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

	authorities or	reciprocity with those	organisations a framework	information exchange of
	organisations.	authorities or	for cooperation and	selected information has
	or Pariisacionis.	organisations.	information exchange of	been established in
		organisations.	selected information has	accordance with paragraph
			been established in	13. of agreements
		AM 199	accordance with paragraph	between the Union and
			<u>1a.</u>	third countries or
				<u>international</u>
				organisations.
				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.
				(COM suggestion based on
				EP proposal)
ARTICL	E 35 - PARAGRAPH 1 a (new)		
410A				(Covered by row 410)
120/1				(5575764 5) 7577 7257

		1a. The Commission shall ensure that any exchange of information under paragraph 1 is in accordance with applicable Union legislation. AM 200		
ARTIC	LE 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:	
ARTICL	LE 35 - PARAGRAPH 2 - POIN	Га		
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;
ARTICL	LE 35 - PARAGRAPH 2 - POIN	ГЬ		
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;
ARTICL	E 35 - PARAGRAPH 2 - POIN	Гс		
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

ARTICI	authorities under Article 15. LE 35 - PARAGRAPH 2 a (new	authorities under Article 15.		authorities under Article 15.
414A			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.	(Covered by row 410)
ARTICL	LE 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 preexport 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.
415A	E 35 - PARAGRAPH 3 a (new		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.	Maintain GA

ARTICLE 35 - PARAGRAPH 3 b (new)		
415B	3b. Approval may only be granted to a third country under paragraph 3 if following conditions are satisfied:	Maintain GA
ARTICLE 35 - PARAGRAPH 3 b POINT	A (new)	
ARTICLE 35 - PARAGRAPH 3 b POINT	(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;	Maintain GA
415D		
ARTICLE 35 - PARAGRAPH 3 b POINT 415C ARTICLE 35 - PARAGRAPH 3 b POINT	under paragraph 3 if following conditions are satisfied: (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;	Maintain GA

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

ARTICI	LE 35 - PARAGRAPH 4		will include the granted approvals.	(EP Proposal)
417	Customs authorities may however carry out controls those products or categories of product entering the Union market, in order to ensure that the preexport 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 Authorities designated under Article 26(1) may however carry out controls of on those products or categories of product entering the Union market, including 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
ARTICI	LE 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:	
ARTICL	E 35 - PARAGRAPH 5 - POIN	Га		
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
ARTICL	E 35 - PARAGRAPH 5 - POIN	Г-а (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		
ARTICL	LE 35 - PARAGRAPH 5 - POIN	ГЬ		
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
ARTICL	E 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.
ARTICL	E 35 - PARAGRAPH 7	l	_	
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.
ARTICL	E 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	Maintain GA

	compliance, the market surveillance authorities shall notify immediately the Commission through the system referred to in Article 34 and increase the number of controls	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	surveillance authorities shall notify immediately the Commission through the system referred to in Article 34 and increase the number adapt the level of controls on such products.	
ARTICI	on such products. LE 35 - PARAGRAPH 8 a (new	such products.		
423A			8a. The Commission shall adopt implementing acts for the implementation of the to approve each specific 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				
	9. The Commission shall	9. The Commission <i>shall</i>	9. The Commission shall by	9. The Commission shall
	withdraw an approval	regularly monitor the	means of an implementing	regularly monitor the
	granted under paragraph	correct functioning of the	act withdraw an approval	correct functioning of the
	3 where it is revealed that	approval and shall	granted under paragraph 3	approval and, by means of
	the products entering the	withdraw an approval	where it is revealed that the	an implementing act
	Union market do not	granted under paragraph 3	products entering the Union	withdraw an approval
	comply with Union	where it is revealed that	market do not comply with	granted under paragraph 3
	harmonisation legislation	the products entering the	Union harmonisation	where it is revealed that
424	in a significant number of	Union market do not	legislation in a significant	the products entering the
424	instances.	comply with Union	number of instances. Those	Union market do not
		harmonisation legislation	implementing acts shall be	comply with Union
		in a significant number of	adopted in accordance with	harmonisation legislation
		instances. <i>The Commission</i>	the examination procedure	in a significant number of
		shall immediately inform	referred to in Article 63(3).	instances. Those
		Member States and the	The Commission shall inform	implementing acts shall be
		affected third country.	the affected third country of	adopted in accordance
			the outcome of the decision	with the examination
			of the committee	procedure referred to in
		AM 203	accordingly.	Article 63(3). The
				Commission shall

				immediately inform the affected third country of the outcome of the decision of the committee accordingly.
ARTICI	E 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

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		examination procedure referred to in Article 63.	examination procedure referred to in Article 63.		
Д	RTICL	 .E 35 - PARAGRAPH 11 (new)			
4	·25A			11. The system of product-related pre-export control shall be evaluated in accordance with Article 62(4) in this Regulation.	Maintain GA