Council of the
European Union

Brussels, 20 January 2022
(OR. en)

5398/22

COMPET 31
MI 44
IND 12

NOTE

From:	Trio Presidency
To:	Working Party on COMPETITIVENESS and GROWTH (High Level)
Subject:	Global attractiveness of the Single Market

Delegations will find in Annex a Trio Presidency note on Global attractiveness of the Single Market, in view of the meeting of the members of the Working Party on Competitiveness and Growth (High Level) on 3 February 2022.

ANNEX

Global attractiveness of the Single Market

A strong industrial policy supported by an open, fair, and sustainable trade and robust competition policies

The EU's relationship with third countries is deeply influenced by the attractiveness of its market, as the EU is one of the most open large economies and is the largest Single Market in the world. The EU's openness and engagement on the international scene make it a credible supporter of international cooperation, multilateralism and the rules-based order, which in turn are critical to the green and digital transformations of the economy, the EU's economic interests and towards building a more resilient Europe with a stronger voice in the world.

Openness to trade and investment contributes to the EU's open strategic autonomy, allows the EU to prosper and enhances competitiveness, as well as resilience. The Communication on the Trade Policy Review of February 2021 set the direction for an open, sustainable and assertive trade policy to support the recovery and the green and digital transitions, building on openness as a strategic choice while also being equipped with the tools to combat unfair trading practices.

The EU needs to pursue an ambitious industrial policy supported by open, fair, and sustainable trade and robust competition policies in order to remain competitive. To this end, the revised industrial strategy stresses the need to ensure a well-functioning Single Market, as well as to identify and reduce current and possible future strategic dependencies of our economy on third countries while safeguarding the open, competitive and trade-reliant EU economy. The Commission has looked at dependencies and found that only 34 products representing 0.6 percent of extra EU-imports are characterised as particularly vulnerable given their indicated low potential for diversification or substitution. EU exports support 35 million jobs in the EU. The EU economy equally relies on imports, including providing access to critical raw materials and other inputs. The outbreak of COVID-19 caused remarkable shortages in Europe, as well as globally, and dramatically exposed the vulnerability of global supply chains.

In this regard, the EU's policy choice builds on the assumption that increased cooperation is needed to address our challenges in an interconnected global economy, given that open access to foreign markets is an essential precondition to ensure the EU's resilience. At the same time, our engagement with other countries should be strategic and should assertively defend the EU's interests. The recent updated European industrial strategy highlights the importance of diversified international supply chains and of monitoring and anticipating strategic dependencies, which are key elements to strengthen the resilience and competitiveness of the Single Market, underpinned by trade agreements and other international partnerships, industrial alliances and other European joint initiatives.

Exporting the EU regulatory model

Influencing the development of regulations and standards of global significance allows the EU to project its strategic interests and values, creates an important competitive advantage for European companies and fosters efficient global value chains. The EU is pursuing this through its trade agreements and regulatory dialogues with international partners. These efforts are further supported by the so-called Brussels effect, which can be described as the EU's ability to influence global regulatory developments through regulations and standards that are adopted worldwide and shape commerce and the business environment globally. For many years, thanks also to the size of its market, the EU has been a model on this front and has spread its regulations and standards in many areas through proactively participating in international fora and thanks to the European and national standard setting bodies. It is remarkable that many multinational companies use European regulations and standards to access most global markets, making the EU a *de facto* global regulator in areas like data protection, consumer or environmental protection.

In areas where the EU has a strong global regulatory impact, European companies and enterprises enjoy a competitive advantage, as they are not required to adapt to foreign regulations and standards when exporting their products abroad and thus face fewer technical barriers to trade. This advantage is especially evident in Enlargement countries and to a certain extent in Neighbouring countries, which cooperate closely with the EU on regulations and standards. The gradual adaptation of these countries' legislations and standardisation system to EU requirements allows these economies to integrate with the Single Market, giving European producers a competitive edge over foreign companies in these markets.

However, the EU's relative weight in this field has been decreasing in recent years, due to unprecedented and fast technological developments as well as the emergence of new regulatory and standardising powers outside of Europe. This is why the regulatory impact of the EU should be strengthened, as it will ultimately strengthen the Single Market. To maintain the EU's ability to shape global regulations, the EU should systematically identify opportunities for international regulatory cooperation at an early stage in developing its own regulatory solutions. Internal policies should include enabling mechanisms for promoting regulatory compatibility, including where appropriate recognition of equivalency, mutual recognition or cooperation in the development of international standards. As indicated in the latest Trade Policy Review, the Commission is enhancing regulatory dialogues with like-minded partners, e.g. through the Trade and Technology Council with the US, and through its FTAs, which can help to strengthen the EU's regulatory impact. The Commission will also present a new standardisation strategy, which will set out approaches for bolstering the EU's influence in international standard setting.

Addressing unfair competition

For the Single Market to thrive, it is of utmost importance that the EU ensures a level playing field in international trade, by addressing unfair competition. The EU economy is well integrated in the global economy. The Trade Policy Review stresses the need for a level playing field, with an increased focus on implementation and enforcement to ensure that the rights and obligations contained in international commitments are always respected by its counterparts, protecting its companies from unfair practices through assertiveness and rules-based cooperation.

The EU international procurement instrument (IPI) will be one of the tools aimed at levelling the playing field in international trade. It aims at improving the conditions for European companies that compete for public contracts in third countries, as well as strengthening the EU's position during negotiations for access to foreign public procurement markets. The IPI is extremely important, given that public procurement accounts for roughly 15% of the EU GDP, and many third countries use procurement as a tool to boost domestic production and employment, even when this leads to imperfect competition. The EU has been very active in promoting the mutual opening of public procurement markets in a multilateral context (the Agreement on Government Procurement under the WTO) as well as in bilateral negotiations (public procurement chapters in FTAs), but the IPI will improve the leverage of the EU in such negotiations in an increasingly challenging trading environment.

Proposal for a regulation to address distortions caused by foreign subsidies

The Proposal for a regulation to address distortions caused by foreign subsidies (FSR) addresses potential distortive effects of foreign subsidies in the Single Market, aiming at closing this regulatory gap. The proposal lays down powers for the Commission to investigate financial contributions granted by public authorities of a non-EU country which benefit companies engaging in an economic activity in the EU and redress their distortive effects on the Single Market.

As the largest destination for foreign direct investment, the EU welcomes foreign investment, but we need to ensure that actors play by the same rules. Our aim is to ensure fair competition and a level playing field. Foreign subsidies can distort the Single Market and undermine the level playing field in the Single Market. Two key principles lie at the heart of the FSR, to ensure that it will not create barriers to trade:

Adherence to international obligations

The proposal is in line with the EU's international obligations and commitments. The Commission remains committed to developing the multilateral framework to ensure a level playing field for our companies. The EU will continue its efforts to address the issue of distortive subsidies through improved international rules. The FSR proposal complements these efforts, by closing a gap in our competition, public procurement and trade tools.

Maintain trade and investment flows

The FSR proposal aims at targeting only the most distortive foreign subsidies and is designed to keep the administrative burden on companies low. High notification thresholds aim to ensure that notifications are targeted to capture only the potentially most distortive subsidies. To further limit the burden on companies and particularly on SMEs, foreign subsidies below EUR 5 million are considered unlikely to be distortive. In addition, the procedures foreseen in the FSR proposal are aligned with those foreseen in existing rules, in particular the EU Merger Regulation and the public procurement procedures.

In view of the limited administrative burden on undertakings and the clear framework that this proposal establishes, the risk that the new instrument will negatively impact trade and investment flows is therefore limited. The legal uncertainty for companies will be further mitigated by developing a case practice and by setting clear rules and procedures, including by issuing implementing legislation to accompany the proposal.

Questions for discussion:

1. Is the current European toolbox enough to achieve a level playing field and ensure the proper enforcement of our rules? Which additional measures, if any, would be required?

2. How can the EU foster its attractiveness to foreign direct investments?