



Council of the European Union  
General Secretariat

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

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**Brussels, 25 January 2019**

**WK 1123/2019 INIT**

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| From:    | Presidency                                               |
| To:      | Working Party on Technical Harmonisation (Goods package) |
| Subject: | Art. 12b: proposal from the EP of 24.01.2019             |

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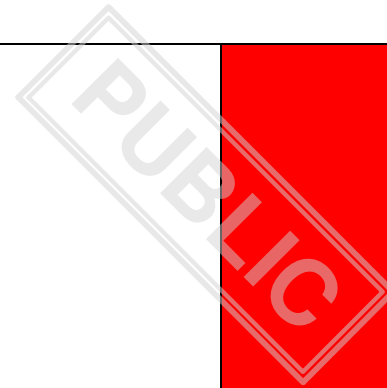
EP Amendments for Article 12b

Text in red - For further discussion

|                    | Commission Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | EP Mandate | Council General Approach | Draft Agreement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| ARTICLE 12 b (new) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |            |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 174K               | <p><i>Article 12b</i></p> <p><i>Monitoring and evaluation of the market surveillance authorities</i></p> <p><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></p> <p><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></p> <p><i>3. National market surveillance authorities shall be subject to peer evaluation in</i></p> |            |                          | <p><i>Article 12b</i></p> <p><i>Peer evaluation</i></p> <p><u>1. National market surveillance authorities shall be subject to organise peer evaluation taking due consideration of the evaluation methodology and the rolling plan developed by the Network established under Article 31, in order to strengthen their market surveillance activities in relation to the implementation of this Regulation.</u></p> <p><u>2. 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.</u></p> <p><u>When establishing the methodology and the rolling plan, the Network shall take into consideration the number and the size of market surveillance authorities in</u></p> |

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|  | <p><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></p> <p><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></p> | <p><i>the Member States, the number of personnel available for performing evaluation and other relevant criteria.</i></p> <p><b><u>3. Peer evaluations shall cover, at least, the procedures for checking the compliance of the products and communication and cooperation mechanisms with other market surveillance authorities and other relevant authorities.</u></b></p> <p><b><u>4. The outcome of the peer evaluations shall be reported to the Network established under Article 31.</u></b></p> <p><i>[Financing peer evaluations should be added in Article 36(1) on what the Union shall finance.]</i></p> |
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|  |  | <p><i>surveillance authorities in question have sufficient recourses for the proper performance of their duties as required by Article 11(4).</i></p> <p><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></p> <p><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></p> |  |  |
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|  |  | <p><i>7. The outcome of the peer evaluations shall be examined by the Network. The Commission shall draw up a summary of the outcome and make it public.</i></p> <p><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></p> <p>AM 93</p> |  |  |
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