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NOTE

From: Presidency
To: Delegations
Subject: Revised draft Council Conclusions on the Single Market

Delegations will find in Annex a revised draft of the Council Conclusions - "A new level of ambition for a competitive Single Market", with a view to a finalisation of the discussion at Working Party level on 8 May 2019.

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A new level of ambition for a competitive Single Market

THE COUNCIL OF THE EUROPEAN UNION

1. RECALLS

- the European Council Conclusions of December 2018, which highlighted the need to press ahead with the Single Market agenda in all its dimensions and develop a forward-looking approach¹;
- the European Council Conclusions of 22 March 2019 that called for an integrated approach connecting all relevant policies and dimensions and in particular that the Single Market should be further deepened and strengthened, with particular emphasis on the development of a service economy and on mainstreaming digital services, removing of remaining unjustified barriers and avoiding creating new ones²;
- the European Commission Communication on “The Single Market in a changing world – A unique asset of renewed political commitment” adopted on 22 November 2018.

¹ Doc EU CO 17/18, paragraph 2.

² Doc. EU CO 1/19, para 2, 3

I. An integrated approach for the Single Market

2. STRESSES that the EU needs a long-term vision for a globally competitive Single Market, as a cornerstone of the European global competitiveness, addressing the current and emerging global, technological, security and sustainability challenges and touching upon all relevant policy areas, recognising that it requires a renewed commitment from both Member States and EU institutions. An integrated and forward-looking approach to deepening the Single Market would offer a basis for successful transition towards a digital-driven efficient, coherent, balanced and sustainable Europe, in economic, environmental and social terms. EMPHASISES a need for an enabling business environment for investment, innovation and entrepreneurship across the Single Market, fostering European markets to perform well and businesses, regardless of their business model, to scale-up and to be strong enough in the global markets, an environment that ensures a global level playing field in terms of competition, social [and tax] rules and in which open markets are maintained.
3. CONSIDERS that businesses and citizens needs to be in the center of the policy-making process. A particular regard should be paid to improving the business environment for SMEs, including start-ups; and mid-caps ~~but also for industrial sectors~~. RECOGNIZES that in order to contribute to a future-proof Single Market, the Commission, Member States and European Parliament should work in close cooperation towards a more user-centric approach, which is based to a greater extent on a thorough analysis of facts and needs. This involves understanding businesses' and citizens' needs and cross-border experiences through undertaking in-depth research focused on ambitions and obstacles by (sub) sector and/or by cross-border/regional area. RECOGNIZES that in the ever-changing Single Market, businesses – especially SMEs – need improved framework conditions as well as new tools to assist them overcoming regulatory complexity and legal fragmentation in the Single Market thus facilitating cross-border trade and scale-up.

I. An integrated approach for the Single Market

4. RECOGNISES that continued deepening of the Single Market needs to be reframed in such a way that it clearly enables an integrated approach to the competitiveness of the European economy, fostering synergies between the policy for Single Market, including its digital and industrial dimensions, and other policies and by mainstreaming the free movement of goods and services across all relevant policy areas. **NOTES the importance of priority actions to support industrial sectors, in particular those that can better perform in terms of economic growth and achievement of sustainable development objectives.** Due consideration should be paid to the differences in economic development and business conditions across the EU and to ensure cohesion.
5. HIGHLIGHTS the necessity to further remove remaining unjustified cross-border regulatory or non-regulatory obstacles in the Single Market, particularly in the services markets and to provide legal certainty through clear, consistent and proportionate rules. URGES ~~that it is important~~ to prevent any new barriers and Single Market fragmentation, in a continuously developing operational environment. HIGHLIGHTS the importance to use all relevant instruments, including **strengthening** harmonisation and **the application of the** mutual recognition, as appropriate **suitable**.
6. RECALLS that digitalization is an enabler of more cross-border trade and a more integrated Single Market. The importance of digitalization is horizontal and should therefore permeate all policies. UNDERLINES that digital transformation has the potential to reduce administrative burdens significantly and to improve framework conditions for business investment and STRESSES that digital by-default and future-proof regulation is a precondition for a well-functioning Single Market, which promotes innovation, new technologies and business models and enables more efficient and user-friendly digital public services that reduce unnecessary burdens. RECOGNIZES the importance of digital inclusion, digital skills, digital consumer education and awareness, cyber security, enabling infrastructure and e-government.

7. TAKES NOTE of the opportunities that an optimal functioning of high growth potential of a ~~fully functional~~ the single market for services is offering and ACKNOWLEDGES the need to deepen cross-border integration of the services markets, having regard to the significant spill-over effects to related sectors and the increasing interdependence of services and industry in creating added value within the global value chains. EMPHASISES digital services and data economy as an integral part of the Single Market and UNDERLINES that a more competitive service economy will provide a solid basis for our industries and businesses when tackling the fast technological disruption. RECALLS the need to improve the mobility for professionals ~~and the important role of the retail and wholesale sector.~~
8. STRESSES the importance of a strong economic base and of adequate investment in further developing the Single Market and supporting its good functioning. WELCOMES in this regard a number of programmes proposed in the 2021-2027 MFF Framework, such as Horizon Europe, the Single Market Programme, the Connecting Europe Facility, the InvestEU, ~~and the Digital Europe~~ and the European Defence Fund Programmes. RECOGNISES their substantive potential to strengthen the competitiveness of the Single Market.
9. STRESSES that the proper transparent and effective implementation, application and enforcement of the EU legislation, both at the Union and national, regional and local level, must be strengthened, in order to increase the trust of companies and citizens that their rights based on the Single Market rules and freedoms are fulfilled in practice. CONSIDERS that more transparency on the Commission policy regarding the implementation, application and enforcement in the Single Market is needed. RECALLS the benefits of the EUPilot system.
10. EMPHASISES ~~the need to put regularly at the agenda of the Council the state of implementation, application and enforcement, based on authoritative and updated data, thereby strengthening political ownership of the Member States and appropriate follow-up and peer support amongst Members States. RECALLS the need for joint action by the Commission and the Member States for better governance, including implementation and application, in order to make current rules and all instruments work in practice and improve them, where necessary.~~

- 10.41 RECALLS the responsibility of the co-legislators and the Commission to improve the application of the Better Regulation principles, including “think small first” and innovation principle, in order to ensure an agile regulatory framework and to make sure that the quality of legislation is ensured throughout the legislative process.
- REITERATES the importance of removing unjustified regulatory and non-regulatory burdens and of concrete targets **[steps]** for the reduction of unnecessary regulatory burdens, whilst respecting existing protection standards and without undermining the underlying objectives of the legislation. CALLS ON all parties concerned to strengthen a more principle-, evidence-based and market-driven approach in policy making and setting new rules, while both Member States and the Commission focus on implementation and enforcement in the next coming years. ~~CONSIDERS that an evaluation of the overall regulatory framework set by the Single Market Strategy and the Digital Single Market Strategy should be the outset for new proposals, which should be all “digitally tested”, future oriented and technology neutral.~~ CALLS ON the Commission to renew the mandate of the REFIT Platform.

II. A call for action

- 11.2. CALLS ON the Commission to:

-- complete, by March 2020, the assessment of the remaining **unjustified** regulatory and non-regulatory barriers and opportunities within the Single Market, with a special focus on services, building on the European Council conclusions of December 2018 and March 2019 and on Commission’s November 2018 report, taking the perspective of businesses and consumers, mainstreaming digital services, **considering a stock-taking of the overall regulatory framework set by the Single Market Strategy and the Digital Single Market Strategy** and focusing on the most relevant areas and cross-border issues.

- evaluate, based on this assessment, the need for further initiatives to deepen and strengthen the Single Market, which should be “digitally –tested”, future-oriented and technology- neutral.

CALLS on the full commitment of Member States to addressing identified barriers through appropriate solutions.

— present an annual report on the current state of Single Market integration and the functioning of the Single Market, including the implementation, application and evaluation of regulations, directives and existing instruments;

12+3. CALLS ON the Commission and Member States to cooperate on an improved Single Market based on facts and needs through:

- a coordinated analysis agenda, to be updated frequently, which aims for in-depth and joint analysis of opportunities for cross-border cooperation and value chains, economic trends in specific (sub)sectors, qualitative input from businesses including via customer and user journeys, different modes of supply in services, and micro-data;
- a coordinated action agenda, to be updated frequently, through which both Member States and the Commission commit to taking action to address barriers and opportunities identified and design tailor-made solutions, including through:
 - i) an expanded toolbox including the initiation and facilitation of pilot projects to jointly work out scalable solutions to specific cross-border problems in particular cross-border user journeys; joint research and validation of solutions to the identified gaps by bringing together different experts;
 - ii) pilot projects with the participation of the Member States, to jointly work out scalable solutions to specific cross-border problems in particular cross-border user stories,

ii) iii) prioritizing tailor-made actions for (sub)sectors with greatest barriers experienced or large economic relevance, as identified by coordinated analysis, as well as the specific needs of start-ups and scale-ups; stimulating bottom-up action and pragmatic solutions;

iv) based on this work, identify appropriate solutions, which can be translated into legislative or non-legislative initiatives, to address specific problems.

v) making the agenda, its actions and findings publicly and transparently available, for example in the Single Market Scoreboard

vi) further addressing the need for targeted information for businesses, entrepreneurs and citizens on doing business and working in other Member States, including by strengthening the full use of the Points of Single Contact, the Single Digital Gateway, Your Europe, SOLVIT and the Internal Market Information (IMI) system and the involvement, where appropriate of stakeholders and potential users;

13+4. RECOGNISES the progress made in the area of goods through the adoption of the proposals of the Goods Package and CALLS on the Member States for an effective application of the new regulations on mutual recognition and market surveillance to enhance consumer and business confidence in the Single Market. CALLS on the co-legislators to safeguard the application of the principles of the New Legislative Framework when adopting harmonized goods legislation in order to minimize administrative burden through regulatory coherence and flexibility.

14. EMPHASIZES the recent progress in consumer protection field and that further work is needed to ensure a high level of consumer protection up-to-date with the rapid digital developments and contributing to the deepening of the Single Market.

15. ACKNOWLEDGES that barriers remain in the services market and CALLS on the Commission and Member States to work together in partnership on tailor-made solutions to remove barriers, ~~through above analysis agenda and action agenda~~, based on specific challenges encountered by businesses. CALLS on the Commission to provide further guidance to improve the implementation of existing rules and instruments in services, **[in particular to improve the effectivity of the existing notification procedure while taking into due account the principles of proportionality and subsidiarity]** and to facilitate mutual learning through **the detection and** sharing of experiences and best practices between Member States.
16. Further CALLS ON the Commission, in working on better implementation, application and enforcement of existing instruments, to:
- develop by March 2020, in close coordination with the Member States, a long-term action plan for better implementation and enforcement of Single Market rules ~~adopt an action plan on governance for better implementation and enforcement~~, including increasing transparency and political ownership **for better protection of interests of all stakeholders** by e.g. improving the Single Market Scoreboard together with Member States, by improving the cooperation among authorities of Member States, by ~~strengthening and improving instruments for assisting Member States in the implementation, application and enforcement of Single Market legislation and instruments~~ and by ensuring appropriate follow-up and peer-support amongst Member States;
 - ~~develop by March 2020, in close coordination with the Member States, a long term action plan for better implementation and enforcement of Single Market rules~~
 - **present an annual report on the current state of Single Market integration and the functioning of the Single Market, including the implementation, application and evaluation of regulations, directives and existing instruments, which should be the basis of a regular point on the agenda of the Council on the state of implementation, application and enforcement**

- strengthen the instruments for providing tailor-made information to businesses regarding rules governing the Single Market, given the regulatory complexity;
- ~~continue to work on improving the effectiveness of the existing notification procedures by facilitating exchanges of best practices and providing guidance to Member States~~, while taking into account the principles of proportionality and subsidiarity;
- ensure **the targeted and tailored** proper implementation of the Single Digital Gateway by establishing effective coordination mechanisms between Member States **to implement data exchange based on Article 14 of the Regulation, and to establish** a mechanism for the monitoring of the quality of the information, procedures and assistance services to which the gateway links and the measures to address the quality issues;
- **explore the** use, where appropriate, **of** regulatory sandboxes for the regulations that may have impact on the functioning of the Single Market in a digital environment, in particular for the projects related to the use of the Artificial Intelligence;
- further reinforcement of SOLVIT by ensuring that Member States and the Commission provide adequate support for its effective operation, including in tackling the structural **and recurrent** cases **based on an analysis by the Commission**, by improving the administrative capacity at SOLVIT centres, raising awareness of SOLVIT as a problem-solving tool and of the value of SOLVIT data in providing an evidence base for EU law enforcement and law-making process;
- **enhance the use of the IMI platform in helping the citizens and businesses movements across the EU, thus contributing to compliance with EU law and to a better functioning of the Single Market;**

- work together with the Member States on promoting a strategic, sustainable and innovative approach to procurement, through the implementation of the existing public procurement framework, while ensuring a well-functioning and efficient procurement market across the EU. UNDERLINES the need to focus, inter alia, on the professionalization of public buyers, ~~to embrace~~ on fostering the opportunities provided by digitalization -such as eProcurement tools and, standardization for interoperability-, as well as enhancing cross-border procurement and access for SMEs and startups;
 - work together with the Member States and all actors involved to increase transparency and inclusiveness of the European standardisation system, to improve the process for development and adoption of European standards, in order to be better adapted to the need in developing state-of-the art technical solutions, also in international context, and **continue efforts** ~~use its best endeavours~~ to eliminate the remaining backlog of harmonized standards that are not yet published in the Official Journal of the European Union.
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