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COMMUNICATION FROM THE COMMISSION

**THE IMPLEMENTATION OF THE FRAMEWORK ACTION "UPDATING AND
SIMPLIFYING THE COMMUNITY ACQUIS"**

{SEC(2004) 774}

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The present Communication takes stock of the implementation of the Commission's February 2003 Framework for Action on "Updating and simplifying the Community *Acquis*"¹.

This initiative is one of the range of actions in its "Better Regulation" initiative of June 2002² which aims to secure a clear, effective up-to-date and user-friendly body of secondary Community law and responds also to the objective to improve the regulatory environment in which business operate to enhance competitiveness as one of the goal set out in the Lisbon strategy. New Community legislation is now increasingly subject to an integrated impact assessment. The present initiative on "Updating and simplifying the Community *Acquis*" complements this by focusing on simplifying and up-dating the stock of existing legislation.

The second progress report, attached to the present Communication³, provides a detailed account of progress realised during Phase II (October 2003 - March 2004) and sets out planned action during Phase III (April – December 2004), thereby up-dating the Commission's rolling programme for up-date and simplification⁴.

The preparation of the present report coincides with increased attention on better regulation in general and simplification in particular in the EU and in Member States. This is reflected in the Joint Initiative on Regulatory Reform of 26 January 2004 by the 4 Council Presidencies in 2004 and 2005, in the conclusions of the Spring European Council and in the on-going work of Council.

In response of this renewed political momentum, the Commission is committed to strengthen its work on up-dating and simplifying the Community *acquis* but without fundamentally changing the broad base of the framework of action adopted in February 2003.

The Commission launched in February 2003 a consultation of the other institutions and Member States on the proposed framework of action but received very little response. It therefore welcomes the commitment made by the European Council in March 2004 to establish, by the end of 2004, Council's priorities for up-dating and simplifying Community legislation which the Commission will take into account - together with input from other institutions and stakeholders - in future up-dates of its rolling, multi-annual programme. The Inter-institutional Agreement on Better Lawmaking, which entered into force in December 2003, should further facilitate the up-dating and simplification of the Community *acquis*.

¹ COM(2003) 71.

² COM(2002) 278.

³ SEC(2004) 774.

⁴ The Commission intends to report more fully on progress by the end of 2004.

Overall, implementation of the Commission's ambitious framework for up-dating and simplifying Community legislation is progressing in a satisfactory way. The results of Phase II confirm that the momentum is maintained although there are also delays in the realisation of some key actions. During Phases I and II, the Commission's overwhelming priority has been to ensure successful enlargement, the preparations for which have slowed down activities in other areas, including some of the activities aimed at up-dating and simplifying the Community *acquis*.

1. Simplification of the substance of secondary Community legislation

With the February 2003 initiative, the Commission launched a process of **screening of policy sectors** in order to identify simplification potential. Since February 2003, 21 policy sectors have now been screened (13 sectors were screened during Phase II). Mainstreaming of screening throughout all policy areas will be continued to ensure that potential for simplification is fully exploited.

The **rolling programme for specific simplification initiatives** is being implemented broadly according to plan. Under the Framework for Action, the Commission is preparing simplification of a vast range of Community legislation (more than 60 legal acts). By the end of March 2004, the Commission has adopted 30 initiatives with simplification implications (18 initiatives were adopted during Phase I and 12 during Phase II) - and generally within the planned timelines. Moreover, additional simplification proposals continue to be identified. Thus, 8 new initiatives were added to the rolling programme for Phase II (announced in the 1st progress report⁵) and 12 further new candidates for simplification are now announced in the 2nd progress report for Phase III. In addition, the Commission adopted 5 simplification initiatives during Phases I and II even if these were not pre-announced as such.

The real benefits of simplification materialise only after adoption by the legislator and entry into force of simplified legislation. By the end of Phase II, 20 legislative simplification proposals were pending before the legislator (8 of these were proposed before February 2003). The Commission therefore invites the Parliament and Council to proceed to early adoption of simplification proposals whilst giving appropriate priority to the simplification objective vis-à-vis other objectives, in accordance with the Inter-Institutional Agreement on Better Lawmaking.

The second progress report offers detailed identification of the **type of simplification** pursued in terms of (1) simplification of legislation, (2) simplification of administrative procedures for public authorities (EU or national) and (3) simplification of the administrative burdens for private parties (mainly business). In light of the priorities endorsed by the March 2004 European Council, it is noteworthy that by March 2004, the Commission has adopted 25 initiatives which would contribute to reduce the administrative burdens for private parties (including 8 legislative proposals already presented before February 2003).

It should also be recalled that on-going effort is being made to ensure improved drafting quality and clarity of EU legislation and that detailed guidelines for this were set out under the 1998 Inter-institutional Agreement on quality of drafting of Community legislation.

⁵ COM(2003) 623.

2. *Reducing the volume of the Community acquis*

In 2001, the Commission set itself the target of reducing the volume of the *acquis* by 25% (corresponding to about 22.500 pages of the Official Journal) by the end of its mandate⁶. At the same time, it launched a vast programme for codification of existing legislation which, when completed by the end of 2005, would reduce the *acquis* by an estimated 30.000 - 35.000 pages⁷. Even though it was set to be concluded one year later than the end of the mandate period, the Commission had envisaged that the progressive achievement of codification would deliver the bulk of the planned volume reductions. Other actions such as withdrawal of obsolete legislation (for which no quantitative estimates are available) and to some extent legislative simplification could provide a complement.

In implementing the codification programme, however, the Commission has encountered unforeseen problems which were for a large part beyond its control. In particular, the translation of the *acquis* into the new languages (which takes place in the respective Member States) has not been achieved by the date of accession and texts needed for codification in the new languages are only becoming available progressively during 2004.

At this point in time, therefore, the Commission estimates that the 25% reduction objective is unlikely to be reached by end-2004. The objective is however likely to be realised within a reasonable period thereafter given the progress made at the technical level for each of the operations concerned.

- ***Codification***

Apart from the above mentioned translation problems, the codification programme is progressing satisfactorily at a technical level and the preparation of codification has increased dramatically during Phase II - as regards acts of the Commission that activity has doubled in comparison with Phase I, both in terms of the number of acts being processed and in terms of the number of OJ pages those acts represent. In the case of acts of the EP and Council activity has trebled, again in terms both of the number of acts and the number of OJ pages. In total, the volume of text currently being processed represents over 10.000 pages. In addition to the Commission's programme for the codification of the *acquis*, day-to-day codification is also a tool used through the legislative technique known as recasting.

In terms of the finished product i.e. acts and proposals for acts adopted by the Commission, progress during Phase II has been limited by the nine-month moratorium (August 2003 – April 2004) in the adoption and publication of codified acts applied during the lead-up to accession. The purpose of the moratorium was to ensure that the codification project did not impose additional burdens on Office for Official Publications and on the Accession Countries during the final crucial phase of preparations for accession.

Moreover, as mentioned above, the end of the moratorium will not mean immediate progress in adopting those acts during Phase III due to the fact that, as of accession, all codified acts must, in principle, be adopted in 20 languages. This means that the adoption of those codified texts ready for adoption in 11 languages at the end of the moratorium will be delayed until the new language versions are available and that the preparation of further codified texts must be

⁶ COM(2001) 726.

⁷ COM(2001) 645.

extended to the additional 9 new languages. During the remainder of 2004, therefore, no significant number of codified acts will be formally adopted and published in the OJ. It will be necessary to await 2005 and the gradual normalisation of the translation situation to see the main results of the codification exercise.

If the codification programme is not to suffer further delays, it is vital that the efforts to translate the *acquis* in the new languages be continued, if not redoubled. The current forecast is that the final texts will be ready for publication only at the end of 2004.

In the meantime, the Commission will also make available on a dedicated website the mastercopies of draft codified texts in the relevant working language to provide insight into the progress of work and public access to its provisional results.

- ***Removing obsolete legislation***

The first progress report already exposed the main difficulties which slow down the process of withdrawing obsolete legislation from the *acquis*, in particular the need for complex case-by-case analysis of the legal bases to establish the appropriate procedure. During Phase II, very few acts were therefore formally repealed or declared obsolete. In addition, only a few Commission departments have been contributing actively to this action.

However, in early 2004, detailed guidelines were established to facilitate the work of Commission departments and the total number of candidate acts under examination for repeal, declaration of obsolescence or administrative correction in the inter-institutional reference database (CELEX) has increased significantly from the 582 candidates announced in February 2003 to about 880. The examination of 361 of these acts is now close to conclusion.

Great efforts have been devoted during the past year to screen the *acquis* for the purpose of enlargement. This exercise has demonstrated that some 40% of the current volume of the *acquis* was not directly relevant for publication in the new languages, for example because it took the form of decisions addressed to individual Member States or because it had become obsolete. While this should not be taken as an indication of the quantitative scope for eliminating obsolete legislation, this exercise linked with enlargement has considerably improved the mapping of the *acquis* and should now facilitate the drive to remove obsolete legislation in a more formal manner.

- ***Consolidation***

In June 2003, the Office for Official Publications completed the comprehensive programme to consolidate the entire Community *acquis* (in 11 languages) and the result is freely available to the public via EUR-Lex. Consolidation of secondary legislation, like codification, brings together a basic legal act and all its amending acts in a single text. Although the resulting consolidated texts are not subject to formal decision-making procedures and therefore do not have legal status, they greatly facilitate access to legislation and reduce the volume of texts.

The Office continues to consolidate EU legislation on an on-going basis and, in particular, to prepare consolidated texts in the format required for subsequent formal codification. Consolidation of secondary legislation in the new languages will begin in September 2004, once the necessary translations are available, and will proceed according to priorities aimed at the earliest possible conclusion of the codification programme.