

Advancing regulatory reform in Europe

A joint statement of the Irish, Dutch, Luxembourg, UK, Austrian and Finnish Presidencies of the European Union

7 December 2004

Dear Colleague,

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In January 2004, the Finance Ministers of Ireland, the Netherlands, Luxembourg and the UK set out shared plans to place regulatory reform at the heart of their consecutive EU Presidencies, spanning 2004 and 2005, and presented joint proposals for reform of the EU regulatory framework.

Regulatory reform has now become a key priority within Europe. Following the work of the Mandelkern group on better regulation and the Commission's better regulation Action Plan, substantial progress has been made in both the Competitiveness Council and ECOFIN. Presidencies of both Council Formations therefore sign up to this update of the joint initiative.

The four Presidency statement drew attention to the economic cost of poor and excessive regulation, and the benefits that respected and independent research shows could flow to European growth and productivity from improvements to the regulatory framework. Committed to regulatory reform at the domestic level, the four Presidencies also set out how they would work together to promote reform of the European legislative framework which accounts for a significant proportion of the costs of regulation on businesses in Member States.

The March 2004 European Council welcomed the joint statement and called on the Council and the European Commission to pursue a programme of actions to drive forward the reform process. The Spring Council focussed in particular on refining the integrated impact assessment process, by enhancing a

competitiveness dimension, and on developing a methodology to measure administrative burdens for business. It also invited the Commission to take account of the Council's views in relation to priority areas for simplification and invited member states to commit to accelerated implementation of national regulatory reform initiatives. At its November 2004 meeting, the European Council welcomed the progress made by the European Commission, the European Parliament and the Council in developing and implementing this important reform agenda over the course of the year.

This statement, presented at the end of the Dutch Presidency of the EU, builds on the valuable progress that has been made by the European Commission, Council and Parliament over the course of the year and sets out our objectives for reform in the coming years. As such, it also extends the joint initiative to include the forthcoming Austrian and Finnish Presidencies, presenting further concrete proposals for reform to enhance and improve the European regulatory framework during 2005 and 2006 in support of the Lisbon strategy.

Tackling the administrative costs of regulation

Tackling the burden of administrative costs on business is a key element of the shared agenda set out by the Irish, Dutch, Luxembourg and UK Presidencies in January 2004. Administrative costs, borne by businesses across the EU, present a significant burden on enterprise and a drag on growth.

To ensure that these benefits are realised, and to advance the Lisbon goals, the Member States of the European Union must take action in their own economies to assess and control unnecessary growth in the administrative burden. However, for such action to be effective, and as stated by the October ECOFIN Council and the November European Council, action is also needed to establish

a common methodology for measuring the administrative costs of regulation originating in the European Union.

The six Presidencies strongly welcome the intention of the European Commission to present a Communication on this issue, which should set out clearly how a European methodology is to be developed and how pilot projects, with the agreed provision of information by Member States, will be used to determine the technical characteristics of the methodology and its application in both ex ante and ex post cases on a microeconomic basis. These pilots should pave the way to strengthening the regulatory regime at the European level and fulfilling one of the key recommendations of the report of the High Level Group on the Mid-Term Review of the Lisbon strategy. We also welcome the Commission's intention in its revised Guidelines for Impact Assessment to include an assessment of administrative burdens in future impact assessments. Looking forward, we believe that:

- **a common European methodology for the measurement of administrative burdens should be presented and implemented by the Commission as soon as possible in 2005.** In particular, a common methodology can be agreed by the end of the Luxembourg Presidency;
- **subsequently, and before the end of 2005, assessment of the administrative burden should be included in integrated European Commission impact assessments for all new Directives,** alongside an explanation of how these have been kept to the minimum needed to ensure the effective delivery of the political objectives of the legislation in question;
- **the methodology to measure administrative burdens should also be used when developing simplification proposals.** This will ensure that simplification contributes effectively to the competitiveness of the European economy and to the objectives of the Lisbon strategy; and

- **the Council could review annually, on the basis of a Commission paper, the way in which the administrative burden of EU regulation has changed**, for example over a twelve month period. The High Level Group recommended the introduction of targets for the reduction of the administrative burden, while the ECOFIN Council has invited the Commission and Member States to consider developing quantitative objectives for reducing the administrative burden on business in selected areas.

Competitiveness testing and impact assessment

Alongside work to improve the measurement and control of administrative burdens, we are also committed to promoting improvement in the methodology used for regulatory impact assessments, including the competitiveness testing of significant European legislation. In this respect, we welcome the valuable work that has been carried out during the course of the year by the European Commission, with the input of the Competitiveness Council, and believe that a well resourced impact assessment system is central to improving regulatory quality. In particular, we welcome the intention of the European Commission to strengthen its Guidelines for Impact Assessment to ensure that competitiveness considerations for business and the European economy are properly taken into account in the formulation and discussion of regulation, as recommended by the High Level Group. Looking forward, we believe that :

- **the Competitiveness Council should develop its role and capacity to consider proposals that are likely to have substantial effects on competitiveness**, alongside the work of other Council formations. In particular, as agreed by the 2003 spring European Council, the Competitiveness Council should play its horizontal role by identifying items of

particular interest and systematically examining such dossiers to inform work in Coreper and the Council. The Competitiveness Council will also make use of the Commission's intended road maps in identifying proposals with significant implications for competitiveness. The forthcoming Presidencies commit to working with the Commission to identify priority dossiers for competitiveness testing;

- **the Council and the European Parliament should make systematic use of the Commission's strengthened impact assessments**, as agreed within the Competitiveness Council, and develop guidelines and procedures for evaluation of their own amendments as soon as possible, as foreseen in the Inter-Institutional Agreement on Better Lawmaking; and
- **Member States should draw on the benchmark project on impact assessment being coordinated by the informal network of Directors and Experts of Better Regulation** as a step to developing the common methodology of impact assessment foreseen as a possibility in the Inter-Institutional Agreement on Better Lawmaking.

Simplification of existing regulation

As we seek to improve the quality of new regulatory proposals we must also address burdens imposed by the existing stock of regulation, through properly focused and systematic simplification of the acquis. To be effective, simplification and consolidation must genuinely lead to a reduction in the economic burden of regulation on business without calling into question the political objectives of legislation. It must also be seen as a continuous and ongoing process.

The March 2004 European Council invited the Council to identify priority areas for simplification to be taken into account by the European Commission in its existing simplification programme. Following a joint invitation of the Irish and Dutch Presidencies, twenty-one Member States submitted 330 concrete proposals for regulatory simplification, of which the Competitiveness Council has identified 15 priorities to be included in the European Commission's ongoing simplification programme. Looking ahead :

- **the European Commission should incorporate the recommendations of the Council into its simplification programme, setting out clear timetables for making progress on individual dossiers, and updating the Council in March 2005 on the progress that has been made.** The institutions should also work together to ensure the effective and timely delivery of measures outstanding in the existing simplification programme;
- **the Council and the European Parliament should modify their working methods so that simplification proposals can be dealt with effectively and efficiently,** as foreseen in the Inter-Institutional Agreement on Better Lawmaking; and
- **the forthcoming Presidencies, working within the Competitiveness Council, commit to identify further priority areas for simplification and to establish a more systematic process for pursuing simplification with a focus on enhancing the competitiveness of the European economy.** During 2005 the Luxembourg and UK Presidencies will present a joint request to the Member States for further nominations, and will present these for incorporation into the European Commission's ongoing simplification programme.

Strengthening the regulatory framework

Regulatory reform is not a one-off but rather a continuing process. This is clear from the ongoing efforts that the Member States are making to improve their own regulatory frameworks and the Commission's continuing work to implement the Better Regulation Action Plan. The Irish, Dutch, Luxembourg, UK, Austrian and Finnish Presidencies of the European Council are therefore committed to working together throughout 2005 and 2006 to deliver progress against the agenda described above and to promote further progress on this shared agenda in the longer term, without prejudice to the right of initiative of the European Commission. In particular, we believe that further action should be initiated to:

- **enable the EU to assess and control the economic impacts and administrative costs imposed by European legislation. As we seek to refocus the Lisbon agenda through the mid-term review, so too must we develop clear objectives and goals that enable us to take a comprehensive view of how regulation is affecting business and competitiveness across Europe and bring to an end the increase in administrative burdens in our economies associated with EU regulation, while remaining committed to our wider objectives to promote environmental sustainability and social cohesion.** Clear and measurable objectives and goals, agreed at the European level, would provide a vital focal point for further action on regulatory reform, informing both discussion of future regulatory proposals and the Commission's work on regulatory simplification. In doing so it would help to ensure that genuine progress is made towards reducing the overall economic costs associated with excessive or poorly designed regulation;
- **develop indicators to measure progress with regulatory quality and reform at EU and Member State level.** In consultation with the Council, the Commission should propose indicators to measure progress with regulatory

quality and reform at EU and Member State level, drawing on the results of its MAP project on indicators that will be presented at the beginning of 2005;

- **develop external quality control arrangements for identifying, ex post, good and bad practice in impact assessment by the institutions and highlighting where assessments do not meet the standard required.** It is right that those designing and developing policy proposals are responsible for assessing their burden and for presenting options which achieve stated goals at minimum economic cost. But for this to work effectively, and for there to be a high degree of external credibility in the policy-making process, there must be clear accountability for the quality of this assessment. The six Presidencies commit to explore the range of options available for establishing such arrangements. In addition, Member States, working together in the Council, have a clear role to play in assessing the quality of impact assessments produced alongside regulatory proposals, and as consecutive Presidencies we will ensure that such scrutiny is given priority;
- **strengthen and improve pre-legislative consultation with the full range of stakeholders in the policy-making process, in particular by ensuring that substantive consultation methods, including, inter alia, Green and White Papers, are used widely and systematically to enable transparent discussion of Community proposals.** For all significant policy proposals, before the decision is taken to proceed to full legislative proposals, there should be public consultation on the full range of policy options, including the estimated administrative and wider policy costs of each approach. The European Commission has already announced in its Progress Report that it intends to enhance pre-legislative consultation in the framework of its integrated impact assessment process, and is invited to set out as soon as possible how it intends to deliver this commitment;

- **within the context of improved consultation, strengthen business input into the process of regulatory development and reform, for example by considering the establishment of a new task force to provide input for the institutions in assessing progress and to identifying areas where further reform is needed.** Many Member States have already developed mechanisms for allowing those who bear the costs of regulation to inform and provide advice as part of the regulatory process. We believe there is scope for considering these innovations at the European level. Responsibilities of such a task force could include providing an additional perspective on the quality of impact assessment at the European level, identifying areas of existing legislation which impose unnecessarily high economic or compliance costs, and preparing an annual report for the Council, the European Commission and the European Parliament on their view of progress to date and priorities for future action, including for simplification; and
- **ensure that non-legislative options, including the “do nothing” option, get stronger consideration at EU level.** The decision to proceed with legislation should never be taken as a given in impact assessment. In order to allow a consideration of non-regulatory and less burdensome alternatives by the Council, equal weight needs to be given in all European Commission impact assessments to the relative costs and benefits of no action, of the proposed route of action and, where legislation is proposed, to the possibility of at least one further non-legislative approach. To facilitate discussion of non-regulatory and less burdensome alternatives in the Council, Member States should share their domestic experiences with the use of market-based alternatives to regulation, such as the pro-active use of competition policy.

We remain confident that our vision of an effective regulatory framework in Europe, focused on the objectives of the Lisbon strategy, is widely shared within the EU institutions and Member States and among those external stakeholders most affected by regulatory practice in Europe. We look forward to continuing our important work on this issue during the coming years.

Yours sincerely,

Ireland

Brian Cowen Minister for Finance

Micheál Martin Minister for Enterprise, Trade and Employment

Netherlands

Laurens Jan Brinkhorst Minister for Economic Affairs

Gerrit Zalm Minister of Finance

Luxembourg

Jeannot Krecké Minister of the Economy

United Kingdom

Gordon Brown Chancellor of the Exchequer

Patricia Hewitt Secretary of State for Trade and Industry

Austria

Martin Bartenstein Federal Minister of Economics and Labour

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