

18 December 2006

COMMISSION COMMUNICATION

A STRATEGIC REVIEW OF BETTER REGULATION IN THE EUROPEAN UNION

EXECUTIVE SUMMARY

Simplification

- UNICE regrets to note that the handling of simplification proposals by the Council and European Parliament is far too complicated and time-consuming.
- In order to make real progress on simplification, there should be a fast-track procedure which ensures that simplification proposals are dealt with quickly and without creating new burdens.

Administrative cost measurement and reduction

- UNICE strongly supports the measurement and reduction of administrative costs generated by legislation in the EU and urges the Member States to agree a baseline measurement on the basis of a common methodology as well as an overall 25% reduction target for administrative burdens of EU and national legislation to be achieved by 2012 with yearly interim targets to monitor progress.
- There should be immediate results to show concrete progress and a fast-track approval procedure for reduction measures.

Impact Assessments

- An integrated approach should be adopted to develop one single tool to assess the impact of future EU legislation which should focus on the expected costs and benefits in terms of economic growth and employment.
- More independence is needed to improve the quality of impact assessments and UNICE hopes that the new Impact Assessment Board will be sufficiently independent and able to ensure high quality impact assessments.
- Business representatives and other stakeholders should be part of the network of external experts which is to advise on the quality of impact assessments.

Self- and co-regulation

- UNICE favours increased recourse to alternatives to traditional legislation and this option should always be taken into consideration when an impact assessment is carried out.

Cooperation with Member States and European Parliament

- Member States should do more in the area of better regulation and the Council and European Parliament should assess the impact of substantive amendments to legislative proposals.
- Progress on better regulation at national level should be reported and the Commission should evaluate developments.

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1. INTRODUCTION

With great interest UNICE has noted the Commission's Communication setting out a strategic review of better regulation in the EU and the two accompanying working papers on simplification and administrative cost reduction. UNICE is pleased that the Commission has once more demonstrated that it is strongly committed to simplifying and improving the regulatory environment in Europe. The strategic review of the better regulation project should give renewed impetus to the cutting of red tape and enhance the effectiveness of the programme.

Too much red tape is one of the most common complaints from businesses. The need to comply with an increasing amount of legislation, and the costs linked with their enforcement, compel European businesses to invest time and professional fees in learning about new rules, to fill in forms, to report statistics and other information. The cumulative effect of many rules and formalities is to slow down business responsiveness, divert resources away from productive investment, reduce innovation and job creation and discourage entrepreneurship.

UNICE thus strongly supports new efforts to improve legislation and achieve concrete results. It appreciates initiatives to improve the quality of impact assessments and commends the Commission for having published a comprehensive policy document in which it launches an ambitious and welcome framework of action to further cut red tape whilst highlighting those areas in which more efforts are needed.

UNICE welcomes taking part in discussions on how to ensure that genuine progress is made towards reducing the costs of legislation and to achieve better regulation for growth and jobs in the EU, and its views and recommendations regarding the issues raised in the Communication are set out below.

2. COMMISSION COMMUNICATION

Simplification

It is set out in the Communication that the Commission will speed up adoption of simplification proposals that were planned for 2006. At the same time, it is acknowledged in the working document on simplification that almost all simplification proposals are still pending before the legislator.

Although UNICE appreciates the accelerated adoption of proposals by the Commission, it regrets to note that the subsequent handling of simplification proposals by the Council and European Parliament is far too complicated and takes far too much time. On 29 June 2005, UNICE set out its views about simplification in a letter to Vice-President Günter Verheugen. Parallel to identifying concrete pieces of legislation about which UNICE had concerns, it stressed the importance that the Council and the European Parliament modify their working methods so that simplification proposals can be dealt with quickly and do not become burdens in themselves.

Unfortunately, this issue remains unresolved. There is a considerable risk that new burdens will be added during the legislative process and overall the procedure is far too time-consuming. The Commission acknowledges this in the Communication, explaining that in order to facilitate the inter-institutional decision-making process, it will integrate simplification proposals in the Annual Work Programme and fully exploit the explanatory memorandum to better explain the simplification objectives of a concrete proposal. In addition, it will test on a case-by-case basis the possibilities for establishing improved inter-institutional working methods. UNICE is convinced that more is needed. In order to make real progress on simplification, it is vital that there is a fast-track procedure which ensures that simplification proposals are dealt with quickly and without creating new burdens.

Having said this, UNICE is pleased that a number of simplification proposals, adopted or planned, are related to pieces of legislation that have also been raised as problematic by us in our letter to Vice-President Verheugen, such as the review of the rules on waste and energy efficiency. UNICE is especially happy about the planned simplification of Intrastat obligations and the procedures of the Seventh Framework for research, technological development and demonstration activities. This reflects issues also raised in our letter, although we regret the way REACH, also presented as a simplification proposal, is being handled. Several of the other planned simplification proposals are also highly relevant for UNICE, such as the review of the rules on industrial emissions, the revision of the consumer *acquis*, and initiatives in the area of company law but UNICE would like to stress once more, that it is of vital importance that simplification proposals really reduce costs for businesses and do not increase burdens, for example, by forcing companies to invest more time and resources in adapting to changes or, worse, by forcing them to comply with new requirements added as a result of the legislative process.

Administrative costs measurement and reduction

UNICE strongly supports the measurement and reduction of administrative costs generated by legislation in the EU and urges the Member States to endorse this initiative and agree an 'across-the-board' baseline measurement on the basis of a common methodology as well as an overall 25% reduction target for administrative burdens of EU and national legislation to be achieved by 2012 with possible intermediate targets.

Measuring administrative costs on the basis of a common methodology and setting a concrete net target for reduction, both for the EU and for the individual countries, would be an important improvement in rendering the better regulation project more effective and achieving real results, especially for SMEs. Information about the size of administrative costs and a concrete goal for the reduction of these burdens will not only greatly help businesses to compete better but it will also raise awareness about the need for cost reductions and generate support for concrete proposals.

UNICE also appreciates that the Commission recognises the need for some immediate results to show concrete progress. Only real results will boost confidence in the overall worth of the better regulation project. UNICE thus strongly recommends that the Member States, alongside the overall 25% reduction target after five years, also agree yearly interim targets to monitor progress.

With a view to identifying priority areas for immediate action, UNICE would also like to take the opportunity to mention the following pieces of legislation, where it believes some administrative cost reductions could be achieved:

- *Directive on transparency requirements for issuers whose securities are admitted to trading on a regulated market (Transparency Directive).*
Solution: Make it possible to disclose electronically on the internet.
- *VAT Directives*
Solution: Set up a 'one-stop-shop' for the handling of cross-border VAT payments.
- *Intrastat, Extrastat and Prodcom*
Solution: Standardize the nomenclature and abolish burdensome measuring requirements.
- *Regulation concerning structural statistics on earnings and labour costs*
Solution: Limit information requirements to companies with more than 20 employees and extend the reference period to six-yearly intervals for the production of statistics related to earnings.

Lastly, as set out in the Communication, immediate results in this area will only be achieved if the Council and European Parliament agree a fast-track approval procedure. As pointed out above, the need for a fast-track procedure is urgent. The EU will only be able to achieve real results in the area of better regulation if all the Institutions subscribe to the need for improved legislation and cost reductions, and UNICE thus urgently calls on the Commission, the Member States and the European Parliament to agree a fast-track approval procedure for simplification proposals.

Impact Assessments

The Commission recognises that the quality of impact assessments should be improved. UNICE is very pleased about this considering that impact assessments are crucial for getting an idea about the cost-effectiveness of proposed legislation. Improving the process for impact assessments is essential for ensuring that new legislation is in the interest of society as a whole. Europe's economic and social objectives are interlinked, and GDP growth and job creation are the best way to achieve Europe's goals. An integrated approach should be adopted to develop one single tool to assess the impact of future EU legislation which should focus on the expected costs and benefits in terms of economic growth and employment.

To improve the quality of impact assessments, the Commission is carrying out an external evaluation and it will improve the use of ex-post evaluation. In addition, and most importantly, the Commission will set up an Impact Assessment Board which is composed of high-level Commission officials. This Board will act independently of policy-making departments and report directly to the President of the Commission. The Board will issue opinions on impact assessments to ensure that they are of high quality and it can draw on external expertise to assist its work.

UNICE welcomes the Commission recognising the need for more independence in the impact assessment system to improve quality. For some time, UNICE has called for an independent oversight body to check the quality of impact assessments. UNICE thus strongly hopes that the new Impact Assessment Board will prove to be sufficiently independent and able to ensure high quality impact assessments. In addition to calling for independent oversight, UNICE also asked for the independent oversight body to be given the power to stop the process for adoption of the legislative proposal in case an impact assessment would not meet minimum quality standards. UNICE thus believes that a positive opinion of the Board should be a prerequisite for submitting a proposal to the Commission and that the opinion should be made public. Lastly, UNICE strongly believes that business representatives and other stakeholders should be part of the network of external experts which is to advise on the quality of impact assessments.

In this context, UNICE would also like to refer to its position paper of 12 June 2006 in which some further recommendations for rendering the Community impact assessment system more effective are listed.

Self- and co-regulation

The Commission says in the Communication that it will make increased use of self- and co-regulation. UNICE favours increased recourse to alternatives to traditional legislation and this option should always be taken into consideration when an impact assessment is carried out. Self- and co-regulation offer important advantages, namely adaptability to evolving markets, flexibility and more involvement of stakeholders. It can also respond more easily to each Member State's cultural and legal traditions and commercial environment. In this area, minimum criteria should be adopted: efficacy, legitimacy, accountability and consistency with the internal market.

Cooperation with Member States and European Parliament

It is argued in the Communication that the Member States should develop their own national simplification programmes and carry out impact assessments on a systematic basis. In addition, the Commission will try to facilitate the correct transposition of key directives and improve enforcement by prioritising and providing systematic information on this. The Council and European Parliament should also systematically assess the impacts of their major amendments to proposals.

UNICE wholeheartedly agrees. Member States should do more in the area of better regulation and the Council and European Parliament should fully implement the Inter-Institutional Common Approach to Impact Assessment so that the impact of substantive amendments to legislative proposals is properly assessed.

In order to monitor progress on better regulation at national level, UNICE suggests that developments are reported in the National Reform Programmes. The Commission should then subsequently, when evaluating the Programmes, not shy away from naming and shaming those countries that lag behind.
