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REPORT

From: Presidency/General Secretariat of the Council
To: Council

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No. Cion doc.: 5278/17 COMPET 21 MI 31 ETS 2 DIGIT 5 SOC 15 EMPL 11 CONSOM
10 CODEC 34 IA 6

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL on the enforcement of the Directive 2006/123/EC on
services in the internal market, laying down a notification procedure for
authorisation schemes and requirements related to services, and
amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on
administrative cooperation through the Internal Market Information System
- General approach

I. INTRODUCTION

1. On 10 January 2017, the Commission presented a proposal for a Directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System¹.

¹ doc. 5278/17 + ADD1, ADD2 - COM (2016) 821 final.

2. The Council Working Party on Competitiveness and Growth (Internal Market) has examined the proposal at seven occasions since its presentation under the Maltese Presidency. The Impact Assessment accompanying the proposal was examined on 25 January 2017 and a number of delegations asked for further clarifications on the data and options considered.
3. The European Parliament's Internal Market and Consumer Protection Committee (IMCO) has not yet voted its report on the proposal and consequently, the European Parliament has not given its opinion at first reading.
4. The European Economic and Social Committee has not yet given its opinion. An opinion from the Committee of the Regions has not been requested by the Council.

II. THE PROPOSAL

5. The proposal for a Directive is part of the "Services Package" of legislative proposals aiming to make it easier for companies and professionals to provide services all over the EU. The Services Package in itself is an important element in the Single Market Strategy presented by the Commission on 28 October. The Single Market Strategy was supported by the European Council which on 28 June 2016, called for "the different Single Market strategies, including on energy, and action plans proposed by the Commission to be completed and implemented by 2018".
6. The proposed Directive aims to improve the notification procedure set by the Directive 2006/123/EC (Services Directive) by establishing a new procedure for Member States and the Commission to work together to prevent the introduction by Member States of discriminatory, unjustified and disproportionate authorisation schemes and/or of certain requirements related to services covered by Directive 2006/123/EC. The authorisation schemes and the requirements covered by this Directive are those which fall within the scope of Directive 2006/123/EC.

III. STATE OF PLAY

7. During the course of negotiations at Working Party level, the Presidency compromise has evolved considerably from the Commission's original proposal in light of the feedback given, and concerns raised by Member States. The aim has been to strike a balance between the need to enhance the existing notification procedure and the need to respect the principles of proportionality and of subsidiarity, in particular the prerogatives of national parliaments and national administrative authorities.
8. A Presidency compromise text² was presented to the Permanent Representatives Committee on 19 May 2017. During this meeting the Presidency proposed to amend its compromise text further in order to strike a balance between the concerns expressed. The text as it stands following the meeting is now set out in document 9507/17. This latest compromise was welcomed by a large majority of delegations during the meeting of the Permanent Representatives Committee, but a number of delegations nevertheless entered scrutiny reservations on the text as amended during the meeting.
9. Against this background, the Permanent Representatives Committee agreed to forward the text as amended and set out in doc. 9507/17 to the Competitiveness Council on 29 May 2017 with a view to reaching a General Approach.

IV. CONCLUSION

10. The Council is invited to
 - confirm the General Approach as set out in document 9507/17;
 - authorize the Presidency to start informal discussions with the representatives of the European Parliament in order to explore the possibilities for an agreement at first reading.

² Document 9020/17