitoring, review and assessment of the market surveillance strategy drawn up by their Member State;	(deleted - see row 381B)

ARTICLE 34 - PARAGRAPH 3 - POINT d				
386	(d) all complaints received by them and reports made by them about issues relating to non-compliant products;	(d) all complaints received by them and reports made by them about issues relating to non-compliant products;	(d) all complaints received by them and reports made by them about issues relating to non-compliant products;	(d) all complaints received by them and reports made by them about issues relating to non-compliant products;
ARTICLE 34 - PARAGRAPH 3 - POINT e				
387	(e) in relation to products made available on the market in their territory, without prejudice to Article 12 of Directive 2001/95/EC and Article 19 of this Regulation, the following information:	(e) in relation to products made available on the market in their territory, without prejudice to Article 12 of Directive 2001/95/EC and Article 19 of this Regulation, the following information:	(e) in relation to products made available on the market in their territory , <u>for which an in-depth check of compliance has been carried out</u> without prejudice to Article 12 of Directive 2001/95/EC and Article 19 of this Regulation, <u>and where applicable, in relation to products entering the Union market for which the process for the release for free circulation has been suspended in accordance with Article 27, in their territory,</u> the following information <u>concerning</u> :	(see row 382)

Commented [A7]: Keep the GA.

ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT i				
388	(i) any non-compliance;	(i) any non-compliance;	(i) any non-compliance;	(i) any non-compliance;
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT ii				
389	(ii) the identification of hazards and the economic operator concerned;	(ii) the identification of hazards and the economic operator concerned;	(ii) the identification of hazards and the economic operator concerned;	(ii) the identification of hazards and the economic operator concerned;
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT iii				
390	(iii) any possible risks not restricted to their territory;	(iii) any possible risks not restricted to their territory;	(iii) any possible risks not restricted to their territory;	(iii) any possible risks not restricted to their territory;
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT iv				
391	(iv) the results of testing carried out by them or the concerned economic operator;	(iv) the results of testing carried out by them or the concerned economic operator;	(iv) the results of testing carried out by them or the concerned economic operator;	(see row 394B Council text)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT v				
392	(v) details of voluntary measures taken by economic operators;	(v) details of voluntary measures taken by economic operators;	(v) details of voluntary measures taken by economic operators;	
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vi				

Commented [A8]: Keep GA.

Commented [A9]: Keep GA.

Commented [A10]: Keep GA.
Limit the entering of information only to the really necessary one!

393	(vi) details of restrictive measures taken by that market surveillance authority, where applicable, the penalties imposed;	(vi) details of restrictive measures taken by that market surveillance authority, where applicable, the penalties imposed;	(vi) details of restrictive measures taken by that market surveillance authority, where applicable, the penalties imposed;	(see row 394A Council text)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii				
394	(vii) the outcome of contacts with an economic operator and the follow up by that economic operator;	(vii) the outcome of contacts with an economic operator and the follow up by that economic operator;	(vii) the outcome of contacts with an economic operator and the follow up by that economic operator;	(vii) the outcome of contacts with an economic operator and the follow up by that economic operator <u>including any corrective action taken by economic operators concerned;</u> (see row 394C Council text)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii a				
394 A			<u>(viia) measures according to Article 15(4) taken by that market surveillance authority;</u>	<u>(viia) measures according to Article 15(1d) taken by that market surveillance authority and, where applicable, the penalties imposed;</u> (see row 393)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii b				
394				

Commented [A11]: First part should be the corrective measures, then the follow-up!

B			<u>(viib) reports of testing carried out by them;</u>	<u>(viib) reports of testing carried out by them or by the concerned economic operator;</u> (see row 391)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii c				
394 C			<u>(viic) corrective action taken by economic operators concerned;</u>	(see row 394)
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii d				
394 D			<u>(viid) readily available reports on injuries caused by the product in question;</u>	<u>(viid) readily available reports on injuries caused by the product in question</u>
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT vii e				
394E			<u>(viie) any objection raised by a Member State in accordance with the applicable safeguard procedure in the Union harmonisation legislation applicable to the product and any subsequent follow-up;</u>	<u>(viie) any objection raised by a Member State in accordance with the applicable safeguard procedure in the Union harmonisation legislation applicable to the product and any subsequent follow-up;</u>
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT viii				
395				

Commented [A12]: This wording is still unclear for us. Not all MSAs possess within the area of their competences could have such information at their disposal.

	(viii) failures by a person responsible for compliance information to comply with Article 4 (3);	(viii) failures by a person responsible for compliance information to comply with Article 4 (3);	(viii) when applicable, failures by a person responsible for compliance information authorised representatives to comply with Article 4(3) 4a(2) and (3);	(viii) when applicable, failures by a person responsible for compliance information authorised representatives to comply with Article 4(3) 4a(2) and (3);
ARTICLE 34 - PARAGRAPH 3 - POINT e - POINT ix				
396	(ix) failures by manufacturers to comply with Article 4(4).	(ix) failures by manufacturers to comply with Article 4(4).	(ix) when available, failures by manufacturers to comply with Article 4(4) 4a(1).	(ix) when available, failures by manufacturers to comply with Article 4(4) 4a(1).
ARTICLE 34 - PARAGRAPH 3 - POINT f				
397	(f) in relation to products entering the Union market for which the process for the release for free circulation has been suspended in accordance with Article 27, in their territory, the following information:	(f) in relation to products entering the Union market for which the process for the release for free circulation has been suspended in accordance with Article 27, in their territory, the following information:	(f) in relation to products entering the Union market for which the process for the release for free circulation has been suspended in accordance with Article 27, in their territory, the following information:	<i>(rows 397 to 404 incorporated in point (e))</i>
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT i				
398	(i) any non-compliance;	(i) any non-compliance;	(i) any non-compliance;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT ii				

399	(ii) the identification of any hazards and the economic operator concerned;	(ii) the identification of any hazards and the economic operator concerned;	(ii) the identification of any hazards and the economic operator concerned;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT iii				
400	(iii) the results of testing carried out by them or the concerned economic operator;	(iii) the results of testing carried out by them or the concerned economic operator;	(iii) the results of testing carried out by them or the concerned economic operator;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT iv				
401	(iv) details of restrictive measures taken by that market surveillance authority and, where applicable, the penalties imposed;	(iv) details of restrictive measures taken by that market surveillance authority and, where applicable, the penalties imposed;	(iv) details of restrictive measures taken by that market surveillance authority and, where applicable, the penalties imposed;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT v				
402	(v) the outcome of contacts with an economic operator and the follow up by that economic operator;	(v) the outcome of contacts with an economic operator and the follow up by that economic operator;	(v) the outcome of contacts with an economic operator and the follow up by that economic operator;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT vi				
403				

	(vi) any other control or test reports carried out by or at the request of the market surveillance authority;	(vi) any other control or test reports carried out by or at the request of the market surveillance authority;	(vi) any other control or test reports carried out by or at the request of the market surveillance authority;	
ARTICLE 34 - PARAGRAPH 3 - POINT f - POINT vii				
404	(vii) any objection raised by a Member State in accordance with the applicable safeguard procedure in the Union harmonisation legislation applicable to the product and any subsequent follow-up.	(vii) any objection raised by a Member State in accordance with the applicable safeguard procedure in the Union harmonisation legislation applicable to the product and any subsequent follow-up.	(vii) any objection raised by a Member State in accordance with the applicable safeguard procedure in the Union harmonisation legislation applicable to the product and any subsequent follow-up.	
ARTICLE 34 - PARAGRAPH 3 a (new)				
404 A			<u>3a. Where market surveillance authorities consider it useful, they may enter any additional information related to the checks they perform and results of testing carried out by or at their request.</u>	<u>3a. Where market surveillance authorities consider it useful, they may enter any additional information related to the checks they perform and results of testing carried out by <i>them</i> or at their request.</u> <i>(see row 403)</i>
ARTICLE 34 - PARAGRAPH 4				

405	4. Where relevant for the enforcement of Union harmonisation legislation and for the purposes of minimising risk and combating fraud, customs authorities shall extract from national customs systems and transmit to the information and communication system data relating to the placing of products under the customs procedure 'release for free circulation' and the results of controls related to product safety.	4. Where relevant for the enforcement of Union harmonisation legislation and for the purposes of minimising risk and combating fraud, customs authorities shall extract from national customs systems and transmit to the information and communication system data relating to the placing of products under the customs procedure 'release for free circulation' and the results of controls related to product safety.	4. Where relevant for the enforcement of Union harmonisation legislation and for the purposes of minimising risk and combating fraud , customs authorities shall extract from national customs systems and transmit to the information and communication system data relating to products the placing of products under the customs procedure 'release for free circulation' and the results of controls related to product safety <u>the enforcement of Union harmonisation legislation and transmit it to the information and communication system.</u>	4. Where relevant for the enforcement of Union harmonisation legislation and for the purposes of minimising risk and combating fraud, customs authorities shall extract from national customs systems and transmit to the information and communication system data relating to the placing of products under the customs procedure 'release for free circulation' and the results of controls related to product safety <u>and transmit it to the information and communication system.</u>
ARTICLE 34 - PARAGRAPH 4				
406	The Commission, in the context of the EU Single Window environment for customs, shall develop an electronic interface to enable the transmission of such data. This	The Commission, in the context of the EU Single Window environment for customs, shall develop an electronic interface to enable the transmission of such data. This interface	The Commission, in the context of the EU Single Window environment for customs, shall develop an electronic interface to enable the transmission of such data. This interface shall be	<u>5a. The Commission, in the context of the EU Single Window environment for customs, shall develop an electronic interface to enable the transmission</u>

Commented [A13]: Keep Council text.
Too many of the deleted words are reinserted – against!

	interface shall be in place [four years] from the date of adoption of the implementing acts.	shall be in place [four years] from the date of adoption of the implementing acts.	in place [four years] from the date of adoption of the implementing acts.	<u>of data between national custom systems and the information and communication system. This interface shall be in place [four years] from the date of adoption of the implementing acts.</u> (see para. 5a - row 407A Council text)
ARTICLE 34 - PARAGRAPH 5				
407	5. Market surveillance authorities shall recognise the validity of and shall make use of test reports prepared by or for their counterparts in other Member States and which have been entered into the information and communication system.	5. Market surveillance authorities shall recognise the validity of and shall make use of test reports prepared by or for their counterparts in other Member States and which have been entered into the information and communication system.	5. Market surveillance authorities shall recognise the validity of and shall make use of test reports prepared by or for their counterparts in other Member States and which have been entered into the information and communication system.	5. Market surveillance authorities shall recognise the validity of and shall make use of test reports prepared by or for their counterparts in other Member States and which have been entered into the information and communication system.
ARTICLE 34 - PARAGRAPH 5 a (new)				
407A		<i>5a. The information system shall allow file transmission between market surveillance authorities, and shall be the preferred instrument</i>	<u>5a. The Commission shall develop an electronic interface to enable the transmission of data between national custom systems and the information and</u>	(para. 5a Council text moved to para. 4 row 406 para. 5a EP text partially redrafted and moved to para. 1 row 378)

Commented [A14]: Why?

		<i>for requests for information referred to in Article 22.</i>	<u>communication system.</u> <u>This interface shall be in place [four years] from the date of adoption of the implementing acts.</u>	
		AM 198		
ARTICLE 34 - PARAGRAPH 6				
408	6. The Commission shall adopt implementing acts specifying the details of implementation arrangements for paragraphs 1 to 4 and defining the data to be transmitted in accordance with paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63.	6. The Commission shall adopt implementing acts specifying the details of implementation arrangements for paragraphs 1 to 4 and defining the data to be transmitted in accordance with paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63.	6. The Commission shall adopt implementing acts specifying the details of implementation arrangements for paragraphs 1 to 4 <u>5a, in particular on the data processing that will be applied on data collected in accordance with paragraph 1</u> and defining the data to be transmitted in accordance with paragraphs 4 <u>and 5a</u> . Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63 <u>(2)</u> .	6. The Commission shall adopt implementing acts specifying the details of implementation arrangements for paragraphs 1 to 4 <u>5a, in particular on the data processing that will be applied on data collected in accordance with paragraph 1</u> and defining the data to be transmitted in accordance with paragraphs 4 <u>and 5a</u> . Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63 <u>(2)</u> .