



EUROPEAN COMMISSION

ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Regulatory policy

Regulatory approach for the free movement of goods and market surveillance

Brussels, 26 April 2011

**SOGS-MSG N026 EN**

## NOTE TO THE SOGS-MSG MEMBERS

**Subject: National Market Surveillance Programmes (NMSPs) - Main indicators for efficient NMSPs under Regulation 765/2008<sup>1</sup>**

### 1. MAIN LEGAL REQUIREMENTS

- Article 16(3) : ...*NMSPs shall ensure that effective measures can be taken in relation to any product category...*;
- Article 18(5) : (a)...*MS shall draw-up either a general MSP or sector specific programmes, covering the sectors in which they conduct market surveillance... and (b) make them available to the public....* .

### 2. RELEVANT INTELLIGENCE EXISTING IN SOGS-MSG WPs

The guidance elements already in the SOGS-MSG Working Papers (WPs) on the NMSPs<sup>2</sup> are still applicable as regards either the overall context for the elaboration of a NMSP or the oriented elements for the elaboration of a general or sectoral NMSP.

However, there is a need to recall, to be in line with the provisions at point 1, that:

- where a MS opts to develop a general NMSP, it has to include specific information on the sectors where it will perform market surveillance, on the contrary, where it opts for a sector oriented NMSP, it has to include general information necessary to understand the context of the sectoral programme.
- MS have to include in their NMSP details on controls if the programme is addressed only to MS. On the contrary, details on controls are not necessary if the NMSP is only to inform the public.

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<sup>1</sup> OJEU No L 218 of 13.08.2008, page 30

<sup>2</sup> SOGS-MSG N008 of 26 May 2009, SOGS-MSG N008 – Addendum of 30 September 2009, SOGS-MSG N011 of 16 November 2009 and SOGS-MSG N022 of 7 March 2011

### 3. INDICATORS FOR EFFICIENT NMSPS FOR EFFECTIVE MARKET SURVEILLANCE

One of the NMSP main objectives is to ensure cross-border exchange of information on the activities where a MS has decided to conduct market surveillance.

Programmes elaborated in 2010-2011 need improvements/alignment. The following questions could serve as indicators and guidance for future programmes and for the evaluation of 2010 NMSPs:

#### 3.1. In general

- (1) *Does your NMSP cover the overall EU market surveillance framework as established by Chapter III of the Regulation 765/2008 which includes border controls? If yes, how (e.g. a general statement)?*
- (2) *In which way does your NMSP enforce the provisions of Article 16(3) which provides that "... effective measures can be taken in relation to any product category"?*
- (3) *Does your NMSP cover only the products under the Regulation 765/2008? If not, what is the approach followed as regards the non harmonised area under GPSD (e.g. general reference, sector oriented approach)?*
- (4) *For the overall management do you need a coordinating entity? If yes, is this in place and have you established its role?*
- (5) *Is the coordination and cooperation between the national market surveillance authorities effective and efficiently organised? Are customs authorities well integrated in the national coordination and cooperation? Have you put in place the appropriate mechanisms to do so?*
- (6) *Do you participate in the overall sectoral or project oriented cooperation at EU level, such as ADCO groups, joint actions? If not, why?*
- (7) *Have you a general view of the international cooperation on product safety? How does this facilitate market surveillance activities in your Country? How far does your involvement go? What impact do you expect/experience from it?*

#### 3.2. On sector/category/product oriented NMSPs

- (8) *Are the national market needs to ensure safety and compliance sufficiently covered by the national market surveillance sectoral initiatives/actions in your NMSP? If not, in which way you tackle the problem (e.g. national coordination, reactive actions)?*
- (9) *Have you (safety) criteria on which you decide to perform or not surveillance on a specific sector/category/product?*
- (10) *Are priorities and type of controls identified in relation to agreed rules? If so which?*

- (11) *To comply with the national needs/configuration what is the most appropriate approach for the development of a sectoral NMSP? Is the EC template suitable for you? If not, does the national approach allow easy visibility and comparability of your activities for other Member States?*
- (12) *On what kind of product(s) will you perform controls in particular when specific sectors/categories are identified?*

### **3.3. Follow-up**

- (13) *Are national procedures in place to ensure proper follow-up to actions in your NMSP? If yes, are they organised at sectoral level only or are they also coordinated at horizontal level?*
- (14) *Where national coordination exists, what are the means used to inform on the results achieved and on issues for future action?*
- (15) *Are you ready to update your NMSP during the notification period to integrate further priorities or reactive actions? If yes, are all parties properly informed, including the Commission?*

### **3.4. Publication**

- (16) *Since the NMSP for publication has not to inform on control details, have you criteria for that?*
- (17) *Is your NMSP already available on the web? If yes, is this organised at sectoral level only or available also at one point of entry?*
- (18) *Are you organised to address comments or requests for information on the content of your NMSP?*

## **4. CONCLUSIONS**

The above list is not exhaustive. It is designed to help focus the drawing up of NMSPs on the issues necessary to be in line with the relevant provisions of Regulation 765/2008. It aims to ensure more coherence, transparency of information and comparability of the overall NMSPs. It will also allow the Commission to publish appropriate material in a more coherent manner at the EU level.