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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: The need to discuss and reflect on the further unified approach regarding the enforcement of EU-standards in e-commerce
- Information from Germany, supported by Austria, Denmark, France, the Netherlands and Poland

Delegations will find attached a note from the delegation of Germany, supported by Austria, Denmark, France, the Netherlands and Poland distributed for the meeting of the Competitiveness Council on 26 September 2024, in the context of the AOB on the need to discuss and reflect on the further unified approach regarding the enforcement of EU-standards in e-commerce.

The need to discuss and reflect on the further unified approach regarding the enforcement of EU-standards in e-commerce

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In the field of e-commerce, we observe that products manufactured in third countries are increasingly being sent directly to consumers in the EU via certain online trading platforms. Consumer protection and market surveillance authorities have found that many of these products do not comply with EU requirements. If violations of the law are not rigorously detected and punished, it will do harm to consumers and there will be no level playing field with law-abiding suppliers. In order to ensure fair competition and consumer protection in the EU, it is crucial to rigorously enforce compliance with the applicable EU regulations by manufacturers and e-commerce platforms - also from third countries.

In its political guidelines the Commission has announced a stronger enforcement in the area of e-commerce based on effective customs, tax and security controls. Germany, Austria, Poland, Denmark, the Netherlands and France would like to support this mission and calls for a **strong and unified European approach**.

Germany, Austria, Poland, Denmark, the Netherlands and France consider especially the following elements to be crucial for such an approach:

In February 2024 the Digital Service Act (DSA) came into effect, introducing specific obligations for providers of online platforms regarding illegal products. Additionally, the Commission classified Temu and SHEIN as Very Large Online Platforms (VLOPs). These actions represent already a significant step in the application of the DSA on these two platforms, it however remains crucial to rigorously enforce the DSA.

Germany, Austria, Poland, Denmark, the Netherlands and France urge the Commission to take all necessary measures within its competence to enforce the DSA against VLOPs. As a first step, it is necessary that the Commission collects wide-ranging data on infringements in cooperation with the national digital services coordinators, in order to detect systematic misconduct and impose effective sanctions. Further steps and enforcement measures provided by the DSA will be required. In this context, among other aspects, digitisation of the product specifications is crucial in order to automatically detect shortcomings – e.g. via the digital product passport.

In addition, market surveillance in the EU member states needs to be improved. This includes strengthening of the intervention powers of market surveillance authorities, in particular regarding their ability to act against e-commerce-platforms. At the same time, we should also enhance the cooperation and coordination between market surveillance authorities as well as customs authorities throughout the EU. We intend to further enhance automation and digitalisation of the controls, e.g. through a web-crawler. In order to strengthen the protection of consumers – especially children - by avoiding damage to their life, health and property and to ensure fair competition in the internal market, it is particularly important that e-commerce-platforms make reasonable efforts to prevent products that have been identified as dangerous from being made available on the market and to take action against traders repeatedly offering dangerous products.

Furthermore, with regard to the EU Customs reform and ongoing discussions in the field of VAT, Germany, Austria, Poland, Denmark, the Netherlands and France believe that the proposals for the e-commerce sector, such as the implementation of the deemed importer and the removal of the 150 EUR duty exemption, should be discussed with priority. In order to make the removal of the 150 EUR duty exemption manageable and to create an added value it must however be accompanied by additional measures, envisaged within the UCC reform package and improving and safeguarding the IOSS within the VAT package. Germany therefore encourages the Presidency and the Commission to bring discussions especially on these proposals forward.

Another area that deserves a closer look is data protection. The Commission should figure out what data is collected by the e-commerce-platforms and how these data are being used.

In order to address effectively unfair competition and ensure consumer protection in the field of e-commerce, a close and comprehensive political dialogue with the Member States together with the European Commission is essential. We encourage other Member States to join the initiative.
