

**NATIONAL MARKET SURVEILLANCE
PROGRAM FOR 2014
TURKEY**

I. TURKEY'S MARKET SURVEILLANCE SYSTEM

A) Introduction:

Although formally started with the signature of Ankara Agreement in 1963, Turkey-EU relations have dramatically changed with the adoption of the Customs Union Agreement in 1995. This Agreement, among others, lays down the rights and responsibilities of Turkey and the EU in the area of technical barriers to trade. According to the Agreement, Turkey committed to harmonise and enforce the EU's technical legislation on products which in turn would make Turkey a part of the internal market where free movement of goods between both parties would be realised.

Turkey started harmonising EU's technical legislation as of 1997 but the harmonisation activities have gained further momentum with the recognition of the candidacy status of Turkey for accession to the EU. As of now, Turkey has transposed most of the EU technical legislation into its legal order and competent authorities deal with the enforcement activities.

B) The general objectives of the national market surveillance activities:

The general objectives of market surveillance activities in Turkey are to protect the health and safety of humans, animals, plants and the environment, to ensure that economic operators fulfil their legal obligations for placing safe and compliant products in the market and also to raise the product safety awareness of commercial enterprises and regulating these enterprises.

The Framework Law (No. 4703 on the "Preparation and Implementation of the Technical Legislation on Products") and the "By-law on Market Surveillance of Products", which is the secondary legislation of the afore-mentioned law, constitute the legal basis for market surveillance activities. The Law lays down the duties and responsibilities of producers, distributors, conformity assessment bodies, notified bodies and market surveillance authorities with regard to product safety. The Law mainly incorporates the general principals of the New Approach and General Product Safety.

According to the Framework Law, producers are obliged to place only safe products in the market. The Law also defines the "market surveillance" as a public authority activity and empowers market surveillance authorities (MSAs) for conducting these activities and imposing measures to ensure the removal of unsafe products from the market.

The By-law on Market Surveillance of Products was revised in July 2013, taking into account the relevant provisions of the Regulation 765/2008 and also the experience gained in the last 10 years about market surveillance. With the revision;

- The duties and responsibilities of market surveillance authorities are clearly defined (to prepare sectorial programs, to allocate sufficient budget, to follow injury data etc),
- Uniform rules are identified regarding the announcement of unsafe products to the public,
- Producers and distributors are included in the decision making process by giving them the opportunity to being heard through a consultation.

C) National organisational structure and the distribution of the responsibilities:

Market surveillance is under the responsibility of public authorities that are legally authorized to prepare and implement legislation regarding products in Turkey. The table below lists these authorities and the product groups for which they are responsible:

MARKET SURVEILLANCE AUTHORITY	PRODUCT GROUPS
Ministry of Science, Industry and Technology	Electrical and electronic products, machinery, explosives for civil use, motor vehicles, lifts, household appliances, gas appliances, pressure equipment (including simple pressure vessels), hot water boilers, measuring instruments, pre-packaged products, ready to wear clothing-textiles and footwear (label control), other machinery, agricultural and forestry tractors.
Ministry of Customs and Trade (MoCT)	Toys, childcare products, detergents, chemical products (cleaning and washing products etc.) and products in the non-harmonized area such as ready to wear clothing-textile and footwear (chemical and physical risk inspections) decorative articles, furniture, hand tools, gadgets, hobby and sports equipment, kitchen/cooking accessories, lighters, stationery, food imitation.
Ministry of Health (MoH)	Cosmetics, medical devices
Ministry of Food, Agriculture and Livestock (MoFAL)	Foodstuffs, food contact materials, feed, fertilizers, plant protection products, medical products for veterinary use.
Ministry of Environment and Urban Planning (MoEUP)	Construction products, solid fuels, batteries and accumulators.
Information and Communication Technologies Authority	Radio and telecommunication terminal equipment.
Ministry of Labour and Social Security	Personal protective equipment
Ministry of Transport, Maritime Affairs and Communications	Recreational crafts, marine equipment.
Tobacco and Alcohol Market Regulatory Authority	Tobacco products and alcohol.
Energy Market Regulatory Authority	Fuels

These institutions carry out market surveillance activities with personnel in the central and/or – if any –provincial units or with the personnel of other institutions through protocols concluded for cooperation. While the central units mainly deal with policy development, determination of strategy, programming, planning, and monitoring of market surveillance activities, inspections in the field are usually carried out by the inspectors assigned to the provincial /regional directorates.

D) Market Surveillance Enforcement:

MSAs carry out both proactive and reactive controls. Most of the inspections are carried out according to annual programmes. In addition to these programs, MSAs also perform reactive market surveillance which starts by an outside source such as complaints from consumers, accidents, reports from the media, notifications under RAPEX etc.. MSAs investigate the situation as soon as possible and impose measures if necessary.

Visual check is the first step of market surveillance activities. This is accompanied by checks of markings and/or relevant documents required under specific product legislation. If the inspector decides on further and detailed investigation of the safety of the product, takes samples from the product for laboratory analysis.

After these investigations, if the product is found unsafe, MSA imposes measures, which fit to the specific nature of the case, mentioned below:

- prohibition of the placing on the market of the product,
- withdrawal of products placed on the market,
- if it is possible, warning the producer to recover the unsafety of a product within a given period
- whole or partial disposal of the product in case it is impossible to recover the unsafety or the unsafety is not recovered by the producer.

According to Law No:4703 and “By-law on Market Surveillance of Products”; the measures mentioned above should also be announced to the persons at risk by 2 national newspapers and 2 national television channels or by the local televisions, newspapers and direct informing methods, depending on the characteristics and size of persons affected by the risk.

In addition to these measures a penalty is also applied by the MSA to the relevant party/parties according to the Framework Law. A penalty is also foreseen for non-compliant products. However, the penalties laid down in the Framework Law are applicable where the same act is not considered as a crime or there are heavier penalties for the same act. Therefore, for certain product groups- measuring instruments, radio and telecommunications terminal equipment, tobacco products and cosmetics- penalties other than those laid down in the Framework Law are applied.

E) Market Surveillance Coordination

Although MSAs continue with the work of inspection themselves, there is still a strong need especially for a more effective implementation of these activities and for collaboration and cooperation regarding matters in general. For this purpose, the Ministry of Economy has been assigned as the coordinating body for market surveillance.

The Ministry of Economy carries out this duty through two different mechanisms:

1. Market Surveillance Coordination Board (MSCB)

The MSCB convenes in every four months, chaired by the Ministry of Economy, with representatives at the level of director general from all MSAs. Representatives from producer (The Union of Chambers and Commodity Exchanges of Turkey-TOBB) and consumer (Federation of Consumer Associations-TÜDEF) organizations and Association of Conformity Assessment (UDDER) regularly participate in board meetings as observers. The duties of the Board are as follows:

- Ensuring coordination between MSAs for the effectiveness of market surveillance activities;
- Proposing solutions to the problems faced by MSAs regarding market surveillance;
- Monitoring the preparation and implementation of technical legislation on products;

- Taking advisory decisions on market surveillance, when necessary;
- Preparing annual action plans on the issues that require cooperation, and monitoring the work carried out within the framework of these plans.

2. Market Surveillance and Product Safety Assessment Board

MSAs are represented at the highest level (Minister, Undersecretary, chairman of the board) in the “Market Surveillance and Product Safety Assessment Board”, established in accordance with the Prime Ministry Circular No. 2011/12, published in the Official Gazette No. 28046, dated 06.09.2011.

The Board convenes at least once a year under the coordination of the Minister of Economy in order to:

- evaluate the annual action plans prepared by MSCB;
- define the measures to be taken and the main goals and strategies for the effective implementation of import controls and market surveillance;
- take high level decisions and;
- ensure cooperation and coordination between relevant institutions.

In its first meeting held on 4 July 2012, “Market Surveillance and Product Safety Assessment Board”, adopted “Turkey’s National Market Surveillance Strategy Document” for years 2012–2014 to keep pace with the changing and improving conditions in market surveillance system in Turkey.

The Document lists 5 strategic objectives to be achieved in three years period. These objectives are:

1. Updating and strengthening the legislative infrastructure
2. Strengthening the administrative and technical infrastructure
3. Increasing the effectiveness of implementation
4. Development of international cooperation
5. Improvement of communication with the stakeholders

To reach these objectives, specific goals were also laid down in the Document. For achieving these goals working groups have been established in 2012 and they continued their works since the year 2012.

The Board held its second meeting on 16 August 2013. In the meeting the ongoing work carried out under the National Market Surveillance Strategy was assessed and decisions were taken regarding improving the current distribution of tasks among MSAs, rights of inspectors and the current legislation about internet/TV sales and advertisements regarding unsafe products.

3. Evaluation of Market Surveillance Actions and Annual Market Surveillance Report

To rate performance of inspection activities carried out by MSAs and to compare this data with the previous years’ performance, annual market surveillance reports are prepared in the light of the information gathered from market surveillance authorities. The report mainly includes data about the number of inspected products, number of products being subject to

tests, budget allocated for market surveillance purposes, number of inspectors utilized for market surveillance etc and provides a comparison of the enforcement of MSAs. The report is also published and distributed to MSAs, producer and consumer organizations, accreditation and standardization bodies etc to increase the visibility of market surveillance activities in Turkey. The Report is also made public via the web site of the Ministry of Economy.

F) Participation to the joint actions and the product notification systems of the EU

Although Turkey has not yet participated in the product notification systems of the European Union, the preparatory work for this participation was finalized. Turkey published the “Regulation on Recording and Notification of The Results and Measures of Market Surveillance” and established administrative infrastructure for the notification of dangerous products. Ministerial contact points were determined together with the Ministry of Economy as the national contact point for the notifications and national MS Database have been put into use in 2013. Market surveillance authorities submit information about unsafe and non-compliant products which they have found in the Turkish market. This information is shared with the department responsible for border checks and also with the European Commission if necessary.

Turkey also participates as an observer to joint actions organised by PROSAFE.

G) National Market Surveillance Database

Turkey established its own national market surveillance database in July 2013. This database provides exchange of information between market surveillance authorities and authorities in charge of border controls.

This database not only records the data about non-compliant and unsafe goods, but it also saves official reports, test reports and other related documents.

MS results are recorded quarterly and annually on the database. However the information and the documents about unsafe products are recorded in 7 work days.

II. IMPORT CONTROLS

Import controls are used as an effective and rapid way of ensuring product safety within close cooperation with the customs. The legislation (namely Communiques) for product groups which are to be checked at the import stage is prepared and put into force by Ministry of Economy. However inspections at the import stage are carried out by several competent authorities including the Ministry of Economy. The Communiques mainly list the products to be inspected, sets the authority that performs inspections and responsibilities of customs and the relevant authority. The lists of the products are determined either by the Ministry of Economy itself or together with the relevant authorities carrying out import controls.

Import controls of “**radio and telecommunication terminal equipment**”, “**toys**”, “**personal protective equipment**”, “**construction products**”, “**batteries and accumulators**”, “**medical devices**”, “**footwear**”, “**agricultural products (marketing quality checks)**” and

“cotton” are carried out by the Ministry of Economy through TAREKS (Risk-Based Trade Control System), the electronic and risk-based system.

Furthermore, the product groups such as “machinery”, “low voltage equipment”, “electromagnetic compatibility”, “pressure equipment”, “simple pressure vessels”, “transportable pressure equipment”, “appliances burning gaseous fuels”, “lifts”, “hot-water boilers” “some industrial raw materials” and “intermediate goods” are checked at the import stage by Turkish Standards Institution also via TAREKS. The import controls for these product groups were included in TAREKS in 2013 , since then the controls have been handling electronically and based on risk analysis.

Although import controls of these products are mainly based on controls of conformity documents, test reports and physical controls, in case of risk, tests might also be carried out.

On the other hand, the industrial products which are originated from EU countries (also including the products coming from EU countries but originating from third countries) along with an A.TR document principally are not subject to import controls through TAREKS unless they are considered risky.

Furthermore controls on “wastes”, “chemicals (hazardous, ozone depleting, etc.)”, “and scrap metals”, “solid fuels” are performed at customs points by the Ministry of Environment and Urbanization. “Narcotic drugs”, “psychotropic substances” and “pharmaceuticals” are checked by the Ministry of Health at the import stage. Some child-care and stationary products are checked by Ministry of Customs and Trade. Safety checks for agricultural products and foodstuff at import stage is performed by the Ministry of Food Agriculture and Livestock.

III. PLANS FOR 2014

A) Horizontal Priorities

The horizontal strategic priorities for 2014 will be as follows:

End of the year 2014:

- Clarifying the distribution of tasks among MSAs
- Updating the framework legislation on market surveillance
- Supporting consumer organisations’ establishment of a structure able to present data to Market Surveillance.
- Sharing and efficient use of resources

Activities to be repeated every year:

- Extensive and effective use of the information technologies
- Regular monitoring of information on product-related accidents
- Continuing in-service trainings/meetings
- Informing and warning the public regularly
- Regular and effective participation in committees within the European Commission and joint market surveillance projects of the EU
- Cooperation with other countries
- Informing producers and importers regularly on legislation and implementation

b) Sector Specific Programs

The sector-specific programs of market surveillance authorities for 2014 are presented under ANNEX 1.