

National Product Market Surveillance Plan for 2013 and 2014

General part

Introduction

The National Product Market Surveillance Plan has been drawn up to comply with the obligation under Regulation (EC) No 765/2008, Article 18(5). Section III of the Regulation sets out the requirements regarding the organisation of and methods used for market surveillance and external border controls on products.

National Plan objectives and general strategy of the surveillance authorities

The aim of market surveillance and external border controls is to ensure that only products that comply with European product legislation are placed on the market or put into service. This both serves the sectoral interests referred to in the Directives (such as health, safety, the environment, metrology, telecommunications, sustainability and energy consumption) and establishes a level playing field for operators. Market surveillance covers products offered or placed on the market by market participants in the Netherlands as well as products brought in from third countries. This does not include food, animal feed, living plants or animals, products of human origin and products of plants and animals relating directly to their future reproduction. Market surveillance applies to all other products covered by European (or national) regulations.

Vision and general policy for market surveillance in the Netherlands

The cabinet has developed a national policy framework for government surveillance as a whole, the Framework Vision for Surveillance II. This vision sets out six principles to be applied to the work of surveillance authorities. These are: selective, effective, collaborative, independent, transparent and professional. This framework is also applied to product surveillance. Market surveillance is risk-based and seeks to influence the behaviour of operators in such a way as to encourage compliance with the law. It focuses wherever possible on the start of the supply chain (manufacturer, EU importer), aims to achieve compliance by market operators (target-group-oriented) and primarily targets product groups that have a high degree of non-compliance and where non-compliance generates significant risks to the interests that the European product legislation cited is intended to protect. The measures taken by the market surveillance authorities in the event of non-compliance are proportional and aim to encourage compliance. This means that the measures are appropriate to the seriousness of the offence but also to the operator's conduct, opportunities and organisation. They can thus involve anything from criminal or administrative penalties to compliance assistance or partnerships. Operators that make a demonstrable effort to improve compliance are eligible for reduced surveillance. Agreements (covenants) can be concluded with these operators setting out the reduced level of surveillance and the operator's ongoing commitment to improving compliance. In this case the market surveillance authorities and the company are partners in ensuring product compliance.

Wherever possible, the market surveillance authorities cooperate to achieve this goal and seek to organise market surveillance in such a way that it represents a minimal administrative burden for companies. On imports, the market surveillance authorities work together with the

customs authorities. Market surveillance is increasingly being shifted to external border controls as a result of the large and increasing proportion of products originating in third countries (Asia).

Organisation of market surveillance in the Netherlands

Market surveillance of products is split between five national surveillance authorities, each with its own sector of responsibility (see Annex I). During external border control inspections, cooperation with the customs authorities and the division of responsibilities takes various forms, according to the nature of the products and the commercial volumes. For example, the customs authorities inform the market surveillance authorities of products that are yet to be imported that match risk profiles (product groups) provided in advance by the market surveillance authorities.

The market surveillance authorities then inspect the products when they are imported (i.e. before they are released for free circulation). This is an efficient solution for the situation in the Netherlands, given the large volume of goods imported into the EU every day through the port of Rotterdam.

The market surveillance authorities and the customs authorities discuss topics and activities in a national forum (Alliance working group on product market surveillance and external border controls) set up for this purpose in 2008 and chaired by the Netherlands Food and Consumer Product Safety Authority (Nederlandse Voedsel en Waren Autoriteit – NVWA). Amongst other things, this is where the positions of the market surveillance authorities and the customs authorities on imports into the EU (IMP market surveillance, ADCO horizontal issues) are decided.

This alliance also ensures the continued optimisation of the application of Regulation (EC) No 765/2008 at national level. For example, the possibility of additional specific joint surveillance and external border control projects are explored and discussed in the forum. A number of horizontal issues common to all the sectors of the different market surveillance authorities, which therefore require as standardised an approach as possible, are also discussed here.

Collaboration of inspection services on specific product groups

LED and energy-saving light bulbs

The three surveillance authorities – the NVWA, the Human Environment and Transport Inspectorate (Inspectie Leefomgeving en Transport – IL&T) and the Radiocommunications Agency (Agentschap Telecom – AT) are conducting a joint surveillance campaign targeting LED and energy-saving light bulbs in 2013. These light bulbs are assessed for compliance with the requirements of the following European Directives: EMC (AT), LVD, Product Safety (NVWA), Ecodesign and ROHS (IL&T). In this pilot project, a survey of the market is carried out and the market surveillance methods of the three services are compared and where necessary adjusted to bring them into line with each other. The aim of this collaboration is to reduce the financial burden on companies and to encourage compliance.

REACH

Monitoring compliance with REACH and EU-GHS (CLP) is primarily the responsibility of the Social Affairs and Employment Inspectorate (Inspectie SZW), IL&T and the NVWA. For this reason, since 2007 REACH and EU-GHS have been enforced by an inspection-services joint task force made up of: Inspectie-SZW, the NVWA and IL&T. Furthermore, IL&T has a cooperation agreement with the State Supervision of Mines and the customs authorities in these areas. The aim is to achieve effective enforcement while minimising the burden on companies. For example, there is a joint enforcement strategy and plan, and each target group has a single inspection service as their point of contact for enforcement.

Horizontal issues:

1. Risk assessment

The broad risk-assessment model (RATF) developed at the European Commission's request for the application of Regulation (EC) No 765/2008 has been discussed and demonstrated in the alliance working group. All of the inspection services recognise the importance of standardised risk assessment in all the sectors that fall within the scope of Regulation (EC) No 765/2008. In 2013, each inspection service will assess whether the model can be applied to its sector. The outcomes will be reported to the Commission.

2. Cooperation with third countries

The NVWA maintains close contacts with the Chinese market surveillance authority in order to achieve a closed surveillance chain as regards the safety of consumer products manufactured in China and exported to the EU. The aim is to create a seamless link between the export controls by the Chinese authority on these products and the import controls performed by the NVWA at the Dutch external border (Rotterdam). This is a process of continuous improvement. Inspection services such as the AT and IL&T also have a close working relationship with the Chinese authority when it comes to market surveillance. In 2013, a study will be conducted to establish whether and to what extent the relationship between the NVWA and the Chinese authorities will be copied by the inspection services that do not yet cooperate with the Chinese authorities. It will also be investigated whether the web tool Trade Route Asia (TRA), which is intended to make EU importers doing business with China aware that imported consumer products must comply with European legislation, can also be used by other inspection services for importers in their sector.

3. ICSMS

Joint information events are organised to raise awareness of the possibilities offered by ICSMS and to promote its use for the exchange of market surveillance information within the various sectors.

4. Cooperation with the business community/stakeholders

The joint inspection services are considering a stakeholder concept where horizontal issues, developments, plans and other topics relating to European and national market surveillance and external border controls on products are shared with the business community, civil society and consumer organisations.

5. *E-commerce*

The rapid increase in trade over the Internet is a top priority for every surveillance authority. Rather than new powers, this development demands smarter ways of working and appropriate technology. Amongst other things, use is made of the software developed by the tax authority in the context of tax investigation and enforcement. The inspection services will compare the methodologies they have developed so far and the experiences gained in the field to identify potential improvements.

6. *Harmonisation of intervention policy*

The Netherlands government intends for its inspection services to perform their duties in as clear and uniform a way as possible. After all, society expects there to be a single central government that must be seen to be consistent in its actions. This also applies to product market surveillance authorities when they take measures against non-compliant products in their sector. In view of this objective, the five market surveillance authorities will compare their intervention policies and harmonise them if feasible and desirable.

7. *Risk-based market surveillance*

The work of the five market surveillance authorities is founded on risk-based surveillance. They focus on the product groups and risks (product and degree of compliance) that have the largest impact in terms of subverting and undermining (harming) the public interests protected by European product legislation. Up-to-date data mining on risks (existing and new), the degree of compliance per target group of market participants and the reasons for compliance or non-compliance (and how to influence this) is crucial to making the right decisions and setting priorities correctly. The five surveillance authorities will compare their data-collection methods and the resulting surveillance prioritisation choices and harmonise them if necessary.

Participation of individual market surveillance authorities in European programmes and information systems

The participation of each market surveillance authority in Joint Actions, RAPEX, ICSMS, Prosafe (if applicable) and ADCOs is shown below. The table also indicates whether the authority cooperates with the customs authorities and investigates complaints. For the sectors (Directives and Regulations) under the surveillance of the inspection services, please refer to the overview sent to the Commission in accordance with Article 17 of Regulation (EC) No 765/2008.

Agentschap Telecom (AT)

Investigation of complaints and fault reports	Yes
Cooperation with the customs authorities	yes, emphasis is on disaster prevention
Participation in EU Joint Actions	Yes
Involvement in RAPEX	Yes, through the NVWA
Involvement in ICSMS	Not yet, an assessment of whether the ICSMS functionality is appropriate to our sector is planned for 2013
Involvement in Prosafe	n/a
Involvement in ADCOs	Yes (EMC and RTTE)

Inspectie Leefomgeving en Transport (IL&T)

Investigation of complaints and fault reports	Yes
Cooperation with the customs authorities	Yes
Participation in EU Joint Actions	Yes
Involvement in RAPEX	Only for pyrotechnics
Involvement in ICSMS	Starting
Involvement in Prosafe	n/a
Involvement in ADCOs	Yes (Pyrotechnics and Ecodesign)

Inspectie Sociale Zaken en Werkgelegenheid (I-SZW)

Investigation of complaints, reports and accidents	Yes
Cooperation with the customs authorities	Yes: provision of information on the flow of goods for inspection projects
Participation in EU Joint Actions	Yes
Involvement in RAPEX	Yes
Involvement in ICSMS	Not yet
Involvement in Prosafe	n/a
Involvement in ADCOs	Yes

Nederlandse Voedsel en Waren Autoriteit (NVWA)

Investigation of complaints, reports and accidents	Yes
Cooperation with the customs authorities	Yes: the customs authorities provide data on incoming goods that match the risk profiles supplied each year by the NVWA
Participation in EU Joint Actions	Yes
Involvement in RAPEX	Yes
Involvement in ICSMS	Yes
Involvement in Prosafe	Yes
Involvement in ADCOs	Yes

Verispect

Investigation of complaints and fault reports	Yes
Cooperation with the customs authorities	Yes. The decision has been taken to use the customs authorities' database. We expect that greater use will be made of this in 2013/2014. Following discussions with the customs authorities in 2011, no agreement is required for this.
Participation in EU Joint Actions	Yes, starting in 2013
Involvement in RAPEX	Yes, through the NVWA
Involvement in ICSMS	Yes
Involvement in Prosafe	n/a
Involvement in ADCOs	Yes

	<p>www.WELMEC.org</p> <p>WELMEC WG 5: specifically on (market) surveillance.</p> <p>Also other WELMEC working groups on software and requirements for specific measuring instruments</p>
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Annexes

Sectoral planning for 2013

1. Verispect



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use and marke...

2. Inspectie Leefomgeving & Transport (IL&T)



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National Mar...

3. Agentschap Telecom (AT)



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4. Inspectie Sociale Zaken en Werkgelegenheid (I-SZW)



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2013 SZW v2...

5. Nederlandse Voedsel en Waren Autoriteit (NVWA)



MarketSurveillance
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