



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 May 2013

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NOTE

from: Committee of Permanent Representatives (Part I)
to: Council (Competitiveness)

Subject: Draft Council Conclusions on Smart Regulation

1. On 12 December 2012, the Commission adopted a Communication entitled "EU Regulatory Fitness" and on 7 March 2013 a Communication entitled "Smart Regulation - Responding to the needs of small and medium-sized enterprises".
2. On 4 March 2013, the Presidency presented draft conclusions on the above Communications to the Working Party on Competitiveness and Growth. The Working Party discussed the draft conclusions on 4 March and 8 April 2013.
3. On 15 May 2013, the Permanent Representatives Committee took note of the draft Conclusions and agreed to forward them to the Council in view to their adoption.
4. The Council (Competitiveness) on 29 May 2013 is invited to adopt the draft Council Conclusions set out in the Annex to this Note.

Draft COUNCIL CONCLUSIONS ON SMART REGULATION

On the basis of the Conclusions of the European Council of 14/15 March 2013¹, as well as the Commission Communications "EU Regulatory Fitness" adopted on 12 December 2012² and "Smart Regulation - Responding to the needs of small and medium-sized enterprises" adopted on 7 March 2013³.

"THE COUNCIL (Competitiveness)

1. **ACKNOWLEDGES** that regulation is a necessary tool for addressing the needs of EU citizens and businesses, including social, financial, environmental, consumer or external aims, that EU legislation is essential to achieve the objectives of the EU Treaty, and that well designed and implemented regulation is essential to reaching EU policy goals at minimum cost; however, **STRESSES** that ensuring EU competitiveness requires a continued effort be made to avoid and reduce unnecessary regulatory burdens for government, public authorities, business and citizens.
2. **EMPHASISES** that Smart Regulation is about achieving benefits at minimum cost, and means ensuring that: the potential costs and benefits of non-regulation and non-action are considered; alternatives to regulation are considered; regulation is evidence-based, in particular by means of robust Impact Assessment, and fit for purpose; the principles of subsidiarity and proportionality are respected; administrative procedures are efficient; unnecessary costs are removed without undermining the policy goals of regulation; overlaps, inconsistencies and gaps are identified and removed; and both effectiveness and efficiency are reviewed on a regular basis. It is a shared mission, involving all the European institutions and the Member States.

¹ EUCO 23/13.

² Doc. 17784/12.

³ Doc. 7268/13.

3. **AGREES** that in the light of the challenges facing the European economy, the current focus of Smart Regulation should be on what boosts competitiveness and opportunities for jobs, especially in the smallest enterprises, and therefore what contributes to strong, smart, sustainable and inclusive growth across the Single Market, and that progress must be quick, concrete and transparent.
4. **SUPPORTS** the Commission's whole-policy-cycle approach to Smart Regulation, along with the goal of minimizing unnecessary regulatory burdens particularly for small and micro-enterprises; in this context, **WELCOMES** the Communication of 12 December 2012 on EU Regulatory Fitness including the proposed REFIT Programme, which will identify burdens, overlaps, inconsistencies, gaps and ineffective measures, and in particular, the Commission's commitments:
- to an 'evaluate first' policy;
 - to improve ex-ante assessment of benefits and costs;
 - to include a standardised 2-page summary sheet in Impact Assessment (IA) reports, which *inter alia* presents the estimated benefits and costs of new proposals;
 - to set up a single tracking system (scoreboard) to assess progress of proposals and results;
 - to conduct further fitness checks; and
 - to require, in principle, a positive opinion from its Impact Assessment Board (IAB) before a proposal with significant impact is submitted for decision.

5. **AGREES** that regulation needs to be designed with SMEs in mind, and, in this context, also **WELCOMES** the Commission's Communication of 7 March 2013 "Smart Regulation – Responding to the needs of SMEs", and in particular:
- the strengthening of the application of the SME test;
 - the ongoing screening of the *acquis* to identify legislation with significant impact on SMEs;
 - the ongoing work of the Commission to consult SMEs and SME stakeholders directly and in cooperation with Member States and *inter alia* via the SME Envoy network and the Enterprise Europe Network;
 - the extension of the mandates of the High Level Groups on Administrative Burdens and of National Regulatory Experts until October 2014.
6. But, **STRESSES** that further action is required and therefore the urgency of making concrete and transparent progress, as well as the importance of immediate action by all actors involved, leading to tangible reductions in the overall burden of regulation for businesses, especially small businesses, as well as simplification for end-users.
7. Therefore, **CALLS ON** the Commission to ensure swift and effective implementation of the REFIT Programme by:
- Rapidly and transparently identifying the regulatory areas and pieces of legislation with the greatest need and potential for simplifying rules and reducing regulatory cost for businesses;
 - Working with Member States to identify relevant national level data, where available, on and assessment of the regulatory costs and benefits arising from implementation of initiatives identified;

- Publishing: before the summer 2013 the results of its mapping exercise; and in the autumn all planned REFIT initiatives starting from the 2014 work programme, prioritising those arising from the ‘Top Ten’ consultation; and by end 2013 the results of the pilot fitness checks launched before 2012;
- In particular to publish initial concrete proposals to implement its findings on the ‘Top Ten’ most burdensome regulations for SMEs by June 2013; and in autumn 2013, the first proposals for simplification and reducing the regulatory burden, under REFIT;
- Carrying out comprehensive evaluations in the identified areas, taking action to reduce unnecessary regulatory costs wherever possible and assessing whether quantitative targets for burden reduction should be examined in particular areas;
- Reporting annually by means of the single tracking system (scoreboard) on the proposals arising under the REFIT framework, including those relating to SMEs, and their progress through the EU institutions and at the transposition stage, and flagging whether regulatory cost has been added or reduced with results open for stakeholder comment;

It also **ENCOURAGES** the Commission to use the REFIT programme to identify and propose in autumn 2013 the withdrawal of existing regulations that are no longer of use, as well as putting forward a list of pending proposals to be withdrawn as part of its annual work programme, and to pursue the consolidation of existing legislation as part of its simplification work, as called for by the European Council of March 2013; and

- To rigorously apply the SME Test and Think Small First principle.

8. **AGREES** that Smart Regulation is a shared responsibility and **WELCOMES**:

- the Commission's commitment to apply common commencement dates more widely for EU regulation affecting business;
- the proposal to launch pilot joint evaluations with interested Member States; and
- the thrust of the ABR+ initiative which will focus on follow-up in Member States, in order to facilitate best practice exchanges;
- the extension of the minimum consultation period from 8 to 12 weeks; and

ENCOURAGES the Commission to intensify its efforts towards improving electronic access to the full body of EU legislation and in particular completion of development by the Publications Office of the new EUR-Lex common portal as soon as possible.

9. **PROPOSES** that the Commission and Member States work more closely together to share good IA practice, with the aim to develop comparable, transparent and flexible methodologies for IA across all EU Institutions and Member States; **URGES** Member States to pay particular attention to avoiding additional unnecessary burdens in the implementation of EU legislation; and **RECOMMENDS** that Member States participate in the joint evaluation pilots with the Commission to their mutual benefit.
