

SME Envoy network

Barriers for SMEs on the Single Market

November 2018

1 Executive summary

25 years after its creation, the Single Market is a vast success. It has improved the living standards for EU citizens and 56 million jobs within the EU depend on trade created by the Single Market. Furthermore, it has increased the competitiveness of the European businesses globally and made the EU the largest exporter of goods and services in the world.

Nevertheless, the Single Market is neither perfect nor complete. In fact, increasing regulatory complexity is challenging European businesses, especially small and medium-sized enterprises (SMEs). Each year, the amount of national technical regulation keeps piling up which makes it more difficult for SMEs to expand their activities across Europe. At the European level SME's also experience confusion from partially overlapping rules. This means that SMEs do not necessarily know which rules apply to them – they simply do not understand which rules to follow.

To further increase the complexity of the regulatory environment, the traditional divide between goods and services is also disappearing. From a business point of view, the division between a Single Market for Goods and a Single Market for services no longer exists. In reality, a good is often sold with an accompanying service. Unfortunately, the legislation has not followed this development which often makes the legislation out of touch with reality.

The Single Market was created to benefit citizens and businesses, but too often the legislation is purely made from a law-makers perspective. This leads to rules and procedures that are difficult for the end user to understand and to comply with. Another problem is the lack of focus on digitisation. More user-friendly digital solutions would make life much easier for SMEs. Looking ahead we need to think digital first, but when we digitize we need to think small first.

To address the above-mentioned challenges and to create a less complex Single Market to the benefit of European SMEs, this report suggests the following three approaches to enhancing the Single Market:

A one-stop shop coordinating replies across contact points

European businesses are met by many different portals, entrances and information websites. Some are national, while other are European. Created with the best intentions, these contact points have not succeeded in giving the SMEs an overview of the rules and procedures which they need to comply with, as there are many different contact points, and they occasionally give answers pointing in different directions. There is a need for the European Commission to ensure a one-stop shop in every Member State that can effectively provide businesses with the necessary overview of which rules they need to comply with, how they comply with the procedures, which documents they need to provide, and which authorities they must contact. The information available through the one-stop shop should cover all business-related aspects. The one-stop shop should therefore provide a coordinated answer across the existing contact points established by EU regulations. The one-stop shop will provide a coordinated answer from all the relevant contact points after having coordinated with the competent authorities behind the contact points, thereby making it easier for businesses to understand and comply with the relevant administrative and legislative procedures.

Future legislation made with the end user in mind

All future legislation must be made with the end user in mind. It must be easy to understand which rules and procedures the SME's must comply with, and the corresponding administrative steps should be easy to follow. Often the procedure rather than the regulation creates problems for the SME's. Therefore – in order to make the procedures as easy as possible – the end user's perspective should be incorporated from the drafting stage of the regulation. A specific way of doing this is through so-called “life events” where an end user's journey through for example an administrative process is mapped step by step. When such processes are mapped, it is possible to see which steps are more burdensome for businesses and where there is a need for simplification.

Legislation that is digital by default

One of the clear advantages of digitisation is how it can reduce the complexity of the Single Market by helping businesses through digital solutions. However, in order to fully reap the benefits of digitisation, it must be taken into account already when drafting new legislation and used to reduce complexity for SMEs. Furthermore, the development of the digital

economy such as Internet of Things, sharing economy and cloud computing will only create a higher demand for digital infrastructure and the very user-friendly solutions set out by legislation. However, it can be difficult to establish user-friendly digital solutions for cross-border businesses due to various factors. One of them being that EU regulation is often created in regulatory silos.

The Single Market is one of the greatest achievements of the European Union. It solves problems and enables trade, jobs and well-being every day. But the time is ripe to take a user perspective on the rules and update them to the everyday reality of businesses and consumers.

Content

1	Executive summary.....	2
2	The importance of the Single Market.....	6
3	An increasingly complex Single Market.....	11
4	Reducing complexity in the Single Market.....	15
5	Suggested proposals.....	20
6	Methodology for obtaining proposals for the report.....	25

2 The importance of the Single Market

The Single Market significantly contributes to economic activity in each individual Member State of the EU. A new study commissioned by the Danish Business Authority¹ finds that 56 million jobs in the EU depend on trade in the Single Market. Out of these, 20 million jobs are directly involved in producing exported goods and services. 16 million jobs are involved with producing inputs to the industries who export directly to the Single Market. The final 20 million jobs are created as a result of the increased income that is caused by direct and indirect exports.

New study: 25 years of the European Single Market

By Højbjerg Brauer Schultz, September 2018

Funded by the Danish Business Authority

The study analyses the economic impact of the Single Market. It is found that benefits from being part of the Single Market is not limited to Member States with small and open economies, but are most likely to occur in every individual Member State. It is also found that the Member States benefit from the EU being a powerful player on the global scene by participating in European value chains.

Short overlook of key impacts of the Single Market:

- In 26 out of 28 Member States, trade conducted within the Single Market accounts for at least half of the total trade (relative to GDP).
- Trade in goods and services within the Single Market is imperative to economic activity in all Member States and accounts for 56 million jobs across the EU.
- A Danish two-person household with an average income has 8,500 Euro extra to spend per year due to the real wages being 10 per cent higher.

Available here

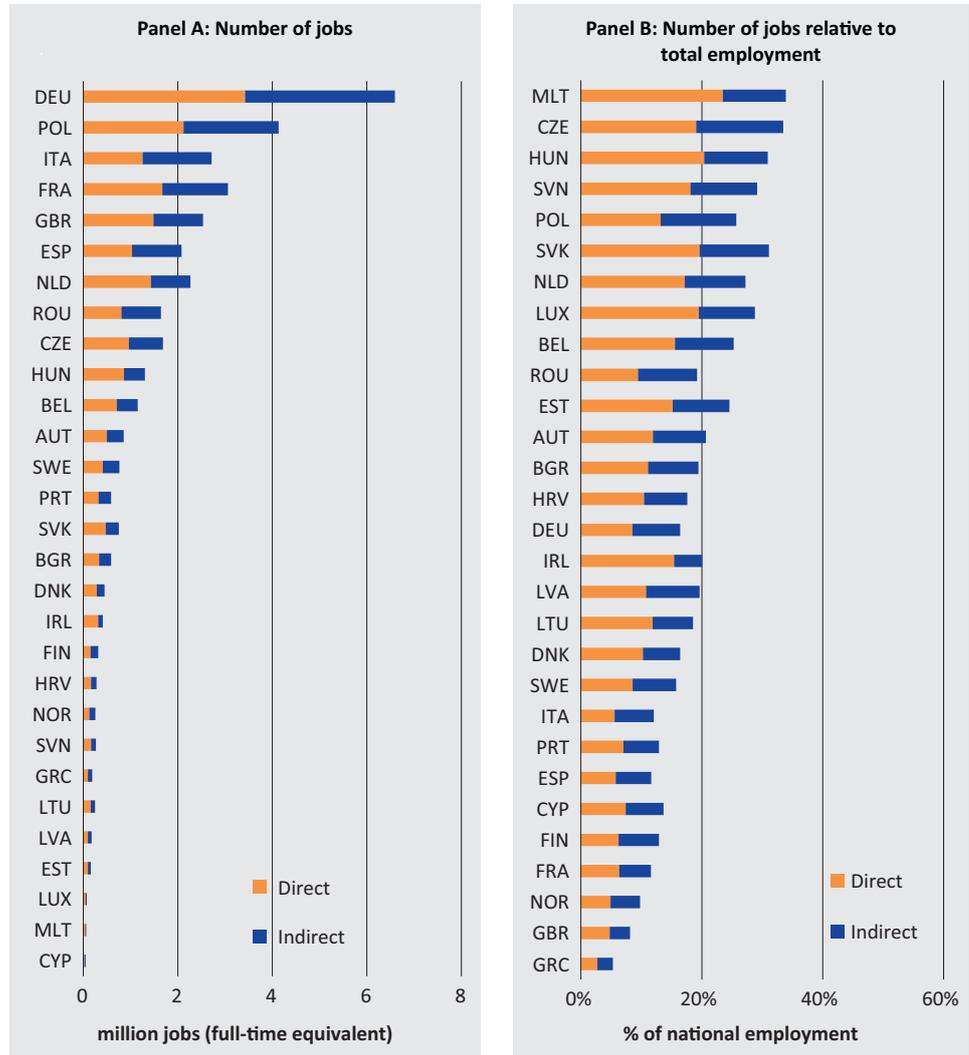


¹ Højbjerg Brauer Schultz (2018). 25 years of the European Single Market: Study funded by the Danish Business Authority.

The following chart presents the amount of jobs that are directly and indirectly linked to trade in the Single Market.

Chart 2.1

Employment in individual Member States linked to trade with the Single Market



Source: Højbjerg Brauer Schultz based on WIOT input-output tables and Eurostat

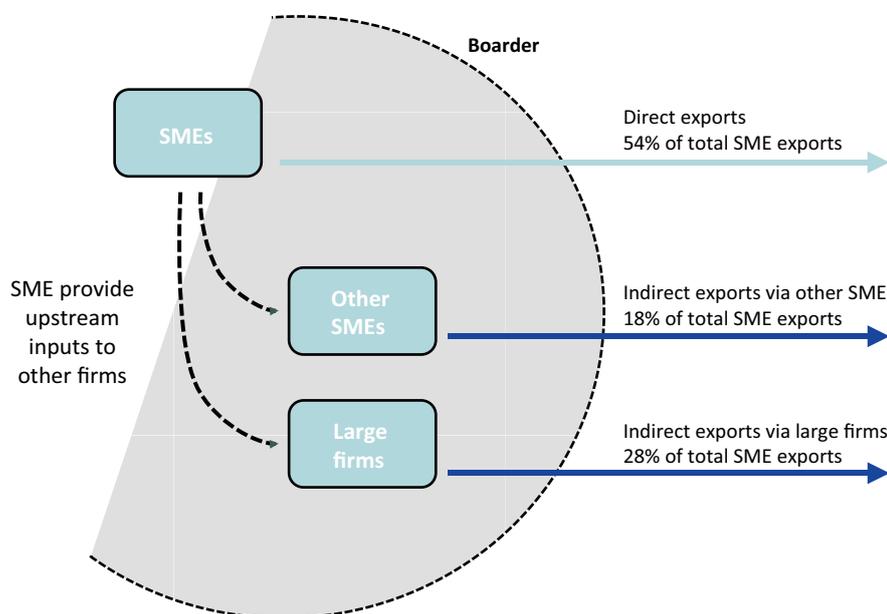
Note: Direct and indirect employment effects of exports to the Single Market, 2014

The study finds that the Single Market has led to higher living standards in average families² which is an effect of the real wages that are higher because of the Single Market.

Another finding in the study is that the Single Market gives access for SMEs to the European value chains which operate on a global market scale. This is an important aspect of the Single Market, as SMEs can be suppliers of for example intermediates to other SMEs or large companies. SMEs simply would not have the same opportunities without the Single Market. The following chart shows the added value of Nordic SMEs to the global markets.

Chart 2.2

Exports in value-added terms of Nordic SMEs to global markets



Source: Statistics Denmark etc. (2017): “Nordic Countries in Global Value Chains”

Note: Nordic are Denmark, Finland, Iceland, Norway, Sweden. Illustration adopted from OECD

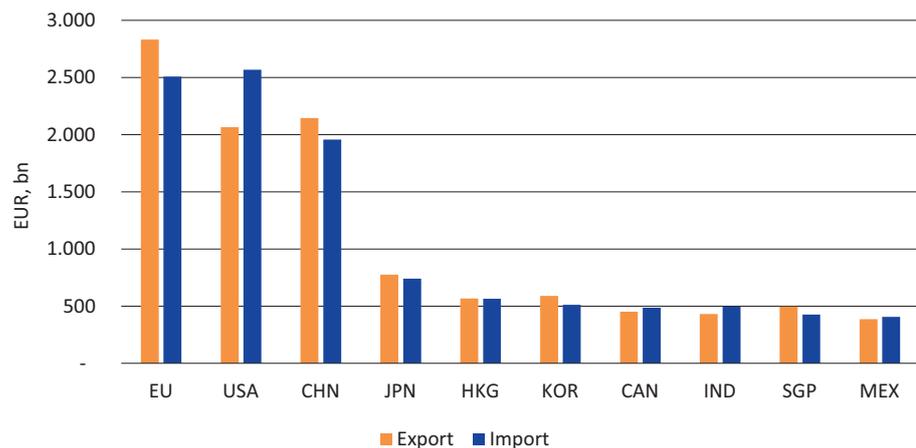
The above-mentioned example only concerns the Nordic countries, but it clearly shows the importance of SMEs participating in the global value chains, as SMEs also are an important part of the exports of large businesses. Without the Single Market, this would not have been possible to the same extent.

² It is found that a normal Danish two-person household has 8,500 Euro extra to spend per year. We expect that this trend can be found in the entire EU.

Besides giving SMEs access to the global market, the European value chains have also made the EU a world leader in global trade. In the study, a chapter examines the EU on a global basis. The EU is found to be a dominant destination for foreign direct investments (FDI) together with the United States which serves as proof of the position of the EU in world trade. It is also found that the EU is one of the three leaders of trade in the world.

Chart 2.3

Exports and imports of goods and services, 2016



Source: Højbjerg Brauer Schultz, based on IMF BOP and Eurostat.

In fact, the EU had a trade surplus of 304 billion Euro in 2016. Furthermore, the EU is also the largest exporter of goods and services and the second largest importer. Such numbers could obviously not have been reached without the Single Market. The study also finds that intermediate goods³ accounted for 51 per cent of all the goods that were exported within the EU. It is thus an important driver of the European economy that shows how dependent the Member States are of each other.

Even though these numbers are very encouraging, the EU still lacks behind for example the US when it comes to enabling tech start-ups to thrive. Many tech start-ups in the EU express the need to move to Silicon Valley when they wish to scale due to a better business environment and easier access to finance. The CBInsights' list of Unicorns in the world⁴ confirms this trend, as only a few of these tech companies are placed in the EU, whereas the US and China seem to dominate the list. This shows that EU still have a lot of work to do. We need to create the right environment within the EU, so our start-ups do not move to for example Silicon Valley when they see a potential for scaling.

³ An intermediate good is a product that is used to produce a final good.

⁴ CBInsights. "The Global Unicorn Club" <https://www.cbinsights.com/research-unicorn-companies> (19/09/2018)

With this in mind, it is obvious that we need to work together in order to strengthen Europe's global competitiveness. This is paramount if we want to succeed in the long run – and it will be to the benefit of each individual Member State. Therefore, we must make the Single Market work even better than today.

3 An increasingly complex Single Market

As shown in the previous section, the Single Market has been a vast success. In this section, it will be argued how the Single Market could work even better in practice. In the recent study “Mapping the Cost of Non-Europe”, it is found that there is an unrealised potential of 1030 billion Euro per year that would occur from completing the Single Market.⁵

SMEs represent 99 per cent of all businesses in the EU⁶. Thus, it is of great importance that the Single Market enables SMEs to thrive. Unfortunately, it has become increasingly hard for (especially the smallest) SMEs to comply with legislation when they operate cross-border in the EU. A sign of this challenge is the growing amount of national technical regulations which is seen when looking at the increasing amount of notifications of regulations⁷.

Every year, around 700 national technical regulations concerning goods are notified. Accumulated, this results in more national technical regulations as time passes. In some cases there will be an overlap with national technical regulations that have previously been notified. However, not all notifications will be repetitions and nonetheless new notifications means alterations of rules that SMEs need to spend resources to figure out.

When looking at notifications of regulation regarding services, we also see the overall number of national technical regulations is expanding from year to year. Even though the amount of new notifications is decreasing, which is positive, few overlapping notifications can be expected since 2014.

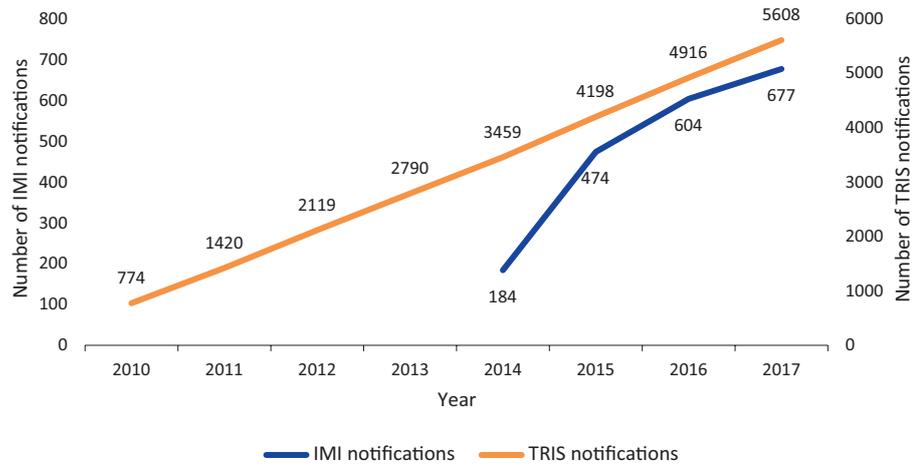
5 European Parliamentary Research Service (2017) Mapping the Cost of Non-Europe. [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603239/EPRS_STU\(2017\)603239_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603239/EPRS_STU(2017)603239_EN.pdf) (13/09/2018) 615 billion Euro per year for the Single Market and 415 billion Euro per year for the Digital Single Market.

6 European Commission (2018). What is an SME? http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en (06/09/2018)

7 National technical regulations concerning goods are notified via the TRIS database and national technical regulations concerning services are notified via the IMI database.

Chart 3.1

Accumulated TRIS notifications since 2010 and accumulated IMI notifications since 2014



TRIS: withdrawn notifications are not included. Source: search in TRIS database

IMI: only notifications concerning services. Withdrawn or inactive notifications are not included. Source: search in IMI database

The numbers from these two databases can be interpreted as an indication that the Single Market is getting more fragmented, and that the number of rules which an SME needs to comply with across Europe is rising. Such a conclusion is in line with the annual report from the SME Envoy network in 2018⁸ which showed that 59.1 per cent of start-ups found differences in national legislation and regulations to be one of the biggest obstacles for internationalisation.

One of the core ideas of the Digital Single Market strategy was to ensure easy access to online activities for individuals and businesses thus creating new opportunities for start-ups and existing companies to reach a market of over 500 million people. While several positive results have been achieved and not everything leads to burdens, many of the proposals from this strategy contribute to legal complexity for businesses and potential administrative burdens. The natural question is therefore whether or not this strategy is delivering a simple and coherent framework that will prepare European businesses for the global competition.

Different proposals involving digital service providers in the Single Market include unclear definitions and overlap between existing regulation. This causes a lack of legal clarity for information society service providers which try to realise the European ambitions for a European Single Market for digital services.

⁸ SME Envoy network (2018). 2018 Report of the SME Envoy Network to the Competitiveness Council.

The rules on illegal content online are just one example of the fragmentation of applicable rules across different pieces of legislation. Businesses can no longer rely on the principles on liability of intermediary service providers in the E-commerce Directive as a number of obligations have been introduced to tackle different types of illegal content online. The latest examples include the introduction of specific rules in terms of liability and in terms of screening of content with the proposal for a Directive on Copyright in the Digital Single Market. Similarly, the new proposal for a regulation on terrorist content online will place new obligations on platforms specifically related to terrorist content. Small businesses often do not have the legal capacity to get the full overview of which specific rules they need to live up to.

More generally, it is important that a transparent and clear legal base for European start-ups and scale-ups is assured. It is the responsibility of regulators to ensure that legislation is simple and comprehensible. When the regulatory environment on the European level becomes too complex there is a risk that SMEs will stop exporting and instead stick to their national market where they already know the rules. This can be seen when looking at all the different contact points that have been set up in various EU regulations, as they illustrate that it is way too complex to get an overview.

An initial screening found that each of these directives and regulations establish contact points:

- The Services Directive (2006/123/EC)
- Mutual Recognition Regulation (764/2008)
- Recognition of Professional Qualifications Directive (2005/36/EC)
- Directive on the enforcement of Directive 96/71/EC concerning the posting of workers (2014/67/EU)
- Marketing of Construction Products Regulation (305/2011)
- Guidelines for trans-European Energy Infrastructure Regulation (347/2013)
- Directive on Electronic Commerce (2000/31/EC)
- Regulation on a Framework for the free flow of non-personal data in the European Union (COM(2017)495)

This is probably not the full list, but it gives an overview of some of the various contact points. Unfortunately, there is no place where a complete overview of the contact points can be found, which in itself is problematic for businesses. Further to this, a large amount of contact points that are not established by EU regulation exists. Thus, an SME might not be certain that it has found all the relevant information for entering a new market. Further, there have been examples of different contact points which give different and even mutually exclusive information. When national authorities seem to disagree about regulations and procedures, it

is very difficult for an SME to follow the right administrative and legislative procedures.

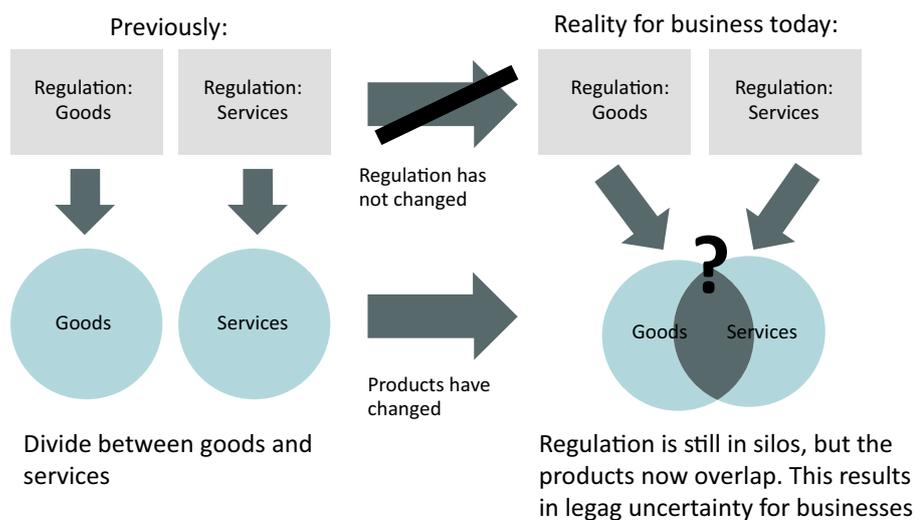
The challenge of a complex regulatory environment is further exacerbated by the fact that the traditional divide between goods and services is getting more and more blurred. Servitisation means that rules and regulations that used to apply to a limited number of companies are now applicable for many exporters in the Single Market.

An example of servitisation could be a business that has sold a system for food production. The deal comes with installation in the factory of the buyer and after sales service. This means that the business has sold both a good and a service to another business in a different Member State. This sale can – depending on the specific product and the specific service – be subject to many different national technical regulations in other EU Member States.

Previously, there was a clear distinction between goods and services and the regulation was thus created to fit each of these. Today though, the products have changed, but the regulation has not been updated accordingly and is still drafted in silos. If a product falls under the legislation for both goods and services or if a business sells a good that comes with installation or a service agreement, it can be extremely difficult for especially SMEs to figure out what legislation to comply with. Thus, the old division does not make sense anymore and a more holistic approach is needed for future regulation.

Figure 3.1

Goods and services with corresponding regulation previously and today



4 Reducing complexity in the Single Market

Due to the continuing increase in the total amount of national technical regulations, it becomes increasingly hard for SMEs to get an overview and comply with legislation in other EU Member States. Even though different steps have been taken and various toolkits have been developed over the years, much can still be done to help the SMEs.

Furthermore, there is a tendency to address the problems by adopting new pieces of legislation or reviewing existing sector regulation, rather than reviewing the existing horizontal legislation. For SMEs this results in a fragmented regulatory environment instead of having to deal with one coherent set of rules. SMEs do often not have the legal capacity to get the full overview of which specific rules they need to live up to, thereby making it harder for SMEs to expand across the Single Market.

A one-stop shop coordinating replies across contact points

One of the proposals received for this report focused on the creation of a one-stop shop which would provide a coordinated answer from the existing contact points (see box). The necessity of this proposal was only further underlined, as several contributions stressed how hard it is for SMEs to access the right information about the relevant regulation and administrative procedures.

While the Single Digital Gateway is a step in the right direction towards helping businesses get access to the right information, it does not change the fact that multiple contact points exist and the lack of overview of the different contact points. The idea behind the contact points is obviously good as they are created with the purpose of providing information. However, the contact points are established with reference to a broad range of different legal acts and as such they are examples of the previously mentioned regulatory silos that makes it difficult for SMEs to navigate. The SMEs should be given a clear answer on what rules and procedures to follow, and they will get exactly that with a one-stop shop that provides a coordinated reply across all the contact points.

Proposed solution: a one-stop shop coordinating replies across contact points

Businesses who export or wish to export goods or services to other EU countries want to ensure that they comply with all rules on the export market. The businesses thus use a lot of resources to get the information on which rules they need to comply with and which procedures they need to go through in other EU Member States. They also need to figure out what authorities they will need to contact. It is often very difficult for them to find the necessary information, and sometimes the information is only available in the local language.

The businesses are met by many different portals, entrances and information websites. Some are national, while other are European. Therefore, there is a need for a one-stop shop in every single Member State which can effectively give businesses the necessary overview of which rules they need to comply with (step by step guidance), which procedures they need to follow in order to comply with the rules, which documents they need to provide, and which authorities they must contact. The available information provided by the one-stop shop should cover all business-related aspects of doing business in that particular member state. The one-stop shop should provide a coordinated answer based on the responses given by the competent authorities responsible for the relevant contact points. Furthermore, in order to make the information, guidance and documents accessible for everyone, it should be available in English in all Member States.

With the one-stop shop, businesses will only have to contact one entity in order to receive a coordinated answer on what kind of rules and procedures they would have to comply with in a given Member State⁹. This will make life much easier for the SMEs who wish to export goods or services to other Member States.

Future legislation made with the end user in mind

Besides enabling the SMEs to actually get access to all relevant information, it is also of great importance that regulation and procedures are made with the end users in mind from the beginning of the drafting.

A way to approach this is to look at existing regulation and procedures and see how they work for the end users. This can be done through so-called “life events” (see box below for an example) where an end user’s journey is mapped – step by step – through a given procedure. This ap-

⁹ Of course, only the competent authority can issue a legally binding decision.

proach can be used to assess whether for example a regulatory procedure is user-friendly or not. It is often the procedure rather than the regulation itself that creates a burden for businesses. When the journey is mapped, it is possible to identify which steps creates the most burdens for businesses and thereby use the mapping as a tool for simplification. The more steps in a procedure, and the more different authorities that are involved in the process, the harder it is for especially the SMEs to enter the market in another Member State.

Mapping procedures is obviously most useful as a tool for evaluation of existing procedures. However, the end user's perspective should be taken into consideration when the drafting of the regulation begins. This is not always the case, as regulation and procedures are often created with only the legal aspects in mind from a law-making perspective. As understandable as it is, it is not the most appropriate approach, as regulation and procedures should always take the end user into account.

Proposed solution: Using the life events approach to ensure focus on the end user

An interesting way of taking the user's perspective into account when drafting legislation is through so-called "life events" which has been used in multiple countries. One example stems from the Dutch Ministry of Economic Affairs and Climate Policy:

The aim of the life events approach is to reduce the experienced regulatory burden around major changes in the life cycle of a company. For example, starting a business, hiring staff or purchasing a business building. Every entrepreneur goes through a number of these life events. Many of these life events are complex, due to the often large number of government organizations involved.

Recently, a successful pilot has been carried out based on the theme of "hiring staff with disabilities". Based on the customer journey, a number of entrepreneurs looked for ways to improve the service. Opportunities include the simplification and digitisation of application procedures, the streamlining of the wage value determination procedure and the improvement of communication between municipalities and UWV towards entrepreneurs. The Ministry of Social Affairs and Employment will address the identified points for improvement together with the parties involved in the course of 2018.

Legislation that is digital by default

Another way of making life easier for SMEs is to take advantage of the opportunities of digitisation. When we digitise we need to think small first. Digital solutions can – when tailor-made from a business perspective - help reduce the complexity of the Single Market as many procedures can be made much easier to comply with for the end users. When a procedure is digital, there is no need to waste time waiting in line at the office of an authority or to fill out and send forms in hard copy and wait for an answer. With digital solutions, all procedures can be streamlined and made accessible anywhere and at any time. Digitisation also allows for faster handling of cases, as many procedures can be automatized.

Today, many rules are based on discretionary assessments which makes it difficult to create digital solutions. Sometimes, there may be good reasons for this, but it should never be the default solution. For example, in the Accounting Directive, much is left to discretionary assessment which is a barrier for the automatization of businesses' accounting systems as well as digital reporting procedures. This is especially a barrier for SMEs as they do not have the same resources to deal with bureaucratic procedures as larger companies do.

Legislation should enable digital communication. When the European Commission proposed the regulation (EU 2016/670) regarding surveillance of imports of steel, the importer's application had to include a fax number. There are probably many SMEs which do not have a fax machine. As a consequence, this was changed to e-mail or fax.

It is also important to use uniform concepts in all legal acts. The different use of terms such as "establishment" under company law and under the Services Directive makes it very difficult to establish user-friendly digital solutions for cross-border companies. For example, a company may not be considered established under the European company law, but will at the same time fall under the definition of establishment used in the Services Directive.

Proposed solution: legislation that is digital by default

It is vital to take measures to ensure that digitalisation is considered early in the drafting stage of regulation. Even though the “Digital Check” is in the better regulation toolbox of the Commission, more measures need to be implemented.

It is thus proposed to create a more systematic assessment of proposals tabled by the European Commission in order to ensure that European legislation is digital by default. This could be done by integrating the digital aspect in the impact assessments and by giving the Regulatory Scrutiny Board the task to check all legislative proposals for their digital preparedness.

It is important to think about digitisation when creating new legislation. Otherwise, legislation might create obstacles for interesting new digital business models. With the Internet of Things, sharing economy, cloud computing and more, the requirements for digital infrastructure and digital solutions will only increase. It does not make sense to talk about the Single Market and the Digital Single Market as two different concepts, as we already have one Single Market that is highly digitalised and only will be more so in the very near future.

With the interlinkage of goods, services, data and digital solutions, the distinction between them no longer reflects the reality of businesses. New business models cut across the traditional division. The Single Market acquis needs to be adapted to take into account the crosscutting nature of businesses.

5 Suggested proposals

In this section, the various proposals received from the SME Envoy network will be presented. They form a catalogue of ideas on how to improve the Single Market for SMEs.

Different and poor interpretation of the EU legislation

One of the contributions points out that there is supposed to be a level playing field in the Single Market. Unfortunately, this is not the case - even when an area is almost completely covered by EU legislation - as different Member States interpret the rules differently.

This has very negative effects for especially the SMEs. They are the most vulnerable, as it is harder for them to get information about the interpretation in the Member States. Consequently, they can be subject to unexpected penalties when they unintentionally do not comply because the enforcement is different than in other Member States where they are also based. Furthermore, if some comply and others do not, the non-compliers – who might be non-compliers unintentionally – might get a competitive advantage over the compliers which is very unfortunate.

National technical regulations

Some of the contributions concern national technical regulations. This was addressed previously in this report, but it is important to mention that some of the contributions point out the well-known fact that many businesses adapt their products to national technical regulations. This is especially a barrier for SMEs who might not have the resources to adapt a product and thus decides not to scale their business across the Single Market. A way of solving this is increasing awareness about the principle of mutual recognition among SMEs, thus, it should be ensured that the Member States apply the principle of mutual recognition in an effective way. The principle of mutual recognition means that a product (non-harmonised) that is lawfully marketed in one EU Member State can be marketed in another.

Posting of employees to other Member States

It is also pointed out that the rules and procedures for posting employees differ from Member State to Member State. Additionally, the relevant information is often not available or very difficult to find. Many Member

States have notification requirements for when posting workers, even though there should be free movement for services.

VAT

Another problem brought to attention is how VAT creates problems despite the fact that this is an area of harmonisation. Unfortunately, examples of double taxation can still be found due to different interpretation in the Member States. Furthermore, examples also show how different rules between two Member States result in goods being exempted from VAT when sold by a business in one Member State to a customer in another. The different interpretation also results in different demands for documentation around the EU.

Public procurement

It is pointed out how SMEs are struggling to win tenders in other Member States than their own as languages constitute a barrier in the cases where tenders are published in the local language. On a more general note, it is pointed out how SMEs are struggling to win tenders compared to larger businesses who have larger capacities and more resources to spend on a tender. It is suggested that cooperation between SMEs to win tenders should be facilitated as a solution to the problem.

Consumer rights

Another contribution describes how most legislation on consumer rights stems from the EU level. However, as most of this is minimum legislation, gold plating is quite common and leads to heterogeneity on the Single Market. Interpretation and enforcement of the EU regulation differs across Member States, and businesses thus need to invest time and money in figuring out the differences in consumer rights in the various Member States. A suggested solution is increased cooperation between authorities, better coordination when it comes to interpretation of regulation and, finally, more accessible information for the SMEs. Furthermore, it is positive that the New Deal for Consumers presented by the European Commission aims at removing unnecessary burdens for businesses.

A fragmented financial Single Market

The financial system in Europe works very well in many ways. However, it is pointed out that payments between Member States usually take a longer time and are more expensive than payments between two accounts within a Member State. Another problem is that, while discrimination of bank accounts from other Member States is forbidden, indirect discrimination happens as many SMEs still need to open bank accounts in other Member States as they often are met with suspicion from consumers and businesses if they do not have a local bank account. Furthermore, the fragmented financial Single Market hinders access to capital for SMEs.

Territorial supply constraints

Another problem brought to light is how territorial supply constraints (TSC's) constitute barriers for especially SMEs. Here, businesses establish barriers by themselves by limiting sales of goods from certain Member States and thus they cannot be sold freely across the EU. A report from the Benelux countries finds TSC's in all three countries and for all sizes of businesses. They are found in many segments of the retail market, but data also shows that other sectors than retail are affected. The TSC's affect both profits for businesses, quality and the prices for the consumers.

Uneven access to markets for services

Some contributions mention uneven access to the markets for services as a barrier for SMEs. This is in line with the previous mentioned barriers concerning national technical regulations and posting of employees to other Member States. Such barriers make it difficult for SMEs to sell services across different Member States.

National technical regulations obstruct the Single Market for building materials

According to the Marketing of Construction Products Regulation, a manufacturer can market its products on the Single Market if it has a valid CE-marking and a declaration that describes the characteristics of the products according to a relevant harmonized standard. Member States are not allowed to demand further marking of the declared characteristics. However, multiple Member States still require national type approvals for the characteristics of the products. An example is the characteristics for fire- or ceiling sheets. The proposed solution is more information for national authorities about the rules and CE-marking.

Modernisation of the Union Customs Code

The EU's customs coding system is based on 8-10 digit customs codes whereas the first 4-6 digits constitute the Harmonized System Codes (HS-codes) decided on in The World Customs Organisation's (WCO) while the last 2-4 digits represent the EU's Combined Nomenclature (CN-codes). The HS- as well as CN-codes are rarely updated and the customs codes have therefore been lagging behind the technological evolution for years. The customs codes are problematic as new types of products – especially products in the fields of electronics, technology and digital solutions – do not fit properly. This is frustrating for companies that are left without guidance on how to classify their products. Due to this confusion, customs authorities often end up concluding that companies should use another customs code to classify the product parts that they import for their production. If the decided customs code implies a higher tariff rate, the company is obliged to pay residual duties, which – especially to SMEs - has large economic consequences. It is thus proposed that it is studied

how the codes can be updated so the codes can grasp these new types of products”.

Digitisation of VAT documentation when buying and selling boats in the EU

Old rules require documentation for payment of VAT when a boat sail the EU waters. This is problematic when buying a used boat. If the seller does not have the documentation of the already paid VAT, a customer might be prevented from buying the boat. It thus requires a lot of time from boat sellers to get the original paperwork or being in dialogue with the authorities to obtain the documentation. It is proposed to solve this by creating a digital solution where documentation for VAT can be obtained across the EU.

Fitness check of the rules regarding olive oil

The regulation on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis is from 1991. It requires national authorities to test olive oil produced in other Member States bought by a retailer, even though the producers of olive oil are subject to national inspections. Furthermore, the regulation requires that the testing is based on the organoleptic method which is a very uncertain method, as the oil might have changed characteristics when it reaches the retailers due to being a natural product. This double control is a barrier to retailers who risk losing products that have been marked wrongly. As the test is not health related, but only a matter of quality marking, it is proposed that a fitness check of the regulation is made.

Future-proof directives regarding biological material

The EU regulation in the health sector is split into silos with directives on blood, tissue, medicine for advanced therapy and medical equipment. New innovative products as substrates, regenerative cell treatment products or frozen sperm do not necessarily fit into one of these categories. Further to the problem, it is hard for businesses to get clear information and guidance from national and European authorities. It is proposed to future-proof the directive for biological material by making it more flexible. Furthermore, it is suggested that a guiding unit is established at the European level to help businesses obtain information on which rules and procedures to comply with.

More simple rules for storing and distributing herbal medicines and vitamin- or mineral drugs

Herbal medicine, vitamin- and mineral drugs face almost all the same requirements as normal medicine. Many retailers sell products within these categories, and they typically receive the products for their stores from their warehouses which are registered as wholesale warehouses. Wholesale businesses face more strict rules than normal retailers as they

for example need additional approvals for these types of products. Thus, many retailers choose to avoid having the products at their own wholesale warehouses and instead buy them from distributors. It is suggested that dispensation can be given for products that are not dangerous and do not change by being transported or stored.

6 Methodology for obtaining proposals for the report

Before the drafting of this report started, a template was sent out to the SME Envoy network. The template contained a few questions related to identified problems for SMEs, what sector the affected SMEs operate in and the extent of the problem. Furthermore, it asked for a solution to the problem.

The process has given the entire SME Envoy network the opportunity to submit inputs for barriers for SMEs in the Single Market. In this way, the report maps barriers experienced in the entire EU and not just from the perspective of a single Member State. Several members of the SME Envoy network have collected inputs from business organisations in order to reflect the challenges of SMEs.

The report was drafted by SME Envoy of Denmark, Torsten A. Andersen and his team.

About the SME Envoy network

The network of SME Envoys was set up in 2011 as part of the review of the Small Business Act. Each EU country has nominated a national SME Envoy to complement the role of the EU SME Envoy who chairs the network. The group of SME Envoys makes up an SBA advisory group that promotes SME friendly regulation and policy making in all EU countries. The SME Envoy is an active interface with the SME business community, considering their specific interests and needs in EU programmes and policies. The main objective of this function is to establish a close, direct link between the Commission, SMEs and their representatives.

Barriers for SMEs on the Single Market
SME Envoy network

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