

BACKGROUND INFORMATION, DETAILS and PROCEDURAL REMARKS on Consumer product Safety

Commission proposal

The Commission published the Product Safety and Market Surveillance package on 13 February 2013. The package consists of legislative and non-legislative measures. The provisions of the current GPSD dealing with market surveillance, including RAPEX, are not part of the proposed CPSR, but will instead be integrated into the new MSR. The proposed CPSR contains the updated rules on product safety and clarifies the relation to sector-specific legislation, to avoid undue overlaps. The obligations for economic operators (manufacturers, importers, distributors) are aligned to the 'New Legislative Framework for the Marketing of Products' adopted in 2008 to ensure consistency with sector-specific rules. Last but not least, the new Regulation promotes enhanced use of European standards.

Draft report

For the Rapporteur, it is of outmost importance that this Regulation will continue to act as a 'safety net' for product safety in the same way as the current General Product Safety Directive does. The Rapporteur finds that deleting the reference to the precautionary principle - as stated in Article 191, paragraph 2, of TFEU - is not the right signal to send to the consumers, economic operators and market surveillance authorities. Instead, the Rapporteur wants to reintroduce the precautionary principle in order to ensure a proper consideration of fundamental safety aspects when assessing product safety. In the Rapporteur's opinion it is crucial to align this Regulation to the Decision 768/2008 of the NLF "Goods Package". Therefore, the alignment from the Decision to this Regulation will be kept as strict as possible by seeking not to amend the wording of the provisions already introduced in the Decision and transposed into this Regulation.

In the context of preparations of the IMCO draft reports on Consumer Product Safety and Market Surveillance the hearing entitled "*Safe Products and a Fair Market: Challenges and Opportunities*" was held on 29 May 2013. The main discussion focused on the marking of country of origin, the risk-based approach, the sharing of responsibility along the supply chain and alignment to the NLF Package. Moreover, the issues of better enforcement and lack of resources at national level, relation to the Free Trade Agreement with the US, external auditing, compliancy versus safety, better cooperation between market surveillance authorities, sharing of resources and alternative funding for market surveillance have also been tackled.

Subsequently a workshop on Product Safety and Market Surveillance was organised on 11 July 2013 to continue the examination of specific issues giving the IMCO Committee an opportunity to acquire independent technical expertise from academics and practitioners with technical knowledge on selected aspects of the legislative package.

Amendments

278 amendments were tabled on the CPSR. Some amendments seek to bring more clarity to the scope as laid down in Article 2 and to the definitions as laid down in Article 3. Furthermore, there are amendments emphasising online trade, others seek to strengthen the protection of children and other vulnerable consumers and a number of amendments seek to delete the obligation for manufacturers and importers to indicate the country of origin of the product. In line with an amendment proposed by the Rapporteur, Ms Christel Schaldemose, several amendments seek to introduce a new marking to indicate to the consumers that the given product has been tested and found to be a safe product.

Compromise Amendments

9 (possibly several more) **Compromise Amendments** will be presented at the meeting. They concern in particular the following issues: (1) Products used in connection to services. (2) Child-appealing products. (3) Penalties: It has been agreed that CPSR and MSR should be aligned in regards to Penalties. (4) CE+ marking. (5) Precautionary principle. (6) CPSR as a safety net. (7) Reasonable foreseeable conditions, vulnerable consumers. (8) Obligations for economic operators. (9) Exemptions for certain obligations of economic operators: EPP and Greens agreed. ALDE and ECR proposed a few changes.

Adoption in IMCO

The draft report on Consumer Product Safety was adopted by IMCO with 27 votes in favour, 7 votes against and 5 abstentions. The Rapporteur, Ms Schaldemose, had proposed 9 compromise amendments on some of the main issues of the commission proposal. All the compromise amendments were adopted by the committee. ALDE and ECR had proposed a compromise amendment on the country of origin marking which was rejected by the committee. The final report seeks to ensure that the regulation will stand as a safety net for the product legislation and to oblige manufacturers and importers to place a country of origin marking on their products. The Rapporteur furthermore found support for her proposal for an "EU Safety Tested" mark to attest that the product has been tested and found safe by an independent third party. Negotiations with the Council will start in November with the aim of reaching a final agreement in the current legislature.

Trialogues

On 5 November 2013 the IMCO Committee has unanimously (35 votes in favour) approved the mandate to enter trilogue negotiations on Consumer Product Safety (Rapporteur Mrs Schaldemose) and Market Surveillance (Rapporteur Mrs Pietikäinen).

The Lithuanian Presidency requested a mandate from COREPER on 15 November 2013, but was rejected over disagreements between Member States concerning Article 7 of the Consumer Product Safety Regulation. Lithuanian Presidency has subsequently presented a Progress report to the Competitiveness Council on 2 December 2013. The Greek Presidency's request for a mandate on 15 January and 22 January was also rejected on the same grounds and another attempt was foreseen for 31 January, however it was discarded in the eve.

The IMCO reports were adopted by the Plenary on 15 April 2014, however the proposal to introduce a voluntary 'EU Safety Tested' marking was rejected.