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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 13 (following the WP meeting on 21 January)

16 January 2019

The general obligations for assessing and reviewing national strategies (as referred to in Article 34 paragraph 2, row 381B) shall be also discussed in the context of this article

Commented [A1]: BG is against such a text in row 381B from the beginning, which was not subject to detailed discussions in the group.
Such a requirement is not so general in fact, but in combination with row 183 is rather excessive!
The compromise on Art 13 at Council was a very delicate one. Many MS are not happy with that article since it's burdensome.

ARTICLE 13				
175	Article 13 National market surveillance strategies	Article 13 National market surveillance strategies	Article 13 National market surveillance strategies	Article 13 National market surveillance strategies
ARTICLE 13 - PARAGRAPH 1				
176	1. Each Member State shall draw up a national market surveillance strategy, as a minimum, every 3 years. The strategy shall promote a consistent, comprehensive and integrated approach to market surveillance and enforcement of Union harmonisation legislation	1. Each Member State shall draw up a national market surveillance strategy, as a minimum, every 3 years. The <i>national</i> strategy shall <i>take into account the priorities set out within the work programme of the Network established under Article 31</i> and promote a consistent, comprehensive	1. Each Member State shall draw up an an overarching national market surveillance strategy, as a minimum, every 3 4 years, at first after 3 years after coming into force of this Regulation . The strategy shall promote a consistent, comprehensive and integrated approach to market surveillance and enforcement	1. Each Member State shall draw up an overarching national market surveillance strategy, as a minimum, every 4 years, at first after 3 years after coming into force of this Regulation . The <i>national</i> strategy shall take into account the priorities set out within the work programme of the Network

	within the territory of the Member State and shall include all sectors and stages of the product supply chain, including imports and digital supply chains.	and integrated approach to market surveillance and enforcement of Union harmonisation legislation within the territory of the Member State, including the market surveillance of products sold online , and shall include all sectors and stages of the product supply chain, including imports and digital supply chains.	of Union harmonisation legislation within the territory of the Member State. <u>When drawing up the strategy and shall include all sectors falling within the Union harmonisation legislation</u> and stages of the product supply chain, including imports and digital supply chains, <u>shall be considered.</u>	<i>established under Article 31</i> and promote a consistent, comprehensive and integrated approach to market surveillance and enforcement of Union harmonisation legislation within the territory of the Member State. <u>When drawing up the strategy, and shall include all sectors falling within the Union harmonisation legislation</u> and stages of the product supply chain, including imports and digital supply chains, <u>and products sold online shall be considered.</u>
ARTICLE 13 - PARAGRAPH 2				
177	2. The national market surveillance strategy shall include, as a minimum, the following elements:	2. The national market surveillance strategy shall include, as a minimum at least , the following	2. The national market surveillance strategy shall include, as a minimum, the following elements, <u>when this information does not</u>	2. The national market surveillance strategy shall include, as a minimum at least , the following

Commented [A2]: Could be problematic! Depending on the resources.
Anyway, the network shall set up the general lines, but is that wording necessary?
If the majority is OK, but maybe include the word "generally take into account"

Commented [A3]: Isn't it covered by digital supply chains?

Commented [A4]: Ok, flexible

		elements: AM 95	<u>compromise market surveillance activities:</u>	elements:
ARTICLE 13 - PARAGRAPH 2 - POINT a				
178	(a) an assessment of the occurrence of non-compliant products, in particular taking into account the risk-based controls referred to in Articles 12(2) and 26(3), and market trends that may affect non-compliance rates in the categories of product;	(a) an assessment of the occurrence of non-compliant products, in particular taking into account the risk-based controls referred to in Articles 12(2) and 26(3), products that were subject to an emergency decision under Article 13 of Directive 2001/95/EC , and market trends that may affect non-compliance rates in the categories of product, including, in particular, threats and risks related to Internet of Things and Artificial Intelligence enabled devices;	(a) an assessment the available information of the occurrence of non-compliant products, in particular taking into account the risk-based controls referred to in Articles 12(3) and 26(3), and, where applicable , market trends that may affect non-compliance rates in the categories of product;	(a) an assessment of the information of occurrence of non-compliant products, in particular taking into account the risk-based controls referred to in Articles 12(2) and 26(3), and, where applicable , market trends that may affect non-compliance rates in the categories of product, including, in particular, threats and risks related to emerging technologies;

Commented [A5]: The wording is not good!

Commented [A6]: Threats is not a defined term and is not appropriate to be used. Preference to delete the last part in bold, GA. If not possible, at least without threats.

		AM 96		
ARTICLE 13 - PARAGRAPH 2 - POINT b				
179	(b) the areas identified as a priority for the enforcement of Union harmonisation legislation;	(b) the areas identified as a priority for the enforcement of Union harmonisation legislation;	(b) the areas identified by the Member States as a priority for the enforcement of Union harmonisation legislation;	(b) the areas identified as a priority for the enforcement of Union harmonisation legislation;
ARTICLE 13 - PARAGRAPH 2 - POINT b a (new)				
179A		<i>(ba) the areas identified as a priority for the surveillance activities of products offered for sale online, taking into account proactive and reactive market surveillance actions;</i> AM 97		<i>Consider to be covered by letter (b), row 179</i>

Commented [A7]: ok

Commented [A8]: ok

ARTICLE 13 - PARAGRAPH 2 - POINT c				
180	(c) the enforcement actions planned in order to reduce the occurrence of non-compliance in those areas identified as a priority, including, where relevant, the minimum control levels envisaged for categories of product which have significant levels of non-compliance;	(c) the specific enforcement actions planned in order to reduce the occurrence of non-compliance in those areas identified as a priority under points (b) and (ba) , including, where relevant, the minimum control levels envisaged for categories of product which have significant levels of non-compliance; AM 98	(c) the enforcement actions activities planned in order to reduce the occurrence of non-compliance in those areas identified as a priority, including, where relevant, the minimum control levels envisaged for categories of product which have significant levels of non-compliance;	(c) the enforcement activities planned in order to reduce the occurrence of non-compliance in those areas identified as a priority, including, where relevant, the minimum control levels envisaged for categories of product which have significant levels of non-compliance;
ARTICLE 13 - PARAGRAPH 2 - POINT d				
	(d) an assessment of the effective performance and coordination of market	(d) an assessment of the effective performance and coordination of market	(d) an assessment of the effective performance and coordination of market	To be discussed

Commented [A9]: Ok, editorial

Commented [A10]: Problematic, excessive requirement, against reinsertion.

181	surveillance activities pursuant to this Regulation, and, where applicable, the identification of capacity building needs and measures;	surveillance activities pursuant to this Regulation, and, where applicable, the identification of capacity building needs and measures;	surveillance activities pursuant to this Regulation, and, where applicable, the identification of capacity building needs and measures;	
ARTICLE 13 - PARAGRAPH 2 - POINT e				
182	(e) an assessment of the cooperation with market surveillance authorities in other Member States and of joint actions, where applicable;	(e) an assessment of the cooperation with market surveillance authorities in other Member States and of joint actions, where applicable;	(e) an assessment of the cooperation with market surveillance authorities in other Member States and of joint actions, where applicable;	To be discussed
ARTICLE 13 - PARAGRAPH 2 - POINT f				
183	(f) a monitoring programme for the purposes of measuring progress in the	(f) a monitoring programme for the purposes of measuring progress in the	(f) a monitoring programme for the purposes of measuring progress in the implementation	<u>(f) criteria for assessing and measuring the progress in the implementation of the</u>

Commented [A11]: Problematic, excessive requirement, against reinsertion.

	implementation of the strategy and verifying compliance with this Regulation.	implementation of the strategy and verifying compliance with this Regulation.	of the strategy and verifying compliance with this Regulation.	strategy.
ARTICLE 13 - PARAGRAPH 3				
184	3. Member States shall communicate their national market surveillance strategy through the system referred to under Article 34.	3. Member States shall communicate their national market surveillance strategy to the Commission and other Member States through the system referred to under Article 34. Member States shall make the information contained in their national market surveillance strategies public at the full extent or partially, in accordance with Article 16 of this Regulation. AM 99	3. Member States shall communicate their national market surveillance strategy through the system referred to under Article 34.	3. Member States shall communicate their national market surveillance strategy to the Commission and other Member States through the system referred to under Article 34. Member States shall make the information contained in their national market surveillance strategies public at the full extent or partially, in accordance with Article 16 of this Regulation.

Commented [A12]: Problematic, we are against reinsertion of monitoring programme and such measuring indicators. The strategy itself is more than a burdensome requirement and adding assessing elements is too much.

Commented [A13]: That is considered problematic! BG is against!
We don't see the logic since it could jeopardise the market surveillance activities planned. The requirement should be kept only to the first part – via the system under article 34!