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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Competitiveness and Growth (Industry)
Subject:	Commission Recommendation on a common Union toolbox to address semiconductor shortages and an EU mechanism for monitoring the semiconductor ecosystem

Delegations will find attached the Commission Recommendation on a common Union toolbox to address semiconductor shortages and an EU mechanism for monitoring the semiconductor ecosystem, with a view to the meeting of the Working Party on Competitiveness and Growth (Industry) on 14 February 2022.



EUROPEAN
COMMISSION

Brussels, 8.2.2022
C(2022) 782 final



COMMISSION RECOMMENDATION

of 8.2.2022

**on a common Union toolbox to address semiconductor shortages and an EU mechanism
for monitoring the semiconductor ecosystem**

COMMISSION RECOMMENDATION

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on a common Union toolbox to address semiconductor shortages and an EU mechanism for monitoring the semiconductor ecosystem

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Semiconductors are essential to the functioning of our modern economy and society. Within the past year, the Union has witnessed unprecedented disruptions in their supply which have entailed serious delays and negative effects on important economic sectors and have led to delays to the repair and maintenance of essential products for critical sectors, such as medical and diagnostic equipment.
- (2) The current semiconductor shortage crisis and its ripple effects therefore render critical sectors such as health, transport, energy, defence, security and space under threat of being affected. The Union's green and digital transition is at risk of delay.
- (3) Against that background, the Commission Proposal for a Regulation of the European Parliament and the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)¹ aims to address the Union's resilience to disruptions in the semiconductor supply chain, to foster the development of capacities in advanced manufacturing, design and system integration as well as cutting-edge industrial manufacturing within the Union, to address the acute skills shortage, to increase qualified workforce and to contribute to creating a resilient and dynamic semiconductor ecosystem in the Union. The Union is committed to its strategic goal to reach at least 20% of world production in value of cutting-edge, innovative and sustainable semiconductors by 2030, as set out in the Digital Decade Policy Programme².
- (4) This Recommendation accompanies the proposed Regulation as a tool with immediate effect to enable a rapid and coordinated Union response to the current shortage. To that end, it proposes to set up a coordination mechanism to discuss and decide on timely and proportionate crisis response measures.
- (5) In view of the structural deficiencies of the semiconductor supply chain, it additionally recommends measures to enable coordinated monitoring of the semiconductor value chain, focussing on risks that may disrupt, compromise or negatively affect the supply of semiconductors. Those measures should prepare and enable the permanent mechanism for monitoring of the semiconductor supply chain proposed under the Regulation.

¹ COM(2022) 46, 08.02.2022.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2030 Digital Compass: the European way for the Digital Decade, 9.3.2021 COM(2021) 118 final).

- (6) The Commission has set up the European Semiconductor Expert Group, for the purpose of implementing this Recommendation. The European Semiconductor Expert Group will serve as a platform for coordination between Member States and provide advice and assistance to the Commission in the implementation of the forthcoming Regulation. The tasks of the European Semiconductor Expert Group shall be taken over by the European Semiconductor Board to be established in the Regulation.
- (7) The European Semiconductor Expert Group should facilitate rapid and effective information exchange between the Member States and the Commission on market developments that put Union supplies at tangible risk, and foster a uniform and coordinated crisis response.
- (8) As a first measure, Member States are recommended to request information from representative organisations of undertakings or, if necessary, from individual semiconductor and equipment manufacturers. This would increase the ability of the European Semiconductor Expert Group to identify and tailor potential crisis response measures. The data gathered should concern the production capability, production capacity and current primary disruptions and bottlenecks. Any collection or exchange of information should be in line with applicable rules on data sharing and confidentiality of information and data.
- (9) This Recommendation includes suggestions for crisis response measures that Member States are invited to discuss and consider to implement where relevant and proportionate.
- (10) If the assessment of the crisis at hand so requires, Member States could consider entering into a dialogue asking semiconductor manufacturers established in the Union to prioritise contracts with companies who supply products to critical sectors, with a view to ensure that these sectors continue to operate.
- (11) Furthermore, if relevant and appropriate according to the assessment of the crisis at hand, Member States may consider granting a mandate to the Commission to procure certain products on their behalf, in order to create a leverage effect through its purchasing power and to ensure the supply to critical sectors in the public interest.
- (12) Finally, Member States are encouraged to assess whether the Union should exercise surveillance over certain exports for securing supply to the internal market. If they find such protective measures appropriate, necessary and proportionate, they could discuss and request the Commission to assess whether the conditions for protective measures with regard to exports pursuant to Regulation (EU) 2015/479 of the European Parliament and of the Council³ are fulfilled.
- (13) The recommended monitoring action should follow the principles of anticipation, coordination and preparedness with a view to establish an early warning system in order to prevent semiconductor crises and to strengthen the Union's semiconductor ecosystem. To that end, Member States are asked to discuss in the European Semiconductor Expert Group appropriate early warning indicators to anticipate future shortages in the semiconductor supply chain.
- (14) Further in-depth assessment is needed as regards the risks that may disrupt, compromise or negatively affect the value chain, including on the origins and sources

³ Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports (OJ L 83, 27.3.2015, p. 34–40).

of supplies beyond the Union. Therefore, Member States are recommended to gather relevant information and cooperate with a view to enable the Commission to prepare a common risk assessment for the semiconductor value chain in the Union. Factors to be taken into account when preparing the risk assessments should be indicated.

- (15) The Commission sets out in the proposed Regulation a permanent and binding mechanism for a coordinated monitoring and crisis response, which builds upon the measures suggested in this Recommendation. Once the Regulation enters into force, this Recommendation may be repealed.

HAS ADOPTED THIS RECOMMENDATION:

1. PURPOSE OF THIS RECOMMENDATION

- (1) The purpose of this Recommendation is to enable a rapid, effective and coordinated Union response to the current semiconductor shortage and to future similar cases.
- (2) This Recommendation will therefore enable a monitoring mechanism in light of the structural deficiencies of the semiconductor supply and the prevailing risk of future shortages or other notable market shocks arising.
- (3) To that end, it is recommended that Member States work together with the Commission through the framework of the European Semiconductor Expert Group, which will coordinate immediate crisis response measures and function as a platform for monitoring the semiconductor value chain, focussing on risks that may disrupt, compromise or negatively affect the supply of semiconductors.

2. DEFINITIONS

- (4) For the purpose of this Recommendation, the definitions set out in the proposed Regulation apply.

3. EUROPEAN SEMICONDUCTOR EXPERT GROUP

- (5) It is recommended that Member States implement this Recommendation through the European Semiconductor Expert Group. The general rules of procedure of this expert group apply.

4. IMMEDIATE CRISIS RESPONSE

- (6) As a matter of urgency, Member States should convene in the European Semiconductor Expert Group in order to exchange information on the current state of the semiconductor crisis in their national markets. In particular, they should assess the concrete products and markets affected by the shortage, as well as discuss any contingency measures that have been implemented at national level.
- (7) Member States should **request information** from representative organisation of undertakings or, if necessary, from individual semiconductor and equipment manufacturers on supply capabilities, which may include information on production capability, production capacity and current primary disruptions, with a view to identify and tailor potential crisis response measures. Any

collection or exchange of information should be in line with applicable rules on data sharing and confidentiality of information and data.

- (8) Based on this information, Member States are invited to assess appropriate, effective and proportionate crisis response measures at national and Union level (**crisis toolbox**). These measures could include one or more of the following:
- (a) engaging in dialogue with and asking manufacturers to prioritize the production of crisis-relevant products to ensure critical sectors continue to operate;
 - (b) considering, where appropriate, to grant to the Commission a mandate to act as a central purchasing body on behalf of two or more Member States for public procurement of crisis-relevant products for certain critical sectors;
 - (c) assessing whether the Union should exercise surveillance over exports of crisis-relevant products and issue a request to the Commission to assess whether the conditions for protective measures with regard to exports pursuant to of Regulation (EU) 2015/479 are fulfilled;
 - (d) entering into coordinated consultations or cooperation with relevant third countries with a view to seeking cooperative solutions to address supply chain disruptions, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora.
- (9) To ensure a coordinated approach, Member States should inform the Commission in a timely manner of all national measures taken with regard to the semiconductor supply chain.

5. MONITORING

- (10) Member States should carry out regular monitoring of the semiconductor value chain, focussing on risks that may disrupt, compromise or negatively affect the supply of semiconductors.
- (11) To that end, Member States should identify appropriate early warning indicators with a view to anticipate future disturbances of the semiconductor supply chain.
- (12) Member States should provide to the Commission information for the purpose of mapping factors, trends and events that could lead to significant disruptions of the global semiconductor value chain with repercussions in the Union (**Union risk assessment**). Relevant factors to be taken into account could include:
- (a) availability and integrity of the services or goods of undertakings in the semiconductor sector in the Union the functioning of which is essential for the semiconductor supply chain;
 - (b) the rate at which demand fluctuates for different types of semiconductors, also in relation to available manufacturing capacities;
 - (c) gaps and bottlenecks in manufacturing, packaging and logistics, including shortages in raw materials and available qualified workforce;

- (d) accidents, attacks, natural disasters or other serious events with the potential of affecting the semiconductor supply chain;
 - (e) technical, regulatory or environmental changes reducing manufacturing yield;
 - (f) concentration of supply with regard to geographical areas and companies, taking into consideration network and lock-in effects;
 - (g) impacts of trade policies, tariffs, trade barriers and other trade related measures;
 - (h) authenticity and integrity of semiconductors, possible impact of counterfeit semiconductors;
 - (i) infringement or theft of intellectual property or trade secrets.
- (13) Member States should identify the main categories of users of semiconductors, especially those from critical sectors. They should invite relevant stakeholder organisations, including industry associations and representatives of the main user categories, to provide information regarding atypical increases in demand and known disruptions of their supply chain, including the unavailability of critical semiconductors or raw materials, longer than average lead-time, delays in delivery and exceptional price surges.
- (14) Member States should immediately alert the Commission where they become aware of a potential disruption of the supply of semiconductor, an atypical increase in demand or have concrete and reliable information of any other risk factor or event materialising.

6. REVIEW

- (15) The Recommendation may be repealed following the entry into force of the proposed Regulation.

Done at Brussels, 8.2.2022

*For the Commission
Thierry BRETON
Member of the Commission*