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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 Articles 11 and 12 (following the WP meeting on 21 January)

New RO Presidency proposal for Articles 11 and 12 (with regard to online sales provisions found in EP proposal for a new Article 12a)

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 Mandate	Draft Agreement
ARTICLE 11				
148	Article 11 Market surveillance authorities and single liaison offices	Article 11 Market surveillance authorities and single liaison offices	Article 11 Designation of M market surveillance authorities and the single liaison offices	Article 11 Designation of market surveillance authorities and the single liaison office
ARTICLE 11 - PARAGRAPH 1				
149	1. Each Member State shall designate one or more market surveillance authorities in its territory. It shall inform the Commission, through the Network established under Article 31, and the other Member States of the market surveillance authorities designated by it and the areas of competence of each of those authorities, using the information and communication system referred to in Article 34.	1. Each Member State shall designate one or more market surveillance authorities in its territory. It shall inform the Commission through the Network established under Article 31 , and the other Member States of the its market surveillance authorities designated by it and the areas of competence of each of those authorities, using the information and communication system referred to in Article 34.	1. Each Member State shall designate one or more market surveillance authorities in its territory. It shall inform the Commission, through the Network established under Article 31 , and the other Member States of the market surveillance authorities designated by it and the areas of competence of each of those authorities, using the information and communication system referred to in Article 34.	<u>-1. Member States shall organise and carry out market surveillance as provided for in this Regulation.</u> <i>moved from Council's Article 10a paragraph 1</i> 1. <u>For the purpose of paragraph -1,</u> Each Member State shall designate one or more market surveillance authorities in its territory. It shall inform the Commission through the Network established under Article 31 , and the other Member States of the its market surveillance authorities designated by it and the areas of competence of each of those authorities, using the information and communication system referred to in Article 34.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		AM 77		
ARTICLE 11 - PARAGRAPH 2				
150	2. Each Member State shall designate one of its market surveillance authorities or any other competent authority as a single liaison office.	2. Each Member State shall designate one of its market surveillance authorities or any other competent authority as a single liaison office.	2. Each Member State shall designate one of its market surveillance authorities or any other competent authority as appoint a single liaison office.	2. Each Member State shall appoint a single liaison office.
ARTICLE 11 - PARAGRAPH 3				
151	3. The single liaison office of a Member State shall be responsible for coordinating the enforcement and market surveillance activities of the market surveillance authorities designated by that Member State.	3. The single liaison office of a Member State shall be responsible for coordinating the enforcement and market surveillance activities of the market surveillance authorities <i>and other authorities, in particular, with customs authorities responsible for the control of products entering the Union market</i> designated by that Member State.	3. The single liaison office of a Member State shall at least be responsible for coordinating the enforcement and market surveillance activities representing the coordinated position of the market surveillance authorities and the market surveillance authorities designated by that Member State under Article 26(1) and for the national strategies as set out in Article 13. It shall also assist in the cooperation between market surveillance authorities in different Member States as set out in Chapter VI.	3. The single liaison office of a Member State shall be responsible for coordinating the enforcement and representing the coordinated position market surveillance activities of market surveillance authorities and the market surveillance authorities designated by that Member State under Article 26(1), representing their coordinated position and assisting in the cooperation between market surveillance authorities in different Member States as set out in Chapter VI. It shall also be responsible for the national strategies as set out in Article 13.

Commented [A1]: Improvement as regards the deletion of “coordinating the activities...”! Could be flexible on the first part.
However, by separating the national strategies in another sentence, gives another reading (unacceptable) of the responsibility for the strategies. Needs redrafting in that direction.
Better to leave in a separate sentence the support function for the cross-border assistance mechanism.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		AM 78		
ARTICLE 11 - PARAGRAPH 4				
152	4. Member States shall ensure that their market surveillance authorities and single liaison office have the necessary resources, including sufficient budgetary and other resources, expertise, procedures and other arrangements for the proper performance of their duties.	4. Member States shall ensure that their market surveillance authorities and single liaison office have the necessary resources, including sufficient budgetary and other resources, expertise, procedures and other arrangements <i>as well as a sufficient number of competent personnel at its disposal</i> for the proper performance of their duties. AM 79	4. Member States shall ensure that their market surveillance authorities and single liaison office have the necessary resources, including sufficient budgetary and other resources, expertise, procedures and other arrangements for the proper performance of their duties.	4. In order to carry out market surveillance of products made available online and offline with the same effectiveness for all distribution channels, Member States shall ensure that their market surveillance authorities and single liaison office have the necessary resources, including sufficient budgetary and other resources, including sufficient number of competent personnel, expertise, procedures and other arrangements for the proper performance of their duties.
ARTICLE 11 - PARAGRAPH 5				
153	5. Where there is more than one market surveillance authority in their territory, Member	5. Where there is more than one market surveillance authority in their territory, Member	5. Where there is more than one market surveillance authority in their territory, Member States shall ensure that the respective duties of	5. Where there is more than one market surveillance authority in their territory, Member States shall ensure that the respective duties of those authorities are clearly defined and that

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	States shall ensure that the respective duties of those authorities are clearly defined and that those authorities collaborate closely so that they can discharge their duties effectively.	States shall ensure that the respective duties of those authorities are clearly defined and that <i>appropriate communication and coordination mechanism are established to enable</i> those authorities <i>to</i> collaborate closely so that they can discharge <i>and exercise</i> their duties effectively. AM 80	those authorities are clearly defined and that <u>appropriate communication and coordination mechanisms are established to enable</u> those authorities <u>to</u> collaborate closely so that they can <u>and</u> discharge their duties effectively	appropriate communication and coordination mechanisms are established to enable those authorities to collaborate closely and <u>discharge exercise</u> their duties effectively.
ARTICLE 12				
154	Article 12 Activities of market surveillance authorities	Article 12 Activities of market surveillance authorities	Article 12 Activities of market surveillance authorities <u>and use of findings</u>	Article 12 Activities of market surveillance authorities and use of findings
ARTICLE 12 - PARAGRAPH 1				
155	1. Market surveillance authorities shall conduct their activities in order to ensure the following:	1. Market surveillance authorities shall conduct their activities in order to ensure the following:	1. Market surveillance authorities shall conduct their activities in order to ensure the following:	1. Market surveillance authorities shall conduct their activities in order to ensure the following:
ARTICLE 12 - PARAGRAPH 1 - POINT a				
	(a) the effective	(a) the effective	(a) the effective surveillance of the	(a) the effective surveillance of the market

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
156	surveillance of the market within their territory with respect to any products that are subject to the Union harmonisation legislation set out in the Annex;	surveillance of the market within their territory with respect to any products that are subject to the Union harmonisation legislation set out in the Annex;	market within their territory with respect to any products that are subject to the Union harmonisation legislation set out in the Annex ;	<u>surveillance</u> within their territory with respect to <u>of products made available online and offline</u> with respect to products that are subject to Union harmonisation legislation;
ARTICLE 12 - PARAGRAPH 1 - POINT b				
157	(b) the taking by them of appropriate and proportionate <i>temporary</i> measures and the taking by economic operators of appropriate and proportionate corrective action in relation to compliance with that legislation and this Regulation.	(b) the taking by them of appropriate and proportionate measures and the taking by economic operators of appropriate and proportionate corrective action in relation to compliance with that legislation and this Regulation. AM 81	(b) the taking by them of appropriate and proportionate temporary measures and the taking by economic operators of appropriate and proportionate corrective action in relation to compliance with that legislation and this Regulation;	(b) the taking by economic operators of appropriate and proportionate corrective action in relation to compliance with that legislation and this Regulation;
ARTICLE 12 - PARAGRAPH 1 - POINT c (new)				
157 A			<u>(c) when the economic operator fails to take corrective action, the taking of appropriate measures.</u>	<u>(c) the taking of appropriate and proportionate measures if the economic operator fails to take corrective action.</u>
ARTICLE 12 - PARAGRAPH 1 a (new)				
157C		<i>1a. Market</i>		<u>1a. Market surveillance authorities shall exercise their powers and carry out their</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>surveillance authorities shall exercise their powers and carry out their duties independently, impartially and without bias.</i> AM 82		<u>duties independently, impartially and without bias.</u> <i>[corresponds to Council's text in paragraph 5, row 174]</i>
ARTICLE 12 - PARAGRAPH 1 b (new)				
157D		<i>1b. Market surveillance authorities shall establish appropriate and effective communication and cooperation mechanisms with other market surveillance authorities and other relevant authorities within the Union.</i> <i>With this regard, market surveillance authorities shall also develop appropriate and effective communication and cooperation mechanisms with customs authorities for the identification and examination of potential</i>		Text moved to paragraph 3b Row 168 B

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>risks related to counterfeit products and withdrawal of such products from the market.</i> AM 83		
ARTICLE 12 - PARAGRAPH 2				
158	2. Market surveillance authorities shall perform controls as part of their activities set out in paragraph 1, on a risk-based approach, taking into account, as a minimum, the following factors:	2. Market surveillance authorities shall perform controls as part of their activities set out in paragraph 1, on a risk-based approach, <i>prioritising their resources and actions to ensure the effective surveillance of the market and</i> taking into account as a minimum, the following factors: AM 84	2. Market surveillance authorities shall perform controls as part of their activities set out in paragraph 1, on a risk-based approach, taking into account, as a minimum, the following factors:	<u>2. Market surveillance authorities, as part of their activities set out in paragraph 1, shall perform appropriate checks on the characteristics of products on an adequate scale, by means of documentary checks and, where appropriate, physical and laboratory controls on the basis of checks based on adequate a representative sample samples, prioritising their resources and actions to ensure the effective market surveillance and taking into account the national market surveillance strategy referred to in Article 13.</u> <u>In deciding what checks to perform, on what types of products and on what scale, market surveillance authorities shall follow a risk based approach taking into account, in particular, established principles of risk assessment and complaints the following factors:</u>
ARTICLE 12 - PARAGRAPH 2 - POINT a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
159	(a) the identified risks associated with:	(a) the identified risks, <i>which have the potential to affect adversely health and safety of persons in general, health and safety in the workplace, consumer protection, the environment and public security</i> , associated with: AM 85	(a) the identified risks associated with:	<u>(a) possible hazards and non-compliances associated with the product and when available, its occurrence on the market;</u> <u>(b) potential risks related to counterfeit products;</u> [counterfeiting moved from EP text in Article 17 paragraph -1 point (c) to risk-based approach] - To be discussed with counterfeit
ARTICLE 12 - PARAGRAPH 2 - POINT a - POINT i				
160	(i) the product, such as the number of products on the market and any hazards associated with that product;	(i) the product, such as the number of products on the market and any hazards associated with that product;	(i) the product, such as the number of products on the market and any hazards associated with that product;	Agreed to delete (text incorporated in point a, row 159)
ARTICLE 12 - PARAGRAPH 2 - POINT a - POINT ii				
162	(ii) the activities and operations under the control of the economic operator;	(ii) the activities and operations under the control of the economic operator;	(ii) the activities and operations under the control of the economic operator;	Agreed to delete (text incorporated in point c, row 163)
ARTICLE 12 - PARAGRAPH 2 - POINT b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
163	(b) the economic operator's past record of non-compliance, including the risk profiling and the status of an authorised economic operator;	(b) the economic operator's past record of non-compliance, including the risk profiling and the status of an authorised economic operator;	(b) the economic operator's past record of non-compliance, including the risk profiling and the status of an authorised economic operator;	<u>(c) activities and operations under the control of economic operator;</u> <u>(d) the economic operator's past record of non-compliance;</u> <u>(e) if relevant, the risk profiling performed by the authorities designated under article 26(1) and the status of an authorised economic operator;</u>
ARTICLE 12 - PARAGRAPH 2 - POINT c				
164	(c) any further information that might indicate non-compliance in relation to a particular product.	(c) any further information that might indicate non-compliance in relation to a particular product.	(c) any further information that might indicate non-compliance in relation to a particular product.	<u>(f) consumer complaints and other information received from other authorities, economic operators, media and other sources that might indicate non-compliance.</u>
ARTICLE 12 - PARAGRAPH 2 -SUBPARAGRAPH 1 a (new)				
164A		<i>The methodology and criteria for assessing risks shall be harmonised in all Member States in order to ensure a level playing field for all economic operators.</i> AM 86		<u>The methodology and criteria for assessing risks shall be harmonised in all Member States by means of implementing acts in accordance with the examination procedure referred to in Article 63(2), in order to ensure a level playing field for all economic operators.</u>
ARTICLE 12 - PARAGRAPH 2 a (new)				
164B				<u>2a. For certain products or category of products, where specific risks or serious</u>

Commented [A2]: Good progress that the DA is already transformed into IA. Could be flexible on that wording, with preference on making it optional.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				breaches with applicable Union harmonisation legislation have been continuously identified, and in order to ensure high level of protection of health and safety or other public interests protected by that legislation, the Commission, taking duly into account the considerations of the Network established under Article 31, shall adopt delegated acts implementing acts in accordance with the examination procedure referred to in Article 63(2) in accordance with Article 62a determining the uniform conditions of checks, criteria for determination of the frequency of checks and amount of samples to be checked in relation to these products or category of products on the Union level.
ARTICLE 12 - PARAGRAPH 2 b (new)				
164C				2b. Where economic operators present test reports or certificates attesting conformity of their products with Union harmonisation legislation issued by an accredited a conformity assessment body, <i>accredited pursuant to Regulation 765/2008</i> , market surveillance authorities shall take due account of such reports or certificates. <i>[drafting based on Council's text in Article 12 paragraph 8, row 174C, and EP text in Article 15 paragraph 1 subparagraph 3, row 215]</i>
ARTICLE 12 - PARAGRAPH 2 c (new)				

Commented [A3]: *BG appreciates greatly the efforts of the Presidency to cut the delegated acts.*

Good progress that the DA is already transformed into IA. Generally considered acceptable if the wording stays as such, with preference for making it optional.

We would like to have a confirmation from the Presidency that we speak about setting only **criteria** for determination of the frequency of checks and amount of samples to be checked but not **the determination itself!!!**

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
164D				2c. The evidence that is used by a market surveillance authority in one Member State may be used as part of investigations to verify product compliance carried out by market surveillance authorities in another Member State without any further formal requirements. <i>[drafting based on Council's text in Article 12 paragraph 9, row 174D, and EP text in Article 25 paragraph 2]</i>
ARTICLE 12 - PARAGRAPH 3				
165	3. Market surveillance authorities shall ensure that a product is withdrawn or recalled from the market or that the making available of the product on the market is prohibited or restricted if, when it is being used either in accordance with its intended purpose or under conditions that can be reasonably foreseen and it is properly installed and maintained, either of the following	3. Market surveillance authorities shall ensure that a product is withdrawn or recalled from the market or that the making available of the product on the market is prohibited or restricted if, when it is being used either in accordance with its intended purpose or under conditions that can be reasonably foreseen and it is properly installed and maintained, either of the following conditions would be met:	3. Market surveillance authorities shall ensure that a product is withdrawn or recalled from the market or that the making available of the product on the market is prohibited or restricted if, when it is being used either in accordance with its intended purpose or under conditions that can be reasonably foreseen and it is properly installed and maintained, either of the following conditions would be met:	<i>Deleted (measures taken by MSA are moved to Article 15)</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	conditions would be met:	AM 87		
ARTICLE 12 - PARAGRAPH 3 - POINT a				
166	(a) the product is liable to compromise the health or safety of end-users;	(a) the product is liable to compromise the health or safety of end-users; AM 87	(a) the product is liable to compromise the health or safety of end-users;	Deleted (measures taken by MSA are moved to Article 15)
ARTICLE 12 - PARAGRAPH 3 - POINT b				
167	(b) the product does not conform to applicable requirements under Union harmonisation legislation.	(b) the product does not conform to applicable requirements under Union harmonisation legislation. AM 87	(b) the product does not conform to applicable requirements under Union harmonisation legislation.	Deleted (measures taken by MSA are moved to Article 15)
ARTICLE 12 - PARAGRAPH 3				
168	Where the products are withdrawn, recalled, prohibited or restricted, the market surveillance authority shall ensure that the Commission through the Network established under Article 31, the other Member States and end-users are	Where the products are withdrawn, recalled, prohibited or restricted, the market surveillance authority shall ensure that the Commission through the Network established under Article 31, the other Member States and end-users are informed	Where the products are withdrawn, recalled, prohibited or restricted, the market surveillance authority shall ensure that the Commission through the Network established under Article 31, the other Member States and end-users are informed accordingly.	Deleted (measures taken by MSA are moved to Article 15)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	informed accordingly.	accordingly. AM 87		
ARTICLE 12 - PARAGRAPH 3 a (new)				
168A		<i>3a. In connection with products subject to the Union harmonisation legislation set out in the Annex, market surveillance authorities shall establish the following procedures:</i> <i>(a) procedures for following up of complaints or reports on issues relating to non-compliance and risks arising in connection with products subject to Union harmonisation legislation;</i> <i>(b) procedures for monitoring and collecting the information on accidents or harm to the health or safety of end-users, which are suspected of</i>		<u>3a. Market surveillance authorities shall establish the following procedures in connection with products subject to the Union harmonisation legislation:</u> <u>(a) procedures for following up of complaints or reports on issues relating to risks or non-compliances;</u> <u>(b) procedures for verifying that corrective action to be taken by economic operators has been taken;</u> <u>(c) procedures for communication with online platforms and marketplaces.</u> <i>[drafting based on Council's text in Article 12 paragraph 11, rows 174F-174H, and EP text in Article 12 paragraph 3a. Reference to centralised database for the collection of the information on accidents and injuries to be moved to recitals]</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>having been caused by the products, and making this information available to the general public via the centralised database for the collection of the information on the accidents and injuries or by other means;</i> <i>(c) procedures for verifying that corrective action to be taken by economic operators has been taken;</i> <i>(d) procedures for following up scientific and technical knowledge concerning safety issues;</i> <i>(e) procedures for cooperation with online platforms and marketplaces.</i> AM 88		
ARTICLE 12 - PARAGRAPH 3 b (new)				
				<u>3b. Market surveillance authorities shall establish appropriate and effective</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
168 B				<u>communication and cooperation mechanisms with other market surveillance authorities and other relevant authorities, in particular, authorities designated under Article 26(1), in other Member States.</u> <u>With a view to ensuring communication and coordination with their counterparts in other Member States, market surveillance authorities shall actively participate in administrative coordination groups referred to in Article 32(6).</u> <u>Market surveillance authorities shall also develop communication and cooperation mechanisms with customs authorities for the identification and examination of potential risks related to counterfeit products and withdrawal of such products from the market.</u>
ARTICLE 12 - PARAGRAPH 3 c (new)				
168 C				3c. Products deemed to be non-compliant on the basis of a decision of a market surveillance authority in one Member State, shall be presumed to be non-compliant by market surveillance authorities in another Member State, unless: economic operator can provide evidence (a) a relevant market surveillance

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				authority in another Member State concluded the contrary based on its own investigation taking into account the input provided by an economic operator, if any, or (b) a Member State has raised objections considered justified by the Commission in accordance with the applicable Union safeguard procedure. <i>[drafting based on Council's text in Article 12 paragraph 12, row 174I, and EP text in Article 25 paragraph 3]</i>
ARTICLE 12 - PARAGRAPH 4				
169	4. Market surveillance authorities shall perform their activities with a high level of transparency and shall make available to the general public any information that they deem relevant for the general public. They shall also ensure that the following information is entered in the system referred to in Article 34:	4. Market surveillance authorities shall perform their activities with a high level of transparency and shall make available to the general public any information that they deem relevant for the general public. They while respecting the principle of confidentiality in order to protect professional and commercial secrets or to preserve personal data.	4. Market surveillance authorities shall perform their activities with a high level of transparency and shall make available to the general public any information that they deem relevant for the general public. They shall also ensure that the following information is entered in the system referred to in Article 34:	Deleted <i>First subparagraph moved to Article 16</i> <i>Second subparagraph considered to be covered by Article 34, with the exception of point (a).</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Market surveillance authorities shall also ensure that the following information is entered in the system referred to in Article 34: AM 89		
ARTICLE 12 - PARAGRAPH 4 - POINT a				
170	(a) the type, number and outcome of the checks performed by them;	(a) the type, number and outcome of the checks performed by them;	(a) the type, number and outcome of the checks performed by them;	Deleted, but should be sufficiently covered in Article 34
ARTICLE 12 - PARAGRAPH 4 - POINT b				
171	(b) the type and the number of non-compliances detected by them;	(b) the type and the number of non-compliances detected by them;	(b) the type and the number of non-compliances detected by them;	Deleted
ARTICLE 12 - PARAGRAPH 4 - POINT c				
172	(c) the nature of the temporary measures taken by them against economic operators and	(c) the nature of the temporary details of the measures taken by them against economic	(c) the nature of the temporary measures taken by them against economic operators and of the corrective action taken by economic	Deleted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	of the corrective action taken by economic operators;	operators, <i>commitments given to them by economic operators and the details</i> of the corrective action taken by economic operators; AM 90	operators;	
ARTICLE 12 - PARAGRAPH 4 - POINT d				
173	(d) details of the cases of non-compliance where penalties were imposed by them.	(d) details of the cases of non-compliance where penalties were imposed by them.	(d) details of the cases of non-compliance where penalties were imposed by them.	Deleted
ARTICLE 12 - PARAGRAPH 5				
174	5. Market surveillance authorities shall exercise their powers and carry out their duties independently, impartially and without bias.	5. Market surveillance authorities shall exercise their powers and carry out their duties independently, impartially and without bias. AM 91	5. Market surveillance authorities shall exercise their powers and carry out their duties independently, impartially and without bias.	Text moved to row 157C
ARTICLE 12 - PARAGRAPH 6 (new)				
174				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
A			6. Market surveillance authorities shall perform appropriate checks on the characteristics of products on an adequate scale, by means of documentary checks and, where appropriate, physical and laboratory controls on the basis of <u>based on a representative an adequate sample taking into account the national market surveillance strategy referred to in Article 13.</u> [moved from Art. 15(1)]	See text in row 158
ARTICLE 12 - PARAGRAPH 7 (new)				
174 B			7. In deciding what checks to perform and on what scale, market surveillance authorities shall <u>follow a risk based approach</u> take<u>ing</u> into account; in particular, established principles of risk assessment <u>the possible hazards and non-compliances associated with the product and when available, its occurrence on the market, activities and operations under the control of economic operator, and complaints and other information.</u>	See text in row 158

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			[moved from Art. 15(1)]	
ARTICLE 12 - PARAGRAPH 8 (new)				
174 C			8. Where economic operators present test reports or certificates attesting conformity of their products with Union harmonisation legislation issued by an accredited conformity assessment body, market surveillance authorities shall take due account of such reports or certificates. [moved from Art. 15(1)]	See text in row 164C
ARTICLE 12 - PARAGRAPH 9 (new)				
174 D			9. The evidence referred to in paragraph 1 that is used by a market surveillance authority in one Member State may be used as part of investigations to verify product compliance carried out by market surveillance authorities in another Member State without any further formal requirements.	See text in row 164D

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			[moved from Art. 25(2)]	
ARTICLE 12 - PARAGRAPH 10 (new)				
174E			<u>10. Market surveillance authorities shall actively participate in administrative coordination groups according to Article 32(6) to ensure communication and coordination with their counterparts in other Member States.</u>	See text in row 168B
ARTICLE 12 - PARAGRAPH 11 (new)				
174F			<u>11. Market surveillance authorities shall establish adequate procedures in connection with products subject to the Union harmonisation legislation as follows:</u>	See text in row 168A
ARTICLE 12 - PARAGRAPH 11 - POINT a (new)				
174G			<u>(a) procedures for following up of complaints or reports on issues relating to risks or non-compliances;</u>	See text in row 168A

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
ARTICLE 12 - PARAGRAPH 11 - POINT b (new)				
174 H			<u>(b) procedures for verifying that corrective action to be taken by economic operators has been taken.</u>	See text in row 168A
ARTICLE 12 - PARAGRAPH 12 (new)				
174I			<u>12.</u> Products deemed to be non-compliant on the basis of a decision of a market surveillance authority in one Member State, shall be presumed to be non-compliant by market surveillance authorities in another Member State, unless economic operator can provide evidence <u>justification</u> to the contrary <u>is provided or a Member State has raised objections considered justified by the Commission in accordance with the applicable Union safeguard procedure.</u> [moved from Art. 25(3)]	See text in row 168C

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
ARTICLE 12 a (new)				
174J		<i>Article 12a</i> <i>Activities of market surveillance authorities with regard to products sold online</i> <i>1. Without prejudice to Article 12, Member States shall ensure the effective organisation of market surveillance activities with regard to the products offered for sale online to end-users within the Union.</i> <i>2. For the purpose of paragraph 1, Member State shall allocate the resources accordingly and ensure, that there is an appropriate number of inspectors, dealing with products sold online (“online inspectors”), within their national</i>		<i>EP agreed to be eliminated as covered in Articles 11 and 12</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>market surveillance authorities, having a specific knowledge and awareness of the online environment and investigations in order to detect non-compliant products sold online.</i> <i>3. Member States shall ensure that their national market surveillance authorities carry out their activities with regard to the products offered for sale online in following ways:</i> <i>(a) proactively, by controlling certain categories of products or certain economic operators, based on risk-related criteria and priorities set in a national strategy, referred to in Article 13; and</i> <i>(b) reactively, by monitoring information</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>on potential non-compliance of products sold online, taking into account consumer complaints, information received from other authorities, economic operators and the media, as well as other information sources.</i> AM 92		