



**COUNCIL OF
THE EUROPEAN UNION**

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COMPET 482

NOTE

from :	General Secretariat of the Council
to :	Council (Competitiveness)
No prev. doc.	15353/1/09 COMPET 456 REV 1
Subject :	Better Regulation
	- Adoption of Council conclusions

Delegations will find attached draft Council conclusions on "Better Regulation" which were prepared by the Permanent Representatives Committee at its meetings on 13 and 25 November 2009. The Commission maintains one reservation as indicated in footnote 1.

The Competitiveness Council is invited to address the outstanding issue and adopt the conclusions at its meeting on 3 and 4 December 2009.

Draft Council Conclusions on Better Regulation
to be adopted at the 3-4 December 2009 Competitiveness Council

THE COUNCIL,

1. EXPRESSES ITS CONVICTION that Better Regulation will continue to be a key factor for strengthening the competitiveness of businesses – in particular micro, small and medium-sized enterprises – and for creating sustainable economic growth and jobs;
2. REAFFIRMS that Better Regulation is about better policy and law-making, a process for shaping a better regulatory environment for businesses, citizens and public administrations and a well-functioning internal market, while respecting the *acquis communautaire* and the principles of subsidiarity and proportionality;
3. ACKNOWLEDGES that important progress has been achieved both at EU level and in the Member States in taking the Better Regulation Agenda forward; STRESSES, however, that more needs to be done and that continued progress requires joint responsibility and commitment by all parties concerned; UNDERLINES the need for all levels in the EU institutions as well as in the Member States to put Better Regulation principles at the heart of their decision-making processes;

IMPACT ASSESSMENTS

4. STRESSES that the use of impact assessments by EU institutions must be improved and that the presentation and quality of assessments must be enhanced so as to allow for better evidence-based decision-making and high quality legislation; ACKNOWLEDGES the importance of highlighting impacts of substantive amendments to legislative proposals during the negotiating process, where appropriate, in line with the Inter-Institutional Common Approach to Impact Assessment; WELCOMES the work done by the

Commission's Impact Assessment Board to improve the quality of impact assessments in line with the Commission's Impact Assessment Guidelines; TAKES NOTE with interest of the initiative taken by the European Court of Auditors to assess the Impact Assessment system; CONSIDERS that there is scope for improvement as regards, *inter alia*, evaluation of alternative policy options, transparency and quantification of administrative burdens as well as other costs and benefits; CALLS FOR impact assessments for all forthcoming significant proposals presented within the framework of the Action Programme for Reducing Administrative Burdens in the EU;

5. INVITES THE COMMISSION to further enhance the use and quality of impact assessments;
6. COMMITS ITSELF to take the Commission's impact assessments, including the opinions of the Impact Assessment Board, into full account when examining legislative proposals;
7. INVITES THE MEMBER STATES to develop impact assessment systems in accordance with their national circumstances, including providing their civil servants with training in handling impact assessments;

REDUCTION OF ADMINISTRATIVE BURDENS AND SIMPLIFICATION

8. CALLS FOR reinforced joint efforts by EU institutions and the Member States to reach the agreed target of reducing the administrative burdens on business stemming from EU legislation by 25 per cent by 2012 and with the aim of having some impacts felt by businesses by the end of 2010; REITERATES that progress in reducing administrative burdens would be undermined by additional administrative costs resulting from new legislative proposals; WELCOMES the Commission's Communication on the Action Programme for Reducing Administrative Burdens in the EU with sectoral reduction plans and new actions (COM (2009) 544 final) as well as the progress achieved so far by the Commission in tabling reduction proposals; CONSIDERS that greater progress needs to be made in adopting simplification proposals under the co-decision procedure;

9. INVITES THE COMMISSION to
- ensure that impact assessments thoroughly analyse the administrative burdens, as far as possible in quantitative terms, with a view to avoiding all unnecessary burdens;
 - take into consideration that the reduction measures should not transfer excessive administrative burdens to public administrations;
 - closely monitor progress in reducing administrative burdens, involve business in providing ‘reality checks’ of the effects of the reduction measures and report annually to the spring European Council on the implementation of reduction measures as well as on significant changes in administrative burdens;
 - launch further reduction measures whenever necessary [to meet the target set]¹ and continue to identify new proposals for simplification of EU legislation;
 - put the sectoral reduction plans in the aforementioned Commission’s Communication into practice, follow-up on the results and report on an annual basis;
10. COMMITS ITSELF, AND INVITES THE EUROPEAN PARLIAMENT, to avoid adding unnecessary administrative burdens to legislative proposals in general;
11. INVITES THE MEMBER STATES to continue to reduce the administrative burdens, simplify their legislation and enhance their sharing of good practices;

CONSULTATION AND ACCESS TO LAW

12. STRESSES the need for early and timely stakeholder consultation, using appropriate methods including on-line consultation, throughout the policy-making cycle to enhance regulatory quality; REAFFIRMS the importance of enhancing access to law and the need for clear and simple language in order to make the regulatory framework easier to comply with;
13. INVITES THE COMMISSION, in cooperation with other EU institutions, to consider further ways to facilitate the access to law for businesses and citizens and CALLS ON the Commission to report on important achievements in this regard within the existing reporting framework;

¹ Commission: reservation; requests deletion of words in square brackets.

THE FUTURE BETTER REGULATION AGENDA

14. UNDERLINES that concrete action needs to be undertaken soon to pave the way for the future agenda for Better Regulation and a smart regulatory framework; ACKNOWLEDGES that new solutions may be needed to tackle future challenges and TAKES NOTE with interest of the input already provided by various Member States and stakeholders for the Better Regulation Agenda from 2010 and onwards;

IN THIS REGARD, THE COUNCIL

15. CALLS FOR enhanced political ownership of the Better Regulation Agenda across the EU and a positive long term cultural change as regards attitudes towards Better Regulation principles among those involved in the decision-making processes, better use of preparatory policy documents, more extensive training of regulators and other civil servants, better communication, enhanced use of stakeholder consultation during the decision-making processes and better use of “Think Small First” as a guiding principle;
16. UNDERLINES the need for efficient allocation and use of resources for carrying out impact assessments; CONSIDERS that assessments that reflect potential impacts of substantive amendments by the Institutions to legislative proposals during the co-decision procedure would enable better evidence-based decision-making and would be of value for all parties involved at EU level and in Member States when EU legal acts are transposed into national law; WELCOMES the assistance already offered by the Commission to try to ensure that its impact assessments better anticipate issues that are likely to be raised by the Council or the Parliament and also consider other appropriate ways to facilitate the assessment of impacts during the co-decision procedure; RECOGNISES the need to review the Inter-Institutional Common Approach to Impact Assessment, *inter alia* for finding a practical way for the handling of substantive amendments during the co-decision procedure;
17. STRESSES that, in addition to the importance of improved use of existing better regulation instruments, the need for new instruments and better use of eGovernment in the better regulation work should be considered continuously;

18. CONSIDERS that Better Regulation must be based on a comprehensive approach that in the future may comprise, where appropriate, new incentives, indicators and targets that also take into account aspects of regulatory burdens other than just administrative ones, such as compliance costs and perceptions of the effects of regulatory requirements; RECOGNISES also the need to consider transposition, implementation and enforcement aspects of regulatory requirements and costs arising from cross-border activities; ACKNOWLEDGES at the same time the importance of keeping the better regulation work easy to administrate and user-friendly;
19. INVITES THE EU INSTITUTIONS AND THE MEMBER STATES to
- find ways to evaluate effectively existing instruments, structures and work done to create a better regulatory environment at EU level;
 - improve the communication with and consider strengthening existing advisory groups, and make better use of current structures, while also considering possible future needs, such as other forms of co-operation at EU level and with national regulatory experts, for better coordination, advice and input;
20. INVITES THE COMMISSION to
- ensure effective consultation with stakeholders when drafting impact assessments and consider more possible alternative policy options, as regards both content and type of action, and carry out high quality impact assessments, in particular on key strategic initiatives;
 - expand its use of *ex-post* evaluations of relevant existing pieces of legislation and consider how to link those evaluations to impact assessments in a more systematic way;
 - consider to extend the minimum period for consultation of stakeholders to 12 weeks, with exceptions where appropriate;

- find ways to ensure better input from stakeholders – in particular from micro, small and medium-sized enterprises – and make ‘reality checks’ of planned or undertaken measures;
- take into consideration input by Member States and stakeholders and present how to develop current work on administrative burdens reduction and simplification and how to develop the future agenda for Better Regulation and a smart regulatory framework from 2010 and onwards.
