Common claims

Problem presentation

Over the past five years, trade has increasingly shifted to the internet. Platforms and web shops are progressively offering products from third countries that do not meet the legal requirements and are therefore significantly cheaper than similar compliant products offered in brick-and-mortar stores or online by economic operators from the EU. Since these products are delivered directly to the EU by ship or plane due to the online order in the third country, the products for market surveillance are only tangible if they are discovered by chance by customs. In addition, there is usually no tangible controller for these products in the EU, even if this is legally required. However, market surveillance cannot execute abroad nor can it prevent a product offer deleted from one platform at its instigation from being offered again on the same platform after a few days on another platform or with slightly modified text or image. Because the platforms are exempt from liability for the offers on their website.

The regulation of industrial products in the EU is based on a legal framework created in 2008, the so-called New Legislative Framework (NLF). It is a package of measures aimed at improving the internal market for goods. The NLF defines the rules for conformity assessment, sets the framework for accreditation of conformity assessment bodies and regulates market surveillance.

In the light of the digital and green transitions, a comprehensive and forward-looking revision of the NLF is currently taking place at EU level, in order to preserve the basic principles of the new legal framework. **We think the NLF is a very good approach. However, it must be adapted to current developments such as the massive increase in online trade.**

The **following demands** are therefore agreed upon by both the Baden-Württemberg business community and the market surveillance authorities in BW, with the order not reflecting any particular weighting:

1. In view of the above-mentioned changes caused by the massive increase in third-country products sent directly to the EU via online trading platforms, the EU has put forward a reform proposal for the EU Customs Union. The implementation of the customs reform is a measure to combat inferior imports. The aim of this reform is to make the customs union fit for the future. A major change is the abolition of the so-called 150-euro customs value-free limit, which is to enter into force in 2028. For parcels with a value of less than 150 euros, there are currently no customs duties to be

paid on importation. As a result, online retailers artificially divide deliveries to stay below the threshold and undervalue shipments. This leads to a distortion of competition vis-à-vis EU-based traders, who have to pay customs duties on mass imports, while online suppliers from third countries benefit. On 13 November 2025, due to the urgency of situation, the EU decided to develop a simple transitional solution as soon as possible. From 2026 onwards, customs duties are to be levied on the goods concerned from the first euro.

In its Resolution 2025/2037 (INI) of 9 July 2025, the European Parliament calls for a flat fee of EUR 2 per product delivered directly to the customer. This call for the introduction of a European Parliament handling fee is supported. However, the fee should be well above EUR 2 and should be based on the actual effort of the authorities involved.

We believe that the abolition of the 150-euro duty-free limit makes sense, but it is too late in 2028. We are in favour of immediate elimination. We therefore welcome the EU's intention to bring forward the abolition of the duty-free limit to 2026.

We support the introduction of a handling fee, the amount of which should be based on the actual effort of the authorities involved.

2. In its draft paper 2024/2119(INI), the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO) calls for the obligations of economic operators under Decision No 768/2008 to be updated. It introduces a binding obligation for third country traders to designate a responsible person in the EU who is fully legally and financially liable to ensure product compliance. We agree with this demand.

   In response to e-commerce, the EU Market Surveillance Regulation clarified in 2019 that products can only be made available if a responsible economic operator is available within the EU internal market. This economic operator in the form of an authorised representative, importer or fulfilment service provider under Article 4(2) of the Market Surveillance Regulation has since played a central role. For manufacturers not established in the EU internal market, he should act as the responsible person established in the EU. On behalf of the non-European manufacturer, he performs certain mandated tasks. For that purpose, the name and contact details of the economic operator referred to in Article 4(2) must be indicated on the product and online offer. However, the market surveillance authorities note that this information

is not given or, if a name is given, that name is invented in the vast majority of cases or that it is an improperly used business contact, without the aforementioned being an economic operator under Article 4(2) of the Market Surveillance Regulation ('stolen identities'). The experience of the Market surveillance authorities has shown that the existing remedies can be undermined easily and without legal consequences. Providers from non-EU countries can therefore offer non-compliant products online in the EU without any risk. The economic operator to be designated under Article 4 of the Market Surveillance Regulation is not necessary for the settlement of the transaction, so that it has only disadvantages for the providers when they commission such an economic operator, especially since the absence of a responsible economic operator established in the EU cannot be sanctioned. Deletion of an offer is not a sanction. It also does not prevent the re-offering of the product with a changed provider identity and new product name on the same or other platforms. Therefore, the provision of Article 4 of the Market Surveillance Regulation is ineffective.

It would be different if the responsibility for the conformity of the product were transferred to an economic operator with a mandatory seat in the EU, who is necessary for the settlement of the transaction. In addition, the absence of this economic operator in the EU must be sanctionable from the moment the product is offered on the internet. This is only possible effectively through the authorisation of the market surveillance authorities to block the respective website as an ultima ratio until the responsible economic operator has fulfilled its responsibilities.

We therefore advocate that for every product offered electronically or in a brick-and-mortar-shop in the EU, there must be an economic operator based in the EU who is responsible like an importer, and that the absence of such an operator must be punishable by sanctions.

We consider it necessary that this responsible economic operator is obliged to effectively verify its registered office in the EU, e.g. by entering it in the commercial register and its financial capacity (e.g. depositing liability sum with an EU authority or proof of insurance in the EU). The information on the responsible economic operator and its seat in the EU must be provided in validated form by the manufacturer established in a third country already in the product offer in order to allow the competent authority to take effective measures against the absence of a responsible economic operator at the time of placing the product on the market and so that time-consuming checks on the identity and registered office of the responsible party are not necessary.

3. The market surveillance tool is used in European legislation by various Directorates-General in their legal acts. Again and again, the requirements deviate significantly from each other. For example, there are divergent procedures (e.g. in the case of safeguard clause procedures), different requirements for reporting obligations (e.g. key indicators of the Product Safety Regulation) or uncertainties as to which provision applies, how far (e.g. Battery Regulation in relation to the Machinery Directive). This creates inconsistencies that not only make the implementation of the regulations more difficult, but also completely prevent their effectiveness. A single rule across all DGs involved in the Digital Product Passport would be particularly relevant.

   The Commission is therefore asked to coordinate the legislative work of the various Directorates-General.

4. The products on the market do not differ significantly in the different Member States. Market surveillance is faced with more or less the same products everywhere. It is therefore essential that market surveillance authorities coordinate across Europe in order to avoid duplication of checks. For this reason, the European Commission has obliged Member States to use the ICSMS public information and exchange system. This system shall record the products reviewed by the market surveillance authorities, including the relevant product information, test results, economic operators and measures implemented. So far, however, the system has not been used by all market surveillance authorities.

   In particular, it should be ensured that market surveillance authorities act in the same way and at the same speed in all Member States.

   The European Commission is invited to encourage Member States to make more effective use of their market surveillance systems.

5. In its draft paper 2024/2119(INI), the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO) calls for products to be systematically assessed for their risk and for compliance to be monitored by economic operators, in particular non-European operators. Depending on compliance, this may entail additional obligations for the economic operator, such as targeted third-party conformity assessment.

Economic representatives consider it useful to introduce a ranking system for producers based in third countries in order to improve the effectiveness of controls at internal market borders. Manufacturers who have demonstrated good practice in the application of the CE marking rules can introduce their products in a standard procedure. For manufacturers for whom no experience has been gained from public authorities or for whom a poor practice in the application of the CE marking rules is found, the importation of their products is subject to intensive control, as it must be assumed that the products are more likely to be defective.

In a further step, manufacturers may be required to consult a notified body in the conformity assessment procedure in all cases where serious deficiencies in the application of the CE marking requirements are identified. In particular, in the case of product deficiencies due to deficiencies in the implementation of the conformity assessment procedure, provision should be made for the involvement of a notified body in order to provide the manufacturer with the necessary indications of deficiencies in the design and manufacture of the product and to enable the manufacturer to take effective corrective action on the basis of those indications.

We consider it useful to introduce a ranking system for importers at customs in accordance with the previous compliance with the legal requirements.

6. If products are rejected by the customs of one Member State because they do not meet the legal requirements, they can enter the EU again via another Member State. In addition, in-depth controls may lead to goods no longer being imported through the appropriately well-controlled ports, but through ports from other Member States being less controlled. In this way, the well-controlling port can even suffer economic disadvantages.

   We call for the joint and coordinated action of the customs authorities of all Member States at the external borders of the EU to ensure that it is no longer possible to import a once rejected product into another Member State. We also call for the possible increase in the number of controls of products at customs.

7. Due to the current developments in online trading, goods ordered on platforms are usually sent directly to consumers in Europe. This eliminates the need for an EU-based importer with appropriate responsibility and competence with regard to the

legal requirements for the products. This de facto omission should be legally corrected by the obligation to import all goods into the EU through an authorised importer established in the EU.

We are in favour of importing goods into the EU only through an authorised importer established in the EU.

8. Article 4(3)(c) of the EU Market Surveillance Regulation (Regulation (EU) 2019/1020) requires economic operators to inform the competent market surveillance authority if they find that one of their products is unsafe. It is often difficult for economic operators to identify the competent authority. This could be remedied by setting up a central body for this purpose in each Member State.

   We therefore propose to designate a single central body per Member State for reporting non-compliant products and test results to the market surveillance authorities.

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