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Subject:	Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act) <i>Progress report</i>

Delegations will find attached a Presidency progress report on the Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act), in preparation for the Competitiveness Council meeting on 9 June 2022.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)

Progress report

I. INTRODUCTION

1. On 8 February 2022, the Commission submitted the above proposal for a Regulation of the European Parliament and of the Council¹. The proposal is based on Articles 114, 173(3), 182(1) and 183 of the Treaty on the Functioning of the European Union (TFEU).
2. The proposed Regulation seeks to strengthen Europe's semiconductor value chain and to enable development and deployment of cutting-edge and next generation semiconductor and quantum technologies that will reinforce the EU's advanced design, systems integration and chips production capabilities, as well as contribute to the achievement of the twin digital and green transition.
3. The Commission proposal is accompanied by a second draft Regulation, amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, the 'Single Basic Act', as regards the establishment of the Chips Joint Undertaking. That draft Regulation is being examined separately by the Working Party on Research.

¹ 6170/22 + ADD 1.

4. The proposed Chips Act is not accompanied by an impact assessment. Instead, on 11 May 2022, the Commission published a staff working document summarising the objective of the proposal and the methods, criteria and policy options chosen by the Commission.
5. The Commission presented its initiative under ‘Any other business’ at the Competitiveness Council meeting on 24 February 2022.
6. The European Economic and Social Committee has not yet delivered its opinion on the proposal.
7. In the European Parliament, the Committee on Industry, Research and Energy (ITRE) has not yet voted on its report.
8. In its conclusions adopted at the meeting of 21 and 22 October 2021, the European Council underlined the importance of making rapid progress on initiatives promoting the creation of a cutting-edge European microchip ecosystem across the whole value chain, and building further resilience, including in terms of raw materials, since this is critical to avoid shortages which hamper our digital transformation. In this context, the European Council stated that it looked forward to the upcoming proposal on the European Chips Act.

II. DISCUSSIONS IN THE COUNCIL PREPARATORY BODIES

9. The Commission presented its proposal to the Permanent Representatives Committee on 9 February 2022.
10. The Working Party on Competitiveness and Growth began examining the proposal on 14 February 2022 and has since continued its examination with a view to presenting a progress report by the end of the Presidency.

11. During its nine meetings between February and May 2022, the working party focused its discussions in particular on the main principles of the three pillars that structure the Commission's proposal. Budgetary aspects were set aside during this phase of the examination. The following subjects were discussed in particular:
- in pillar 1, the 'Chips for Europe Initiative': the objectives and implementation of the initiative, the European Chips Infrastructure Consortium, the procedure for selecting the competence centres and how they are linked to the rest of the semiconductor ecosystem;
 - in pillar 2, 'Security of Supply': the definition of 'first-of-a-kind facility', the assessment procedure for obtaining Integrated Production Facility or Open EU Foundry status, and the added value of the proposal compared to the existing State aid authorisation procedure;
 - in pillar 3, 'Monitoring and Crisis Response': the monitoring and early warning mechanism, the functioning of the emergency instruments and their possible impact on the attractiveness of the single market;
 - the provisions on governance, confidentiality, penalties and the committee procedure were also examined, thereby completing the analysis of the whole text.
12. On that basis, the Presidency gathered written comments from the Member States on the draft Regulation as a whole. Following the discussions in the working party and analysis of those comments, it proposed a first compromise to the Member States.
13. The Commission presented its working document in support of the proposed Regulation at the meeting of the Working Party on Competitiveness and Growth on 12 May 2022. The working party will be able to begin the article-by-article examination of the compromise and continue with it between now and the end of June.

14. Meanwhile, the Working Party on Research has met five times to examine the proposed amendments to Regulation 2021/2085 establishing the Joint Undertakings under Horizon Europe. The Presidency also organised an informal technical workshop on 1 April 2022.
15. At its meeting on 25 May 2022, the Permanent Representatives Committee took note of the draft progress report (9177/22), with a view to submitting it to the Competitiveness Council at its meeting on 9 June 2022.

III. MAIN POLITICAL ISSUES

16. Based on the discussions held so far at working party level, the Presidency has noted that Member States have welcomed the general objective of strengthening Europe's semiconductor ecosystem and increasing the resilience of the industry's supplies. However, they maintain a general scrutiny reservation on the Commission proposal.
17. Member States have contributed to a constructive debate on the proposal. In this context, the following appeared to be the most sensitive political issues:

a) Chips for Europe Initiative

Some Member States called for a clearer distinction between the objectives, components and actions of the Chips for Europe Initiative. The status of the European Chips Infrastructure Consortium was presented in detail, but without a clear direction at this stage. Lastly, some Member States asked for clarification of the procedure for selecting competence centres in semiconductors, and how they would be linked to the rest of the ecosystem.

b) ‘First-of-a-kind facility’ principle

Member States asked for clarification of this proposal and the proposed definition.

Some Member States also questioned the added value of ‘Integrated Production Facility’ or ‘Open EU Foundry’ status. The involvement of the Member States in the procedure for granting these statuses was also discussed. Some Member States called for a greater role in the process, while emphasising the need to limit the administrative burden, protect the confidentiality of the information submitted, and allow consortia to apply. The role of the Commission, the European Semiconductor Board and the Member States in this process remains an issue to be clarified.

Many Member States reiterated the importance of preserving a level playing field in the internal market. They also expressed concern about the risk of a ‘subsidy race’.

As regards the scope, some Member States wanted the eligible activities to cover the semiconductor value chain more broadly. Some also wanted the draft Regulation to address the issue of developing the current generation of chips and more mature chip technologies in the EU.

c) Responses to a crisis situation in the semiconductor sector

Initial exchanges on this subject highlighted the need for further discussions to clarify the role and power of the Commission in the crisis mechanism.

The discussions underlined the need to clarify the functioning of the emergency instruments, be it the mechanism for requesting information, for priority rated orders or for joint purchases.

Several Member States noted the need to strengthen the role of the Member States in the implementation of these mechanisms. The Member States also supported the introduction of additional safeguards for companies, calling for fair pricing provisions that are time-limited and in the interest of the EU. Many Member States insisted on the need for a proportionate framework, which would limit market interventions.

18. Discussions in the Working Party on Research highlighted two main subjects for negotiation:
- Financial aspects: in the Commission’s proposal, the EU’s financial contribution to the Chips for Europe Initiative for actions implemented through the Chips Joint Undertaking amounts to EUR 4.175 billion, while the planned financial contribution for the Key Digital Technologies Joint Undertaking was EUR 1.800 billion. Firstly, this increase raises questions regarding reallocation of financial resources between the Horizon Europe programme and the Digital Europe programme in the multiannual financial framework. Secondly, it requires a new financial effort from the Member States and private partners, because the EU’s financial contribution covers the administrative and operating costs of the Joint Undertaking provided that this amount is at least matched by the contribution of members other than the EU (‘matching principle’).

- Governance aspects: in general, the actions implemented through the Chips Joint Undertaking fall into three categories: (a) building production capacity; (b) research and innovation directly related to the Chips for Europe Initiative; (c) research and innovation directly related to digital technologies other than those covered by the Chips for Europe Initiative. As regards the adoption of the work programme by the Governing Board, the Commission proposal provides that only the Commission and the Member States have voting rights on production capacity building activities. However, the issue of the voting rights of private partners on research and innovation activities directly related to the Chips for Europe Initiative still needs to be clarified.

19. Although significant progress has been made, extensive discussions on the content of the proposal are ongoing in a series of further meetings of the Working Party on Competitiveness and Growth. Consequently, given the complexity of the proposal, as well as its importance for a high-level European ecosystem that ensures security of supply of semiconductors in the EU and develops new markets for cutting-edge European technologies, further work at technical level is required before the Council can take a political decision, to which this report contributes by identifying the main political issues.
20. However, the Presidency considers that this progress report presents a balanced summary of the main political issues identified during the examination of the proposal.

IV. CONCLUSION

21. The Competitiveness Council is invited to take note of this Presidency progress report.
