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From: General Secretariat of the Council
To: Delegations

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Subject: Proposal for a Regulation of the European Parliament and of the Council on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020: ES comments on Block 2

Delegations will find attached additional comments by the ES delegation on the revised Presidency compromise proposal as set out in 5806/23.

1. The information to the end user is one of the two main objectives of the CRA: "create conditions allowing users to take cybersecurity into account when selecting and using products with digital elements". Users of CRA products include all natural persons and potentially children as well. It is not expected that, therefore, the imposition of the official language of the Member State is a primary condition for the success of this standard.
2. On the other hand, the imposition of the official language is the common rule in EU legislation in other sectors, such as food and pharmaceutical labelling, etc. For example, in Regulation (EU) No. 1169/2011 of the European Parliament and of the Council, of October 25, 2011, on the food information provided to the consumer, it is indicated:

Article 15

Language requirements

1. Without prejudice to Article 9(3), mandatory food information shall appear in a language easily understood by the consumers of the Member States where a food is marketed.
2. Within their own territory, the Member States in which a food is marketed may stipulate that the particulars shall be given in one or more languages from among the official languages of the Union.
3. Paragraphs 1 and 2 shall not preclude the particulars from being indicated in several languages.

Article 9.3

3. Where the Commission adopts delegated and implementing acts referred to in this Article, the particulars referred to in paragraph 1 may alternatively be expressed by means of pictograms or symbols instead of words or numbers. In order to ensure that consumers benefit from other means of expression of mandatory food information than words and numbers, and provided that the same level of information as with words and numbers is ensured, the Commission, taking into account evidence of uniform consumer understanding, may establish, by means of delegated acts in accordance with Article 51, the criteria subject to which one or more particulars referred to in paragraph 1 may be expressed by pictograms or symbols instead of words or numbers.

Furthermore, the jurisprudence in these sectors encourages the use of multilingual information (see the judgment in the "Peeters" case on the marketing of foodstuffs and case C-33/97/2 on the labelling of goods).

The Commission, in other sectors, also considers that the national law of a Member State should allow the use of a foreign expression on a product label if this better informs consumers or if the term in question exists only in the language of origin (Answer of 20 January 2003 given by Frits Bolkestein on behalf of the Commission to Written Question P-3785/02 by Bruno Gollnisch MEP). This last point is relevant in the field of ICT

Therefore, we propose the following wording to CRA articles:

Article 10 Obligations of manufacturers

10. Manufacturers shall ensure that products with digital elements are accompanied by the information and instructions set out in Annex II, **in an electronic or physical form.**

10 bis The information and instructions set out in Annex II shall appear in a language easily understood by the consumers of the Member States where a product with digital elements is marketed.

10 ter Within their own territory, the Member States in which a product with digital elements is marketed may stipulate that the information and instructions set out in Annex II shall be given in one or more languages from among the official languages of the Union.

10 quater Paragraphs 10 bis and 10 ter shall not preclude the particulars from being indicated in several languages.

10 quinter National law of a Member State must allow the use of a foreign expression on a product label if this informs consumers better or if the term in question exists only in the language of origin

Article 13. Obligations of importers

5. Importers shall ensure that the product with digital elements is accompanied by the instructions and information set out in Annex II, **in an electronic or physical form.**

5 bis The information and instructions set out in Annex II shall appear in a language easily understood by the consumers of the Member States where a product with digital elements is marketed.

5 ter Within their own territory, the Member States in which a product with digital elements is marketed may stipulate that the information and instructions set out in Annex II shall be given in one or more languages from among the official languages of the Union.

5 quater Paragraphs 10 bis and 10 ter shall not preclude the particulars from being indicated in several languages.

5 quinter National law of a Member State must allow the use of a foreign expression on a product label if this informs consumers better or if the term in question exists only in the language of origin