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Reducing Administrative Burdens in the European Union

Annex to the 3rd Strategic Review on Better Regulation

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1. INTRODUCTION

Suppressing unnecessary administrative burdens is more important than ever in difficult economic times, when EU businesses have fewer resources and need to invest to remain competitive¹.

In January 2007, the Commission adopted a more systematic approach by presenting an ambitious Action Programme aimed at reducing administrative burdens on businesses in the EU by 25% in 2012². The Action Programme was endorsed by the European Council in March 2007³, when it specifically agreed “that administrative burdens arising from EU legislation” (i.e. including national measures implementing or transposing this legislation) should be reduced by 25% and invited Member States to “set national targets of comparable ambition”. The European Parliament also expressed strong support to the Action Programme's objectives⁴ and made budget available to support this activity.

The aim of the Action Programme is to measure costs imposed by information obligations put on businesses and suppress unnecessary requirements. This should improve the efficiency of legislation without undermining its purpose.

This Working Document accompanies the Third Strategic Review on Better Regulation⁵. It details progress achieved in 2008 and presents the outlook for 2009 and beyond.

2. MAPPING AND MEASURING ADMINISTRATIVE COSTS OF EU ORIGIN – KEY RESULTS

A key part of the Action Programme consists of large-scale baseline measurement of administrative costs incurred by businesses when complying with legal obligations to provide information to public authorities or third parties (reporting, inspection, statistics, ...). This measurement covers obligations stemming from EU legislation and from national measures

¹ Although legislation imposes different types of costs on businesses, small and medium sized enterprises consider administrative burdens “the most important individual business constraint” after lack of market demand. A large proportion of SMEs also “perceive an overall deterioration in terms of administrative regulations”. See results of the 2007 survey by the Observatory of European SMEs (there are 23 million SMEs in the EU, accounting for 99.7% of all enterprises):

http://ec.europa.eu/enterprise/enterprise_policy/analysis/observatory_en.htm.

² COM(2007) 23.

³ Presidency conclusions of the Brussels European Council (7/8 March 2007), p. 10:

http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf.

⁴ See, for example, European Parliament Resolution T6-0493/2008 on ‘Better lawmaking 2006’ pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality of 21 October 2008.

⁵ COM(2009) 15.

implementing or transposing it. The methodology used is based on the EU “standard cost model” (SCM⁶), drawing on national variants currently used in 20 Member States⁷.

The scope and depth of the programme are unprecedented⁸. The EU baseline measurement will provide an estimate of the level of administrative costs and burdens imposed by 42 legal acts⁹ in 13 priority areas in a Union of 27 Member States.

2.1. Overview of mapping results

Overall, the screening of the 42 EU acts in scope of the programme resulted in the identification of 356 EU information provisions¹⁰. The consultants hired to conduct the EU baseline measurement found that implementation or transposition of these EU obligations had led to the adoption of more than 9500 national obligations across the 27 Member States. Their review showed that more than 700 were going beyond what is required by EU law¹¹.

2.2. Overview of measurement results

Measurement results are based on available statistics (mainly on the number of enterprises affected by an information obligation), around 3000 individual interviews with businesses, more than 50 workshops with local business associations and national ministries and data adjustment work by hundreds of sectoral experts¹².

The EU baseline measurement is made up of data produced by field research, by retrieving data from national baseline measurements and by extrapolation. Original data collection took place simultaneously in 6 different Member States for each priority area, in order to determine how much time and money businesses spend to comply with information obligations. For 5 other Member States, approximately 40% of the data could, on average, be retrieved from their national baseline measurements¹³. Results for the “EU measurement” countries and the “national baseline measurement” countries provide an improved basis for analysis of administrative costs. Data for the remaining 16 Member States are the result of an extrapolation based on models developed specifically for each priority area. The SCM approach does not aim at producing statistically valid results, but rather expert-based

⁶ See Annex 10 of the Impact Assessment Guidelines: http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_anx_en.pdf, as well as Annex 6.

⁷ See the website of the Standard Cost Model Network: <http://www.administrative-burdens.com/>.

⁸ The previous largest comparative study was conducted by the OECD in 2006. It measured information obligations imposed on the road freight sector for “hiring a worker” and “operating a vehicle during a year” in 11 countries (OECD, *Cutting Red Tape – Comparing Administrative Burdens across Countries*, 2007).

⁹ The list included in COM(2007) 23 contains 41 original (i.e. legislative) acts plus 1 executive measure (comitology), assumed to account for over 80% of administrative burdens of EU origin. See Annex 1.

¹⁰ EU legal texts include different types of provision that can lead to information obligations at national level: some impose an *obligation* on businesses (314); others open up the *possibility* for Member States to impose an obligation on businesses (42).

¹¹ See Annex 2.

¹² Each Member State has designated a “Single Point of Contact” who coordinates national feedback on the Action Programme. This network of governmental experts significantly contributed to improve the assessment of national information obligations. The “High Level Group of National Regulatory Experts” advising the Commission on better regulation issues also helped mainly with overall (methodological) questions.

¹³ Those countries are AT, DE, DK, NL and UK. Due, in particular, to differences in the mapping of information obligations, adjustments had to be made to some data.

estimates that help understanding the nature of the problem and assessing reduction progress in relative terms. Doing otherwise would not be cost-efficient (considering the level of detail and the number of parameters concerned).

The measurement phase is being finalised. Early indications show that, in total, the 42 EU acts impose administrative costs of approximately €15 billion to €30 billion. Among the 13 priority areas covered by the programme, Taxation and Customs as well as Company law seem to have the highest potential for reduction, as they account respectively for about 60% and 20% of total administrative costs. Food safety, Working environment, Agriculture and agricultural subsidies and Transport are next on the list, each of them accounting for administrative costs of between €5.7 billion and €3 billion¹⁴.

2.3. Preliminary data analysis

Key points emerging from the analysis of mapping results are, among others, that:

- the proportion of EU rules transposing international obligations is significantly higher in the specific areas of company law and the working environment¹⁵; the timing of reduction plans in those sectors will therefore have to be adjusted whenever agreement with international partners is a precondition for changes at EU level;
- a very significant proportion of administrative burdens appear to be the result of inefficient public and private administrative practices (between 30 and 40%).

As for the analysis of measurement results, preliminary findings indicate that:

- the level of possible reduction of administrative burdens is not strictly correlated to the level of administrative costs : in a number of areas, companies would still perform some of the activities required by the information obligations even in the absence of a legal obligation¹⁶;
- in a majority of priority areas, “cooperation with audits and inspections by public authorities” is the most expensive activity for businesses; such cooperation often mobilises highly qualified staff for a fairly long time; while auditing and inspecting are necessary to achieve public goals, administrative burdens could be very significantly reduced notably by improving the risk assessment on which enforcement activities are based;
- irritation caused by EU law varies widely between Member States but also between legal requirements.

¹⁴ See Annex 3. As the various priority areas do not include the same number and type of EU acts, this comparison should be treated with caution.

¹⁵ The International Financial Reporting Standards developed by the International Accounting Standards Board, for instance, are integrated into the EU legal framework.

¹⁶ These “business as usual” costs are between 30% and 50% high in the areas of financial services and company law, against an overall average of 18%.

3. PREPARATION OF SECTORAL REDUCTION CONTRIBUTIONS

The next step is to identify further reductions¹⁷ for each of the 42 EU acts. The final results of the EU baseline measurement exercise will greatly help in setting reduction priorities and designing reduction proposals.

The assessment of administrative burdens does not directly tell what is necessary and unnecessary, but a detailed baseline measurement does reveal what is most costly and/or irritating for businesses.¹⁸ It also indicates who imposes administrative burden and can therefore lighten it. Unlike reduction programmes set up in reaction to general complaints, this allows to quickly determine where reduction work could start in order to bring the greatest relief.

Having data for such a large number of information obligations and countries also provides a rich basis for comparative analysis. Great differences in the burden imposed by the same type of obligation across sectors with similar characteristics might be the result of differences in technical options¹⁹. Similarly if businesses manage to comply with an information obligation more quickly in one country, it might be because they are more efficient or because implementation of EU law is better designed in that country. The mapping of national measures provides a first but crucial indication on this.

Identification of measures to reduce administrative burdens in the two largest priority areas has been completed or is sufficiently advanced for identifying sectoral reduction figures: namely some €18 billion for taxation²⁰ and €8 billion for company law. Figures for the other priority areas will follow, together with detailed sectoral plans²¹ listing reduction measures already adopted, pending and under preparation. Every effort will be made to present these proposals before the end of this Commission's mandate.

4. ACHIEVEMENTS IN REDUCING ADMINISTRATIVE BURDENS

As announced in the Action Programme, the Commission did not wait for the results of the measurement exercise to put forward first concrete proposals to relieve businesses from unnecessary administrative burdens. Some of those proposals were included in packages of “fast track actions”, while others were presented autonomously. Council and Parliament are invited to adopt all pending proposals as quickly as possible²².

¹⁷ A number of reduction measures have already been presented or adopted (see section 4).

¹⁸ Number of minutes, type of equipment and/or level of outsourcing required to comply with certain types of information obligations and to perform certain tasks.

¹⁹ For instance, traceability systems have been put in place by the EU for different sectors at different times. Some require a paper trail while others are based on bar-code technology, which is usually less costly.

²⁰ See section 4.2. for further details.

²¹ COM(2007) 23 and COM(2008) 35.

²² The European Parliament and the Council reiterated their commitment to reduce unnecessary administrative burdens on several occasions (see in particular Parliament Resolution of 21 October 2008 on “Better lawmaking 2006” (2008/2045(INI)) and the conclusions of the Competitiveness Council adopted on 2 December 2008).

4.1. Fast-track actions to reduce administrative burdens

Fast Track Actions (FTA) are defined as immediate measures that are likely to generate significant benefits or reduce irritation through technical changes to existing rules. In total, the 21 FTA tabled in 2007 and 2008²³ offer estimated savings of more than €2.3 billion for EU businesses.

Because of the nature of the changes required, it should be possible to adopt these measures fairly quickly. This is usually the case for executive measures: it took on average 5 months under the comitology procedure for adopting 6 out of the 7 FTA falling under this category in 2007 and 2008.

By contrast, 4 out of 6 legislative proposals presented in March 2007 have been adopted so far and only 1 out of 7 from the 2008 package. The FTA on the labelling of batteries (Directive 2006/66/EC) tabled in 2008 proves however that political agreement can be reached under the co-decision procedure within 5 months (excluding parliamentary holidays).

4.2. Stand-alone measures

In addition to FTA, the Commission has already presented proposals for amending 26 acts out of the 42 currently covered by the Action Programme. Out of these proposals, 16 have already been adopted as of December 2008.

The measures include a Community-wide management of customs procedures and a paperless environment, which may generate benefits for traders estimated at €2.5 billion per year. In the area of statistics, the reduction proposals concerning intra-Community trade in goods (Intrastat) adopted since 2004 or pending before the legislators will exempt an estimated 370,000 companies (in particular SMEs) from the obligation to report, provided that all Member States establish their reporting thresholds to the levels allowed by the European legislation. This represents a potential reduction of the surveyed population of enterprises of roughly 52% over six years (from 2004 to 2010) or more than €100 million of savings per year until 2010 and more than €200 million of savings per year from 2010 onwards. Progress has also been made in the area of company law. Several proposals have been adopted since 2005 and several are still pending before legislators. The proposal regarding the publication and translation obligations of companies has alone administrative burden saving potential of over EUR 600 million.²⁴

The identification of future reduction measures is well advanced for two key priority areas. In the case of company law, the Commission plans to propose to allow Member States to exclude micro-enterprises from the scope of EU accounting directives. The “think small first principle” is being applied across the board to these directives to tailor the system to the needs of SMEs²⁵. These two revisions could bring total savings to around €8 billion. The Commission will propose an ambitious revision of the VAT Directive to remove the barriers to electronic invoicing and to modernise the invoicing rules. The maximum mid-term

²³ See Annexes 5 and 6.

²⁴ Additional information on simplification measures in the agricultural and fisheries sectors will be presented by the Commission in spring 2009, in the form of a Progress Report and a Communication respectively.

²⁵ The burden placed on SMEs that are not involved in transborder activities should in particular remain proportionate.

reduction potential of removing the VAT obstacles to e-invoicing was estimated as up to €18 billion if all invoices were sent electronically.

This last example shows that electronic communications are a key tool for reducing administrative burdens for businesses, provided they are well adapted to the needs of businesses as well as of the authorities. The Commission will therefore continue to reduce administrative burdens by promoting use of information and communication technologies, in line with its 2006-2010 e-Commission strategy²⁶ and its i-2010 strategy²⁷ for e-government in Europe.

So far, reduction measures presented or foreseen represent savings in excess of €30 billion.²⁸

5. CONSULTATION WITH STAKEHOLDERS

Reducing burdens is not something the Union can do on its own. Community legislation indeed is mostly implemented at Member State level. The Action Programme therefore needs outside expertise, so that the concrete experience of stakeholders is taken fully into account. Stakeholder involvement is mainly structured around three pillars: extensive consultation based on various communication channels, the organisation of decentralised events and the work of the High-Level Group of Independent Stakeholders on Administrative Burdens (HLG).

5.1. Online and offline stakeholder consultation

EU businesses have the possibility to voice their concerns and present concrete suggestions directly to the European Commission through an online consultation in 22 EU official languages²⁹. In 2008 the Commission received 148 submissions on its dedicated website. More than half of them were from private companies, including micro-entities³⁰.

In total 237 reduction ideas were also sent in reports and letters. These off-line suggestions originated, *inter alia*, from the British, Danish, Dutch, and Swedish public authorities as well as from many (sectoral) business associations at national and EU levels – Business Europe and the UEAPME³¹ in particular.

In total 27 ideas have been taken forward and 250 are under active consideration³². A significant part of these submissions point at issues concerning cross border trade, VAT, internal market, environment and food safety. The Commission hopes to receive more suggestions, as precise and operational as possible.

²⁶ http://ec.europa.eu/dgs/informatics/ecommm/index_en.htm.

²⁷ http://ec.europa.eu/information_society/eeurope/i2010/index_en.htm.

²⁸ The Commission is currently quantifying further reductions achieved. This process is expected to be completed by end 2009.

²⁹ http://ec.europa.eu/enterprise/admin-burdens-reduction/online_consultation_en.htm.

³⁰ See Annex 7 and quarterly reports on http://ec.europa.eu/enterprise/admin-burdens-reduction/reports_en.htm.

³¹ The European Association of Craft, Small and Medium-Sized Enterprises.

³² After due review, it appeared that the other submissions were echoing ideas already under consideration, too general to be processed or out of scope. The latter were sent to national authorities.

5.2. Communication efforts

In 2008 the Commission made particular efforts to raise awareness on the importance of administrative burdens. It did so through a series of public events co-organised with the Member States, email campaigns and other electronic means³³ as well as by hosting a major conference on “Cutting Red Tape for Europe” in Brussels on 20 June which attracted hundreds of business representatives and national experts³⁴.

5.3. The High Level Group of Independent Stakeholders on Administrative Burdens

The HLG was set up in 2007 in response to a suggestion by the European Parliament³⁵. It advises the Commission with regard to the Action Programme, in particular on measures to reduce administrative burdens. The Group is chaired by Dr Edmund Stoiber and is composed of 14 other high ranking experts with a variety of backgrounds ranging from the business community over representative bodies and NGOs to national and regional politics. It held 8 meetings in 2008³⁶. It first dealt with the FTA package approved by the Commission in March 2008; it delivered key opinions relating to various policies, both supporting on-going reduction initiatives and promoting new ones. In particular, it supported ideas on company law & annual accounts, e-invoicing (VAT legislation) and public procurement, along with a number of on-line and off-line suggestions from stakeholders. In addition the HLG initiated the launch of the EU competition for the “Best Idea for Red Tape Reduction”³⁷. In 2009, the HLG will drive the process forward in all remaining priority areas and continue to take a close look at suggestions received directly from businesses and other stakeholders.

6. EXTENSION OF THE SCOPE OF THE ACTION PROGRAMME

The Communication of January 2007 at the origin of the Action Programme³⁸ provides that “the coverage of the Programme may be extended in function of the identification of further information obligations eligible for reduction”.

In order to take into account stakeholders’ ideas, assess the extent of reduction efforts better and further increase benefits for businesses, the scope of the Action Programme is extended to 30 acts listed in Annex 9. The Commission already tabled proposals on some of these acts.

An example of an area to which the programme will be extended is formalities imposed on shipping companies transporting goods by sea within the European Union. The Commission will propose in 2009 a European Maritime Transport Space without Barriers in order to minimise formalities on goods transported by sea between EU ports, notably with the support of new technologies.

³³ http://ec.europa.eu/enterprise/admin-burdens-reduction/news_en.htm.

³⁴ Proceedings on http://ec.europa.eu/enterprise/admin-burdens-reduction/redtape_conference_en.htm.

³⁵ See European Parliament Resolution A6-0275/2007: Report on minimising administrative cost imposed by legislation of 10 July 2007

³⁶ See Annex 8. http://ec.europa.eu/enterprise/admin-burdens-reduction/highlevelgroup_en.htm

³⁷ http://ec.europa.eu/enterprise/admin-burdens-reduction/competition_en.htm or www.best-idea-award.eu.

³⁸ See COM(2007) 23.

7. NATIONAL PROGRAMMES FOR REDUCING ADMINISTRATIVE BURDENS

7.1. National targets

The invitation of the European Council in March 2007 and the Action Programme have significantly contributed to increase momentum, with the number of Member States having set national reduction targets rising from 7 at end 2006, to 14 at end 2007 and 21 at end 2008³⁹. A large majority have aligned their objective with the 25% reduction target set for the EU level. A number of Member States which set a national target at an early stage have already enacted major changes to the measures implementing or transposing EC legislation in their country and to their purely national legislation⁴⁰. All Member States should now actively prepare and enact reduction measures.

7.2. The need for coordinated efforts at EU and national levels

Various examples show that coordinated efforts at both EU and Member State levels are needed to ensure less burdens for more outcomes. This implies that progress with the reductions delivered at EU and Member State levels needs to be monitored in parallel. Member States are also invited, as part of their national programmes, to continue to identify what changes could be needed at EU level to allow them to cut unnecessary administrative burdens.

The Commission also developed a “starter kit”⁴¹ to help Member States to measure and reduce administrative burdens. Building on best practice, this kit will include ready-to-use documents (templates serving as guides for interviews, planning sheets, reporting templates, simplification roadmaps, etc.), a generic database for storing national data on administrative burdens and an administrative burdens calculator. These IT tools are designed to be easily adapted to national specificities. The starter kit will be available in early 2009, along with initial technical support. The Member States are invited to take full advantage of it in order to further data harmonisation and comparability.

7.3. Sharing best practices

The Commission will continue to work closely with national authorities responsible for implementing and transposing EU legislation, in order to disseminate good practices capable of reducing quickly administrative burdens including at sectoral level. The Commission already works with Member States to facilitate implementation or transposition of EC legislation, for example through transposition groups where Member States can compare and discuss draft approaches and choices. In 2009, the same method will be used in each priority area on the basis of detailed recommendations for reduction.

8. NEXT STEPS

The Commission will:

³⁹ See Annex 10.

⁴⁰ See Annex 12.

⁴¹ See Annex 13.

- identify, on the basis notably of the EU baseline measurement, the specific reductions to be made in each of the 13 priority areas and will make every effort to present all proposals stemming from the present Action Programme to reduce the administrative burdens imposed by EU legislation before the end of its mandate;
- systematically look for further reductions in administrative burdens whenever EC legislation undergoes (sunset) review or revision;
- reinforce the part of its impact assessment guidelines concerned with administrative burdens by putting in place in early 2009 new IT tools designed to facilitate calculation of such burdens;
- step up efforts to disseminate good practices capable of reducing quickly administrative burdens, by working more closely with national authorities responsible for transposing EU legislation; and
- provide a starter kit for measuring and reducing administrative burdens at Member State level in early 2009.

Parliament and Council are invited to:

- adopt pending reduction proposals as quickly as possible;
- consider the impact of their amendments in terms of administrative burdens ;
- put in place procedures to speed up adoption of simplification measures as foreseen in the 2003 Inter-Institutional Agreement on Better Lawmaking.

Member States are invited to:

- where appropriate, submit their national reduction target ahead of the 2009 Spring European Council;
- take into account the findings and recommendations of the Action Programme when reducing burdens stemming from transposition and implementation of EU legislation;
- identify which changes are needed in EU level to allow them to cut unnecessary administrative burden;
- introduce concrete reduction measures at their level and report on these as part of the annual national progress reports on the Lisbon strategy;
- take full advantage of the starter kit developed by the Commission for future measurement and reduction work, in order to further data harmonisation and comparability;
- conclude their national baseline measurement by the end of 2010 at the latest;
- set common principles for monitoring progress with the reductions delivered at EU and Member State levels.