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NOTE

from:	Presidency /General Secretariat of the Council
to:	Committee of Permanent Representatives (Part I)
Subject:	Preparation of COMPETITIVENESS (INTERNAL MARKET, INDUSTRY, RESEARCH AND SPACE) - LUXEMBOURG – 10 - 11 OCTOBER 2012 - Single Market Act I - State of Play - Policy debate

I. INTRODUCTION

1. On 13 April 2011, the Commission presented its Communication "Single Market Act - Twelve levers to boost growth and strengthen confidence "Working together to create new growth"¹. This Communication builds on the first Commission Communication on the Single Market Act (SMA) presented on 27 October 2010 by focusing on twelve projects with a clear set of proposed priority actions to address the objectives therein in order to re-launch the Single Market by the end of 2012.

¹ Doc. 9283/11.

These twelve instruments of growth, competitiveness and social progress range from worker mobility, SME finance and consumer protection to digital content, public procurement and trans-European networks. Their aim is to reduce barriers and to improve efficiency for everyone on the Single Market: businesses, citizens, consumers and workers.

2. On 30 May 2011, the Council (Competitiveness) adopted Conclusions on the above Communication.¹ In its Conclusions the Council called on "*the Member States and the European Parliament in close cooperation with the Commission to adopt by the end of 2012 a first set of priority measures to bring a new impetus to the Single Market*". It also invited the Commission *inter alia* "*to launch a new stage in the development of the Single Market by the end of 2012 with the aim of further deepening it*".

II. STATE OF PLAY

3. After the Commission submitted its legislative proposals, Member States engaged in particularly intensive efforts and negotiations within the preparatory bodies corresponding to different Council configurations and with the European Parliament in the 12 priority actions of the SMA I.

Nevertheless, each legislative initiative deployed its own dynamics and a different degree of response to the political messages and commitment in the Council Conclusions of 30 May 2011 and the call of the European Council to adopt the measures included in the SMA I by the end of 2012.

4. The situation of the SMA I legislative proposals is the following:
 - one has already been adopted (Standardisation)
 - 6 are on track for agreement/adoption by December 2012 as requested by the European Council - provided the momentum is kept (ADR/ODR, EUVECA, EUSEF, patent, TEN-Energy, Accounting Directive);

¹ 10659/11 COMPET 214

- on 4 others the European Council deadline is most likely to be missed (Professional Qualifications, Public Procurement, e-Signature and Posting of Workers).

3 legislative proposals are related to the MFF (TEN-Energy, TEN-Transport and CEF).

A detailed table on the state of play of these proposals and information on the latest developments prepared by the Presidency is set out in Annex to this Note.

5. On that basis, the Presidency considers that areas where a sustained and concerted effort is required in order to achieve results, in light of timelines mentioned in European Council conclusions, should be referred to the Council (Competitiveness) with a view to providing further political impetus and a springboard for the future work on the corresponding proposals.

Consequently, the Presidency suggests the following questions in order to steer the debate of Ministers:

The current economic and social challenges seem to reconfirm that the Single Market is one of our most important assets for growth and job creation and therefore renewed momentum would contribute towards its full exploitation. Given that sustained efforts are required on a number of key actions of the Single Market Act I in order to meet the target of adoption of all 12 key actions by the end of 2012, what in your view can the Competitiveness Council do to speed up the process of adopting the SMA I key actions?

Furthermore, once adopted, how could we ensure the timely and correct transposition and implementation of the Single Market Act I key actions across Member States, so that their benefits can be delivered rapidly to citizens and businesses?

III. CONCLUSION

6. **The Committee of Permanent Representatives is invited to take note of the above questions, as well as of the table set out in the Annex to this Note, in view of the policy debate to be held at the Council (Competitiveness) on 11 October 2012.**

Presidency non-paper**State of play on the key proposals of the Single Market Act I**

Within the framework of the European Council (EC) follow-up process set up since March 2012 on the key proposals of the EU growth agenda, this note presents a general overview of the state of play regarding the priority measures of the Single Market Act I, prioritised by the EC. It aims to inform delegations and the President of the EC on areas where further political impetus may be required, in light of timelines mentioned in EC conclusions. This note is prepared under the sole responsibility of the Presidency. More detail on the status of each proposal is presented below.

Standardisation

EC deadline: June 2012

Current status: agreement reached, confirmed by Coreper on 5 June. Formal adoption underway (EP plenary vote took place on 11 September).

Unitary Patent

EC deadline: June 2012

Current status: The European unitary patent system package comprises a Regulation under the ordinary legislative procedure, a Council Regulation (translation arrangements) and the Unitary Patent Court (UPC) Agreement. The two Regulations have been prepared under enhanced cooperation procedures whereas the UPC is an international agreement between participating Member States. A first reading agreement was reached in principle on the main Regulation in ordinary legislative procedure end of 2011 (EP JURI Committee has voted in December 2011), but difficulties of some Member States with a particular element on the UPC delayed adoption. Following the compromise reached at the June European Council, the UPC agreement is being finalised and negotiations are underway with the EP on the regulation under the ordinary legislative procedure. The remaining step for adoption of the patent package is the EP plenary vote on the two regulations and the signing of the UPC agreement.

Planned steps: Informal contacts have been conducted during the summer and the first weeks of September in view of reaching an agreement, a goal shared by both co-legislators. The Presidency has been exploring several alternatives. The JURI parliamentary Committee is expected to hold a debate on 10 October. In the event of an agreement with the EP, the EP plenary vote could take place in October. In the meantime the Friends of the Presidency group is actively pursuing the fine-tuning and finalisation of the UPC agreement. The aim is to reach a first reading agreement on the Regulation under the ordinary legislative procedure by the end of October, allowing the formal adoption of the two Regulations by the end of the year and the signing of the UPC agreement in the margins of the December COMPET Council.

Comments: Delay in respect to EC deadline but on track for adoption by end 2012, provided that both legislators have sufficient flexibility.

Venture capital and Social entrepreneurship funds

EC deadline: June 2012.

Current status: The two proposals (Regulation on European Venture Capital Funds; Regulation on European Social Entrepreneurship Funds) were adopted by the Commission in December 2011; both fall under the ordinary legislative procedure and are treated as a package by the Presidency. Five trilogues took place in June, but the compromise proposed on 28 June could not be confirmed by Coreper. Informal meetings between Council and the EP rapporteurs of both proposals continued in July with a view to continuing the trilogues. Despite initial intention of the EP to vote on the resolution in September, the EP finally held a partial plenary vote, allowing the first reading to continue. The Presidency has sent a letter in September to the rapporteurs and the parliamentary Committee chair reiterating the Council's aim which is a first reading agreement by end 2012.

Planned steps: The Presidency will continue its contacts with the EP with the aim of reaching a first reading agreement.

Comments: Agreement by end 2012 can be reached provided that both legislators have sufficient flexibility.

Dispute resolution for consumers

EC deadline: June 2012.

Current status: The two proposals (Directive on alternative dispute resolution for consumer disputes; Regulation on online dispute resolution for consumer disputes) were adopted by the Commission end November 2011; both fall under the ordinary legislative procedure. They are treated as a package by the Presidency. A general approach has been reached on both files in the May COMPET Council. The EP IMCO committee vote took place on 10 July.

Planned steps: Trilogues started on 18 September and further ones have been scheduled for 10, 17 October and 6 November. The EP plenary vote is scheduled for December. The aim is to reach a first reading agreement by the end of the year

Comments: Delay in respect to EC deadline but on track for adoption by end 2012, provided that both legislators have sufficient flexibility.

Accounting Directive

EC deadline: June 2012.

Current status: The legislative proposal (Directive on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings) was adopted by the Commission in October 2011. A mandate for negotiating a first reading agreement with the European Parliament was given to the Presidency on 3 May, but given the internal EP calendar trilogues could not start and a general approach has been adopted in June. The issue of level of transparency will be key in reaching an agreement with the EP.

Planned steps: The EP JURI Committee vote took place on 18 September. In the light of this report, the Presidency plans to submit the file to Coreper on 17 October in order to obtain a revised mandate for trilogue. It has been agreed with the EP to start trilogues as soon as possible (in the second half of October); dates are being currently discussed. It has also been agreed that the trilogues will first deal with Chapter 9 on report on payments to governments of the Accounting Directive. This issue being also included in the Transparency Directive, joint trilogues will be organised on Chapter 9 of the Accounting Directive and the Transparency Directive. The remaining, less controversial issues on simplification in the Accounting Directive will be dealt with at subsequent trilogues. The aim is to reach a first reading agreement by end of year.

Comments: Adoption by end 2012 remains challenging but not impossible.

Public procurement

EC deadline: December 2012.

Current status: The package comprises 3 legislative proposals (Directive on public procurement, Directive on award of concession contracts, Directive on procurement by entities operating in the water, energy, transport and postal services sectors), adopted by the Commission in December 2011. Orientation debates took place at the February and May COMPET Councils.

Planned steps: The EP IMCO committee vote was postponed for end of November/ early December. This no longer allows a first reading agreement by the end of the year as initially intended by the Presidency; the aim is now to reach a General approach.

Comments: The EC deadline is likely to be missed, given the EP timetable.

Mutual recognition of professional qualifications

EC deadline: December 2012.

Current status: The Commission proposal (Directive on the recognition of professional qualifications) was adopted in December 2011. After 5 working party meetings, the 30 May COMPET Council held an orientation debate. Work is now intensifying at technical level on the outstanding issues, in particular the European Professional Card and related administrative burdens, the transparency exercise concerning regulated professions in Member States as well as certain sectoral issues.

Planned steps: Given the complexity of the file in Council, the Presidency is making all possible efforts to progress this proposal as much as possible. The EP IMCO Committee vote is planned for 28 November 2012.

Comments: The deadline of end of 2012 set by the EC is likely to be missed given the current speed of progress in negotiations and taking into account the EP timetable.

E-signature

EC deadline: December 2012.

Current status: Proposal (Regulation on electronic identification and trust services for electronic transactions in the internal market) adopted by the Commission on 4 June and presented in the TTE (Telecom) Council of 8 June 2012. The examination of the text has started at working party level.

Planned steps: progress report at December TTE (Telecom) Council.

Comments: The deadline of end of 2012 set by the EC is likely to be missed given the delay of Commission's proposal.

Connecting Europe Facility

EC deadline: December 2012.

Current status: The proposal (CEF) was adopted by the Commission in October 2011 and is closely related to the MFF 2014-2020. A partial general approach was reached at the June TTE Council.

Planned steps: The EP TRAN-ITRE joint committee vote is scheduled on 27 November, not allowing trilogues to start before that date. The Friends of the Presidency group is progressing intra-Council discussions with the aim of a partial General Approach.

Comments: Complying with the EC deadline requires the conclusion of the MFF and no delays in EP timetable. Consistency will have to be ensured with the three TEN proposals: Transport, Energy, and Telecommunications.

Trans-European networks (energy)

EC deadline: December 2012

Current status: The proposal was adopted by the Commission in October 2011 and is dealt with as sector-specific proposal within the MFF 2014-2020. The TTE (Energy) Council had an orientation debate in February and a progress report in June.

Planned steps: The EP ITRE committee vote took place on 18 September. The first mandate from Coreper I is scheduled for October 5. Three informal trilogues will take place on 15 October, 7 November, and 27 November with the aim to reach a first reading agreement by end 2012.

Comments: On track for EC deadline. Consistency will have to be ensured with the CEF .

Trans-European networks (telecommunications)

EC deadline: December 2012.

Current status: The proposal was adopted by the Commission in October 2011 and is dealt with as sector-specific proposal within the MFF 2014-2020. The TTE (Telecom) Council had a progress report and an orientation debate in June.

Planned steps: Negotiations are ongoing with the aim of reaching at least a partial general approach in Council by the end of 2012. The EP ITRE committee vote is scheduled on 5 November, allowing trilogues to start already in November.

Comments: Complying with the EC deadline would require no delays in EP. Consistency will have to be ensured with the CEF.

Trans-European networks (transport)

EC deadline: December 2012.

Current status: The proposal was adopted by the Commission in October 2011 and is dealt with as sector-specific proposal within the MFF 2014-2020. A general approach was reached at March TTE Council.

Planned steps: The EP TRAN committee vote is scheduled for 27 November, not allowing negotiations to start until that time. A state of play item is foreseen at the December TTE Council. The EP plenary vote is tentatively scheduled for January 2013.

Comments: Complying with the EC deadline would require no delays in EP Consistency will have to be ensured with the CEF.

Posted workers and right to collective action

EC deadline: December 2012.

Current status: Two proposals (Directive on the enforcement of Directive 96/71/EC on the posting of workers; Regulation on the use of the right to collective action "Monti II") were adopted by the Commission in March 2012. Following the "yellow card" from 12 national parliaments on the Monti II Regulation, the Commission decided in September to withdraw the proposal. A progress report on the enforcement Directive was presented to the June EPSCO Council.

Planned steps: The aim of the Cyprus Presidency is to reach a general approach or present a progress report on the Directive at the December EPSCO Council. The EP EMPL Committee is scheduled to vote its report on the Directive in February 2013; the EP plenary vote is scheduled in April 2013.

Comments: The EC deadline will be missed given the date of submission of the proposal, the current progress and the current timetable of the EP. Intensive work is required given the complexity and political implications of the Directive.