



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senát for its Opinion on the Chips Act package, namely the proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act) {COM(2022) 46 final}, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A Chips Act for Europe {COM(2022) 45 final} and the proposal for a Council Regulation amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking {COM(2022) 47 final}.

The Commission welcomes the support of the Senát to the objectives pursued under the Chips Act package presented on 8 February 2022 and the rationale for proposing this comprehensive set of measures aimed at ensuring the EU's resilience and technological sovereignty in semiconductor technologies and applications.

Over the past two years, we have seen how strongly the semiconductor supply chains are interconnected and the severe societal and economic consequences that disruptions in the supply of chips can cause across multiple industrial sectors. To anticipate and address future disruptions or shortages, the proposed Chips Act package aims at increasing the resilience of Europe's semiconductor ecosystem and increasing its global market share.

As mentioned in the Opinion, semiconductor chips are central to the digital economy: they make digital products work, from smartphones and cars to critical applications and infrastructures in health, energy, and communications and to most other industry sectors. Semiconductors are also crucial for the technologies of the future, such as 5G/6G communications, artificial intelligence, low power computing, the Internet of Things, and edge, cloud and high-performance computing platforms. Moreover, semiconductors will have a crucial and decisive role in contributing to the ambition of the European Green Deal.

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The Commission carefully analysed the Opinion and noted the concerns expressed, including those related to the risk that the results of the work of the EU's research and development sector may be used industrially outside the Union, the need to respect the position and competences of the Member States in the internal market when dealing with semiconductor crises, the need to respect competition rules and to ensure non-disclosure of information, the method for the determination of the contributions of the Joint Undertaking's Participating States, the Chips Act package's priority-rated orders and penalties' systems, the administrative burden of the proposed measures and, finally, the need to avoid strategic autonomy in the field of semiconductors becoming a pretext for protectionism.

On the risk that the results of EU's research and development may be used industrially outside the EU, the Commission shares the view that, given the fact that the EU is home to world-leading research and technology organisations, it is key to turn research investments into market innovations. To this end, the Chips Act package will build on Europe's strengths in research. If necessary, grant agreements may give the right to the granting body to object to the transfer of Intellectual Property from a research project to a third country. Taken together, this would lead to a resilient European semiconductor sector from research to production.

On the need to respect the position and competences of the Member States in internal market policy, the current shortage of semiconductors has demonstrated the potential disruptive effect of such shortages to the internal market. The monitoring and crisis response mechanism contained in pillar 3 of the proposal for the Chips Act proposes a common Union approach for anticipating and addressing semiconductor crises to ensure a coherent response and avoid fragmentation of an inherently cross-border sector. The proposed mechanism strengthens coordination, while fully respecting Member States' competence to undertake activities on national level.

As regards the need to respect competition rules and ensure non-disclosure of certain information (e.g. commercially-sensitive data), also within the framework of the proposed European Chips Infrastructure Consortium, it must be noted, on the one hand, that the proposal for the Chips Act does not influence the applicability of existing competition rules. This means that, as is the case with State aid currently granted to any other beneficiary, all applicable State aid rules would also be applicable to a European Chips Infrastructure Consortium. Such consortium would not receive any preferential treatment in this regard. On the other hand, regarding the need to ensure the non-disclosure of information, the proposed Chips Act only foresees that companies would be asked for potentially commercially sensitive data for the specific, well-defined purposes of monitoring supply chains and detecting bottlenecks. It would also include the necessary safeguards to ensure that this information gathering would take place in a safe and secure manner.

On the method for the determination of the contributions of the Joint Undertaking's Participating States, the proposed Chips Act package, namely, the Proposal for a Council Regulation amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking, does not

introduce any changes on how the Participating States' contributions should be determined. Article 129(1) of Regulation (EU) 2021/2085 indicates that 'the participating states of the [...] Joint Undertaking shall make a total contribution that is commensurate to the amount of the Union contribution'. According to the proposal, this would not change with the entry into force of the Regulation's amendment.

On the penalties system proposed in the Chips Act, the Commission fully shares the view that the monitoring and crisis response mechanism contained in pillar 3 of the Chips Act proposal should be proportionate and take into account the needs of all actors along the EU's semiconductor value chains. The proposed mechanism follows a balanced approach in that it would introduce any potentially burdensome crisis response measures only where these are necessary, appropriate and proportionate in order to ensure supply to critical sectors and in close dialogue with Member States and experts through the European Semiconductor Board. While it is necessary to provide for an enforcement mechanism for obligations of companies in the framework of crisis response, appropriate safeguards would ensure that such measures would only be taken in serious and justified cases.

Regarding the administrative burden of the proposed measures, it must be noted that, overall, the Commission has aimed for a balanced approach, in that administrative burden would fall on public authorities and companies only where this is justified to achieve the objectives of the Chips Act package. Especially for companies, a large part of the proposed activities would be voluntary in nature, notably participation under the Chips for Europe Initiative, participation in the framework for 'first-of-a-kind' facilities, and participation in the information exchange activities of the monitoring mechanism.

On the virtual design platform, this would be set up through the proposed Chips Joint Undertaking. It would be developed by making use of existing capacities, by integrating and standardising intellectual property (IP) libraries from existing pilot lines. The design platform would make Electronic Device Automation tools and these IP libraries widely available in Europe, providing a user-friendly way to designing new functionalities or new chips and systems for a broad variety of users, notably for small and medium-sized enterprises and start-ups. The virtual design platform would not add barriers or red tape, and its use would be entirely voluntary.

Finally, on the need to avoid strategic autonomy in the field of semiconductors to become a pretext for protectionism, the Commission understands that the semiconductor industry sector is both capital and knowledge intensive. This means that investments in this field are highly risky, and this is one of the reasons why the sector is often supported by public investments in many regions of the world. The proposed Chips Act package would put the European Union at a competitive level, while respecting all applicable competition and state aid rules.

Discussions between the Commission and the co-legislators, the European Parliament and the Council, concerning the proposal are ongoing and the Commission remains hopeful that an agreement will be reached as soon as possible. The Commission will take the Sénat's Opinion in due account in the context of those discussions.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Věra JOUROVÁ
Vice-President*