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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Delegations will find attached the Commission Staff Working Document SWD(2012) 286 final.

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COMMISSION STAFF WORKING DOCUMENT

COMPETITIVENESS OF THE EUROPEAN HIGH-END INDUSTRIES

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COMPETITIVENESS OF THE EUROPEAN HIGH-END INDUSTRIES

Europe is a global leader in the sector of high-end products and services with a world market share of 70%. Being part of the creative economy, European high-end products are exported world-wide and act as ambassadors of European manufacturing, heritage and culture. Merging traditional craftsmanship and quality manufacturing with high-end technologies, design and innovation, as well as modern marketing and consumer communication, the European high-end industry promotes European values, culture, art, creativity and know-how in the world. Although broader in scope than the cultural and creative sectors, the high-end industries rely on a strong cultural and creative input.

These industries are made up of the high-end segments of several products and services markets, such as fashion, jewellery and watches, perfumes and cosmetics, accessories; leather goods; furniture and furnishing, household equipment; and in a wider sense they can even include gastronomy, wines and spirits, cars, boats, hotels and leisure experience, retail and auction houses and publishing.

The companies in these industries follow a specific business model, focused on creativity, design, high-quality manufacturing and authenticity. Based on these features, they have been developing a successful branding strategy.

A recent study¹ estimates that the industry's contribution to the European economy and growth should not be underestimated: it corresponds to 3% of EU (non-financial) GDP with an annual turnover of above €400 billion. Some 990 000 people are directly employed in this sector in Europe. This figure does not include the indirect employment generated by the supply and distribution of products or in related sectors, such as promotion and marketing, education, media and communication.

The European high-end industries have proven remarkably resilient to the economic and financial crisis. Over the past decade they showed stable growth, but in 2010 and 2011 they noted yearly growth of over 10%. Further growth at the level of between 7% and 9% is expected in 2012 and in the coming years².

From a successful business model ...

The business model of the high-end is based on the importance of branding and symbolic value, which convey a certain status to the consumers. This status allows the company to charge a premium price as compared to unbranded products.

High-end products are generally associated with certain success factors, such as high quality, style and design, and craftsmanship, multiplied by emotional appeal. These aspects are

¹ 'The value of the cultural and creative industries to the European economy', Frontier Economics, May 2012.

² Altgamma Monitor Update, May 2012.

present at all stages of the supply chain to match the product characteristics with consumers' requirements.

The sourcing of materials — mainly textiles, leather and fur, but also other inputs — must comply with strict quality requirements to ensure high quality of the final products. A high design content is also common to high-end goods.

The manufacturing process is often based on craftsmanship and traditional skills coupled with new technologies; in addition, it must be efficient in producing relatively small volumes of products and flexible in order to follow changes in demand. It is crucial for high-end brands to align their distribution channels with the success factors, so they pay special attention to the display of products, their availability, the service offered, and the location of their shops, in order to create a unique shopping experience.

...to a significant contribution to employment and skills development ...

Although there is a strong presence of large companies and multi-national brand groups among high-end industries, companies are generally small to medium-sized enterprises.

The high-end brands have also created a whole ecosystem of suppliers, sub-contractors, distributors and service providers, in which SMEs, small manufactures, craftsmen and artisans play a very important role. They are often located in rural or economically disadvantaged areas, employ female or older workers and therefore contribute in an important way to the local economy.

Clusters and hubs of artisan skills, which are the legacy of the high-end industry, can be seen across the EU. They bolster local communities, support employment, education and tourism and contribute to the identity and culture of those areas.

Through continuous investment in training and developing a skilled workforce, the high-end industries help to maintain certain unique expertise, skills for European crafts and know-how, passing on the knowledge to younger generations and preventing them from disappearing. Brands not only invest in employment in their own businesses but also in their suppliers, thus helping to create stable employment and the continuation of traditional skills and know-how.

In addition, the high-end industries stimulate constant innovation in these skills to develop new production methods, to work with new materials and to incorporate new technologies.

... and investment in technological and non-technological innovation

The high-end industries are growing because of their creativity and innovation, and because they are using the possibilities offered by new technologies. Traditional indicators used to measure the innovative performance of companies, such as R&D spending, number of patents, and use of ICT do not fully reflect the potential of the high-end industries. These indicators do not take into account the rapid pace of innovation that is necessary to market several collections per year, the high design and creativity content, or the continuous innovation in marketing and services. These and other factors are key to the competitiveness of the high-end industries and confirm them as knowledge-based and innovative industries.

One of the unique characteristics of the high-end industries is that they are able to combine different types of innovation, both technological and non-technological, such as innovation

driven by science; innovation resulting from artistic creativity and aesthetics; or open, user-driven innovation.

Based often on long-term strategies, the high-end brands invest heavily in increasing their intangible assets and hence in training, research and know-how. They incorporate new technologies and apply scientific knowledge to create unique tools. Digitalisation in particular offers new possibilities, including live streaming in 3D of fashion shows, applications enabling consumers to purchase items shown on the catwalk or simply creating interactive, content-rich websites to attract more consumers and to engage with and connect them globally. Brands also use social media to reinforce their web presence and create communities of interest.

More and more brands offer bespoke services to their customers, both at the point of sale and online. Brands also use online retail platforms and sophisticated customer relationship management (CRM) technologies to improve their knowledge of customers' preferences and thus personalise their products and services.

Despite the economic downturn, the high-end goods industry continues to invest in technology and innovation. Moreover, spill-over effects of the creativity from high-end industry can be seen in many sectors, e.g. innovative solutions and creations in the fashion or car industries are gradually being adopted by mass-market producers. European high-end designers set influential styles and trends which become an inspiration for designers all over the world. Consumers also benefit from the innovation in the high-end sector as they are offered more choice and often better quality at affordable prices.

Considering the significant impact of the high-end industries on the EU economy and their contribution to EU employment and innovation, it is important to ensure that adequate policies are in place at EU level that take into account the high-end business model and help the sector to continue to grow and create jobs.

In order to achieve the long-term vision for the high-end industries, as knowledge-based industries that rely on unique skills, cultural heritage and creativity to strengthen their position as leaders in the global market, particular importance can be given to the following areas:

- 1. Protecting the creative efforts of high-end companies and facilitating growth in the digital market**
- 2. Ensuring favourable conditions to maintain export growth**
- 3. Stimulating the spill-over effects to other sectors, such as tourism**

1. Protecting the creative efforts of high-end companies and facilitating growth in the digital market

The increase in global trade and the growing pace of digitalisation have facilitated the flow of goods and secured new customers. The result has been new opportunities and new challenges. Protecting companies' investments in intellectual property continues to be very important, as high-end brands invest heavily in brand and symbolic values, as well as in research and development and in design.

The number of counterfeit and pirated products increases every year. Statistics show an upward trend in the number of shipments suspected of violating intellectual property rights. Customs in 2010 registered around 80 000 cases, a figure that has almost doubled since 2009³. In 2011, the number of detentions increased further, reaching 91 000 registered cases⁴. The report for 2011 refers to more than 114 million products intercepted at the EU external border. This increase, concerning principally clothing, shoes and electrical goods, seems to be linked to increased sales via the internet⁵.

IPR-infringing goods damage the brand image and bring losses to businesses and losses in tax revenue for national budgets. Furthermore, these goods are often poor quality, which can be dangerous for consumers. For the high-end sector, certain forms of IPR infringements, such as counterfeit products, IP-infringing look-a-likes and grey-market products, are of particular concern, especially since the quality of counterfeit products has recently been improving. Counterfeits are increasingly sold at a similar price to the original goods, which results in consumers unknowingly buying counterfeit products. This may directly affect high-end brands' sales and undermine the essential consumer trust and confidence in online trade. In addition, counterfeiting may have a brand-damaging effect when the exclusivity and image associated with the brand diminishes or when consumers lose confidence that they are purchasing a genuine product.

So strict and effective enforcement of the IPR legislation, improving ways to intercept counterfeit products and raising the awareness of consumers are essential.

One of the key drivers for the European high-end industries is the digital single market. It allows brands to reach new customers and develop new ways of interacting with them. Although most products are still sold 'brick and mortar', high-end companies make major investments in developing their online presence. While online services offer European consumers an exceptional opportunity to communicate and conduct economic activities more easily, and businesses the opportunity to offer their goods and services more easily and broadly, legal boundaries to doing so are sometimes overstepped. This leads to illegal information or activities online, which can undermine the opportunities provided by the growing and borderless e-commerce.

The high-end industries are particularly concerned by such illicit activities. For instance, use of certain advertising keywords corresponding to registered trademarks for illicit purposes may damage brands' reputation and mislead consumers. Moreover, companies selling online sometimes experience difficulties linked to discrimination or traffic management.

For high-end brands, selective distribution is crucial for protecting the product's brand and image; it allows brands to maintain the high level of service and consumer trust in both offline and online transactions. This is why the rules on selective distribution, contained in the

³ European Commission, DG Taxation and Customs Union, Report on EU customs enforcement of intellectual property rights, http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/statistics_2010.pdf.

⁴ European Commission, DG Taxation and Customs Union, Report on EU customs enforcement of intellectual property rights, http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/2012_ipr_statistics_en.pdf.

⁵ see footnote 4.

Vertical Restraints Block Exemption⁶, allow brands that lack significant market power to choose distributors and prevent possible free-riding between them, while promoting competition, both online and offline.

These and other issues, such as better application of trademark law in online environment, protection of consumers' data and privacy, and harmonisation of unfair commercial practices online, are increasingly important for the high-end industries.

In the light of the above, as recently highlighted in the Communication '*A coherent framework for building trust in the Digital Single Market for e-commerce and online services*'⁷, additional measures are needed to increase legal certainty and confidence for both consumers and businesses in the online environment. The action plan set out in the above Communication identifies numerous ways of achieving this, such as the initiative on notice and action⁸, revision of the Directive on the enforcement of intellectual property, guidelines to limit unjustified discrimination based on nationality or place of residence of consumers⁹, and the initiative to ensure net neutrality. For the high-end industries, it would be beneficial if the Commission continued to implement the action plan set out in the Communication on the digital single market, in order to facilitate the development of online services and ensure confidence of all internet users, at both the supply and demand sides.

As regards IPR enforcement, the Commission will continue its consultations on the application of the IPR enforcement Directive, to assess whether any measures are required and to identify potential issues related to its transposition or possible future adjustments or clarifications, to work towards its objectives of efficient, non-abusive civil redress and discouraging trade in dangerous counterfeits.

Moreover, the Commission could act as facilitator of stakeholder dialogues, in particular with a view to extending, complementing and developing new self-regulatory measures to reduce online infringements. In this context, the Memorandum of Understanding on the sale of counterfeit goods¹⁰, signed by several rights-holders and internet service providers, seeks to reduce, at a pan-European level, the offer of fake goods on the internet.

With a view to making the national authorities more aware of the specificities of high-end goods and of making it easier to identify counterfeit products, it would be valuable to assess whether tailored information tools, intended in particular for national market surveillance and judicial authorities, can be developed, in cooperation with the EU Observatory on Infringements of IPR¹¹.

Furthermore, it is important to improve the use of existing information tools for customs authorities which are available for companies, such as the application for action created under

⁶ Commission Regulation 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L 102 of 23.4.2010.

⁷ COM(2011) 942.

⁸ For more on notice and action initiative see the dedicated website: http://ec.europa.eu/internal_market/e-commerce/notice-and-action/index_en.htm.

⁹ For more see *Commission Staff Working Document with a view to establishing guidance on the application of Article 20(2) of Directive 2006/123/EC on services in the internal market ('the Services Directive')*, SWD(2012) 146 final.

¹⁰ http://ec.europa.eu/internal_market/iprenforcement/stakeholders/index_en.htm#maincontentSec2.

¹¹ Regulation (EU) No 386/2012 of 19.4.2012, OJ L129 of 16.5.2012.

Regulation 1383/2003¹² and the ‘red alert’ form used to notify customs of urgent and specific information, as well as the ‘new trends’ form used to notify new trends.

Following successful campaigns initiated by the industry¹³, the Commission could, in cooperation with the EU Observatory, associations and brands, develop and launch a campaign at EU level, directed at consumers, and containing explicit messages about the damaging effects of counterfeiting.

Moreover, the Commission will ensure freedom to choose distributors and distribution formats and prevent possible free-riding between them, while promoting competition, both online and offline.

2. ENSURING FAVOURABLE CONDITIONS TO MAINTAIN EXPORT GROWTH

The European high-end industries are major exporters: on average, 62% of all goods manufactured by European high-end brands are sold outside Europe. The leading position of European brands is confirmed by the figures: in the segment of personal high-end goods comprising high-end fashion, accessories, jewellery and watches, leather goods and perfumes and cosmetics, Europe represents 74% of the global value¹⁴. Of the 25 world leading brands in the high-end sector, 18 are European¹⁵.

The value of European exports by the high-end industries is estimated at €260 billion¹⁶, which corresponds to approximately 10% of all European exports. Export growth is bound to continue, as will the market for European high-end products: in China alone the sales of high-end brands are forecast to grow by between 18% and 22%. Other emerging economies, such as India, Brazil, Russia or South Africa, are also expected to be key drivers of growth over the next decade, as continued economic growth and development in these economies boosts overall income levels, and the proportion of middle class consumers in these economies is growing.

The current economic situation requires the EU to focus on export-driven growth and increase Europe’ export potential. The future growth of the high-end sector depends heavily on free and fair access to key third countries’ markets. However, both tariff and non-tariff trade barriers still exist in these markets and prevent European companies from taking full advantage of the export opportunities.

A recent study assessed the impact of an increase in tariff and non-tariff barriers in China, which is the fastest growing export market for European high-end products¹⁷. It estimates that a 20% increase in tariffs in China might cause a €2 billion output loss and cost 5 000 jobs. According to the study, a 10% decline in imports by China following an increase in non-tariff barriers might result in a further €3.4 billion in lost output and 7 600 jobs lost.

¹² OJ L 196 of 2.8.2003.

¹³ For example a campaign launched by Comité Colbert; for further information see: http://www.comitecolbert.com/assets/files/paragraphes/fichiers/19/cpcontrefacon_FR_EN.pdf.

¹⁴ The value of the cultural and creative industries to the European economy, Frontier Economics, May 2012.

¹⁵ http://www.comitecolbert.com/assets/files/paragraphes/fichiers/20/Chiffres%20clefs_2012.pdf.

¹⁶ Including Switzerland.

¹⁷ The value of the cultural and creative industries to the European economy, Frontier Economics, May 2012.

For this reason, the EU must redouble its efforts to facilitate export opportunities for products for which demand is growing. Continued progress in reducing trade barriers and increasing regulatory convergence across these markets is therefore crucial to the high-end sector.

In this context, dialogues with the key partners, including the BRIC countries, USA and Japan, focusing on market access and regulatory issues, could be strengthened. In particular, the existing EU regulatory dialogues (with China, Brazil and Russia) should be reinforced, with the objective of promoting regulatory convergence. To this end, the Commission has already undertaken a study on standards comparison between the EU and Russia and Brazil in the fashion sector, and has launched a similar study with regard to China¹⁸. The possibility of establishing dialogues with other key partners (such as India, USA, Turkey and Japan) can be explored, in order to exchange and promote good regulatory practice.

In order to face the challenges resulting from tight supply and higher demand for quality raw materials, it is important to work towards ensuring the availability of the raw materials crucial for the high-end industry.

Finally, it would be beneficial to continue taking the high-end industries' agenda into account in 'Missions for Growth' in key third countries.

3. STIMULATING SPILLOVER EFFECTS FOR OTHER SECTORS

The European high-end industries have strong links with other sectors, such as art, tourism and the media.

The creations of European designers are often exhibited in museums and attract visitors from all over the world. Many European brands invest in education and help talented designers through prizes and scholarships and sponsored cultural events. They also contribute to the architecture of European cities by renovating historic buildings and constructing new ones, often designed by renowned architects, to be their headquarters and flagship stores.

European cities like Paris, London or Milan are favourite shopping destinations for tourists from all over the world. About 50% of all personal high-end goods in Europe are purchased by tourists¹⁹. It is estimated that in 2011, Chinese tourists alone spent EUR 40 billion in Europe²⁰. These figures will certainly rise as more and more Asians travel on a regular basis. The Commission has already recognised this potential: it will launch a bespoke communication campaign, addressing potential tourists from the emerging economies (the BRIC countries, Argentina and Chile) to promote the image of Europe as a diverse and high-quality tourist destination.

When purchasing European high-end products, foreign tourists also buy a part of Europe's culture and heritage. A more complete experience can therefore be offered to them. European tourism packages should be developed, such as linking shopping with visits to fashion museums, exhibitions, trips to traditional manufacturing locations where they can see how the

¹⁸ In the framework of the second phase of the EU- China Trade Project.

¹⁹ HSBC 2011: Global High-end Goods, Consumer Brands & Retail Global High-end Goods, figure for sales in Western Europe.

²⁰ The World High-end Association.

products are made. This would not only attract tourists, who are often already familiar with the well-known attractions, but also promote European skills and crafts.

Therefore, in order to maximise the potential of these industries and boost the spillover effects, the links between the high-end industries and tourism, as well as other sectors, will be explored further.

With a view to promoting the European excellence in the world, one policy option could be to work towards visas facilitation for tourists from key third countries, and support the development of ‘fashion tourism’ products on a European scale. The Commission has already initiated work on information campaigns promoting Europe as the ‘Number One tourist destination’, directed at third countries. The Commission could work together with the industry to ensure that the campaigns have maximum impact, by linking the Commission’s and the industry’s communication and awareness-raising initiatives.

4. FOLLOW-UP

The Commission services will continue working with the industry on monitoring the challenges, opportunities and possible initiatives set out in this Staff Working Document, and identifying and addressing any that emerge in the future.