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From: General Secretariat of the Council
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Subject: Proposal for a COUNCIL REGULATION on establishing the European High Performance Computing Joint Undertaking
- Member States views on the Commission Impact Assessment (IA)

Introduction

In 2014, the Council supported ex-post evaluation¹, in the form of impact assessment, of legislative proposals in order to identify potential areas for cost savings and to have information, which could ensure that the adopted legislation provided a maximum benefit for stakeholders.

On 22 and 29 January 2018, the European Commission presented its impact assessment for the above-mentioned proposal² to the Research Working Party. During the meetings, delegations raised queries, exchanged views and provided their initial reactions to that assessment. Subsequently, delegations were invited to provide written comments with 12 February 2018 as the deadline.

¹ 10882/14

² 5282/18 + ADD 1-6 + ADD 3 COR 1

A number of delegations replied to the Presidency's invitation to assess the proposal using the indicative checklist provided as the basis³. One delegation made comments in the form of free text.

The analysis given below is based on delegation's written comments and their interventions at the meetings on 22 and 29 January 2018.

Policy context, problem identification and policy objective

A large majority of delegations considered that the *policy context* was clearly explained and that the IA demonstrated a potential gap, which required a cross-border policy response (the *existence, scale and consequences of a problem*). Two delegations would have wanted to see a clearer emphasis in the IA on the needs of the European research landscape and the future benefits of the initiative to the Digital Single Market, and some delegations commented on the fact that the international ranking list on HPC was used as an indicator. Delegations acknowledged the application of an appropriate analysis *methodology*, though two delegations noted that the whole ecosystem and economic benefits outside the supply chain should have been better addressed, including the users' perspective.

Legal basis, subsidiarity/proportionality, policy options and costs

As regards the legal basis, no delegation contested that articles 187 and first paragraphs of 188 TFEU were the appropriate *legal bases*. Delegations recognised that the *competence of the EU* was well established, although one delegation considered that the arguments for choosing a centralised option (*subsidiarity/proportionality*) were less convincing. Delegations also raised questions on the choice of the legal instrument and how the inclusiveness of the Joint Undertaking initiative will be guaranteed. One delegation considered that the IA did not sufficiently take into account other initiatives at the EU level, in particular PRACE (Partnership for Advanced Computing in Europe), and another delegation would have liked to see the added value of the proposed initiative on top of the existing ones set out more clearly in the IA.

³ See document 9790/16

Concerning *policy options*, delegations recognised that different options had been examined. Some delegations, however, considered that certain possible policy options had been analysed only partly and other policy options discarded too early in the process. One delegation noted that the negative aspects of the chosen instrument had not received enough attention. Some delegations also commented on the monitoring indicators proposed by the European Commission and considered that they don't sufficiently measure the success of the proposed instrument in the whole ecosystem. Overall, delegations agreed that the European Commission had consulted relevant stakeholders over a longer time-frame on HPC issues; several delegations, however, expressed doubts on the consultation procedure that involved a too limited sample of stakeholders ("*targeted consultation*"), which in addition took place during a holiday period (in the month of August).

Regarding the impacts in general, delegations considered that this element had been analysed. For economic impact (*costs*), one delegation remarked that the link between the Union and the Member States funding required further analysis.

Overall assessment and conclusion

The analysis of delegations' remarks indicates that the European Commission has identified a gap in the existing European Union measures, e.g. an insufficient ability of the current systems to adapt to a changing environment, and that the consequences of the proposed measures were sufficiently analysed. Some delegations considered that a rather one-sided line of reasoning led to a conclusion where a Joint Undertaking (JU) came out as the best policy option.

In conclusion, delegations recognised that the Commission's impact assessment has no major omissions or factual mistakes. Accordingly, the Research Working Party decided to proceed with the examination of the proposal.