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## NOTE

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From: Presidency  
To: Competitiveness Council

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Subject: Draft Council Conclusions on “The Single Market Strategy for services and goods”  
- Policy debate  
- Adoption

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## I. INTRODUCTION

The Commission’s “Single Market Strategy for services and goods” represents a substantial step towards delivering ‘urgent and determined actions at both EU and national level to deepen Single Market integration’ as called for in the March 2015 conclusions of the Competitiveness Council. In addition, in these conclusions the Council called on the Commission to target ‘the most significant remaining barriers’ to the Single Market. In response, the Commission has taken a sectoral approach in its Strategy, focusing on the sectors that have high potential to generate economic growth and where significant barriers remain. In its conclusions of December 2015, the European Council called for ambition in the implementation of the roadmap to deliver on the Single Market Strategy, to achieve a deeper and fairer Single Market for goods and services in all key areas.

It is worth noting that these conclusions should be seen against the background of the European Council conclusions of June 2014 and the Strategic Agenda of key priorities for the next five years which state that the Union needs bold steps to foster growth, increase investments, create more and better jobs and encourage reforms for competitiveness.

## **II. STATE OF PLAY**

The draft Council conclusions on the Single Market Strategy that are annexed to this document build upon the Single Market Council conclusions adopted under the Lithuanian and Latvian Presidencies in 2013 and 2015, as well as the guidance given by the Competitiveness Council of 30 November 2015 under the Luxembourg Presidency. The three substantive priorities in the draft conclusions, namely: i. SMEs, start-ups, scale-ups and innovative businesses, ii. services and iii. implementation, compliance and enforcement, have been identified as the most important and urgent areas for policy-making given their potential for creating jobs and growth.

The text of the draft Council conclusions has evolved in the course of the discussions, most recently during the discussion in COREPER of 17 February, in preparation for this Council meeting. The main focus of discussions was on the section on services. In this respect delegations agreed on the economic importance of the services sector and the need to deepen market integration by tackling barriers that prevent businesses – especially small businesses – from making full use of the Single Market. Delegations generally also welcomed the concept of a Services Passport for service providers who want to access other EU markets.

The proposal for a Services Passport that the Commission has announced should make it easier for businesses to provide services in other Member States, through the use of a harmonised notification form and a common electronic repository. This should reduce administrative burdens and improve legal certainty and compliance by clarifying which requirements apply. Additionally, the Commission has announced legislative action to address regulatory barriers, including legal form, shareholding and multidisciplinary restrictions in key business services and, if appropriate, organisational requirements in construction companies. The Commission has indicated that this legislative action may be part of the Services Passport initiative. The Commission has furthermore emphasised that these initiatives will not reduce labour law or social protection requirements for service providers.

### III. OUTSTANDING ISSUE

Regarding paragraph 11 of the draft Council conclusions, dealing with the Services Passport, delegations' views continue to diverge on the approach to be taken regarding the envisaged Passport, in particular which types of obstacles the Passport should address and whether it should also facilitate mutual recognition in services. Due to this divergence, that part of the text has been placed in square brackets with a view to finding a suitable compromise proposal which takes both delegations' concerns and ambitions into account.

Furthermore, this particular issue was discussed during the informal meeting of Ministers responsible for Competitiveness on 28 January, which provided valuable insights that could possibly form a basis to facilitate an agreement on this issue. In particular, the Commission made clear that the Passport would be without prejudice to existing EU rules, including the Services Directive, and would therefore not introduce the country of origin principle. One of the main takeaways during that debate was the possibility that an approach may be envisaged in which the Passport would enable service providers to also overcome regulatory barriers based on a thorough assessment and that the Passport could be extended over time.

The specific approach to be taken regarding the envisaged Passport is the main outstanding issue that needs to be resolved by Ministers during the Council debate on its draft conclusions.<sup>1</sup> The outcome of the debate will serve as political guidance for the Commission in its further work on the development of the Services Passport, which will be aimed at assisting service providers who want to operate across borders within the Single Market, but who are currently considerably hindered by both administrative as well as regulatory barriers, which consequently significantly hampers growth and job creation.<sup>2</sup>

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<sup>1</sup> The following delegations have placed a scrutiny reservation on other paragraphs: SE on paragraph 3, DE on paragraph 5a and UK on paragraph 9.

<sup>2</sup> In 2012, it was estimated that the Services Directive, adopted ten years ago in 2006, had brought about an increase of 0.8% of EU GDP, with the potential to increase GDP by a further 1.8% through an ambitious implementation. However, more recent Commission analysis suggests that only 0.1% of GDP growth has been achieved through reforms implementing the Services Directive between 2012 and 2014 (Doc. 13370/15 ADD1, Single Market Strategy for Europe - Analysis and Evidence, p.89).

Question to Ministers for the policy debate with a view to solving the main outstanding issue in the draft Council conclusions:

*In order for the Passport to truly help service providers overcome the different obstacles that prevent them from offering services across the single market, and to further build on the discussions during the informal ministerial meeting, could the Passport also address regulatory barriers based on their thorough assessment and if so, under which conditions? Additionally, could the scope of the Passport be extended over time?*

*Draft Council Conclusions on the Single Market Strategy  
to be adopted by the Competitiveness Council on 29 February 2016*

**The Council (COMPETITIVENESS):**

1. REITERATES that the Single Market is Europe's main engine for growth and job creation and a key to investment and increasing European competitiveness.<sup>3</sup> EMPHASISES that strengthening and deepening the Single Market requires urgent and ambitious actions, both at Union and national level, to deliver concrete and pragmatic results which directly benefit consumers and businesses, in particular SMEs. UNDERLINES that the Single Market Strategy, together with the Digital Single Market Strategy and the Capital Markets Union, constitute essential drivers for future-proof growth and job creation and should therefore be implemented in a timely, ambitious and mutually consistent way.
  
2. In light of the above, RECALLS the European Council's call to speed up the adoption, transposition and implementation of Union legislation in the Single Market area and to enhance efforts to remove barriers and to complete the Single Market in products and services<sup>4</sup>, and STRESSES that such an accelerated and intensified approach requires priority treatment by all three institutions, with a view to achieving ambitious results on the concrete proposals, in line with better regulation principles.<sup>56</sup>

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<sup>3</sup> EUCO 28/15 – European Council (18 December 2015)

<sup>4</sup> EUCO 237/14 – European Council (18 December 2014)

<sup>5</sup> Doc. 9079/15 (COM(2015) 215)

<sup>6</sup> Doc. 6197/15 – Council Conclusions on Single Market Policy (2 March 2015)

3. UNDERLINES that it is crucial for all Single Market legislation to be transparent, simple and based on the most efficient tools, such as harmonisation as well as mutual recognition<sup>7</sup>, in line with the ‘refreshed approach to the Single Market’<sup>8</sup> and the need to mainstream competitiveness. REITERATES that EU legislation should enhance the Union’s competitiveness, also in its external dimension, and should therefore be future-proof, foster innovation as well as market integration. Furthermore, it should reduce the overall regulatory burden on businesses and eliminate unnecessary administrative burdens, whilst always taking into account proper protection of consumers, health, the environment and employees.
4. WELCOMES the Single Market Strategy and its 11 key areas wherein concrete actions are foreseen. RECALLS the European Council’s conclusion that the Union needs bold steps to foster growth, increase investments, create more and better jobs and encourage reforms for competitiveness<sup>9</sup>, UNDERLINES its call for ambition in the implementation of the roadmap to delivering on the Strategy<sup>10</sup>, and in particular HIGHLIGHTS that:
- i. SMEs, start-ups, scale-ups and innovative businesses should be fully enabled and stimulated to grow through cross-border economic activity, in particular trade and investment;
  - ii. releasing the untapped potential in services should be prioritised;
  - iii. implementation, compliance and enforcement should be further upgraded and intensified.

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<sup>7</sup> EUCO 28/15 – European Council (18 December 2015)

<sup>8</sup> Doc. 6197/15 – Council Conclusions on Single Market Policy (2 March 2015)

<sup>9</sup> EUCO 79/14 – European Council (27 June 2014)

<sup>10</sup> EUCO 28/15 – European Council (18 December 2015)

## **I. SMEs, start-ups, scale-ups and innovative businesses**

5. In line with the "Think Small First" principle, EMPHASISES the vital importance start-ups and young scale-ups have due to their very significant contribution to job creation and innovation. UNDERLINES that this requires immediate and comprehensive measures to boost their competitiveness, cross-border expansion and scale-up potential, entrepreneurship and innovative capacity, as well as the EU's overall attractiveness for innovators.
- 5a. UNDERLINES that SMEs still face difficulties with access to finance and RECALLS the European Council's call to prioritise facilitating access to finance and investment.<sup>11</sup> STRESSES the importance of improving bank financing as well as developing non-bank financing opportunities for all SMEs, giving particular attention to high-growth potential SMEs.<sup>12</sup> In that context WELCOMES the objective of unlocking capital around Europe, in particular risk capital, possibly through a European venture capital fund of funds.
6. RECOGNISES the opportunities for consumers and businesses presented by the collaborative economy and LOOKS FORWARD to the Commission's guidance on the application of the EU acquis to the collaborative economy before mid-2016, in order to ensure legal certainty for businesses and consumers, including through uniform and predictable application of EU legislation within and between Member States. CALLS ON the Commission to actively involve stakeholders in this process and to keep the Council informed on the progress of this guidance.
7. WELCOMES the Commission's intention to identify innovative markets where innovative regulatory approaches could be piloted and ENCOURAGES Member States to join such initiatives, for instance through innovation deals.

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<sup>11</sup> EUCO 79/14 – European Council (27 June 2014)

<sup>12</sup> Doc. 10148/15 Council conclusions on CMU June 2015

8. WELCOMES the concept of a Single Digital Gateway, which would in particular address the needs of start-ups by making it comprehensive, accessible and user-friendly, and RECALLS the importance of strengthening and streamlining existing Single Market tools for SMEs, in order to simplify and facilitate their cross-border activities and expansion. In this context, EMPHASISES the urgent need for improvement of EU-related business contact points, including the Points of Single Contact (PSCs), in line with the PSC Charter. CALLS ON the Commission to report to the Council on progress and next steps by September 2016.
9. STRESSES the need for compliance costs to be reduced significantly, including where appropriate costs stemming from VAT requirements. Therefore, LOOKS FORWARD to the Digital Single Market's "VAT simplification measure to help small e-commerce businesses" as soon as possible in 2016. LOOKS FORWARD to further information on the comprehensive simplification package for SMEs announced in the Single Market Strategy, as part of the VAT Action Plan which is set to be adopted in March 2016. STRESSES the need for VAT simplification measures to achieve practical benefits for businesses and entrepreneurs without undue delay.

## **II. Services**

10. STRESSES that improving the competitiveness of services markets constitutes a key pillar for creating growth and jobs and UNDERLINES their strong knock-on effects for the competitiveness and productivity of manufacturing industries, in particular business services and construction sectors. ENDORSES their prioritisation by the Commission, with a view to achieving an integrated approach to removing all unjustified or disproportionate regulatory and non-regulatory restrictions to cross-border activity through targeted harmonisation and mutual recognition. ACKNOWLEDGES the need for the Commission to focus initiatives inter alia on unjustified or disproportionate requirements regarding legal form, shareholding and insurance requirements, as well as management and multidisciplinary restrictions for service providers.



11. In this context, WELCOMES the concept of a Services Passport for service providers who want to access other EU markets through temporary provision or secondary establishment, provided that such a Passport lives up to its name, makes it significantly easier for them to operate across borders [and therefore also tackles regulatory barriers and advances mutual recognition in these priority sectors]. STRESSES that the Passport should build on existing structures and instruments, have a voluntary nature for service providers, use electronic means to the widest extent possible and does not lead to additional administrative burdens for public administrations.
12. REEMPHASISES the need to ensure more consistent proportionality assessment of regulatory requirements and restrictions applicable to services markets. Therefore WELCOMES the analytical framework for comprehensive proportionality assessment of professional regulations, STRESSES the need to develop as soon as possible the framework to ensure consistency and that it should therefore build on existing case law. CALLS ON the Commission to extend the framework to cover all relevant requirements and restrictions impacting access to and pursuit of services activities, regarding both professional qualifications and other regulatory requirements.
13. WELCOMES the periodic country specific guidance on regulated professions, also in light of its potential to ensure that regulation by each Member State is proportionate and STRESSES the need to ensure an effective and consistent follow-up.

### III. Implementation, compliance and enforcement

14. EMPHASISES that implementation, compliance and enforcement should be further improved, upgraded and intensified; this will also enhance consumer and business confidence in the Single Market. In that regard CALLS ON Member States to put more efforts towards delivery on promises instead of promises on delivery. CALLS ON the Commission to prioritise smart but firm enforcement actions, based on transparent and objective criteria, targeting the most economically significant cases of unjustified or disproportionate barriers, and drawing on dedicated, ring-fenced resources.
15. REITERATES the importance of reinforcing SOLVIT's role as the first step in the enforcement of the acquis and CALLS ON Members States to appropriately equip and position their national SOLVIT centres to adequately fulfil this role. Furthermore, CALLS ON the Commission to take urgent action on SOLVIT reinforcement, identifying concrete objectives, required resources and timelines for improvement by mid-2016, taking into account the key actions of the Lisbon paper<sup>13</sup>, in particular;
- i. improving the interaction between Commission services and national SOLVIT centres,
  - ii. ensuring more thorough analysis and consistent follow-up of relevant unresolved and repetitive SOLVIT cases by the Commission and
  - iii. improving SOLVIT's connection and cooperation with the Commission's formal complaint and enforcement procedures such as the Complaints Handling (CHAP) and the EU Pilot in a transparent procedure.

EMPHASISES the importance of regular reporting to the Council and the European Parliament on the progress achieved in this regard, and INVITES the Commission to provide an update on actions taken to reinforce SOLVIT as part of the annual SOLVIT reporting, beginning with the report on 2016.

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<sup>13</sup> Doc. 14268/15 - The Future of SOLVIT - Outcome of the informal meeting of SOLVIT Centres held in Lisbon, 18 September 2015

16. **HIGHLIGHTS** the need for regular thematic reviews and closer monitoring of national implementation of European Semester related recommendations aimed at increasing competitiveness and investments. **STRESSES** that more reform-commitment by both the Commission and Member States is required to eliminate unjustified or disproportionate national barriers, in particular where it concerns EU services markets.

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17. **STRESSES** the need to ensure practical delivery in the three priority areas as set out in paragraph 4, and also in the other key areas of the Single Market Strategy. In this context, **WELCOMES** the Commission's intention to modernise the European Standardisation System through the Joint initiative on Standardisation and to present an ambitious EU-wide Action Plan to improve mutual recognition in the field of goods. **CALLS ON** the Commission and Member States to reinforce market surveillance to prevent and eliminate non-compliance in the Single Market for goods by better enforcing EU legislation. Furthermore, **STRESSES** the importance of Europe's intellectual property framework to foster innovation, competitiveness and job creation.