



## The New Legislative Framework and Market Surveillance

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The New Legislative Framework for the marketing of products which was adopted on 23 June 2008 is designed to bring together into a single legislative package, all the legislative instruments needed for ensuring the placing on the market of safe products and for providing effective surveillance of the market and control of products from third countries. Thus the package brings together provisions on accreditation of conformity assessment bodies, on market surveillance, on conformity assessment bodies, competence criteria selection process (notification), definitions, obligations for economic operators, consolidated conformity assessment procedures and rules for their use, as well as provisions on marking.

More particularly in the field of market surveillance, the new framework sets out for the first time, some very clear obligations on Member States and national authorities to intervene on non conforming or dangerous products in the areas covered by EU harmonisation legislation. In particular, national authorities must have the power, authority and means to withdraw or have withdrawn from the market, dangerous or non conforming products. They shall even have the authority to have a product destroyed if necessary. The Regulation in its relations with existing legislation attempts to put into place a seamless system for all products and therefore does not make any distinction between consumer and non consumer products.

A very important new element in the new framework lies in the fact that it brings together, into one single legislative environment, market surveillance and the control of products from third countries. In many Member States today they are not necessarily treated together and yet they are two complementary pillars of the edifice for safe products. By bringing them together we close loops that unsafe products make the best of, and we also lead to the sharing of effective control means and tools thus making both elements very much stronger. This includes providing for customs authorities to be empowered to destroy or have destroyed products, to avoid importers going from one entry point to another.

The new framework will entail putting into place new means of communication between national authorities and between them and the Commission. The Regulation on market surveillance puts into place a number of obligations on cooperation and communication, which the Commission will have to underpin with common initiatives and tools.

The RAPEX system which is put in place by the General Product Safety Directive (GPSD), is referred to directly in the Regulation so that we use the same tools for all and do not complicate things by creating multiple and overlapping tools. The same is provided for a general database to contain all general information relating to market surveillance.

Finally, the new framework should operate proper market surveillance, meaning that initial decisions relating to unsafe or non conforming products will be taken at the level of the market in the Member States thus reducing considerably the pressures on the safeguard clauses in the directives. Indeed, these should be reserved, in the future, to taking only decisions where it is necessary to ensure European coherence in relation to specific problems and products as opposed to being used as today as market surveillance tools; i.e. European procedures should be reserved for European issues and not day to day decision making in the field. This should make day to day decisions more efficient and European procedures easier to master.