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From: General Secretariat of the Council
To: Delegations

Subject: AOB for the meeting of the Competitiveness Council of 24 September 2026:
The upcoming European Product Regulation
- Information from Belgium, France, the Netherlands and Poland

Non-paper of Belgium, France, the Netherlands and Poland
on the upcoming EU Product Regulation
Online Marketplaces

The continued growth of e-commerce has created significant opportunities for consumers and businesses but has also fundamentally transformed global supply chains and the way products are placed on the Union market. While these developments have increased consumer choice and market access, they have also created new challenges for product safety, market surveillance, and the effective enforcement of Union legislation. At the same time, they risk undermining the level playing field by allowing non-compliant operators to gain a competitive advantage over businesses that comply with EU rules.

This evolution is also reflected in market surveillance findings. Targeted inspections carried out across the EU throughout 2025 in cosmetics, personal protective equipment, food supplements, toys, and electronics revealed alarming non-compliance: over 60% of checked products failed EU standards.

Online marketplaces are already subject to obligations under existing EU legislation, in particular the General Product Safety Regulation (EU) 2023/988 (GPSR), the Market Surveillance Regulation (EU) 2019/1020 (MSR), and the Digital Services Act (DSA). The signatories consider that the forthcoming European Product Act (EPA) should build on this existing framework, ensure coherence, and address any gaps identified in its practical application.

Article 22 of the GPSR imposes specific obligations on online marketplaces, complementing the DSA. They must cooperate with market surveillance authorities, react promptly to orders concerning dangerous products, operate effective notice-and-action mechanisms, and remove unsafe products without undue delay. They are also required to provide relevant information on traders and products.

In parallel, Article 4 of the MSR requires that products covered by its scope have an EU-based economic operator responsible for compliance tasks. Responsibility follows a cascade involving the manufacturer, authorised representative, importer, or fulfilment service provider. Similar obligations are laid down in Article 16 of the GPSR for non-harmonised consumer products. The coexistence of these partly aligned provisions may create legal uncertainty and lead to inconsistent enforcement.

The work undertaken in the context of the reform of the Union Customs Code reflects broader efforts at Union level to address the challenges associated with e-commerce and to contribute to ensuring a continuing safe and well-functioning Single Market.

The coexistence of the GPSR, the MSR and the DSA illustrates the increasing complexity of the regulatory framework governing online marketplaces. Overlapping obligations, unclear allocation of responsibilities and enforcement difficulties are further exacerbated by evolving e-commerce business models, which blur traditional roles and complicate the identification of the actor responsible for product compliance within the Union.

The signatories consider that the current regulatory framework is not adequately adapted to emerging business models such as *dropshipping*. The forthcoming EPA should therefore clarify responsibilities and, where necessary, introduce new definitions and to ensure effective accountability of all relevant actors.

In light of the above, the signatories consider that targeted adjustments are needed to strengthen the effectiveness of Article 4 of the MSR in an increasingly e-commerce-driven environment, ensuring that clear responsibility for product compliance is maintained across the e-commerce ecosystem.

- 1) In order to align their responsibilities more closely with those of importers, we support strengthening the obligations of authorised representatives, in the context of e-commerce, in particular where products are placed on the Union market directly from third countries and aligning their responsibilities more closely with those of importers, including through mandatory registration in an EU-wide database to improve traceability and enforcement and examine whether the scope should be extended to all product categories that are covered by the MSR.
- 2) In order to prevent non-compliant products from entering the Union market and to facilitate effective market surveillance and enforcement, we consider that online marketplaces should be subject to stronger ex ante controls, including verification of the existence of a registered authorised representative and, where applicable, relevant product information such as the DPP, without prejudice to the general monitoring obligation prohibition principle. The signatories consider that fulfilment service providers should be subject to clear and proportionate obligations reflecting their key role in the distribution chain and their capacity to support product compliance and market surveillance. Those obligations should be harmonised to those of the TSR (Toy Safety Regulation) Article 11.

Any additional obligations should be designed in a coherent and proportionate manner, avoiding duplication with existing requirements under the GPSR and the DSA, while minimising unnecessary administrative burdens for businesses.

The signatories consider that these clarified responsibilities should be accompanied by effective enforcement mechanisms, as well as ex-ante and ex-post controls, including with regard to economic operators established in third countries, in order to ensure that non-compliance with EU product rules leads to effective and enforceable consequences.

Conformity assessment and Notified bodies.

The regulation 765/2008 established a robust and harmonised legal framework for accreditation within the European Union. Over more than a decade, the European accreditation system has consistently ensured confidence, coherence, and mutual recognition of conformity assessment results across Europe and the Single Market.

The Regulation's current framework applies to all accreditation activities, whether used on a compulsory or voluntary basis, relating to mandatory or voluntary conformity assessments, and irrespective of the legal status of the body performing accreditation. This comprehensive scope has been instrumental in guaranteeing mutual trust, enabling mutual recognition of certificates and results, supporting the free movement of goods and services, and promoting public confidence in both regulated and voluntary markets.

While this framework has proven effective, improvements are needed to ensure its consistent application and to further strengthen confidence in the European conformity assessment system.

In revising Regulation (EC) No 765/2008, the signatories consider that the European Commission should:

- Make accreditation mandatory in the EU regulatory area, preventing discrepancies between notified bodies and creating a level playing field for all economic operators while allowing for sector-specific derogations where objectively justified and subject to prior assessment by the European Commission.
- Make clear and consistent rules on subcontracting by notified bodies in order to strengthen trust and ensure a uniform application across the Union. In particular, it should be clarified that the key functions, including decision making staff, must be contracted and must comply with the European Union requirements, while other staff may be contracted and work elsewhere.
- have a coordination task to address notified bodies if notifying authorities fail to take timely and appropriate measures.

As a final general remark, we underline that any new obligations should remain proportionate and avoid creating unnecessary administrative burdens for citizens, economic operators and authorities.

We consider that the use of the current existing platforms such as the DPP, NANDO and other existing registers, should be encouraged and that the Once Only Principle should be applied as much as possible.

The coexistence of the GPSR, the MSR, the DSA as well as the Packaging and Packaging Waste Regulation (PPWR) illustrates the increasing complexity of the EU regulatory framework, where product safety, market surveillance, digital services and sustainability requirements increasingly overlap. In this context, particular attention should be paid to ensuring coherence between the different legislative instruments, avoiding duplication of obligations and minimising unnecessary administrative burdens for economic operators and public authorities.
