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NOTE

From: Presidency

To: Council

Subject: PRODUCT SAFETY AND MARKET SURVEILLANCE PACKAGE

Proposal for a Regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC

Proposal for a Regulation of the European Parliament and of the Council on market surveillance of products and amending Council Directives 89/686/EEC and 93/15/EEC, and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 1999/5/EC, 2000/9/EC, 2000/14/EC, 2001/95/EC, 2004/108/EC, 2006/42/EC, 2006/95/EC, 2007/23/EC, 2008/57/EC, 2009/48/EC, 2009/105/EC, 2009/142/EC, 2011/65/EU, Regulation (EU) No 305/2011, Regulation (EC) No 764/2008 and Regulation (EC) No 765/2008 of the European Parliament and of the Council

(Text with EEA relevance)

– Information from the Presidency on the state of play

Introduction

1. On 13 February 2013, the Commission submitted to the Council and the European Parliament a package consisting of two proposals for regulations on market surveillance (MSR)¹ and on consumer product safety (CPSR)². The package also includes two communications³, notably on a multi-annual plan for the surveillance of products in the Union⁴, and a report on the implementation of Regulation (EC) No 765/2008 on the requirements for accreditation and market surveillance⁵.
2. These proposals were announced by the Commission in its communication on the "Single Market Act II - Together for new growth" of October 2012⁶.
3. This package was presented by the Commission at the Competitiveness Council of 19 February 2013 which took note of it.
4. The Regulation on market surveillance is examined in the Competitiveness and Growth Working Party while the Regulation on product safety is examined in the Working Party on Consumer Protection and Information.
5. In the European Parliament the plenary voted its first reading on 15 April 2014. In September 2014 the Conference of Committee Chairs of the newly elected European Parliament confirmed the first reading position.

¹ 5890/13 ENT 29 MI 65 CONSOM 14 CODEC 190 COMPET 88 UD 46 CHIMIE 21
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² 5892/13 ENT 30 MI 66 CONSOM 15 CODEC 191 COMPET 89

³ 5890/13 ADD 4 and 5892/13 ADD 4

⁴ 5890/13 ADD 5 and 5892/13 ADD 5

⁵ 5890/13 ADD 6

⁶ Point 2.4 "Strengthening social entrepreneurship, cohesion and consumer confidence" - key action 11 ("Improve the safety of products circulating in the EU through a revised General Product Safety Directive, a new single Regulation on Market Surveillance and a flanking action plan") of 14536/12 (pages 15, 16 and 19).

State of play

6. The discussion of this file started straight away and a first examination of both proposals was achieved before mid 2013. Building on these results the Presidency continued the examination at Working Party level in order to obtain a negotiation mandate from COREPER with a view to start informal negotiations with the European Parliament. Despite the great progress - for almost all issues compromise solutions were found - the issue of the mandatory marking of the country of origin ("made in clause" in Article 7 of CPSR) remained controversial.
7. The Presidency put twice the issue of the "made in clause" to COREPER in the second half of 2013 without finding a formula supported by a majority of delegations. The Competitiveness Council in December 2013 took note of the progress achieved so far and invited the Council's preparatory bodies to continue their examination.
8. Work continued on this issue in 2014 and further ways were explored to overcome the pending issue. Member States at Coreper remained to be divided into two camps. A number of Member States together with the Commission supported mandatory origin marking by stressing its positive effect on traceability and ultimately consumer protection. However, another group of Member States argued that this provision is not justified and far too burdensome for economic operators. Despite continued efforts, the gap between the two groups could not be bridged.

9. The first reading position of the European Parliament for both proposals was examined at Working Party level in September and October 2014. Furthermore, at the request of Member States the Presidency, with the aim of moving forward the negotiations, invited the Commission to present further evidence on the costs and benefits of the proposed mandatory marking of origin. The Commission accepted this request and is currently gathering further information and evidence through a technical study to be presented in early 2015. Besides assessing the costs and benefits of mandatory marking of origin for businesses, authorities and consumers, possible criteria for the determination of origin, and ultimately authenticity, should be examined with a view to reach both a high level of consumer protection and the need to facilitate enforcement activities by custom authorities.
10. The Presidency is confident that such information will help the Council to find a compromise with a view to start negotiations with the EP and encourages the Commission to present the result as soon as possible.
