

Non-paper of FI, NL, PT, SE on the upcoming European Product Act

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Introduction

The European product legislation framework is one of the cornerstones of the Single Market. It enables the free movement of goods while ensuring a high level of consumer protection. A well-functioning and future-proof framework is essential to safeguard competitiveness and a level playing field across the Union, also vis-à-vis third-country operators. We support efforts to further strengthen it. Therefore, we welcome the Commission's initiative to revise the current product legislation framework. This will lead to a more consistent legal framework for products in the Single Market. The revision should result in a European Product Package, which includes i) a European Product Act (EPA) combining the New Legal Framework (NLF) and the Market Surveillance Regulation (MSR), and ii) a revised Standardisation Regulation. The latter should be part of the package, but kept as a separate regulation due to its scope and addressees (market operators and national authorities versus European Standardisation Organisations (ESOs)). Particular attention should be paid to ensure that the future framework remains proportionate and avoids unnecessary regulatory burden, especially for SMEs. The following principles should be guiding in the work ahead:

1. Make the framework future-proof. It is important that the European product framework is updated and future-proof. Alignment with related EU product legislation, enhancing consistency and introducing clear, uniform definitions are therefore essential.

- a. *Create alignment and consistency with other (sector specific) product-related legislation.*
 - o Establish EPA as the leading framework for product legislation, covering all products under EU harmonisation law and the General Product Safety Regulation (GPSR). Additionally, integrate and fully reflect the horizontal aspects of the GPSR within the upcoming EPA to simplify, clarify and reduce overlaps.
 - o Align the European product legislation as much as possible with recently updated product-related legislation, such as the Ecodesign for Sustainable Products Regulation, the Digital Services Act, and the new Union Customs Code. This provides clarity and legal certainty.
- b. *Introduce common definitions across all product legislation.* Whenever possible, regulate horizontally while ensuring that essential sector specific requirements — such as traceability in the explosives sector — remain appropriately addressed and flexible.
- c. *Equip the framework to accommodate modifications and resale of products after they are placed on the market.* This is especially important for refurbished and resold products (to support circularity), but also for products with a digital and/or software component. The conformity assessment module should also set clear rules on what parts of the refurbished or modified product need to be reassessed.
- d. *Future-proof the European Standardisation System (ESS) that safeguards market-driven standardisation.* Over thousand harmonised standards need to be developed. The current ESS is not able to timely deliver these harmonised standards. Necessary is, among other things:
 - o (Digital) process improvements within the current ESS. This may be, among other things, achieved by improving the process of drafting the standardisation requests by involving the ESOs earlier on in the process and setting realistic deadlines for both the ESOs and the Commission.
 - o The consideration of allowing for the possibility of granting temporary status to other documents — such as technical specifications or (inter)national standards — in appropriate and justified cases, with a view to supporting the presumption of conformity pending the availability of harmonised standards. Aligning with international standards should be the default. Departing from the international first principle should only be possible in very exceptional and limited cases.

2. Further enhance the use of digital tools and cooperation . It is essential to identify opportunities to improve data exchange and make better use of digital tools — such as the Digital Product Passport (DPP) and the EU Customs Data Hub — and to enhance cooperation at the European level.

- a. *Improve data exchange among authorities and between authorities, platforms and businesses.* This includes exploring better use and interoperability of systems, such as the Information and Communication System for Market Surveillance and the Safety Gate.

Consider streamlining EU data systems to avoid fragmentation and to reduce administrative burdens for MSAs and economic operators.

- b. *Promote digitalisation of product information.* Integrate a uniform DPP as a horizontal element in the EU Product Act for all harmonised and non-harmonised products, in line with the digitalisation measures under Omnibus IV on digitalization. The DPP should i) lower administrative burden for businesses, ii) facilitate consumer information, iii) contain all relevant compliance information for market surveillance, and iv) be user-friendly and interoperable.
- c. *Maintain the CE marking.* The CE mark serves as a well-established and recognizable reference for consumers. Currently, there is no alternative. For now, the physical CE marking should be preserved. In the future, it should be examined if and how the CE marking and the DPP can be integrated.
- d. *Explore options to increase cooperation between National Standardisation Bodies (NSBs) and cluster expertise of National Accreditation Bodies (NABs).* Increased thematic or regional coordination between individual NSBs within the EU could be assessed. For NABs it can be examined to what extent clustering of expertise is possible.
- e. *Strengthen cooperation between national Market Surveillance Authorities (MSAs), for example through an EU Market Surveillance Authority (EUMSA).* It is important to further clarify and justify the mission, mandate and financing of the EUMSA to prevent overlap with the responsibilities of national MSAs. The EUMSA can provide added value when it comes to improving data exchange between authorities, tackling e-commerce from third countries and improving cooperation with national MSAs, the Administrative Cooperation Groups and the new EU Customs Authority.

3. Further level the playing field in the Single Market. A level playing field across the Single Market is essential for fair competition and consumer protection. European businesses express severe concerns about the level playing field, especially due to the large inflow of products from third countries (e-commerce). Addressing this challenge requires urgent and decisive action at the EU level. Moreover, differences persist regarding the quality of notified bodies (nobos) and NABs within the EU.

- a. *Professionalise the role of the authorized representative.* Take measures to ensure uniform application and enforceability of article 4 of the MSR by, for example, a database or EU registration system, and examine whether the scope should be extended to all product categories that are covered by the MSR.
- b. *Reassess the responsibilities of different actors in the chain, especially online platforms.* For example, increasing the obligations of online platforms to i) ensure product compliance before listing a product on their platform, ii) validate the presence and functioning of an authorized representative, and iii) strengthen their responsibility in product recall processes.
- c. *Strengthen the level playing field to ensure a high-quality conformity assessment and accreditation system across the Union.* This is necessary to prevent shopping around by businesses and nobos. This should be done by:
 - Making accreditation mandatory in the NLF, with exceptions limited to clearly defined and exceptional cases. Currently, there is too much room for exceptions, which results in disparities in the quality of nobos.
 - Assessing and improving the peer evaluations for NABs. It is important that the Commission takes an active role in the general functioning of accreditation bodies and stays in close contact with European Accreditation.