

Swedac
[Swedish Board for Accreditation and Conformity Assessment]
market surveillance plan
Legal Metrology Department

2016

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1 Introduction

Swedac is responsible for market surveillance in the field of legal metrology, for which it has established the following objectives:

- to meet market demand for rules intended to protect consumers and create competition under equal conditions, by means of needs-based regulation;
- to ensure that both undertakings and consumers are familiar with Swedac's rules, and to carry out supervision/market surveillance to ensure compliance with them;
- to create the conditions for an effective internal market and functioning international trade, through cooperation within the EU and with the International Organisation of Legal Metrology (OIML) and the European Co-Operation in Legal Metrology (WELMEC), and under the Hallmarking Convention.

With regard to market surveillance of measuring instruments, Swedac works mainly on the supervision of measuring instruments that have already been placed on the market and taken into use. This achieves indirect monitoring of the instruments that are on the market and in use for a certain purpose.

As regards precious metals, Swedac carries out its market surveillance with a view to ensuring that articles made of precious metals which are offered for sale are of the stated fineness and are hallmarked as required by law, so that consumers can buy with confidence and there can be competition on an equal footing throughout the sector.

2. Legal basis

2.1 EU legislation and national Acts and Ordinances

There are provisions on market surveillance in:

- Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products
- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State, the implementing provisions for which appear in the Ordinance (2009:52) on contact points and information procedures for the application of mutual recognition of technical rules for products,
- Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products,
- Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, implemented in Sweden by the Product Safety Act (2004:451) and the Product Safety Ordinance (2004:469),
- Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments,

- Directive 2009/23/EC of the European Parliament and of the Council of 23 April 2009 on non-automatic weighing instruments,
- Act (1999:779) on trade in articles made of precious metal and Ordinance (1999:780) on trade in articles made of precious metal.

More detailed rules on market surveillance and supervision by Swedac are contained in sector-specific legislation. The legislation gives Swedac the powers to issue detailed rules, and a mandate to carry out supervision and market surveillance.

2.2. Swedac regulations

Swedac has produced regulations for a number of products that are covered by its supervisory and regulatory responsibilities.

Directive 2004/22/EC is implemented by:

- Swedish Board for Accreditation and Conformity Assessment regulations (STAFS 2006:4) on measuring instruments
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:5) on water meters
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:6) on gas meters and volume converters
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:7) on active electricity meters
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:8) on heating meters
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:9) on measuring systems for the continuous, dynamic measurement of quantities of liquids other than water
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:10) on automatic weighing instruments
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:11) on taxi meters (not subject to Swedac supervision)
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:12) on length and volume measures for dispensing purposes
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:13) on instruments for measuring dimensions
- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2006:14) on flue-gas meters

Directive 2009/32/EC is implemented by:

- Swedish Board for Accreditation and Conformity Assessment regulations and general advice (STAFS 2007:18) on non-automatic weighing instruments

Directive 76/211/EC is implemented by:

- Swedish Board for Accreditation and Conformity Assessment regulations (STAFS 1993:18) on EEC marking of prepackaged products

- Swedish Board for Accreditation and Conformity Assessment regulations (STAFS 2003:1) on the prepackaging of products by volume or weight

2.3 WELMEC guides

WELMEC's WG5 working group has produced guidelines on market surveillance. They are based on the requirements of Directive 2004/22/EC on measuring instruments and Directive 2009/23/EC on non-automatic weighing instruments. The Directives are intended to harmonise Member States' market surveillance activities.

3. Principles for selecting products for surveillance

3.1 Intelligence

Monitoring in the area of legal metrology is carried out both formally and informally. It should be mentioned that Swedac participates in the work done by the OIML and the WELMEC, and under the Hallmarking Convention and receives large amounts of information. There is a continuous exchange of information between these organisations, such as notifications, alerts, surveys, etc. Other channels of intelligence primarily include the following sources:

- Swedac's supervisory activities relating to measuring instruments in operation,
- media monitoring via search engines,
- ongoing contact with industry and other interested parties,
- some collaboration with other authorities.

Swedac receives examples of what market conditions are like through enquiries from undertakings and the general public.

3.2 Risk analysis

Articles of precious metal

Before 2016, Swedac carried out a risk analysis in the field of articles of precious metal, based on the results of market surveillance in previous years. The finding was that the vast majority of articles of precious metal on the market bear their own name marks which are registered with Swedac. Instead of registering their own mark, some vendors prefer to send unmarked articles of precious metal to the surveillance authorities to be stamped with the Swedish control mark (cat's paw). Some Swedish manufacturers consider it safer to stamp articles of precious metal with both name marks and control marks. Those who have been active in the sector for some time report that their customers prefer articles of precious metals to be stamped with both marks.

Market surveillance also shows that there are still articles on the market which are not stamped in accordance with the statutory requirements. They are usually imports from countries outside the EU. There are indications of growing numbers of importers selling products which are not in line with requirements, especially in the south of the country. Such traders are difficult to identify, because most often they are not registered as gold or silver traders with the *Bolagsverk* [Swedish Companies Registration Office] or the *Skatteverk* [Swedish Tax Agency].

Measuring Instruments

In 2014, the Commission made resources available for a Joint Project. Before submitting an application, the coordinated AdCo group conducted a risk analysis. Swedac has not therefore carried out any detailed risk analyses but is instead participating in the AdCo group's project, which concerns heating meters and electricity meters.

4. Surveillance methods

4.1 Proactive and reactive surveillance

Swedac carries out proactive market surveillance through projects or campaigns aimed at manufacturers, importers, distributors or users of measuring instruments.

Reactive surveillance is carried out on the basis of information received about shortcomings of some kind. Information may come from an internal mapping project / inspection visit in respect of measuring instruments in operation, from other authorities, Member States, etc., or in the form of tip-offs from undertakings or the general public. Surveillance of instruments in operation often also involves looking at the instruments original marking, for which the manufacturer is responsible. In such cases, the manufacturer may be required to provide documentation.

4.2 Surveillance initiatives aimed at traders

Swedac is taking part in a joint project on heating and electricity meters, for which the Commission made funds available in 2014. Eight other Member States, plus Switzerland, are also involved. The AdCo group is coordinating activities. The project involves each participating Member State conducting market surveillance in respect of two measuring instruments / instrument groups; both physical tests and an examination of documentation and marking have to be carried out.

The physical tests have been conducted by an accredited laboratory which was not involved in the original conformity assessment process. The findings will be reported in the Information and Communication System for Market Surveillance (ICSMS). The project is expected to be completed no later than April 2016.

Surveillance of the trade in articles of precious metal will primarily involve mapping and identifying traders who import precious metal articles from countries outside the EU. Spot-checks will be carried out by visiting shops that sell gold, silver and platinum objects.

4.3 Information initiatives

In 2016, Swedac plans to:

- continue its review of the need for further information on its website about the various measuring instruments,
- organise meetings for the exchange of experience, involving manufacturers, retailers and distributors of measuring instruments,
- use a newsletter to inform manufacturers, importers, distributors and the owners of name marks of ongoing market surveillance activities.

5. Cooperation

In addition to Swedac's participation in the Market Surveillance Council, the work programme for 2016 includes plans for participation in the working group on customs-related issues. The group's aim is to map and clarify the legal conditions for operators who intend to import products which were not originally intended for the internal market.

6. Time-frame

Market surveillance in the field of heating and electricity meters began in 2014 and will be concluded in April 2016. With regard to articles of precious metal, market surveillance will be conducted mainly in the second and third quarters of 2016.

7. Reporting

Swedac reports on the results of its activities in the Market Surveillance Council and to the relevant WELMEC working groups; WELMEC's WG5 is the AdCo group in the field. In 2016, the aim is to include market surveillance project reporting in the ICSMS.