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GENERAL MARKET SURVEILLANCE PROGRAMME 2014 FINLAND

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1. Introduction

The EU Regulation on Accreditation and Market Surveillance (765/2008/EC) has been applied from 1 January 2010. According to the regulation market surveillance means the activities carried out and measures taken by public authorities to ensure that products comply with the requirements set out in the relevant Community harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection. Market surveillance provides protection for consumers and employees and for economic operators against unhealthy competition.

Article 18 (5) of the regulation requires the member states to draw up either a general market surveillance programme or sector specific programmes. The sector specific market surveillance programmes have been drafted in Finland since the regulation came into force in 2010. The programmes have been communicated to the other Member States and to the Commission.

The general Finnish market surveillance programme was drafted for the first time for the year 2013 by the Ministry of Employment and the Economy in co-operation with other administrative sectors. The general market surveillance programme for 2014 has been updated on the basis of the programme for 2013.

The programme depicts the Finnish market surveillance system on a general level: its area of responsibility, its methods and the co-operation between the authorities and the stakeholders. In addition the general market surveillance programme describes the information exchange systems used by the market surveillance authorities. It acts as a compilation document as well as a kind of a concise introduction for the sectoral programmes. The general programme supplements and supports the sectoral programmes listed in Annex 1.

The Finnish general market surveillance programme covers the market surveillance within the scope of Regulation 765/2008 and the General Product Safety Directive (2001/95/EC). It does not therefore cover, for example, food control as it is excluded from the scope of the Regulation, or the surveillance of the safety of consumer services, as this is based purely on national legislation. Both the general programme and the sector specific programmes will be communicated to the other Member States and to the Commission by way of electronic communication.

2. The organisation of market surveillance

2.1. Co-ordination of market surveillance

Market surveillance is organised by sectors in Finland. There is legislation on several administrative sectors, and there are several market surveillance authorities. The Ministry of

Employment and the Economy carries out coordinative tasks related to market surveillance as well as being responsible for the coordination of the national implementation of Regulation 765/2008. There is no separate institution coordinating or directing market surveillance nationally. Attached to the Ministry of Employment and the Economy, there is also an Advisory Board of Conformity Assessment Affairs, which has in practice supported the Ministry in the coordination of the tasks related to market surveillance. In the Advisory Board, market surveillance authorities from different administrative sectors as well as stakeholders are represented.

2.2. Market surveillance authorities

Market surveillance authority means an authority that has the task of carrying out market surveillance imposed by the law. There are several market surveillance authorities in Finland, and they operate on a total of seven administrative sectors. The market surveillance authorities are (the responsible ministry indicated in brackets):

- Finnish Food Safety Authority, Evira (Ministry of Agriculture and Forestry)
- The Finnish Transport Safety Agency, TraFi (Ministry of Transport and Communications)
- National Police Board (Ministry of the Interior)
- National Supervisory Authority for Welfare and Health, Valvira (Ministry of Social Affairs and Health)
- Department for Occupational Safety and Health at the Ministry of Social Affairs and Health as well as Regional State Administrative Agencies' occupational health and safety areas of responsibility
- Radiation and Nuclear Safety Authority, STUK (Ministry of Social Affairs and Health)
- Customs (Ministry of Finance)
- Finnish Safety and Chemicals Agency, Tukes (Ministry of Employment and the Economy, Ministry of Social Affairs and Health, Ministry of the Environment, Ministry of Agriculture and Forestry, Ministry of the Interior and Ministry of Transport and Communications)
- Finnish Communications Regulatory Authority, FICORA (Ministry of Transport and Communications)

Market surveillance is mostly conducted at central authority level, although there are exceptions to this, one of which is the market surveillance of certain products in professional use conducted by the Department for Occupational Safety and Health at the Ministry of Social Affairs and Health as well as Regional State Administrative Agencies' occupational health and safety areas of responsibility. In this sector, the decisions on restricting the putting on the market are made in the Ministry. Also, the surveillance conducted by Customs has some special features, as described later in Chapter 4.

A table of the market surveillance authorities and the product groups under their surveillance can be found in Annex 2.

3. Carrying out market surveillance

3.1. Planning and targeting market surveillance

Market surveillance is carried out in both proactive and reactive ways. Proactive market surveillance is conducted for example, in different market surveillance projects, which are often national, Nordic or EU level joint projects, or as field market surveillance, in which the inspections are targeted at, for example, products sold in shops or used in a workplace. Reactive market surveillance, on the other hand, is conducted on the basis of information received from consumers, economic operators, the Rapex and ICSMS information exchange systems or sometimes the Business Application system as well as a result of accidents or injuries.

Risk assessment, which is important in market surveillance, is also significant in targeting the surveillance. Both in the market surveillance conducted on a proactive basis and in the reactive market surveillance conducted on the initiatives of other sources, a case by case risk assessment is taken into consideration, due to the limited amount of resources. In addition, the information received in the surveillance of products coming from outside of the EU (the so-called third country surveillance) is used in conducting and planning market surveillance, and vice versa. The guidelines published by the European Commission regarding the co-operation between the customs and the market surveillance authorities are also utilized. Finnish Customs and market surveillance authorities co-operate regularly in the field of market surveillance using the selection criteria and risk rules placed in the systems of the Customs. Additionally the co-operation extends to risk based surveillance raids and other projects.

3.2. Market surveillance procedures

In addition to Regulation 765/2008, each sector mostly has their own national market surveillance legislation applicable to certain product groups. In Finland there is therefore no horizontal market surveillance legislation applicable to all sectors, but the legislation on different sectors is, where market surveillance is concerned, very similar and in compliance with Regulation 765/2008. In addition, where consumer products are concerned, the general consumer safety legislation can be applied in a supplementary manner if necessary, for example if the sectoral legislation does not contain sufficient provisions for market surveillance measures as regards safety. Checks and investigations are carried out in market surveillance, and if necessary, market surveillance authorities can restrict the being on the market of a dangerous or non-compliant product, for example by banning the sale or release for use or by ordering a recall. Market surveillance is conducted on the basis of risk assessment.

4. Co-operation

4.1. Co-operation between authorities

The market surveillance authorities co-operate actively with other national and European authorities. Co-operation is carried out on both a bilateral and a multilateral basis, inter alia in the form of joint surveillance projects and various information exchange. Significant co-operation between the authorities of Member States is conducted in the sectoral Administrative Co-operation groups (ADCOs).

An especially important area of co-collaboration is the co-operation between market surveillance authorities and customs authorities, to execute what is regulated in Articles 27 through 29 of Regulation 765/2008. Through the risk-based so-called third country surveillance conducted in co-operation by Customs and the market surveillance authorities, the prevention of the entry of non-compliant products to the internal market (placing on the market) is attempted. Also, where consumer products are concerned, in some sectors Customs also operates as a competent surveillance authority according to the law, when importing products into the country, with certain limitations also when products are brought from other Member States.

4.2. Co-operation with stakeholders

In addition to co-operation between authorities, market surveillance related co-operation is also conducted with different stakeholders such as organisations representing economic operators and consumers. This is done, for example, within the Advisory Board of Conformity Assessment Affairs as well as in the form of regular co-operation meetings between authorities and stakeholders. Co-operation with the stakeholders is one of the key areas for the Advisory Board of Conformity Assessment Affairs in its activities in 2014.

5. Information exchange systems: Rapex and ICSMS

The market surveillance authorities conducting market surveillance according to the General Product Safety Directive and Regulation 765/2008 have an obligation to make the notifications, as required by the legislation, to the European Commission by the Rapex and ICSMS systems. In Finland, the national contact point for both the Rapex system and the ICSMS system is the Finnish Safety and Chemicals Agency. The systems are also used by Customs. In 2012, the Rapex system was expanded to also include professional products. As of 2012, also the ICSMS system is used in Finland. For the purposes of the national co-operation related to these, the relevant authorities function in a network (the Mativa network). The network meets regularly, and it has inter alia its own website with among other things information on the matter and tools for the authorities.

6. Reform of the product safety and market surveillance regulation in the EU

The purpose of the product regulation reform ongoing in the European Union is meant to standardize and clarify regulations concerning conformity and safety requirements and market surveillance.

The Commission submitted a package consisting of two proposals for regulations on market surveillance and on consumer product safety as a part of so called product safety and market surveillance package. The general goal of the initiative is to improve the internal market and to ensure that the number of dangerous and non-compliant products found in the union market would decline. This is meant to secure the high level of protection for consumers, professional users of products, environment and other general interests. The proposed regulations strive especially to compile and enforce the safety requirements set for products in the EU, to enhance market surveillance and its coordination and to simplify the structure of EU regulations. In addition to the product safety and market surveillance package as a part of the reform of the product regulation reform nine product directives will be harmonized according to the so called New Legislative Framework. It would be appropriate to co-ordinate the need for national legislative reform related to the product safety and market surveillance package with the harmonization of the nine directives.

The proposed market surveillance regulation would replace the regulation 765/2008 insofar as it will regulate market surveillance, third country surveillance and CE marking. In the future such aspects as the member states' responsibility to conduct and plan market surveillance, market surveillance procedures, recognition and risk assessment of the product, corrective actions of the economic operators (manufacturer, importer and distributor) and the measures taken by the authorities will be more clearly regulated.

Two national task forces have been set for the implementation of the product regulation reform. One of the task forces will focus on the horizontal effects the reform will have on the national legislation and the other on the changes to be made on the administrative sector of the Ministry of Employment and the Economy. More information on the project can be found on the website of the Ministry of Employment and the Economy: www.tem.fi/tuotelainsaadanto