



Council of the European Union
General Secretariat

**Interinstitutional files:
2017/0353(COD)**

Brussels, 24 January 2019

WK 1088/2019 INIT

LIMITE

**ENT
MI
CONSOM
COMPET
UD
CHIMIE
COMER
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	BG delegation
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	BG comments on Article 12b (following the WP meeting on 21 January)

New RO Presidency proposal for Article 12b

Text in green - Agreed, Text in yellow - For possible agreement , Text in red - For further discussion, Text in blue - RO PCY compromise

	Commission Proposal	EP Mandate	Council General Approach	Draft Agreement
ARTICLE 12 b (new)				
174K		<i>Article 12b</i>		<i>Article 12b</i>
		<i>Monitoring and evaluation of the market surveillance authorities</i>		<i>Peer evaluation</i>
		<i>1. Member States shall monitor their national market surveillance authorities at regular intervals in order to ensure that they fulfil the requirements laid down in this Regulation on a continuing basis.</i>		
		<i>2. Where a national market surveillance authority does not meet the requirements of this Regulation or fails to fulfil its obligations, the Member State concerned shall take appropriate actions or shall ensure that proper actions are taken.</i>		
		<i>3. National market surveillance authorities shall be subject to peer evaluation in</i>		<i>1. National market surveillance authorities shall organise peer evaluation in order to strengthen their market surveillance activities.</i>

Commented [a1]: BG still maintains its strong position against peer reviews.
At this stage we are not ready to show any flexibility. Any binding provisions should be avoided!
We would like to point out again that our strong position is due to the fact that such a requirement is too burdensome for small countries with limited capacity, such as Bulgaria. A peer review requires a number of resources – including time, human resources, logistics, coordination and organisation activities, etc. Also, linguistic issue is a very important factor, since a great number of documents should be checked within a framework of such a review!!! It's senseless to engage staff in language resources. Could it be acceptable to carry out a review in Bulgarian and check the relevant documentation without translation???

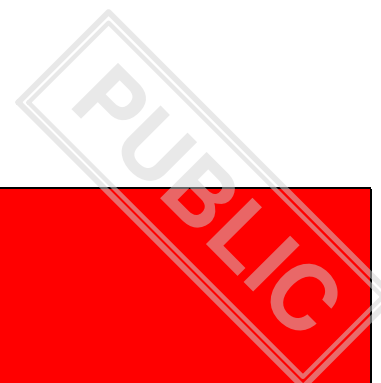
We are afraid that this requirement should be considered especially carefully before showing any kind of flexibility by delegations, as it could have great undesired effect to the administrative capacity of small MS.

Let's leave the MSAs do their purely market surveillance work. The assessment of their effectiveness will be shown in the results of strategy implementation.

	<i>respect of activities of market surveillance of products which they carry out pursuant to this Regulation in order to assess whether these market surveillance authorities meet the requirements of this Regulation, assist them and provide guidance in order to strengthen their activities and ensure the uniform application of this Regulation.</i> <i>4. Peer evaluations shall cover the assessments of the procedures put in place by market surveillance authorities, in particular the procedures for checking the compliance of the products that are subject to Union harmonisation legislation, communication and cooperation mechanisms with other market surveillance authorities and other relevant authorities, the competence of the personnel, the correctness of the checks and the inspection methodology as well as the correctness of the results. Peer evaluation shall also assess whether market</i>		
--	---	--	--

	<i>surveillance authorities in question have sufficient recourses for the proper performance of their duties as required by Article 11(4).</i> <i>5. Peer evaluation of a market surveillance authority shall be carried out by two market surveillance authorities of other Member States and the Commission and shall be carried out at least once every five years.</i> <i>6. Taking duly into account the considerations of the Network established under Article 31, the Commission shall adopt delegated acts in accordance with Article 62a concerning setting out a plan for the peer evaluations covering a period of at least five years, laying down criteria regarding the composition of the peer evaluation team, the methodology used for the peer evaluation, the schedule, periodicity and the other tasks related to the peer evaluation.</i> <i>7. The outcome of the peer</i>		2. In order to provide guidance to strengthen the market surveillance activities, Peer evaluations of each Member State's market surveillance authorities shall be carried out by two or more market surveillance authorities of other Member States, assisted by the Commission. 3. Peer evaluations shall take place on the basis of an evaluation methodology and a rolling plan developed by the Network established under Article 31. The methodology shall cover enforcement strategies, operational capacity, and communication and cooperation mechanisms.
--	---	--	--

Commented [a2]: There is some positive improvement and softening of the wording only in para 3 and 4.



	<i>evaluations shall be examined by the Network. The Commission shall draw up a summary of the outcome and make it public.</i> <i>8. Member States shall report to the Commission and the Network on how they address the recommendations included in the outcome of the assessment.</i> AM 93		4. The outcome of the peer evaluations shall be reported to the Network established under Article 31. <i>[Financing peer evaluations should be added in Article 36(1) on what the Union shall finance.]</i>
--	---	--	--