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P8\_TA(2016)0236

**Non-tariff barriers in the Single Market****European Parliament resolution of 26 May 2016 on Non-Tariff Barriers in the Single Market (2015/2346(INI))**

(2018/C 076/17)

*The European Parliament,*

- having regard to the Commission communication of 28 October 2015 entitled ‘Upgrading the Single Market: more opportunities for people and business’ (COM(2015)0550),
  - having regard to the Commission staff working document of 28 October 2015 entitled ‘A Single Market Strategy for Europe — Analysis and Evidence’ (SWD(2015)0202),
  - having regard to the Commission staff working document of 28 October 2015 entitled ‘Report on Single Market Integration and Competitiveness in the EU and its Member States’ (SWD(2015)0203),
  - having regard to the European Parliamentary Research Service study of September 2014 entitled ‘The Cost of Non-Europe in the Single Market’,
  - having regard to its resolution of 11 September 2013 on the Internal Market for Services: State of Play and Next Steps <sup>(1)</sup>,
  - having regard to its resolution of 11 December 2013 on the European Retail Action Plan for the benefit of all actors <sup>(2)</sup>,
  - having regard to the October 2015 edition of the online Single Market Scoreboard,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0160/2016),
- A. whereas the European single market makes a significant contribution to European economies;
- B. whereas it is estimated that completing the single market for the free movement of goods, services, public procurement, the digital economy and the body of consumer law would entail economic gains ranging from EUR 651 billion to EUR 1,1 trillion per year, equivalent to between 5 % and 8,63 % of EU GDP;
- C. whereas, more than 20 years after the launch of the single market, unjustified non-tariff barriers (NTBs) continue to affect trade and free movement of goods and services between Member States; whereas these NTBs can be motivated by protectionism and can be accompanied by bureaucratic challenges that are very often disproportionate to their purpose;
- D. whereas it is estimated that the single market for services constitutes about 70 % of the European economy, but accounts for only about 20 % of intra-EU trade;
- E. whereas 25 % of regulated professions are regulated in only one Member State;
- F. whereas it is estimated that the potential gains from the functioning digital single market could be around EUR 415 billion per year and the GDP increase around 0,4 % by 2020, and whereas there are many gaps in EU legislation hampering its proper functioning;

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<sup>(1)</sup> OJ C 93, 9.3.2016, p. 84.

<sup>(2)</sup> Texts adopted, P7\_TA(2013)0580.

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- G. whereas only 2 % of new SMEs, microenterprises and start-ups have undertaken cross-border expansion through foreign direct investment;
- H. whereas for consumers, gaps in the single market, including the implementation of EU legislation in a way that is incomplete or at odds with the objectives of the single market, lead in many cases to sub-optimal product choice and to goods and services being more expensive;
- I. whereas for businesses the costs are manifest in more expensive supply chains, leading to their own products being more costly, or in reduced access to business services, which harms their competitiveness; whereas innovation is encouraged through a competitive market;
- J. whereas the complexity of the current VAT regime can also be considered an NTB;
- K. whereas anti-competitive tax deals between Member States and large multinational companies can be considered an unjustified NTB;
- L. whereas businesses and individuals are facing major obstacles in cross-border activities within the single market owing to lack of availability and quality of information, assistance services and online procedures, leading to high administrative burdens and significant compliance costs;
- M. whereas the monitoring of barriers and costs is piecemeal and unsystematic, and quantification and clear identification of barriers and costs is lacking, which makes prioritisation of policy actions difficult;

**I. *Context and policy objectives***

1. Realises that despite the removal of tariff barriers since 1 July 1968, the free movement of goods and services has continued to be hampered by NTBs such as unjustified national technical rules and regulatory and non-regulatory requirements governing products, service providers and terms of service provision, or bureaucracy; highlights that the strengthening of the single market requires urgent action at both Union and Member State levels to address such NTBs;
2. Understands an NTB as being a disproportionate or discriminatory regulatory action which results in a burden or cost to be borne by a firm which seeks to enter a market, and which is not borne by firms already in the market, or a cost which accrues to non-national firms which is not borne by domestic firms, without prejudice to the Member States' right to regulate and the pursuit of legitimate public policy objectives such as protection of the environment and consumer or employment rights;
3. Recognises that national-level differences may emerge owing to multi-level governance; believes that the need for measures to be proportionate and in furtherance of legitimate public policy objectives should be well understood at all levels of regulatory decision-making; believes that consistency and coherence of policy and regulatory practice can contribute significantly to lowering NTBs;
4. Believes that where such NTBs can be justified as proportionate, information on differing national regulatory requirements should be easily accessible and the related provision of notification information and completion of procedures as user-friendly as possible; considers that the implementation of the present system built around a diverse range of contact points, including Product Contact Points and Single Points of Contact, has been inconsistent across Member States and is overly complex; recalls the importance of strengthening and streamlining existing single market tools for SMEs in order to simplify their cross-border expansion; urges the Commission and the Member States to place greater emphasis on streamlining and improving these systems, in particular the need for rapid improvement of the Single Points of Contact, and calls on the Commission to report to Parliament on the progress and next steps by the end of 2016; highlights that by being more open and accessible as regards regulatory requirements the Member State in question becomes more attractive for inward investment;

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5. Welcomes the Single Digital Gateway initiative, announced in the Commission's Digital Single Market communication, as a positive step; urges the Commission to create a single entry point for businesses and consumers to all single market related information, assistance and problem solving and to national and EU-wide procedures needed to operate cross-border in the EU;
6. Considers that in order to eliminate NTBs it is important for the Commission and the Member States to work together to improve the functioning of SOLVIT, especially in geographical or industry areas where businesses do not use SOLVIT often and not all submitted cases are taken up by the competent authority;
7. Underlines that for many companies, in particular SMEs, seeking to trade in another Member State, such an expansion will still from their perspective constitute 'international trade'; highlights that SMEs, start-ups and innovative businesses, in particular sharing economy businesses, should be fully enabled to grow through cross-border trade;
8. Believes that one of the tasks of the Union and its individual Member States should be the eventual abolition of NTBs where they cannot be justified or do not support the objectives listed in Article 3(3) of the Treaty on European Union, which states that Europe is based on a highly competitive social market economy;
9. Reiterates that the Digital Single Market Strategy and the Single Market Strategy for Europe comprise initiatives that should be implemented swiftly and ambitiously in order to reduce single market NTBs; highlights that it is crucial for these initiatives to be based on better regulation principles and on the most efficient tools, such as harmonisation and mutual recognition;

## II. *Cross-cutting non-tariff barriers*

10. Believes that differences in the speed of transposition and the exact implementation of existing directives at national level create legal uncertainty for businesses and varying competition conditions in the internal market;
11. Considers that where the Commission has repealed unnecessary EU legislation, Member States should act swiftly to repeal corresponding domestic provisions;
12. Considers that extended non-compliance with Union law by Member States is detrimental for the single market and consumers; considers also that the slow transposition process leads to some Member States benefiting from an undue prolongation of the compliance deadline; calls for a compliance culture to be further promoted in cooperation between the Commission and the Member States, as foreseen in the Single Market Strategy; underlines the need to swiftly address the subject of non-compliance by Member States;
13. Draws the attention of the Commission and the Member States to the issue of some national governments loading transposed directives with additional rules when implementing EU law, i.e. so-called 'gold-plating';
14. Draws attention to the fact that the intensity and number of controls that have been recently imposed on foreign service providers are growing; calls on Member States to make sure that these controls are proportionate, justified and non-discriminatory;
15. Highlights that inconsistent enforcement of existing correctly transposed rules by Member States causes the same harm to the single market as late transposition; considers that compliance and enforcement are made more challenging when commonly used definitions, for example 'traceability' or 'placed on the market', are given different meanings in different pieces of legislation;
16. Believes that unequal application of the same rules in different Member States has the potential to create new unjustified NTBs; calls on the Commission to make every effort to minimise divergences at the earliest possible stage;

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17. Believes that the Commission should increase its use of guidelines with regard to the implementation of directives since this can be a useful tool to ensure a higher degree of uniform implementation;

18. Notes the persistence of national-level differences in product market regulation with which businesses operating across borders still have to contend, in terms of both level of restriction and differences between Member States; considers that this unnecessarily forces businesses to adapt their products and services to comply with multiple standards and repeated testing, thus limiting intra-EU trade, reducing growth and hampering job creation;

19. Believes that since economies of scale are reduced by the need to run different product lines, the burden falls, in many ways, be they legal, financial or otherwise, disproportionately on SMEs and microenterprises;

20. Draws attention to the low levels of cross-border public procurement to date, with less than 20 % of all public procurement in the Union publicised on pan-European platforms and only 3,5 % of contracts being awarded to companies from other Member States; highlights the difficulties experienced, in particular by SMEs, in participating in cross-border public procurement; stresses in this context the importance of the new EU directives on public procurement and the award of concession contracts, which the Member States were required to transpose by April 2016; calls on the Member States to fully implement this legislation, including fully electronic public procurement processes;

21. Highlights that the cost of compliance with VAT requirements is one of the biggest NTBs; calls for practical VAT simplification proposals;

22. Recognises that different VAT regimes across the Union might be perceived as an NTB; underlines that the VAT Mini One-Stop Shop (VAT MOSS) is a good way of supporting the overcoming of this barrier and in particular of supporting SMEs in their cross-border activity; acknowledges that there are still some minor problematic issues with the VAT MOSS; calls on the Commission to further facilitate the payment of VAT obligations by companies across the EU;

23. Believes that many national administrative practices also give rise to unjustified NTBs, including requirements for formalising of documents by national bodies or offices; urges Member States to use e-governance solutions, which includes prioritising interoperability and digital signatures, in order to modernise their public administrations, building on examples such as those in Estonia and Denmark, by providing more and better accessible digital services for citizens and businesses, and facilitate cross-border cooperation and the interoperability of public administrations, without affecting the protection of personal data; believes that the use of e-governance is an important tool for companies but that this should not exclude alternative ways of accessing information or disadvantage citizens who are unable to access digital services;

24. Calls on the Commission to take a strong approach to enforcement in practice, making sure that single market rules are duly applied and implemented by the Member States; considers, in this regard, that the process of implementing transposed directives should be better coordinated, for example by means of transposition workshops organised by the Commission and exchange of best practices in order to minimise differences between Member States at an early stage;

**III. Sector-specific non-tariff barriers***Single market for goods*

25. Underlines the importance of the principle of mutual recognition for ensuring market access to the single market for goods which are not harmonised at Union level, and in cases where Member States have national, very often different, rules on products, but with the same underlying objective;

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26. Highlights that many businesses are not aware of mutual recognition and believe that they have to comply with national requirements in the Member State of destination when trading in the single market;

27. Calls on the Commission to act to improve the application of mutual recognition; anticipates, in this context, the Commission's plans to increase awareness and revise the Mutual Recognition Regulation; believes that harmonisation is also an effective tool to ensure equal access for goods and services to the single market;

#### *Single market for services*

28. Draws attention to the problems for service providers, especially in business services, the transport sector and construction, stemming from multiple and diverse unjustified or disproportionate requirements concerning authorisation, registration, prior notification or *de facto* establishment requirements; underlines that this might lead to discrimination against foreign service providers which would contradict the principle of free movement of services; calls, in this context, for a more developed e-administration and electronic registration system in order to simplify the process for service providers;

29. Emphasises that, in particular, the lack of implementation and diverging application of the Services Directive is hampering the single market;

30. Stresses the need for a clear and uniform regulatory environment which enables services to develop in a market that protects workers and consumers and ensures that existing and new operators on the EU single market do not face meaningless regulatory obstacles, whatever kind of business they are conducting;

31. Draws attention also to the unjustified or disproportionate restrictions in some Member States as regards the legal form of service providers and their shareholding or management structure, and as regards restrictions on the joint exercise of the profession; stresses that some of these restrictions may be disproportionate or unjustified obstacles to cross-border service provision; emphasises the need to ensure consistent proportionality assessment of regulatory requirements and restrictions applicable to services;

32. Emphasises that the notification obligation contained in the Services Directive could have been effective in reducing or eliminating unjustified NTBs, but has been neglected by Member States and the Commission; welcomes, therefore, the renewed focus on the notification procedure in the Single Market Strategy, as through early engagement, national measures can be revised to resolve issues before they occur; believes further that Member States should be required to provide more detailed justifications when introducing new regulatory measures; emphasises the positive experience with the notification procedure for products and suggests that this should be used as an example for improving the procedure for services;

33. Points out that public services benefit from special protection in relation to internal market rules because of the general interest tasks they fulfil, and that therefore the rules set by the public authorities for their proper operation do not constitute NTBs; points out, in this regard, that social services and health services are not subject to the Services Directive;

34. Points out that construction service providers are often confronted with certain requirements relating to their organisation in their home state, including with regard to organisational certification schemes, that make offering their services cross-border too complex, thereby discouraging the free movement of construction services and professionals;

35. Calls on the Commission to address these barriers, including, where worthwhile, through improved mutual recognition and, if appropriate, legislative action; highlights that future actions, such as the proposed services passport, should not lead to additional administrative burdens but should tackle NTBs;

36. Calls on the Commission to address the burdens related to the fractured banking sector in Europe which makes it difficult for non-residents, especially SMEs, to open a bank account in another Member State;

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37. Points out that some of the Member States' regulations on the access and exercise of regulated professions can be disproportionate and can therefore create unnecessary regulatory obstacles hindering access to some professions and the mobility of service providers in regulated professions; acknowledges, nevertheless, the importance of guaranteeing fair competition, the quality of training and supporting successful qualification systems;

38. Concurrs with the Commission's view that dual learning systems are to be recommended as examples of best practice within the European Union;

39. Welcomes the mutual evaluation exercise carried out in the last two years; believes that peer review processes which are well-designed and encourage frank debate amongst Member States can be effective in encouraging change; encourages the Member States and the Commission to extend this practice, in particular to other areas of single market regulation;

40. Calls on the Commission to address the reform priorities of Member States in the area of professional services in the context of the European Semester and country-specific recommendations on deregulating certain professions in the Member States;

*Single market for retail*

41. Highlights the peer review on retail establishment carried out by the Commission in 2014-2015, which showed that retailers often face disproportionate and inappropriate establishment and operating conditions and procedures in the single market;

42. Calls on the Commission and the Member States to accelerate the process of unlocking the potential for a complete Digital Single Market and the implementation of the EU Digital Agenda;

43. Points out that some Member States are introducing rules discriminating against economic activity in the retail or wholesale sectors on the basis of the surface area on which the activity is carried out, the size of the undertaking or the origin of the capital, which is inconsistent with the idea of the single market and the principles of free competition and restricts the development of the labour market;

44. Points out that regulations which impose restrictions on retail and wholesale activities and which run counter to EU law and are disproportionate can create significant barriers to entry, leading to fewer new outlet openings, hampering competition and leading to higher prices for consumers; underlines in this regard that some measures, including fees and inspection charges, may function as NTBs if they are not justified by public policy objectives; believes that all operational restrictions placed on retail or wholesale activities should not unduly or disproportionately restrict these activities, and must not lead to *de facto* discrimination between market operators;

45. Calls on the Commission to set out best practices on retail establishment to ensure free movement of products and services, whilst respecting the principles of proportionality and subsidiarity;

46. Calls on the Commission to analyse operational restrictions on retail and wholesale in the single market, bringing forward reform proposals where necessary, and to report on this analysis in the spring of 2017;

47. Stresses that accessible, affordable, efficient and high-quality parcel delivery is an essential prerequisite for a thriving cross-border e-commerce for the benefit of SMEs and consumers in particular;

**IV. Conclusions**

48. Calls on the Commission to present in 2016 a comprehensive overview of NTBs in the single market and an analysis of the means for tackling them, making a clear distinction between an NTB and regulations for implementing a legitimate public policy objective of a Member State in a proportionate manner, including an ambitious proposal to eliminate these NTBs as soon as possible in order to unleash the still untapped potential of the single market;

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49. Calls on the Commission to initiate a timely consideration of EU policy and legislative action in emerging areas, with wide stakeholder consultation, in particular SMEs and civil society organisations;

50. Calls on the Commission to first ensure that Member States respect the existing rules concerning the single market rather than creating new, additional pieces of legislation on matters already covered by the existing rules;

51. Calls on the Commission to deepen its work on enforcement and the principles which underpin the single market; believes that early intervention with regard to national measures or implementation procedures which constitute unjustified NTBs may be effective and results more readily achieved than through infringement proceedings; underlines, nevertheless, that for serious or persistent failures or misapplication of Union law, the Commission must use all available measures, including prioritising infringement procedures, to ensure full implementation of EU legislation on the single market;

52. Regrets that Parliament's access to relevant information relating to pre-infringement and infringement procedures is still limited and calls for improved transparency in this regard, with due respect for confidentiality rules;

53. Calls on the Member States to view the single market as a joint initiative which requires coordinated and collective maintenance and is a condition for making the EU economy competitive; believes that those who ultimately suffer the consequences of unjustified NTBs are consumers, who are denied access to new entrants to domestic markets, and face higher costs, inferior quality and reduced choice; considers that Member States should dedicate further time to horizontal single market concerns and to identifying areas requiring priority action by one or more Member States, in order to maintain and further the single market;

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54. Instructs its President to forward this resolution to the Commission, the Council, the European Council and the governments and parliaments of the Member States.

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