

**24 recommendations from  
the advisory report  
“Direct imports from outside the EU”**

November 2020

**SER**



# 24 recommendations from the advisory report “Direct imports from outside the EU”

## Information and instruction

- 1 Bring to the attention of entrepreneurs from third countries the Chamber of Commerce website [Ondernemersplein.nl](https://ondernemersplein.nl) as a Product Contact Point in the Netherlands and the European website [Your Europe](https://your-europe.eu) (the practical online guide for doing business in Europe).

### Who is concerned by this recommendation?

National government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security), consumer organisations and employers’ organisations.

## Online platforms

### Who is concerned by this recommendation?

National government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security), consumer organisations and employers’ organisations.

- 2 In a revision of the Regulation on market surveillance and compliance of products (Regulation 2019/1020), add the online platform (the online marketplace) as responsible and accountable market player in case no manufacturer, importer, fulfilment centre or ‘authorised representative’ is present on European territory and the suppliers from third countries actively target European consumers on the online platform.

*Specifically*

*Adaptation of Article 3(8), (9) and (10) of EC Regulation 2019/1020.*

- 3 Ensure that the forthcoming revision of the e-Commerce Directive closes the ‘gap’ in responsibility and liability of online platforms that facilitate sales by traders from third countries.

*Specifically*

*Adaptation of Articles 12-15 of the e-Commerce Directive (EC Directive 2000/31) and Section 196c of Book 6 of the Dutch Civil Code.*

- 4 Ensure that online platforms have to guarantee that the products offered through their platforms and placed on the European market comply with European health and safety requirements, among other things, that they have been properly assessed and tested, and are provided with the appropriate technical documentation.

*Specifically*

*Adaptation of Article 3(8), (9) and (10) of EC Regulation 2019/1020 (see also point B.1 above).*

- 5 Give clear signals to the European Commission:
  - a. that the agreements made by a number of large international online platforms in the Product Safety Pledge will be closely monitored;
  - b. to increase further the scope of the Product Safety Pledge, and
  - c. to include agreements on consumer protection in the Product Safety Pledge.

- 6 Strengthen the transparency and information requirements for all online platforms, so that they have to verify the information and identity of the suppliers on their platform to ensure that these are precise, accurate and up to date.

*Specifically*

*Adaptation of Article 5 of the e-Commerce Directive (EC Directive 2000/31) and Section 15d of Book 3 of the Dutch Civil Code.*

- 7 Lay down in law that online platforms have to take measures in order to remove unsafe products from their online range within 24 hours at the request of a market surveillance authority.
- 8 Require online platforms to be active in informing consumers of the withdrawal or recall of products that consumers have purchased through the relevant online platform.

## Surveillance and product safety

### Who is concerned by this recommendation?

Recommendations C.1 to C.5: national government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security) in consultation with the market surveillance authorities and customs.

*Recommendation C.6: national government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security), consumer organisations and employers’ organisations.*

- 9 Provide more financial and other resources for market surveillance authorities and customs, so that they can increase efforts to keep non-compliant products out of the European market, strengthen surveillance, and intensify checks on compliance.
- 10 By means of additional government funding, enable the Dutch market surveillance authority NVWA (Food and Consumer Product Safety Authority) to focus more strongly and permanently on detecting and rejecting or recalling unsafe products by means of investigations into the range of products on the Dutch and European market that come from outside Europe.
- 11 Give the Netherlands Authority for Consumers and Markets (ACM) the legal authority to take faster and more robust action against unreachable and untraceable companies outside the EEA that do not comply with applicable legislation, by being able to call on the help of intermediary parties in the supply chain. This will give the ACM more opportunities for preventing, mitigating or stopping the commercial practice in question. Consult with the ACM about how best to embed these powers in legislation.
- 12 In the event of the previous recommendation being difficult or impossible to implement, it could be an alternative to give the ACM the legal authority to temporarily forbid a company from carrying out certain trading activities. This can be done by adhering to regulations that are appropriate within administrative law.

**13** Establish a hotline for consumers, where they can report products purchased through direct import that are found to be non-compliant. In this way, the government can order more targeted investigations into which products pose the greatest safety risks and the origins of the unsafe products.

**14** Provide solutions for market surveillance authorities at national as well as European level, ensuring proper surveillance on individual consumer purchases.

### Level playing field

#### Who is concerned by this recommendation?

National government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security), consumer organisations and employers’ organisations.

**15** Ensure that removing the VAT exemption does take effect on 1 July 2021 and is not postponed further.

**16** Ensure greater cooperation and mutual recognition between WEEE systems and online sellers from third countries. In this way, these entrepreneurs from third countries will be made aware of their obligations in relation to EPR schemes.

### Collaboration in the area of surveillance/enforcement

#### Who is concerned by this recommendation?

National government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security); European consumer organisations and employers’ organisations; national and

international (including European) market surveillance authorities, including customs.

**17** Explore and use as much as possible opportunities to achieve better coordination of cooperation between the national market surveillance authorities, including customs.

**18** Explore and use opportunities to improve cooperation between the national market surveillance authorities (including customs) and foreign surveillance authorities. These are both the surveillance authorities of other EU Member States and the surveillance authorities of countries outside the EU. The aims include better and faster exchanges of data and inspection results.

**19** Urge the European Commission to ensure that market surveillance authorities of all EU Member States keep each other informed about non-compliant products by recording these in the Safety Gate. This will make it possible to withdraw non-compliant products from the market quickly throughout the EU.

**20** Urge the European Commission to ensure that market surveillance authorities from all EU Member States comply in the same manner with their obligations regarding the listing of products in the Safety Gate. In this context, it would be a good idea to adjust the structure of the Safety Gate immediately, so that it is also able to take account of online non-compliance. For example, the current search filters do not yet include a filter such as ‘sales channel’ or ‘online’/ ‘offline’, and the current search filters do not recognise any difference between ‘platform’ and ‘e-retailers’.



- 21 Improve cooperation between the market surveillance authorities and consumer organisations in the Netherlands. The existing intensive cooperation between the Dutch Consumer’s Association and the ACM could serve as an example for this.
- 22 Extend the list of harmonised EU legislation as referred to in Annex 1 of the CPC Regulation (EC Regulation 2017/2394), so that its scope is less limited.
- 23 Ensure that, based on the CPC Regulation, European market surveillance authorities can jointly provide proper enforcement with sufficient deterrent means and sanctions where necessary in cases of non-compliance.

### **CE conformity marking and the Chinese CE logo**

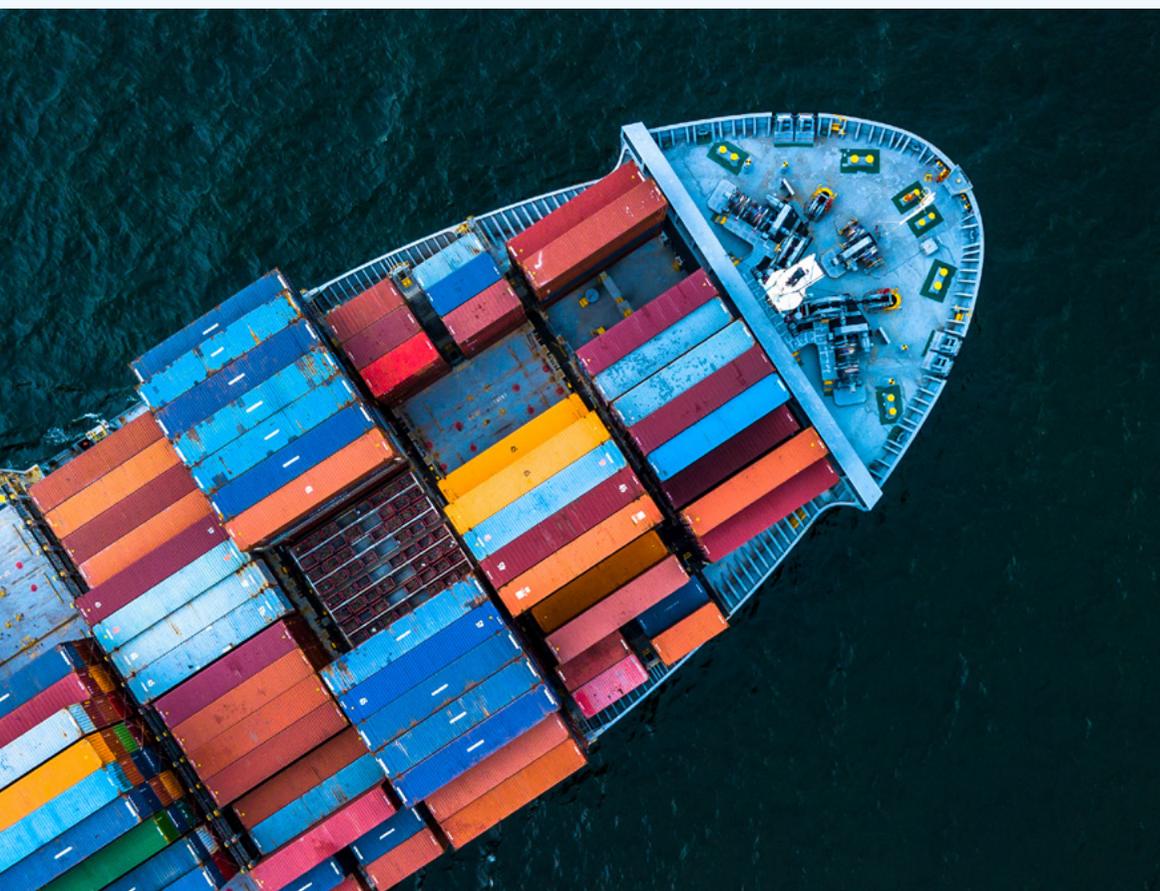
- 24 Urge the European Commission to carry out a simple change to the CE conformity marking, so that the CE conformity marking is no longer confused with the Chinese Export logo.

*Specifically*

*For example, a line could be added under the logo or a circle drawn around it.*

### **Who is concerned by this recommendation?**

National government (specifically the Ministry of Economic Affairs and Climate Policy and the Ministry of Justice and Security); consumer organisations and employers’ organisations; and market surveillance authority (specifically the Dutch Human Environment and Transport Inspectorate (ILT), the NVWA and the Social Affairs and Employment Inspectorate).



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