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DRAFT REPORT

on tackling non-tariff and non-tax barriers in the single market
(2021/2043(INI))

Committee on the Internal Market and Consumer Protection

Rapporteur: Kosma Złotowski

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT	9
ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT	11

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on tackling non-tariff and non-tax barriers in the single market (2021/2043(INI))

The European Parliament,

- having regard to the Commission communication of 10 March 2020 entitled ‘Identifying and addressing barriers to the Single Market’ (COM(2020)0093),
- having regard to the Commission communication of 10 March 2020 entitled ‘Long term action plan for better implementation and enforcement of single market rules’ (COM(2020)0094),
- having regard to the Commission communication of 13 November 2020 entitled ‘New Consumer Agenda – Strengthening consumer resilience for sustainable recovery’ (COM(2020)0696),
- having regard to the Commission communication of 17 March 2021 ‘A common path to safe and sustained re-opening’ (COM(2021)0129),
- having regard to its resolution of 12 December 2018 on the single market package¹,
- having regard to Regulation (EU) 2018/1724 of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (‘the Single Digital Gateway Regulation’)²,
- having regard to the Opinion of the European Committee of the Regions – Single Market Barriers Report and Single Market Enforcement Action Plan (COR 2020/02355),
- having regard to the Opinion of the European Economic and Social Committee on (a) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — ‘Long term action plan for better implementation and enforcement of single market rules’ (COM(2020) 94 final) and (b) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — ‘Identifying and addressing barriers to the Single Market’ (COM(2020) 93 final) EESC 2020/01412,
- having regard to the Commission staff working document of 10 March 2020 entitled ‘Business Journey on the Single Market: Practical Obstacles and Barriers’ (SWD(2020)0054),

¹ OJ C 388, 13.11.2020, p. 39.

² OJ L 295, 21.11.2018, p. 1.

- having regard to the study of November 2020 by the European Parliament Policy Department for Economic, Scientific and Quality of Life Policies entitled ‘Legal Obstacles in Member States to Single Market rules’,
 - having regard to the study of February 2021 by the European Parliament Policy Department for Economic, Scientific and Quality of Life entitled ‘The impact of COVID-19 on the Internal Market’,
 - having regard to the study of February 2019 by the European Parliament Policy Department for Economic, Scientific and Quality of Life Policies entitled ‘Contribution to Growth: The Single Market for Services – Delivering economic benefits for citizens and businesses’,
 - having regard to the Special report No 05/2016 of the European Court of Auditors of 14 March 2016 entitled ‘Has the Commission ensured effective implementation of the Services Directive?’,
 - having regard to the European Parliamentary Research Service study of April 2019 entitled ‘Mapping the Cost of Non-Europe’,
 - having regard to Rule 54 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Agriculture and Rural Development,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0000/2021),
- A. whereas trade within the single market accounts for 56 million European jobs and the estimated economic benefits range between 8 and 9 % of EU GDP³;
 - B. whereas any assessment of the barriers to the single market should be based on the experiences and perceptions of businesses and consumers who engage to some degree with the single market every day; whereas single market barriers disproportionately affect SMEs and microenterprises, and hinder their cross-border activities;
 - C. whereas many barriers affecting the single market derive from incorrect or incomplete application of EU legislation;
 - D. whereas insufficient or incorrect implementation and lack of enforcement have damaging consequences both at EU and national level for citizens and businesses;
 - E. whereas the current Commission has not yet come forward with a comprehensive legislative package addressing failures in the exercise of the core freedoms of the single market beyond enforcement, other than digital initiatives; whereas Parliament and Council failed to adopt the core initiatives of the 2016 Services Package;
 - F. whereas 71 % of SMEs that tried the current mutual recognition system for non-harmonised goods received a market access denial decision;

³ COM(2020) 94 final.

- G. whereas the COVID-19 crisis has been a shock both to production and consumption, and has reshaped domestic and cross-border activities; whereas some of these effects may be temporary, but others will have lasting consequences on the shape and needs of the single market;

The state of the single market and its policy objectives

1. Welcomes the Single Market Governance Package of March 2020, which aims to improve the implementation and enforcement of European legislation; considers that it is only a partial answer to the deficiencies hampering the proper functioning of the common market;
2. Underlines that the single market remains the European Union's greatest achievement; urges the Commission, therefore, to refocus resources at issues plaguing the single market, in particular non-tariff barriers (NTBs), which continue to limit opportunities for consumers and businesses;
3. Underlines that the achievement of the objectives in the Green Deal and European digital agendas is based on the effective functioning of the single market, which is a key enabler of market efficiency and innovation and tool for modernising European economies; believes, therefore, that the single market's shortcomings deserve at least the same level of attention as the Green Deal and the European digital agenda; reaffirms its own commitment to developing and safeguarding a robust, consumer- and business-friendly internal market;
4. Regrets that overlooked NTBs undermine the EU's industrial strategy goals, especially reshoring of production and strengthening the resilience of the European economy;
5. Acknowledges that certain NTBs can be justified and originate from multi-level governance; urges the Member States, where such NTBs are absolutely essential, to ensure their proportionality and strict alignment with legitimate public policy objectives;

Barriers to the free movement of goods and services

6. Points out that the Commission and stakeholders have identified a group of key barriers to cross-border activities, among them:
 - a) regulatory disparities and inconsistent implementation of EU law, which force companies to commit resources to the laborious process of analysing provisions that are harmonised at EU level, diverting investments away from activities that create jobs or support growth;
 - b) burdensome and complex administrative requirements, and inaccessible information and limited lines of communication with public administration, including through points of single contact, which also limit the possibilities for new or competing services in new locations that would improve consumer choice;

- c) additional technical requirements adopted at the national level and implemented beyond the requirements set by European law (gold-plating);
 - d) a lack of harmonised standards increasing the compliance cost for companies operating cross-border;
7. Emphasises that the NTBs severely impact the services sector and thereby other segments of the economy underpinned by the services sector; highlights that in its report, the Commission was able to identify 24 specific restrictions across 13 sectors which breach rules established by the Services Directive, including some which are discriminatory or are requirements on establishment or nationality⁴;
 8. Recalls that a considerable number of problems with the cross-border provision of services stem from administrative practices introduced by the country of destination, and not from incompatibility with EU law;
 9. Recognises the insufficient use of the notification procedure under the Services Directive; calls on the Commission to reflect on improving this framework, possibly by means of a new initiative which would increase clarity and transparency on the measures that need to be notified, while remaining cautious in order to not undermine the Services Directive and avoiding the situation which led to the withdrawal of the previous proposal;
 10. Stresses that barriers also derive from limited national administration capabilities to provide services in other languages, and from shortages of skills and infrastructure;
 11. Welcomes the significant improvements to the free movement of goods in recent years thanks to regulations such as Regulation (EU) 2018/302 ('Geo-blocking Regulation'), Regulation (EU) 2019/1020 ('Regulation on market surveillance and compliance of products'), and most importantly thanks to Regulation (EU) 2019/515 ('Regulation on mutual recognition of goods'); believes that thorough application of the principle of mutual recognition would efficiently advance the agenda of the single market, especially in the areas where difficulties remain;
 12. Considers that mutual recognition of professional qualification is seriously affected by administrative barriers imposed by Member States;
 13. Is concerned by the insufficient access to information on mobility of services, as well as by the burdensome procedures to obtain essential documents such as the A1 form; underlines that access to information, such as on domestic collective agreements where applicable and relevant, should be improved to facilitate compliance for businesses;
 14. Recognises that numerous barriers stem from the limited capacity of administrations to deliver high quality services in cross-border settings; believes that digitalisation of public services and fully-fledged eGovernment capabilities remain essential to eradicate some of the onerous NTBs; recalls, in this regard, that the key provisions of the single digital gateway had to be in force in all EU Member States by 12 December 2020;

⁴ Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, *Mapping and assessment of legal and administrative barriers in the services sector, summary report*, Brussels, April 2021.

underlines the importance of the ‘once only’ principle, which will save citizens and businesses time and money, in particular if used more widely; welcomes the proposal to add a single market obstacles tool to the single digital gateway;

15. Reiterates its repeated calls to speed up the implementation and broaden the single digital gateway so as to provide to all users access to comprehensive information on single market rules and administrative procedures through a one-stop-shop;
16. Welcomes the Commission proposal to make SOLVIT the default tool for single market dispute resolution;
17. Stresses that the international road haulage sector is subject to a number of NTBs restricting access to national markets, which limit its competitiveness, discriminate against transport companies from certain Member States and increase emissions; calls on Commission and Member States to abolish unnecessary restrictions on cabotage, and calls for the opening of the freight and passenger transport services sector within the EU;

Enforcement and compliance monitoring

18. Welcomes in principle the Single Market Enforcement Taskforce (SMET), which aims to assess compliance of national law with single market rules and to prioritise the most pressing barriers; points out that the SMET should not just identify problems, but also provide solutions;
19. Recalls that so far the Commission’s plan to step up enforcement of EU law by means of the SMET has only delivered limited results; calls on the Commission to present in due time concrete outcomes of the work of SMET, including information on barriers that have been abolished as a result of its actions;
20. Calls on the Commission to present an annual report on NTBs and establish an open and transparent database compiling specific national NTBs together with ongoing infringement procedures;
21. Calls on the Commission and the Member States to consistently, speedily and rigorously assess whether national rules hinder the internal market, and where they do, to assess if they are necessary, proportional and justified;
22. Recalls that throughout the regulatory lifecycle, Member States and the Commission must share the responsibility of ensuring that single market rules are complied with and that citizens’ rights are enforced;
23. Points to the importance of surveillance, inspection and sanctioning by relevant authorities of economic operators who do not comply with legislation;
24. Stresses the importance of monitoring, and therefore welcomes the Single Market Scoreboard as a performance monitoring tool; emphasises the need for a recurring debate on the outcomes of the Scoreboard at the highest political levels, ensuring political commitment to tackling the obstacles identified;

Barriers to the single market due to the COVID-19 response

25. Recalls that the initial response to the pandemic by Member States and the Commission did not take into account the needs of the single market, and recalls the serious impact this has had on the free cross-border movement of goods and services;
26. Welcomes the NextGenerationEU recovery package, the EU guidelines for border management, transport green lanes, the EU Digital COVID Certificate to facilitate free movement, and further measures which aim to allow the single market to operate normally;
27. Calls on the Commission and Member States to proactively use the lessons learned and to develop a response plan for emergencies, which should aim to safeguard as far as possible the free movement of services and goods;
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 - ◦
28. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

The Single Market is one of the greatest achievements of cooperation between sovereign states within the European Union. The removal of restrictions on the cross-border movement of goods and services has been a key factor in the creation of prosperity for all Europeans and economic growth in the Member States that joined the EU in 2004, 2007 and 2013. Despite the many achievements in this area and the common view that free trade and freedom to provide services have a positive impact on the European economy, there are still many non-tariff barriers that hamper the potential of European businesses, particularly small and medium-sized enterprises, operating in a cross-border environment.

This is particularly concerning for the sector of services, which, in many branches, is subject to excessive regulation, lack of cooperation between Member States, incorrect implementation of European law, excessive and burdensome controls and a lack of effective appeal tools at European level. A particular example is the road transport sector, which is a key element of the European economy. Its smooth functioning has a decisive impact on trade between Member States. A significant proportion of the sector's operations have an international dimension which therefore makes them exposed to the risks of burdensome and costly bureaucracy outside the country of company registration, incorrect implementation of European legislation, disproportionate penalties and unjustified action by national inspection authorities.

The development of the Single Market in the area of digital services also encounters a number of non-tariff barriers, which limit its potential and prevent consumers from accessing products and services offered in other Member States. Taking into account the ongoing digital transformation of the European economy, the identification and removal of barriers to the development of e-commerce appears to be one of the key challenges for the European Commission.

Regrettably, most of the initiatives taken by the Commission to remove the existing and most burdensome non-tariff barriers are ineffective or encounter strong resistance during the legislative process. At the same time, we are witnessing a rising tide of protectionism in many Member States, which results in restricting access to national markets for companies operating cross-border or posting workers. This approach is dangerous to the smooth functioning of the single market, which benefits businesses and consumers in all Member States equally.

The COVID-19 pandemic clearly proved that, in a crisis situation, smooth trade and free movement of services are extremely sensitive to disproportionate action by national authorities and lack of harmonisation and cooperation between Member States. The disruption of supply chains within the single market posed a serious threat to the stability of production and trade, particularly in sectors crucial to the fight against the pandemic. A proper assessment of the European Commission's response to the health crisis is necessary in order to identify and remove bottlenecks, especially as regards the cross-border movement of goods and services.

In the Rapporteur's opinion, an efficient single market, free of unnecessary barriers, is the

best guarantee for swift recovery of the European economy after the COVID-19 crisis. Thanks to the effective use of digital services and the widespread implementation of eGovernment tools at European and national level, we are able to eliminate a significant number of obstacles encountered by businesses operating in more than one Member State when dealing with public administration.

**ANNEX: LIST OF ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
Bruegel
BusinessEurope
Copenhagen Economics
Eurochambers
ECOMMERCE Europe
European Commission, DG GROW
SME Europe
International Road Transport Union - IRU
The European Consumer Organisation - BEUC