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COMMISSION STAFF WORKING DOCUMENT

**Regulatory Fitness and Performance Programme (REFIT): Initial Results of the
Mapping of the Acquis**

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Regulatory Fitness and Performance Programme (REFIT): Initial Results of the Mapping of the Acquis

INTRODUCTION

In its Communication on EU Regulatory Fitness of December 2012¹ the Commission committed to strengthening its various smart regulation tools (impact assessment, evaluation, stakeholder consultation) and launched the Regulatory Fitness and Performance Programme (REFIT). Through REFIT, the Commission services have mapped the entire EU legislative stock looking to identify burdens, gaps and inefficient or ineffective measures including possibilities for simplification or repeal.

In this document, the initial outcome of the mapping and screening exercise undertaken by the Commission services is presented. In each area, an overview is provided of the policy and legislative framework, smart regulation tools and measures taken to ensure that legislation is 'fit for purpose' (including responses to concerns of SMEs).² On this basis, the document suggests that consideration be given to further actions envisaged to ensure regulatory fitness. These include:

- Proposals already tabled by the Commission with a regulatory fitness focus where the EU legislator needs to take action;
- Proposals for legislative review with a regulatory fitness focus;

This working document has not been adopted by the Commission. As a Commission staff Working Document, it describes the results of the work done by the Directorates General of the Commission in preparation for a Commission Communication to be adopted in October which will review and set out the next steps in Regulatory Fitness Policy and Programme.

¹ COM(2012)746 final

² The Commission's follow-up to the main concerns raised by SMEs and stakeholders in the context of the 'Top10 Consultation of the most burdensome EU legislative acts for SMEs' was published in COM (2013)446 final.

1. AGRICULTURE AND RURAL DEVELOPMENT

1. Policy and legislative responsibilities in the area of Agriculture and Rural Development

The Common Agricultural Policy (CAP) was set up to achieve the Treaty objectives of agricultural productivity, a fair standard of living for agricultural communities, stabilised markets and the availability of supplies at reasonable prices.³ The CAP is not a regulatory policy as such, though it includes elements of regulatory nature, such as competition rules and marketing standards. Funding schemes, under which farmers and others can apply for support and grants make up most of the policy. Those who obtain funding have to meet certain obligations. The following instruments are at the core of the CAP acquis:

- The common market organisation, called the ‘Single CMO’⁴, which establishes instruments to guarantee the stability of markets for agricultural products. The Commission has adopted specific implementing rules for different product sectors.
- A system for direct payments⁵ that provides farmers with a basic level of income.
- The rural development policy⁶, which provides voluntary support measures that are targeted to national and regional specificities for the enhancement of the competitiveness of the farm sector, the sustainable management of natural resources and climate action, and the balanced territorial development of rural areas.

The CAP legislation also establishes specific measures for agriculture in the outermost regions of the EU, support for information and promotion measures, quality schemes for agricultural products and foodstuffs as well as rules on organic production.⁷ The rules on

³ Cf. Art. 39 (1) Treaty on the Functioning of the European Union (TFEU)

⁴ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

⁵ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers

⁶ Cf. Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

⁷ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union; Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries; Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs; Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products

financing CAP expenditure are under one legislative framework.⁸ Finally, the CAP sets out specific legal instruments for State aid in the agricultural sector.⁹

2. Smart Regulation Framework and Tools

In the area of agriculture and rural development, the Commission works actively to promote an administrative culture of smart regulation, in particular with regard to the simplification and coherence of legal instruments, including their implementation, and the reduction of administrative burdens for CAP beneficiaries and public authorities. In this context, DG AGRI regularly organises meetings with Member States' simplification experts in the format of a sub-group to the Experts' Group for Horizontal questions concerning the CAP. The group, which meets on average three times per year, provides a platform for Member States to exchange views on simplification and to share best practices. The group has since 2006 provided input on various topics such as the CAP rolling Simplification Action Plan, IT-solutions and e-government tools, collection of statistical data, cross-border cooperation, cross-compliance and the management, checks and audits of agricultural subsidies. The simplification aspects of the future CAP have recently been a recurring theme. Member States have also used this platform to present and discuss national simplification initiatives. Stakeholders are involved in the simplification discussion under the umbrella of the CAP Advisory group. Ad hoc meetings are organised once or twice per year to examine current issues relating to CAP simplification from the angle of farmers, food industry, trade, consumers and environmentalists. Examples of recent input are the views given on the implementation of the promotion policy in view of its reform and on the Report on Best Practices¹⁰ published by the High Level Group on Administrative Burdens.

Impact assessments are carried out for all major CAP policy initiatives and legislative proposals. This process contributes to the strategic orientation of the policy and to better, more transparent policy-making. Consultations of stakeholders and the general public are carried out systematically. Evaluations of CAP instruments take place regularly, to provide information on the effectiveness, efficiency and relevance of measures. A common monitoring and evaluation framework is being set up for the CAP for the period 2014-2020. This framework will provide the basis for evaluations in the future, possibly with a greater focus on thematic evaluations cutting across both pillars and grouped according to the main objectives of the policy. End-users (farmers) will continue to be systematically involved and

⁸ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy

⁹ Art. 107 TFEU, Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products, Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the sector of agricultural production; Community guidelines for state aid in the agriculture and forestry sector 2007-2013 (OJ C 319 of 27.12.2006)

¹⁰ http://ec.europa.eu/dgs/secretariat_general/admin_burden/best_practice_report/best_practice_report_en.htm

consulted during evaluations by means of primary data collection methods (interviews, questionnaires, focus groups and case studies). Regulatory burden will be a core aspect of the future CAP evaluation framework.

The on-going CAP reform process, focussing in part on simplification, was launched with an extensive public debate followed by a stakeholder consultation. Before finalising its proposals for the coming years, DG AGRI also organized an ad hoc consultation with farmers and experts from the national administrations, to obtain advice on the simplest possible management of certain key elements of the reform. Regular meetings are also held with the 'Learning Network of Directors of Paying Agencies and Co-ordinating bodies' to examine technical issues on the implementation of the reform.

The CAP accounts for 40 % of the EU budget. It has to pursue ambitious objectives and needs a solid control system to protect the financial interests of the EU and, ultimately, those of its taxpayers. The reform proposals form a comprehensive package that aims to address various policy objectives, including simplification.

Straightforward simplification has been built in where feasible. In other cases, solutions that are as simple as possible have been sought, without compromising other objectives. Once the legislative measures for the next financial period have been adopted, a number of existing Commission measures will be replaced by delegated acts and implementing acts, while maintaining strong focus on simplification.

Concerns on administrative burden associated with the implementation of the CAP expressed by the High Level Group on Administrative Burdens have been further examined. As a result, Member States will be allowed some flexibility when implementing the direct payment for agricultural practices beneficial for the climate and the environment (known as the "greening component" of direct payments). Member States will for example be allowed to take into account certain existing environmental beneficial practices that are equivalent to the three practices proposed by the Commission. The High Level Group further recommended that the concept of "active farmer" as sole beneficiaries of direct payments should be simplified by way of a negative list of professional businesses to be excluded (such as airports, railways and real estate services). This recommendation has also been met, as part of the co-legislators' political agreement on 26 June 2013. Moreover, the Commission has proposed to postpone the implementation of the new elements of the direct payment scheme until 2015, in order to give Member States sufficient time to establish the necessary instruments for management and controls. Further details on the implementation of the reform will be examined in expert groups and committees, in the course of the preparation of the delegated acts and implementing acts to be adopted in the first half of 2014.

Simplification as well as burden and cost reduction will be a focus of the next periodic review of the CAP.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

a. Simplification aspects in the CAP reform proposals

In October 2011, the Commission presented a package of legislative proposals for the *reform of the CAP* on the basis of the orientations set out for the Multi-annual Financial Framework (MFF) 2014-2020. The main proposals cover direct payments to farmers, market instruments under the ‘Single CMO’, rural development support and the financing, management and monitoring of the CAP. The proposals are accompanied by an extensive impact assessment. This includes a qualitative assessment of existing policy tools and new concepts and a quantitative assessment of the impact that certain new elements may have on administrative costs and burdens. Current legislation has been evaluated concerning e.g. the income effects of direct payments, the market impact of certain instruments under the single CMO and the impact of support under rural development programmes.¹¹

Making the system simpler for small farmers is a crucial aspect of the reform. At present, they have to deal with a one-size-fits-all aid application and control process for direct payments. The Commission has proposed a simplified scheme so that they can opt for a lump-sum payment. That would exempt them from certain obligations. The result would mean less paperwork and less exposure to disruptive, time-consuming controls on the farm. National administrations would also make savings in terms of management and control. The scheme could cover up to 38 % of all farmers in the EU.

It is important that the EU legislator adopts the proposed measures to simplify the regime for small farmers to lessen their administrative burden.

The Commission has proposed further harmonisation and clarification of the use of EU funds across the entire range of EU policies, including rural development. Proposals include allowing more use of simplified costs, such as standard scales of cost units, lump sums and flat-rate financing. These would make claiming, administering and auditing reimbursements easier. Regarding the monitoring and evaluation framework, there is now a clearer strategic definition, including the use of fewer and better-defined indicators. This should facilitate the collection and reporting of data.

For the ‘Single CMO’, it is proposed to remove certain market instruments which no longer fulfil any obvious market objectives and which are burdensome and costly to manage. Hence, the aid for the use of skimmed milk and skimmed milk powder as feeding stuffs and for processing into casein and caseinates and the aid for the silk worm sector are to disappear by 31 December 2013. The Commission had also proposed to end the sugar quota scheme in 2015, but the EU legislator decided to extend it until 30 September 2017.

The rules on cross-compliance (i.e. the requirements that beneficiaries have to fulfil in terms of environment, food safety, animal health, plant health, animal welfare and the standards related to the maintenance of farmland in good agricultural and environmental condition)

¹¹ Cf. DG AGRI's evaluation website: http://ec.europa.eu/agriculture/evaluation/index_en.htm

have been consolidated and streamlined. In that context, a certain number of requirements have been removed on the grounds that they are not sufficiently controllable through the cross-compliance system or not sufficiently relevant for the farming activity. The current scope of cross-compliance covers 18 Directives and Regulations (known as Statutory Management Requirements or SMR) and 15 standards on "Good Agricultural and Environmental Condition" (GAEC). As a result of the reform, the scope will be limited to 13 SMRs and 7 GAECs. As regards the control system, the existing rules on minor non-compliances will be replaced by an "Early Warning System". As a result, there will no longer be an obligation for Member States to perform systematic follow-up checks in the case of minor non-compliances. Finally, the Commission CAP reform proposals foresee an empowerment of the Commission to allow Member States with a properly functioning control system as well as low error rates to reduce the number of on-the-spot controls. For farmers, there will be less risk of being interrupted in their daily activities and having to spend time on control visits. A reduction of checks on the farm could lead to substantial cost savings for Member States.

The High Level Group on Administrative Burdens has in its Opinion on the CAP after 2013¹² emphasised the importance of maintaining this simplification drive in the EU legislative procedure for adoption of the relevant measures and at the stage of the implementation of the adopted measures in the Member States.

b. Further Smart Regulation initiatives

Apart from the CAP reform, which is the main challenge in the area of agriculture, a number of initiatives with a specific Smart Regulation angle are currently in the policy review process:

A review of the legislation on **promotion and information for agricultural products** is on-going.¹³ It may lead to profound changes of EU policy in this area.

The rules on **State aid in the agricultural sector** are also under review.¹⁴ The impact assessment for the future "*de minimis*" rules is on-going and the regulation should be adopted by the end of 2013. The adoption of the remaining State aid package, as well as the associated impact assessment, is envisaged for the first half of 2014. Aspects of simplification are being considered in terms of both procedure and substance. There is also a link to the review of the rules on rural development support, in the context of which it is proposed to introduce a "one

¹² Opinion of 6 December 2012:

http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/121206_hlg_cap_opinion_en.pdf

¹³ Commission Communication on promotion measures and information provision for agricultural products: a reinforced value-added European strategy for promoting the tastes of Europe – COM(2012)148 of 30 March 2012

¹⁴ Commission Communication on EU State Aid Modernisation (SAM) – COM(2012)209 of 8 May 2012

window approach", with the aim to be able to deal with State aid aspects as far as possible in parallel with the procedures for approval of rural development programmes or to provide for block exemptions as far as this is legally possible. The evaluation of the political and legal framework for organic farming of the policy and the impact assessment for the review are currently in preparation. The impact assessment is planned to be completed before the end of 2013 and the Commission's adoption of proposals is envisaged for the 1st quarter of 2014.

The EU regime for the Fruit and Vegetables sector has recently been subject to an impact assessment. The aim is to increase further the overall degree of collaboration of producers and encourage cooperation between producers in Member States to improve the production and marketing of their product. The adoption of a Commission proposal to this purpose is foreseen for 2013.

The schemes for the **supply of fruit, vegetables and milk to school children** (School Fruit Scheme and School Milk Scheme) are currently subject to an impact assessment. The aim is to review the current framework in order to improve its shortcomings and assess how the CAP approach to school distribution should evolve in the future.¹⁵ The impact assessment process is foreseen to end in the second half of 2013.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

- **Regulation 1169/2011 on food information to consumers**

SMEs tell us:

Regulation (EU) No 1169/2011 on *food information to consumers* (FIC) which will enter into force on 13 December 2014, is one of the most burdensome legislative acts of the EU acquis without further explanation provided of the nature of the concerns.¹⁶

Commission services comments:

This regulation includes provisions on mandatory indications of country of origin or place of provenance to be applied to pre-packed unprocessed pig, poultry, sheep and goat meats. The Commission must adopt the following specific rules, for which DG AGRI is responsible, to implement the regulation:

Implementing rules on the mandatory origin indication for unprocessed meat of pig, poultry, sheep and goat (these implementing rules will be applicable on 13 December 2014

¹⁵ The roadmap for the review is available via:

http://ec.europa.eu/governance/impact/planned_ia/docs/2013_agri_015_cap_school_schemes_en.pdf

¹⁶ Commission website on Better Regulation: http://ec.europa.eu/governance/better_regulation/index_en.htm and DG ENTR's public consultation website: http://ec.europa.eu/enterprise/policies/sme/public-consultation-new/index_en.htm

together with the FIC Regulation) - the impact assessment and proposal are foreseen for end 2013;

The impact assessment for the preparation of these implementing measures is on-going¹⁷ and a study was recently launched with the view to examine different labelling options and their impact for the meat supply chain, trade, consumers and the administration of the system. In the application of this regulation an additional study is going to be launched to assess the opportunity to label the origin of milk and dairy products as well as for other meats. A report to the Council and the European Parliament, possibly accompanied by proposals, is due to be presented by December 2014.

Food placed on the market or labelled prior to 13 December 2014 and which does not comply with the FIC Regulation, may be marketed until stocks are exhausted.

5. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Agriculture and Rural Development are awaiting adoption by the co-legislator:

- Rules for direct payments¹⁸
- Single Common Market Organisation Regulation¹⁹
- Rural Development Regulation²⁰
- Rules on financing, management and monitoring²¹
- Measures on fixing certain aids and refunds²²

¹⁷ Roadmap:

http://ec.europa.eu/governance/impact/planned_ia/docs/2013_agri_019_origin_labelling_unprocessed_meat_en.pdf

¹⁸ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, COM(2011) 625 final/2, 19.10.2011

¹⁹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common organisation of the markets in agricultural products (Single CMO Regulation), COM(2011) 626 final/2, 19.10.2011

²⁰ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), COM(2011) 627 final/2, 19.10.2011

²¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy, COM(2011) 628 final/2, 19.11.2011

The following initiatives with a focus on Regulatory Fitness in the area of agriculture and rural development are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Rules on State aid in the agricultural sector. The future "*de minimis*" regulation is undergoing impact assessment with a view to adoption of the regulation by the end of 2013. The impact assessment for the remaining State aid package (i.e. State aid guidelines and the regulations on block exemptions and notification forms) is envisaged for early 2014. The new guidelines and regulations are planned to be adopted by July 2014.²³ [2013 / 2014]
- Information Provision and Promotion Measures for Agricultural Products.²⁴ [2013]

6. REFIT evaluations

The following evaluations and impact assessments with a focus on Regulatory Fitness in the area of Agriculture and Rural Development are currently planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Review of the political and legal framework for organic farming: The evaluation of the policy and the impact assessment for the review are currently in preparation. The review of the organic farming legislation will target inconsistencies, gaps and ineffective measures, simpler rules and reduced regulatory costs. The impact assessment is planned for autumn 2013 and the Commission's adoption of proposals is envisaged for the first quarter of 2014.²⁵ [2014]
- Review of the schemes for the supply of fruit and vegetable and milk products to school children is currently undergoing impact assessment which is expected to be finalised in the second half of 2013.²⁶

A common monitoring and evaluation framework is being set up for the CAP for the period 2014-2020. This will provide the basis for future evaluations, possibly prioritising thematic

²² Proposal for a COUNCIL REGULATION determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products, COM(2011) 629 final, 12.10.2011

²³ Roadmaps: http://ec.europa.eu/governance/impact/planned_ia/docs/2013_agri_004_de_minimis_en.pdf,
http://ec.europa.eu/governance/impact/planned_ia/docs/2013_agri_001_state_aid_package_en.pdf

²⁴ Roadmap on review:
http://ec.europa.eu/governance/impact/planned_ia/docs/2012_agri_006_regulation_promotion_en.pdf

²⁵ Roadmap: http://ec.europa.eu/governance/impact/planned_ia/docs/2012_agri_014_organic_farming_en.pdf

²⁶ Roadmap:
http://ec.europa.eu/governance/impact/planned_ia/docs/2013_agri_015_cap_school_schemes_en.pdf

evaluations over both pillars, grouped according to the main objectives of the policy. The Commission will identify further proposals for evaluation under REFIT, once there is agreement on the final shape of the CAP reform.

2. BUDGET

1. Policy and legislative responsibilities in the area of Budget

The budget policy area includes the responsibilities to secure the resources needed from the budgetary authority — the European Parliament and the Council of Ministers — to implement the Union's policies, to encourage sound management of Union funds and to account for the use of appropriations.

This involves managing the Union's expenditure in the medium-term financial perspective, while ensuring that the annual budgetary procedure runs smoothly, by promoting a constructive dialogue between the institutions. It includes preparation of the rules governing the European Union's finances and the promotion of sound financial management in Commission departments.

2. Smart Regulation Framework and Tools

Own resources legislation is addressed to Member States. All issues are followed up in the Advisory Committee on Own Resources (ACOR). Any issues for improvement or simplification revealed by controls, inspections, complaints or infringements are taken into account for subsequent reviews. As for the Financial Regulation, which just recently entered into force, there might be another public consultation before the next review.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

The Commission has made important simplification proposals in both of the legislative areas relevant for the two budget chapters:

The proposal for a new **VAT Own Resource**²⁷ suggests considerable simplification of the current system through the establishment of a new VAT-based own resource.²⁸

The current VAT-based own resource requires a lot of administrative work to harmonize the calculation basis. Agreement on a method and collection of data to calculate compensations can take years. Moreover, correcting the effect on the harmonised VAT base of differences in transposition of the VAT Directive into national legislation can also be complex and time-consuming.

According to the Commission proposal, the new VAT own resource would simplify the current statistical VAT-based own resource system. Its calculation would be much simpler as it would be linked to actual VAT receipts. The February European Council called on the Commission to continue working on the proposal.

²⁷ Proposal for a COUNCIL REGULATION on the methods and procedure for making available the own resource based on the value added tax, COM(2011) 737 final, 9.11.2011

²⁸ The proposed provisions related to the new VAT own resource are Article 2(1)(c) of COM(2011)739, Article 1(2) of COM(2011)740 and in particular COM(2011)737 of 9.11.2011. The Commission proposals of 9 November 2011 are intended to replace Council Decision 2007/436/EC and Council Regulations 1150/2000/EC and 1553/89/EC.

The **Financial Regulation**²⁹ is the main document containing EU financial rules. It sets the principles of the EU budget and governs the way the EU budget is spent. The Regulation, which applies from 1 January 2013, enables EU funding beneficiaries - businesses, NGOs, researchers, students, municipalities and others - to follow easier, clear rules and simple procedures.

The revised Financial Regulation and its Rules of Application have addressed the major concerns expressed in the public consultation and have brought changes in terms of:

- simplification: cutting red tape, speeding up procedures, in particular the time-to-grant, and shifting the focus from paperwork to performance;
- accountability: ensuring enhanced sound financial management and the protection of the EU's financial interests;
- leverage: introducing financial mechanisms which will enable the mobilisation of third-party funds alongside EU funds and therefore raise the value produced from EU funds.

The following simplification measures have been taken under the Financial Regulation:

Shorter payment deadlines:

Beneficiaries will be entitled to receive money due to them within the deadlines of 30, 60 or 90 days depending on how demanding it is to test delivered results against contractual obligations. While at present the Commission voluntarily applies similar deadlines, the new provisions will mean that missing a deadline will create an entitlement to late-payment interest for the beneficiary.

Time-to-grant target and indicative deadline:

Calls for proposals will indicate by which date the evaluation results will be communicated to applicants. Normally this date must fall within six months of the closure of the call. It will also indicate the date for concluding the grant agreements with (or notifying the grant decisions to) successful applicants. Normally this date must fall within three months of the communication of the evaluation results.

Abolishing the obligation to generate interest on 'pre-financing' and to return the interest:

There will no longer be an obligation for interest to be generated on pre-financing paid to grant beneficiaries to provide them with cash for the action. Even if interest is generated, it is not due to the EU and it will also not be counted as revenue of the project.

²⁹ Regulation (EU, EURATOM) No 966/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002

With this, an administrative burden will vanish that was frequently criticised by grant beneficiaries and stakeholders during the public consultation held in 2009 preceding the Commission's proposal of 2010, in particular by the research and NGO communities.

Shifting the emphasis of the grant system from reimbursing cost claims to payments for the delivery of results: lump sums, flat rates, unit costs:

In most cases, EU grants are reimbursements of a share of the actual costs incurred by the beneficiary, which implies time-consuming paperwork both for the beneficiary, who must itemise all expenditure, and the Commission, which then has to check the project not only against the delivery of the results, but also against the eligibility of all the costs claimed. The simplification concerns mainly the alternatives to actual costs, i.e. lump sums (payments against delivery), flat rates (percentages to cover certain categories of costs) and unit costs (rates per unit, such as per person per day).

Lighter administrative requirements for a larger group of low-value grants:

Beneficiaries applying for grants of up to EUR 25,000 are already exempt from submitting certain documents. This threshold will be raised to EUR 60,000. No guarantees on pre-financing can be asked for such grants.

Procurement:

The procurement rules are generally based on the EU Procurement Directives and therefore largely depend on the general EU regulatory approach to procurement³⁰:

- Guarantees will not be required across the board, depending instead on a risk assessment;
- The procedures below the thresholds of the EU Procurement Directives are simplified;
- Joint procurement will not only be possible with Member States, but also with EFTA and candidate countries where foreseen in an international agreement.

IT tools:

Communication with beneficiaries and other authorities should increasingly take place by electronic means. A number of concrete provisions have been added, for example in the context of grants and procurement.

4. REFIT legislative actions

The European Council of 7-8 February 2013 called upon the Council to continue working on the proposal of the Commission for a new own resource based on VAT.³¹

³⁰ http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

³¹ COM (2011) 737

3. CLIMATE ACTION

1. Policy and legislative responsibilities in the area of Climate Action

The EU participates in international negotiations on climate related issues. EU legislation contributes to the transition towards a low-carbon, resource efficient and climate resilient economy through adequate mitigation and adaptation measures. Climate action also contributes to other EU policies and programmes.

The recent EU legislative acquis in the climate area consists mainly of:

- The EU Emissions Trading System ("EU ETS"), providing a legal framework for the first large-scale carbon market in the world;
- The Effort Sharing Decision which sets greenhouse gases emission reduction targets for Member States in the sectors outside the EU ETS. It includes targets for buildings, transport, small industry, agriculture and waste;
- The Carbon Capture and Storage ("CCS") directive, which provides a legal framework for the environmentally safe geological storage of CO₂;
- A Mechanism for Monitoring and Reporting ("MMR") of greenhouse gas emissions by Member States for tracking progress towards the achievement of emission reduction targets;
- Rules on labelling, efficiency standards and CO₂ emissions by the transport sector as well as fuel quality standards; and
- Regulations aiming at the reduced release of fluorinated gases and of ozone depleting substances.

2. Smart Regulation Framework and Tools

Policy evaluation is strongly embedded in the Commission's work in the climate area through various mechanisms, notably the Mechanism for Monitoring and Reporting of greenhouse gas emissions by Member States, the carbon market report, impact assessments and development of baseline and reference scenarios assessing the impacts of current policies.

Opportunities for burden reduction and simplification are identified in a continuous and constructive dialogue with stakeholders.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Most of the legislation in the area of climate action is being implemented or has recently been implemented by Member States. Verification of the completeness and the conformity of the transposition of directives and control of the correct application of all legislation are therefore priorities for DG CLIMA.

Existing regulations on monitoring, reporting and verification of greenhouse gas emissions, on efficiency standards and CO² emissions by the transport sector and on fluorinated gases have been recently evaluated. Impact assessments have been carried out and the Commission has made proposals to adjust the legislation³² carefully to ensure the result will contribute to the efficiency and the cost-effectiveness of the relevant policies.

Following its report on the state of the European carbon market in 2012³³, the Commission has also launched a debate on options for structural reforms of the EU ETS.

On 27 March 2013, the European Commission took the first step towards developing a 2030 framework for EU climate change and energy policies by adopting the Green Paper 'A 2030 framework for climate and energy policies'³⁴. This aims to clarify the objectives for 2030 to support progress towards a competitive economy and a secure energy system by creating more demand for efficient and low carbon technologies and spurring research, development and innovation. It can create new opportunities for jobs and growth, which in turn lead to reductions in both the direct and indirect economic costs.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

No climate change legislation was identified by SMEs and business organisations in the TOP 10 consultation.

However stakeholders have, at times, pointed to the need to improve the cost-efficiency of various climate and energy measures, considering technological feasibility. Negative impacts on the competitiveness of energy-intensive sectors are often cited, even though the climate policies concerned may reduce the industry's exposure to energy costs and improve resilience to energy price increase.

³² Proposal of 28 June 2013 for a Regulation on Monitoring, reporting and verification of greenhouse gas emissions from maritime transport – COM (2013)480; Proposal of 7 November 2012 for a Regulation on fluorinated greenhouse gases – COM (2012)643; Proposal of 17 October 2012 for a directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources – COM (2012)595; Proposal 25 July 2012 for a Decision of the European Parliament and of the Council amending Directive 2003/87/EC clarifying provisions on the timing of auctions of greenhouse gas allowances – COM (2012)416; Proposal of 11 July 2012 for a Regulation amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new light commercial vehicles – COM (2012)394; Proposal of 11 July 2012 for a Regulation amending Regulation 443/2009 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new passenger cars – COM (2012)393

³³ Report from the Commission to the European Parliament and the Council on "The state of the European carbon market in 2012" of 14 November 2012 - COM(2012) 652 final

³⁴ Green Paper on "A 2030 framework for climate and energy policies" of 27 March 2013 - COM(2013) 169 final

5. REFIT legislative actions

The Commission has recently concluded an extensive stakeholder consultation on a policy framework for climate and energy policies in the horizon of 2030 (Green Paper). This consultation included aspects of competitiveness, regulatory burden and cost-efficiency of climate action policies.³⁵

The Commission will propose actions under REFIT as necessary in the light of the results of this stakeholder consultation. [4th quarter 2013]

Further to the preparations on the 2030 framework for climate change, further REFIT actions may be identified.

³⁵ To be consulted at: http://ec.europa.eu/clima/consultations/index_en.htm

4. COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

1. Policy and legislative responsibilities in the area of Communications Networks, Content and Technology

The role of EU policy on Communications Networks, Content and Technology is to harness information and communications technologies in order to create jobs and generate economic growth; to provide better goods and services for all and to build on the greater empowerment which digital technologies can bring. The *acquis* consists of policies and legislation which aim to:

- Support high-quality research and innovation which deliver imaginative, practical and value-enhancing results;
- Foster creativity through a European data value-chain in which anyone can share knowledge;
- Coordinate a better regulatory framework for competition and growth over the entire range of issues in the e-Communications field;
- Promote greater use of, and public access to, digital goods and digital services, in order to boost the European single market;
- Ensure that those goods and services are more secure and trustworthy, and that people have the right skills and confidence to use them as part of everyday life;
- Support an open Internet.

2. Smart Regulation Framework and Tools

Legislation in the area of Communications Networks, Content and Technology often intervenes in an area which is subject to constant and rapid technological and market developments. Therefore, the Commission is engaged in a continuous scrutiny of legislation to make sure it is "up to date". In addition, implementing measures are guided and shaped by recommendations, in particular the various instruments of the Regulatory Framework for electronic communications, which were revised in late 2009 for implementation by May 2011.

In order to ensure regulatory fitness, burden reduction and simplification, most of the legal instruments in the area of Communications Networks, Content and Technology foresee in-built review mechanisms to appraise the effectiveness of existing legislation. Consultations of the general public play a major role in devising and revising tertiary legislation that provides guidelines on how to develop and apply national legislation in conformity with EU law (e.g.

relevant markets recommendation). Recently, DG CNECT has developed a solid track record in innovative projects: reaching out to the local level with 'Going local'³⁶ projecting for the future with the 'Futurium'³⁷; close interaction with its stakeholders through the Digital Agenda Assembly³⁸ etc. DG CNECT has also recently launched a new research initiative to pilot innovative grassroots solutions to sustainability challenges based on collective intelligence and citizens' participation, called Collective Awareness Platforms (CAPS)³⁹.

Information and Communications Technologies increasingly penetrate the European economy and society. Their influence affects all areas of public policy making. Best practice in policy-making depends on how communication networks and knowledge are used using modern ICTs. The Commission thus has a growing 'horizontal' role in promoting various ICT business models across policy areas. Building on the success of the "ecoSearch" initiative, where thirteen pieces of legislation on Product Labelling regarding energy consumption were revised to ensure concordance with the revised Energy Labelling Directive⁴⁰, the DG has launched a study with the objective to clarify the potential and impact of ICT across policy areas to optimise legislative processes and outcomes. Results of this study are expected at the end of the year. This project will target improved relevance, visibility and ease of integration of ICT considerations into policy formulation across the range of EU competences.

In addition it is planned to use the capacity of ICTs to reduce legislative burdens in several areas. These include Open Data (proposed as a policy tool in the Web-accessibility Directive⁴¹), cloud computing, which can reduce burden for businesses through, e.g. facilitating the re-use of data across various government departments and services; Public Sector information; SME voucher schemes etc.

3. Measures to ensure that legislation is 'fit-for-purpose'

Several legislative measures have either been recently adopted or are being through a process involving detailed scrutiny (impact assessments, evaluation etc.). The following are examples of such initiatives:

³⁶ <http://ec.europa.eu/digital-agenda/en/going-local-2013>

³⁷ <https://webgate.ec.europa.eu/socialinnovationeurope/directory/europe/organisation/futurium-one-platform-your-voices-our-future>

³⁸ <https://ec.europa.eu/digital-agenda/en/digital-agenda-assembly-2013>

³⁹ <https://ec.europa.eu/digital-agenda/en/collective-awareness-platforms>

⁴⁰ Directive 2010/30/EU of the European Parliament and of the Council with regard to nline energy labelling of energy-related products

⁴¹ <http://ec.europa.eu/digital-agenda/en/web-accessibility>; Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites of 3 December 2012 - (COM(2012) 20012)721 final

The proposal concerning **the reduction of the cost of broadband deployment**⁴² is a new initiative with significant potential for simplifying rules and reducing regulatory costs. This; Commission proposal, which forms part of the Single Market Act II, was adopted on 26 March 2013 following a thorough impact assessment.

Existing Commission decisions related to **Radio Spectrum Policy** are under constant scrutiny in the context of the Radio Spectrum Committee. In many cases, decisions have been updated through Commission action to ensure that state-of-the-art technologies can be introduced and administrative burdens are kept low.

The **Roaming Regulation**⁴³ is a new measure, parts of which have an implementation deadline of mid-2014. A review is due in 2016.

The **BEREC Regulation**⁴⁴ is part of the Regulatory Framework for e-communications. In December 2012, an evaluation of BEREC and its Office was completed (legal basis Art 25 of the BEREC Regulation).

The scope of **universal service** has to be reviewed by the end of 2014. The review will be undertaken in the light of social, economic and technological developments taking into account the increasing importance of mobile communication services and broadband connections for EU citizens.

The Commission proposal for the **Connecting Europe Facility**⁴⁵ (CEF Regulation, Telecoms Guidelines Regulation)⁴⁶ to operate from 2014–2020 is currently in the EU legislative procedure. CEF will invest in digital service infrastructures. Those infrastructures are designed to improve the efficiency and accessibility of public services i.e. through e-solutions.

Harmonisation of national measures on **web accessibility** at EU level has been identified as necessary to unlock the potential of the internal market for web-accessibility products and services. On 3 December 2012, the Commission adopted a proposal for a Directive of the European Parliament and the Council on the accessibility of public sector bodies' websites⁴⁷.

⁴² Proposal for a Regulation of the European Parliament and the Council on measures to reduce the cost of deploying high-speed electronic communications networks of 26 March 2013 - COM(2013) 147 final COM(2013)147

⁴³ Regulation (EU) No 531/2012 of the European Parliament and the Council of 13 June 2012 on roaming on public mobile communications networks within the Union

⁴⁴ Regulation (EC) No 1211/2009 of the European Parliament and the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office

⁴⁵ COM(2011)665

⁴⁶ Proposal for a Regulation of the European Parliament and the Council establishing the Connecting Europe Facility of 19.10.2011 - COM(2011) 665 final

⁴⁷ Proposal for a Directive of the European Parliament and the Council on the accessibility of public sector bodies' websites of 3 December 2012 - COM(2012) 721 final COM(2012) 721

For Member States the Directive would mean a simplified process both in developing, and in procuring web services. In the proposal, reporting is kept to a minimum by following an open data approach in which underlying data is to be made public to enable interested actors to do their own analysis and reporting.

The substantive legal consequences of the proposed **Data Protection Reform** ⁴⁸ for the Privacy and Electronic Communications Directive will be reviewed once the Data Protection Reform package is adopted [therefore Q2 2014 at the earliest].

The **Audio-visual Media Services Directive (AVMSD)** was amended in late 2007, with a transposition deadline of December 2009, and codified in March 2010 ⁴⁹. The majority of Member States did not transpose the directive in time. This has led to a lack of evidence on its actual application. The Commission is therefore still collecting information on its functioning, notably insofar as new ('on-demand') services are concerned. By design, the directive already foresees lesser regulatory obligations for these services than for traditional (broadcasting) ones, for example, where reporting obligations (on the promotion of European works) are concerned. An evaluation of the AVMSD could be carried out in 2015. Further steps towards burden reduction and simplification must build on a solid appraisal of the directive's functioning. A Green Paper "Preparing for a Fully Converged Audio-visual World: Growth, Creation and Values", launched on 24 April⁵⁰, and a consultation on the independence of regulatory authorities provide stakeholders opportunities to comment on the sector's development, including regulatory aspects.

The Commission has committed to report to the October European Council on the state of play and the remaining obstacles to ensure the completion of a fully functioning Digital Single Market by 2015, as well as on concrete measures to establish the Single Market in ICT as early as possible. In the context of this report as well as in its REFIT input to this European Council meeting, the Commission will cover issues of simplification and burden reduction.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

⁴⁸ Communication from the Commission to the European Parliament, The Council, the European Economic and Social Committee and the Committee of the Regions on Safeguarding Privacy in a Connected World - A European Data Protection Framework for the 21st Century of 25 January 2012 - COM(2012) 9 final; Proposal for a Regulation of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) of 25 January 2012 - COM(2012) 11 final

⁴⁹ Directive 2010/13/EU of the European Parliament and the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

⁵⁰ Green Paper on "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values" of 24 April 2013 - COM(2013) 231 final

In general, administrative burden on SMEs is to a large extent created by compliance costs. When it comes to reduction of these, notably reporting obligations, ICT provides a solution. Some recently adopted initiatives provide good examples:

- The proposal for a Directive on **Network and Information Security** ⁵¹ foresees an exemption for micro-enterprises from notifying security incidents to competent authorities and from taking specific measures to prevent and minimise the impact of security incidents.
- The proposal on **eIDAS** ⁵² aims to provide easier access and more secure cross-border online services. As a result, businesses, in particular SMEs, will have simpler administrative procedures and paperless work flows resulting in more productivity at lower cost.

Legislation in the area of Communications Networks, Content and Technology has not been listed under the TOP-10 most burdensome EU legislative acts for SMEs, or in the extended TOP-35 listing. However, concerns by individual SMEs and stakeholders have been flagged on the following legislative acts:

- **E-privacy Directive:** Directive 2009/136/EC of the European Parliament and the Council of 25 November 2009⁵³

SMEs tell us:

Websites that monitor visitors' surfing behaviour must offer users opt-in consent tools to allow electronic cookies that pass information about their browsing activities to third parties. (i.e. for the purposes of behavioural advertising). The applicable rules are not sufficiently clear to SMEs, so costs are incurred for web development activities that may not be necessary under the directive.

Commission comments:

This comment refers to Article 5(3) of the revised ePrivacy Directive, which requires that websites inform users and obtain their consent before storing or accessing information such as

⁵¹ Proposal for a Directive of the European Parliament and the Council concerning measures to ensure a high common level of network and information security across the Union of 7 February 2013 - COM(2013) 48 final

⁵² Proposal for a Regulation of the European Parliament and the Council on electronic identification and trust services for electronic transactions in the internal market of 4 June 2012 - COM(2012) 238 final

⁵³ Directive 2009/136/EC of the European Parliament and the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

cookies in their computer, smartphone or similar device. This legislation was adopted to protect the confidentiality of information stored in users' terminal equipment.

The Commission is working with national authorities to ensure that the practical implementation of this provision is as user-friendly as possible. It has also encouraged the development of alternative ways to empower individuals, such as the 'Do Not Track' standard that is currently under discussion within the World Wide Web Consortium (W3C)⁵⁴, the web standardisation body. This standard would make it simpler for internet users to signal to a website that they do not want to be tracked, and for websites to honour this request.

- **Radio Spectrum:** Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012⁵⁵

SMEs tell us:

Administrative burden is related to the preparation and realisation of a live performance: hence the often long and burdensome negotiations with copyright holders and the increased complexity in relation to the access to radio spectrum for the use of wireless microphones.

Commission services comments:

While it is true that the radio equipment currently used by the live performance sector (such as wireless microphones) to a certain extent needs to be adapted to the reorganisation of the spectrum used in the Union, this problem does not result from EU legislation. It results from the evolution of spectrum use at the worldwide level, the development of wireless broadband and the digital TV switchover. The Commission has set a priority in the Radio Spectrum Policy Programme to ensure that the freeing of the 800 MHz band does not adversely affect programme making and special events users, including wireless microphones. Furthermore, it has issued a Mandate to the European Conference of Postal and Telecommunications Associations (CEPT)⁵⁶ that could lead to a harmonisation proposal to reduce complexity around the end of 2013.

5. REFIT legislative actions

The 2013 Spring European Council⁵⁷ stressed the importance of the Single Market for growth and jobs. The Commission is considering concrete measures to establish the Single Market in telecommunications as early as possible, including elements of simplification and burden

⁵⁴ <http://www.w3.org/>

⁵⁵ Decision No 243/2012/EU of the European Parliament and the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme

⁵⁶ <https://ec.europa.eu/digital-agenda/en/mandating-europe%E2%80%99s-spectrum-experts>

⁵⁷ <http://www.european-council.europa.eu/council-meetings>

reduction, in its report to the October European Council on the state of play and the remaining obstacles to the completion of a fully functional Digital Single Market. Actions with a focus on Regulatory Fitness will be identified in that process.

6. REFIT evaluations

The following evaluations with a focus on Regulatory Fitness in the area of Communications Networks, Content and Technology are currently planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Privacy and Electronic Communications Directive⁵⁸ [2014]
- Audio-visual Media Services Directive (AVMSD)⁵⁹ [2015]

⁵⁸ Directive 2009/136/EC of the European Parliament and the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

⁵⁹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Text with EEA relevance)

5. COMPETITION POLICY

1. Policy and legislative responsibilities in the area of Competition

The acquis in the area of competition policy is mainly made up of hard and soft legislation in the policy areas of antitrust (including cartels), mergers, state aid and international agreements with third countries in the area of antitrust.

2. Smart Regulation Framework and Tools

During the period 2000-2005 EU **antitrust enforcement rules** and **merger control rules** were reformed thoroughly, putting inter alia a greater emphasis on economic evidence for the assessment of antitrust and merger cases. Administrative burden in the antitrust area was significantly reduced through removal of the obligation to notify agreements between undertakings and the initiative to make national competition authorities co-responsible for applying EU competition law. Antitrust legislation is continuously monitored together with the national competition authorities within the European Competition Network.

Similarly, EU **state aid** rules are currently undergoing a thorough revision with a view to making them more economically significant, focusing on cases with real impact on competition and trade in the Single Market (similar to the logic underlying the reforms of the antitrust and merger control a decade ago). The bulk of these reforms of State aid rules – "State Aid Modernisation" – will be in place in the course of next year. Thus, among other things, the more targeted focus of EU State aid rules will further relieve burdens on SMEs (see below on the General Block Exemption Regulation - GBER).

The competition policy acquis is being constantly monitored and evaluated with a view to refining the legal framework when gaps or scope for improvement are identified. For example, reflections are currently under way on how to deal with potential anti-competitive effects of non-controlling minority shareholdings in the field of merger control, and how to better streamline referrals of merger cases from Member States to the Commission in order to speed up the procedure and reduce the administrative burden on companies.

Importantly, in the competition field, the Commission has in the first place a strong enforcement role for which specific tools have been developed to ensure that decisions are fit for purpose. These include inter alia measures to ensure transparency and interaction with parties at different stages of the procedure⁶⁰, over and above the legal right to be heard, as well as "market testing", i.e. publication of proposed commitments to seek stakeholder views before certain merger and antitrust decisions. In addition, some enforcement decisions in the

⁶⁰ Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU Text with EEA relevance; OJ C 308, 20.10.2011, p. 6–32.

State aid areas are also subject to ex-post monitoring including through the appointment of trustees to monitor remedies in the area of State aid.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Anti-Trust Legislation: A report⁶¹ on the main anti-trust enforcement regulation 1/2003⁶² was issued in 2009. The Report concluded that the Council Regulation contributed to stronger enforcement of antitrust rules within the EU since it came into application on 1 May 2004, modernising the enforcement of EC Treaty rules on restrictive business practices (Article 101) and abuse of dominant market positions (Article 102). The Regulation put an end to the previous notification system, under which companies notified agreements to the Commission for approval under the antitrust rules. This eliminated unnecessary bureaucracy and has allowed the Commission to focus its resources on serious competition problems.

The Report concluded further that Regulation 1/2003 had brought about a landmark change in the way the European competition law is enforced, notably by the fact that the EU competition rules have to a large extent become the “law of the land” for the whole of the EU insofar as national competition authorities and national courts have been empowered to apply Articles 101/102 of the Treaty on the Functioning of the EU (TFEU) in full and are obliged, by Article 3 of the Regulation, to do so when the criterion of effect on trade is fulfilled. Moreover, the Report found that cooperation in the European Competition Network has contributed towards ensuring coherent application of the EU competition rules. The network was identified as an innovative model of governance for the implementation of Union law by the Commission and Member State authorities.

In particular, it clearly resulted from the feedback received by the Commission in the context of the consultation for this Report that the mechanisms provided for by Article 11 of Regulation 1/2003 function very well and have contributed to the largely coherent and consistent application of EC competition rules in the European Competition Network (ECN) over the last five years. The concerns related to a major risk of incoherent and inconsistent application of EC competition law in a decentralised system that have been raised at the time of the adoption of the modernisation package have not materialised.

In a limited number of areas, the Report highlighted aspects for further evaluation, leaving open the question whether any amendment to the existing rules or practice was required. This

⁶¹ COM (2009) 206 final - Communication from the Commission to the European Parliament and the Council - Report on the functioning of Regulation 1/2003 and Sec(2009) 574 final -and Commission Staff Working Paper accompanying the Communication from the Commission to the European Parliament and Council

⁶² Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty

concerned inter alia the question of convergence of procedures and sanctions which are not harmonised in the present state of EU law.⁶³

In the area of **merger control**, the Commission is currently revisiting the applicable rules with a view to simplify merger proceedings and reduce the administrative burden for the companies involved. First, the notification requirements on undertakings are being further simplified. This reform, which is expected to be concluded by the end of 2013, primarily consists in reviewing the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004⁶⁴ (“the Notice on a simplified procedure”)⁶⁵.

Under this notice, certain categories of mergers that prima facie do not raise competition problems may be notified to the Commission using a short notification form with more limited information requirements and may be authorised by the Commission following a lighter procedure without an extensive market investigation. Under the current Notice on a simplified procedure, mergers can be treated according to the simplified procedure in particular where combined market shares are small (below 15% for horizontal overlaps and below 25% for vertical relationships) or where a joint venture has only limited turnover or assets.

The initiative aims at an extension of the scope of the simplified procedure to other cases that, according to the Commission’s experience, are also unlikely to raise competition concerns. In addition, the initiative aims at updating and streamlining the forms that merging parties must file with the Commission to notify a merger.

An analysis of 850 merger cases in the period 2008-2010 to assess the impact of the envisaged simplification formed part of the motivation of this reform. It is expected that the initiative may allow approximately an additional 10% of merger cases to qualify for treatment under the simplified procedure. Based on the share of simplified cases in recent years, this may bring the overall share of simplified cases from 60% to around 70 % of all mergers notified to the Commission. The extension of the simplified procedure would therefore reduce the burden of a significant number of companies that notify a concentration to the Commission.

Parties to mergers notified to the Commission, as well as customers and competitors of the merging parties will benefit from reduced requirements to provide information in merger cases. This will also enable the Commission to further focus its resources on cases which require a more thorough analysis to assess the impact on the Single Market.

⁶³ In this regard, comparative work has been carried out in the ECN framework since the issuance of the Report; see e.g. http://ec.europa.eu/competition/ecn/investigative_powers_report_en.pdf; http://ec.europa.eu/competition/ecn/decision_making_powers_report_en.pdf.

⁶⁴ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

⁶⁵ 2013/COMP/001 Review of the Simplified Procedure Notice and 2013/COMP/006 Simplification of EU merger control process. Planned adoption 4th quarter 2013.

Second, DG COMP is currently reflecting on the possibility of reforming some elements of the basic act in the area of merger control, the Council Regulation (EC) No 139/2004 ("EU Merger Regulation"). Although no decision on the possible reform has been made yet, a public consultation has been launched in order to seek stakeholders' views. Apart from discussing possible substantive changes relating to the assessment of non-controlling minority shareholdings of companies, the public consultation focuses on ways to streamline case referrals from the Member States to the Commission.⁶⁶ The EU Merger Regulation allows cases to be referred from Member States to the Commission or vice versa, provided none of the authorities involved objects to the referral. The contemplated reform aims at making the referral process more business-friendly by streamlining and shortening procedures, without fundamentally changing the basic features of the referral system. In particular, the consultation paper discusses whether merging parties may notify a case that otherwise would be examined by three or more national competition authorities directly to the Commission, without the need to file a separate form and wait an additional 15 working days which is currently provided by the referral process. This would not affect the right of each Member State concerned to oppose the Commission's jurisdiction, which only happens in a very small number of cases.

For cases referred to the Commission by one or several national competition authorities, the consultation paper considers whether the review could cover the whole of the European Economic Area (EEA) and not just the territory of the Member State requesting the referral. This would eliminate parallel investigations and reduce the administrative burden for the parties as they would only need to deal with one authority in line with the "one-stop-shop" principle. The reform project is currently in an initial stage of preparation and the way forward will be decided after the public consultation, ending in autumn 2013.

Example: Further removing burdens in the context of State aid to SMEs through block exemptions

State aid: In July 2008, the Commission adopted the so-called General Block Exemption Regulation (GBER)⁶⁷, allowing Member States to grant State aid in certain areas without prior notification. The reform is particularly significant for SMEs. Apart from encouraging Member States to focus their state resources on such aid that can be of real benefit to job creation and competitiveness, the Regulation also reduced administrative burden for public authorities, the beneficiaries and the Commission. The GBER consolidated and harmonised five separate Regulations and enlarged the categories of exempted State aid.

⁶⁶ Commission staff working document "Towards more effective EU merger control" available at http://ec.europa.eu/competition/consultations/2013_merger_control/index_en.html

⁶⁷ Commission Regulation (EC) N° 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)

One of the main objectives of State Aid Modernisation is improved focus of State aid rules on cases with real impact on competition and trade, as well as further streamlining and simplification.

Following a Commission proposal, the EU Council of Ministers can enable the Commission to exempt from prior notification to the Commission certain categories of aid that have a limited potential to distort competition. To this effect, the Commission adopts Block Exemption Regulations (BERs), defining criteria which ensure that aid is compatible with EU State aid rules. Only aid fulfilling the criteria can be granted without notification. Currently the scope of block exemptions is set by a Council Regulation from 1998 ("Enabling Regulation")⁶⁸ allowing the Commission to block exempt specified categories of aid.

On 5 December 2012 the Commission proposed to extend the scope of the Enabling Regulation to a number of new categories in line with the objectives of State Aid Modernisation⁶⁹. On 22 July 2013, the Council adopted the proposal⁷⁰ with some modifications, in particular: deletion of one category⁷¹; broadening of the category "amateur sports" to "sports" and addition of a new category relating to infrastructure⁷². The same day, the Council adopted a Commission proposal to review State aid procedures.⁷³

The impact in terms of reduction of administrative burdens will depend on the criteria introduced into the GBER following adoption of the revised Enabling Regulation, as well as

⁶⁸ Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid

⁶⁹ These new categories include: Aid in favour of culture and heritage conservation; making good the damage caused by natural disasters; making good the damage caused by certain adverse weather conditions in fisheries; forestry and the promotion of certain food products; conservation of marine biological resources; innovation; amateur sports; residents of remote regions for transport, when such aid has a social character; coordination of transport, reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 TFEU, certain broadband infrastructure. Proposal for a Council Regulation amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, COM(2012)725, adopted as Council Regulation (EU) No 734/2013 (OJ L 204/14 of 31.7.2013) and Proposal for a Council Regulation amending Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, COM(2012)730, adopted as Council Regulation (EU) No 733/2013 (OJ L 204/11 of 31.7.2013).

⁷⁰ Council Regulation (EU) No 733/2013 (OJ L 204/11 of 31.7.2013).

⁷¹ Art.1 (1)(a)(xii) of the original proposal: coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 TFEU.

⁷² Infrastructure in support of the objectives listed in (i) to (xiii) and in point (b) of this paragraph and in support of other objectives of common interest, in particular the EU 2020 objectives.

⁷³ Proposal for a Council Regulation amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, COM(2012)725, adopted as Council Regulation (EU) No 734/2013 (OJ L 204/14 of 31.7.2013).

on the actual subsequent use by Member States of the block exemptions, and are therefore difficult to estimate at this stage. As an indicative estimate of the possible reduction in burdens, we expect that up to around 80 notifications per year could in future be covered by exemptions. The adoption of the Procedural Regulation by the Council will allow for swifter treatment of complaints and their better prioritisation, and at the same time give the Commission the possibility to obtain information directly from market participants in duly justified cases so as to allow for better informed decision making.

4. Proposed REFIT legislative actions

The following legislative initiatives with a focus on Regulatory Fitness in the area of Competition are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Simplified procedure for Merger Control - Council Regulation No 139/2004⁷⁴ [2013]
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5. Proposed REFIT evaluations

The following evaluations and impact assessments with a focus on Regulatory Fitness in the area of Competition are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Possible reform of the EU Merger Regulation (referral system and minority shareholdings) - [2013 if outcome of public consultation positive]

⁷⁴ COUNCIL REGULATION (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

6. EDUCATION, TRAINING, YOUTH, CULTURE AND SPORT

1. Policy and legislative responsibilities

In the area of education, training, youth, culture and sport, the EU has no legislative prerogatives. The Commission supports cooperation between Member States through the open method of coordination, recommendations and communications.

With each EU Member State responsible for its own education and training systems and youth, cultural and sport activities, EU-level policies are designed to support national actions and to help address common challenges.

2. Smart Regulation Framework and Tools

Efforts to simplify systems and reduce the administrative burden are mainly in administering expenditure programmes and in identifying and reinforcing possible synergies between policy initiatives in these areas and those with direct or indirect links with them (employment, social policies, internal market, information society, etc.).

In line with the overall commitment on simplification for the MFF 2014-2020, the draft Erasmus+⁷⁵ and Creative Europe Regulations⁷⁶ were conceived to ensure greater coherence, synergy and simplification. A fundamental change was to merge existing programmes in the areas of education, training, youth, sport, culture and media. This will streamline the structure and result in a single set of simplified procedures and rules for cross-sectoral cooperation.

Management systems have been made much simpler and more transparent, e.g. through the extensive use of lump sums, more targeted reporting requirements and the use of e-forms for grant applications.

The rolling multiannual evaluation plan in the area of education, training, youth and culture covers the evaluations that the Financial Regulations and the legal basis of the expenditure programmes require. It also includes evaluations of policy initiatives and areas, tools, and internal activities (e.g. the Commission Library or the Traineeship Office) to provide up-to-date information for each policy and expenditure field. Each evaluation project is designed to cover simplification, possible synergies and burden reduction.

Ex-post evaluations of the Erasmus Mundus Programme in 2015, of the Life-Long Learning Programme and of the Youth Programme in 2016 may be combined with the interim evaluation of ERASMUS for all programmes, subject to confirmation of the Commission's proposal for the Multiannual Financial Framework (MFF).

⁷⁵ COM(2011) 788 final

⁷⁶ COM(2011) 785/2

Ex-post evaluations of the Culture and Media Programmes and of Media Mundus planned for 2015 may be combined with the interim evaluation of 'creative Europe', equally depending on confirmation of the Commission's proposal for the Multiannual Financial Framework (MFF).

To simplify procedures, DG EAC is conducting a business process management exercise. The results will help to improve administration both internally and for external applicants. There are already recommendations on how to improve strategic planning and programming, grant management for decentralised actions, financial circuits in grant and contract management, financial audits of beneficiaries under centralised direct management, audits of National Agencies, and the Traineeship Programme.

Cooperation has helped to boost progress particularly in support of national reforms of lifelong learning, modernising higher education and the developing common European instruments promoting quality of education, transparency regarding qualifications, and mobility between countries. EU targets are monitored regularly and reporting at both EU and national levels.

7. ECONOMIC AND FINANCIAL AFFAIRS

1. Policy and legislative responsibilities

The legislative stock in Economic and Financial Affairs covers economic governance⁷⁷, macro-financial assistance⁷⁸ and mandates for assistance channelled through the European Investment Bank (EIB)⁷⁹. This legislation is directed at national governments and the EIB. There is also legislation on the excessive deficit procedure and financial assistance programmes.

2. Smart Regulation Framework and Tools

The multi-annual evaluation plan 2010-2015 for Economic and Financial Affairs includes 16 intermediate and ex-post evaluations, including on economic research and forecasting services.⁸⁰ The Commission regularly carries out evaluations for macroeconomic financial assistance.⁸¹

An evaluation of fiscal surveillance activities is planned for 2015. Evaluation of economic governance legislation⁸² will be addressed in the next DG ECFIN multi-annual evaluation

⁷⁷ http://ec.europa.eu/economy_finance/economic_governance/index_en.htm

⁷⁸ http://ec.europa.eu/economy_finance/eu_borrower/macro-financial_assistance/index_en.htm

⁷⁹ http://ec.europa.eu/economy_finance/financial_operations/coordination/eib/index_en.htm

⁸⁰ http://ec.europa.eu/economy_finance/evaluation/pdf/maep_en.pdf

⁸¹ http://ec.europa.eu/economy_finance/evaluation/completed/index_en.htm

⁸² Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area

Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability

Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure

Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances

Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies

Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area

plan 2016-2021. Evaluations of economic governance legislation are due for the first time in December 2014, then every five years.⁸³

Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area

Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States

⁸³ Several legal acts of the economic governance legislation referred to above contain reporting clauses to "evaluate, inter alia, (a) the effectiveness of this Regulation, including the possibility to enable the Council and the Commission to act in order to address situations which risk jeopardising the proper functioning of the monetary union; (b) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the TFEU."

8. EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

1. Legislative responsibilities in the area of Employment, Social Affairs and Inclusion

In line with Articles 151 and 153 TFEU, the Union and the Member States have as their objectives the promotion of employment, improved living and working conditions, proper social protection and dialogue between management and labour. DG EMPL is responsible for two areas in which the EU has exercised its shared competences and adopted legislation in the form of Directives setting minimum requirements: Labour law and Health and Safety at work.

Furthermore, according to Articles 46 and 48 TFEU, the EU adopts Directives and Regulations that are necessary to secure freedom of movement for workers. DG EMPL is responsible in particular for two areas: Free movement of workers and Coordination of social security systems.

The EU further adopts Decisions, Regulations and Implementing Regulations relating to the European Social Fund under Art. 162 and 164 TFEU and relating to the Cohesion Fund, the European Globalisation Fund (EGF), the Fund for European Aid to the Most Deprived (FEAD), and the European Microfinance Facility under Art. 174-175 TFEU and regarding the PROGRESS Programme and the new Programme for Employment and Social Innovation under Art. 46, 149, 153 and 175.

Many of the rights provided for in this legislation are enshrined in the EU Charter of Fundamental Rights (information and consultation, working time limits, fair and just working conditions, social security coverage, child labour and protection of young people, freedom of movement).

Furthermore, in line with the Treaty (art. 155 TFEU), EU social partners can negotiate agreements on social policy and ask for their implementation through EU legislation. This procedure has been used nine times so far, by both cross-industry and sectoral social partners.

2. Smart Regulation Framework and Tools

The Treaty requires that directives in the social field avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings (Art. 153(2)(b) TFEU). Derogations or exemptions for small and medium-sized enterprises (SMEs) are already included in some directives. Directives on health and safety at work for example allow Member States some flexibility to reduce burdens for smaller businesses, e.g. in the area of the documentation of the risk assessment (Framework Directive 89/391/EEC).

Furthermore, DG EMPL carries out systematic stakeholders' consultations and impact assessments for new initiatives in the social and employment field. All legislative proposals in the areas of labour law and health and safety at work require a mandatory consultation of social partners in two steps, including social partner organisations representing SMEs. Social

partner organisations can initiate negotiations that may lead to agreements, and ask for their implementation through EU legislation. Impact assessments now include a stronger SME Test.

In the employment field, legislation does not consist in full harmonisation but in setting minimum requirements which have to be transposed through national implementation measures (Art. 153 TFEU). The Treaty explicitly states that Member States are not prevented from maintaining or introducing more protective measures if compatible with the Treaty (Art. 153.4 TFEU). Therefore it is possible that part of the regulatory obligations imposed on businesses or administrative bodies is not caused directly by EU legislation, but instead by more stringent measures adopted at national level either in the process of transposition or subsequently as a result of policy options reflecting national priorities or circumstances.

Several examples can be mentioned of obligations imposed by some Member States which go beyond EU minimum requirements:

- The obligation for employers to certify the health and safety risk assessment by an external body (not required by Framework Directive 89/391/EEC⁸⁴).
- The obligation to have a signed document for the appointment of a health and safety coordinator for a construction site and of his/her acceptance, (whereas Directive 92/57/EEC⁸⁵ only requires this appointment).
- The requirement that undertakings carrying out demolition or asbestos removal work should be in possession of an official licence (while Directive 2009/148/EC⁸⁶ only requires firms to provide evidence of their ability in this field).
- The setting of limits to daily working time (while the Working Time Directive (2003/88/EC)⁸⁷ only requires an average weekly limit).
- The setting of thresholds regarding the number of workers for the establishment of representative bodies below the levels set by the Information and Consultation Framework Directive (2002/14/EC)⁸⁸.

⁸⁴ Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

⁸⁵ Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). OJ L 245, 26.8.1992, p. 6–22

⁸⁶ Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work

⁸⁷ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

In the field of coordination of social security systems, EU legislation protects people who make use of their right to free movement by means of Regulations, which are especially detailed and complex. An Administrative Commission manages the exchange of information, consultation and early problem resolution between Member States or between individual Member States and the Commission.

The Commission is committed to reviewing existing legislation and adapting it to new realities to achieve greater simplification, avoid or reduce any unnecessary regulatory burden and more effective enforcement, while ensuring improved working conditions in order to attract and retain workers in a safer, healthier, and age-friendly work environment, in full respect of the Treaty including the Charter of Fundamental Rights. Any review or adaptation of legislation based on Article 153 of the Treaty can only be made after consultation of the social partners.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

a. Labour Law

Since 2010, DG EMPL has intensified its review of existing EU legislation in selected policy fields through "fitness checks" and other evaluation initiatives, in order to keep current regulation 'fit for purpose'. In all these evaluations, the issue of regulatory burden has been consistently taken into account together with the assessment of the effectiveness of the legal instrument in respect of achieving its objectives.

Eight Directives, accounting for largely the most important and substantive legislative acquis in this area, have been, are now, or will soon be subject to ex post evaluation:

- **Posting of workers**⁸⁹ – a full evaluation was carried out and published in 2011/12 through one socio-economic and two legal studies. These studies and impact assessment demonstrated that further efforts to strengthen the enforcement of the existing provisions are needed. This led the Commission to come forward with a proposal for a Directive concerning the enforcement of the provisions applicable to the posting of workers in the framework of the provision of services in March 2012 which is currently in the EU legislative procedure⁹⁰. The proposal aims at ensuring a balanced policy mix combining more effective protection of workers and facilitation of cross-border service provision in the Single Market. In particular, it contains positive developments for SMEs and micro-enterprises, such as risk-based inspections,

⁸⁸ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation

⁸⁹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

⁹⁰ COM(2012)131final

more readily available and extensive legal information on Member State requirements, and greater legal certainty regarding possible control measures introduced by host Member States.

- **Three Directives on information and consultation of workers** have been subject to a fitness check:
 - Directive 98/59/EC⁹¹ on collective redundancies;
 - Directive 2001/23/EC⁹² on transfers of undertakings;
 - Directive 2002/14/EC⁹³ establishing a general framework relating to information and consultation of workers in the EC.

This fitness check (results published in July 2013⁹⁴) relies on an evidence-based approach, integrating legal, economic and social effects of the existing legislation. It assesses, to the extent possible, the social and economic benefits and costs relating to employees' information and consultation at company level. While in general, the cluster of legislation in this field is considered to be fit for purpose, and benefits outweigh compliance costs, the fitness check revealed concerns by some stakeholders especially at company level as regards the coherence of certain definitions between Directives. As a result, a consolidation of the three directives through a recast will be considered. Social partners should be consulted as foreseen in the Treaty as regards the opportunity as well as the content of such recast, before a decision is taken.

- **Directive 2003/88/EC⁹⁵ (Working Time)** - A revision process was launched in 2009. During 2010, the Commission published a substantial study by independent experts on the social and economic impact of EU working time rules. It also published two consultation papers⁹⁶. These concluded that a review of the directive was necessary,

⁹¹ Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies

⁹² Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses

⁹³ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation

⁹⁴ COMMISSION STAFF WORKING DOCUMENT: 'Fitness check' on EU law in the area of Information and Consultation of Workers, SWD(2013) 293 final, 26.7.2013

⁹⁵ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

⁹⁶ COM (2010) 106 and COM (2010) 801.

and consulted the social partners on its possible scope and content. In its consultation paper, the Commission recognised there was comparatively less robust evidence on the economic and business impact of the directive, an issue that should not be neglected given current difficulties in labour markets. In response, the social partners jointly decided to open negotiations themselves on the review, as is their right under Article 155 TFEU. However, their negotiations ended without agreement in December 2012. An impact assessment on the directive is being prepared. The impact assessment will look at the costs and benefits of several options against the background of evolving work patterns, will identify health and safety risks, and will take account of concerns of SMEs.

- **Directives 97/81/EC⁹⁷ on part-time work and 99/70/EC⁹⁸ on fixed-term work.** These are currently being evaluated (report due in the second half of 2013). This report will analyse the impact of the directives on employees, employers and public administrations. In relation to employers, the study has to assess whether the Part-Time Directive contributed to greater flexibility for them in the organisation of working time and whether the Fixed-Term Directive contributed to greater flexibility in managing human resources. The evaluation will address the way in which the directives affect costs and benefits for companies, especially part-time or fixed-term employment. It will include a focus on administrative costs for businesses. It will also assess the extent to which such costs stem from national provisions, rather than being directly imposed by the directives.
- **Directive 2008/104/EC⁹⁹ on temporary agency work.** This Directive was due to be transposed by the Member States by 5 December 2011. Several infringement proceedings have been launched against Member States for non-communication of transposition measures. According to Article 12 of the Directive, the Commission will, by December 2013, in consultation with the Member States and social partners, review the application of the directive with a view to proposing, where appropriate, the necessary amendments. This evaluation is a REFIT initiative as it will notably focus on simplification and regulatory burden reduction, but also has a broader scope, in line with the requirements of the legal basis in the directive. The report will identify any major problems with the implementation of the Directive, verify if the social objectives of the Directive were achieved and look for concrete options to simplify and/or reduce regulatory burden, if sufficient practical problems are identified.

⁹⁷ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work

⁹⁸ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP

⁹⁹ Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work

It is still too early to say whether changes may involve the repeal, consolidation or simplification of legislation. The fitness check of the information and consultation of workers directives finalised in July 2013 and envisages possible consolidation. Social partners will have to be consulted on this possibility. Overall simplification will be one of the options to be considered in the review of the working time directive.

The only legislative instrument not currently subject to some action is Directive 91/533/EC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship. The High Level Group on Administrative Burdens has suggested revising this directive to extend the deadline for employees to be informed of the conditions applicable to their contracts. A REFIT evaluation is therefore envisaged. Social partners will be consulted.

b. Health and Safety at Work

DG EMPL has started work on a comprehensive review of the EU health and safety at Work Directives under a new five-yearly exercise established in 2007, laid down in the Framework Directive 89/391/EEC and 23 related Directives ("ex-post evaluation"). The final output will be a report based, on the one hand, on reports on the practical implementation of the Directives from all Member States (including the views of the social partners) and, on the other hand, on a study by an independent external contractor. In addition, DG EMPL will use the experience it has gained from monitoring the transposition and application of the Directives in the Member States.

A questionnaire was sent to Member States in 2012 and they are – among others - requested to identify problems that SMEs may be facing.

The specific conditions of the ex-post evaluation are laid down in Article 17a of the Framework Directive, which was amended to that effect in 2007. It contains several and significant elements of a fitness check – covering relevance, effectiveness and coherence of the legislation as well as administrative burdens. Due to its broader scope and specific regulatory regime under the Framework Directive, the ex-post evaluation covers a broader range of issues. It aims at a wider evaluation of the legislation including in terms of benefits, of research and new scientific knowledge. It will have a special focus on SMEs. Therefore the results may lead to initiatives to improve the operation of the regulatory framework, including possible simplification of the *acquis* where unnecessary regulatory burden has been identified, as well as additional measures needed to protect workers against, for example, chemical substances and new and emerging risks.

The ex-post evaluation will cover the period 2007-2012 and has already been launched. The outcome is expected for 2015. Pending the results, it is not possible to propose at this stage any concrete initiative to repeal or consolidate existing legislation in the area of health and safety at work.

A public consultation on the Occupational Health and Safety Strategy has been launched. The main purpose of the consultation is to gather insights and contributions from the public further to the results of the evaluation of the European Strategy on Safety and Health at Work 2007-2012 published on 31.05.2013. This should help identify current and future challenges in the occupational safety and health area, and identify solutions to address these challenges.¹⁰⁰ One of the major objectives will be to offer solutions to SMEs to improve health and safety at work and facilitate compliance with rules.

c. Free Movement of Workers and Coordination of Social Security

The Commission services are preparing an initiative to partially review Regulations (EC) No 883/2004¹⁰¹ and 987/2009¹⁰² as regards the coordination of unemployment and long-term care benefits. The aim is to complete the modernisation and simplification process, which was initiated and only partly achieved under the previous review. Modernised social security coordination rules started to apply in May 2010, when Regulation (EC) No 883/2004 replaced previous Regulation (EEC) No 1408/71. Regulation (EC) No 883/2004 strengthened the principles of coordination and brought improvements in many social security branches, but despite efforts made during the negotiations aimed at simplification and modernisation, in the areas of coordination of unemployment and long-term care benefits the process did not lead to the expected results. This was partly due to the requirement of unanimity in the Council under the previous Treaty, as the Regulation was adopted before the TFEU entered into force

The Commission is constantly committed to ensure the simplification and rationalisation of EU rules, which have become complex (for example, rules for unemployed frontier workers) and lack transparency (rules on coordination of long-term care benefits) both for national authorities and EU migrant citizens, who have difficulty in identifying their rights under EU law. The revision of the rules on the coordination of unemployment benefits should lead in particular to a simplification of the current legal framework and a reduction of administrative burden. The revision of the rules on long-term care benefits should make the current legal framework more transparent and effective.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

The Communication of the Commission on the follow-up to the Top10 consultation has set out the concerns of SMEs and the response of the Commission to the following regulations

¹⁰⁰ <http://ec.europa.eu/social/main.jsp?catId=333&langId=en&consultId=13&furtherConsult=yes>

¹⁰¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems

¹⁰² Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems

highlighted by SMEs as most burdensome in the area of Employment, Social Affairs and Inclusion:

- Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.
- Directive 2003/88 concerning certain aspects of the organisation of working time
- Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (proposal for an enforcement Directive in legislative procedure)
- Directive 2008/104/EC on temporary agency work

The actions already taken or being taken by the Commission on these measures have been explained above.

In addition, concerns were raised on another measure.

- **EU legislation relating to leave**

SMEs tell us:

The European Court of Justice (ECJ) has ruled that workers on long-term sick leave can accumulate leave. The essence of this ruling is that workers, for example those in Germany, during a long-term incapacity for work, have to be granted leave for a period of up to 27 months. This leave can be taken upon return to work, with full financial compensation even if the employment relationship is subsequently terminated. This ruling brings very significant costs for micro-enterprises and SMEs.

Commission services comments:

A revision of the Working Time Directive has been launched and an impact assessment on the Directive is being prepared, which will look at the costs and benefits of several options against the background of evolving work patterns, health and safety risks and the special circumstances and needs of SMEs (see under 3. Measures taken to ensure that legislation is 'fit-for-purpose'/a. Labour Law). The question how sick leave can be combined with annual leave and the accumulation of entitlement to annual leave is clearly an important issue for SMEs which will be taken into account in this work.

With regard to existing legislation, it is important to distinguish between the minimum right to paid annual leave under the Working Time Directive on the one hand, and on the other hand, rules governing sick leave which are a matter for national law. A worker is entitled under Article 7 of the Working Time Directive to a minimum four weeks' paid leave per year. Conversely, whether a worker is entitled to take sick leave, how long sick leave continues, and whether sick leave is paid or not are all matters decided at the national level. The Court of

Justice of the EU has held¹⁰³ that a worker who is unable to work for reasons outside his control, including incapacity due to illness, but continues in employment, continues to acquire rights to paid annual leave during that period. After he is fit for work again he must be given an opportunity to take the annual leave. This ruling of the Court gave rise to a number of references from national courts. In one of these cases, *KHS*¹⁰⁴, the Court clarified that there is no right to unlimited accumulation of paid annual leave during periods of long-term incapacity to work, and set a precise limit to employers' paid annual leave obligations. It held that when a worker remains unable to work due to illness during a prolonged period, national laws may set a cut-off point for the period during which rights to paid annual leave can accumulate (a minimum of 15 months after the end of the leave year).

5. REFIT legislative actions

The following possible legislative initiative with a focus on Regulatory Fitness in the area of Employment, Social Affairs and Inclusion is under consideration by the Commission. The timing of this possible follow-up action will depend on further steps to be taken¹⁰⁵:

- Consolidation of three Directives regarding information and consultation of workers further to a Fitness Check on this policy area¹⁰⁶ with timing also dependent on further preparatory steps.

6. REFIT evaluations

The following evaluations and impact assessments with a focus on Regulatory Fitness in the area of Employment, Social Affairs and Inclusion are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Review of Temporary Agency Work Directive [last quarter 2013]*;
- Impact Assessment of different options for the review of the Working Time Directive [to be concluded in 2014]*;
- Evaluation of legislation on employer's obligation to inform employees of the conditions applicable to the contract or employment relationship [to be launched in 2014]*.
- Ex-post evaluation of the Health and Safety at Work Legislation, including the Framework Directive 89/391/EEC and 23 related Directives [last quarter 2015]*;

¹⁰³ Joined cases *Schultz-Hoff* and *Stringer*, C-350/06 and C-520/06.

¹⁰⁴ Case C-214/10 of 22 November 2011

¹⁰⁵ Social partners have to be consulted as foreseen in the Treaty as regards the opportunity as well as the content of such consolidation, before a decision is taken.

¹⁰⁶ This concerns Directive 98/59/EC on collective redundancies, Directive 2001/23/EC on transfers of undertakings and Directive 2002/14/EC establishing a general framework relating to information and consultation of workers in the EC.

9. ENERGY

1. Policy and legislative responsibilities in the area of Energy

The existing body of legislation in the area of energy has been considerably amended and reinforced during the last 5 years: Under the general energy policy objective of sustainable energy, the main legal instruments for achieving the 2020 targets on renewable energy and energy efficiency are the renewables directive (2009)¹⁰⁷ and the recent energy efficiency directive (2012)¹⁰⁸. Under the general objective of competitive and affordable energy, the third internal energy market package (2009)¹⁰⁹ sets a comprehensive framework for the internal energy market for electricity and gas. Under the general objective of safe and secure energy, the main pieces of legislation cover security of supply, transnational infrastructure connections and nuclear energy. Regarding nuclear energy, the focus lies on nuclear safety, a responsible and safe handling of nuclear waste and spent fuel and the implementation of nuclear safeguards. Against the background of the strategies in place until 2020 and based on the Energy Roadmap 2050 from 2012¹¹⁰, the overarching aim of energy policy development is currently the development of a 2030 framework for energy and climate policies¹¹¹.

2. Measures to ensure that legislation is 'fit-for-purpose'

The policy development and evaluation activities of DG ENER include amongst others the following on-going and planned actions in view of keeping the acquis fit for purpose:

The third internal energy market legislation for electricity and gas (2009)¹¹² and legislation on security of gas supply (2010)¹¹³ are subject to regular monitoring and reporting. Based on

¹⁰⁷ Directive 2009/28/EC of the European Parliament and Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

¹⁰⁸ Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC of 25 October 2012

¹⁰⁹ Directive 2009/72/EC 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) No 713/2009 of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators; Regulation (EC) No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005

¹¹⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Energy Roadmap 2050" of 15 December 2011 - COM(2011) 885 final

¹¹¹ Green Paper "A 2030 framework for climate and energy policies" of 27 March 2013 - COM(2013) 169 final

¹¹² Directive 2009/72/EC 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) No 713/2009 of 13 July

impact assessments, the Commission is currently developing network codes which should establish common rules to enable network operators, generators, suppliers and consumers to operate more effectively within the market.

Based on the green paper from March 2013¹¹⁴, an impact assessment is being prepared for non-legislative or legislative initiatives for a climate policy framework for 2030 (scheduled for late 2013). This should enhance the coherence of various policy objectives and instruments, provide governments and investors with regulatory certainty and improve the investment climate in the field of energy.

Supported by the conclusions of the European Council on Energy of May 2013¹¹⁵, the Commission will prepare an analysis of the composition and drivers of energy prices and costs in Member States, with a particular focus on the impact on households, SMEs and energy intensive industries, and looking more widely at the EU's competitiveness vis-à-vis its global economic counterparts by the end of 2013.

In the autumn of 2013 the Commission is planning to present a Communication on public interventions in the electricity market accompanied by guidance documents. The outlook is to optimise public interventions in integrating the EU electricity market to help to achieve the objectives of EU energy policy in the most cost-efficient way. It is planned to include guidance on measures for generation adequacy (security of supply), guidance on best practices regarding national support schemes for renewables, guidance on the use of co-operation mechanisms under the renewable energy directive and an explanatory document on demand response. The Commission has also established a sub-group of the Electricity Coordination Group¹¹⁶ to examine how to ensure more coordinated generation adequacy assessment. Depending on the findings, a later modification of the directive on safeguarding of electricity supply and infrastructure investment (2005)¹¹⁷ could be considered.

2009 establishing an Agency for the Cooperation of Energy Regulators; Regulation (EC) No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005

¹¹³ Regulation (EU) No 994/2010 of the European Parliament and Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC

¹¹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Energy Roadmap 2050" of 15 December 2011 - COM(2011) 885 final

¹¹⁵ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/137197.pdf

¹¹⁶ Commission Decision of 15 November 2012 setting up the Electricity Coordination Group C(2012) 8141 final

¹¹⁷ Directive 2005/89/EC of the European Parliament and Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment

The exercise of delegated powers under the regulation on wholesale energy market integrity and transparency (2011)¹¹⁸ will be assessed by March 2016.

Regular evaluations of financial support for Trans-European Energy Networks (TEN-E) (2007-2013)¹¹⁹ pointed to permit-granting as one of the major elements to delay development of infrastructure projects and to the need for more effective monitoring of progress and results. This is fully addressed in the new legislation on Energy Infrastructure (Guidelines for Trans-European Energy Networks)¹²⁰ and the new Connecting Europe Facility (2014-2020)¹²¹.

A review of the Council decision on crude oil supply costs and consumer prices of petroleum products (1999)¹²² is close to finalisation and has included discussions with Member States, to reflect changing conditions on retail markets for petroleum products. The results of the review are expected to increase the transparency of reporting and include guidelines intended to improve the reporting process. Based on experiences gathered the process could be re-considered after 2014, also taking into account links between the decision and the regulation on registration of crude oil imports and deliveries (1995).¹²³

Following an assessment, the Commission intends to repeal the Council decision on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (1977)¹²⁴ and implementing legislation. In addition the Commission intends to carry out an evaluation of the strategic oil stocks directive¹²⁵ in 2015.

¹¹⁸ Regulation (EU) No 1227/2011 of the European Parliament and Council of 25 October 2011 on wholesale energy market integrity and transparency

¹¹⁹ http://ec.europa.eu/energy/infrastructure/tent_e/financial_aid_en.htm

¹²⁰ Regulation No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009

¹²¹ http://ec.europa.eu/energy/mff/facility/connecting_europe_en.htm

¹²² Council Decision of 22 April 1999 regarding a Community procedure for information and consultation on crude oil supply costs and the consumer prices of petroleum products (1999/280/EC)

¹²³ Council Regulation (EC) No 2964/95 of 20 December 1995 introducing registration for crude oil imports and deliveries in the Community

¹²⁴ Council Decision of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (77/706/EEC)

¹²⁵ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

The new directive on safety standards for offshore oil and gas operations (2013)¹²⁶ takes into account the differences in administrative structures across Member States and limits the administrative burden for land-locked countries and Member States without offshore oil and gas activities to the strict minimum

The energy performance of buildings directive (2010)¹²⁷ takes into account national differences regarding climate and building stock. It leaves the definition of energy performance standards to the national level, based on the Commission's common cost-optimal methodology framework. The eco-design (2009)¹²⁸ and energy labelling (2010) directives¹²⁹, by setting Europe-wide energy performance and labelling approaches, ensure that companies (including SMEs) do not have to cope with different national schemes.

Specific aspects of the energy performance of buildings directive¹³⁰ are currently undergoing evaluation. The results of an overall evaluation of the directive are envisaged for early 2017.

The energy labelling directive¹³¹ and certain aspects of the eco-design directive¹³² (also referred to in chapter 10) are scheduled for evaluation and review during 2014. The review will cover many aspects, including in particular the design and content of the energy label. Existing and new implementing/delegated acts (including tyre labelling legislation) contain regular review obligations. The regulation on energy labelling for office equipment (energy star)¹³³ should be evaluated in 2016.

¹²⁶ Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC

¹²⁷ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings

¹²⁸ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products

¹²⁹ Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

¹³⁰ Directive 2010/31/EU of the European Parliament and Council of 19 May 2010 on the energy performance of buildings

¹³¹ Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

¹³² Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products

¹³³ Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment

The new energy efficiency directive (EED) (2012)¹³⁴ drew lessons from difficulties in implementing the previous energy services directive. It includes provisions from two previous acts, the energy services and the combined heat and power directives, which will be repealed. Specific aspects of this new directive will be reviewed at different moments between 2014 and 2018, with a key evaluation planned by mid-2014 on the national indicative EE targets. To facilitate its implementation the Commission will during 2013 present seven guidance notes.

Although Member States have to submit annual National Energy Efficiency Plans, this task has been simplified through a standard template and guidance. Separate annual reporting by Member States on energy consumption is no longer required. Instead, the information is to be included in the National Reform Programmes of the European Semester.

The renewable energy (RES) directive 2009/28/EC¹³⁵ foresees regular reporting as well as review clauses (2014 – specific aspects, 2018 and 2021). The Commission will during 2013 publish guidance on best practices regarding national support schemes and the use of operation mechanisms under the RES directive (already referred to). A template provided by the Commission for the National Renewable Energy Action Plans required under the RES Directive has streamlined reporting obligations for Member States¹³⁶.

An impact assessment undertaken in 2012 for a possible legislative proposal on accounting for new electricity and hydrogen for the 2020 renewable energy transport target (as required by the RES Directive) showed that no legislative initiative was needed.

The nuclear energy acquis has over the past years undergone important developments and review activities:

Regarding nuclear safety, the recently revised Council directive on responsible and safe management of spent fuel and radioactive waste (transposition due by 23 August 2013) foresees regular reporting (first time by August 2015)¹³⁷. Commission also undertook a comprehensive review of the existing framework on the basis of various sources of expertise,

¹³⁴ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC

¹³⁵ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

¹³⁶ Commission Decision of 30 June 2009 establishing a template for National Renewable Energy Action Plans under Directive 2009/28/EC of the European Parliament and the Council (2009/548/EC)

¹³⁷ Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste

including the “stress test” process¹³⁸, the preliminary assessment of the transposition in Member States of the current directive on nuclear safety (2009)¹³⁹ and an impact assessment for a revised nuclear safety directive¹⁴⁰. The draft proposal for the revised directive was presented in June 2013 for the opinion of the European Economic and Social Committee, according to the procedure defined in the Euratom Treaty.

In the field of radiation protection, an important consolidation was proposed in 2011 on basic safety standards in field of radioprotection. The proposed directive should simplify the existing acquis by consolidating five existing directives and is expected to be adopted by the Council by the end of 2013. A directive on health protection with regard to water for human consumption (based on the Euratom treaty) was proposed in 2012¹⁴¹ and should be adopted by the Council soon. Revised radiation protection legislation related to contamination of food and feed in case of emergency is scheduled for 2013.

An evaluation of the efficiency and effectiveness of expenditure for nuclear safeguards activities started in 2013.

3. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

- **Single Market for electricity and gas and energy efficiency**

SMEs tell us:

Comments of SMEs regarding legislation in the area of energy in the context of the public consultation on the TOP 10 most burdensome legislative acts and other stakeholder input has focused on the electricity and gas internal energy market directives¹⁴² (e.g. the unbundling

¹³⁸ Communication from the Commission to the Council and the European Parliament on the comprehensive risk and safety assessments ("stress tests") of nuclear power plants in the European Union and related activities of 4 October 2012 - COM(2012) 571 final

¹³⁹ http://ec.europa.eu/governance/impact/ia_carried_out/cia_2013_en.htm#ener

¹⁴⁰ Draft proposal for a Council Directive amending Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations - Draft presented under Article 31 Euratom Treaty for the opinion of the European Economic and Social Committee – 13 June 2013 - COM(2013) 343 final

¹⁴¹ Proposal for a Council Directive laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption of 28 March 2012 - COM(2012) 147 final

¹⁴² Directive 2009/72/EC 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) No 713/2009 of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators; Regulation (EC) No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005

rules for energy infrastructures) and the introduction of energy audits based on the energy services directive from 2006¹⁴³. SMEs mainly criticise burdensome implementation of EU acquis or national rules that go beyond the acquis requirements.

Commission services comments:

Regarding the rules on unbundling for transmission system operators, the Commission published in May 2013 a summary of the Commission's practice in assessing the presence of a conflict of interest¹⁴⁴, which should facilitate the practical implementation of unbundling rules for Member States and the private sector. Furthermore, the new energy efficiency directive specifically exempts SMEs from compulsory energy audit obligations.

4. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Energy are awaiting adoption by the co-legislator:

- Commission proposal for a Community system for registration of carriers of radioactive materials replacing national reporting and authorization procedures by a unique registration system will simplify the procedure while ensuring high radiation protection levels¹⁴⁵
- Commission proposal for consolidation on basic safety standards in field of radioprotection and associated directives¹⁴⁶

The following legislative initiatives with a focus on Regulatory Fitness in the area of Energy are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Repeal of the Council decision on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products¹⁴⁷ (1977) and implementing legislation [2014]

¹⁴³ Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC

¹⁴⁴ Commission Staff Working Document "Ownership Unbundling – The Commission's Practise in Assessing the Presence of a Conflict of Interests Including in Case of Financial Investors" of 8 May 2013 - SWD(2013) 177 final

¹⁴⁵ COM(2011)518

¹⁴⁶ COM(2012)242

¹⁴⁷ Council Decision 77/706/EEC of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (+implementing Commission Decision 79/639)

10. ENTERPRISE AND INDUSTRY

1. Policy and legislative responsibilities in the area of Enterprise and Industry

The EU acquis in the area of enterprise and industry comprises directives, regulations or decisions governing the internal market for products, three pieces of legislation concern satellite navigation systems and two financial programmes.

Legislation on the internal market for products provides the rules for the free circulation of more than 75% of all products. This includes the principle of 'mutual recognition', so that products lawfully marketed in one Member State can, generally, be marketed in another Member State where no specific EU legislation applies. Over the past 20 years, legislation on the internal market for products has been modernised whenever necessary, taking into account technical progress or new policy needs, such as consumer and environmental protection.

Regarding satellite navigation, the European Geostationary Navigation Overlay Service (EGNOS) and Galileo (Europe's fully autonomous satellite navigation system) are managed directly by the Union. The Commission manages a regulation governing the implementation of the European programmes, a regulation setting up the European agency and an EP/Council Decision on rules for access to the publicly regulated services provided by Galileo.

The Commission manages the Competitiveness and Innovation Programme (CIP), 2007-2013, which will be followed by the Programme for the Competitiveness of European SMEs (COSME), 2014-2020. The Regulation on the European Earth monitoring programme (GMES) for 2011-2013 will be followed by a new Regulation on the Copernicus Programme.

2. Smart Regulation Framework and Tools

The New Legislative Framework (NLF) came into force in 2010 aiming to ensure that products are safe, operators are treated equally and the regulatory environment for products is simplified. The aligning of existing legislation to the NLF is still continuing: On 21 November 2011, the Commission adopted an "Alignment Package" consisting of nine Directives, which is currently in the final stages of the EU legislative procedure. By the end of this mandate, the Commission would have proposed 17 Union harmonisation acts aligned to the NLF. This will provide for a coherent and homogenous body of internal market for products legislation, designed to facilitate the life of both enterprises and public authorities in charge of market surveillance.

DG ENTR has contributed to the Commission Simplification Rolling Programme: From 2007 to 2012, 14 simplification items coming from the internal market for products have been adopted by the Commission, and for 2013, five new initiatives are planned.

Impact assessments are applied to major regulatory initiatives: between 2007 and 2013, DG ENTR undertook impact assessments on 32 pieces of legislation under its remit.

For example, as concerns the ecodesign directive, there is an on-going review process of the implementing measures involving regular review and impact assessment upon adoption. In 2012/2013, the Commission undertook 11 impact assessments (five of which in the area of Enterprise and Industry). In the coming months three more impact assessments on ecodesign will be delivered in the Commission.

Furthermore, an independent review of the Standardisation system will start in 2013. Following the outcome of this Review, a decision on future actions will be made at the end of 2014.

In early 2012 a toolkit to integrate the application of 'competitiveness proofing' in the Commission's impact assessment procedures was published. It has provided the Commission with an effective tool to deliver more thorough analyses of the impact of new proposals on competitiveness.

Further applying the "Think Small First" principle when drafting EU and national legislation will help SMEs reduce their costs. The Entrepreneurship 2020 Action Plan of January 2013 sets out an agenda to decrease regulatory burden as one of the key actions¹⁴⁸. As set out in the Commission report on minimising regulatory burden for SMEs of November 2011¹⁴⁹, the SME Test and the principle of reversed burden of proof, to take into account the specificities of micro enterprises, applies when assessing impacts of legislative proposals on SMEs.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Fitness checks, evaluations and cumulative cost studies can more effectively contribute to growth and economic recovery, as underlined in the Industrial Policy Communication of October 2012. In this context the Commission has launched a number of these kinds of review in the area of Enterprise and Industry.

Between 2007 and 2014, evaluations and Fitness Checks will have been undertaken on 34 pieces of legislation. The policy area of Enterprise and Industry has been active in the development of Fitness Checks through a pilot project: on the legal framework for the type-approval system of motor vehicles, now in the final stages of preparation.

In February 2013, the Commission adopted a comprehensive review of chemicals legislation (REACH) which was based on twelve different evaluations and studies, resulting among other measures in substantially reduced fees for small businesses and additional guidance on the procedures to be completed for the registration of chemicals.

¹⁴⁸ COM(2012)795 final – Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Entrepreneurship 2020 Action Plan - Reigniting the entrepreneurial spirit in Europe

¹⁴⁹ COM(2011)803 COM(2011)803 COM(2011)803 COM(2011)803 final – Report to the Council and the European Parliament - Minimizing regulatory burden for SMEs. Adapting EU regulation to the needs of micro-enterprises COM(2011)803

The Fitness Check on the oil refining industry is currently on-going and will present its conclusions next year.

The on-going evaluation on the internal market for industrial products covers possible elements concerning legislative consolidation, simplification and regulatory burden reduction.

In summary, 80% of the ENTR legislation will have been closely scrutinised and, where necessary revised before the end of this mandate.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

SMEs have the opportunity to give feedback on performance difficulties related to EU legislation through the Enterprise Europe Network.

The Communication of the Commission on the follow-up to the Top10 consultation¹⁵⁰ has set out the concerns of SMEs and the response of the Commission to the following regulation highlighted by SMEs as most burdensome in the area of Enterprise and Industry:

The Communication of the Commission on the follow-up to the Top10 consultation¹⁵¹ has set out the concerns of SMEs and the response of the Commission to the following regulation highlighted by SMEs as most burdensome:

- **Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)**

Furthermore, SMEs made comments in relation to the following pieces of legislation:

- **Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (CPR)**

SMEs tell us:

Businesses complain about the ineffectiveness of exceptions for individually manufactured products, a lack of detail in the legal text and a need to update European Standard EN 1090.

Commission services comments:

The Construction Products Regulation (CPR) entered fully into force on 1 July 2013. Certain parts of the regulation have been applied as of April 2011 and have demonstrated their merits as beneficial evolutionary steps forward from the Construction Products Directive and in consolidating the Internal Market for construction products.

The CPR requires several reports to be prepared to assess its implementation. As concerns

¹⁵⁰ COM(2013)446

¹⁵¹ COM(2013)446

the Report to the EP and the Council pursuant to Article 67(2) of the CPR on the implementation of the Regulation, a comprehensive exercise started in July 2013, in view of the report to the EP and Council due for 25 April 2016. This report will be accompanied by appropriate proposals where relevant.

In addition to the above, the Commission is examining questions from manufacturers on issues of technical nature in certain harmonised standards in order to avoid unnecessary burden to the industry. Comprehensive replies to these questions are uploaded on the Commission website and facilitate industry compliance with the CPR.

- **Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast)**

SMEs tell us:

SMEs tell us that this Directive is burdensome but without substantiation.

Commission services comments:

The Commission is currently carrying out two independent studies to assess the need to extend the scope of the Directive. These studies will feed into an evaluation in 2016, to assess whether any revision is necessary. In this context the Commission intends to also check the exact nature of the burden identified by the SMEs and intends, where appropriate, to propose remedial action.

5. Proposed REFIT legislative actions

The following legislative initiative with a focus on Regulatory Fitness in the area of Enterprise and Industry are under preparation by the Commission:

- Repeal of Directive 1999/45/EC on the classification, packaging and labelling of dangerous preparations [2015]

6. Proposed REFIT evaluations

The following evaluations and impact assessments with a focus on Regulatory Fitness in the area of Enterprise and Industry are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Fitness check on the type-approval system for motor vehicles [2013];
- Fitness check of the oil refining sector[2014];
- Evaluation of the firearms legislation [2014]
- Evaluation of the Machinery Directive [2016]

7. Other studies including sector cost assessment

- Cost assessment on the steel sector [delivered in 2013];
- Cost assessment on the aluminium sector [2013];
- Cost assessment on the chemical industry [2014]
- Cost assessment on the forest-based industries [2014]

11. ENVIRONMENT

1. Policy and legislative responsibilities in the area of Environment

EU Environmental policy covers a wide range of policy areas. Legislation is actively managed with a wide range of evaluatory work, review and simplification on-going which will apply the REFIT principles throughout:

2. Smart Regulation Framework and Tools

The EU has long been committed to ensuring that regulation and other instruments safeguard the environment to a high standard in an efficient way. Smarter and simpler regulation makes it cheaper and easier for people, businesses and organisations to comply, easier for regulators to apply it and leads to a better environment in practice.

In the environment policy area, differences of perception can arise about the costs and benefits of regulation. For example, the Polluter Pays Principle means that there is often a difference between those who face the costs of abatement, and those who benefit from a cleaner environment. These differences can generate a public expression from the 'payers' that environmental regulation is burdensome. In some cases, people and businesses accept making an extra effort because they support the environmental benefits whilst others can be irritated by having to do tasks which, although less burdensome, are perceived to bring little useful result.

In general, however, there is an increasing awareness that many businesses depend on a good environment or can profit from improved resource efficiency. Across industry, the net benefits for business from improved resource efficiency have been estimated to be in the range EUR 245 billion to EUR 604 billion, representing between 3% and 8% of annual turnover. The European Resource Efficiency Platform recently made recommendations on how to overcome the barriers that stop companies and in particular SMEs from realising these opportunities: a lack of access to funding, distorted market demand, or lack of knowledge and capability.¹⁵²

SMEs highlight the value of a stable regulatory environment and complain about frequent reviews and modifications; investment cycles argue for monitoring legislation for at least 5 years before re-assessing.

As part of the Administrative Burden Reduction Programme, the costs associated with European legislation were measured in certain key areas of regulation.¹⁵³ The costs for the environmental acquis were estimated at EUR 1.18b per annum: this was around 1 per cent of

¹⁵² http://ec.europa.eu/environment/resource_efficiency/documents/action_for_a_resource_efficient_europe_1706_13.pdf

¹⁵³ Action Programme for Reducing Administrative Burdens in the EU Sectoral Reduction Plans and 2009 Actions COM(2009) 544

the total for all European legislation covered, which was EUR 123.76b per annum. Responding to this, measures have been adopted to cut the costs for the seven most burdensome pieces of environmental legislation for business by around EUR 300 million per annum, or around a quarter.¹⁵⁴ It has also been estimated that 30 % of total costs are added at Member State level through incorrect transposition or additional requirements.

The High-Level Group on Administrative Burdens has examined various aspects of EU environmental regulation, and its opinions reflect the attention given to the issue¹⁵⁵.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Waste policy

Waste, in particular the reporting requirements under the Waste Shipment Regulation, was one of the most burdensome areas for SMEs identified in the Top Ten consultation. A REFIT fitness check has begun on five of the pieces of 'waste stream' legislation which will build on other efforts, for example the recent recast of the Directive on waste electrical and electronic equipment (WEEE - 2012/19/EU)¹⁵⁶ resulting in harmonised national registration and reporting requirements and a reduction in administrative burdens. At the cost of some regulatory complexity, the recast Directive as finally adopted exempted small shops selling electrical and electronic devices from meeting take-back obligations, which only apply to retail shops larger than 400m².

The revision of the packaging and packaging waste Directive¹⁵⁷ will be coordinated with the conclusions of the waste Fitness Check.

The Waste Framework Directive 2008/98/EC¹⁵⁸, which consolidated and simplified EU regulation in this area, allowing for the Directives on hazardous waste and waste oils to be

¹⁵⁴ Action Programme for Reducing Administrative Burdens in the EU - Final Report", SWD(2012)422

¹⁵⁵ For example, the Group has concluded on one of its projects in the following terms: "The exercise showed that the environmental acquis of the EU is dynamic. Much of the legislation targeted is under review or recast, or has been so recently. Often, one of the objectives of such reviews/recasts is to have a critical look at the administrative burdens. The discussions at the hearing showed that many of the issues had already been discussed by the European Commission and with those affected or during the co-legislation procedures, [Opinion of the High-Level Group of 20 May 2010](#): Second Report on Administrative Burden Reduction in the priority area of Environment.

¹⁵⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)

¹⁵⁷ Directive 2005/20/EC of the European Parliament and of the Council of 9 March 2005 amending Directive 94/62/EC on packaging and packaging waste

¹⁵⁸ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

repealed, has only recently had to be applied but a review of targets has begun to identify the economic, social and environmental impacts of possible changes.

Water policy

The "Fitness Check of EU Freshwater Policy" was one of the pilots for this new form of cross cutting evaluation. The fitness check was one of the pillars for the subsequent Water Blueprint, which responded to the progress and challenges in freshwater policy. It examined six pieces of legislation¹⁵⁹ looking at the relevance, coherence, effectiveness and efficiency of water policy. The detailed analysis showed that the current policy framework is fit for purpose but better implementation and closer integration with other related policies are required.

The Water Framework Directive (WFD)¹⁶⁰ has already brought about a significant streamlining and simplification of EU water legislation. It is progressively reducing (until the end of 2013) the number of Water Directives by 50%, from eighteen to nine.

Regarding administrative burden, the WFD considerably reduces Member State reporting obligations: by 20% in 2008 and by 40% by 2013. The Water Information System for Europe (WISE)¹⁶¹ is also simplifying reporting. In cooperation with the Member States, the Commission is also working on possible further integration and, where necessary, targeted amendments of the relevant legislation to harmonise reporting cycles and so further reduce the administrative burden.

Industrial Emissions

Directive 2010/75/EU on industrial emissions (IED)¹⁶² had to be transposed into national legislation by Member States in January 2013. It replaces the IPPC Directive and comprised a

¹⁵⁹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy; Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration; Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council; Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof; Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources; Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks

¹⁶⁰ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

¹⁶¹ <http://water.europa.eu/>

¹⁶² Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) Text with EEA relevance

major consolidation, with six sectoral Directives repealed. The new Directive included a number of changes, for example, reducing administrative burdens by about EUR 30 million a year, through combined permitting, and EUR 2 million a year through streamlined reporting and monitoring.

The Regulations on Eco-label ¹⁶³ and EMAS ¹⁶⁴ are voluntary instruments, which businesses can choose to apply to improve their environmental and economic performance.

The Noise Directive 2002/49/EC ¹⁶⁵ defines a common approach to deal on a prioritised basis with the harmful effects, including annoyance, of exposure to environmental noise.

Air Quality

A comprehensive review of EU's air policy is on-going. Action in this area is costly if measures are taken too late, but it is a good example of how smart policies can deliver significant benefits. Air pollution continues to cause around 400,000 premature deaths in Europe each year and the estimated annual costs in terms of health expenditure or days of work lost through illness run to billions of Euros. For instance, improvements in business productivity from reduced working days lost would save around EUR 1.5bn per year. Reduced health care costs, reduced crop damage and lower damage to buildings add another EUR 750 million to this figure. These direct savings would cover over half of the total estimated compliance costs of the policy apart from the broader range of benefits that would result.

The next revision of EU air policy is planned to provide long term clarity for business and government and also respond to the adoption of the UNECE Gothenburg Protocol establishing international controls on air pollution¹⁶⁶.

Nature and Biodiversity

The implementation of the EU Habitats and Birds Directives ¹⁶⁷ will be evaluated, based on reports to be submitted by the Member States in 2015. The evaluation will cover the

¹⁶³ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel

¹⁶⁴ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

¹⁶⁵ Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise - Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise

¹⁶⁶ http://ec.europa.eu/environment/air/review_air_policy.htm

contribution of this legislation to the achievement of targets and commitments at the EU (e.g. the EU Biodiversity Strategy ¹⁶⁸) and international (e.g. under the Convention on Biological Diversity) level.

Chemicals

Chemicals are the other environmental area to appear in the Top Ten burdensome areas for SMEs. REACH is covered in the chapter on enterprise and industry, although responsibility for it is shared with DG ENV. However, action to simplify for business whilst ensuring good environmental standards is not limited to REACH. For example, Regulation (EU) No 528/2012 concerning the making available on the market and use of biocidal products was adopted in May 2012. Responding to concerns about possible burdens, it included a number of simplification efforts largely benefiting SMEs, such as improved authorisation procedures, obligatory data sharing for vertebrate animal data and streamlining the data requirements that provided overall savings of 140 million Euros a year.

Furthermore, a number of evaluations are starting, or will shortly start, in line with the requirements laid down in the respective legislative measures, and leading to revisions as necessary.

Horizontal Legislation

The revision of the Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive), introduces an obligatory one-stop-shop mechanism in Member States to ensure coordination or integration of the EIA with the environmental assessments required under other relevant EU legislation as a way to simplify procedures for business and competent authorities. This is currently being discussed with Council and Parliament.

Legislation on governance issues helps to underpin activity related to all of the sectors above ¹⁶⁹. It aims to support good environmental governance covering: effective access to and sharing of environmental information, public participation, access to justice, and the representation of the EU in the Aarhus Convention.

¹⁶⁷ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora; Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

¹⁶⁸ <http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm>

¹⁶⁹ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC; Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC; Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment

The Regulation concerning the Financial Instrument for the Environment (LIFE+) ¹⁷⁰ supports environmental and nature conservation projects and projects related to climate action.

There are also a number of multilateral environmental agreements and legislative measures aiming to ensure that environmental legislation is of good quality and efficient.

Simplification proposals will be pursued with on-going proposals, such as:

- The proposed revision of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive), promotes a one-stop-shop mechanism in Member States to ensure coordination of the EIA with the environmental assessments required under other relevant EU legislation as a way to simplify procedures for business. This is currently under discussion in the EU legislative procedure.
- The issue of reducing administrative burdens on SMEs was addressed in the 2011 recast of Directive 2002/95/EC on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS).¹⁷¹ Council and Parliament extended the scope beyond the Commission's proposal to cover all electrical and electronic equipment, with a view to full compliance by 2019. However, this extension was not subject to an Impact Assessment and could expose some businesses to compliance costs and problems. The Commission has launched a review and, if necessary, will propose changes to reduce regulatory burden.
- The proposal "Building the Single Market for Green Products - Facilitating better information on the environmental performance of products and organisations" ¹⁷² will help companies that want to sell a green product in more than one EU Member State by moving towards a common foot-printing methodology. This should replace the current practice of multiple environmental assessments based on different national methods, which can be very expensive, especially for SMEs.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

¹⁷⁰ Regulation (EC) No 614/2007 of the European Parliament and of the Council of 23 May 2007 concerning the Financial Instrument for the Environment (LIFE+) - Commission statement

¹⁷¹ DIRECTIVE 2002/95/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment

¹⁷² Communication from the Commission to the European Parliament and the Council "Building the Single Market for Green Products - Facilitating better information on the environmental performance of products and organisations" – 9 April 2013 - COM(2013) 196 final

The Communication of the Commission on the follow-up to the Top10 consultation¹⁷³ has set out the concerns of SMEs and the response of the Commission to the following regulation highlighted by SMEs as most burdensome in the area of Environment:

- Shipments of waste - Regulation (EC) No 1013/2006¹⁷⁴
- Directive 2008/98 on waste¹⁷⁵ and Decision 2000/532/EC establishing lists of waste and hazardous waste¹⁷⁶

The action being taken by the Commission on these measures has already been described.

Comments were also received in relation to the following pieces of legislation:

- **Waste electrical and electronic equipment (WEEE) – Directive 2012/19/EU¹⁷⁷ and Restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC¹⁷⁸**

SMEs indicated that the total burden resulting from the introduction of producer / importer / distributor responsibility is considerable. These costs place a disproportionate burden on SMEs through the need to join approved compliance schemes, and to pay for collection, treatment, recovery, disposal and labelling. They argue that SMEs need a general exemption from any new producer responsibility.

Commission services comments:

In response, as mentioned above, the Commission has responded to the issue of reducing administrative burdens on SMEs resulting from the implementation of the (Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE Directive) in its recast of this Directive. For instance, the new Directive introduces strong harmonisation elements in Article 16 on registration and reporting. It also contains provisions clarifying that only one

¹⁷³ COM(2013)446

¹⁷⁴ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste

¹⁷⁵ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

¹⁷⁶ 2000/532/EC: Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (notified under document number C(2000) 1147)

¹⁷⁷ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)

¹⁷⁸ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment

marking and treatment information is needed for the European market, introduces mandatory reimbursement of multiple compliance contributions and provides for the possibility of appointing an authorised representative instead of establishing a legal seat. Moreover, while it foresees an obligation for distributors to provide for the collection of very small WEEE, small shops (with a sales surface of up to 400 m²) are exempt from this obligation to protect them from disproportionate costs.

Furthermore, the Commission is currently conducting a study aiming at identifying good practices (e.g. in terms of cost effectiveness and transparency) with respect to the operation of "Extended Producer Responsibility" (EPR), for instance collection schemes, in the EU.

- **Marketing and use of biocidal products – Regulation 528/2012** ¹⁷⁹

SMEs tell us:

The Biocidal regulation imposes prohibitive costs and burden for SMEs in a market previously non-regulated. Costs for the registration of a product are high.

Commission Comments:

This regulation¹⁸⁰ simplifying authorisation procedures for the placing of biocidal products on the market was adopted as part of the Administrative Burden Reduction Action Programme (ABR) with an estimated reduction of EUR 140 million. The date for application is 1 September 2013.

The other main problem faced by SMEs includes simplification measures such as improved authorisation procedures, obligatory vertebrate animal data sharing and other streamlining of data requirements all largely benefiting SMEs. Access to data, where the mechanisms established to facilitate these and which are so critical for many SMEs are sometimes undermined by uncompetitive practices from data owners (e.g. through supply agreements imposed on SMEs in return for data access).

5. REFIT evaluations

The following evaluations and impact assessments with a focus on Regulatory Fitness in the area of Environment are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

¹⁷⁹ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products

¹⁸⁰ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products

- Fitness Check of Waste Policy¹⁸¹ [2nd quarter 2014]*
- Fitness-Check of the EU Eco-label (66/2010)¹⁸², EMAS (1221/2009)¹⁸³ [2014]
- Directive 2002/49/EC relating to the assessment and management of environmental noise¹⁸⁴ [2014]
- Evaluation of Directive 94/63 on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to service stations¹⁸⁵ [2014]
- Evaluation of Legislation in the area of the Aarhus Convention [pending a Court of Justice judgement]
- Council Directive 1999/22/EC relating to the keeping of wild animals in zoos [provisional] [2015/16 depending on availability of resources]
- Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage¹⁸⁶ [2014]
- Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)¹⁸⁷ [2014]
- European Pollutant Release and Transfer Register (EPRTR)¹⁸⁸ [2015]

¹⁸¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

¹⁸² Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel

¹⁸³ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

¹⁸⁴ Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise

¹⁸⁵ Possible merger with Directive 2004/42/EC "Volatile Organics Compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products".

¹⁸⁶ Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage

¹⁸⁷ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

¹⁸⁸ <http://prtr.ec.europa.eu/>

12. STATISTICS

1. Policy and legislative responsibilities

The general mission of Eurostat is to provide the European Union, including the Commission, with high-quality statistical information. This includes producing reliable, comparable and relevant statistics covering the EU's areas of competence with the assistance of the European Statistical System. Eurostat disseminates EU statistics to the European public, businesses and decision makers as part of its role as a public service provider. It also supports non-EU countries, particularly candidate countries.

2. Smart Regulation Framework and Tools

Cost-effectiveness and minimizing burden on respondents are basic principles for Eurostat's development, production and dissemination of European statistics.

The activities of the Commission in this area are determined by the European statistical programme¹⁸⁹ and by Eurostat's annual work programme¹⁹⁰. The mid-term¹⁹¹ and ex-post¹⁹² evaluations of the European statistical programme cover all statistics produced by Eurostat. They also identify possible improvements for the future programme design and implementation.

Over the last years, efforts were deployed to reduce the burden on businesses deriving from the production of statistics. The emphasis was put on the review of those areas which were identified as most burdensome and burden reduction measures were implemented in such statistical fields as: intra-EU trade¹⁹³, structural business statistics¹⁹⁴, short term statistics¹⁹⁵,

¹⁸⁹ Regulation (EU) No 99/2013 on the European statistical programme 2013-17.

¹⁹⁰ The Statistical Work Programme 2013 is available at:
http://epp.eurostat.ec.europa.eu/portal/page/portal/pgp_ess/0_DOCS/estat/EN_annexe_acte_autonome_0.pdf

¹⁹¹ The most recent report is COM(2010)346 final: Report from the Commission to the European Parliament and the Council on the mid-term evaluation of the community statistical programme 2008-2012

¹⁹² The most recent report is COM(2009) 1 final: Report from the Commission to the European Parliament and the Council on the ex-post evaluation of the community statistical programme 2003-2007

¹⁹³ Regulation (EC) No 222/2009 of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States

¹⁹⁴ Commission Regulation (EC) No 251/2009 implementing and amending Regulation (EC) No 295/2008 of the European Parliament and of the Council as regards the series of data to be produced for structural business statistics and the adaptations necessary after the revision of the statistical classification of products by activity (CPA)

¹⁹⁵ Regulation (EC) No 1158/2005 of the European Parliament and of the Council amending Council Regulation (EC) No 1165/98 concerning short-term statistics

ICT¹⁹⁶, agriculture¹⁹⁷ and transport¹⁹⁸. In 2010, the Commission asked Member States to indicate their relative response-burden and production costs by basic legal act based on a questionnaire. The aim of this exercise was to obtain a general assessment of the response burden and costs incurred in relation to every basic act.

Intrastat¹⁹⁹, which covers intra-EU trade, is perceived as the most burdensome area. Eurostat launched an initiative to streamline the collection of data through the SIMSTAT (Single Market Statistics) project. This initiative is in line with the recommendations made by the High Level Group on Administrative burdens.

The SIMSTAT project foresees simplification in requirements for collection and production of intra-EU statistics on trade in goods. In the Internal Market, data on imports (arrivals) should theoretically mirror data on exports (dispatches) and vice versa. Thus, each transaction reported in one Member State could serve as a data source for two Member States: first, for compiling the Intra-EU dispatches of the country of dispatch and second, for verifying and/or compiling the Intra-EU arrivals of the country of arrival. The purpose of the SIMSTAT project is to enable the exchange of micro-data (enterprise level data) on intra-EU exports on trade in goods among Member States. This additional data source will allow Member States to reuse the Intra-EU dispatches micro-data for the purpose of checking and/or producing their own figures on Intra-EU arrivals.

The implementation period of the project is from June 2012 to December 2015. The period is divided in three main phases:

Phase 1: Feasibility study for the micro-data exchange (June 2012 – Q2 2013)

Phase 2: Development of the system for micro-data exchange (Q2 2013 – Q2 2015)

Phase 3: Pilot testing of the system for micro-data exchange (Q2 2015 – Q3 2015).

The first phase of the project (feasibility study) has already been finished. The purpose of the feasibility study was to propose an informatics infrastructure capable of exchanging micro-data on intra-EU dispatches between the Member States, which would meet all statistical requirements. The feasibility study examined several options for data exchange, and suggested the best alternative. The chosen system will be developed during the second phase

¹⁹⁶ Commission Regulation (EU) No 937/2011 implementing Regulation (EC) No 808/2004 of the European Parliament and of the Council concerning Community statistics on the information society

¹⁹⁷ Regulation (EU) No 1337/2011 of 13 December 2011 concerning European statistics on permanent crops and repealing Council Regulation (EEC) No 357/79 and Directive 2001/109/EC; and Regulation (EC) No 1165/2008 of the European Parliament and of the Council concerning livestock and meat statistics and repealing Council Directives 93/23/EEC, 93/24/EEC and 93/25/EEC;

¹⁹⁸ Regulation (EU) No 70/2012 of the European Parliament and of the Council on statistical returns in respect of the carriage of goods by road (recast)

¹⁹⁹ Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States, as amended by Regulation (EC) No 222/2009.

of the project and should be completed by February 2015. The third phase of the project includes trial exchange of micro-data between the Member States by means of the new system. This will be followed by an overall evaluation of the project.

To reduce administrative burden and to increase cost-effectiveness, the Commission has started an annual exercise to identify negative priorities, including the possibility to repeal or simplify legal acts. The list of negative priorities is being prepared within the European Statistical System²⁰⁰

3. Measures to ensure that legislation is 'fit-for-purpose'

The following initiatives in the area of Statistics will lead to further simplification, improvements in the effectiveness and efficiency of legislation and to a reduction of regulatory burden:

- The Commission will carry-out a REFIT initiative on the **Framework Regulation for Integrating Business Statistics (FRIBS)**²⁰¹. This initiative aims at integrating business statistics in a common legal framework to streamline and rationalise the reference architecture for European business statistics, reducing unnecessary burden on respondents..

FRIBS is a challenging and ambitious project that represents a key driver for the future of business statistics in Europe²⁰². It will provide certain common infrastructure tools for the production and compilation of business statistics²⁰³. This will allow a rationalization of the statistical production at national level emphasizing synergies, a better use of existing data sources and reducing the administrative burden on respondents and on national authorities compiling global business statistics.

Overall, FRIBS should lead to a burden reduction on businesses and cost savings for national authorities. This will be achieved through a combination of simplification actions, re-balancing (e.g. in the case of the requirements for trade in goods and services), the use of alternative sources and the use of information already available.

The Impact Assessment of FRIBS will include a specific cost-benefit analysis and a stakeholder consultation. The cost-benefit analysis will be performed to quantify and provide

²⁰⁰ http://epp.eurostat.ec.europa.eu/portal/page/portal/pgp_ess/ess/ess_news

²⁰¹ The basis for FRIBS is: Communication from the Commission to the European Parliament and the Council on the production method of EU statistics: a vision for the next decade (COM(2009)404).

²⁰² The basis for FRIBS is: Communication from the Commission to the European Parliament and the Council on the production method of EU statistics: a vision for the next decade (COM(2009)404). The roadmap for this initiative is available at:
http://ec.europa.eu/governance/impact/planned_ia/docs/2012_estat_011_business_statistics_en.pdf

²⁰³ This includes i.e. an enhanced role of business registers, a common definition of statistical units, the exchange / access to confidential micro-data, a common classifications and nomenclatures and a harmonized treatment of statistical confidentiality.

empirical evidence on the burden of implementing the different actions and on their expected savings for data providers and compilers at national level. The parties to be consulted in the stakeholder consultation will cover data providers (enterprises, including SMEs), data compilers (national statistical authorities) and data users (other Commission services, national authorities monitoring the business sector, the ECB and national central banks, professional associations and researchers). The Impact Assessment process should be completed in late 2014.

Framework regulation in the field of social statistics: In 2015, the Commission will consolidate / integrate statistical legislation also in the area of social statistics. The extent of this integration will depend on the final outcome of discussions on the legislative architecture within the European Statistical System.

Steel Regulation: Data is no longer collected under Regulation (EC) No 48/2004 on the production of annual Community statistics on the steel industry and this regulation can therefore be repealed.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

It should also be noted that present Intrastat provisions already represent a considerable reduction of regulatory burden in comparison to the customs clearance system which was applied before the introduction of the Single Market in 1993 which still prevails in trade with non-EU countries. With the help of Intrastat, only one quarter of European businesses involved in trade with other EU Member States are liable to report for statistical purposes. This ensures that Member States are able to compile detailed statistics on intra-EU trade which are among the most used statistics, especially by businesses.

Comments by SMEs and stakeholder organisations were received in relation to the following pieces of legislation:

- Statistical thresholds for trade statistics between Member States - Regulation (EC) No 1901/2000
- Statistics relating to the trading of goods between Member States - Regulation (EC) No 638/2004

SMEs tell us:

Both export and import need to be reported to Intrastat, these mirror statistics are burdensome and it is proposed to abolish reporting on import statistics. The requirements for statistics are not compatible with the organisation of a company. There are excessive requirements to declare purchases and sales of very small amounts. In some of these cases the reporting exceeds the costs of purchase. There should be a 'de minimis' exemption.

Commission services comments:

The Commission is aware of the burden caused by collection of data on intra-EU trade (Intrastat). Since the introduction of Intrastat system in 1993, it has been subject to several discussions and initiatives at political and technical level on the possible ways to simplify the system and consequently, to reduce the burden on businesses. The most recent revision of the Intrastat legislation took place in 2009.

As mentioned above, discussions with Member States on the modernisation of the Intrastat legislation are on-going.

5. REFIT legislative actions

The following legislative initiatives with a focus on Regulatory Fitness in the area of Statistics are in preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Framework Regulation Integrating Business Statistics (FRIBS) [2015];
- Framework regulation in the field of social statistics depending on the outcome of discussions on the legislative architecture within the European Statistical System [2015]
- Reform of Farm Survey System – Review of Regulation 1166/2008 [2016]

The Commission is considering proposing the following regulations for repeal. The indicative timing is indicated in brackets:

- Steel Statistics Regulation (EC) No 48/2004 [CWP 2015]

13. HOME AFFAIRS

1. Policy and legislative responsibilities in the area of Home Affairs

The legislation in the Home affairs area aims at establishing an integrated approach to migration and security and thus brings benefits to EU citizens, business, authorities and non-EU partners. EU action in Home Affairs is relatively recent as one of the EU pillars by the Maastricht Treaty, subsequently enhanced by the Amsterdam Treaty and brought within the main EU regulatory framework by the TFEU. Initiatives proposed by DG HOME are thus quite recent. Some of them have only been recently transposed, while for others the adoption process is on-going.

Legal migration is an important area where Home Affairs policy can help to stimulate economic growth and to improve EU competitiveness. A number of initiatives in this policy area have already brought about an important simplification to the regulatory framework, procedures and burden for individuals and business. The second phase of the Common European Asylum System (CEAS) was adopted by co-legislators in June 2013. Maintaining an effective and efficient Visa Policy by streamlined legislative instruments continues to be a priority given that tourism from non-EU countries is one the biggest sources of employment and economic growth in Europe. Important improvements in the legislative framework for Borders Management have been proposed in 2012 and 2013 by means of the Smart Border Package. Streamlining and simplification of Home Affairs funding has been proposed in the framework of the new MFF.

2. Smart Regulation Framework and Tools

Initiatives in the area of Home Affairs have taken advantage of the simplification possibilities offered and aim to ensure the clarity and accessibility of national rules transposing EU acquis. Examples of such legislation primarily include migration, asylum, visa and borders management policies, with efforts also observed in the field of security and fight against organised crime.

With an increasing volume of legislation now in place, the focus has shifted from adopting new measures at EU level towards monitoring the timely transposition of the acquis and its efficient implementation by Member States.²⁰⁴

From December 1st 2014, the Commission will have the power to launch infringement procedures against Member States who have not implemented correctly the legislation in the field of judicial cooperation in criminal matters (the so-called ex-third pillar). Work is underway to help Member States to correctly transpose that legislation and to enable the Commission to be ready to fully monitor the implementation of EU law.

²⁰⁴ It should be noted that Title V of the TFEU (area of freedom, security and justice) is affected by Protocol 36 on transitional provisions and by Protocols 21 and 22 on specific positions regarding UK, IE and DK.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Amongst initiatives in the **Legal Migration** field, the "Blue Card" Directive²⁰⁵ has brought significant simplification of the procedures for recruiting highly-skilled workers from third countries into the EU, also favouring their intra-EU mobility. The proposal put forward by the Commission in 2010 on Intra-Corporate Transferees²⁰⁶ is also designed greatly to facilitate the admission and intra-EU mobility of third-country nationals (e.g. managers, specialists) seconded from undertakings established outside the EU to an entity of the same group inside the EU. The Single Permit Directive²⁰⁷ introduces a framework approach to legal migration legislation and establishes a single application procedure leading to a combined title encompassing both residence and work permit in a single administrative act. These measures bring a more unified and consolidated and simpler to manage set of procedures and rights for individuals, businesses as well as public administrations.

The Commission adopted in March 2013 a proposal for a recast Directive on the conditions of entry and residence in the EU of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing²⁰⁸. This recast of existing Directives on Students and Researchers dating from 2004 and 2005 respectively²⁰⁹, has been proposed in order to allow for more consistency in the rules applying to groups which share a number of similar characteristics, and in order to simplify the regulatory framework. These proposals are before the co-legislator.

The second phase of the **Common European Asylum System (CEAS)** has been completed with: an amendment of the Qualification Directive²¹⁰, formally adopted in December 2011

²⁰⁵ Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

²⁰⁶ COM(2010)378: Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

²⁰⁷ Directive 2011/98/EU of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

²⁰⁸ COM(2013)151

²⁰⁹ The following Directives were merged: Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Council Directive 2005/71/EC OF 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

²¹⁰ Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted

remaining instruments: Dublin regulation²¹¹, Asylum Procedures Directive²¹², Reception Conditions Directive²¹³ and the system for the identification of applicants under the Common European Asylum System (Eurodac)²¹⁴.

Following the recommendations and lessons learned from evaluations of the instruments, the amended legislation will not only safeguard fundamental rights of asylum seekers, but also make asylum systems more efficient. Through the concept of 'frontloading', that is investment in the early phases of the asylum procedure, the intention is to speed up the process and reduce the number of errors. Substantial savings should be made in reception systems, since asylum seekers will become more self-sufficient and spend less time relying on State support. Moreover, the new laws clarify many procedural concepts and ensure better compliance with fundamental rights, which should lead to fewer instances of costly litigation before European courts.

The new Common European Asylum System (CEAS) also enhances the role of the European Asylum Support Office, notably in training, information on countries of origin, gathering and disseminating information, including for early warning purposes, and guidelines on specific asylum issues. This should reduce duplication of effort between national administrations and foster convergence at EU level. Finally, the new laws simplify many aspects of the asylum procedure. For example, they make it easier to deal with repetitive applications by the same person. Moreover, the responsible Member State for dealing with an asylum application is now established in a clearer and more predictable manner for both states and applicants, and the duration of this process is strictly limited in time.

The **Visa Code**²¹⁵ merged all relevant legislation on the issuing of short stay "Schengen" visas into one legal instrument. Since its entry into force in April 2010, the Visa Code has improved the rules and conditions for issuing visas and enhanced the harmonised application

²¹¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person

²¹² COM(2009)554: Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast)

²¹³ COM(2011)320: Amended proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (Recast)

²¹⁴ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

²¹⁵ Regulation (EC) No 810/2009 establishing a Community Code on Visas

of those common rules. In particular it sets clear limits for the main steps in visa procedure, allowed for establishing common application centres and determined cases when multiple visas should be issued, thus contributing to the reduction of costs and simplification of the visa issuing process.

In 2013, building on results of evaluation and an impact assessment, the Commission plans to propose amendments to further improve the Visa Code with a view to streamlining the procedures, simplifying the whole process, making the system quicker and more efficient, as well as more user-friendly for both visa applicants and the visa issuing authorities which are the Member States. Additionally, the Visa Information System (VIS)²¹⁶, an IT system which has been progressively rolled out since October 2011, constitutes another important component of the visa policy allowing for faster, more accurate and more secure checks by border guards as well as facilitating the visa issuance process, particularly for frequent travellers.

In February 2012 the Commission proposed a **Smart Border Package**. This initiative, combining an Entry/Exit System (EES)²¹⁷ with a Registered Traveller Programme (RTP)²¹⁸ and the subsequent amendments to the Schengen Borders Code²¹⁹, will contribute to the better management and control of travel flows at the border. The EES will replace the current old-fashioned system of stamping passports by the electronic registry of the dates and place of entry and exit of third-country nationals admitted for short stays. It will also automatically calculate the authorised length of stay of such persons and provide Member State authorities with accurate information on third-country nationals having remained in the Schengen area longer than authorised. The RTP will facilitate and speed up border control of frequent, pre-vetted third-country travellers. Implemented together with the EES it will allow RTP travellers to enter and exit the Schengen area by using Automated Border Control Systems (automated gates) wherever implemented at the external borders.

Further primary law namely provisions on **police and judicial cooperation**, is being currently brought within the new simple legal framework. An example in the field of law

²¹⁶ Regulation (EC) No 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)

²¹⁷ COM(2013)95 COM(2013)95 COM(2013)95 COM(2013)95: Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data of third country nationals crossing the external borders of the Member States of the European Union

²¹⁸ COM(2013)97 COM(2013)97 COM(2013)97 COM(2013)97: Proposal for a Regulation of the European Parliament and of the Council establishing a Registered Traveller Programme

²¹⁹ COM(2013)96 COM(2013)96 COM(2013)96 COM(2013)96: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP)

enforcement cooperation is the Commission proposal²²⁰ for a Regulation establishing a new Europol agency that would replace the existing Europol (law enforcement cooperation) and CEPOL (police training) agencies. The Commission considers that merger of the two agencies would lead to substantial synergies and efficiency gains. Whenever an ex-third pillar framework decision is to be replaced by a proposal for a directive, as it foreseen in the field of cybercrime, the smart regulation principles apply.

Finally, in the context of Multiannual Financial Framework 2014-2020²²¹, the Commission proposed to simplify the complexity of **funding structures**. There are currently four funds for the General Programme 'Solidarity and Management of Migration Flows'²²² and two programmes: ISEC (Prevention of and the fight against crime)²²³ and CIPS (Prevention, preparedness and consequence management of terrorism and other security-related risks)²²⁴.

These would be replaced with just two: an Asylum and Migration Fund²²⁵ and an Internal Security Fund²²⁶. Both will be underpinned by a set of common rules, and are being designed to optimise the delivery of funding. Most Home Affairs funding will be implemented in partnership with Member States. A shared set of rules on programming, reporting, financial management, controls and evaluation will make the rules easier to understand for stakeholders and ensure a high degree of coherence and consistency. Multiannual planning will replace the current cumbersome system of annual planning to reduce the administrative burden for the Commission, the Member States and beneficiaries.

²²⁰ COM(2013)173 COM(2013)173 COM(2013)173 COM(2013)173: Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA

²²¹ COM(2011) 749 final: Communication: Building an open and secure Europe: the home affairs budget for 2014-2020

²²² COM/2005/0123 final: Communication from the Commission to the Council and the European Parliament establishing a framework programme on Solidarity and the Management of Migration Flows for the period 2007-2013

²²³ http://ec.europa.eu/dgs/home-affairs/financing/fundings/security-and-safeguarding-liberties/prevention-of-and-fight-against-crime/index_en.htm

²²⁴ http://ec.europa.eu/dgs/home-affairs/financing/fundings/security-and-safeguarding-liberties/terrorism-and-other-risks/index_en.htm

²²⁵ COM(2011) 752 final: Proposal for a Regulation laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management; and

COM(2011) 751 final: Proposal for a Regulation establishing the Asylum and Migration Fund ()

²²⁶ COM(2011) 750 final: Proposal for a Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa; and

COM(2011) 753 final: Proposal for a Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management

4. REFIT legislative actions

The following legislative initiatives with a focus on Regulatory Fitness in the area of Home Affairs are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Amendments to the Visa Code²²⁷ [2013]
- Codification of Schengen Borders Code²²⁸ [2013]

The Commission is considering making a proposal to repeal the following Decision. The indicative timing is indicated in brackets:

- Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information²²⁹ [2015]

5. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Home Affairs are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Council Framework Decision 2008/841/JHA 2008 on the fight against organised crime [2013];
- Visa Information System (VIS): Regulation (767/2008) and Council Decision 2004/512 [2015];
- Council Framework Decision 2008/919/JHA amending Framework Decision 2002/475/JHA on combating terrorism [2014];
- Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) [2014];
- Council Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an

²²⁷ Regulation (EC) No 810/2009 establishing a Community Code on Visas

²²⁸ Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders

²²⁹ Timing to depend on adoption and implementation of Anti-Money Laundering Directive proposal, adopted by Commission 5/02/2013 which will make Decision 2000/642/JHA obsolete.

action to facilitate illegal immigration, who cooperate with the competent authorities [2014]²³⁰;

- Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers [2014];

²³⁰ This and Directive 2011/36 relevant to combating trafficking in human beings will be considered for being merged in 2015.

14. JUSTICE

1. Policy and legislative responsibilities in the area of Justice

Justice is a dynamic policy area backed by an important acquis. The area of Justice includes civil and criminal law, anti-drugs, personal data protection and fundamental rights, contract and consumer law, union citizenship, equal treatment and non-discrimination. The Commission ensures in this area that legislation is fit for purpose, that it respects fundamental rights and supports the principles of judicial cooperation, mutual trust and mutual recognition.

2. Smart Regulation Framework and Tools

The acquis in the area of Justice is designed to achieve their goals without any unnecessary regulatory burden, while respecting the principles and values on which the Union is founded as stated in the Treaty and in the Charter of Fundamental Rights of the EU.²³¹

When assessing the conformity of the implementation of EU law, the Commission checks for gold plating and substantive additional burdens for citizens and business imposed by Member States (such as costs of administrative procedures, red tape, additional formalities, or burdens in judiciary cooperation) in view of reducing all unnecessary obligations.

While ensuring that its own legislative proposals avoid undue regulatory burden, DG JUST also encourages Member States to examine their domestic justice systems. The quality, independence and efficiency of national justice systems play a key role in restoring confidence and in the return to growth, and are crucial for the effectiveness of EU law. With this in mind, DG JUST recently issued the first annual "EU Justice Scoreboard"²³². The 2013 Scoreboard focuses on the parameters of a justice system that contributes to the improvement of the business and investment climate. In particular, it examines efficiency indicators for civil and commercial cases, which are relevant for resolving commercial disputes. It also covers administrative courts, as they play an important role in a business environment, for example, with regard to delivering licences or for disputes with national authorities.

DG JUST is attentive to its programming of the decision-making cycle. Impact assessment and evaluations are planned and developed with the aid of a framework contract. Stakeholder

²³¹ Title V of the TFEU (area of freedom, security and justice) is affected by Protocol 36 on transitional provisions and by protocols 21 and 22 on specific positions regarding UK, IE and DK. From December 1st 2014, the Commission will have the power to launch infringement procedures against Member States which have not implemented correctly the legislation in the field of judicial cooperation in criminal matters. Work is underway to help Member States to correctly transpose that legislation and to enable the Commission to be ready to fully monitor the implementation of EU law.

²³² COM (2013)160

consultation is essential. The 2013 EU Citizenship Report²³³ is based on feedback received from some 12 000 citizens, the biggest ever response to a EU public consultation.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

Proposals in the area of justice are presented to lead, whenever possible, to simplification and reduction of burdens. This is illustrated by the following examples:

- By updating outdated and fragmented EU rules the proposed Data Protection Reform²³⁴ will lead to savings for businesses of around EUR2.3 billion a year.
- The proposal for an optional Common European Sales Law²³⁵ (a single set of rules for cross-border contracts in all 27 EU countries) aims to remove contract law-related obstacles to cross-border trade that are estimated to deter at least EUR26 billion of intra-EU trade every year.
- The new Consumers Rights Directive²³⁶ increases the protection of consumers and ensures that businesses benefit from a single set of core rules for distance and off-premises contracts in the EU. As an example, a standard set of consumer contract terms could cut compliance costs by up to 97% for EU-wide traders.
- The revision of the Package Travel Directive²³⁷ will save businesses several hundred million euro per year by eliminating outdated rules - while, at the same time, increasing the number of consumers that are protected by it.
- The proposal to eliminate obsolete requirements for public documents (such as, birth and marriage certificates, nationality, legal status and representation of a company) issued in one Member State are accepted in another Member State will save businesses and consumers up to EUR330 million a year.
- The proposed modernisation of the Insolvency Regulation²³⁸ will improve the efficiency and effectiveness of cross-border insolvency proceedings with its new

²³³ COM (2013)269

²³⁴ COM(2012)11 final - Proposal for a Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

²³⁵ Com(2011)635 final - Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law

²³⁶ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

²³⁷ COM(2013) 512 - Directive on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC

²³⁸ Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings

'rescue oriented approach', which focuses on the restructuring of companies instead of their liquidation, and which gives viable businesses – particularly SMEs - and the people they employ – a second chance. For this purpose the Regulation will expand its scope also to national reorganisation proceedings; will enhance cooperation between courts and insolvency practitioners, when a debtor is faced with insolvency proceedings in several Member States and will increase transparency of proceedings by the interconnection of national electronic insolvency registers

- The Establishment of a European Public Prosecutors' Office (Initiative undertaken with OLAF)²³⁹ will improve Union-wide prosecution of criminals who defraud EU taxpayers. In parallel to the creation of the European Public Prosecutor's Office, the Commission is proposing a reform of the European Union's Agency for criminal justice cooperation (Eurojust) and presenting a Communication on the governance of the EU Anti-Fraud Office (OLAF).

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

The Communication of the Commission on the follow-up to the Top10 consultation²⁴⁰ has set out the concerns of SMEs and the response of the Commission to the following regulation highlighted by SMEs as most burdensome in the area of Justice:

- **Directive 95/46/EC on the protection of personal data (revision²⁴¹ in legislative procedure awaiting EP first reading)²⁴²**

Furthermore SME representative organisations and Member States also mentioned the following pieces of legislation:

- **Directive 2006/114/EC on misleading and comparative advertising²⁴³**

The Commission recognised that SMEs are often the victims of misleading advertising and other practices of rogue traders. Directive 2006/114/EC provides an EU legislative framework for the protection of businesses, and in particular SMEs, from misleading advertising. In a consultation carried out in 2011, 79 % of respondents were in favour of further strengthening the protection of small businesses, especially in cross-border transactions. This result was

²³⁹ COM(2013) 534

²⁴⁰ COM(2013)446

²⁴¹ COM(2012)11 - Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and of the free movement of such data

²⁴² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

²⁴³ Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version)

confirmed in an SME Panel survey in 2013. Moreover, businesses engaging in legitimate practices do not incur significant administrative and compliance costs as a result of the Directive. On the contrary, the aggregated annual loss for businesses falling victim to misleading practices can be estimated at EUR662 million annually.

There is therefore a strong SME interest in reinforcing the Directive. To this end a revision process has been launched with the aim of strengthening the enforcement coordination and clarifying the application of the Directive to certain unfair practices which are particularly problematic for SMEs, such as misleading directory scams. A proposal is under preparation.

- **Unfair business-to-consumer commercial practices - Directive 2005/29/EC²⁴⁴**

The Commission points out that during the consultation process in view of preparing the review (Communication and Report) of this Directive the positive impact of the Directive on the Internal Market was recognised and no reports on excessive burdens were received.

A Fitness check with a view to consolidation and merger of several legal acts in this area will be carried out.

- **Consumers Rights Directive (2011/83/EU)²⁴⁵**

SMEs tell us:

The information requirements in the Consumer Protection Directive which is in the course of being transposed in Member States are impractical for crafts. For example, the requirements for extended written information before signature of a contract and the customer's withdrawal option within 14 days of contract signature irrespective of whether works have already been completed.

Commission services comments:

The Directive aims at reducing compliance costs while increasing consumer protection. The Directive simplifies the Consumer Acquis by setting a uniform set of rules enabling distance traders to expand their cross-border activities. For example, an Internet company trading in its home country will be able to sell to 27 Member States by incurring a cost of EUR 2,153 instead of EUR 70,526. Given that, according to the 2010 Eurobarometer, out of 74% of

²⁴⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

²⁴⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

traders who do not currently sell cross-border using means of distance communication, almost one fourth indicated that they would start doing so if regulations were harmonised, the likely cost reduction for business is even greater.

As regards specifically the rules which the Directive will introduce for off-premises services, it should be noted that a simplified regime has been introduced for low-value repairs and maintenance work in Article 7(4). This rule exempts craftsmen from most of the detailed information requirements of the Directive. Moreover, there is an exemption from the right of withdrawal in Article 16 (h) for situations where the consumer has asked for visit from the trader for urgent repairs or maintenance work. The Commission is currently assisting Member States in transposing the directive and plans to issue guidance focussing on information requirements for digital products in 2014.

A REFIT evaluation which will produce a Report on the overall functioning of the Directive is planned for 2016.

- **European order for payment procedure - Regulation (EC) No 1896/2006²⁴⁶**

The Commission has no evidence to suggest that the European Payment Order is burdensome. The European Payment Order Regulation (EOP) introduces fast-track proceedings for cross-border debt recovery. It includes multilingual standard forms online which do not require the assistance of a lawyer and it is directly enforceable without exequatur. The seven standard forms used were amended in October 2012 to update them and to improve the practical application of the Regulation, as well as to facilitate the electronic use of the procedure in the European Judicial Atlas in Civil Matters. Therefore the EOP Regulation is used in the EU by businesses and citizens as a useful simplified procedure. The Commission plans a report on its application in October 2013.

5. Proposed REFIT legislative actions

The following legislative actions under REFIT are proposed in the area of Justice as a result of the mapping of the relevant acquis. The approximate timing of the actions is indicated in brackets:

- Revision of Directive 90/314²⁴⁷ on package travel, package holidays and package tours [2013];
- Revision of Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure [2013]

²⁴⁶ Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure

²⁴⁷ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours

- Directive 2006/114/EC concerning misleading and comparative advertising [2013]

6. Proposed REFIT evaluations

The following REFIT evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Justice are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Fitness check with a view to the possible need for consolidation and merger of the following legal acts related to consumer rights and advertising [2016]:
 - Directive 2005/29/EC²⁴⁸ on unfair business to consumer commercial practices*;
 - Forthcoming initiative addressing unfair trading practices between businesses in the retail chain (also mentioned in the Communication Review of Directive 2006/114 concerning misleading and comparative advertising^{249, 250*});
 - Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees and Directive 93/13/EC on unfair terms in consumer contracts.
- Directive 2008/122/EC of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts [2014]*;
- Directive 2011/83/EC of the European Parliament and of the Council on consumer rights - as part of the statutory report on the functioning of the Directive [2016]*;
- Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims [on-going];
- Directive 99/44/EC of the European Parliament and of the Council on certain aspects of the sale of consumer goods and associated guarantees (modified by Directive 2011/83) [2015-2016];
- Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security [2015];

²⁴⁸ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

²⁴⁹ COM(2012) 702

²⁵⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Protecting businesses against misleading marketing practices and ensuring effective enforcement Review of Directive 2006/114/EC concerning misleading and comparative advertising

15. MARITIME AFFAIRS AND FISHERIES

1. Policy and Legislative Responsibilities in the area of Maritime Affairs and Fisheries

The objective of EU legislative activity in the area of Maritime Affairs and Fisheries is:

- To ensure that fishing and aquaculture activities provide long-term sustainable environmental, economic and social conditions and contribute to the availability of food supplies;
- To ensure the sustainable exploitation of fisheries resources, the development of competitive fisheries and aquaculture industries, the improvement of market supply and the welfare of areas dependent on fisheries by providing structural support to the achievement of the objectives of the CFP (Common Fisheries Policy);
- To ensure compliance with the CFP legal framework across the EU through effective and efficient control policy;
- To promote ownership of the CFP rules and objectives through systematic dialogue with stakeholders;
- To ensure the smooth functioning of the EU market in fishery and aquaculture products;
- To strengthen international cooperation and fisheries governance in order to promote sustainable and responsible fisheries outside EU waters; and
- To maximize the potential of Europe's sea and oceans for growth and employment in an efficient, coordinated and sustainable manner.

2. Smart Regulation Framework and Tools

DG MARE plans and carries out evaluations on the basis of the relevant obligations and at its own initiative. Criteria to determine whether to carry out an evaluation include: Financial Regulation provisions, requirements included in the legal basis, Commission corporate standards and additional needs. The evaluation plan has a rolling and multiannual nature. It covers both regulatory and funding instruments, and it also includes planned studies.

Furthermore, DG MARE involves stakeholders through open consultations and expert groups. The Regional Advisory Councils (RACs) are stakeholder-led organisations established by the Commission in order to deepen stakeholder participation in policy making. RACs were set up to involve fisheries professionals and other players more closely in the development of fisheries management measures so as to factor in more effectively the regional and local realities or those linked to specific types of fisheries. The idea was to encourage dialogue between the different parties concerned and between the stakeholders, scientists, as well as institutions. In order to contribute to the ecosystem approach, RACs' areas of competence fit with ecosystems (or covers specific fisheries with comparable operating conditions). The role

of the RACs is to submit opinions to the Commission and the Member States on different aspects of fisheries management, in their respective areas of competence. These opinions are issued either on a specific request or on their own initiative.

Horizontal issues – at EU level – are discussed in the Advisory Committee for Fisheries and Aquaculture (ACFA). The Commission has proposed in the context of the CFP reform to discontinue ACFA and to use the (Regional) Advisory Councils as main consultation bodies (for some issues an ad-hoc consultation mechanism may also be established).

In addition to these bodies, DG MARE consults the Sectoral Social Dialogue Committee for at-sea-fishing.

Scientific advice plays a fundamental role in DG MARE's policy making as regards conservation of stocks. This advice is based on a defined set of biological, technical, environmental and socio-economic data concerning the fisheries sector which respects quality requirements and are collected in the framework of 22 national programmes. Quality control and reliability are performed by scientific bodies such as the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF). As an illustration, in 2011, ICES released more than 130 recurrent advices on stocks and more than 10 non-recurrent advices on management options; and STECF reviewed 465 advices on stocks and more than 20 reports on stock status, management options or management strategies.

3. Measures taken to ensure that legislation is 'fit for purpose'

DG MARE carries out systematically evaluations of all policy areas every 6 -7 years. In addition, a major evaluation of the Common Fisheries Policy which could be considered as a “fitness check” was carried out between 2008 and 2009. The Impact Assessment finalised in 2011 also reviewed the performance of the CFP.

As a result, the Commission proposed a major reform of the CFP which includes substantial elements of simplification and burden reduction. The Commission proposal on the Common Fisheries Policy²⁵¹ is meant to reduce and simplify the cumbersome administration linked to implementing the policy. It covers virtually all aspects of the policy (from market organisation to aquaculture) starting with a radical shift of governance towards decentralisation and with the empowerment of stakeholders. Instead of having EU level management of every detail of the policy, EU institutions will only decide the general principles and fix overall targets and timeframes; it will then be up to the Member States to decide, in close cooperation with the local industry, the best mix of measures to achieve those targets on deadline. This allows for a more adaptive and region-specific management of the

²⁵¹ Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy - COM (2011) 425 final of July 2011

policy, which promises better environmental results. At the same time, management decisions are taken at local level and therefore closer to the people they affect, which means greater flexibility, acceptance and ownership on the part of operators and therefore better compliance. This 'regionalised approach' (within the boundaries and the distribution of competences laid down by the Treaty) can bring a huge reduction of red tape for all stakeholders - starting from our own institutions down to operators in the field.

The **Common Market Organisation (CMO)** is also simplified. The Commission proposal on the common organisation of the markets²⁵², part of the Reform package of the CFP, reduces 27 legal acts (four Council Regulations and 23 Commission implementing Regulations) to 9 legal Acts (1 co-decided Regulation, 4 delegated and 4 implementing acts). Moreover, the yearly Regulations fixing the parameters for the operation of the intervention mechanisms (i.e. one Council Regulation and 6 Commission implementing Regulations) are abolished. The 6 intervention mechanisms are reduced to a single storage one. This strongly reduces the notification and reporting obligations for both Member States and producer organisations. Finally, the CMO instruments will be financed by a single fund (the European Maritime and Fisheries Fund)²⁵³ instead of the current European Agricultural Guarantee Fund and the European Fisheries Fund.

The funding instrumentation will be streamlined as the new European Maritime and Fisheries Fund (EMFF) replaces a number of distinct schemes supporting respectively maritime policy, data collection, market instruments, outermost regions, etc., and enjoys the easier implementation of the Common Strategic Framework.

The integration of the existing separate financial instruments supporting CFP and Integrated Maritime Policy (IMP), data collection, markets and outermost regions in one single Fund, the EMFF, will lead to a major simplification due to the streamlined and unified rules and procedures.

The EMFF also supports compliance with CFP, in particular with the data collection framework and the control Regulation²⁵⁴, supporting policy objectives and making the reform possible. Data collection, control and market measures, including the compensation for the outermost regions, will be managed together with the ex-EFF measures under shared management. This means that four sets of financial decisions, reporting, monitoring and evaluation procedures will be replaced by one.

²⁵² Proposal for a Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products - COM (2011) 416 final of July 2011

²⁵³ Proposal for a Regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund - COM (2011) 804 final of December 2011

²⁵⁴ Council Regulation (EC) No. 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ L 343, 22.12.2009, p. 1)

The use of common indicators will facilitate the reporting by the Member States, focusing on quantified data on progress and reducing the descriptive elements. Impact indicators will be linked to the priorities of the EMFF, allowing the aggregation of data at Union level and the assessment of the progress, efficiency and effectiveness of policy implementation necessary, inter alia, for allocation of the performance reserve. Ex-ante evaluation will be used to set baseline, milestones and target indicator values which will feed into the Partnership Contracts and the Operational Programmes. Two special annual reports in 2017 and 2019 will look at the state of delivery and the lessons for the next programming period.

In order to further simplify the **implementation of the EMFF**, eligibility rules are harmonised with other EU funds. This will make projects easier to handle for both beneficiaries and national authorities and will also facilitate the implementation of integrated projects. A wider utilisation of simplified cost options will be allowed for the shared management part of the EMFF (standard costs, lump sum payments and flat rate financing for grants) thus reducing the costs of control and error rate.

With the reform, the **concept of multiannual plans evolves** to cover multi-stock and multi-species fisheries and to include explicit conservation targets and deadlines. It also extends to technical conservation and discard reduction measures. These more comprehensive plans will make our management by fishery simpler and more effective, shortening inter alia the process of the preparation and adoption of annual measures.

The reporting obligations for **fleet management** will be reduced. Uniform fleet ceilings will be applied, and new guidelines to assess the balance between fleet capacity and available fishing resources will simplify the Member States' assessment exercises.

The reform pursues a **rationalization of the advisory process** that feeds the whole decision-making process, with the aim to improve and facilitate the advice from the different bodies while avoiding duplication.

For the **aquaculture sector**, reducing administrative burden is a major priority of the reform. Right now there is no comprehensive information on the time and money needed to have a license issued for a new fish farm, nor is the Commission aware of any existing exercise to map the main bottlenecks. In order to reduce the duration, cost and uncertainties of administrative procedures, the Commission is preparing to work closely with Member States to identify the main bottlenecks and exchange best practices on how to be more effective without sacrificing the current high standards of environmental and consumer protection. The reform plan also promotes the industry's development in the EU through a process of voluntary cooperation among Member States based on strategic guidelines, multiannual national plans and exchange of best practices.

Following the adoption of the CFP reform/new basic regulation, it is a priority to ensure that the *acquis* remains consistent. Therefore, the coherence of the different pieces of legislation

will be checked to eliminate any contradictions. As a result of the review, the following legislative proposals to amend the current legislation are planned:

- A proposal to remove all existing provisions from EU technical measures and control regulations that run contrary to the landing obligation envisaged under the CFP reform as some of the existing regulatory provisions support the current practice of discarding.
- A significant recast on the current Fishing Authorisation Regulation (FAR)²⁵⁵ in order to simplify the current too complex system, mitigate the issues of highly variable data requirements from Member States in terms of the quantity and quality, ineffective deterrent sanctions in case of breaches of FAR rules. Improved consistency between FAR and the IUU and control legal frameworks as well as more broadly with the objectives of the External Dimension of the CFP policy in terms of sustainability and enforcement is also envisaged.
- In the context of the reformed CFP, there are plans to revise the current **technical measures regime for the protection of marine organisms**²⁵⁶ as part of the reform of the CFP. The technical measures regulations currently in force are regarded as being too complex and difficult to control and enforce. Therefore, various policy options are being considered to simplify the current system and align it with the objectives of the reform²⁵⁷. A simple option ('consolidation and harmonisation') would aim to simplify technical measures and harmonise them across regions. This would involve the consolidation of all technical measures into one regulation. Another option ('technical measures framework') would develop a new legislative framework, which would simplify the current complex rules but also provide a vehicle for developing measures at regional level as envisaged under the reform of the CFP. A third option ('abolition of technical measures') would be to abolish all or the vast majority of the current technical measures and move to a fully regionalised, results (or target) based management system.

In addition, as a consequence of the changes brought about by the TFEU, a review is being carried out on the transposition of decisions adopted by Regional Fisheries Management Organisations (RFMOs) to find the most practical way forward. Currently, there are seven

²⁵⁵ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94

²⁵⁶ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1)

²⁵⁷ Roadmap published under:

http://ec.europa.eu/governance/impact/planned_ia/docs/2013_mare_002_tm_protection_marine_organisms_en.pdf

basic acts pertaining to transposition of RFMO decisions and any new approach to transposition must take into account the nature of measures adopted by the individual RFMOs.

4. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Fisheries and Maritime Affairs are awaiting adoption by the co-legislator:

- Commission proposal for a reform of the Common Fisheries Policy²⁵⁸
- Commission proposal on Common Market Organisation in fishery and aquaculture products²⁵⁹
- Commission proposal for a new EMFF²⁶⁰

The following legislative initiatives with a focus on Regulatory Fitness in the area of Maritime Affairs and Fisheries are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Fishing Authorisation Regulation [2014]²⁶¹
- Technical measures for the protection of marine organisms [2014]²⁶²

²⁵⁸ COM(2011) 425

²⁵⁹ COM (2011) 416

²⁶⁰ COM(2011) 804

²⁶¹ Roadmap published under:

http://ec.europa.eu/governance/impact/planned_ia/docs/2012_mare_048_fishing_authorities_en.pdf

²⁶² Roadmap published under:

http://ec.europa.eu/governance/impact/planned_ia/docs/2013_mare_002_tm_protection_marine_organisms_en.pdf

16. INTERNAL MARKET AND SERVICES

1. Policy and legislative responsibilities

Legislation in the area of Internal Market and Services covers several key policy areas: the services sector, free movement of professionals, public procurement, intellectual property rights, company law, as well as financial markets and institutions.²⁶³

The legislative focus in this area is on the removal of barriers to cross-border provision of services, opening up of public procurement markets, intellectual property rights protection for the benefit of consumers and creators alike, company law to facilitate capital movements and – last but not least – measures ensuring the stability of the financial sector.

2. Measures to ensure that legislation is 'fit-for-purpose'

The following initiatives are examples of areas where simplification, improvements to the effectiveness and efficiency of legislation and a reduction of regulatory burden can be demonstrated or where the Commission has taken action for this purpose:

The **Services Directive**²⁶⁴ has led to changes of national legislation which substantially facilitate the establishment of a business in another Member State and the cross-border provision of services. More than a thousand laws of Member States were amended as a consequence. Hundreds of discriminatory, unjustified or disproportionate requirements were abolished and authorisation schemes simplified in key service sectors such as trade, regulated professions, construction, tourism and business services. Cross-border activity in the EU should benefit from the elimination by Member States of any requirements based on nationality, limitations on activities across the border, involvement of competing operators in the granting of authorisations, reciprocity conditions, national experience conditions, restrictions on consumers from choosing EU providers etc.

The Third **Postal Services Directive**²⁶⁵ has created the Single Market for postal services by opening up the sector to competition in a gradual and controlled way. It ensures a high quality universal postal service, focusing on postal users, both business and consumers. Full market opening in all 27 Member States was achieved on 31 December 2012 and the Commission will publish an Application Report that assesses the results in early 2014.

²⁶³ Other aspects of the internal market are covered by other chapters of the document.

²⁶⁴ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market

²⁶⁵ DIRECTIVE 2008/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services

Public procurement: There are two instruments setting out the EU legal framework for remedies related to public procurement procedures: Directive 1989/665/EEC²⁶⁶ for review of procedures in the public sector and Directive 1992/13/EEC²⁶⁷ for review of procedures in the utilities sector. Both were modified significantly by Directive 2007/66/EC.²⁶⁸ The so-called Remedies Directives provide economic operators with essential guarantees in enforcing of EU public procurement rules at national level, through effective, rapid means of redress for aggrieved bidders. In this decentralised system, Member States' review bodies bear the primary responsibility for enforcing of public procurement rules correctly.

Given significant delays in Member States' transposition of Directive 2007/66/EC, only recently has it been possible to assess its functioning. The Annual Public Procurement Implementation Review of 2012 included information on implementation of the Remedies Directives. In November 2012 the Commission organised a conference to discuss outstanding issues at national level. In general, some stakeholders pointed out that the procedures were sometimes costly and burdensome and that they could delay the award and execution of contracts.

Directive 2007/66/EC requires a review of its implementation and a report on its effectiveness. In this context, the Commission will assess the effectiveness and efficiency of the remedies provisions in particular on the basis of information gathered concerning (i) the Member States' review and remedies systems and procedures; (ii) the data required to measure cost-effectiveness; and (iii) a model for measuring the cost-effectiveness of national review and remedies procedures. This review will be considered a REFIT evaluation.

Intellectual Property Rights (IPR): Directive 2004/48/EC²⁶⁹ harmonises the minimum means available to right-holders and public authorities for tackling infringements of intellectual property rights. A first evaluation of the Directive²⁷⁰ has shown that national legislation does not always provide adequate tools to allow right holders, in particular SMEs, to enforce their IPR. For example, in different Member States right holders need to obtain or

²⁶⁶ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts

²⁶⁷ DIRECTIVE 2002/13/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings

²⁶⁸ DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts

²⁶⁹ DIRECTIVE 2004/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the enforcement of intellectual property rights

²⁷⁰ COM(2010)779 final

preserve different evidence of counterfeiting so that a judge can order an injunction against an alleged infringer (some Member States require stricter provisions than others, and some tools are not available at all in certain Member States). IPR enforcement measures are crucial for innovative companies and divergences in national legislation create significant regulatory burden for their cross-border activity.

The Commission has launched a survey at the end of 2012 to collect additional evidence on the efficiency and accessibility, in particular for SMEs, of existing national IP civil enforcement systems. The results of this consultation are to be published mid 2013 which may lead to further action in 2014.

Intellectual and Industrial property rights²⁷¹: All companies, but in particular SMEs, will benefit from the establishment of unitary patent²⁷² in the EU, namely from:

- Unitary patent protection for the Member States participating in the enhanced cooperation on the basis of an application to the European Patent Office without additional validation and translation requirements in the individual Member States. The administrative cost for granting a unitary patent (as compared to a similar protection today) will be reduced by up to 80%. In addition, the procedure will be much less complex.
- The Unified Patent Court, a court common to the Member States, which will provide the necessary legal certainty. It will avoid the difficulties that exist today where litigation on European patents often takes place in multiple fora in several Member States which may not only result in diverging court decisions but is also very burdensome and expensive, in particular for SMEs.

On 27 March 2013, the European Commission presented a package²⁷³ of initiatives to make trade mark registration systems all over the European Union cheaper, quicker, more reliable and predictable. The proposed reform will improve conditions for businesses to innovate and benefit from more effective trade mark protection against counterfeits, including fake goods

²⁷¹ Regulation(EU) No 1257/2012 of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection and Council Regulation (EU) No 1260/2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements

²⁷² At the end of 2012, the patent reform package which consists of two regulations implementing enhanced cooperation for the creation of unitary patent protection and the agreement on the Unified Patent Court was politically agreed. Both regulations already entered into force by the end of 2012 but will only be applicable once the agreement on the Unified Patent court enters into force. The Agreement on the Unified Patent Court which has been signed by 25 Member States needs to be ratified by at least 13 Member States (including France, Germany and the United Kingdom) to enter into force.

²⁷³ http://ec.europa.eu/internal_market/indprop/tm/#maincontentSec1

in transit through the EU. In order to foster innovation and growth by making trade mark systems in Europe more accessible and efficient for businesses, the proposed revision would:

- Streamline and harmonise registration procedures, including at Member State level, taking the Community trade mark system as a benchmark;
- Modernise the existing provisions and increase legal certainty by amending outdated provisions, removing ambiguities, clarifying trade mark rights in terms of their scope and limitations and incorporating extensive case law of the Court of Justice;
- Improve the means to fight against counterfeit goods in transit through the EU's territory; and
- Facilitate cooperation between the Member State offices and the EU trade mark agency – the Office for Harmonisation in the Internal Market (OHIM) - in order to promote convergence of their practices and the development of common tools.

Recognition of Professional Qualifications: Following an evaluation, the Commission prepared an impact assessment and presented in December 2011 a legislative proposal modernising the Professional Qualifications Directive.²⁷⁴ The legislative proposal includes several provisions aimed at reducing the complexity of recognition procedures (e.g. introduction of a European Professional Card), modernising the system of automatic recognition (e.g. update of the minimum training requirements for certain professions), simplifying the access to information (e.g. central online access points) and strengthening safeguards for consumers and patients (e.g. alert mechanism). In addition, the proposal includes specific measures aimed at simplifying and modernising the annexes to the Directive.

Financial institutions²⁷⁵: The recast of the main provisions in the banking directives into a regulation (CRR) aims for maximum harmonization and the elimination of gold-plating.

Insurance: Codification Directive 2009/103/EC²⁷⁶ on Motor Insurance combined five directives on Motor Third Party Liability Insurance (MTPL) into one. Framework Directive

²⁷⁴ DIRECTIVE 2005/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 September 2005 on the recognition of professional qualifications

²⁷⁵ DIRECTIVE 2010/76/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies

²⁷⁶ DIRECTIVE 2009/103/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability

2009/138/EC²⁷⁷ on Solvency II was a recast of 14 insurance/reinsurance directives and contains provisions necessary to introduce a modern supervisory regime.

Regulation 1606/2002²⁷⁸ on the application of International Accounting Standards (IAS): The IAS Regulation introduced the obligation for EU companies listed on regulated markets to use international accounting standards (IAS/IFRS) for the preparation of their consolidated financial statements as from 2005. The objective was to ensure a high degree of transparency and comparability of financial statements and hence an efficient functioning of the EU capital market and of the Internal Market.

The Commission plans to launch an evaluation of the IAS Regulation in a context of increasing scrutiny of the International Financial Reporting Standards (IFRS) at EU and international level. Its purpose is to assess whether the implementation of the IFRS in the EU has provided the expected benefits, by producing detailed qualitative and quantitative data on the benefits and costs faced by EU stakeholders. It will help assessing whether complementary or corrective measures should be taken. In addition, the Commission appointed a Special Adviser to review the governance of EU bodies in the field of financial reporting and accounting and to help strengthen the EU's contribution to advocating global and high quality accounting standards. Finally, the Green Paper on long-term financing²⁷⁹ launched recently is an opportunity for stakeholders to voice their concerns about the cost of going public for SMEs.

Long term investment funds: The current EU framework on investment funds²⁸⁰ only covers mutual funds that invest in transferable securities. As participations in long-term investment assets (equity or debt investments into infrastructure projects, energy or transport networks or unlisted companies) do not fall within the scope of 'transferable securities', these types of investments are not covered by UCITS. This means that there is no cross-border marketing tool for fund vehicles that specialise in investing in long-term assets. In consequence, the market for long term investments has developed along national lines and almost no cross-border fundraising for long term projects can be observed.

Raising funds for long-term investments faces many of obstacles. First, a variety of rules apply when fund vehicles address either institutional or retail investors (e.g., rules on

²⁷⁷ DIRECTIVE 2009/138/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

²⁷⁸ REGULATION (EC) No 1606/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 July 2002 on the application of international accounting standards

²⁷⁹ COM/2013/0150

²⁸⁰ Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). A proposal to amend this directive as regards depositary functions, remuneration policies and sanctions was made in 2012 - COM(2012) 350 final

prospectuses, marketing, investor protection or eligible investors vary across EU jurisdictions). Secondly, investment funds that are authorised in one Member State cannot raise capital outside their 'home' territory as there is no system of mutual recognition between national schemes. Third, there is no harmonised investment fund vehicle (along the lines of UCITS) in place that would overcome the absence of mutual recognition. In consequence, infrastructure projects, unlisted companies and SMEs (to name but a few prominent long-term asset classes) do not obtain the financing necessary to effectuate long-term projects.

Since 2007 there has been extensive work carried out on retail access to non-harmonised investment funds. In July 2012, a possible framework for funds specialising in long-term assets was part of a consultation on the future of UCITS investment funds. This work has shown that mutual recognition between national schemes does not bring sufficient results. The UCITS experience also demonstrates that only a harmonised set of fund rules can produce an internal market for investment funds that are accessible for retail investors. As a result a proposal for a legislative framework for long-term investment funds was adopted by the Commission on 26 June 2013.²⁸¹

Undertakings for collective investment in transferable securities (UCITS): As mentioned above, the current EU framework applicable to investment funds (UCITS) covers mutual funds that invest in transferable securities. The notion of transferable securities has, however, evolved in the almost three decades since the UCITS framework has been in operation²⁸². Nowadays, the notion of transferable securities includes a host of financial derivative instruments, money market instruments and highly leveraged or speculative investment strategies or investment strategies that consist in replicating a variety of indices. Part of these indices doesn't correspond to the original UCITS' investment profile. In addition, UCITS have engaged in so-called 'efficient portfolio management' techniques whereby part of their portfolio is lent to securities borrowers (who may engage in short selling of these securities) or subject to repo and reverse repo transactions. All of the above methods may increase the risk exposure of a UCITS and harm its liquidity.

Recourse to additional investment instruments has produced a new breed of UCITS funds that use derivatives to achieve their speculative investment aims or to circumvent the eligibility rules. Although this segment currently accounts for less than 10% of UCITS assets under management, care must be taken that these developments are reviewed to assess the risks they pose. The aim of the UCITS review is therefore to align the investment profile of a UCITS with a prudent policy on risk exposure suitable for retail investors and ensure the clarity of the rules by transforming the current UCITS framework into a directly applicable Regulation.

²⁸¹ COM/2013/0462 Proposal for a regulation on European Long-term Investment Funds

²⁸² The first EU legislation in this area was Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

The Commission services conducted a wide-ranging survey of UCITS management practices, liquidity profiles and risk exposures in 2012. Part of the results garnered in this consultation will contribute to an up-coming proposal on money market funds, expected in autumn 2013.

The legislative acquis in the area of investment funds, given that it has much evolved since 1985, contains many different legislative acts.²⁸³ The upcoming review of UCITS presents an opportunity to address aspects of simplification. A REFIT evaluation focusing on effectiveness, efficiency and legal coherence of the whole framework will be carried out during that review.

European Supervisory Agencies: The final report of the on-going review of the European System of Financial Supervision (ESFS) will address questions on simplification and streamlining of the whole system, on the efficiency of continuing separate supervision of the various sectors (banking, securities, insurance, occupational pensions) and on the appropriateness of the current architecture of the ESFS.

Company Law: The new proposal for an Anti-Money Laundering Directive²⁸⁴ merges three separate instruments²⁸⁵ into a single Directive. In 2008 Regulation 1725/2003 adopting International accounting standards with 18 subsequent amendments was repealed and consolidated in Regulation 1126/2008.

Company law codification: Company law directives deal with the setting up and functioning of firms. They cover the setting up and registration of companies, protection of investors (e.g. through capital requirements,), mergers and divisions, as well as certain aspects of reporting. Some aspects of the current legal system in this area are difficult to apply, in particular for SMEs.²⁸⁶ Work is underway to create one, user-friendly set of rules on company law by

²⁸³ http://ec.europa.eu/internal_market/investment/index_en.htm

²⁸⁴ COM(2013)45

²⁸⁵ DIRECTIVE 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;

COMMISSION DIRECTIVE 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis,

COUNCIL DECISION of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information

²⁸⁶ These difficulties include the application of rules to domestic or cross-border merges, the absence of ready-available consolidated versions of all directives and amendments, an overlap of terms and definitions across legal acts definitions across legal acts.

repealing and codifying eight existing company law directives²⁸⁷ by 2014. The new legal instrument will follow the "life cycle of a company" – from its incorporation until its dissolution. There will be also a common section with definitions and reporting obligations. This should significantly simplify finding applicable EU-rules on private and public limited liability companies.

A number of other simplification initiatives specifically target SMEs:

- A proposal for a review of the 4th and 7th Accounting Directives (repealing and replacing the Accounting Directives 78/660/EEC and 83/349/EEC)²⁸⁸ was made in October 2011. It aims at decreasing the administrative burden for small companies with limited liability as far as the preparation of financial statements is concerned. Against this backdrop the two directives are to be replaced by one Directive with a transposition deadline in July 2015 (Directive 2013/34/EU). (Estimated burden reduction of EUR1.7 billion²⁸⁹ annually)
- Directive 2012/6/EU²⁹⁰ allows Member States to introduce extremely simple financial statements for micro entities (estimated burden reduction EUR3.5 billion annually)
- Prospectus Directive 2003/71/EC²⁹¹, with level 2 measures applying a proportionate disclosure regime for SMEs, is estimated to reduce administrative burden on SMEs significantly (from EUR 20,000 to EUR 60,000 thousand per prospectus)

3. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

DG MARKT considers SME needs in all its policy proposals. Work is being carried out on improving the business friendliness of the acquis. The Communication of the Commission on

²⁸⁷ Directives 82/891/EEC, 89/666/EEC, 2005/56/EC, 2009/101/EC, 2009/102/EC, 2011/35/EU, 2012/17/EU, 2012/30/EU

²⁸⁸ COM(2011) 684

²⁸⁹ Amount to be updated depending on the modifications made by the co-legislators on the Commission proposal

²⁹⁰ DIRECTIVE 2012/6/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 March 2012 amending Council Directive 78/660/EEC on the annual accounts of certain types of companies as regards micro-entities

²⁹¹ DIRECTIVE 2003/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (http://ec.europa.eu/internal_market/securities/prospectus/index_en.htm)

the follow-up to the Top10 consultation²⁹² has set out the concerns of SMEs and the response of the Commission to the following regulations in the area of Internal Market and Services:

- **Procedures for the award of public works contracts, public supply contracts and public service contracts - Directive 2004/18/EC**
- **Recognition of professional qualifications – Directive 2005/36/EC**

Furthermore comments were also received in relation to the following piece of legislation:

- **Cross Border Provision of Services²⁹³**

SMEs tell us:

The provision requiring a company to duly justify its wish not to enter a specific national market should be made more flexible. The provision regarding this requirement in the current directive is not clear enough.

Commission services comments:

The Commission is working closely with Member States to ensure that the full benefits of the Services Directive can be ensured. The improvements that are being developed include:

- the setup of on-line “points of single contact” where service providers can obtain all relevant information and fulfil all administrative formalities;
- obligation on national authorities to simplify administrative procedures in all services sectors covered by services directive;
- introduction of 'tacit authorisation' principle when legal deadlines are not met (unless justified by an overriding reason in the public interest)
- obligation to avoid duplication of procedures in respect of service providers from other Member States;
- reduction of costs by allowing the use of simple copies or simple translations of documents in most cases.

The Commission will write to Member States drawing attention to the results of the TOP10 consultation and asking them to communicate their initiatives and plans for the further reduction and simplification of their requirements for small businesses by December 2013. These plans and initiatives will be published in early 2014 for a public consultation on whether obstacles to free movement of services remain.

²⁹² COM(2013)446

²⁹³ Directive 2006/123/EC

4. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Internal Market and Services are awaiting adoption by the co-legislator:

- Commission proposal on the review of the Professional Qualifications Directive (2005/36/EC)²⁹⁴
- Commission proposal to amend the Public Procurement Directives Directive 2004/18/EC and Directive 2004/17/EC²⁹⁵

The following legislative initiatives with a focus on Regulatory Fitness in the area of Internal Market and Services are in preparation in the Commission. The approximate timing of the action is indicated in brackets:

- Proposals on IP civil enforcement in the context of its review of Directive 2004/48/EC taking into account improved clarity, cost reduction and the need to limit abuse of procedures. [2014]
- Codification of 8 Directives in Company Law - Directives 82/891/EEC, 89/666/EEC, 2005/56/EC, 2009/101/EC, 2009/102/EC, 2011/35/EU, 2012/17/EU, 2012/30/EU - [2014]
- Revision of Remedies in public procurement (Directives 89/665/EC and 92/13/EEC, amended by Directive 2007/66/EC) [2015]
- UCITS²⁹⁶ [2013]
- European Long-term Investment Funds [2015]

The Commission intends to consider proposing the following directive for repeal. The approximate timing is indicated in brackets:

- Repeal of Directive 98/84 on commercial agents [2014];];

The Commission intends to consider withdrawing the following proposals:

- Withdrawal of proposal in legislative procedure on the legal protection of designs [2013]

²⁹⁴ COM(2011)883

²⁹⁵ COM(2011)896 and COM(2011)895

²⁹⁶ Directive 2009/65/EC

- Withdrawal of the proposal on the Community patent which has now been converted into enhanced cooperation [2013]

5. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Internal Market and Services are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Regulation 1606/2002 on the application of international accounting standards (IAS) [2014]
- New Remedies Directive 2007/66/EC [2015]

17. DEVELOPMENT COOPERATION, HUMANITARIAN AID AND CIVIL PROTECTION AND ENLARGEMENT

1. Policy and legislative responsibilities

Development and Cooperation

The foundations of development cooperation are laid down in the Treaty on the Functioning of the European Union (Title III, Articles 208-213). According to Article 208 TFEU, the EU adopts the measures necessary for the implementation of development cooperation policy, which relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach. The Union may also conclude agreements with third countries and international organisations.

The main instrument for development cooperation in the ACP states and Overseas Countries and Territories, the European Development Fund (EDF), does not come under the Community's general budget. It is funded by the Member States, is subject to its own financial rules, and is managed by the European Commission and the European Investment Bank.

Foreign Policy Instruments

The Commission contributes also to support the attainment of the objectives of the EU foreign and security policy as defined in Article 21 of the Treaty on European Union, in particular as regards peace and conflict prevention, and to project the EU's interests and image in the world. The Commission works closely with the European External Action Service and other Commission services on these aspects, and implements financial instruments in relation to crisis responses, conflict prevention through the Instrument for Stability (IfS), electoral observation missions (part of the EIDHR), and cooperation with industrialised and high-income partners (ICI). The Commission implements also the Council Decisions in the area of the Common Foreign and Security Policy (CFSP).

Enlargement

Article 49 of the Treaty on European Union provides the legal framework for enlargement policy. The objective of the enlargement process is to prepare applicant countries to assume their obligations as Member States upon accession. The stabilization and association process for the Western Balkans aims gradually to bring the candidate countries and potential candidates closer to the EU. These processes, based on strict conditions, are supported by bilateral and financial instruments devised for this purpose.

Humanitarian Aid and Civil Protection

The policy areas of Humanitarian Aid and Civil Protection joined in 2010 to provide a better coordinated disaster management inside and outside Europe.

The legal basis for the Civil Protection Mechanism and the Civil Protection is Article 196 of the Treaty on the Functioning of the European Union, while Article 214 TFEU provides the legal basis for humanitarian aid. The main instruments at EU level concerning those two policy areas are respectively the Civil Protection Mechanism and the Humanitarian Aid Regulation.

2. Measures taken to ensure that development legislation is 'fit-for-purpose'

External Relations (Development and Cooperation – Foreign Policy Instruments)

The adoption in late 2006 of the Financing instrument for development cooperation (DCI) (2007-2013)²⁹⁷ which includes both geographical and thematic programs was the most important achievement in the reduction of the number of instruments governing external actions under the EU budget from over 40 to just 8 (the EDF remained outside the budget).

Following a major revision of the funding period instruments for the period 2007-2013 the Commission proposed in 2011 a simplification package in the context of the new Multiannual Financial Framework covering all major Financial Instruments in External Relations and the EDF. As a result, a package of proposals have been tabled covering the EU External Financial Instruments for the funding period 2014-2020 to replace the existing legislation that will expire on 31 December 2013 (EDF also has an expiry date: 31 December 2013) plus a proposal for a common rules and procedures for the implementation of the Union's instruments for external action for the period 2014-2020²⁹⁸. Prior to the proposal, a public consultation was launched end-2010 and early 2011 to gather stakeholder's views on the future cooperation in the field of external actions.

The new proposals have been designed to provide simplification of the programming process; flexibility of allocation, programming and implementation; to concentrate activities and spending; and to overcome overlaps of instruments. The proposal for a Common Implementing Regulation is a major innovation for the next MFF, as it establishes a single set of implementing rules, including a new harmonized, simplified and flexible decision-making procedure common to the instruments funded through the EU budget. Once the new instruments are adopted, the Commission will table further proposals on the implementing rules and programming guidelines for the EDF. The proposal for implementing the 11th EDF intends also to align this fund with the regulation that applies to the other instruments.

²⁹⁷ Regulation (EC) No [1905/2006](#) of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L OJ L 378, 27.12.2006)

²⁹⁸ Proposal for a Regulation 2012 of the European Parliament and of the Council establishing common implementing rules and procedures for the implementation of the Union's instruments for external action - COM(2011) 842 final

The changes proposed will significantly simplify the implementation of the *aquis*, as the currently twelve basic acts, plus the implementing rules and amendments in force will be replaced by ten basic acts and one basic act containing a single set of implementing rules applicable to each instrument. Only the EDF will continue to operate with a different, albeit harmonised set of implementing rules.

The basic financial rules and procedures for the grants and service, supply and works contracts financed from the general budget of the EU and concluded for the cooperation with third countries have already been simplified and streamlined with the adoption in 2012 of the Financial Regulation, EU No 966/2012²⁹⁹ and the Implementing rules, EU No 1268/2012³⁰⁰.

In all external policy areas, systematic evaluations and stakeholder consultations are organised and the lessons learnt are fed into the new programmes and into the negotiations for the following programming period.

A recent review of Development Co-operation Policies and Programs of the European Union carried out by the OECD Development Assistance Committee (DAC) notes that the EU has taken steps to make its aid more effective and give it more impact, which includes organisational restructuring, streamlining the financial process, improving co-ordination, including with civil society. The review concluded that the EU institutions have reduced the number of budget lines and devolved further authority and staff to field offices. It also concluded that significant progress would be achieved by the budgetisation of the EDF. It is worth noting that the Commission decided to plan for budgetisation in the framework of the next MFF, as the current Cotonou agreement expires in 2020³⁰¹. However, support for budgetisation has not yet been secured in Council and a proposal to fund support for democracy and human rights through the DCI³⁰² still requires support in the European Parliament.

Enlargement

²⁹⁹ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p.1)

³⁰⁰ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012,p.1)

³⁰¹ A consolidated version of the Cotonou Agreement is available in:
http://ec.europa.eu/europeaid/where/acp/overview/documents/devco-cotonou-consol-europe-aid-2012_en.pdf

³⁰² Commission Proposal for a Regulation of the European Parliament and of the Council establishing and instrument for development cooperation - COM(2011) 840 final

The results of an evaluation of the Instrument for Pre-accession Assistance IPA in 2010³⁰³ helped to shape the new Proposal for a Regulation of the European Parliament and Council on the Instrument for Pre-accession Assistance (IPA II)³⁰⁴ which is currently under discussion. The new Commission legislation that will shape the implementation of IPA II from 2014 onwards (the Common Implementing Regulation for all the external instruments, the IPA II Rules of Application and the new Financial Regulation) will contain elements of simplification and burden reduction as proposed by evaluations of IPA I.

Humanitarian Aid

In order to evaluate, and thereby improve, operations in this area, the Commission submits an annual report to the European Parliament and to the Council at the end of each budget year³⁰⁵. The report contains a summary of operations financed, details of those participating in their implementation and a review of outside evaluation exercises.³⁰⁶ The Commission carried out a stakeholder consultation from December 2012 to March 2013 on the future of the EU humanitarian aid policy. The results of this consultation are currently being analysed. Feedback from the Commission on the results from this consultation and the steps to be taken in the future should be made known by the Commission before the end of 2013. Furthermore, an evaluation of the European Consensus on Humanitarian Aid – the policy framework for cooperation between the EU and the MS – was launched in June 2013.

Civil Protection

Civil protection at EU level is currently governed by Council Decision 2007/162/EC, Euratom establishing a Civil Protection Financial Instrument and Council Decision 2007/779/EC, Euratom establishing a Community Civil Protection Mechanism (recast).

In December 2011 the Commission presented a proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism³⁰⁷, which will repeal both Council Decisions 2007/162 and 2007/779.

³⁰³ 'Evaluation to support the preparation of pre-accession financial instruments beyond 2013' – Final Report, 13 June 2011 and Impact Assessment accompanying the Proposal for a Regulation establishing an Instrument for Pre-accession Assistance (IPA II)- SEC(2011) 1462 final

³⁰⁴ Proposal for a Regulation of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II) – COM(2011) 838 final

³⁰⁵ See Report from the Commission to the European Parliament and the Council on the European Union's Humanitarian Aid and Civil Protection Policies and their Implementation in 2011- COM(COM(2012) 489 final of 6 September 2012; SWD(2012) 254 final

³⁰⁶ See http://ec.europa.eu/echo/policies/consultation/Policies - Public consultations_en.htm

³⁰⁷ COM(2011) 934

The new decision merges into a single text the provisions relating to the functioning of the Mechanism and those relating to the financing of its activities. It also simplifies the existing procedures for the pooling and co-financing of the transport of assistance, thereby significantly reducing the administrative burden on the Commission and Member States. It also establishes simplified rules for the activation of the Mechanism in emergencies in third countries.

The proposal ensures coordination between civil protection and humanitarian aid, as well as consistency of the external dimension of civil protection operations with actions carried out under other EU policies and instruments. Consistency with other EU financial instruments is ensured by a number of provisions which clearly define the scope of the instrument and exclude double financing. Once adopted the new basic act for the EU Civil Protection Mechanism, the existing implementing rules will be revised and possibly merged as well.

3. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Development Cooperation, Foreign Policy Instruments, Humanitarian Aid and Civil Protection and Enlargement are awaiting adoption by the co-legislator:

- Commission proposal for a Regulation establishing common implementing rules and procedures for the implementation of the Union's instruments for external action³⁰⁸ –
- Commission proposal for a Regulation establishing a financing instrument for development cooperation³⁰⁹
- Commission proposal for a Regulation establishing an Instrument for Nuclear Safety Cooperation³¹⁰
- Commission proposal for a Regulation establishing a financing instrument for the promotion of democracy and human rights³¹¹
- Commission proposal for a Regulation establishing a European Neighbourhood Instrument³¹²
- Commission proposal for a Regulation establishing a Partnership Instrument for cooperation with third countries³¹³

³⁰⁸ COM (2011)842

³⁰⁹ COM(2011)840

³¹⁰ COM(2011)841

³¹¹ COM(2011)844

³¹² COM(2011)839

- Commission proposal for a Regulation on the implementation of the 11th European Development Fund under the ACP-EU Partnership Agreement³¹⁴
- Commission proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism³¹⁵
- Commission proposal for a revised instrument for Pre-accession Assistance (IPA II)³¹⁶

The following legislative initiative with a focus on Regulatory Fitness in the area of Enlargement is in preparation in the Commission:

- Proposal for an implementing regulation IPA II

The Commission will not propose a new European Union Food Facility. This instrument will expire at the end of 2013.

4. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Development Cooperation, Humanitarian Aid and Civil Protection and Enlargement are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Evaluation of the European Consensus on Humanitarian Aid – the policy framework for cooperation between the EU and Member States [2014].

³¹³ COM(2011)843

³¹⁴ COM(2013)445

³¹⁵ COM(2011)934

³¹⁶ COM(2011)838

18. TAXATION AND CUSTOMS UNION

1. Policy and Legislative Responsibilities in the area of Taxation and Customs Union

The EU Customs Union is a foundation stone of the European Union. Tax policy across the EU for the benefit of citizens, businesses and the Member States covers aspects of direct and indirect taxation. Particular attention is given to the need for the smooth and efficient functioning of the Internal Market. DG TAXUD is responsible for the general customs legislation, tariff, valuation and origin related issues, customs procedures and customs controls.

Regarding taxation, DG TAXUD is responsible for direct taxation, indirect taxation (VAT and excise duties) as well as administrative cooperation and mutual assistance between Member States.

While the European Union has exclusive competence in customs matters, direct and indirect taxation remain largely the responsibility of Member States. It should be underlined that no EU decisions on tax matters may be taken unless all Member States are in agreement, whereas in the customs area decisions are taken by qualified majority.

2. Measures taken to ensure that legislation is 'fit-for-purpose'

Taxation

Achievements in smart regulation are mainly in the area of VAT, where DG TAXUD has exceeded the 25% reduction target on reducing administrative burdens for 2012³¹⁷, mainly due to the adoption of the VAT Directive on invoicing³¹⁸. The new rules entered into force on 1 January 2013 and allow for e-invoicing to be treated equally in legal terms with paper invoices. Fiscal authorities now have to accept electronic bills.

Guidance has been issued for Member States and businesses to clarify the changes and to communicate best practices. Provided all business move to e-invoicing, the medium term VAT administrative savings could be as high as EUR 18 billion. Not all of the expected benefits are likely to be adopted in the course of negotiations in the legislative process. Developments will be monitored and a review of the VAT invoicing rules will be carried out in 2016. This could lead to further legislative initiatives if appropriate. To implement the VAT mini-One Stop Shop³¹⁹ by 2015, the Commission also adopted a series of measures³²⁰ to allow service suppliers of telecommunications, broadcasting and electronic services to

³¹⁷ This target was set in the Action Programme for Reducing Administrative Burdens in the EU in 2007 [COM(2007)23].

³¹⁸ Council Directive 2010/45/EU of 13 July 2010

³¹⁹ Council Directive 2008/8/EC of 12 February 2008

³²⁰ COM(2012)2 and COM(2012)763

comply with their obligations in the whole of the EU by submitting a single VAT return and payment in the Member State in which they are established.

In 2011 the Commission launched a broad debate with stakeholders on a simpler, more efficient and more robust VAT system in the EU. The Commission Communication that followed up on this debate end of 2011 contains a number of priority actions.³²¹

The Commission will prioritise its work on areas in which the greatest burden reduction is possible. The area of VAT returns represents the second highest VAT administrative burden for businesses and therefore has a high priority. Besides work on broadening the One-Stop-Shop, a REFIT proposal is planned on an EU standard declaration in the second half of 2013.

In 2012, the Commission has also set up a tripartite EU VAT forum where tax authorities, the Commission and business representatives are able to exchange views on practical issues of VAT administration, in particular on cross border issues, and identify best practices. Often taxpayers find it difficult to obtain, especially when acting across borders, the relevant information regarding their tax obligations. Work on the development of the EU VAT web portal, providing accurate, reliable and timely information on the implementation of the EU VAT regime in the different Member States will be intensified. This will be done in active consultation with Member States and SMEs, to better suit the needs of SMEs for practical solutions, including proportionate arrangements for accessible language versions, building on the detailed information in the existing website.

The Commission tabled a proposal in March 2011 for a Common Consolidated Corporate Tax Base (CCCTB)³²², proposing a common set of rules in the EU to calculate the corporate tax base of businesses operating in the internal market. This system would be optional: each company could decide whether or not it wants to sign up to it. It would offer cross-border firms the possibility to file a single, consolidated tax return with one administration for their entire activity within the EU. Clearly, the CCCTB would translate into less time and resources spent on tax compliance for businesses operating cross border in the EU. It is estimated that the current compliance costs could be reduced by 7% and the CCCTB would save businesses EUR³/₄ billion in reduced compliance costs and EUR1 billion in reduced costs to expand cross-border.

Customs Union

Another important area of work for the reduction of administrative burden is the modernization of customs. With the Modernized Customs Code adopted in 2008³²³, the EU is streamlining rules and procedures (such as the requirement that customs declarations be, as a rule, made electronically, and simplification of the rules on inward processing) and

³²¹ COM (2011) 851

³²² COM(2011)121

³²³ Regulation (EC) No 450/2008 of 23 April 2008

establishing interconnected electronic systems. In 2011 it became clear that implementation would take longer than the five years foreseen in the regulation. Therefore the Commission tabled a proposal to recast the Modernised Customs Code (postponing the date of application, aligning the Code with TFEU, updating it to take into account developments since 2008) in February 2012³²⁴. This Union Customs Code (UCC) should allow a staged, binding and realistic implementation of new, electronic-based processes.

The Commission adopted a Communication on the State of the Customs Union³²⁵ in December 2012, which is fully in line with REFIT: it looks into the added value and challenges of the Customs Union, 40 years after its creation. There is a need for improvement and the Commission has outlined a course of action to meet these challenges and provide a more performing, robust and unified customs union by 2020 with three objectives: 1. complete the modernization mainly through UCC adoption; 2. completion of gap analysis and prioritization including risk management; more efficient enforcement of non-fiscal legislation; revision of tariff suspensions and quota rules; etc.; 3. reform of customs union governance. An external evaluation has been carried out of the EU Customs Union with mostly positive findings. The preliminary findings were used for the Communication and the final conclusions and recommendations will be used in its follow-up.

In addition, the Authorized Economic Operator (AEO)³²⁶ program offers certain simplifications for economic operators meeting the common criteria of AEOs (such as security and safety standards and/or compliance, financial solvency, management records). DG TAXUD expects that it would be possible to create synergies with similar programs that other policies may wish to create for the same purpose of simplification.

As far as SMEs are concerned, there is a specific provision in the customs legislation for customs authorities to take account of the specific characteristics of SMEs (organisation and structure) when assessing how applicants comply with the AEO criteria and requirements. In addition practical examples and guidance for a specific approach when assessing SMEs against separate criteria have been included in the updated EU AEO Guidelines. At the same time it has to be considered that the level of 'reliability' of the AEO scheme cannot be undermined for SMEs.

The Council and the EP adopted a proposal for a new Regulation on the customs enforcement of intellectual property rights (IPR)³²⁷. One of the main features of the new Regulation is the generalization of simplified procedures for the destruction of IPR infringing goods, without the need for the right-holders to launch lengthy and costly court proceedings if the holder of

³²⁴ COM(2012)64

³²⁵ COM(2012)791

³²⁶ http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/aeo/

³²⁷ COM(2011)285

the goods or the declarant does not oppose the destruction. This is an incentive for SMEs to have their rights protected by customs from imported products which may infringe those rights.

Still linked to the area of customs, as already mentioned, DG TAXUD is working jointly with DG MOVE on the "Blue Belt" initiative³²⁸, aimed at creating a European maritime transport area without barriers, where ships will be able to operate freely with a minimum of administrative formalities. DG TAXUD has made a first proposal in 2010³²⁹ concerning formalities for regular shipping services (RSS) and the procedure was streamlined in particular through the use of an electronic system from 2012. DG TAXUD is currently examining the possibility for further simplifications of customs formalities concerning Union goods.

In the field of excise, the directive on the general arrangements for excise duty³³⁰ is planned to be reviewed on the basis of a REFIT evaluation in 2015, seeking for simplifications and harmonization of arrangements for excise goods released for consumption (e.g.: distance selling) and also for possible simplification for trusted traders authorized to move goods under duty suspension.

Another REFIT evaluation is foreseen to be finalized in 2014 concerning the directive on the structure and rates of excise duty applied to manufactured tobacco³³¹, relying on the results of a study on the measuring and reducing of administrative costs for economic operators and tax authorities, and obtaining in parallel a higher level of compliance and security in imposing excise duties on tobacco products.

Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

The Communication of the Commission on the follow-up to the Top10 consultation³³² has set out the concerns of SMEs and the response of the Commission to the following regulations highlighted by SMEs as most burdensome in the area of Taxation and Customs Union:

Directive 2006/112/EC on the common system of value added tax

Directive 2008/9/EC laying down detailed rules for the refund of value added tax

³²⁸ http://ec.europa.eu/transport/modes/maritime/news/bluebelt_en.htm

³²⁹ Commission Regulation (EU) 177/2010

³³⁰ Council Directive 2008/118/EC of 16 December 2008

³³¹ Council Directive 2011/64/EC of 21 June 2011

³³² COM(2013)446

In addition, the following legislation was highlighted as burdensome by SMEs and stakeholder organisations:

Council Directive 2008/118/EC on General arrangements for excise duty

SMEs tell us:

In the implementation of this directive, some Member States have requested that suppliers of excise duty products have a representative in the country to which they wish to export via distant selling (internet sales). This provision, which is a national implementing measure (as implementation procedures are not harmonised by the directive), de facto closes certain markets, especially for SMEs that cannot afford to have a representative in the country of destination.

Commission services comments:

Distance selling of excise goods is covered by Article 36 of Council Directive 2008/118/EC. This provision does not specify in any detail how Member States should frame rules concerning these procedures. The issue of concern to SMEs therefore falls under the responsibility of the Member States. Lack of procedural harmonisation can create unnecessary costs and can represent a barrier to the free movement of goods. This lack of detail can also give rise to a wide variety of national rules which can distort competition and make cross-border trade difficult. The absence of harmonisation encourages complicated national arrangements, because of the lack of information sharing and the absence of common best practices.

On the other hand, Member States have a legitimate right to protect their revenue base and so may lay down reasonable rules and conditions to ensure compliance.

With the above considerations in mind the Commission has proposed a discussion with Member States concerning movement of goods released for consumption. It is proposed to organise a project group with the Member States to look at the current arrangements and see what can be done under the current legal base to simplify and harmonise the rules in this area. Possible changes should benefit consumer and excise traders, as well as Member States Administrations.

Regulation (EC) No 450/2008 on the Modernised Customs Code and the Commission's proposal for a Union Customs Code³³³

SMEs tell us:

SMEs complain about burdens in relation to customs procedures and make a variety of suggestions on different aspects of the Commission's proposal for a Union Customs Code.

³³³ COM(2012)64

Commission services comments:

SME comments relate to Regulation (EC) No 450/2008 on the Modernised Customs Code, which aims at the modernisation and simplification of existing customs rules and procedures. It must be noted that the implementing provisions of this regulation have not entered into force yet. Moreover, in February 2012, the Commission tabled its proposal, already mentioned, for a Union Customs Code³³⁴ to recast the Modernised Customs Code which proposal is under discussion in the Council and the European Parliament. The burdens identified by the SMEs derive from the customs legislation in force. The Commission is aware of these problems and the EU is already in a process of modernising that legislation which was already subject to impact assessment and wide consultation of stakeholders.

Framework for the taxation of energy products and electricity - Directive 2003/96/EC

SMEs tell us:

Several SMEs have listed this piece of regulation as one of the most burdensome without mentioning specific requirements.

Commission services comments:

The Commission tabled a proposal³³⁵ for a revision of the Directive 2003/96/EC, on 13 April 2011, which currently is under discussion in the Council. The proposal changes the structure of energy taxation in order to support the aim of a low-carbon and energy-efficient economy as requested in the March 2008 European Council conclusions and to avoid problems in the internal market. Furthermore, the modernization and streamlining of the Directive should clarify its provisions providing for the SMEs a simpler and more straightforward application.

REFIT legislative actions

The following legislative initiatives with a focus on Regulatory Fitness in the area of Taxation and Customs Union are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- A standard EU VAT declaration in all Member States [2013].

REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Taxation and Customs Union are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

³³⁴ COM(2012)64

³³⁵ COM(2011)169/3

- Evaluation of the directive on the structure and rates of excise duty applied to manufactured tobacco [2014].
- Evaluation of general excise duty arrangements [2015].

19. HEALTH AND CONSUMER POLICY

1. Policy and legislative responsibilities in the area of Health and Consumer Policy

High levels of protection of human life and health, as well as consumer protection, all supporting the Single market, are the overarching objectives of Health and Consumer policy.

Consumer protection legislation concerns essentially product safety (subject of a revision before the co-legislators), cosmetics, consumer credit and bank accounts (subject of an initiative of the 2013 Commission Work Programme), the recently adopted measures on Alternative Dispute Resolution, and Consumer Protection Cooperation for proper enforcement.

The health acquis focuses on pharmaceuticals for human and veterinary use, including clinical trials (a proposal to simplify the regulatory environment is before the co-legislators), medical devices (a revision to improve it is before the co-legislators), cross-border healthcare to respond to the need of European patients, preparedness planning for cross-border health threats to respond to emerging crises, and more specific measures such as the quality of organs or substances of human origin or the legislation on tobacco products.

The acquis in the food safety, animal health and welfare, and plant health sector is very well developed as a key element of the smooth functioning of the internal market and to ensure a high level of safety for food placed on the market and live animals moved across Europe.

2. Smart Regulation Framework and Tools

As part of the agenda for the creation of growth and jobs, SANCO continuously considers the reduction of regulatory burden when reviewing and preparing new legislation, in particular in relation to SMEs. SANCO maintains a close dialogue with business, patients and consumer stakeholders, notably through its stakeholders' groups. Its consultation policy is formalised in a Code of Good Practice for Consultation of Stakeholders³³⁶ and a Consultation planner³³⁷ informing stakeholders of the intended consultations twice a year. SANCO has a multi-annual evaluation plan.

The right balance needs to be sought between the full respect of public policy objectives on public health, food and product safety, animal health and welfare, which are essential to citizens' and businesses confidence, and thus for the functioning of the Internal Market and the promotion of EU exports worldwide, and the need to keep administrative burden to a minimum. Attempts to ease rules for SMEs may however be rejected by co-legislators, as was

³³⁶ http://ec.europa.eu/dgs/health_consumer/dgs_consultations/docs/code_good_practices_consultation_en.pdf

³³⁷ http://ec.europa.eu/dgs/health_consumer/dgs_consultations/comitology_planner_en.htm

the case when SANCO proposed the removal of SMEs from the scope of hazard analysis and critical control points (HACCP) provisions under food hygiene legislation (Regulations (EC) No 852/2004 and (EC) No 853/2004)³³⁸ to which Member States and the European Parliament objected. This illustrates the difficult balance between administrative burden reduction and public interest considerations such as to minimise health risks.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

A number of exemptions or lighter regimes are already built into the legislation in the area of health and consumer policy, these include:

a. Food safety, veterinary and phytosanitary policy

- The Hygiene Regulations offer possibilities to grant derogations/exemptions from certain requirements, such as for slaughterhouses or for premises handling foods with traditional characteristics.
- Member States have the possibility to adapt Hygiene Regulation requirements to enable the continued use of traditional methods of production, to accommodate the needs of food businesses in regions subject to special geographic constraints, or to adapt requirements on the construction, layout and equipment of establishments. SMEs benefit from waivers and reductions in respect of certain fees charged by the European Medicines Agency. The Agency provides administrative assistance to SMEs through its SME office..

Slaughterhouses slaughtering less than 1000 mammals or 150 000 birds per year are not required to have an animal welfare officer;

- The requirements for slaughtering poultry and rabbits on the farm for direct supply of small quantities of meat to the final consumer or to local retail establishments supplying such meat directly to the final consumer as fresh meat, are limited on the basis of a maximum number of animals slaughtered;
- Direct sales to the consumer or to local retail outlets of small quantities of eggs can be exempted from the provisions on Salmonella control through Member State rules;
- Small farms benefit from derogations to animal welfare rules based on the number of animals: farms having less than 500 broilers, holdings with less than 350 laying hens, farmers keeping less than 10 sows, can derogate to group housing, or for calves above 8 weeks of age, keeping them in groups is not required if less than 6 calves are in the holding or if calves are kept with their mothers for suckling;
- Small farmers are not required to pay remuneration to Plant Variety Rights' holders for using on their own holding the product of their own harvest from a variety covered by Community Plant Variety Rights.

³³⁸ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs and REGULATION (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for on the hygiene of foodstuffs

A number of Commission proposals under SANCO responsibility contribute to simplification and consolidation of existing laws:

Drawing from an extensive consultation process, external evaluations as well as comprehensive impact assessments, a package of four acts was adopted in May 2013 with the aim notably to simplify the current legislative framework, comprising:

- the new **Animal Health Law**³³⁹, replacing 37 legal acts;
- the proposal on **Plant Health**³⁴⁰ replacing 7 legal acts;
- the proposal on **Plant reproductive materials**³⁴¹ replacing 12 legal acts;
- the proposal on **official controls**³⁴² repealing 10 previous legal acts.

The comprehensive and more flexible framework provides for several new possibilities for reduction of admin burden e.g. eliminating double notification of diseases to the EU and to an international organisation, use of electronic technology to better integrate various databases for animal traceability, voluntary mechanisms for official recognition of higher on-farm biosecurity (as opposed to compulsory and prescriptive farm biosecurity plans and standards which were assessed in the Impact Assessment but not retained), possibilities to take into account the needs of particular animal keeping sectors (e.g. zoos, scientific bodies etc.).

Other derogations (such as on certain low-risk intra-EU movements of animals or products) have already been estimated to reduce administrative burden for farmers and national veterinary authorities by up to EUR 79 million per year without compromising animal and human health protection. In the plant health law, the transfer of the responsibility for the plant passport to business operators will lead to a considerable reduction in administrative burden.

Similarly for plant reproductive material, a significant reduction in administrative burden can be expected from the transfer of inspection tasks for variety registration to the private sector (for which current costs are estimated at EUR 55 to 60 million per year). For official controls, a greater focus on risk-based prioritisation of official control activities will maximise efficiency. In the area of residues of veterinary medicines, up to EUR 98.5million per year could be saved across the Member States by organising official control activities where the risk to human health is greatest.

The proposed revision of the **clinical trials Directive** (Directive 2001/20/EC)³⁴³ will facilitate the work of all actors, especially SMEs, by creating a unique set of rules applicable across

³³⁹ COM(2013) 260 final

³⁴⁰ COM(2013) 267 final

³⁴¹ COM(2013) 262 final

³⁴² COM(2013) 265 final

Europe. For example, for a clinical trial authorisation, the sponsors will apply via a single portal and submit a single set of documents (one-stop-shop). The authorisation process will be transparent and companies will have legal certainty of when to expect decisions on their application (clear rules and binding deadlines).

The set of **zootechnical legislation**³⁴⁴ facilitates the intra-EU trade of agricultural animals. The current body of Council legislation will be simplified and replaced by a single Regulation, to be adopted in the autumn 2013, which will maintain the existing well-functioning principles in a clearer, streamlined text adapted to the requirements of the TFEU, imposing lower administrative costs on farms, related industries and animal keepers and thus assisting their competitiveness.

The whole legislative framework of the **Food chain** (16 major policies) has been subject to the first phase of a comprehensive Fitness check exercise providing a comprehensive Staff Working Document (SWD) mapping out the present EU-regulatory framework that applies to the food chain. This SWD will be published, and the next steps phase will be performed within REFIT. This follow-up REFIT evaluation will be launched in the third quarter of 2013 with the establishment of the steering group and the elaboration of the mandate, followed by an external study launched in the fourth quarter with results to be expected in the third quarter 2014. Public consultations will be undertaken in second quarter 2014, while stakeholders will be consulted on a regular basis in the respective consultative bodies, such as the dedicated SCoFCAH Working groups (with Member States) and the Advisory group of the Food Chain (with stakeholders). In addition, information will be provided in other Platforms such as the High Level Forum for a Better Functioning Food Chain (HLF). The final report of the Fitness check will be prepared for publication in early 2015.

The 2009 Commission report on the implementation of the **Hygiene package**³⁴⁵ suggested a strengthened focus on SMEs, and the clarification and simplification of the legal framework. DG SANCO is currently conducting an Impact Assessment with the objective to introduce simplified risk-based procedures and SME exemptions as appropriate.

On the EU strategy for the protection and welfare of animals³⁴⁶ the Commission is currently reviewing enforcement aspects. Subject to the conclusions of this review, the

³⁴³ DIRECTIVE 2001/20/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use

³⁴⁴ The zootechnical legislation of the EU consists of 11 legal acts adopted by the Council (Council Decision 77/505/EEC and Council Directives 87/328/EEC, 88/661/EEC, 89/361/EEC, 90/118/EEC, 90/119/EEC, 90/427/EEC, 90/428/EEC, 91/174/EEC, 94/28/EC, and 2009/157/EEC).

³⁴⁵ COM(2009) 403

³⁴⁶ COM(2012)6

Commission could undertake an Impact Assessment in 2015 with a view to simplifying legislative framework, enforcing existing laws, reducing administrative burden and valorising welfare standards to enhance EU food industry competitiveness.

The changes proposed in the Commission's **Product Safety and Market Surveillance Package**³⁴⁷ will be positive for SMEs as clearer common rules will apply across the board. Moreover, the Commission proposed an exemption from the obligation to notify market surveillance authorities of products presenting a risk in 'isolated cases' where the risk has already been fully controlled by the economic operators themselves. This will reduce administrative burden (mostly for small retailers).

In the process of elaborating Implementing rules for the **Food Information for Consumers (FIC) Regulation**³⁴⁸, the Commission is currently performing two parallel exercises: an Impact Assessment on Country of Origin Labelling for foodstuffs (voluntary) as well as a report on Country of Origin Labelling for meat as an ingredient (mandatory), both due around late 2013. This includes a possible recommendation for the elaboration of guidance documents for implementing authorities and food business operators as part of the continued efforts already undertaken in the scope of the introduction of the original FIC Regulation for simplification and administrative burden reduction. Due to European Parliament amendments of the original Commission proposal, a series of additional labelling requirements have been added. Commission services continue to monitor the implementation and provide guidance and information on effective and efficient compliance and enforcement to all stakeholders.

The Commission has recently launched a behavioural economics study on the 'impact of food information on consumer's decision-making'. Its results, which aim to identify whether and how consumers manage to absorb the information that appears on the label and whether the presentation of such information could be more effective, will be available around the end of 2013. In addition, the following specific reports on the application of the rules under the FIC Regulation are also foreseen:

- By 13 December 2014, the Commission must produce the following reports:
 - Report on whether the labelling of alcoholic beverages should also include a list of ingredients and nutrition labelling.

³⁴⁷ COM(2013) 74

³⁴⁸ REGULATION (EU) No 1169/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004

- Reports on the possibility to extend mandatory origin to unprocessed meat other than beef, pig, poultry, sheep and goat; milk used as an ingredient in dairy products; unprocessed foods; single ingredient products; and ingredients that represent more than 50% of a food.
 - Report on the presence of trans-fat in food.
- By 13 December 2017, the Commission must produce a report on the use of additional forms of expression and presentation, on their effect on the internal market and on the advisability on further harmonisation of those forms of expression or presentation.
 - By 13 December 2019, the Commission must produce a report to evaluate the application of the mandatory origin labelling for unprocessed meat of pig, poultry, sheep and goat.

These reports will provide data and information will be available around the end of 2013 to evaluate the effectiveness and efficiency of the new labelling provisions with relation to consumer's choice and the coherence and transposition of the legislative approach of the FIC Regulation, building on data from Member States.

4. Concerns raised by SMEs in the "Top-10" Consultation and responses by the Commission

The Communication of the Commission on the follow-up to the Top10 consultation³⁴⁹ has set out the concerns of SMEs and the response of the Commission to the following regulation highlighted by SMEs as most burdensome in the area of Consumer Protection:

- **General Product Safety – Directive 2001/95/EC**

Furthermore comments were also received in relation to the following pieces of legislation:

- **Food hygiene – Regulations (EC) No 852/2004 and 853/2004**

SMEs tell us:

SMEs and stakeholders criticise that the possibility for Member States to decide on exemptions for SMEs does not work in reality (resistance of local sanitary authorities to exemptions for which they have to take responsibility in case of problems).

Commission services comments:

The 2009 implementation report on the Hygiene package³⁵⁰ suggested simplification and a stronger focus on SMEs. DG SANCO currently conducts an Impact Assessment with the

³⁴⁹ COM(2013)446

objective to introduce simplified risk-based procedures and SME specific provisions as appropriate.

- **Materials and articles intended to come into contact with food - Regulation (EC) No 1935/2004**

SMEs tell us:

It is disproportionate that every purchase of packaging material (even repetitive) requires a certificate of suitability for food contact.

Commission services comments:

The introduction of one EU application and authorisation for food contact materials replacing the several national authorisation schemes reduces administrative burden for industry, results in legal certainty for the EU-wide marketing of plastic materials and ensures an EU-wide high level of consumer protection.

The EU legislation only requires that for plastic food contact materials a declaration of compliance is available. It does not need to be provided with every delivery of the same article. It only needs to be renewed when substantive changes are made in the manufacture or the legislative requirements have changed. Guidance on the application of the declaration of compliance is in preparation. A draft has already been discussed with Member States and stakeholders and is scheduled to be agreed by the end of 2013.

- **Provision of food information to consumers – Regulation (EU) No 1169/2011**

SMEs tell us:

The Regulation is impossible to implement in a practical way for small companies in the hotel, restaurant and catering sector (HORECA). It requires the change of virtually all labels at considerable cost in the botanical sector and written provision of allergy information is considered unnecessary by representative organisations in a food producing sector as it could be provided orally.

Commission services comments:

The Regulation does not apply to the botanical sector. This Regulation will apply from 13 December 2014. The obligation to provide nutrition information will apply from 13 December 2016. Implementing acts on the mandatory indication of country of origin or place of provenance for unprocessed meat should be adopted by December 2013.

The on-going assessment of impacts of these two implementing rules comprises a comprehensive SME test following the principle of 'reverse burden of proof' when it comes to

³⁵⁰ COM(2009) 403

covering also micro-enterprises. Tools used include an in-depth economic analysis and also, a special EU-wide SME survey using the Enterprise Europe Network (EEN). The results of these assessments will be published, either alongside the implementing acts or as a Commission report to the Council and the Parliament.

Member States may adopt measures to decide the means by which the allergen information on non-pre-packed food can be given so Member States can adapt requirements to the specificity of the sector concerned, including the HORECA sector. A Commission Q&A document, available on Europa-website³⁵¹, indicates that such national measures may allow the information to be given orally under certain conditions.

- **Approximation of the laws of the Member States relating to food supplements - Directive 2002/46/EC and Regulation on nutrition and health claims made on food (Regulation (EC) No 1924/2006)**

SMEs tell us:

Regarding the Regulation on nutrition and health claims made on food, representative organisations in food producing sectors consider that a lack of clarity of provisions and substantial difference in practices in Member States prior to harmonization had led to many rejections of health claims. There were also estimates of substantial market-size and employment losses due to the regulation.

Commission services comments:

The health claims Regulation aims to exclude misleading claims from the market. The size of the producer cannot be an argument to derogate to this principle of fairness both vis-à-vis the consumer but also vis-à-vis business competitors.

In the area of botanicals, claims have been put "on hold" to allow for further reflection on whether the differences in the consideration given to evidence of 'traditional use' in the legislation on certain herbal medicinal products are justified when compared to the legislation on claims. The reflection is currently on-going, including consultation of Member States and interested stakeholders.

- **Pharmaceuticals legislation including Directive 2001/83/EC on the Community Code for medicinal products for human use**

SMEs tell us:

The level of risk posed by homeopathic products and traditional herbal medicinal products does not justify the current regulatory burden. It is suggested to replace certain requirements by a simple notification system and good manufacturing practice certificates.

Commission services comments:

³⁵¹ http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/guidelines_6_10.pdf.

Due to their specific safety profile, traditional herbal medicines and homeopathics benefit from a simplified regime: under certain conditions, they do not require authorisation, just registration. Applicants have thus to provide much less data compared to medicinal products that are subject to the full marketing authorisation procedure.

- **Regulation on Official Controls**³⁵²

SMEs tell us:

SME stakeholders have highlighted this piece of legislation as particularly burdensome without providing further details.

Commission services comments:

Although official controls legislation is not intended directly for food business operators (its audience is the Member State enforcement authorities which perform official control activities), it does present an indirect burden to operators which are required to accommodate such activities.

The proposal for a revision of rules on official controls³⁵³ will require the highest level of transparency of enforcement authorities towards operators with regard to how official control activities are organised and performed, increasing their accountability and thus improving the efficient organisation of official control activities and use of the information collected.

The proposal on official controls³⁵⁴ introduces a requirement for enforcement authorities to recover the cost of performing official control activities by collecting fees from operators. However, the very smallest operators (micro-enterprises) will be exempted from having to pay.

Furthermore, new rules will specifically require the competent authorities to consult operators on the method of calculation of the fees and to be fully transparent as regards the use of the fees revenue and as regards the mechanisms in place to ensure an efficient and thrifty use of such revenue.

5. REFIT legislative actions

The following legislative initiatives with a focus on Regulatory Fitness in the area of Health and Consumer Policy are in preparation by the Commission. The approximate timing of the action is indicated in brackets:

³⁵² REGULATION (EC) No 882/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

³⁵³ COM(2013)265

³⁵⁴ COM(2013) 265 final

- Recast of the zootechnical legislation consisting of 11 Council legal acts [2013]

Revision of the Clinical Trials Directive 2001/20/EC [2014]

- Review of the Food Hygiene Package to examine the introduction of simplified risk-based procedures and SME specific provisions [2013]

6. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Health and Consumer Policy are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- REFIT evaluation of the General Food Law [2015]
- Subject to the results of the current review of enforcement aspects, the Commission could undertake an impact assessment of a simplified regulatory framework optimising enforcement, reducing administrative burden and valorising standards for animal welfare to enhance EU food industry competitiveness.

20. TRADE

1. Policy and legislative responsibilities in the area of Trade

The EU manages trade and investment relations with non-EU countries through the EU's trade and investment policy. The European Union has exclusive competence on trade policy which covers trade in goods, services, commercial aspects of intellectual property and foreign direct investment.

The European Commission's Directorate-General for Trade helps to secure prosperity, solidarity and security in Europe and around the globe through EU trade policy. It contributes to shape a trade environment that is good for European citizens and European business. It is also committed to liberalize world trade and foster sustainable economic, social and environmental development, thereby boosting competitiveness, jobs and growth in the process.

DG TRADE negotiates bilateral and multilateral trade agreements, ensuring that the rules agreed are actually applied, and works closely with the WTO and other multilateral institutions ensuring that EU businesses can operate fairly in the EU and across the world and to tackle unfair competition, dumping and subsidization.

DG TRADE is responsible for the management of legislation related to trade agreements, EU imports and exports; and trade defense instruments.

2. Smart Regulation Framework and Tools

The policy area of trade features a culture of evidence-based policy making and ensures that legislation is fit for purpose through a comprehensive evaluation policy which includes Impact Assessments carried out when a new policy is developed, sustainability impact assessments (when an agreement is being negotiated) and ex-post evaluations.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

The Commission has taken various measures across the area of trade to ensure that legislation is fit for purpose:

The process for the modernization of the **Trade Defence Instruments (TDI)** has been based on an evaluation study focusing on the two main trade defence instruments³⁵⁵, a public consultation carried out from April to July 2012, and finally a comprehensive Impact

³⁵⁵ [http://trade.ec.europa.eu/doclib/docs/2012/march/tradoc_149236.pdf] covering Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (Basic AD Regulation); Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (Codified version) (Basic AS Regulation););););

Assessment approved by the IA Board³⁵⁶. This process has resulted in a proposal for modernization which includes a Communication from the Commission and a new legislative proposal³⁵⁷ to amend the two basic anti-dumping and anti-subsidy Regulations and accompanying draft guidelines.³⁵⁸ The modernization will lead to an important update of these two key trade defence instruments. Part of the modernization package is to help SME's in dealing with Trade Defence cases, both in their capacity as European producers as well as companies with importing activities who are the ones liable to payment of duties imposed. Moreover, the Commission proposes to improve transparency and predictability of the two instruments by adopting and publishing guidelines in due course. All this will result in important improvements in the functioning of the instruments for all stakeholders.

The **EU export control policy** and Council Regulation (EC) No 428/2009 of 5 May 2009³⁵⁹ setting up a Community regime for the control of exports transfer, brokering and transit of dual-use items is being reviewed. A comprehensive implementation report is planned to be presented to the Council and Parliament already in 2013. This may be followed by a Commission communication setting out options for reform and simplification of the export controls.

Commission Regulation (EC) No 1418/2007 of 29 November 2007³⁶⁰ provides for the conditions for the **export for recovery of non-hazardous waste** to non-OECD countries. This Commission Regulation is updated periodically³⁶¹, usually once a year, on the basis of the partner countries' information on their import procedures for the waste concerned. In 2012, the Commission addressed all non-OECD countries with a detailed questionnaire in order to update and complete the Regulation. This exercise is currently being repeated with enhanced guidance and assistance to the partner countries' authorities.

The Commission is also liaising with EU Member States and business. The review of the regulation will provide legal certainty to industry, simplify procedures and reduce administrative burden. In particular, the amended Regulation should include significantly more information about conditions for exporting the different kinds of non-hazardous waste

³⁵⁶ SWD(2013) 105 final of 10 April 2013

³⁵⁷ Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community - [COM\(2013\) 192 final](#)

³⁵⁸ Communication COM(2013) 191 final of 11/04/2013

³⁵⁹ OJ L 134, 29.05.2009, p.1

³⁶⁰ Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste (OJ L 316, 4.12.2007, p. 6)

³⁶¹ As required by Regulation (EC) No 1013/2006 of the European Parliament and the Council on shipments of waste (OJ L 190, 12.07.2006, p.1)

and mixtures of waste to the respective non-OECD countries, hence sparing the business from the need to search for this information from various other sources. Moreover, undertaking this "cleaning-up" of the Regulation should also minimise any risk that the Regulation could include erroneous, outdated or incomplete provisions which could cause additional costs or damage to industry. For example, if the Regulation erroneously banned exports of some wastes to some partners, economic operators would be deprived of export opportunities. On the other hand, if the Regulation wrongly allowed export of some wastes, such consignments could be stopped at the partner countries' borders and there would be a take-back obligation and costs for exporters.

The Commission will evaluate under REFIT Council Regulation (EC) No 953/2003³⁶² of 26 May 2003 to avoid **trade diversion of certain key medicines**. The aim of the regulation is to enable pharmaceutical products for the prevention, diagnosis and treatment of certain diseases to be sold at different (lower) prices in developing countries and to prevent the trade diversion into the EU of these 'tiered price' products. The Regulation governs tiered pricing for only three diseases – HIV, tuberculosis and malaria as well as related diseases. Since two of these diseases primarily affect populations in countries outside the EU, the risk of trade diversion (importation of cheap medicines into the EU) is very limited. In order to decide on future action, an evaluation and consultation of stakeholders will be carried out.

Following the entry into force of the TFEU, a number of trade related regulations will need to be aligned with the new legal framework. To this end, the Commission has proposed two enabling regulations³⁶³. Upon approval of these enabling regulations, the Commission will launch the codification of 26 Council Regulations.

Furthermore, ex post evaluations, assessing the impact of trade agreements in force, will help to improve the formulation of future trade policy. An ex-post evaluation of the Mexico-EU Free Trade Agreement will be launched in 2013.

4. REFIT legislative actions

The following legislative proposals by the Commission with a focus on Regulatory Fitness in the area of Trade are awaiting adoption by the co-legislator:

³⁶² Council Regulation (EC) No 953/2003 of 26 May 2003 to avoid trade diversion into the European Union of certain key medicines (OJ L 135, 3.6.2003, p.5)

³⁶³ Proposal for a Regulation of the EP and of the Council amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures (Omnibus I) COM(2011) 82 final); and Proposal for a Regulation of the EP and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures -(Omnibus II)- COM(2011) 349 final.

- Commission Proposal for a Regulation amending the basic anti dumping and anti-subsidy Regulations³⁶⁴ amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community.

The following legislative initiatives with a focus on Regulatory Fitness in the area of Trade are under preparation by the Commission. The approximate timing of the action is indicated in brackets:

- Export for Recovery of non-hazardous waste – The update of Regulation 1418/2007³⁶⁵ will simplify procedures and reduce administrative burden [2013]
- Codification of twenty-six Council Regulations following the adoption of two enabling regulations^{366 367}-bringing trade legislation in line with the TFEU. [2014]

5. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Trade are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Comprehensive implementation report on the EU export controls Regulation, including review of the Dual Use Regulation 428/2009 (required under the basic act and export control policy). The planned report will present options for reform and simplification [2013]
- Evaluation of Council Regulation (EC) No 953/2003 of 26 May 2003 to avoid trade diversion into the European Union of certain key medicines [2014]
- Ex post evaluation of the implementation of the EU-Mexico FTA agreement [launch planned 2013]

³⁶⁴ COM(2013) 192, See Impact Assessment Report: SWD(2013)105

³⁶⁵ Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply

³⁶⁶ COM(2011)82 and COM(2011)349

³⁶⁷ Omnibus I (COM(2011) 82 final); and Omnibus II (COM(2011) 349 final).

21. MOBILITY AND TRANSPORT

1. Policy and legislative responsibilities

Transport is essential to our economy and enables growth and job creation. The EU depends on efficient transport networks for the economy to stay competitive, for the internal market to function smoothly and for citizens to enjoy mobility and free movement.

The main priority in the area of Mobility and Transport are:

- Completing the Single Market through a single competitive transport system capable of providing better services for citizens and companies at affordable cost, while safeguarding safety and security and improving the rights of passengers.
- Pushing innovation: promoting the development and roll-out of a new generation of sustainable transport technologies in particular for integrated traffic management systems and low carbon vehicles.
- Building the EU's core trans-European infrastructure network as the backbone of a multi-modal sustainable transport system capable of delivering fast, affordable and reliable transport solutions to serve Europe's transcontinental corridors.
- Projecting the EU's mobility and transport objectives and defending EU political and industrial interests on the world stage, within international organisations and with strategic partners.

2. Smart Regulation Framework and Tools

The Commission is fully committed to better regulation and simplification in the area of Mobility and Transport as shown by the positive results under the Action Programme for Reducing Administrative Burdens. Overall more than 1.1 bn EUR of savings for transport alone are estimated. There were considerable reductions in transport-tariff notifications and the formalities for short sea shipping. The bulk of the reduction was achieved by updating and simplifying the rules on tachographs for road transport. These measures benefit SMEs in particular because a large majority of road-transport companies are SMEs.

Furthermore, since 2010, DG MOVE completed twenty impact assessments (five of them in 2013). Work is on-going for nine more impact assessments, which shall be finished in 2013-2014 and three more are already planned. Regarding evaluations³⁶⁸, sixteen studies were completed since 2010, while six are on-going. For 2013-2014, six additional evaluation studies are planned.

³⁶⁸ http://ec.europa.eu/transport/facts-fundings/evaluations/annual_en.htm

The Commission is engaged in a dialogue with Member States regarding smart regulation in the area of Mobility and Transport. This concerns in particular a risk-based approach in the drafting and enforcement of legislation.

3. Measures taken to ensure that legislation is 'fit-for-purpose'

The following legislative activities and policy measures in the area of Mobility and Transport are currently being carried out. Some of them include significant simplification elements:

Infrastructure and funding:

Negotiations on **Connecting Europe Facility and Guidelines for Trans-European Networks (TEN-T)**³⁶⁹ have recently (June 2013) been finalised by the co-legislator within the 2014-2020 Multiannual Financial Framework (MFF) exercise. The political agreement now only needs to pass the final stages of formal adoption. They were part of the Commission Communication "A Simplification Agenda for the MFF 2014-2020".³⁷⁰ The proposals have been presented in 2011 following an in depth mid-term evaluation aimed to assess the project management methodology in use, and the impact of project implementation with regard to the TEN-T Programme objectives and to provide recommendations for input to the TEN-T Programme and Policy Revision. For transport, the alignment of the rail freight corridors with the core network corridors is the real simplification.³⁷¹

Passengers Rights:

All pieces of legislation included under this section have either just entered into force (Regulations 1177/2010 on maritime passenger rights and 181/2011 on bus/coach passenger rights), are currently being evaluated (Regulation 1371/2007 on rail passenger rights)³⁷² or a

³⁶⁹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Connecting Europe Facility, COM(2011) 665 final of 19.10.2011

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Union guidelines for the development of the trans-European transport network, COM(2011) 650 final/2 of 19.12.2011

³⁷⁰ Adopted on 8.2.2012 COM(2012) 42 final

³⁷¹ http://ec.europa.eu/transport/themes/infrastructure/ten-t-policy/review/index_en.htm

³⁷² http://ec.europa.eu/transport/facts-fundings/evaluations/doc/2012_reg1371_07.pdf

Commission proposal³⁷³ has just been adopted (air passenger rights – Regulations 261/2004³⁷⁴ and 2027/97³⁷⁵).

Intelligent transport Systems (ITS):

This recently adopted legislation³⁷⁶ is being completed by the Commission through delegated acts.

Rail transport:

In January 2013 the Commission presented "The Fourth Railway Package – completing the single European railway area to foster European competitiveness and growth".³⁷⁷ This package will eliminate inconsistencies in the EU legal order and will contribute to simplification. Simplification elements include the vehicle authorisation process where the current system of successive authorisations issued by national safety authorities, is replaced by a single EU authorisation for placing vehicles on the market. This is complemented by a decision on placing vehicles in service by railway undertakings. In addition, a single EU safety certificate for Railway undertakings is introduced.

Road transport:

³⁷⁸**Tachograph:** The EU legislator has recently (May 2013) completed the negotiation of the proposal amending Regulation 3821/85 on recording equipment in road transport³⁷⁹. Now, the final adoption is awaited. The Commission proposal took up the recommendation of the High Level group on Administrative Burdens by proposing an optional exemption for non-transport business undertaking short transport operations. The measure now lined-up for adoption by the EU legislator provides an obligatory exemption for craftsmen (i.e. people not having

³⁷³ Adopted on 13.03.2013 COM(2013) 130

³⁷⁴ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

³⁷⁵ Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (Official Journal L 285 , 17/10/1997 P. 0001 – 0003)

³⁷⁶ Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport Text with EEA relevance (Official Journal L 207 , 06/08/2010 P. 0001 – 0013)

³⁷⁷ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings, COM (2013) 26 of 31 January 2013

³⁷⁸ http://ec.europa.eu/transport/modes/road/haulage/index_en.htm

³⁷⁹ Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport, OJ L 370, 31.12.1985, p. 8–21

driving as their main activity) using vehicles under 7.5 tonnes within a radius of 100 km. Finally, the Commission intends to withdraw the proposal to merge the driver card with the driver's licence.³⁸⁰

Weights and Dimensions: the Commission's recent proposal on the Weights and dimensions of heavy-good vehicles³⁸¹ will reduce burden for SMEs:

- Suppression of the requests for special permits to carry 45' containers in international transport
- Targeted checks for overweight in order to avoid stopping vehicles not presumably infringing the rules. This saves time for hauliers.
- Sharing the responsibility between hauliers and shippers in case of overload of containers, limiting the risk for SMEs.
- In addition a proposal addressing road charging as well as enforcement is foreseen for adoption by the Commission during the second half of 2013.

Retrofitting of mirrors: The Commission is also considering a proposal to repeal Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles as the directive is no longer relevant.³⁸²

Clean road transport vehicles: The Commission is considering a proposal to repeal in 2014 Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles³⁸³ as this piece of legislation is no longer necessary in the context of the recent developments in the horizontal public procurements rules.

Maritime transport

The objective of the Blue Belt concept is to simplify the administrative procedures applicable to intra-EU maritime trade, thus promoting ShortSeaShipping (SSS). This will reduce costs, simplify administrative procedures and extend the EU Internal Market to SSS.³⁸⁴ Reduced

³⁸⁰ COM(2011)710

³⁸¹ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic, COM(2013) 195 final, 15.4.2013

³⁸² Directive 2007/38/EC of the European Parliament and of the Council of 11 July 2007 on the retrofitting of mirrors to heavy goods vehicles registered in the Community

³⁸³ Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles

³⁸⁴ http://ec.europa.eu/transport/modes/maritime/short_sea_shipping/index_en.htm

checking of intra-EU cargo that would not be checked if transported overland will allow authorities to focus on higher risk areas and promote seaborne trade between EU ports. A policy communication³⁸⁵ was adopted on 8 July 2013 outlining the envisaged implementing measures for the Union Customs Code. The communication outlines two implementing measures that are planned for this year.³⁸⁶

Air transport³⁸⁷

DG MOVE finalised the pilot Fitness check on certain aspects of the **aviation single market**³⁸⁸. The overall finding is that the regulatory framework (Regulation 1008/2008, Regulation 785/2004 and Regulation 80/2009³⁸⁹) continues serving the purpose it was designed for. Nevertheless, there is some need for the Commission services to provide more detailed guidance (leasing, restriction of traffic rights), better dissemination of best practices among enforcement bodies (PSOs, price transparency, passenger protection in case of airline insolvency) and continuing to improve monitoring and enforcement. On the issue of *price transparency*, the Fitness Check recommends non-regulatory measures such as the consultation with national enforcement bodies, guidelines and dissemination of good practices.

The Airport package³⁹⁰, adopted by the Commission in December 2011, is now under examination by the co-legislators. From a REFIT point of view, the following issues should be noted:

³⁸⁵ COM(2013)510

³⁸⁶ COMMUNICATION FROM THE COMMISSION: Blue Belt, a Single Transport Area for shipping, COM(2013) 510 final, 8.7.2013

³⁸⁷ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast), Official Journal L 163 , 25/06/2009 P. 0001 - 0140

³⁸⁸

http://ec.europa.eu/transport/modes/air/internal_market/doc/fitness_check_internal_aviation_market_en_commission_staff_working_document.pdf

³⁸⁹ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast), OJ L293 of 31.10.2008, p. 3-20.

Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89, OJ L35 of 4.2.2009, p. 47-55.

Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, OJ L138 of 30.4.2008, p. 1-6.

³⁹⁰ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: Airport policy in the European Union - addressing capacity and quality to promote growth, connectivity and sustainable mobility, COM(2011) 823 final, 1.12.2011.

- The 'slots' proposal provides for simplification of legislation³⁹¹;
- The 'ground handling' and 'noise' proposals³⁹² will lead to the repeal of the existing directives dating from 2002 and 1996 which will be replaced by regulations.

Single European Sky II³⁹³: A major objective of the SESII+ proposal will be the simplification of the existing legislation. In particular the recast of the SES legislation will reduce the overlap between the SES and the European Aviation Safety Agency (EASA) regulatory frameworks, focusing EASA on technical regulation and the Commission on economic regulation.

The SESII+ proposal will also trigger the optimisation of the administrative resources in the Member States, especially the national supervisory authorities (NSAs) who are key actors in the implementation of SES.³⁹⁴ SESII+ will give the NSAs more autonomy within the State administrations and effective independence from the service providers they have to supervise. The proposal will also encourage the NSAs to cooperate better at functional airspace block and EU levels to save resources and improve expertise.

4. REFIT legislative actions

The Commission intends to consider proposing the following Directives for repeal. The approximate timing is indicated in brackets:

- Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles [2014]
- Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles [2014]

³⁹¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the allocation of slots at European Union airports, COM/2011/0827 final

³⁹² Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on groundhandling services at Union airports and repealing Council Directive 96/67/EC, COM/2011/0824 final

³⁹³ http://ec.europa.eu/transport/modes/air/single_european_sky/index_en.htm:

The SES legislative framework consists of four Basic Regulations (N° 549/2004, 550/2004, 551/2004 and 552/2004) covering the provision of air navigation services (ANS), the organisation and use of airspace and the interoperability of the European Air Traffic Management Network (EATMN). The four Regulations adopted in 2004 (the SES I Package) have been revised and extended in 2009 with Regulation (EC) n° 1070/2009 aiming at increasing the overall performance of the air traffic management system in Europe (the SES II Package). This framework also includes more than 20 Implementing Rules and Community Specifications ("technical standards") adopted by the European Commission starting from 2005 in view of ensuring interoperability of technologies and systems.

³⁹⁴ Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (Text with EEA relevance), OJ L 96, 31.3.2004, p. 20–25

The Commission is considering withdrawing the following proposal:

- Proposal in legislative procedure regarding driving licences which include the functionality of a driver card [2013]

5. REFIT evaluations

The following evaluations and Impact Assessments with a focus on Regulatory Fitness in the area of Mobility and Transport are planned by the Commission. The approximate date of expected delivery is indicated in brackets:

- Combined Transport Directive³⁹⁵ [2014]
- Evaluation of Passenger Ships Safety Legislation³⁹⁶ [2014]

³⁹⁵ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States, Official Journal L 368 , 17/12/1992 P. 0038 - 0042

³⁹⁶ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast), Official Journal L 163 , 25/06/2009 P. 0001 - 0140

22. ANTI-FRAUD

1. Policy and legislative responsibilities

The area of anti-fraud has the following two main policy objectives: the protection of the financial interests of the Union³⁹⁷ and the protection of the euro against counterfeiting³⁹⁸, both including by means of criminal law.

Moreover, together with DG TAXUD (and the European External Action Service (EEAS)), OLAF is responsible for the follow-up of the proposals for a cooperation agreement between the EU and its Member States and The Principality of Liechtenstein to combat fraud and any

³⁹⁷ Main acquis:

Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests

Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities

Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)

Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OCAF)

Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) Euratom establishing OLAF,

1999/396/EC, ECSC, Euratom: Commission and Hercule Decision of 2 June 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests

Decision No 804/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule programme); and 1995 PFI Convention and its protocols.

³⁹⁸ Main acquis:

Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting

Council Regulation (EC) No 1339/2001 of 28 June 2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency

Council framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro

2001/923/EC: Council Decision of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles" programme)

other illegal activity to the detriment of their financial interests and to ensure exchange of information on tax matters³⁹⁹.

2. Measures taken to ensure that legislation is 'fit-for-purpose'

A consolidation of the main legal texts governing the area of anti-fraud has been proposed by the Commission: Regulations 1073 and 1074/1999 will be replaced by a single Regulation which will enter into force this autumn. It clarifies the procedural rights of the person concerned by an investigation. A review of the main decision on OLAF is under preparation by the Commission.

As regards the proposals made in the framework of the MFF package, OLAF had the overall objective to keep its two relatively small **financing programmes** (Hercule and Pericles) fit for purpose and complementary to other actions at EU level or national level. For legal reasons, a merger of these two programmes was not considered possible. However, specific attention was paid in 2011 to the reduction of the burden and simplification, following the consultation of the stakeholders concerned.

One Impact assessment is on-going, regarding Regulation 515/97⁴⁰⁰ on mutual assistance in customs and agricultural matters and one impact assessment has been published in July 2013 on the Establishment of a European Public Prosecutors' Office, the latter being undertaken with DG JUST together with other initiatives (reform of Eurojust and procedural law initiative).

In addition, the Commission produces annual reports regarding the protection of the financial interests under Article 325 TFEU reports constitute another useful mean to evaluate on a regular basis how Member States cope with some specific obligations regarding the communication of irregularities (Regulations 1848/2006⁴⁰¹, 1828/2006⁴⁰² and 498/2007⁴⁰³).

³⁹⁹ COM(2009) 644 and 648

Com(2009) 644 final - Amended Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Cooperation Agreement between the European Union and its Member States, of the one part, and the Principality of Liechtenstein, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests and to ensure exchange of information on tax matters

Com(2009)648 final - Amended Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Cooperation Agreement between the European Union and its Member States, of the one part, and the Principality of Liechtenstein, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests and to ensure exchange of information on tax matters

⁴⁰⁰ COUNCIL REGULATION (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters

⁴⁰¹ Commission Regulation (EC) No 1848/2006 of 14 December 2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91

This dialogue has a beneficial impact on the evaluation to what extent is the legislation fit for purpose.

Future initiatives:

- The OLAF Regulations (Regulations 1073 and 1074/1999: see above) will be repealed once the new Regulation enters into force this autumn
- The procedural law initiative that could be adopted by the Commission this year could allow the withdrawal of the proposal for a Regulation of the EP and of the Council on mutual assistance for the protection of the financial interests of the Community.⁴⁰⁴

3. REFIT legislative actions

The Commission will consider withdrawing the following proposals:

- Proposal by the Commission on criminal law protection of the Community's financial interests⁴⁰⁵. [2014]

⁴⁰² Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund

⁴⁰³ Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

⁴⁰⁴ COM(2006)473 final – Amended proposal for a Regulation of the European parliament and of the Council on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities

⁴⁰⁵ COM(2002)577 final - Amended proposal for a European Parliament and Council Directive on the criminal-law protection of the Community's financial interests (Substance is now covered by the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law adopted in July 2012 (COM(2012) 363final363).

23. COHESION POLICY

1. Policy and legislative responsibilities

The objectives of Cohesion Policy are the strengthening of the European Union's economic, social and territorial cohesion and to promote smart, sustainable and inclusive growth as set out in the Europe 2020 strategy. In partnership with national, regional and local actors, the Commission works to ensure that:

- High quality development strategies and implementation structures are present in the Member States and regions, contributing to the achievement of the Europe 2020 national targets and delivering EU policy priorities on the ground throughout the European Union, particularly in the less developed regions reflecting the principle of solidarity
- Delivery is consistent with the principle of sound financial management
- The policy brings real benefits to European citizens on the ground.

This is achieved through support for the development and implementation of strategic investment programmes to promote competitiveness, job creation and sustainability in Member States and regions; by upgrading the skills and competences of the workforce and fighting unemployment, in particular of young people, as well as tackling the social consequences of the crisis; by reinforcing institutional capacity and supporting efficient public administration by promoting adaptation and innovation in the face of new challenges and by stimulating territorial cooperation and regional strategies.

The policy also includes the coordination of EU policies on territorial and urban affairs and on the outermost regions and the European Union Solidarity Fund (EUSF).

The current legislative framework for cohesion policy will soon be repealed by a new one to be set up for the period 2014-2020. The Commission's proposals for the next programming period are currently on the table of the negotiations with the co-legislators and are as follows:

- Proposal for a regulation laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006⁴⁰⁶;

⁴⁰⁶ COM (2011) 615

- Proposal for a Regulation amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings⁴⁰⁷;
- Proposal for a Regulation on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal⁴⁰⁸;
- Proposal for a Regulation on the Cohesion Fund and repealing Council Regulation (EC) 1084/2006⁴⁰⁹;
- Proposal for a Regulation on specific provisions concerning the European Regional Development Fund and the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006⁴¹⁰.
- Proposal for a Regulation on the European Social Fund and repealing Council regulation (EC) No 1081/2006⁴¹¹.

2. Smart Regulation Framework and Tools

Simplification has been one of the most popular demands for the new cohesion policy. The Commission is keen to meet this expectation. It has, however, become clear that due to the variety of experiences and differences in national administrative set-up, simplification measures might not have the same impact in all the Member States and at all levels. This poses a challenge to try to find enough common ground and combine it with flexibility to simplify the management of cohesion policy.

The Commission has identified several aspects of the value of simplification. It is needed to ensure the smooth delivery of the policy and continued interest of beneficiaries. It can have a positive impact on the results of the policy by ensuring an efficient distribution of administrative efforts required at national, regional and EU levels, cutting the time and costs of reaching the objectives and allowing a focus on results. By putting in place simpler rules, which are more easily understood by the actors involved, thus reinforcing legal certainty, simplification can also help to reduce errors and increase the assurance given by the national delivery systems.

⁴⁰⁷ COM(2011) 610

⁴⁰⁸ COM(2011) 611

⁴⁰⁹ COM (2011) 612

⁴¹⁰ COM (2011) 614

⁴¹¹ COM (2011) 607

As outlined below, simplification presents itself in many forms, some of them explicit and direct, while others are optional or may need transposition in the national rules. The Commission proposes to achieve simplification through different methods, such as harmonisation of rules for several funds, increased flexibility, increased proportionality, clarification of rules to improve legal certainty, and digitalisation of documents and processes.

The full impact of simplification will not be achieved by relying only on the Commission's proposals. The Member States and all involved authorities have a key role to play in ensuring simplification is achieved for the beneficiaries. Member States are encouraged to take full advantage of all the options and flexibility offered in the new framework and make the best choice for their particular circumstances. The Commission offers its support for Member States and regions in their efforts to adopt good practices and avoid adding further national or regional legislation where it is not needed. The full effects of simplification may also depend on the administrative set-up at national and regional levels, and therefore be greater in some Member States than in others.

A reduction of administrative burden for beneficiaries is the main aim behind the Commission's proposals. Some elements of simplification reduce administrative effort at all levels and some are targeted at national and regional administrations. In some cases investment by the public administration in new information systems, procedures and training is necessary to ensure simplification for beneficiaries.

Experience has also shown that changing completely the regulatory framework from one period to another has entailed adaptation costs for managing authorities or beneficiaries and has been the source of errors. For this reason many stakeholders have cautioned against a radical overhaul of the rules. The Commission's proposals can be considered as an evolution towards simplification and not a revolution .

3. Measures taken to ensure that legislation is 'fit-for-purpose'

As the Commission's response to these challenges, the Commission's proposals address the need for simplification through a number of measures proposed for the new regulatory framework.

Harmonisation of rules with other Funds: The proposed regulation lays down common rules for the European Structural and Investment Funds (ESI Funds) comprising the three cohesion policy Funds, the rural development Fund and the maritime and fisheries Fund in terms of strategic planning, eligibility and durability. In addition, the number of strategic documents will be reduced at national level by having only one national strategic document for the five ESI Funds.

More flexibility in the set-up of cohesion policy programmes and systems: To allow for flexibility in the set-up of national and regional arrangements, implementation of the Funds should take place at the appropriate territorial level in accordance with the administrative framework of the Member State. A number of new options have been proposed proposed

provide more flexibility: the possibility for Member States and regions to plan ERDF, ESF and the CF jointly or in separate operational programmes; to combine financing for one project from several EU funded instruments; to finance horizontal technical assistance activities from one Fund; and merge the functions of the managing and certifying authorities. It is also possible to set up joint monitoring committees and annual review meetings for programmes financed from the Funds. Eligibility of equipment from the ESF will also facilitate integrated planning and implementation at project level.

Increased proportionality: All arrangements for the implementation and use of the CSF Funds in relation to reporting, evaluation, management and control should be proportionate in financial and administrative terms to the level of support allocated. The Commission and the Member State may agree not to hold an annual review meeting. Simplifications have been proposed for the implementation reports. Continuing to apply risk-based methods of sampling for controls by the managing authority should allow for a more efficient use of resources. The Commission audit work will also focus on the more risk-prone areas. Where there are no significant deficiencies in the management and control systems, the level of audit work will required of national audit authorities can be reduced. The Commission proposal also limits the intensity of project audits; for example, projects below a certain limit can only be audited once prior to closure and others once a year.

Legal certainty through clearer rules: Clear and straightforward rules can be a great source of simplification. Based on lessons learnt, several of the 2007-2013 rules have been readjusted with the goal of clarity. More varied types of financial instruments can be made available in the next period, while more standardised rules will be provided to reduce the necessity of making national rules. The conditions under which it is possible to finance projects outside the programme area are clarified. An optional flat rate approach has been added to the rules on revenue generation.

More efficient delivery and lighter reporting: In several cases simplification will also bring about a direct reduction in administrative costs. Focussing on core common indicators will facilitate aggregation of data and reporting on achievements at EU level. Lighter and more automated annual reporting will decrease the burden of producing the annual report, and the control of additionality will be based on data submitted for the economic surveillance of the Stability and Growth Pact. The intention of the Commission is to ensure proportionate reporting by the managing authorities, limiting it to essential elements.

Reducing the administrative burden for beneficiaries: Beneficiaries' administrative burden will be reduced including wider possibilities for the use of simplified costs while maintaining the simplified costs options already introduced in 2007- 2013. The retention period of documents and the period during which controls can be carried out on projects will be much shorter than it is currently, reducing administrative burden and reinforcing legal certainty for beneficiaries of small operations in particular. An integrated approach to community-led local development will also allow the use of lighter procedures.

A move towards results-based management: A Joint Action Plan (JAP) is an operation, supported by one or more or operational programmes, in order to achieve single predefined goal agreed jointly between the Member State and the Commission. A JAP can integrate different projects and will be implemented through a results-based approach, as payments will be linked exclusively to outputs and results. JAPs can be applied in different areas, including the sustainable integration of young people into employment, and technical assistance, but the provision of infrastructure will not be supported. Making use of a JAP requires the definition of reliable output and result targets. However, it can also considerably simplify the day to day financial management of projects by beneficiaries and the refocus the control work of national and regional authorities from invoices to results.

e-Cohesion: e-Cohesion constitutes an area of great potential for the reduction of administrative burden. It allows beneficiaries to submit to programme authorities and to store all information electronically, and to make use of existing data in the public registries. This reduces problems in data retention, mistakes in data insertion, and the burden of submitting the documents more than once.

Simplification of European Territorial Co-operation: A separate regulation that allows for more tailor-made provisions and provides authorities implementing European Territorial Cooperation (ETC) with a clear overview of applicable rules has been proposed.⁴¹² The main proposed developments include the possibility to cover 20% of staff costs with a flat rate payment, more harmonised eligibility rules, and the fusion of the functions of the managing authority and certifying authority.

⁴¹² COM(2011) 611

24. SUMMARY LISTS OF SUGGESTED ACTIONS*

24.1. Commission Proposals (Regulatory Fitness Focus) awaiting adoption by (Co-) Legislator

Agriculture

- Rules for direct payments⁴¹³
- Single Common Market Organisation Regulation⁴¹⁴
- Rural Development Regulation⁴¹⁵
- Rules on financing, management and monitoring⁴¹⁶
- Measures on fixing certain aids and refunds⁴¹⁷

Budget

1. Proposal of the Commission for a new own resource based on VAT⁴¹⁸

Energy

2. Commission proposal for a Community system for registration of carriers of radioactive materials replacing national reporting and authorization procedures by a unique registration system will simplify the procedure while ensuring high radiation

* Note: Items relevant for the Top10 Consultation are marked "*".

⁴¹³ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, COM(2011) 625 final/2, 19.10.2011

⁴¹⁴ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common organisation of the markets in agricultural products (Single CMO Regulation), COM(2011) 626 final/2, 19.10.2011

⁴¹⁵ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), COM(2011) 627 final/2, 19.10.2011

⁴¹⁶ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy, COM(2011) 628 final/2, 19.11.2011

⁴¹⁷ Proposal for a COUNCIL REGULATION determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products, COM(2011) 629 final, 12.10.2011

⁴¹⁸ COM (2011) 737

protection levels⁴¹⁹ [in the EU legislative procedure in the Council under Article 31 of the Euratom Treaty]

3. Commission proposal for consolidation on basic safety standards in field of radioprotection and associated directives⁴²⁰ [in the EU legislative procedure in the Council under Article 31 of the Euratom Treaty]

Maritime Affairs and Fisheries

4. Commission proposal for a reform of the Common Fisheries Policy⁴²¹
5. Commission proposal on Common Market Organisation in fishery and aquaculture products⁴²² -
6. Commission proposal for a new EMFF⁴²³

Internal Market and Services

7. Commission proposal on the review of the Professional Qualifications Directive (2005/36/EC)⁴²⁴
8. Commission proposal to amend Public Procurement Directive 2004/18/EC and Directive 2004/17/EC⁴²⁵

Development Cooperation, Humanitarian Aid and Civil Protection and Enlargement

9. Commission proposal for a Regulation establishing common implementing rules and procedures for the implementation of the Union's instruments for external action⁴²⁶

⁴¹⁹ Proposal for a Council Regulation establishing a Community system for registration of carriers of radioactive materials of 30 August 2011 - COM(2011) 518 final

⁴²⁰ Proposal for a Council Directive laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation of 30 May 2012 - COM(2012)242

⁴²¹ COM(2011)425

⁴²² COM(2011)416

⁴²³ COM(2011) 804

⁴²⁴ COM(2011) 883

⁴²⁵ COM(2011) 896 and COM(2011) 895

⁴²⁶ COM (2011) 842

10. Commission proposal for a Regulation establishing a financing instrument for development cooperation⁴²⁷
11. Commission proposal for a Regulation establishing an Instrument for Nuclear Safety Cooperation⁴²⁸
12. Commission proposal for a Regulation establishing a financing instrument for the promotion of democracy and human rights⁴²⁹
13. Proposal for a Regulation establishing a European Neighbourhood Instrument⁴³⁰
14. Proposal for a Regulation establishing a Partnership Instrument for cooperation with third countries⁴³¹
15. Commission Proposal for a Regulation on the implementation of the 11th European Development Fund under the ACP-EU Partnership Agreement⁴³²
16. Commission proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism⁴³³
17. Commission proposal for a revised instrument for Pre-accession Assistance (IPA II)⁴³⁴

Trade

19. Commission Proposal for a Regulation amending the basic anti-dumping and anti-subsidy Regulations⁴³⁵ amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community.

⁴²⁷ COM(2011) 840

⁴²⁸ COM(2011) 841

⁴²⁹ COM(2011)844

⁴³⁰ COM (2011) 839

⁴³¹ COM(2011) 843

⁴³² COM (2013) 445

⁴³³ COM(2011)934

⁴³⁴ COM(2011)838

⁴³⁵ COM(2013) 192 See Impact Assessment Report: SWD(2013)105

24.2. Commission Initiatives (Regulatory Fitness Focus) in Preparation

Agriculture and Rural Development

1. Simplification of the rules on State aid in the agricultural sector [2013 / 2014]
2. Information Provision and Promotion Measures for Agricultural Products.⁴³⁶ [2013]

Competition

3. Simplified procedure for Merger Control - Council Regulation No 139/2004⁴³⁷ [2013]

Employment, Social Affairs and Inclusion

4. Consolidation of three Directives regarding information and consultation of workers further to a Fitness Check on this policy area⁴³⁸

Statistics

5. Framework Regulation Integrating Business Statistics (FRIBS) [2015]
6. Framework regulation in the field of social statistics depending on the outcome of discussions on the legislative architecture within the European Statistical System [2015]
7. Reform of Farm Survey System – Review of Regulation 1166/2008 [2016]

Home Affairs

8. Amendments to the Visa Code - Regulation (EC) No 810/2009⁴³⁹ [2013]
9. Codification of Schengen Borders Code [2013]

Justice

10. Revision of Directive 90/314 on package travel, package holidays and package tours [2013];

⁴³⁶ Roadmap on review:

http://ec.europa.eu/governance/impact/planned_ia/docs/2012_agri_006_regulation_promotion_en.pdf

⁴³⁷ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

⁴³⁸ This concerns Directive 98/59/EC on collective redundancies, Directive 2001/23/EC on transfers of undertakings and Directive 2002/14/EC establishing a general framework relating to information and consultation of workers in the EC.

⁴³⁹ Regulation (EC) No 810/2009 establishing a Community Code on Visas

11. Revision of Regulation 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure [2013]
12. Revision of Directive 2006/114/EC concerning misleading and comparative advertising [2013]

Maritime Affairs and Fisheries

13. Fishing Authorisation Regulation [2014]
14. Technical measures for the protection of Marine Organisms [2014]

Internal Market and Services

15. IP civil enforcement in the context of its review of Directive 2004/48/EC taking into account improved clarity, cost reduction and the need to limit abuse of procedures [2014]
16. Codification of 8 Directives in Company Law - Directives 82/891/EEC, 89/666/EEC, 2005/56/EC, 2009/101/EC, 2009/102/EC, 2011/35/EU, 2012/17/EU, 2012/30/EU - [2014]
17. Revision of Remedies in public procurement (Directives 89/665/EC and 92/13/EEC, amended by Directive 2007/66/EC) [2015]
18. UCITS⁴⁴⁰ [2013]
19. European Long-term Investment Funds [2015]

Enlargement

20. Implementing Rules IPA II [2013]

Taxation and Customs Union

21. A standard EU VAT declaration in all Member States [2013]

Health and Consumer Policy

22. Review of the Food Hygiene Package to examine the introduction of simplified risk-based procedures and SME specific provisions [2013]
23. Revision of the Clinical Trials Directive 2001/20/EC [adoption by the legislator expected in 2014]
24. Recast of the zootechnical legislation consisting of 11 Council legal acts [2013]

⁴⁴⁰ Directive 2009/65/EC

Trade

25. Export for Recovery of non-hazardous waste – The update of Regulation 1418/2007 will simplify procedures and reduce administrative burden [2013]
26. Codification of 26 Council Regulations following the adoption of two enabling regulations⁴⁴¹ bringing trade legislation in line with the TFEU [2014].

⁴⁴¹ COM(2011)82 and COM(2011)349

24.3. Indicative List of Regulations for repeal (Regulatory Fitness Focus)

Energy

1. Council Decision on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products and implementing legislation ⁴⁴² [2014]

Enterprise and Industry

Directive 1999/45/EC on the classification, packaging and labelling of dangerous preparations [2015]

Statistics

2. Steel Statistics Regulation (EC) No 48/2004 [CWP 2015]

Home Affairs

3. Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information ⁴⁴³ [2015]

Internal Market and Services

6. Directive 98/84 on commercial agents. [2014]

Mobility and Transport

7. Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles [2014]
8. Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles [2014]

⁴⁴² Council Decision 77/706/EEC of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (+implementing Commission Decision 79/639)

⁴⁴³ Timing to depend on adoption and implementation of Anti-Money Laundering Directive proposal, adopted by Commission 5/02/2013 which will make Decision 2000/642/JHA obsolete.

24.4. Indicative List of Commission Proposals to be withdrawn following a regulatory Fitness Assessment

Internal Market and Services

1. Proposal in legislative procedure on the legal protection of designs⁴⁴⁴ [2014]
2. Proposal in legislative procedure on the Community patent which has now been converted into enhanced cooperation⁴⁴⁵ [2014]

Anti-Fraud

3. Proposal in legislative procedure on criminal law protection of the Community's financial interests COM (2004) 509⁴⁴⁶ [2014]

Mobility and Transport

4. Proposal in legislative procedure regarding driving licences which include the functionality of a driver card COM(2011)710 [2013]

⁴⁴⁴ COM(2004) 582

⁴⁴⁵ COM(2010)350

⁴⁴⁶ Substance is now covered by the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law adopted in July 2012 (COM(2012) 363).

24.5. List of Evaluations and Impact Assessments with Regulatory Fitness Focus

Agriculture and Rural Development

1. Review of the political and legal framework for organic farming [2014]
2. Review of the schemes for the supply of fruit and vegetable and milk products to school children [2013]

Communications Networks, Content and Technology

3. Privacy and Electronic Communications Directive⁴⁴⁷ [2014]
4. Audio-visual Media Services Directive (AVMSD)⁴⁴⁸ [2015]

Competition

- Possible reform of the EU Merger Regulation (referral system and minority shareholdings) - [2013 if outcome of public consultation positive]

Employment, Social Affairs and Inclusion

5. Review of Temporary Agency Work Directive [2013]*;
6. Impact Assessment on the Working Time Directive [2014]*
7. Evaluation of legislation on employer's obligation to inform employees of the conditions applicable to the contract or employment relationship [2014]*
8. Ex-post evaluation of the Health and Safety at Work Legislation, including the Framework Directive 89/391/EEC and 23 related Directives [2015]*

Enterprise and Industry

9. Fitness check on the type-approval system for motor vehicles [2013]
10. Fitness check on the oil refining Industry [2014];

⁴⁴⁷ Directive 2009/136/EC of the European Parliament and the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

⁴⁴⁸ Directive 2010/13/EU of the European Parliament and the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

11. Evaluation of the firearms legislation [2014]
12. Evaluation of the Machinery Directive [2016]

Other studies including sector cost assessments:

13. Cost assessment on the chemical industry (study) [2014]
14. Cost assessment on the forest-based industries (study) [2014]
15. Cost assessment on the steel sector (study) [delivered];
16. Cost assessment on the aluminium sector (study) [2013];

Environment

17. Fitness Check of Waste Policy ⁴⁴⁹ [2nd quarter 2014]*
18. Fitness Check of the EU Eco-label (66/2010) ⁴⁵⁰, EMAS (1221/2009)⁴⁵¹ [2014]
19. Directive 94/63 on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to service stations⁴⁵² [2014]
20. Directive 2002/49/EC relating to the assessment and management of environmental noise⁴⁵³ [2014]
21. Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage⁴⁵⁴ [2014]
22. Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)⁴⁵⁵ [2014]

⁴⁴⁹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

⁴⁵⁰ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel

⁴⁵¹ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

⁴⁵² Possible merger with Directive 2004/42/EC "Volatile Organics Compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products".

⁴⁵³ Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise

⁴⁵⁴ Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage

23. European Pollutant Release and Transfer Register (EPRTTR)⁴⁵⁶ [2015]
24. Evaluation of Legislation in the area of the Aarhus Convention [pending a Court of Justice judgement]
25. Council Directive 1999/22/EC relating to the keeping of wild animals in zoos [2015/16 depending on availability of resources]

Home Affairs

26. Council Framework Decision 2008/841/JHA 2008 on the fight against organised crime [2013]
27. Visa Information System (VIS): Regulation (767/2008) of the EP and Council and Council Decision 2005/512 [2014]
28. Council Framework Decision 2008/919/JHA amending Framework Decision 2002/475/JHA on combating terrorism [2014];
29. Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) [2014]
30. Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers [2014]
31. Council Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities [2014]

Justice

32. Fitness check with a view to consolidation and merger of the following legal acts related to consumer rights and advertising possibly into a Regulation so as to ensure maximum harmonisation and clarity for businesses [2014]:
 - Directive 2005/29/EC on unfair business to consumer commercial practices*;
 - Forthcoming initiative addressing unfair trading practices between businesses in the retail chain (also mentioned in the Communication Review of Directive 2006/114/EC concerning misleading and comparative advertising⁴⁵⁷)*;

⁴⁵⁵ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

⁴⁵⁶ <http://prtr.ec.europa.eu/>

⁴⁵⁷ COM(2012) 702

Taking also into account:

- Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees;
 - Directive 93/13/EC on unfair terms in consumer contracts.
33. Directive 2008/122/EC of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts [2014]*;
 34. Directive 2011/83/EC of the European Parliament and of the Council on consumer rights - as part of the statutory report on the functioning of the Directive. [2016]*;
 35. Directive 99/44/EC of the European Parliament and of the Council on certain aspects of the sale of consumer goods and associated guarantees (modified by Directive 2011/83) [2015];
 36. Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security [2015];
 37. Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims [on-going];

Internal Market and Services

38. Regulation 1606/2002 on the application of international accounting standards (IAS) [2014]
39. New Remedies Directive 2007/66/EC [2014]

Humanitarian Aid and Civil Protection

40. Evaluation of the European Consensus on Humanitarian Aid - the policy framework for cooperation between the EU and Member States [2014].

Taxation and Customs Union

41. Evaluation of general excise duty arrangements [2015].
42. Evaluation of the directive on the structure and rates of excise duty applied to manufactured tobacco [2014].

Health and Consumer Policy

43. REFIT evaluation of the General Food Law [2015]
44. Subject to the results of the current review of enforcement aspects, the Commission could undertake an impact assessment of a simplified regulatory framework optimising enforcement, reducing administrative burden and valorising welfare standards to enhance EU food industry competitiveness.

Trade

45. Comprehensive implementation report on the EU export controls Regulation, including review of the Dual Use Regulation 428/2009 (required under the basic act and export control policy). The planned report will present options for reform and simplification [2013]
46. Evaluation of Council Regulation (EC) No 953/2003 of 26 May 2003 to avoid trade diversion into the European Union of certain key medicines [2014]
47. Ex post evaluation of the implementation of the EU-Mexico FTA agreement [launch planned 2013]

Mobility and Transport

48. Combined Transport Directive [2014]
49. Evaluation of Passenger Ships Safety Legislation [2014]