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**BUSINESSEUROPE BREAKFAST MEETING ON HOW TO REAP THE
FULL BENEFITS OF THE SINGLE MARKET FOR GOODS**
28 SEPTEMBER 2010, 8.00-9.30 HOURS, EUROPEAN PARLIAMENT

**Introductory speech by Paul Coebergh van den Braak - Chair of
BUSINESSEUROPE's Free Movement of Goods working group**

The single market is an important tool to make Europe prosper. Professor Monti highlights that the single market today is less popular than ever, while Europe needs it more than ever. He stresses the need for the single market to be a space of freedom and opportunity that works for all, citizens, consumers and SMEs.

We emphasise that the single market must also work for business at large, since it is European businesses that generate jobs, innovative products and wealth for European citizens, and thereby create essential conditions for realising European ambitions. This is all the more relevant with the present challenge of finding the way out of the crisis. Many interests of European citizens run parallel to those of European business.

For the free movement of goods, three interrelated topics are the focus today: • the implementation of the goods package or the "New Legislative Framework", • the revision of the General Product Safety Directive, and • the improvement of the European standardisation system.

First, let me highlight some key conditions for European business to flourish and deliver a solid economic basis for prosperity. These are: • a sound balance between public interests and what enterprises need; • free and fair competition; • legal certainty; • flexibility; • avoiding excessive administrative burdens; and finally • equally high emphasis on post-market enforcement as on pre-market requirements.

- Product regulation must strike **a good balance** between the interests of society, consumers, and enterprises. Unrealistically high requirements may eliminate certain product categories altogether, hurting business and consumers. Therefore proportionality is a key principle for European legislation.

- **Free and fair competition** gets hampered by trade barriers or competitive imbalance. Local requirements can create trade barriers. So common legislation for products should be unambiguous and with regard to product safety should aim at full harmonisation. Foremost, regulations and their actual implementation must ensure a level playing field. This requires effective enforcement, but also fair reciprocity in open trade. Europe should not allow its trade partners to use regulations as an industrial policy tool, treating foreign and domestic companies differently.

- **Legal certainty** is essential to encourage investment in innovation. The regulatory regime must be kept stable without frequent changes. It must also give predictable outcomes for enterprises that respect the rules. Therefore measures against harmonised products that comply with the legal requirements must only be taken in rare, urgent situations of high public interest.

- Progressing innovation and changing societal preferences demand regulatory **flexibility**. So the regulatory framework should allow for small-scale adjustments to be made without high administrative burdens. The use of standards can greatly facilitate this.

- **Administrative burdens** represent a drain on productivity, innovation and wealth. Regulation must be effective and efficient, and not lead to duplicate efforts or work without value. Administrative procedures, labelling requirements and the like must be limited to what is absolutely necessary and proportionate. Impact assessments and the involvement of stakeholders and experts are essential to create better regulation.

- Regulation alone will not have the intended effect since it addresses pre-market requirements only. Without **enforcement**, law-abiding companies will bear the cost of compliance while their rogue competitors get away with just forging the paperwork and marks. This gives seemingly equivalent, but non-compliant products a cost advantage, helping them to gain market shares to the detriment of compliant products. Therefore Member States must take on their responsibility for market surveillance, customs control and enforcement.

Talking about what the above conditions mean for regulation, I would like to repeat what BUSINESSEUROPE emphasised before, namely the business view of 'better' or 'smart' regulation.

- **Firstly**, better regulation should be fostered by **stakeholder consultations and impact assessments**. But this also includes consistency with existing legislation and its underlying principles. Amendments to legislative proposals, including those proposed by the European Parliament, must be scrutinised for consistency and also for their impact on effectiveness and efficiency as they may change the practical implications dramatically and invalidate the outcomes of the impact assessment.

- **Secondly**, as already mentioned, legislation for products should be based on **full harmonisation** measures as per article 114 of the Treaty - formerly article 95. Member States should only be allowed to set national product requirements beyond the common rules when they are strongly justified. Requirements should be established for such justifications, including for example solid risk assessments.

- **Thirdly, the New Approach**, defining essential product requirements in directives combined with the setting of detailed requirements in European standards. This regime enables politicians to focus on weighing the different societal interests against each other and expressing their political judgement in essential requirements. How these essential requirements should be met is defined in detail with experts and stakeholders by developing standards, which can be adjusted over time without legislative changes.

This makes this regime flexible. The European standardisation system has proven its ability to define good quality, consensus based standards.

I now come to the three very current matters: the implementation of the New Legislative Framework (NLF), the possible revision of the standardisation system and the planned revision of the General Product Safety Directive.

- Business welcomed the **New Legislative Framework** for goods legislation adopted in 2008 and now calls on the Commission and Parliament to further encourage and support its actual take-up by the Member States. A key element is to strengthen market surveillance through mandatory Member-State action and horizontal co-operation. We urge that clear implementation guidelines for NLF administrative requirements should be developed swiftly and in a pragmatic spirit, for example allowing a company to provide its internet address as the unique contact address. Further, the framework requirements laid down in Decision 768/2008 - such as common definitions and conformity assessment modules – will bring uniformity of procedures, making them easier to deal with and more effective. Therefore BUSINESSEUROPE supports the alignment of the 10 product harmonisation Directives with this decision, as has recently been outlined in a Commission public consultation.

- Second, while **European standardisation** should indeed be subject to continuous improvement, we see no need for big changes. Most standards need to be agreed internationally at first, not regionally. Market relevance is key and that aspect is not necessarily helped by more political steering. Of the many types of standards, only about one quarter are linked with legislation, giving presumption of conformity. These standards are essential for the single market and should continue to be under endorsement power of the formal European standardisation system. Business univocally rejects the option to use standards not accepted by CEN, CENELEC or ETSI for presumption of conformity to the essential requirements of European directives. In contrast, other public policy use of standards from consortia is meaningful, mainly for public procurement in the ICT domain.

Much discussion focuses on the hurdles SMEs face in standards development and use. CEN and CENELEC embarked on an improvement programme for SMEs based on the Erasmus report on this subject which they had commissioned earlier. BUSINESSEUROPE believes this is an excellent way forward. It builds for instance on the role and collective power of intermediary organisations such as trade associations to bridge the gap between SMEs and the standardisation world, and on improving the access of SMEs to relevant information via improved websites. Such improvements do not need any change to the system.

Other proposals to strengthen the influence of stakeholder groups at the European level would however compromise the existing principle of national representation, which we believe should be sustained. BUSINESSEUROPE also stresses that if certain stakeholder groups would need financial support, this should be addressed at national level. Finally, we would welcome wider participation of authorities in the development of standards to support general public interests, especially consistency of standards with the essential requirements they intend to address.

- The final point I wish to raise is the planned **revision of the General Product Safety Directive**. Business sees no urgent need for such a revision but instead recommends to firstly develop a political vision for a more coherent overall regulatory framework. A possible alignment of the GPSD with the New Legislative Framework should build on a few years of application experience with the NLF. The legislation under the NLF and the GPSD cover distinct, yet overlapping domains. NLF directives define requirements for all products in the harmonised area and they prominently address safety. The GPSD requires all consumer products to be safe, sets general requirements for manufacturers operating in the non-harmonised area, and gives authorities the legal base to swiftly address urgent and severe safety issues concerning products in both the harmonised and the non-harmonised areas.

BUSINESSEUROPE believes such a general safety framework for products is useful. However, undue interference with the regulatory provisions for the harmonised area must be avoided.

Common criteria for safety evaluations of non-harmonised products by Member States can support the free movement of goods. Reference to standards under the GPSD for the non-harmonised area can therefore be appropriate, even under the comitology procedure. However, if the objective or factual consequence is to set permanent and specific requirements for groups of products, then the normal legislative procedure shall be used where the European Parliament can exercise its democratic mandate and stakeholders are consulted. Also, safety requirements for products in the harmonised area shall continue to be fully covered by the legislation under the NLF and not partly move under a parallel GPSD regime as this would unnecessarily complicate matters for economic actors.

Furthermore the provisions under the NLF must be the predominant way to deal with safety incidents for harmonised products, as they are powerful enough to do so in the large majority of cases. Only in rare cases of severe and immediate risk should a harmonised product be subjected to corrective measures under the GPSD, especially if it complies with the regulatory requirements. Otherwise businesses have insufficient legal certainty and will not be able to invest in innovative products.

Ladies and gentlemen, as stated at the beginning we believe that business and citizens, as well as society as a whole, have many interests in common. BUSINESSEUROPE is ready to participate in finding the best solutions to create a well-functioning Internal Market.

Thank you for your attention.

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