

10 April 2008

TOWARDS A SMALL BUSINESS ACT FOR EUROPE: BUSINESSEUROPE'S PRIORITIES

1. Introductory remarks

Entrepreneurial activity and a thriving SME sector are essential for growth, job creation, innovation and social cohesion. Europe's economic future will to a large extent depend on its ability to further release the potential of SMEs which account for 99,8% of businesses in the EU and provide two-thirds of all private-sector jobs.

However, Europe is still less entrepreneurial than many other regions in the world, productivity growth per hour worked in the EU is low and expected to stay low, and European SMEs tend to grow much more slowly than their US counterparts.

Major obstacles to SME growth are well known and should be tackled urgently: red tape, regulatory burdens, taxation, inflexible labour markets, lack of skilled workers, limited access to finance, remaining Internal Market barriers and difficulties accessing markets abroad.

A number of important steps have already been taken: the Lisbon strategy for Growth and Jobs is instrumental for improving the business environment and the introduction of SME-specific priorities has been a milestone. The Commission has appointed an SME Envoy to ensure that SME specificities are better taken into account in the development of EU policies, it has set a target for the reduction of administrative burdens, put in place the Competitiveness and Innovation Programme, diversified SME financing instruments and reformed the state aid rules in favour of SMEs, to name just a few measures. But much more needs to be done at EU and national level to support SME growth.

BUSINESSEUROPE therefore highly welcomes the initiative to propose a Small Business Act (SBA) for Europe. Firstly, the European SBA should focus on all SMEs, not only small companies. Secondly, we expect the SBA to reinvigorate the "think-small-first" principle. EU institutions and Member States must take better account of the specificities and constraints of SMEs in lawmaking and when drawing up new policies. Thirdly, we also expect the SBA to give a renewed and strong impetus to the development of integrated policies in favour of SMEs, and to the implementation of coherent reforms for sustainable growth, with a view to supporting SMEs throughout their life cycle. In addition, we would like the SBA to trigger a number of new measures and actions, including targeted legislative ones.

Our views as to where actions need to be taken with a view to stimulating entrepreneurial activity and freeing SMEs growth potential are summarised in this paper.

2. Creating a more SME-friendly environment

➤ Increase simplification efforts

Simplification of EU law must genuinely reduce burdens for businesses and not increase them. The danger that companies are as a result of the legislative process around simplification in the end faced with additional requirements must be avoided.

Having said this, BUSINESSEUROPE appreciates that a number of simplification proposals are looking at important issues such as the review of the rules on public procurement and business statistics, accounting rules, or the revision of company law. At the same time, the Council and the European Parliament are still too slow in adopting simplification proposals, which is why a change of working methods is necessary to speed up procedures without creating new burdens.

Exempting SMEs from certain reporting requirements can be useful when it is clear that they pose a disproportionate burden on SMEs or that the information requested is not needed from smaller enterprises.

However, more generalised exemptions for SMEs from certain rules are not the way forward as they would introduce great levels of complexity in enforcement of different legal regimes and would threaten Single Market unity and the necessary level playing field that must exist for companies and for the Single Market to function optimally. But exemptions may exist in areas such as accounting and auditing rules or state aid when they are justified.

➤ Render the Better Regulation project effective

Red tape represents a major burden for SMEs considering their limited resources. Therefore, BUSINESSEUROPE strongly supports the objective of a 25% reduction of administrative burdens by 2012. However, this policy is not yet being felt on the ground.

The 'Fast Track Action programme' is a good means to show that the Better Regulation programme can deliver results in the short term. Under the current legislative procedures, however, the Council and the European Parliament take too long to adopt and finalise the Fast Track Actions. In order to achieve quicker results and be in a position to reach the 25% burden reduction target, it is key that the Council and European Parliament agree also on a real fast-track approval procedure.

Wholehearted national simplification efforts are also required. BUSINESSEUROPE regrets that not all Member States have set national targets for the reduction of administrative burdens generated by national legislation.

Better regulation also implies the full and systematic use of impact assessments in order to evaluate the added value of proposed legislation. In that regard, the analysis of specific impacts of planned EU legislation on SMEs must be carried out systematically by EU and national lawmakers, to avoid new burdens that hamper their competitiveness being imposed on SMEs.

In order to make life easier for SMEs, Member States could also reflect on the issue of common commencement dates for new legislation affecting companies.

3. Lift the remaining obstacles in the Internal Market

It is estimated that remaining barriers in the Single Market of 30 countries represent an unfulfilled economic potential of between 275 and 350 billion euros. Remaining administrative, regulatory and tax obstacles hinder in particular SMEs that wish to develop cross-border activities and represent a real challenge to a well functioning Single Market.

Therefore, serious efforts must be deployed to lift remaining barriers, complete the Internal Market and make sure that through a coherent legislative approach, existing and future EU legislation does not negatively impact on the ability of SMEs to offer goods and services across borders.

Legal certainty is also a prerequisite to enable SMEs to operate effectively in the Internal Market.

In this respect, instruments such as harmonisation coupled with mutual recognition should be promoted in order to deliver tangible benefits for companies and consumers. Application of the **mutual recognition principle for non-harmonised goods** is an important step forward. Successful implementation of the proposed Goods Package should improve the functioning of the free movement of goods across the Single Market which will be of great benefit to companies in general, and SMEs in particular.

A higher priority must also be given to the **correct enforcement of the Single Market** in Member States, through instruments that ensure that legislation works better in practice. For example, Member States must reinforce and better promote SOLVIT centres as the latter currently lack financial and human resources to fulfil their mandate and are not well-known to companies.

National transposition and administrative implementation of the services directive also merit special attention. A high quality implementation of the directive is particularly relevant for SMEs. Real benefits can be delivered for SMEs through reduction of red tape, alleviation of administrative procedures as well as better cooperation between competent authorities and the use of e-procedures.

For BUSINESSEUROPE, the priority should be put on the following:

- Creation of fully operational points of single contact (PSC) which provide information and help with completion of necessary formalities. It is indispensable that the PSCs can fulfil both tasks.
- Comprehensive screening of national regulations resulting in genuine administrative simplification and simplifying or if necessary removing those requirements that impose unnecessary burdens. We are concerned about pro forma national screenings that seek to preserve the status quo rather than simplifying and streamlining existing regulations.
- Provision of efficient electronic procedures.
- Close cooperation with the private sector which copes on a daily basis with the regulations dealing with establishment and cross-border provision of services. In this

context, the UK's consultation procedure is an example of an open and transparent process.

- Better administrative cooperation and mutual assistance among national authorities in order to create mutual trust and ensure good operation of the directive.

Adoption of the European private company (EPC) statute is a priority for BUSINESSEUROPE as we believe that this tool should provide SMEs with a more simplified, flexible and clear framework which will reduce administrative and financial costs when they cross borders. In addition, the EPC statute should work as a real "European label" that will help SMEs reinforce their mobility in the Internal Market and their presence in international markets. The EPC should be framed as an EU regulation proposing a legal form available to all natural or legal persons, on a voluntary basis. It should be possible to create an EPC from scratch, in order to foster entrepreneurship. The EPC should have its registered office in the EU and it should be possible to transfer it to any Member State, without dissolution or creation of a new legal person. It should also be designed according to a dynamic concept, in the sense that the EPC would be intended to conduct operations having a broadly defined European aspect. It should also be based on contractual freedom. Furthermore, the rules on information and consultation of employees should be determined by the laws applicable in the country where the European Private Company has its registered office.

As regards **state aid** BUSINESSEUROPE supports the increase of the applicable basic aid intensity for investment and employment to 20% for small enterprises and 10% for medium-sized enterprises within the draft General Block Exemption Regulation (GBER).

BUSINESSEUROPE is in favour of fostering SMEs' access to **public procurement** in order to establish a level playing field with big companies and in respect of existing rules. BUSINESSEUROPE shares the Commission's view that setting quotas for SME participation would not be appropriate as it would result in undesirable market distortions. On the other hand, it will be necessary to dismantle *structural* barriers to the participation of SMEs in public procurement. Smaller contracts wherever appropriate, simple and centralised access to tender information and the creation of interoperability between the upcoming diverse electronic procurement systems are ways to achieve this. Furthermore, it will be very important to abstain from unduly far-reaching certification requirements and to put in place lighter financial guarantees for SMEs, since such excessive burdens have often turned out to be "knock-out criteria" for SMEs' in public markets. Finally, BUSINESSEUROPE calls for an intensification of training in public procurement with a view to enhancing chances of SME in EU markets for public procurement. We invite the Commission and Member States to make real progress in these areas.

Late payments are a general problem for SMEs and for some a source of insolvency. SMEs must be paid by public and private authorities within a reasonable timeframe, kept as short as possible. The Commission should assess the enforcement of the existing directive. Additionally, the Commission should set an example in the way it implements its own programmes, initiatives and activities.

When it comes to the definition of **standards**, standardisation bodies should also take into account the SME viewpoint.

As tax obstacles are considerably hampering SME growth, it must be a priority to make **tax regimes** across the EU more competitive. Member States have to look at all taxes paid by companies and related compliance costs, which are considerable. In particular, a fully fledged one-stop shop allowing companies to file a single **VAT** return in a single location would give a significant boost to cross-border activity.

A large percentage of enterprises do not request the VAT refunds they are entitled to. This entails a big economic loss for European enterprises and as a consequence for the Internal Market. The "VAT Package" has been a step in the right direction with regard to improving the procedures concerning VAT refunds. Nevertheless, problems still exist. It is therefore desirable that there is close follow-up of the effects of the "VAT Package" and implementation of the administrative procedures.

Finally, the fight against VAT fraud – which BUSINESSEUROPE strongly supports – should first and foremost make use of all possible means to build up an efficient tax administration. Additional reporting obligations on legitimate businesses are against the policy of reducing existing administrative burdens in the EU.

The issue of a **Common Consolidated Corporate Tax Base (CCCTB)**¹ is crucial for SMEs. There are currently 27 different systems in Europe for calculating a company's taxable earnings, making it particularly costly and burdensome for small and medium businesses to operate in several Member States. The potential benefits of a CCCTB would be the removal of double taxation related to conflicting tax claims, the reduction of compliance costs by allowing for a single compliance with a single set of rules in a single location (one-stop shop) and the assurance of net taxation through consolidation. To achieve these aims, the CCCTB has to be optional and allow for consolidation from the outset. It has to resolve transfer pricing problems and should not involve tax rate harmonisation or the introduction of a minimum rate. It has to be comprehensive and exclusive, i.e. exclude parallel domestic taxation. Finally, the CCCTB must be designed to allow for coherent application in the various Member States.

4. Towards more flexible labour markets and skills enhancement

In order to stimulate job creation, it is essential for SMEs to have access to **a variety of contractual arrangements**. Part-time, fixed-term, agency work, etc., enable SME employers to adapt to market shifts, changing customer needs, technological advances and competitive pressures. Stringent employment protection legislation hampers the creation and growth of new businesses, decreases the speed of adjustment to shocks and eventually curbs productivity growth. Moreover, evidence shows that flexible forms of work constitute a stepping stone for disadvantaged groups to enter the labour market.

The Commission should therefore put additional pressure on Member States to implement more flexible labour legislation.

¹ The introduction of an optional common consolidated corporate tax base is supported by the majority of BUSINESSEUROPE members. However, the Irish Business and Employers Confederation (IBEC) does not support any move in this direction and the Confederation of British Industry (CBI) opposes the CCCTB being prioritised as a firm recommendation in the Small Business Act.

SMEs experience difficulties in **accessing skilled labour**. To reinforce and leverage their competitive advantages, an increase in productivity in technology-intensive production and sectors is necessary. Therefore, improving Europe's higher education attainment is essential for Europe's economic prosperity. It should be a key priority for policy-makers and all the actors concerned. To do this it is necessary not only to raise the bar in higher education attainment levels, but also to focus specifically on science, technology, engineering and maths disciplines. This applies to most of Europe where many SMEs are experiencing shortages in these areas.

The EU must also become more entrepreneurial. Europeans are still less inclined than US citizens to take the risk of setting up their own business. Current enterprise education programmes which are successfully run by JA-YE Europe and JADE demonstrate that more systematic integration of **entrepreneurship education** into school and university curricula would considerably help stimulate a more entrepreneurial mindset in Europe. Results regarding the integration of entrepreneurship education into curricula are patchy and considerable progress needs to be made.

5. Easing SMEs' access to finance

Micro-enterprises, young companies and SMEs in decisive growth phases tend to experience difficulties when it comes to accessing finance for several reasons: many do not have sufficient assets to back their loans, they do not necessarily have a credit record, small loans generate high administrative costs for banks and historical data suggest that credit default is higher for small companies. More generally, SMEs in the EU-12 face even bigger challenges when it comes to accessing external financing.

Several financial instruments are particularly suitable for SMEs: asset backed securities, venture capital (in particular for innovative companies), mezzanine finance and micro-credit. However, they are presently not sufficiently available for SMEs and thus hinder their growth ambitions.

The European market for **venture capital** is still fragmented along national borders which inhibits SMEs' access to capital. The Commission is working on removing obstacles for venture capital investment across borders and BUSINESSEUROPE welcomes the initiative to create a well functioning Internal Market for venture capital.

For specific types of projects, such as **innovation and R&D, international development or investments in eco-friendly energy technologies** in particular, SMEs experience finance shortages.

Public schemes in favour of SME finance should be boosted at both national and European level. However, public financing should be limited to situations where market failures have been identified, which can differ from Member State to Member State. Where SMEs in some countries have problems obtaining seed capital others in other countries lack venture capital for expansion. Financing of the first expansion is a general problem as there seems to be a financing "gap" between 100,000 and 1 million euros.

Existing European instruments, in particular EIB and EIF products, should be reformed so as to substantially reduce the administrative burdens associated with them. They should be marketed close to the needs of SMEs and provide for adequate flexibility of application and disbursement. The EIB itself will look into the issue for its own instruments, make further proposals and take appropriate steps, which we welcome.

SME programmes and instruments foreseen within the framework of the Competitiveness and Innovation Programme (CIP) should also provide simplified access. Other schemes using structural funds such as JEREMIE should be complementary to the CIP.

6. Fostering innovation

SMEs are a key source of innovation as they carry out nearly a quarter of business R&D in Europe. Boosting innovation will therefore contribute to raising the competitiveness of SMEs and European enterprises in general.

Member States should continue to work on creating a dynamic innovation climate with the right conditions for financing, entrepreneurial activity, cooperation with research institutions and adequate information and advice for SMEs.

Many Member States have put a focus on innovation, which has led to the creation of a variety of innovation programmes. It is difficult for SMEs to navigate in this "innovation jungle". Appropriate information and advice needs to be made more widely available to SMEs through one-stop shops where enterprises can find information about opportunities in the public innovation system in one place. The Enterprise Europe network should be part of the one-stop-shop system.

In addition, there is also a need to reduce bureaucratic barriers that render access to innovation programmes difficult. The EU and Member States are called upon to take appropriate action. At EU level, an additional focus should be put on facilitation of cross-border cooperation between enterprises and research institutions and provision of economic support for the participation of SMEs in such programmes.

Structural funds can usefully be employed to foster cluster development. In this context, the European Regional Development Fund (ERDF) should support the interconnectivity between enterprises, universities and research centres through infrastructures and access to ICT. The European Social Fund (ESF) should support the update of skills, which is essential as clusters bring a diversity of professions together to work in new ways.

Another area where the EU could provide financial support is cost-intensive R&D, where it can be challenging for SMEs in a number of countries to obtain funding through national programmes.

Thought could, in the context of the different innovation and R&D programmes, also be given to enable participation of dynamic companies that have just outgrown the SME definition while at the same time setting suitable limits. Many drivers for innovation are situated in a segment just above the EU SME definition and therefore also need consideration.

BUSINESSEUROPE also welcomes the establishment of a **European Institute of Technology** (EIT). An important part of its work should be concentrated on public-private partnerships as a mean to translate R&D and innovation results into business opportunities. The EIT should be constructed in a manner that is conducive to SME participation and it should network closely with institutions and enterprises and have clear and unambiguous links to existing Community programmes.

Today, patent registration is five to ten times more costly for a European SME than in the United States or Japan. Therefore, the innovation capacity of European SMEs should be strengthened by putting in place a more **competitive patent system** in Europe in terms of costs, quality and legal certainty. It is imperative that all remaining European countries which have not yet done so ratify the London Agreement on translation requirements. The more countries accede to the Agreement, the more patent costs can be reduced to the benefit of companies, in particular SMEs. BUSINESSEUROPE also supports efforts for an integrated patent litigation system for Europe. Any solution must however bring real improvements for companies compared with the current situation. The highest quality, cost-effectiveness, legal certainty and reliability are needed. Lastly, a truly unitary Community patent that fully meets users' needs in terms of costs, quality and legal certainty is highly desirable.

7. Developing SMEs' access to international markets

Facilitating SMEs' access to international markets is of vital importance for Europe's growth. SMEs are under-represented in international trade flows and strongly affected by remaining obstacles. The Commission must progress in multilateral and bilateral trade negotiations with a view to further reducing tariff and non-tariff, tax and regulatory barriers to trade.

SMEs often have difficulty accessing foreign markets because of a lack of financial resources and managerial time which leads to reduced knowledge of foreign markets. There is a need to strengthen the national framework for guidance and export support, thereby enhancing SMEs' capabilities.

In particular, the Commission can do more **to help SMEs deal with legal risks such as intellectual property rights in certain key emerging markets** like China and India. The EU centres in Beijing and Delhi should provide SMEs with legal advice and assistance to protect their rights and activities while developing their business, as non-tariff barriers can have a stronger effect on SMEs.

In addition, the investment chapters of European foreign trade agreements should **provide clear rules for market access and national treatment** to facilitate investment opportunities for SMEs in key markets such as Russia, China and India as small companies face higher risks when investing in such countries.

8. Helping SMEs tackle the issue of energy and climate change

The **complexity of EU and national legislation on environmental issues** poses serious difficulties for SMEs and creates high compliance costs. The EU and Member States should screen the complex legislative framework within the better regulation agenda, simplify rules, reduce red tape and compliance costs.

Of general concern is also the possibility raised by the Commission that the **Emission Trading Scheme (ETS)** could apply to companies emitting more than 10,000 tonnes of CO₂, which could greatly harm the competitiveness of many European SMEs. This is why BUSINESSEUROPE asks that the threshold for the application of ETS be set at 25,000 tons of CO₂. Furthermore, the auctioning of polluting permits could prove excessively complex for involved SMEs which lack the resources to manage such a system.

Cutting red tape for SMEs on environmental issues could also take the form of facilitating administrative processes for renewable energy projects such as the establishment of "one-stop shops" for granting construction permits, or specialised renewable energy sources (RES) centres which give useful information on RES projects to potential target groups.

The increased share of **renewable energies** poses a real competitiveness challenge for SMEs as the price of energy supplies is set to soar. This is why a truly global agreement must be reached on carbon emissions. EU leadership in setting a price on carbon is important, but the EU must make sure that the other major emitters follow. It is key to keep an environment in Europe which is conducive to research and innovation. We must keep a strong industrial base in Europe in order to ensure continued innovation in world-class solutions for greener production, in which SMEs play a major role. In contrast, unilaterally imposing unreasonable burdens on EU industry will encourage relocation and carbon leakage to the detriment of innovation, European growth and the global environment.

Many SMEs are a thriving force in developing new technologies in the energy-saving and eco-innovation fields. Nevertheless, many other SMEs lack resources or know-how on **energy-efficiency techniques**. An exchange of good practices could be developed in that direction and national and EU programmes should help SMEs acquire energy-saving technologies so that they can improve their environmental performance.

In order to sustain their activity, SMEs need security of energy supplies and access to energy and raw materials at a reasonable price. In this context, BUSINESSEUROPE also supports the full implementation of the **internal energy market** as the establishment of a comprehensive gas and electricity market is a critical factor for addressing all the energy-linked challenges. BUSINESSEUROPE calls for:

- improvements to governance through reformed competences for national energy regulators and more effective cooperation between them;
- an effective unbundling regime, which creates fair and equal access to the network, which applies in a non-discriminatory manner to private and state owned companies, while encouraging investment in new infrastructure;
- elimination of bottlenecks in the area of cross-border infrastructure.

9. Conclusion

Many challenges remain when it comes to increasing entrepreneurial activity in Europe and setting SMEs' growth potential free. BUSINESSEUROPE therefore expects the Small Business Act to be a comprehensive instrument that will give new impetus to the improvement of the business environment for SMEs, through thorough implementation of the "think-small-first" principle and integrated policies that take better account of small and medium-sized enterprises' needs and constraints, with a view to enable SMEs themselves to "think big", grow and expand.

This implies a series of policy measures and reforms: energetic implementation of the Lisbon strategy for Growth and Jobs, cutting red tape and alleviating tax obstacles, real progress in completing the Internal Market, improving SMEs' access to finance, fostering their innovation potential, progressing on labour market reforms and skills development, easing access to foreign markets and making sure that new rules on energy and environment do not put an disproportionate burden on SMEs.

* * *