



Council of the
European Union

Brussels, 8 January 2015
(OR. en)

5091/15

MI 10
COMPET 7
MAP 1
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NOTE

From: Presidency
On: 8 January 2015
To: Delegations

Subject: Draft Council Conclusions on Single Market Policy

Delegations will find in Annex Draft Council Conclusions on Single Market Policy.

Draft Council Conclusions on Single Market Policy**COMPETITIVENESS Council (Internal Market, Industry, Research and Space)****Brussels, 2 and 3 March 2015**

"THE COUNCIL (COMPETITIVENESS)

Completing the Single Market

1. RECOGNIZES that the Single Market is the cornerstone of the EU's competitiveness and capacity for economic growth and job creation. NOTES that despite the successes of the Single Market, more than 20 years after its creation barriers and gaps to its full functioning remain. Therefore, CALLS on Member States and the EU institutions to take urgent and determined actions both at EU and national level to deepen Single Market integration.
2. WELCOMES the new Commission's focus, as set out in the Investment Plan for Europe and the Work Programme for 2015, on unlocking the full potential of the Single Market, and developing a truly connected Digital Single Market; EXPECTS the Commission's forthcoming Single Market Strategy to include proposals for concrete actions with set deadlines, targeting the most significant remaining barriers and gaps, notably in services; and that the forthcoming Digital Single Market Package is a genuine driver for EU growth and new jobs. URGES the Commission to pursue these objectives by adopting the policy actions and guidelines proposed in these Conclusions.
3. REITERATES that a fully functioning Single Market rests on two complementary pillars: (1) a harmonised area where common rules are set out by EU harmonisation; and (2) the principle of mutual trust in non-harmonised areas, where national law is coupled with effective application of mutual recognition. UNDERLINES that the success and safeguarding of the Single Market is a shared responsibility, between the EU institutions and the Member States.

A refreshed approach to the Single Market

4. STRESSES the need for an effective Single Market regulatory framework that actively promotes market integration, and the removal of regulatory and non-regulatory barriers to its full functioning. Accordingly, CALLS UPON the EU institutions and Member States to "refresh" the Single Market, by applying the approach set out below. Furthermore, CALLS upon the Commission to adopt this approach as part of its forthcoming Single Market Strategy.

5. UNDERLINES that EU-level action, while fully respecting subsidiarity and proportionality principles, is needed to support further integration of the Single Market. CALLS ON the Commission to be fully engaged and proactive in its task of ensuring that Single Market rules are implemented correctly and enforced and, where necessary, to propose new, or revise existing rules in order to address any gaps and barriers within the Single Market. INVITES the Commission to propose, and the co-legislators to adopt, further targeted full harmonization legislation, and to effectively apply mutual recognition in legislative acts not subject to full harmonization, *inter alia* by including Internal Market and/or mutual recognition clauses in the legislation.

6. URGES the Commission to ensure that any new proposals or revisions reflect smart regulation principles. Emphasis should be on preventing unnecessary regulatory burdens or overly prescriptive measures, underpinned and informed by rigorous impact assessment, including input from outside experts, at an early stage of the policy-making process. Particular attention should be paid to the systematic inclusion in impact assessment of competitiveness proofing, and the SME and Internal Market Tests. Non-regulatory measures should be used whenever it is possible to achieve the same integration effects.

7. RECOMMENDS that the Commission use its 'REFIT' programme of ongoing legislative review to apply the refreshed approach to the Single Market *acquis*. INVITES the Commission to include within this review an assessment of the effectiveness of minimum harmonisation legislation, and whether this has inadvertently created barriers to the full functioning of the Single Market. CALLS upon the Commission to report annually on the results of this review, including what (if any) barriers have been identified and proposals for removing them.

8. LOOKS forward to the Commission's analysis on the application of mutual recognition [as called for by this Council in December 2013]. In the event that this analysis identifies barriers to the application of mutual recognition, URGES the Commission to bring forward proposals to remove these, focussing on markets where mutual recognition will achieve the greatest increase in EU competitiveness and growth. URGES Member States and the Commission to increase efforts to ensure the application and enforcement of mutual recognition, specifically through raising awareness among the businesses and public administrations/competent authorities; and effective cooperation between competent authorities. UNDERLINES the importance of including mutual recognition clauses in national technical regulations legislation. CALLS upon the Commission for systematic monitoring of implementation of mutual recognition, and to report the results on annual basis.

9. STRESSES the important role of European and international standardisation, and the need for the European Standardisation System to be fit for the future. ENCOURAGES the Commission, in cooperation with European and national standardisation bodies, to implement the results of the Independent Review, focusing in particular on the efficiency of governance, interaction and communication. SUPPORTS the Commission to promote the use of standards in new areas such as the Digital Single Market, services (business services), new technologies, high-end technologies and e-policies (e-procurement, e-government).

10. EMPHASISES the continuous need for "state of the art" and high quality standards in supporting EU legislation and the implementation of procedures designed to make intellectual property rights available under fair, reasonable and non-discriminatory conditions. ASKS the European Commission to carry out two studies in order to analyse: the impact of standardisation on Member States' and EU economies as well as the working procedures of the National Standardisation Bodies to assess whether harmonisation would be possible.
11. INVITES Member States to use the Public Procurement Directives to engage in national reforms of public procurement systems, to help ensure that public procurement fully contributes to economic recovery. CALLS on the Commission to support Member States in addressing public procurement issues such as: improving SME access to procurement markets; systemic failure and unfair practices in the markets; the transition to full e-procurement; and unnecessary bureaucracy.

Governance of the Single Market

12. STRESSES that timely and correct implementation and enforcement are crucial to realising the potential of the Single Market, and that the Commission and the Member States share responsibility for that. INVITES the Commission to resume its reporting on the functioning of the Single Market, and to set out when and how it will do this in its upcoming Single Market Strategy. STRESSES the need for a continued focus on Single Market law within the framework of the EU semester and CSRs.
13. EMPHASISES that Member States must implement EU legislation in a uniform manner and, for that purpose, URGES Member States to participate in implementing groups for newly adopted directives. CALLS upon the Commission, in its role as *the Guardian of the Treaties*, to take the necessary steps, and to deploy all available tools, to ensure that Single Market rules are transposed, implemented and enforced. INVITES the Commission to make better and more transparent use existing data, e.g. generated through the Single Market Scoreboard, TRIS and IMI databases, to prioritise and act on the most significant barriers to the Single Market.
14. INVITES the Commission to evaluate, within the framework of the new Single Market Strategy, whether the tools designed to ensure the effective operation of the Single Market are fit for purpose, and to propose, where appropriate, new tools or the upgrading of existing

ones. In this context, INVITES the Commission to have a centralised structure with a specific remit to prioritise, pursue and resolve major breaches of Single Market rules. CONSIDERS that the Commission should also foresee in its Single Market Strategy a strong enforcement dimension, introducing a mechanism for regular planning of enforcement actions and setting priorities.

15. STRESSES the importance of the notification procedure and the ‘standstill period’ to the effective functioning of the Single Market. NOTES the benefits of requiring Member States also to notify existing requirements on service providers such as those concerning legal form and shareholding so as to highlight any requirements that may be disproportionate. CALLS upon the Commission to introduce a ‘standstill period’ for the notification of changes to domestic rules for services, and making notifications public and transparent as is the case for goods. INVITES the Commission to address this issue, and to propose the necessary action, in its forthcoming Single Market Strategy.
16. INVITES the Commission and Member States to strengthen and streamline the Single Market tools, such as Points of Single Contact (PSCs), Product Contact Points (PCPs), the SOLVIT system and the IMI, with the aim of creating effective Single Market centres in all Member States. CALLS on the Commission to use its forthcoming Single Market Strategy to propose common minimum standards for the operation of these centres and to provide co-financing where necessary.

The Single Market for goods and services

17. RECOGNISES that the distinction between products and services is blurring, including through the ‘servitization’ of manufacturing; and therefore RECOGNIZES the need to ensure that the current approach and tools that underpin the effectiveness of the Single Market reflect this new reality, CALLS the Commission in the Single Market Strategy to propose necessary action for removing obstacles where they impede the marketing, maintenance and after-sales of products.
18. While RECOGNISING that the Single Market in goods generally functions well, INVITES the Commission to consider in its upcoming Single Market Strategy a more comprehensive and integrated approach to EU policy [and legislation] for products. NOTES that trade integration for services is significantly lower than for goods. Therefore, CALLS upon the

Commission to use its forthcoming Single Market Strategy to present concrete and ambitious proposals for completing the Single Market in services. It should identify sectors that are important for industrial competitiveness and wider economic growth, and where there is the highest potential for cross-border trade, for example in professional and business services, and construction and retail services. It should present action plans for removing regulatory and non-regulatory barriers in these sectors with clear deadlines for delivery, and propose new EU legislation where necessary. WELCOMES the ongoing mapping of national sector specific services standards by CEN.

19. INSISTS on the need to pursue a "zero-tolerance" policy on the enforcement of the Services Directive and other Single Market rules, and CALLS on the Commission to reiterate this in its forthcoming Single Market Strategy. In this context, URGES Member States to engage fully with the mutual evaluation of regulated professions in order to ensure structural reform is delivered, and URGES the Commission to take firm enforcement action where necessary. STRESSES the importance that the possibilities for consumers to purchase services abroad should be enhanced, and RECALLS that discrimination on the basis of nationality or place of residence is prohibited. Accordingly, CALLS on the Commission and the Member States to take further action to ensure the effective application of Article 20 of the Services Directive.
20. REITERATES its previous invitation to the Commission to take action on the proportionality test in the context of the Services Directive. CALLS on Member States to step up efforts to remove remaining unjustified or disproportionate requirements on service providers. CALLS on the Commission to introduce an unambiguous interpretation of how Member States should apply the proportionality test, and to report back to the Council on possible solutions by the end of 2015. This should apply to both existing and new requirements imposed to the Single Market in services and, where restrictions do not meet the Commission's proportionality assessment, they should be subject to peer review by Member State experts, and effective corrective action taken where necessary.

The Digital Single Market

21. NOTES the benefits of a stronger Digital Single Market and the potentials for higher growth and new jobs; NOTES that these are dependent upon establishing a more coherent regulatory framework that spurs digitisation, cross-border e-commerce across Europe and innovation.

22. CALLS on the Commission to ensure that its forthcoming Digital Single Market Package assesses whether the existing Single Market framework is fit for purpose in the digital age, and proposes concrete action with set deadlines to address any barriers and gaps. Particular attention should be paid to issues that prevent consumers from benefiting from the full range of digital products and services offered in the EU, and prevent businesses from starting and scaling up, operating across borders, innovating.
23. EMPHASISES that any further measures should ensure proper protection for consumers while enhancing competition and ensuring an investment-attractive environment. Therefore ENCOURAGES the Commission to use the Digital Single Market Package to pursue further action to abolish cross-border geographical discrimination in the provision of digital products and services, for example restrictions on the access to content across borders, as well as possible restrictions via platforms; harmonise consumer protection; establish a framework for uninterrupted cross-border e-commerce, with emphasis on making it easier for SMEs to do business online; modernise copyright rules; achieve an efficient parcel delivery system; establish a trustworthy data protection framework that is also business-friendly and promotes innovation; remove physical establishment requirements for digital entrepreneurs; ensure that domestic sales laws do not prevent price neutrality for consumers; establish a joint public procurement platform; and promote on-line registration of companies.

24. **STRESSES** that the regulatory framework should be “digital by default”. Therefore [following the Council Conclusions on Smart Regulation of 4 December 2014] **INVITES** the Commission to formalise and implement by the end of 2015 a ‘digital competitiveness test’, as an integral part of the impact assessment process. The Commission should also examine how existing legislation can be made fit for the digital age, as part of the REFIT process, including an emphasis on innovation.
25. **UNDERLINES** the need for further upgrading e-governance and interoperability of different e-government systems throughout Member States, including efforts to apply an EU wide ‘once-only’ approach with regard to submitting information to administrations. **HIGHLIGHTS** that full and efficient exploitation of such technologies as Cloud, Big Data, Automation, Internet of Things and Open Data are prerequisites for better productivity and better services, and therefore should be explored, including further ICT standardisation and interoperability.
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