

ROADMAP

Title of the initiative: **Agreement with the United States of America on cooperation and information exchange on consumer product safety, Recommendation to the Council and the European Parliament to authorise the signature**

Type of initiative (CWP/Catalogue/Comitology): CWP

Lead DG/contact person/details: DG SANCO B3

Expected date of adoption of the initiative (month/year): 12/2010

Date of modification: 25/03/2010

Version No:

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies? Growing international trade and global product supply chains mean that ensuring a high level of consumer product safety is a matter of shared concern for the European Community and the United States of America (USA). Cooperation and exchange of information between public authorities is essential for effective market surveillance and enforcement of consumer product safety legislation, including import controls, and for the smooth functioning of markets. Recent discussions in the Transatlantic Economic Council have indicated a shared desire to expedite the process with a view to reaching an agreement between the Community and the USA. Building on the already well established relations, now that the American side has (finally) the legal authority to enter into such agreements, we wish to conclude a formal agreement to support further detailed and confidential information exchanges and other forms of cooperation with the USA Consumer Product Safety Commission (CPSC).

The Council gave the Commission a mandate and negotiation directives on 10 November 2009 to enter into formal negotiations.

What are the main problems identified? It appears that some economic operators, instead of taking simultaneous corrective actions in Europe and North America, for fear of higher sanctions, first report to the USA authorities. Sharing such information early and in detail between enforcers on both markets would allow better targeted allocation of inspection resources and enforcement capacity.

Who is affected? Economic operators who produce and supply products both in the EU and in the North American markets, and who may have breached rules on product safety.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)? Access to the RAPEX system and data of corrective actions in regard of dangerous consumer products in the EU can be granted only at the EU level, pursuant to Article 12(4) of the General Product Safety Directive (GPSD 2001/95). Thus the objective cannot be achieved by Member States acting individually.

B. Objectives of EU initiative

What are the main policy objectives? To a large extent the same consumer products, such as toys and childcare articles, electronic equipment and clothing, are marketed on both sides of the Atlantic. Receiving information from the USA on dangerous products, injuries and corrective actions in their territory would allow the EU Member State authorities to better target their market surveillance and enforcement actions, thus improving their efficiency. Similarly, information on dangerous products and corrective measures taken in the Community would allow authorities in

the USA to take action. All such actions would increase the safety of consumer products on both sides of the Atlantic.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance? No, because the EU has acknowledged the value of sharing information with third countries on dangerous products for some years. Globalisation of trade in consumer goods has made it necessary to cooperate better at the regulator and enforcement authority level. The strategic importance of enhanced information sharing between jurisdictions is recognised in a report prepared under the OECD. The European Parliament has stressed the importance of cooperation with third countries in this area and so has the US Government Accountability Office with respect to the CPSC's activity.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?
(iii) Would any legislative initiatives go beyond routine up-date of existing legislation? A formal agreement is required to give full access to the RAPEX system, pursuant to Article 12(4) of the General Product Safety Directive.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments? Yes, in the sense that DG ENTR manages legislation on the basis of which some of the concerned information is collected (Regulation 765/2008). However, the legal basis for giving access to EU information is in the legislation managed by DG SANCO (GPSD). DG ENTR and other interested departments are involved in the inter-service group overseeing the negotiations.

Explain how the options respect the proportionality principle Some cooperation is possible without a formal agreement, but granting reciprocally access to selected parts each other's data systems requires a formal agreement.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives? More targeted market surveillance actions and faster corrective actions in case of dangerous consumer products. This should allow public authorities to work more efficiently, and reduce risks to consumers' health.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation? No

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries? Rules of confidentiality of treatment of sensitive data need to be included in the interest of the protection of the relation with the third country.

E. Planning of further impact assessment work

When will the impact assessment work start?

It is not expected that this initiative will be accompanied by an impact assessment.