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WORKING PAPER

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From:	Presidency
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	Art. 35: RO Presidency proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
ARTICLE 35				
409	Article 35 International cooperation	Article 35 International cooperation	Article 35 International cooperation	Article 35 International cooperation
ARTICLE 35 - PARAGRAPH 1				
410	1. The Commission may exchange confidential market surveillance related information with regulatory authorities of third countries or international organisations where it has concluded confidentiality arrangements based on reciprocity with those	1. <i>In order to improve the efficiency of market surveillance in the Union,</i> the Commission may exchange confidential market surveillance related information with regulatory authorities of third countries or international organisations where it has concluded confidentiality arrangements based on	<u>1. In order to improve the efficiency of market surveillance in the Union,</u> the Commission may exchange confidential market surveillance related information with regulatory authorities of third countries or international organisations where it has concluded confidentiality arrangements based on reciprocity with those authorities or	1. In order to improve the efficiency of market surveillance in the Union, the Commission may cooperate with and exchange market surveillance related information with regulatory authorities of third countries or international organisations within the framework for cooperation and

	authorities or organisations.	reciprocity with those authorities or organisations. AM 199	<u>organisations a framework for cooperation and information exchange of selected information has been established in accordance with paragraph 1a.</u>	<u>information exchange of selected information has been established in accordance with paragraph 1a. of agreements between the Union and third countries or international organisations.</u> <u>Any such agreements shall be based on reciprocity, include provisions on confidentiality corresponding to those applicable in the Union, and ensure that any exchange of information is in accordance with applicable Union legislation.</u> <i>(COM suggestion based on EP proposal)</i>
ARTICLE 35 - PARAGRAPH 1 a (new)				
410A				<i>(Covered by row 410)</i>

		1a. The Commission shall ensure that any exchange of information under paragraph 1 is in accordance with applicable Union legislation. AM 200		
ARTICLE 35 - PARAGRAPH 2				
411	The Commission may set up a framework for cooperation and exchange of selected information contained in the information exchange system provided for in Article 12 of Directive 2001/95/EC, with applicant countries, third countries or international organisations. The cooperation or exchange	The Commission may set up a framework for cooperation and exchange of selected information contained in the information exchange system provided for in Article 12 of Directive 2001/95/EC, with applicant countries, third countries or international organisations. The cooperation or exchange	The Commission may set up a framework for cooperation and exchange of selected information contained in the information exchange system provided for in Article 12 of Directive 2001/95/EC, with applicant countries, third countries or international organisations. The cooperation or exchange of	Maintain GA

	of information may relate, inter alia, to the following:	of information may relate, inter alia, to the following:	information may relate, inter alia, to the following:	
ARTICLE 35 - PARAGRAPH 2 - POINT a				
412	(a) risk assessment methods used and the results of product-testing;	(a) risk assessment methods used and the results of product-testing;	(a) risk assessment methods used and the results of product-testing;	(a) risk assessment methods used and the results of product-testing;
ARTICLE 35 - PARAGRAPH 2 - POINT b				
413	(b) coordinated product recalls or other similar actions;	(b) coordinated product recalls or other similar actions;	(b) coordinated product recalls or other similar actions;	(b) coordinated product recalls or other similar actions;
ARTICLE 35 - PARAGRAPH 2 - POINT c				
414	(c) the measures taken by market surveillance	(c) the measures taken by market surveillance	(c) the measures taken by market surveillance authorities under Article 15.	(c) the measures taken by market surveillance

	authorities under Article 15.	authorities under Article 15.		authorities under Article 15.
ARTICLE 35 - PARAGRAPH 2 a (new)				
414A			<u>2a. The Commission shall adopt implementing acts in accordance with the examination procedure referred to in Article 63(3) in order to establish each framework for cooperation and information exchange.</u>	(Covered by row 410)
ARTICLE 35 - PARAGRAPH 3				
415	The Commission may approve a specific system of product-related pre-export control carried out by a third country on products immediately prior to their export into the Union in order to verify that those products	The Commission may approve a specific system of product-related pre-export control carried out by a third country on products immediately prior to their export into the Union in order to verify that those products satisfy	The Commission may approve a specific system of product-related pre-export control carried out by a third country on products immediately prior to their export into the Union in order to verify that those products satisfy the	The Commission may approve a specific system of product-related pre-export control carried out by a third country on products immediately prior to their export into the Union in order to verify that those products satisfy

	satisfy the requirements of the Union harmonisation legislation applicable to them. The approval may be granted in respect of one or more products, in respect of one or more categories of product or in respect of products or categories of product manufactured by certain manufacturers.	the requirements of the Union harmonisation legislation applicable to them. The approval may be granted in respect of one or more products, in respect of one or more categories of product or in respect of products or categories of product manufactured by certain manufacturers.	requirements of the Union harmonisation legislation applicable to them. The approval may be granted in respect of one or more products, in respect of one or more categories of product or in respect of products or categories of product manufactured by certain manufacturers.	the requirements of the Union harmonisation legislation applicable to them. The approval may be granted in respect of one or more products, in respect of one or more categories of product or in respect of products or categories of product manufactured by certain manufacturers.
ARTICLE 35 - PARAGRAPH 3 a (new)				
415A			<u>3a. The Commission shall produce and maintain a list of those products or categories of products with regard to which approval has been granted as referred to in paragraph 3 and shall make this list available to the public.</u>	<i>Maintain GA</i>

ARTICLE 35 - PARAGRAPH 3 b (new)				
415B			<u>3b. Approval may only be granted to a third country under paragraph 3 if following conditions are satisfied:</u>	Maintain GA
ARTICLE 35 - PARAGRAPH 3 b POINT A (new)				
415C			<u>(a) the third country possesses an efficient verification system of the compliance of products exported to the Union and the controls carried out in that third country are sufficiently effective and efficient to replace or reduce import controls;</u>	Maintain GA
ARTICLE 35 - PARAGRAPH 3 b POINT B (new)				
415D				

			<u>(b) audits within the Union demonstrate that products exported to the Union from that third country satisfy the requirements set out in Union harmonisation legislation.</u>	(b) audits within the Union and, <u>if relevant, in the third country</u> demonstrate that products exported to the Union from that third country satisfy the requirements set out in Union harmonisation legislation. (EP proposal)
ARTICLE 35 - PARAGRAPH 4				
416	Where such an approval has been granted, the number and frequency of import controls for those products or categories of product entering the Union market, referred to in paragraph 3, may be reduced.	Where such an approval has been granted, the number and frequency of import controls for those products or categories of product entering the Union market, referred to in paragraph 3, may be reduced.	Where such an approval has been granted, the number and frequency of risk <u>assessment applied</u> to import controls for those products or categories of product entering the Union market, referred to in paragraph 3, may be reduced	Where such an approval has been granted, the risk assessment applied to import controls for those products or categories of product entering the Union market, referred to in paragraph 3, <u>shall</u> include the granted approvals.

			<u>will include the granted approvals.</u>	(EP Proposal)
ARTICLE 35 - PARAGRAPH 4				
417	Customs authorities may however carry out controls those products or categories of product entering the Union market, in order to ensure that the pre-export controls carried out by the third country are effective to determine compliance with Union harmonisation legislation.	Customs authorities may however carry out controls those products or categories of product entering the Union market, in order to ensure that the pre-export controls carried out by the third country are effective to determine compliance with Union harmonisation legislation.	Customs <u>Authorities designated under Article 26(1)</u> may however carry out controls of <u>on</u> those products or categories of product entering the Union market, <u>including</u> in order to ensure that the pre-export controls carried out by the third country are effective to determine compliance with Union harmonisation legislation.	Maintain GA
ARTICLE 35 - PARAGRAPH 5				
418	5. Approval may only be granted to a third country	5. Approval may only be granted to a third country	5. Approval may only be granted to a third country	Maintain GA

	under paragraph 3 following an audit within the Union demonstrating that the following conditions are satisfied:	under paragraph 3 following an audit audits within the relevant third country and Union demonstrating that the following conditions are satisfied: AM 201	under paragraph 3 following an audit within the Union demonstrating that the following conditions are satisfied:	
ARTICLE 35 - PARAGRAPH 5 - POINT a				
419	(a) products exported to the Union from that third country satisfy the requirements set out in Union harmonisation legislation;	(a) products exported to the Union from that third country satisfy the requirements set out in Union harmonisation legislation;	(a) products exported to the Union from that third country satisfy the requirements set out in Union harmonisation legislation;	Maintain GA
ARTICLE 35 - PARAGRAPH 5 - POINT -a (new)				
419A		(-a) the third country possesses an efficient		Maintain GA

		verification system of the compliance of the products exported to the Union;		
		AM 202		
ARTICLE 35 - PARAGRAPH 5 - POINT b				
420	(b) the controls carried out in that third country are sufficiently effective and efficient to replace or reduce the documentary and physical controls laid down in such legislation.	(b) the controls carried out in that third country are sufficiently effective and efficient to replace or reduce the documentary and physical controls laid down in such legislation.	(b) the controls carried out in that third country are sufficiently effective and efficient to replace or reduce the documentary and physical controls laid down in such legislation.	Maintain GA
ARTICLE 35 - PARAGRAPH 6				
421	6. The approval referred to in paragraph 3 shall specify the competent authority of the third	6. The approval referred to in paragraph 3 shall specify the competent authority of the third country under	6. The approval referred to in paragraph 3 shall specify the competent authority of the third country under whose	6. The approval referred to in paragraph 3 shall specify the competent authority of the third country under

	country under whose responsibility the pre-export controls are to be performed and that competent authority shall be the counterpart for all contacts with the Union.	whose responsibility the pre-export controls are to be performed and that competent authority shall be the counterpart for all contacts with the Union.	responsibility the pre-export controls are to be performed and that competent authority shall be the counterpart for all contacts with the Union.	whose responsibility the pre-export controls are to be performed and that competent authority shall be the counterpart for all contacts with the Union.
ARTICLE 35 - PARAGRAPH 7				
422	7. The competent authority, referred to in paragraph 6, shall ensure the official verification of the products prior to their entry into the Union.	7. The competent authority, referred to in paragraph 6, shall ensure the official verification of the products prior to their entry into the Union.	7. The competent authority, referred to in paragraph 6, shall ensure the official verification of the products prior to their entry into the Union.	7. The competent authority, referred to in paragraph 6, shall ensure the official verification of the products prior to their entry into the Union.
ARTICLE 35 - PARAGRAPH 8				
423	8. Where controls on products entering the Union market referred to in paragraph 3 reveal significant non-	8. Where controls on products entering the Union market referred to in paragraph 3 reveal significant non-	8. Where controls on products entering the Union market referred to in paragraph 3 reveal significant non-compliance, the market	<i>Maintain GA</i>

	compliance, the market surveillance authorities shall notify immediately the Commission through the system referred to in Article 34 and increase the number of controls on such products.	compliance, the market surveillance authorities shall notify immediately the Commission through the system referred to in Article 34 and increase the number of controls on such products.	surveillance authorities shall notify immediately the Commission through the system referred to in Article 34 and increase the number <u>adapt the level</u> of controls on such products.	
ARTICLE 35 - PARAGRAPH 8 a (new)				
423A			<u>8a.</u> The Commission shall adopt implementing acts for the implementation of the <u>to approve each specific</u> system of product-related pre-export controls, referred to in paragraph 3, for specifying a model for the certificates of compliance or verification to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63(3).	Maintain GA

			(moved from (10))	
ARTICLE 35 - PARAGRAPH 9				
424	9. The Commission shall withdraw an approval granted under paragraph 3 where it is revealed that the products entering the Union market do not comply with Union harmonisation legislation in a significant number of instances.	9. The Commission <i>shall regularly monitor the correct functioning of the approval and</i> shall withdraw an approval granted under paragraph 3 where it is revealed that the products entering the Union market do not comply with Union harmonisation legislation in a significant number of instances. <i>The Commission shall immediately inform Member States and the affected third country.</i> AM 203	9. The Commission shall <u>by means of an implementing act</u> withdraw an approval granted under paragraph 3 where it is revealed that the products entering the Union market do not comply with Union harmonisation legislation in a significant number of instances. <u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63(3).</u> <u>The Commission shall inform the affected third country of the outcome of the decision of the committee accordingly.</u>	9. The Commission shall <u>regularly monitor the correct functioning of the approval and</u>, by means of an implementing act withdraw an approval granted under paragraph 3 where it is revealed that the products entering the Union market do not comply with Union harmonisation legislation in a significant number of instances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63(3). The Commission shall

				immediately inform the affected third country of the outcome of the decision of the committee accordingly.
ARTICLE 35 - PARAGRAPH 10				
425	10. The Commission shall adopt implementing acts for the implementation of the system of product-related pre-export controls, referred to in paragraph 3, for specifying a model for the certificates of compliance or verification to be used. Those implementing acts shall be adopted in accordance with the	10. The Commission shall adopt implementing acts for the implementation of the system of product-related pre-export controls, referred to in paragraph 3, for specifying a model for the certificates of compliance or verification to be used. Those implementing acts shall be adopted in accordance with the	10. The Commission shall adopt implementing acts for the implementation of the system of product-related pre-export controls, referred to in paragraph 3, for specifying a model for the certificates of compliance or verification to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63.	Maintain GA

	examination procedure referred to in Article 63.	examination procedure referred to in Article 63.		
ARTICLE 35 - PARAGRAPH 11 (new)				
425A			<u>11. The system of product-related pre-export control shall be evaluated in accordance with Article 62(4) in this Regulation.</u>	<i>Maintain GA</i>