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From: Presidency
To: Council

Subject: Regulation on Machinery Products
- Progress Report from the Presidency on the state of play

I. INTRODUCTION

The European Commission proposal on Machinery Products¹ was transmitted to the European Parliament and to the Council on 22 April 2021. The proposal was presented in the package together with the proposal for the Act on Artificial Intelligence. The two are aligned as the Machinery Products proposal aims to remain future-proof in light of new technologies. As the issue of artificial intelligence represents one of the priorities of the Presidency, the Presidency attributes an important role to the Machinery Products proposal.

The examination of the proposal in the Council Working Party on Technical Harmonisation started on 26 April 2021 under the Portuguese Presidency.

There were all-in-all 12 meeting days until 25 November 2021, eight of them under the Slovenian Presidency. The Commission's impact assessment was examined with the help of an indicative questionnaire.

¹ Proposal for a Regulation of the European Parliament and of the Council on machinery products (Council doc. 8095/21+COR1, ADD1, ADD2, ADD3, ADD4).

II. MAIN ISSUES

In general, the transmission of the Commission's proposal has been welcomed as timely, necessary and in line with the good inter-institutional practice. Stakeholders have been heard sufficiently by the Commission and the objective of bringing products with digital content into the scope of the machinery regulation has been accepted.

During the discussions at the Working Party level some essential comments were raised.

Terminology regarding machinery/machinery products

The introduction of the term "machinery products" that partly replaces the currently used term "machinery" demands for considerable attention and the topic was addressed in the Working Party meetings on different occasions. Many Member States would prefer to keep the current wording ("machinery") as they do not see the added value in the introduced changed wording. They claim that market surveillance authorities do not experience difficulties while using the current wording and they believe that the proposed change in wording could limit the clarity of the text and bring translation issues. On the basis of the Member States' comments an alternative suggestion was formulated by the Commission where the term "machinery" was coupled with the term "machine/s" but such a solution also brought considerable reservations of many Member States particularly due to translation issues.

Exclusion of »vehicles which have as their only objective the transport of goods or persons by public road, air, water or rail network except for machinery mounted on those vehicles" from the scope of the regulation

Member States are very careful with the suggested exclusion particularly from the perspective of the exclusion of small transport vehicles for personal use or light electric vehicles such as e-scooters, e-bikes that are widely used but could, on the basis of this Proposal, remain unregulated and consequently potentially dangerous for users. Many Member States would therefore like to keep such vehicles in the scope of the Proposal even when road circulation risk is not covered by the Proposal as is the case with the current Machinery Directive. Some Member States also call for the introduction of the transition period until relevant legislation regulating the mentioned type of vehicles is passed.

Empowerment of the Commission to elaborate technical specifications when standards are not available

Member States expressed their support for the primary role of standards and are therefore rather reserved regarding such an empowerment of the Commission particularly in the area where no considerable issues regarding standardisation have been detected. They can potentially agree to a strengthened wording on the issue of such technical specification only representing the final resort option under specific circumstances.

The list of high-risk products in Annex I

Member States and the Commission agree that the mentioned list needs updating but Member States expect this update during the process of adoption of this Proposal while the Commission claims that they do not have enough data to do so but would adapt the list right after the adoption of this Proposal.

Third-party conformity assessment

Linked to the necessity to update the Annex I is also the newly introduced necessity for third-party conformity assessment procedure of high-risk products (use of module B). Such a requirement represents a considerable burden, particularly for SMEs, and some Member States therefore demand for either maintaining the currently relevant option of self-assessment type of conformity assessment (use of module A) or for a considerable adaptation of the Annex I where the high-risk machinery products are listed.

The recurrent issue in the Working Party meetings was also the issue of definitions that need to be properly specified and agreed upon (substantial modification, artificial intelligence) while the issue of alignment with the NLF was consistently addressed.

The Presidency aims to finish the first examination of the Proposal and intends to finalise it by an examination of the essential health and safety requirements of the machinery products in Annex III. The length and complexity of this Annex will demand for considerable time for its examination.

The Presidency also strives to present the first partial Presidency compromise text of the Proposal.

III. OUTLOOK

The draft report by the rapporteur, Mr Ivan Štefanec (EPP), will be discussed in the Committee on the Internal Market and Consumer Protection (IMCO) of the European Parliament as from November 2021 and the vote on the draft amendments is expected to take place in March 2022.

It will thus be for the incoming French Presidency to intensify contacts with the representatives of the European Parliament in order to find compromise solutions that are acceptable both to the Council and the European Parliament with a view to making an agreement at first reading possible.

The Slovenian Presidency thanks the Portuguese Presidency for starting the discussions, all delegations for their contributions to the file, and the European Commission for its collaborative attitude and fruitful comments necessary to improve the text of the proposal.
