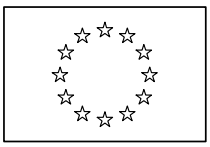

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.1.2009
COM(2008) 905 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL

on the implementation of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety

(presented by the Commission)

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1. INTRODUCTION

The General Product Safety Directive (the "Directive")[1] was adopted on 3 December 2001; it entered into force on 15 January 2002 and the deadline for its transposition by the Member States was 15 January 2004. It replaced an earlier General Product Safety Directive dating from 1992[2].

1.1. Scope of the Report

This report was drawn up pursuant to Article 19(2) of the Directive and includes information on the:

- safety of consumer products, in particular on improved product traceability;
- functioning of market surveillance and RAPEX;
- standardisation ;
- measures taken on the basis of Article 13 of the Directive.

Although the Directive does not apply to the safety of services, some of its provisions focus on this area to ensure "*the attainment of the protection objectives*" of the Directive. This Report will therefore also present the main developments towards safer services in Europe.

In 2007, further to massive recalls of consumer products worldwide, a Commission internal review[3] of the EU product safety framework concluded that the Community system, including this Directive, is capable of providing to European citizens a high level of protection against unsafe consumer products[4], as long as the rules of the system are properly applied. The review nevertheless identified some areas for improvement and the adoption of the Commission Decision on magnets in toys[5] was a direct follow up to this review. Furthermore, the proposal for revising the current European Directive on the safety on toys[6], and the "New Legislative Framework"[7] for the marketing of goods will raise the existing level of protection. This report also identifies further scope for perfecting the system created by this Directive.

1.2. Overview

1.2.1. Objectives and Scope

The purpose of the Directive is to ensure that only safe consumer products are placed on the Community market. The Directive applies to non-food consumer products. Where such products are subject to specific safety requirements imposed by other

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1 Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11, 15.1.2002, p. 4.

2 OJ L 228, 11.8.1992, p. 24.

3 http://ec.europa.eu/consumers/safety/news/stocktaking_%20execsum_en.pdf

4 http://ec.europa.eu/consumers/strategy/docs/eurobar_298_summary_en.pdf

5 See Section 3.4

6 COM (2008) 9 and: http://ec.europa.eu/enterprise/toys/2008_108_directive.htm

7 See Section 3.1.2 and: http://ec.europa.eu/enterprise/newapproach/index_en.htm

Community legislation, the Directive applies only to those aspects and risks, or categories of risks that are not covered by those specific requirements[8].

Safety of services falls outside the scope of the Directive, but in order to secure a high level of consumer protection, its provisions also apply to products that are supplied or made available to consumers in the context of a service for use by them. The safety of equipment used by the service provider, in particular that on which the consumers ride or travel, is nevertheless excluded. However, products which are actively operated by the consumer at the premises of a service provider, such as hairdryers available to guests in hotels rooms or sun beds in solariums, are subject to the provisions of the Directive[9].

1.2.2. Obligations of Economic Operators and Member States' Authorities

The Directive establishes a general obligation on economic operators to place only safe products on the market, and to provide information to consumers and the Member States' authorities. This information shall refer to products' traceability, and the application of measures, such as product withdrawal or recall. [10]

Member States' authorities must ensure that products placed on the market are safe and they must fulfil this obligation by monitoring compliance by producers and distributors with the obligations that the Directive places upon them.

1.2.3. Institutional and Enforcement Framework

The Directive provides for the Rapid Alert System for non-food Consumer Products ("RAPEX"). This system establishes the circulation of information among the Commission and Member States' authorities of information on measures taken by Member States' authorities and economic operators in relation to products posing a serious risk to the health and safety of consumers. Information on non-serious risks can also be circulated under RAPEX (less than 1% of all notifications). The RAPEX system remains open to third countries on the basis of a specific agreement signed between the Community and the applicant country. So far only one non-EU state (China) has received a partial and indirect access to RAPEX data.

Pursuant to Article 15 of the Directive, the Commission is assisted in its implementation tasks by a Committee composed of representatives from the Member States (the "GPSD Committee"). In addition, Article 10 of the Directive sets up an informal network of the Member States' authorities aimed at further enhancing administrative cooperation (the "Consumer Safety Network").

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8 For a guide clarifying the application of the Directive and the directives covering the safety of sector specific products see http://ec.europa.eu/consumers/safety/prod_legis/index_en.htm

9 See the Opinion of the Scientific Committee on Consumer Products (SCCP) at: http://ec.europa.eu/health/ph_risk/committees/04_sccp/sccp_opinions_en.htm#3

10 Guidelines for economic operators, Commission Decision 2004/905 (OJ L 381, 28.12.2004, p. 63)

Given that the Directive forms part of the EEA Agreement[11], the same rules and mechanisms are also in place in the EFTA countries applying the EEA Agreement, i.e. Norway, Iceland and Liechtenstein.

2. TRANSPOSITION

Transposition measures have been notified by all 27 EU Member States.[12] However, the method of implementation has not been the same in all Member States[13]. Bilateral discussions between the Commission and the Member States are still ongoing to clarify certain aspects.

In particular, the safety assessment aspects differ in some transposition acts from the rules laid down in Article 3 of the Directive. Some Member States have not transposed all the criteria listed in Article 3, while other Member States have modified such criteria or developed their own ones.

As far as traceability is concerned, some Member States have made it obligatory to indicate on the product or packaging, the identity and details of the producer (or importer) , while other Member States have left it optional. Consequently, producers' obligations can differ in practice from one Member State to another.

In some Member States, notification by producers is required only in the case of a known risk, and there is no obligation to notify when the producer "*ought to know*" the risk based on available information.

Finally, although the Member States are obliged to lay down provisions to comply with measures that the Commission can adopt under Article 13, some Member States have not laid down dedicated national provisions designed to implement such measures.

3. APPLICATION AND REGULATORY DEVELOPMENTS

3.1. Functioning of Market Surveillance

Most market surveillance authorities in the Member States work on the basis of annual inspection programmes which take into account previous experiences and findings, products that are frequently notified through the RAPEX system and consumer complaints. If necessary, all Member States carry out controls and tests which are not necessarily covered by their programming, for example in emergency situations.

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11 Decision 9/2003 (OJ No L 94, 10.4.2003, p.59)

12 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72001L0095:EN:NOT

13 A comparative transposition inventory can be found at: http://ec.europa.eu/consumers/safety/prod_legis/index_en.htm

3.1.1. Joint Actions

To promote a European network of Member States' product safety authorities[14], the Commission has co-funded several joint cross-border surveillance and enforcement actions between these authorities[15] during the past five years. These joint actions have covered suffocation accidents involving children, safety of playground equipment, cigarette lighters, lighting chains and cord extension sets. Two actions address cross-border cooperation: one is on collaboration with customs authorities in the Baltic Sea Region and the other one, known as the "EMARS" project, is aimed at enhancing market surveillance through best practice. This last project involved 15 Member States and resulted in the development of a knowledge base, a rapid advice system, a best practice handbook and a strategy document on the future of market surveillance[16].

3.1.2. New Legislative Framework

On 9 July 2008 a new legislative framework for the marketing of products consisting of Regulation (EC) No. 765/2008[17] and Decision 768/2008/EC[18] were adopted. One of the objectives of these measures is to establish a reinforced market surveillance framework for products covered by Community harmonisation legislation and traceability of products. Furthermore, the Regulation lays down the obligation for the competent authorities of the Member States to carry out appropriate checks on the characteristics of products on an adequate scale on the EU market and before those products are released for free circulation. The Commission is currently preparing guidelines to clarify the relationship between the market surveillance framework under the Regulation and the Directive.

Besides, Article 42 of the Regulation (EC) No. 765/2008 modified the wording of Article 8(3) of the Directive to render these provisions more stringent for the Member States and align the wording of the Directive with the provisions of the Regulation.

3.2. Functioning of RAPEX

3.2.1. Circulating Alerts on Dangerous Products

The RAPEX system is designed to ensure efficient dissemination of information to all Member States to allow rapid action to be taken against consumer products that are detected on the market, which present serious risks to the health and safety of consumers. To deal with so-called "emergency situations", mechanisms in place ensure that the alert information is immediately circulated to all Member States for follow-up.

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14 Article 10 of the Directive; and, for budgetary aspects, see Decision 1926/2006 (OJ L 404, 30.12.2006, p. 39)

15 http://ec.europa.eu/consumers/safety/projects/index_en.htm#ongoing_projects

16 http://www.emars.eu/

17 OJ L 218, 13.8.2008, p. 30

18 Ibid., p. 82

The Commission services publish relevant information concerning all RAPEX notifications weekly on the Internet[19].

3.2.2. RAPEX Guidelines

In 2004 the Commission adopted specific guidance ("the RAPEX Guidelines") to ensure the efficient operation of RAPEX[20]. The RAPEX Guidelines define the scope of the Member States' duty of notification by describing the criteria which apply to the definition of "serious risk", and by providing guidance on the types of measures and products to be notified. They also contain risk-assessment guidelines. In 2008, the Commission started the revision of the RAPEX Guidelines, which is necessary in the light of the due to various developments which have taken place since 2004.

3.2.3. Statistical Trends 2004-2008

The number of notifications validated by the Commission has risen steeply in recent years. In 2007, the Commission validated 1605 notifications, compared to 1051 in 2006, 847 in 2005 and 468 in 2004. The number of measures notified in which a serious risk was involved has more than tripled, up from 388 in 2004 to 1.355 in 2007. This upward trend has continued in 2008. The increase in the number of notifications can be attributed to the more effective enforcement of product safety by the Member States authorities, increased awareness of their responsibilities on the part of business, the successive enlargements of the EU in 2004 and 2007, as well as the network building measures coordinated by the Commission[21]. Moreover, the gap between the countries with the highest and lowest number of notifications is becoming ever narrowed.

As regards the categories of products which are subject to corrective measures owing to the seriousness of the risks involved, articles intended for children (toys and children's equipment) and electrical products (e.g. domestic appliances, lighting equipment) are the product groups for which the highest number of notifications have been issued; collectively, these product groups account for over 50% of all RAPEX notifications.

The most common risks observed have been injury, choking and electric shock, followed by burns, fire, suffocation and chemical risks. Long-term risks, such as those arising from exposure to certain chemicals, are more difficult to detect and assess because the hazardous effects are not immediately evident[22].

The number of notifications of voluntary corrective measures taken by businesses has increased over the years: in 2007, it reached 50% of the total number of notifications of products posing a serious risk

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19 http://ec.europa.eu/consumers/safety/rapex/index_en.htm The importance of this information portal is shown by the average of 35.200 monthly visits it had in 2007.

20 Commission Decision 2004/418/EC (OJ L 151, 30.4.2004, p. 84)

21 http://ec.europa.eu/consumers/safety/rapex/stats_reports_en.htm

22 The Commission has developed an on-line exposure assessment toolbox to improve coherence in risk assessment:http://www.jrc.ec.europa.eu/eis%2D chemrisks/) .

3.2.4. Training

The Commission has organised training sessions for Member States' authorities in charge of product safety, aimed at strengthening their capacity to participate in the RAPEX network. In 2006-2008, a total of 22 Member States benefited from these seminars. The Commission also hosts meetings of RAPEX contact points in Brussels. In addition, customs and market surveillance authorities from all Member States agreed on the need of enhanced cooperation, improvement of risk management and better sharing of knowledge and best practices[23].

3.2.5. RAPEX-China

Given the very high proportion of RAPEX notifications relating to products of Chinese origin (as high as 56% between January and September 2008, 52% in 2007, 49% in 2006, 49% in 2005 and 38% in 2004), relations with the Chinese authorities on product safety have been intensified. In January 2006, the Commission's Directorate-General for Health and Consumers and the Administration for Quality Supervision, Inspection and Quarantine of the People's Republic of China ("AQSIQ") signed a Memorandum of Understanding ("MoU"). The MoU was updated in November 2008 to reflect the strengthened cooperation.

AQSIQ has access via a dedicated IT-system to notifications of dangerous products of Chinese origin registered under RAPEX ("RAPEX-China"). The Chinese authorities report to the Commission quarterly on the follow-up actions taken on the basis of the RAPEX data. So far, AQSIQ has submitted seven reports to the Commission. Between September 2006 and May 2008, AQSIQ has investigated and, where necessary, taken measures in relation to 599 RAPEX notifications. In 51% of the cases, investigations resulted in the adoption of preventive or restrictive measures either by AQSIQ or voluntarily by the Chinese manufacturer (or exporter): these included corrective measures, export bans, strengthened supervision of the Chinese companies concerned and the suspension or withdrawal of export licences. In 49% of the cases investigated, no measures were taken, mainly owing to the lack of available information about the Chinese manufacturer or exporter.

3.3. Traceability of Products

Traceability serves to identify economic operators involved in the production and distribution process. With this information, corrective measures can be put in place effectively. High-profile alerts on non-food consumer goods worldwide have recently highlighted the need for effective recall procedures which are not excessively costly for economic operators.

Article 5(1) of the Directive contains general obligations for producers to provide consumers with the necessary information for tracing the origin of a product or to display the identity of the producer or details of the production batch on the packaging of the product. Nevertheless, it is up to the Member States to adopt concrete measures to implement such obligations. The number of notifications in which the product was untraceable has decreased in comparison with previous years. However, as products that

[23] Conclusions of the Seminar "Preventing Imports of Dangerous Products", April 2008, funded by the Customs 2013 Programme.

pose a serious risk and whose country of origin is unknown account for 10% of notifications[24], there is still room for improvement.

Further improvements can be expected as a result of the recently adopted Decision 768/2008/EC, which requires the indication of the name and the address of the manufacturer and, for imported products, both the importer and the manufacturer, as a general principle for Community harmonisation legislation.[25]

3.4. Community Measures based on Article 13 of the Directive

To date, the Commission has applied the procedure provided for in Article 13 of the Directive on three occasions. Firstly, it was used to extend the ban on phthalates in toys[26] during the period up to the adoption of the permanent ban under Directive 2005/84/EC.[27]

The next measure based on this Article was the Decision of 11 May 2006[28] requiring Member States to ensure that cigarette lighters placed on the EU market are child-resistant and to prohibit the placing on the market of lighters which resemble objects that are particularly attractive to children (so-called "novelty lighters"). Lighters fulfilling certain technical criteria are excluded from the scope of the Decision. Member States were required to comply with the Decision by 11 March 2007 at the latest. The Decision was prolonged until 11 May 2008 by a Decision of 12 April 2007[29], which also prohibited the supply to consumers of non child-resistant and novelty lighters as of 11 March 2008. A further prolongation, until 11 May 2009, was adopted on 18 April 2008[30]

The most recent measure based on Article 13 was the Decision of 21 April 2008[31] requiring Member States to ensure that magnetic toys placed or made available on the market display a warning about the health and safety risks they pose. Magnets used in toys have become more powerful, but also detach more easily, thus presenting life-threatening risks if ingested, as they can perforate the stomach or the intestines. In the absence of dedicated provisions in the current legislation and in the relevant safety standard (both undergoing revision), the Commission adopted this temporary measure which is valid until 21 April 2009.

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24 Situation in September 2008, source: RAPEX statistics January – September 2008. http://ec.europa.eu/consumers/safety/rapex/stats_reports_en.htm

25 Decision 768/2008/EC, Annex I, Articles R2(6) and R4(3)

26 Commission Decisions 2004/178/EC (OJ L 55, 24.2.2004, p. 66), 2004/624/EC (OJ L 280, 31.8.2004, p. 34) and 2004/781/EC (OJ L 344, 20.11.2004, p. 35)

27 Directive 2005/84/EC (OJ L 344, 27.12.2005, p. 40)

28 Commission Decision 2006/502/EC (OJ L 198, 20.7.2006, p. 41)

29 Commission Decision 2007/231/EC (OJ L 99, 14.4.2007, p. 16)

30 Commission Decision 2008/322/EC (OJ L 109, 19.4.2008, p. 40). A working group of experts from the customs and the market surveillance authorities of the Member States has been set up to improve the coordination of control activities.

31 Commission Decision 2008/329/EC (OJ L 114, 26.4.2008, p. 90)

The application of measures under Article 13 of the Directive has shown that the temporary nature of these measures is a cause of concern. On the one hand the limited validity of these measures and their repeated renewals cause uncertainty for economic operators. On the other hand, because these measures are temporary, they cannot eliminate the root-cause of the safety problem concerned.

3.5. Standardisation

3.5.1. Procedure and Relevant Actors

The Directive lays down criteria for assessing product safety, in the absence of Community legislation referring to national legislation and to European standards developed by the European standardisation organisations ("ESOs")[32]. According to Article 3(2), a product is presumed to be safe when it conforms to voluntary national standards transposing European standards whose references have been published in the Official Journal of the European Union ("OJEU").

Under the terms of Article 4, the Commission adopts, by comitology procedure, Decisions specifying the safety requirements which the future standards should reflect. Subsequently, based on the above-mentioned Decision, the Commission issues mandates to the relevant ESO, to develop standards which satisfy the specific safety requirements.

Once a standard is drawn up and adopted by an ESO, the Commission takes a Decision -under the comitology procedure- confirming that the standard was drafted in compliance with the procedure referred to above and it publishes the reference of the standard in the OJEU. This publication confers on the products manufactured according to that standard (or its equivalent national versions) the presumption of conformity with the general safety requirement of the Directive under Article 3(2).

The initial Decision determining the specific safety requirements does not create, as such, either a presumption of safety for products complying with the said requirements, or an immediately applicable set of obligations and rights for third parties. Nevertheless, these Decisions can be used as an additional tool to assess whether a product is in conformity with the general safety requirement under Article 3(3) of the Directive.

Regarding the interests represented in standard-making, access and effective participation of societal interests in the standardisation process can be hampered by many factors such as lack of resources, insufficient expertise and ineffective coordination. This is why the Commission grants financial support to consumer and environmental organisations, as well as to trade unions and SMEs. As far as consumer representation is concerned, the Commission contributes financially to the functioning of European consumer organisations which represent consumer interests in the development of standards for products and services at Community level[33].

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32 CEN (European Committee for Standardisation), CENELEC (European Committee for Electro-technical Standardisation), and ETSI (European Telecommunications Standards Institute). See also: http://ec.europa.eu/enterprise/newapproach/standardization/harmstds/stdbody.html

33 For more information: http://ec.europa.eu/consumers/tenders/information/grants/support_en.htm

3.5.2. *Decisions on Safety Requirements and Mandates*

During the period covered by this report, three Decisions laying down safety requirements were taken, and corresponding standardisation mandates were issued pursuant to points (a) and (b) of Article 4(1).

On 21 April 2005, the Commission adopted Decision 2005/323/EC on the safety requirements to be met by the European standards for floating leisure articles for use on or in the water[34]. On the basis of that Decision, the Commission issued mandate M/372 to CEN. Seven standards is being developed under this mandate[35].

On 25 March 2008, the Commission adopted Decision 2008/264/EC on the fire safety requirements to be met by European standards for cigarettes[36]. On the basis of that Decision, the Commission sent mandate M/425 to CEN to develop a standard to reduce the ignition propensity of cigarettes.

On 23 April 2008, the Commission adopted Decision 2008/357/EC on specific child safety requirements for lighters[37]. This resulted in mandate M/427 to revise the existing standard EN 13869 on child resistance for lighters.

3.5.3. *Publication of References of Standards*

During the reporting period, the Commission adopted three decisions on the compliance of certain standards with the general safety requirement of the Directive[38]. These decisions were adopted in accordance with second and fourth subparagraph of Article 4(2) of the Directive. Each publication replaced the previous one of its kind; therefore the updated list of standards referenced under the Directive is the one annexed to the most recent publication in 2006[39].

3.5.4. *Preparation of Future Standardisation Mandates*

The Commission plans to improve the safety of childcare articles, intended for babies and very young children (generally from birth to 4-5 years) to accompany their sleep, feeding, bathing and transportation. Numerous accidents, sometimes fatal, involving these products take place every year in Europe[40]. Under the Directive, several safety standards for childcare articles have been published. However, there are many products for which there are still no safety standards, while in the case of other products the existing standards do not cover all the risks. A study commissioned in 2006 has enabled the identification and ranking of a list of products for which standardisation should be launched as a priority. The study includes a preliminary risk

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34 OJ L 104, 23.4.2005, p. 39

35 See www.cen.eu

36 OJ L 83, 26.3.2008, p. 35

37 OJ L 120, 7.5.2008, p. 11

38 Decision of 23 April 2004, C(2004)1493 (not published), Decision 2005/718/EC (OJ L 271, 15.10.2005, p. 51), and Decision 2006/514/EC (OJ L 200, 22.7.2006, p. 35)

39 Commission communication 2006/C 171/04, (OJ C 171, 22.7.2006, p. 23)

40 Injuries of children (0-14 years), data 2002-2004. See https://webgate.ec.europa.eu/idb

assessment, and draft safety requirements. The Decisions laying down the safety requirements are due to be adopted in the course of 2009.

In the area of accidents and injuries due to fires and flames, the Commission continues to develop its strategy to improve the fire safety of residential environments. The Commission is looking at ways of improving the safety of flammable surfaces and materials used in homes, such as furniture, furnishings, clothing and TV sets. There are a number of European voluntary standards in this area, but discussions with the Member States have made it clear that the solutions offered by these standards are not fully satisfactory, especially as far as the use of flame retardants is concerned. A key preliminary step is therefore to acquire comprehensive knowledge of the chemicals used as flame retardants, with a view to creating a satisfactory trade-off between fire safety and health and environment protection to be reflected in safety standards.

3.6. Safety of Services

With respect to the safety of consumer services, the Commission notes the lack of consensus among Member States regarding the appropriate level of Community action. At the same time, public opinion and political pressure from the European Parliament suggest that action is required, at European level, to address general risks and accidents, such as fire safety in hotels.

The need to improve the existing European system for monitoring accidents and injuries, including those related to services, has been recognized in a number of Commission's proposals aimed at preventing injuries and promoting safety[41].

In 2007, the Commission adopted a proposal for a draft framework Regulation concerning Community statistics on public health and health and safety at work[42]. The lack of comparable data has not, however, prevented the Commission from pursuing new initiatives, where the focus is on awareness raising, and encouraging stakeholders to address priority areas for Community action, such as hotel safety.

In response to the Commission mandate M/371 in the area of services, CEN carried out a study to determine the feasibility of a standardisation program of requirements for delivery of services, including its safety aspects[43].

4. CONCLUSIONS

4.1. General

The Directive has proven to be a powerful tool for ensuring a high level of consumer protection. It has helped to track down and eliminate a vast number of unsafe products from the European market. The RAPEX system, set up by the Directive, has complemented the existing regulatory framework applying to some

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41 COM (2006) 328 and 329

42 COM(2007) 46

43 See http://www.cen.eu/cenorm/sectors/nbo/value/chesss/index.asp

key consumers' products –such as toys, cosmetics, electrical appliances and luminaries, personal protective equipments, vehicles with a dedicated rapid exchange and alert system.

4.2. Transposition

While transposition of the Directive by the Member States is overall adequate, there are still certain inconsistencies. The Commission services are cooperating with the Member States to ascertain whether further measures by certain Member States are needed, but the Commission reserves the right to initiate infringement proceedings, where necessary. This concerns in particular the observation of time limits for the enforcement of measures under Article 13 of the Directive

4.3. Functioning of Market Surveillance

The major increase in RAPEX notifications over the last four years is a clear indication that market surveillance under the Directive has been successful. Nevertheless, in an increasingly global market with more and more products coming to the EU from third countries, there is a need for further co-ordination of market surveillance activities between the Member States, including cooperation with customs authorities.

Such coordination would benefit from the implementation of commonly-agreed best practices (such as those resulting from the EMARS project), increased exchange of information between Member States authorities within the existing IT tools, proper implementation of the framework set out in the New Legislative Framework and a stronger role for the Commission in joint priority setting for market surveillance.

4.4. Functioning of RAPEX

Many countries regard the Directive, and the RAPEX system in particular, as a benchmark, and several national, regional and international organisations have expressed an interest in participating in the system or in receiving assistance to set up similar systems.

While the increase in the number of notifications has placed the system under some strain, it is nevertheless a clear indicator of improved consumer protection at European level. The increase in reported measures adopted directly by economic operators to contain the risks posed by consumer products also shows that responsible businesses take product safety seriously and respect the obligations placed on them by the Directive.

4.5. Traceability of Products

The identification of the producer on the product or its packaging is an important element for ensuring traceability[44]. However, this requirement is not mandatory in all Member States' legislations and this leads to unsatisfactory results. If the market surveillance authority cannot trace the manufacturer or importer of a product that is found to be dangerous, it is not in a position to take fully effective measures. Further improvements could be achieved if the mandatory nature of this identification

[44] Article 5(1), fourth subparagraph point (a) of the Directive

requirement were clarified and if all products carried this information about the economic operator responsible for the product's safety. This would also bring it more closely in line with the provisions of the New Legislative Framework Decision which makes it obligatory for the name, registered trade name or registered trademark of the manufacturer or importer as well as their address to be indicated on the product.[45]

4.6. Community Measures based on Article 13 of the Directive

While temporary measures are indeed necessary in certain circumstances, the Directive contains no specific provisions explicitly permitting a permanent ban on non-harmonised products, once they have been unambiguously proved to be dangerous[46].

4.7. Standardisation

The standardisation provisions should be simplified to allow greater flexibility. It should be possible to lay down safety requirements for a specific category of products (e.g. childcare articles, furniture, clothing) and, on the basis of those, issue "framework" or "standing" mandates to the ESOs. This would streamline the lengthy procedure for issuing the safety requirements for each individual product. Moreover, technological improvements and new risks could be addressed swiftly.

The Commission should also be able to publish the reference of a standard adopted by an ESO without a corresponding mandate, if the product covered by the standard falls within pre-identified categories of products for which the Commission has set relevant safety requirements, and provided that such standard satisfies them. In this way, the resulting presumption of conformity with the general safety requirement would encourage business compliance and lead to better protection of consumers.

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[45] Decision 768/2008/EC, Annex I, Articles R2(6) and R4(3).

[46] See RAPEX Annual Report 2007 and Eurobarometer report October 2008:
http://ec.europa.eu/consumers/safety/rapex/docs/rapex_annualreport2008_en.pdf
http://ec.europa.eu/consumers/strategy/docs/fl224%20_eurobar_cbs_analrep.pdf