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WORKING PAPER

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WORKING DOCUMENT

From:	NL delegation
To:	Working Party on Technical Harmonisation (Goods package)
Subject:	NL comments on the Compliance and Enforcement Regulation Proposal - Presidency discussion paper: doc. WK 11296/18

Article 20

Testing facility support

1. Objective of the testing facility support is ensuring sufficient **specialized** laboratory capacity, as well as reliability and consistency of testing, for the purposes of market surveillance within the Union.

2. When the Commission determines on its own initiative or on request of the Network, that testing capacity for specific harmonisation legislation or product categories is missing or not sufficient, it shall set up a programme for the establishment of new testing facilities or to encourage existing facilities to increase their scope or capacity. All testing facilities under this programme shall be accredited in accordance with the requirements of Chapter II of Regulation (EC) No 765/2008.

3. When the Commission determines on its own initiative or on request of the Network, that specific knowledge about testing methods for new innovative products is missing, it may set up a programme that facilitates the development of test methods for these products which will be published in an expert report.

4. In case there is a lack in consistent outcomes of tests for a specific product, the Commission may set up a programme with the goal to create more consistency of testing for that specific product. The Commission may use a ring test, or may ask, a testing facility that is not involved in the testing of the product, to write an expert report which provides an independent advice on which test method to use or how a certain test method should be applied.

5. The expert reports mentioned in paragraph 3 and 4 can only be made and published by testing facilities which are accredited in accordance with the requirements of Chapter II of Regulation (EC) No 765/2008 and shall be made available to all Market Surveillance Authorities through the system described in Article 34.

6. The establishment of new testing facilities or the increase of the scope or capacity of existing facilities and request of tests by market surveillance authorities may be financed by the Union in conformance with the paragraph 2 of the article 36 of the legislation. Such financing shall follow public procurement rules.

7. The Commission shall adopt implementing acts on testing facility support programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 63 **and shall also lay down the practical and financial arrangements for the testing facility support programmes.**

Note: par. 3: Our MSAs experience that for certain (innovative) products or specific risks related to a product test methods or (EN) standards are not available. In these cases it would be helpful when (on request of the Network) the Commission could support the development for these test methods. This should only happen in case there is no test method available and only for purpose of market surveillance. This should therefore not interfere with test methods already developed by public or private labs.

Par. 4: Our MSAs experience that two or more (accredited) labs provide different test outcomes for the same product, because they use (slightly) different methods or interpret a tets method differently.

Par. 6: this is the original text from presidency discussion paper of 27 September 2018. During the last working group there was a discussion about this paragraph, this document does not provide a position on this.

Annex I

The Netherlands would like to add a reference to Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption in the Annex.