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**COMMISSION STAFF WORKING DOCUMENT**

**Monitoring and Consultation on Smart Regulation for SMEs**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**Smart regulation - Responding to the needs of small and medium-sized enterprises**

{COM(2013) 122 final}

**" Smart Regulation – Responding to the needs of small and medium-sized enterprises"**

**Commission Staff Working Document**

SME Scoreboard

SME priority files in the Commission Work Programme 2013

Results of the Top-10 consultation

## **Annex I: SME Scoreboard**

The scoreboard was announced in the Report of the Commission in November 2011 on 'Minimising regulatory burden for SMEs - Adapting EU regulation to the needs of micro-enterprises'.<sup>1</sup>

The scoreboard contains two parts: a first one for initiatives proposed by the Commission which have already been adopted by the European Parliament and the Council and a second one for initiatives proposed by the Commission, but not yet adopted by the Council and European Parliament. Initiatives are presented chronologically according to adoption date. Later versions of the scoreboard will also report on implementation in Member States.

The part of the scoreboard for *adopted initiatives* contains a short introduction for each initiative, and a table with a short summary of the Commission proposal, the outcome of the steps in the legislative procedure in the European Parliament and Council and the final legislative act. Based on this, an indication has been given of the extent to which requirements for SMEs have been increased or decreased according to the contributions of Parliament and Council and to the measure finally adopted. Where there are several readings in the European Parliament and Council, the summary outcome is based on an overall assessment of the contribution of each institution.

The part of the scoreboard for *proposed initiatives* explains the likely impact on SMEs and micro-enterprises as well as any developments in the European Parliament and Council.

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<sup>1</sup> COM(2011)803.

## 1 Adopted Initiatives

The SME Scoreboard was announced in November 2011, although the Commission had already started to work on reducing regulatory burdens. The scoreboard therefore contains some initiatives proposed by the Commission prior to this date.

### 1.1 Directive 2011/7/EU on combating late payment in commercial transactions

In its Communication of 25 June 2008 entitled “‘Think Small First’ — A ‘Small Business Act’ for Europe’, the Commission emphasised that small and medium-sized enterprises’ access to finance should be facilitated and that a legal and business environment supportive of timely payments in commercial transactions should be developed. Given the importance of public procurement in the EU (over €1,943 billion per year or 18% of EU GDP), late payment by public authorities has a strong negative impact on enterprises, notably SMEs.

<b>Commission proposal</b>	
The initiative aims at improving the effectiveness and the efficiency of remedies for late payment through the introduction of an entitlement to the recovery of administrative costs and compensation for internal costs incurred due to late payment. Accordingly, this proposal aims at improving the cash flow of European businesses, especially SMEs. <sup>2</sup>	
<b>Parliament</b>	<b>Council</b>
Approved by the European Parliament without material change to Commission proposal.	Approved by the European Council without material change to Commission proposal.
<b>Final Outcome</b>	

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<sup>2</sup> COM(2009) 126 final

**Improved and simplified regime for European businesses to ensure timely payment by their debtors. A particular element of simplification is the obligation for Member States to ensure full transparency of the rights and obligations contained in this directive, in particular to publish the statutory interest rate. This aims at providing practical information for businesses, especially SMEs, enabling them to take action against debtors paying late.<sup>3</sup>**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 1 to 8 and 10 of the directive by 16 March 2013.

## **1.2 Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC**

On 23 May 2008 the Commission proposed a regulation laying down harmonised conditions for the marketing of construction products, repealing the Construction Products Directive (89/106/EEC).<sup>4</sup> The proposed regulation is intended to simplify and clarify the existing framework for marketing construction products in order to facilitate the free circulation of construction products within the single market.

Building on the experience gained through the application of the Construction Products Directive, the proposal includes an important number of measures aimed at simplifying the route to CE marking, thereby reducing the administrative burden for all firms, including provisions specifically aimed to help micro-enterprises.

<b>Commission proposal</b>	
Micro enterprises may use alternative methods to those prescribed in the regulation to demonstrate the conformity of their products with the legislative requirements. They can use simplified procedures, as long as these achieve equivalent levels of safety.	
<b>Parliament</b>	<b>Council</b>
Approved by the European Parliament without material change.	Approved, but with additional conditions. Firms applying these simplified procedures should provide evidence that they qualify as micro-enterprises. Moreover, products should meet clear quality and performance standards.
<b>Final Outcome</b>	

<sup>3</sup> Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions

<sup>4</sup> COM(2008) 311 final

**Simplified regime for micro-enterprises through the use of simplified conformity assessment methods.**

**Date of entry into force: 1 July 2013.**

**1.3 Directive 2012/6/EU amending Council Directive 78/660/EEC on the annual accounts of certain types of companies as regards micro-entities**

On 26 February 2009 the Commission suggested establishing an option for Member States to remove micro-entities from the scope of Directive 78/660/EEC on the annual accounts of certain types of companies (4<sup>th</sup> Company Law Directive) and, by doing so, relieve them of the requirement to draw up annual accounts. The purpose was to simplify the business environment and particularly the financial reporting requirement for micro-entities.<sup>5</sup>

<b>Commission proposal</b>	
Member States may exempt companies with: (a) a balance sheet total less than EUR 500 000, (b) net turnover less than EUR 1 000 000 or (c) an average number of employees less than 10. <sup>6</sup>	
<b>Parliament</b>	<b>Council</b>
Same thresholds as proposed by the Commission, but Parliament suggests maintaining the obligation for companies to keep records showing the company's business transactions and financial situation.	Reduction of the thresholds to EUR 250 000 for balance sheets and EUR 500 000 for net turnover and therefore reduction in the number of SMEs that could benefit from the exemption.
<b>Final Outcome</b>	

<sup>5</sup> COM(2009) 83 final

<sup>6</sup> Article 1a

**Decrease of thresholds, compared to the Commission proposal, to EUR 350 000 for balance sheets and EUR 700 000 for the net turnover, thereby reducing the number of SMEs that could benefit compared with the Commission proposal.<sup>7</sup> The final directive makes a simpler accounting regime available to micro-entities, including a simplified balance sheet and profit and loss account, virtually no notes, no management report and simplified publication system.**

It is up to the Member States whether they want to use the option of implementing a simpler regime for their micro-entities. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this directive if and when they decide to make use of any option provided in it.

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<sup>7</sup> 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

#### 1.4 Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)

The Commission presented its proposal on 3 December 2008. In the proposal the Commission asks Member States to oblige producers to finance the cost of collection facilities of waste electrical and electronic equipment (WEEE) from private households. This was an attempt to shift payments for the collection of WEEE from tax payers to consumers of electrical and electronic equipment – through producers and retailers - to bring financing in line with the Polluter Pays Principle.

The proposal set a WEEE collection rate of 65%, derived as a proportion of all electrical and electronic equipment placed on the market in the two preceding years. This target reflects the amounts of WEEE which are already separately collected in the Member States and takes the variations in electrical and electronic product consumption in individual Member States into account.<sup>8</sup>

<b>Commission proposal</b>	
Retailers with a selling area below 400 square metres exempt from requirements to accept used electrical and electronic equipment, though retailers with a larger selling area will continue to have this obligation.	
<b>Parliament</b>	<b>Council</b>
Increased costs on producers: WEEE collection rate increased to 85 %. Obligation for nearest stores to take back used electronic equipment. Exemption for retailers with a selling area below 400 square metres maintained.	Reduced burden over a transitional period compared to European Parliament and Commission proposals: WEEE collection rate reduced to 45% from 2016 and the 65% target set for 8 years after the revised directive comes into force. Exemption from the take-back obligation for retailers with a selling area below 400 square metres retained.
<b>Final Outcome</b>	
<b>Similar to Commission proposal but improving the position for retailers with smaller selling areas through the transitional period. Transfer of some of the costs of collection from retailers to distributors.<sup>9</sup> WEEE collection rate requirement set at 45% by 2016, and then 65% by 2019. Retailers with selling areas below 400 square metres remain exempt from take-back requirements.</b>	

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2014.

<sup>8</sup> COM(2008) 810 final

<sup>9</sup> 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



### 1.5 Commission Delegated Regulation (EU) No 862/2012 on Small Capitalisation Initial Public Offerings

This regulation amends disclosure rules for SMEs to make Initial Public Offerings less costly and easier for small firms.

<b>Commission proposal</b>	
Proposal for Commission Delegated Regulation on Small Capitalisation Initial Public Offerings amending Regulation (EC) No 809/2004 with regards to the format and the content of the prospectus and base prospectus, of the summary and of the final terms and the disclosure requirements.	
<b>Parliament</b>	<b>Council</b>
Delegated act: no co-decision procedure.	Delegated act: no co-decision procedure.
<b>Final Outcome</b>	
Less costly disclosure rules for SMEs.	

The regulation came into force on 4 June 2012 at the same time as it was published in the EU official journal.

## 2 Initiatives proposed by the Commission

The following legislative initiatives by the Commission include proposals for lighter regimes or exemptions for SMEs. The Commission will include these proposals in section 1 of the scoreboard once Parliament or Council have taken positions.

Name of initiative and short explanation	Commission proposal for lighter regime or exemption / SME focus of legislation	Latest development in Parliament and Council
<p><b>Public Procurement:</b> Proposal to simplify and modernise public procurement procedures</p> <p>COM(2011)896 final.</p>	<ul style="list-style-type: none"> <li>• Unbundle public tenders into 'lots' to make them smaller and so more accessible to SMEs;</li> <li>• Eliminate requirements for businesses to provide full documentation for their eligibility to compete in public procurement exercises, replaced by self-certification.</li> </ul>	<p>No formal step yet taken by Parliament or Council.</p>
<p><b>Data Protection</b> - 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</p> <p>General Data Protection Regulation – COM(2012)11 final.</p>	<ul style="list-style-type: none"> <li>• Exemption from the requirement to employ a data-protection officer</li> <li>• Possibility of specific measures for SMEs in the context of Commission delegated acts aimed at further specifying the criteria for assessing whether a Data Protection Impact Assessment is necessary</li> <li>• Provision for account to be taken of SME needs in implementing measures</li> </ul>	<p>No formal step yet taken by Parliament or Council.</p>

Name of initiative and short explanation	Commission proposal for lighter regime or exemption / SME focus of legislation	Latest development in Parliament and Council
<p><b>Insurance Mediation</b> - Proposal for a Directive of the European Parliament and of the Council on Insurance Mediation.</p> <p>COM(2012)360 final.</p>	<ul style="list-style-type: none"> <li>• Three year additional transitional period for SMEs to prepare for the new regime.</li> <li>• As 95% of registered insurance intermediaries in the EU are micro enterprises and SMEs, proportionate requirements have been introduced to take account of SME concerns and to respect the principle: "less complex products, less complicated rules"<sup>10</sup>.</li> </ul>	<p>No formal step yet taken by Parliament or Council.</p>
<p><b>Car Emissions</b> - Proposal for a regulation amending Regulation (EC) No 443/2009. While emissions from other sectors are generally falling, road transport is one of the few sectors where emissions have continued to rise. The proposal sets out how to meet the 95 g CO<sub>2</sub>/km target for new passenger cars in 2020.</p> <p>COM(2012)393 final.</p>	<ul style="list-style-type: none"> <li>• Exemption from CO<sub>2</sub> targets for Manufacturers with less than 500 registrations /year</li> <li>• Additional flexibility is also given to Member States to grant further small volume derogations.</li> </ul>	<p>No formal step yet taken by Parliament or Council.</p>
<p><b>Tachograph</b> - Proposal for a regulation amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council.</p> <p>COM(2011)451 final</p>	<ul style="list-style-type: none"> <li>• Member States may exempt vehicles under 7.5t owned by small craft businesses and certain "special" vehicles (propelled by means of natural or liquefied gas or electricity or used for the carriage of live animals) from tachograph requirements for short journeys (within a radius of 100 km from the base of the company).</li> </ul>	<p>In its legislative resolution of 3 July 2012, the European Parliament proposed several amendments to Regulation (EC) N° 561/2006 which introduce additional sectorial exemptions to article 13 of this regulation. As regards exemptions for craftsmen, the EP proposed to waive any weight limitations.</p>

<sup>10</sup> [http://ec.europa.eu/governance/impact/ia\\_carried\\_out/docs/ia\\_2012/swd\\_2012\\_0191\\_en.pdf](http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2012/swd_2012_0191_en.pdf)

<p><b>Network and information security</b> The directive would reinforce cyber-security in the Union by ensuring a coherent approach between national frameworks, and developing the cooperation between competent authorities through the creation of a network between national authorities and the Commission. COM(2012)238 final of 7 February 2013</p>	<ul style="list-style-type: none"> <li>• Micro-enterprises are exempted from notifying to competent authorities "incidents having a significant impact on the services they provide".</li> <li>• Micro-enterprises are exempted from taking specific measures to prevent and minimise the impact of security incidents affecting their network on the services they provide.</li> </ul>	<p>No formal step yet taken by Parliament or Council.</p>
<p><b>Women on Boards</b> This proposed Directive sets a 40% objective for the percentage of female members on non-executive boards of publically listed companies by 2020. COM(2012) 614 final of 14 November 2012</p>	<ul style="list-style-type: none"> <li>• SMEs are explicitly excluded in article 3 of the Commission Proposal.</li> </ul>	<p>No formal step yet taken by Parliament or Council</p>
<p><b>Fluorinated Greenhouse Gases</b> This proposed Regulation aims at reducing the use of fluorinated gases which account for around 2% of all EU greenhouse gas emissions but have a much more potent global warming effect by creating tradable quotas for their use. The gradual reduction in their use is to be achieved principally by issuing supply quotas to circa 100 large EU firms.  COM (2012) 643 final of 7 November 2012 replacing EC 842/2006</p>	<ul style="list-style-type: none"> <li>• Companies that trade below 1,000 tonnes of fluorinated gas per annum are exempt from reporting requirements. This exemption will benefit predominantly SMEs.</li> </ul>	<p>No formal step yet taken by Parliament or Council</p>
<p><b>Emissions Monitoring and Reporting</b> This proposed Directive aims to better record the monitoring and reporting of greenhouse gas emissions to help bolster, Directive 2003/87/EC which established a trading</p>	<ul style="list-style-type: none"> <li>• Small emitters producing less than 25,000 tonnes CO2 per annum are allowed to produce simplified monitoring plans.</li> <li>• Aircraft operators are also allowed to produce simplified monitoring plans provided they operate 243 flights or fewer</li> </ul>	<p>No formal step yet taken by Parliament or Council</p>

<p>scheme for greenhouse gas emissions.</p> <p>Commission Regulation (EU) No 601/2012 final of 21 June 2012 pursuant to Directive 2003/87/EC of the European Parliament and of the Council</p>	<p>over a four month period.</p>	
<p><b>Collective management of copyright</b></p> <p>The Directive sets up rules ensuring better governance and greater transparency of rights-management on behalf of right holders. It facilitates the multi-territorial licensing of the rights of authors in their musical works by societies representing them.</p> <p>COM(2012) 372 final</p>	<ul style="list-style-type: none"> <li>Member States may exempt micro-enterprises which collect copyright dues from establishing a supervisory committee. They are exempt from approving property acquisition and loan-taking and publishing an annual report with audited accounts and financial data</li> </ul>	<p>No formal step yet taken by Parliament or Council, but some reasoned opinions from national parliaments:  <a href="http://www.europarl.europa.eu/committees/en/juri/notices-to-members.html?action=1">http://www.europarl.europa.eu/committees/en/juri/notices-to-members.html?action=1</a></p>
<p><b>Verification of emission reports and accreditation of verifiers</b></p> <p>The proposed Regulation establishes a simplified system of verification and accreditation of CO2 emissions, drawing on national best practices.</p> <p>Delegated act -C(2012) 4130 final</p>	<ul style="list-style-type: none"> <li>Small emitters and small aircraft operators which produce less than 500,000 tonnes of CO2 per annum are allowed a larger margin of error in emission reports, thereby reducing their audit costs.</li> </ul>	
<p><b>Prospectus and Disclosure Requirements</b></p> <p>The proposed Regulation will enhance investor protection, increase efficiency in the prospectus regime and reduce administrative burdens for companies when raising capital in the European securities markets.</p> <p>Delegated act -C(2012) 2086 final</p>	<ul style="list-style-type: none"> <li>The Regulation introduces a proportionate disclosure regime for SMEs and other small capitalisation firms, which simplify the investment process without creating extra risk.</li> </ul>	

In Annex II of the Commission Report 23 November 2011 - Minimizing regulatory burden for SMEs - Adapting EU regulation to the needs of micro-enterprises – the Commission identified 13 initiatives for possible future exemptions or lighter regimes. The Commission continues to work on these subjects.

## **Annex II: SME priority files in the Commission Work Programme 2013**

- State aid Modernisation: General block exemption Regulation (800/2008)
- State aid modernisation in key sectors
- Energy Technologies and Innovation in a future European Energy Policy
- Reforming the internal market for industrial products
- Review of standardisation acquis
- Making business easier through a standard VAT declaration
- Access for regulated professions
- Review of Waste Policy and Legislation
- New Regulation on Official Controls
- Hygiene package legislation (revision)
- Initiative (Commission Delegated Act) on the electronic processing of declarations of performance under the Construction Products Regulation (305/2011/EU)
- Commission Implementing Regulation amending Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 (REACH)
- Effective Institutions for Occupational Retirement Pensions
- Fighting misappropriation of trade secrets
- Follow up to Green Paper: Towards an integrated European market for card, internet and mobile payments
- New climate & energy framework for the period up to 2030
- Providing long-term finance through actions to ensure the effectiveness of financial institutions, markets and instruments
- Initiative on E-invoicing in the field of public procurement
- Modernisation of Public Employment Services
- European platform to fight undeclared work

## Annex III:

# **Results of the public consultation on the TOP10 most burdensome legislative acts for SMEs**

## **1. Introduction**

The public consultation on the TOP10 most burdensome legislative acts for SMEs ("TOP10 public consultation") is part of the ambitious policy actions launched by the Commission in 2011 with the objective to minimize the regulatory burden for SMEs and adapt EU regulation to the needs of micro-enterprises<sup>11</sup>.

The TOP10 public consultation was an on-line questionnaire using Interactive Policy Making (IPM) software<sup>12</sup>. It ran from 1 October 2012 until 21 December 2012 and was available in 21 EU languages. The Commission promoted the launch of the consultation widely, including through the Enterprise Europe Network and through regular contacts with stakeholders.

Respondents were offered the choice to reply using one or several of the following options: identifying the areas where EU regulation is the most burdensome; choosing from a list of legislative acts the one(s) they find the most burdensome or reporting on other regulatory requirements which they find burdensome. Finally, respondents were asked to give an example of a piece of legislation which has been successfully revised and which is now less burdensome.

The list of legislative acts (19 Regulations, 36 Directives and 2 Decisions) was compiled based on the information in the SME feed-back database (over 6500 cases flagged by SMEs through the Enterprise Europe Network 2006-2011), on the results of the TOP 10 SME panel (a targeted consultation ran through the Europe Enterprise Network to prepare the public consultation) and on the results of conferences with SME stakeholders organised by the Commission in Member States.

This report sets out the profile of respondents and summarises the main results of the consultation.

## **2. Profile of the respondents**

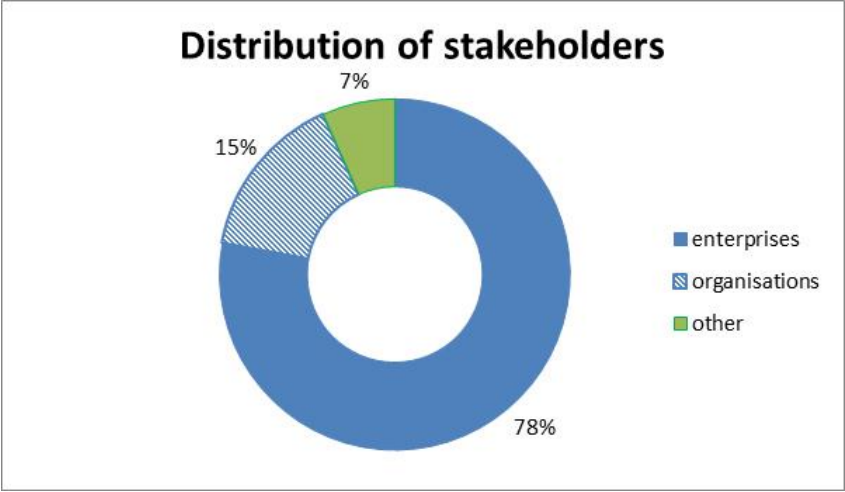
The TOP10 public consultation attracted widespread attention among SMEs and their representative organisations with a total of 1000 replies received by the deadline. Stakeholders and SMEs from all Member States participated in the consultation.

Of the 1000 respondents, 779 are enterprises, 154 organisations representing the interest of enterprises and 67 other stakeholders.

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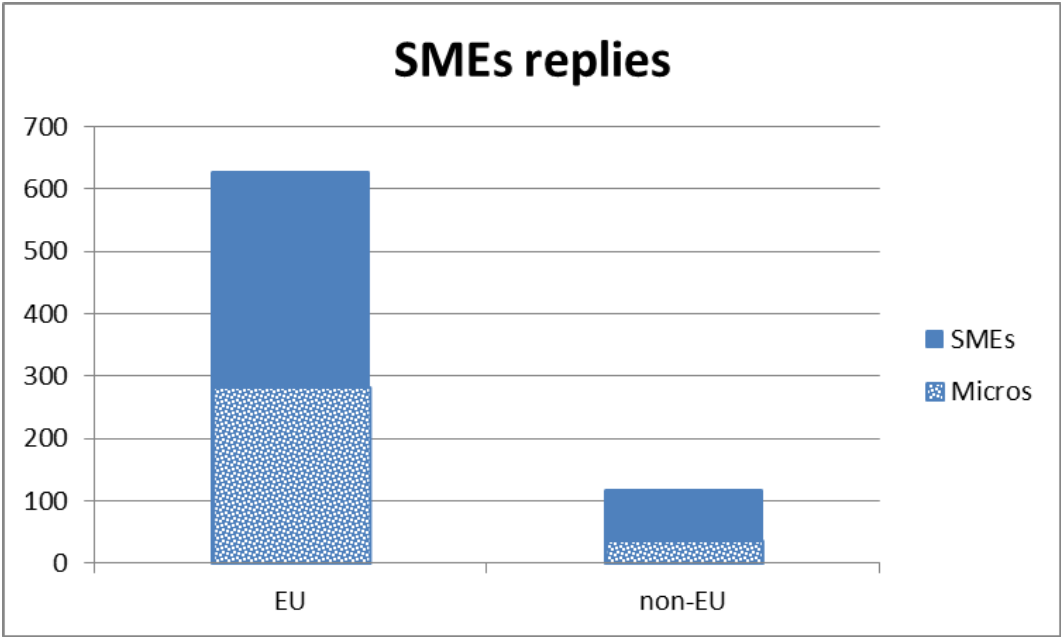
<sup>11</sup> COM(2011)803 final.

<sup>12</sup> See Annex 1



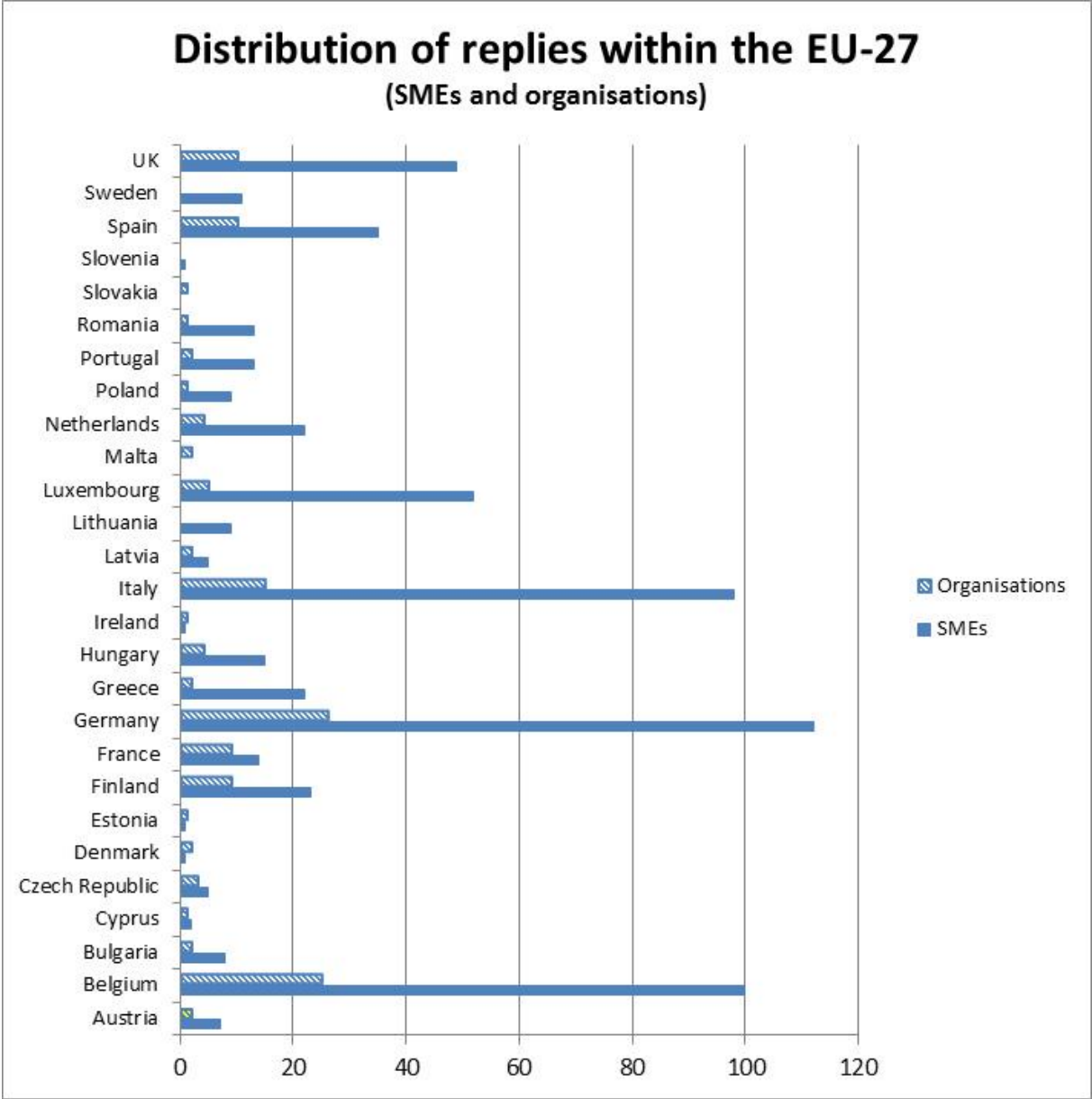
140 organisations representing SMEs' interests in the EU, 15 of which active at European level, and 14 in non-EU countries replied to the consultation.

628 replies were received from SMEs based in the EU and 118 from SMEs based outside the EU.



Replies were received from all 27 Member States with considerable differences in the number of respondents per Member States. SMEs from Germany, Belgium, Italy, the UK and Luxembourg participated particularly actively in the consultation.





### 3. Most burdensome policy areas for EU SMEs

80% of individual EU SMEs and almost 90% of EU organisations replied to question asking to identify the most burdensome policy areas for EU SMEs (question B.1). The two tables below present the results received from individual SMEs and from organisations.

### A. Replies from individual SMEs (only EU)

	<b>CATEGORY</b>	<b>POLICY AREA</b>	<b>SMEs</b>
1	<i>Taxation</i>	VAT	175
2	<i>Taxation</i>	Direct taxes (income, capital, double taxation)	134
3	<i>Customs</i>	Customs controls and formalities	123
4	<i>Environment</i>	Waste	122
5	<i>Product safety</i>	Labelling obligations	114
6	<i>Product safety</i>	Demonstrating conformity in the absence of a harmonised standard	113
7	<i>Environment</i>	Chemicals	110
8	<i>Employment and Social Affairs</i>	Health & Safety at work	109
9	<i>Product safety</i>	Information obligations (i.e. language requirements, instructions for use/safety)	109
10	<i>Product safety</i>	Use of standards	105
11	<i>Employment and Social Affairs</i>	Social security schemes	104
12	<i>Customs</i>	Classification of goods	102
13	<i>Business environment</i>	Public procurement	98
14	<i>Consumer protection</i>	Legal redress and settlement of disputes	96
15	<i>Product safety</i>	Controls / Inspections	95
16	<i>Product safety</i>	Conformity assessment procedures	94
17	<i>Transport</i>	Transport of goods	92
18	<i>Employment and Social Affairs</i>	Organisation of working time	89
19	<i>Services</i>	Recognition of professional qualifications	89
20	<i>Product safety</i>	EU declaration of conformity	87
21	<i>Product safety</i>	CE marking rules	87
22	<i>Product safety</i>	Conformity assessment involving a conformity assessment body	82
23	<i>Business environment</i>	Intellectual and industrial property	82
24	<i>Energy</i>	Renewable energy	79
25	<i>Services</i>	Provision of services across borders	78
26	<i>Consumer protection</i>	Food Safety (hygiene, labelling, etc.)	75
27	<i>Employment and Social Affairs</i>	Co-ordination and transferability of social rights	70
28	<i>Business environment</i>	Data protection	70
29	<i>Product safety</i>	Traceability obligations	69
30	<i>Taxation</i>	Other indirect taxes	69
31	<i>Consumer protection</i>	Safe shopping (distance selling, advertising, unfair commercial practices, timeshare of holiday properties, etc.)	67
32	<i>Energy</i>	Energy efficiency	67

## B. Replies from organisations (only EU)

	<b>CATEGORY</b>	<b>POLICY AREA</b>	<b>SMEs</b>
1	<i>Environment</i>	Waste	50
2	<i>Taxation</i>	VAT	48
3	<i>Environment</i>	Chemicals	46
4	<i>Consumer protection</i>	Food Safety (hygiene, labelling, etc.)	46
5	<i>Business environment</i>	Public procurement	44
6	<i>Employment and Social Affairs</i>	Health & Safety at work	43
7	<i>Product safety</i>	Labelling obligations	35
8	<i>Energy</i>	Energy efficiency	32
9	<i>Customs</i>	Customs controls and formalities	31
10	<i>Environment</i>	Air (air quality, air pollutants, etc.)	29
11	<i>Services</i>	Recognition of professional qualifications	28
12	<i>Employment and Social Affairs</i>	Organisation of working time	23
13	<i>Consumer protection</i>	Safe shopping (distance selling, advertising, unfair commercial practices, timeshare of holiday properties, etc.)	23
14	<i>Product safety</i>	Demonstrating conformity in the absence of a harmonised standard	23
15	<i>Business environment</i>	Data protection	23
16	<i>Transport</i>	Transport of goods	23
17	<i>Services</i>	Provision of services across borders	21
18	<i>Employment and Social Affairs</i>	Posting of workers	20
19	<i>Taxation</i>	Direct taxes (income, capital, double taxation)	19
20	<i>Product safety</i>	CE marking rules	19
21	<i>Product safety</i>	Traceability obligations	19
22	<i>Transport</i>	Road transport	18
23	<i>Consumer protection</i>	Legal redress and settlement of disputes	17
24	<i>Employment and Social Affairs</i>	Free movement of workers	17
25	<i>Business environment</i>	Intellectual and industrial property	16
26	<i>Employment and Social Affairs</i>	Social security schemes	16
27	<i>Product safety</i>	Use of standards	14
28	<i>Customs</i>	Classification of goods	14
29	<i>Environment</i>	Water	13
30	<i>Product safety</i>	Controls / Inspections	13
31	<i>Environment</i>	Industrial environmental audit	12
32	<i>Product safety</i>	Conformity assessment procedures	12

### C. Joint list of the most burdensome policy areas for SMEs

By comparing the first 20 entries, the policy areas which are common to individual SMEs and organisations representing the interests of SMEs are presented in alphabetical order below:

<b>JOINT LIST OF THE MOST BURDENSOME POLICY AREAS FOR SMEs</b>	
Chemicals	
Customs controls and formalities	
Direct taxes (income, capital, double taxation)	
Health and Safety at work	
Organisation of working time	
<i>Product safety</i>	CE marking rules
	Demonstrating conformity in the absence of a harmonised standard
	Labelling obligations
Public Procurement	
Recognition of professional qualifications	
Transport of goods	
VAT	
Waste	

#### **D. Replies from non-EU countries**

Almost all the replies from non-EU countries are from Turkey. Non-EU individual SMEs identify the "Customs" category as the most burdensome policy area (customs controls and formalities, classification of goods, custom tariffs). Otherwise, the list is rather convergent with the replies of EU SMEs and with the replies received from organisations representing the interests of SMEs outside the EU. An overview of non-EU individual SMEs replies to the question on the most burdensome policy areas for SME is presented in Annex 2.

#### **4. Most burdensome EU legislative acts for EU SMEs**

Roughly 65% of the EU individual SMEs and more than 75% of the organisations based in the EU replied to the question asking to identify the most burdensome EU legislative acts for SMEs (question B.2). The two tables below present the results received from individual SMEs and from organisations.

### A. Replies from individual SMEs (only EU)

	PIECE OF EU LEGISLATION	Tot
1	Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) -Regulation (EC) No 1907/2006	143
2	Refund of value added tax to taxable persons not established in the Member State of refund but established in another Member State – Council Directive 2008/9/EC	91
3	Common system of value added tax – Council Directive 2006/112/EC	84
4	General product safety – Directive 2001/95/EC	80
5	Working time directive – Directive 2003/88	75
6	Measures to encourage improvements in the safety and health of workers at work – Council Directive 89/391/EEC	66
7	Recognition of professional qualifications – Directive 2005/36/EC	63
8	Packaging and packaging waste - Directive 94/62/EC	59
9	Procedures for the award of public works contracts, public supply contracts and public service contracts - Directive 2004/18/EC	58
10	Modernised Customs Code - Regulation (EC) No 450/2008	56
11	Statistics relating to the trading of goods between Member States - Regulation (EC) No 638/2004	52
12	Recording equipment in road transport for driving and rest periods – Council Regulation (EEC) No 3821/85	50
13	Safety of toys - Directive 2009/48/EC	48
14	Waste framework directive –Directive 2008/98- and List of waste –Decision 2000/532/EC-	48
15	Shipments of waste – Regulation (EC) No 1013/2006	48
16	Unfair business-to-consumer commercial practices - Directive 2005/29/EC	46
17	Temporary agency work - Directive 2008/104/EC	44
18	Statistical thresholds for trade statistics between Member States - Regulation (EC) No 1901/2000	44
19	Posting of workers in the framework of the provision of services – Directive 96/71/EC	43
20	Data protection - Directive 95/46/EC	41
21	Misleading and comparative advertising - Directive 2006/114/EC	40
22	Waste electrical and electronic equipment (WEEE) – Directive 2012/19/EU	37
23	Machinery - Directive 2006/42/EC amending Directive 95/16/EC (recast)	36
24	European order for payment procedure - Regulation (EC) No 1896/2006	36
25	Pharmaceuticals - Directive 2001/83/EC	35
26	Social legislation relating to road transport – Regulation (EC) No 561/2006	35
27	General arrangements for excise duty - Council Directive 2008/118/EC	35
28	Implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC - Council Directive 2010/18/EU	34
29	Restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC	32
30	Materials and articles intended to come into contact with food - Regulation (EC) No 1935/2004	32
31	Minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) - Directive 2002/44/EC	31
32	Services in the internal market – Directive 2006/123/EC	30
33	Framework for the taxation of energy products and electricity - Directive 2003/96/EC	30
34	Food hygiene – Regulations (EC) No 852/2004 and 853/2004	29
35	Certain aspects of the sale of consumer goods and associated guarantees - Directive 1999/44/EC	29

## B. Replies from organisations (only EU)

	PIECE OF EU LEGISLATION	Tot	EU <sup>13</sup>
1	Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) -Regulation (EC) No 1907/2006	50	7
2	Common system of value added tax – Council Directive 2006/112/EC	39	7
3	Measures to encourage improvements in the safety and health of workers at work – Council Directive 89/391/EEC	32	6
4	Procedures for the award of public works contracts, public supply contracts and public service contracts - Directive 2004/18/EC	32	5
5	Waste framework directive –Directive 2008/98- and List of waste –Decision 2000/532/EC-	29	6
6	Shipments of waste – Regulation (EC) No 1013/2006	28	3
7	Working time directive – Directive 2003/88	25	6
8	Posting of workers in the framework of the provision of services – Directive 96/71/EC	24	5
9	Food hygiene – Regulations (EC) No 852/2004 and 853/2004	24	3
10	Provision of food information to consumers – Regulation (EU) No 1169/2011	23	4
11	Services in the internal market – Directive 2006/123/EC	21	6
12	Recording equipment in road transport for driving and rest periods – Council Regulation (EEC) No 3821/85	21	4
13	Social legislation relating to road transport – Regulation (EC) No 561/2006	20	2
14	Waste electrical and electronic equipment (WEEE) – Directive 2012/19/EU	19	4
15	Recognition of professional qualifications – Directive 2005/36/EC	19	2
16	Data protection - Directive 95/46/EC	18	3
17	Refund of value added tax to taxable persons not established in the Member State of refund but established in another Member State – Council Directive 2008/9/EC	17	1
18	Temporary agency work - Directive 2008/104/EC	16	3
19	Construction products - Regulation (EU) No 305/2011	16	2
20	General product safety – Directive 2001/95/EC	14	3
21	Procurement procedures of entities operating in the water, energy, transport and postal services sectors - Directive 2004/17/EC	14	0
22	Modernised Customs Code - Regulation (EC) No 450/2008	13	4
23	Packaging and packaging waste - Directive 94/62/EC	13	2
24	Statistics relating to the trading of goods between Member States - Regulation (EC) No 638/2004	13	2
25	Making available on the market and use of biocidal products - Regulation (EU) No 528/2012	13	1
26	Unfair business-to-consumer commercial practices - Directive 2005/29/EC	12	3
27	Minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) - Directive 2002/44/EC	11	2
28	Materials and articles intended to come into contact with food - Regulation (EC) No 1935/2004	11	0
29	Statistical thresholds for trade statistics between Member States - Regulation (EC) No 1901/2000	10	0
30	Approximation of the laws of the Member States relating to food supplements - Directive 2002/46/EC	9	1
31	Protection of workers from the risks related to exposure to carcinogens or mutagens at work - Directive 2004/37/EC	9	1
32	Restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC	9	0

<sup>13</sup> of which from the European level

### C. Joint list of most the burdensome EU legislative acts for SMEs

By comparing the first 20 entries, the pieces of legislation which are common to individual EU SMEs and organisations representing the interests of SMEs are presented in alphabetical order below:

<b>JOINT LIST OF THE MOST BURDENSOME EU LEGISLATIVE ACTS FOR SMEs</b>
Common system of value added tax - <i>Council Directive 2006/112/EC</i>
Data protection - <i>Directive 95/46/EC</i>
General product safety – <i>Directive 2001/95/EC</i>
Measures to encourage improvements in the safety and health of workers at work - <i>Council Directive 89/391/EEC</i>
Posting of workers in the framework of the provision of services - <i>Directive 96/71/EC</i>
Procedures for the award of public works contracts, public supply contracts and public service contracts - <i>Directive 2004/18/EC</i>
Recognition of professional qualifications - <i>Directive 2005/36/EC</i>
Recording equipment in road transport for driving and rest periods - <i>Council Regulation (EEC) No 3821/85</i>
Refund of value added tax to taxable persons not established in the Member State of refund but established in another Member State - <i>Council Directive 2008/9/EC</i>
Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) - <i>Regulation (EC) No 1907/2006</i>
Shipments of waste - <i>Regulation (EC) No 1013/2006</i>
Temporary agency work - <i>Directive 2008/104/EC</i>
Waste framework directive and List of waste - <i>Directive 2008/98 and Decision 2000/532/EC</i>
Working time directive - <i>Directive 2003/88</i>



#### **D. Replies from non-EU countries**

Only 26% of non-EU SMEs replied to question on the most burdensome pieces of EU legislation for SMEs, compared to 86% who identified the most burdensome policy areas for them. Because of the low number of replies, it is not possible to provide a meaningful ranking of the replies.

#### **5. Other regulatory requirements identified by respondents as being burdensome for SMEs**

45% of EU SMEs and more than 50% of organisations based in the EU replied to the question asking to identify other regulatory requirements which are burdensome for SMEs (question B.3).

Both EU organisations and SMEs pointed to the fact that other pieces of legislation than the listed ones should be added to the categories "Consumer protection", "Environment", "Employment and Social Affairs" and "Customs".

Indeed, a total of more than 80 additional pieces of legislation are brought to the attention of the European Commission through the comments provided in the open fields.

Non-EU organisations and SMEs drew attention specifically to the burdensome procedures for obtaining a business visa, which deter non-EU SMEs from being more active in the EU Single Market.

#### **6. Successful revision of EU legislation to the benefit of SMEs**

82 stakeholders provided examples of revision of EU legislative acts which benefit SMEs, whereas 528 declared not to be aware of any such examples and 385 did not know about the process of legislative revision at the European level.

The most quoted examples of the revision of EU law expected to have positive effects on the SMEs are the Accounting Directive<sup>14</sup> and the Late Payment Directive<sup>15</sup>. Other examples, less frequently evoked by stakeholders, concern revised pieces of sectoral legislation, which are considered to be "SMEs-friendly" such as the Directive on the definition of nominal quantities for pre-packaged products in the Single Market<sup>16</sup> and the Directive on reporting and

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<sup>14</sup> 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

<sup>15</sup> Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions

<sup>16</sup> Directive 2007/45/EC Of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC

documentation required for mergers and divisions of companies<sup>17</sup>. Stakeholders provided several other examples of parts of sectoral EU legislation which have been revised with a positive impact on SMEs, in particular on micro-enterprises.

## **7. Conclusions**

The TOP10 public consultation provided a channel to SMEs and their representative organisations to express views and ideas on the sources of legislative burden based on a non-exhaustive list identified during the preparatory phase. In addition, stakeholders were asked to identify any other policy area or piece of legislation which they felt particularly burdensome. This approach was generally welcomed by respondents. However, several of them acknowledged the difficulty in identifying the source of regulatory burden (e.g. EU or national legislation). The results highlight 11 burdensome policy areas and 14 pieces of EU legislation, with overlap between the two. Some of pieces of legislation identified as burdensome are being reviewed to be more SME-friendly (e.g. REACH). The Commission will use the results of the consultation in the work being done under the EU Regulatory fitness initiative (REFIT).

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<sup>17</sup> Directive 2009/109/EC of the European Parliament and of the Council of 16 September 2009 amending Council Directives 77/91/EEC, 78/855/EEC and 82/891/EEC, and Directive 2005/56/EC as regards reporting and documentation requirements in the case of mergers and divisions

## ANNEX 1: Public consultation questionnaire

### Which are the TOP10 most burdensome legislative acts for SMEs?

Subject

Regulation is a necessary part of modern business life. Regulation brings benefits - It protects consumers, workers and the environment. It can also entail costs for businesses and particularly for small and medium-sized enterprises (SMEs) that play a key role for growth and job creation in Europe.

Therefore, the European Commission has introduced the ;**Think Small First**; principle in policy-making: rules and policies should take into account the fact that the overwhelming majority of European enterprises are SMEs.

Cutting red tape is a top priority in the EU. At President Barroso's initiative, the European Commission is taking action to minimise the regulatory burden for SMEs, in particular for micro enterprises, and to better involve SMEs in law-making and in evaluating the progress made in reducing administrative burden[1]. As part of these measures, the Commission is **screening EU legislation in force in order to identify those legislative acts where there is scope for further reducing the burden for SMEs, and in particular for micro businesses**. If you are an SME or an organisation representing the interests of SMEs, you can help us in this task. The Commission has already organised a EU-wide consultation through the European Enterprise Network and is holding conferences to consult small businesses in Member States. We need your knowledge and your experience to identify the **TOP 10 pieces EU legislation** which you find most burdensome, in order to take action to reduce that burden.

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[1] COM 2011 803 final "Minimising regulatory burden for SMEs; Adapting EU regulation to the needs of micro-enterprises"

## A. Your profile

### A.1 Please indicate if you are replying on behalf of..

(ID: ID379491328261124212)

- an enterprise
- an organisation representing the interests of enterprises
- other

### Please indicate the size of the enterprise:

(ID: ID374248143351623512)

- Self-employed

- Micro enterprise (1-9 employees)
- Small enterprise (10-49 employees)
- Medium enterprise (50-249 employees)
- Other

A.2 Please indicate your email address:

A.3 You are based in the following country:

A.4 If your enterprise or organisation is registered in the European Commission Interest Representative Register, please indicate the identification number:

## B. Choose how to reply using one or several of the following options

B.1 Do you want to indicate the areas where EU regulation is the most burdensome?

- Yes
- No

B.2 Do you want to indicate which pieces of EU legislation are the most burdensome?

- Yes
- No

B.3 Do you want to explain what regulatory requirements you find the most burdensome?

- Yes
- No

## B.1 Please indicate the areas where EU regulation is the most burdensome (MAX 10!)

*Consumer protection*

(ID: ID374576649281023612)

- Safe shopping (distance selling, advertising, unfair commercial practices, timeshare of holiday properties, etc.)
- Electronic commerce
- Legal redress and settlement of disputes
  
- Food Safety (hygiene, labelling, etc.)
- Animal and plant health
- Other

#### *Customs*

- Customs controls and formalities
- Classification of goods
- Custom tariffs
  
- Other

#### *Employment and Social Affairs*

- Co-ordination and transferability of social rights
- Health & Safety at work
- Organisation of working time
  
- Social security schemes
- Free movement of workers
- Posting of workers
  
- Other

#### *Energy*

- Energy supply
- Energy efficiency
- Renewable energy

- Other

### *Environment*

- Tackling climate change
- Air (air quality, air pollutants, etc.)
- Biotechnology (GMOs)
  
- Nature and biodiversity
- Chemicals
- Industrial environmental audit
  
- Eco-labelling
- Noise
- Waste
  
- Water
- Other

### *Product safety*

- Use of standards
- Demonstrating conformity in the absence of a harmonised standard
- Conformity assessment procedures
  
- Conformity assessment involving a conformity assessment body
- EU declaration of conformity
- CE marking rules
  
- Information obligations (i.e. language requirements, instructions for use/safety)
- Labelling obligations
- Traceability obligations
  
- Controls / Inspections

- Other

### Services

- Provision of services across borders
- Recognition of professional qualifications
- Other

### Business environment

- Public procurement
- Company law
- Intellectual and industrial property
  
- Data protection
- Other

### Statistics

- Please specify:

please specify

### Taxation

- VAT
- Excise duties
- Other indirect taxes
  
- Direct taxes (income, capital, double taxation)
- Other

### Transport

- Transport of goods
- Transport of passengers

- Road transport
- Maritime / Inland waterway transport
- Combined transport
- Other modes of transport

*Here you can add "other" specific areas of EU legislation*

## **B.2 Please select the specific piece/s of EU legislation which are the most burdensome (MAX 10!!)**

### *Consumer protection*

- General product safety - Directive 2001/95/EC
- Food hygiene - Regulations (EC) No 853/2004 and 853/2004
- Materials and articles intended to come into contact with food - Regulation (EC) No 1935/2004
- Provision of food information to consumers - Regulation (EU) No 1169/2011
- Approximation of the laws of the Member States relating to food supplements - Directive 2002/46/EC
- Laying hen cages and protection of pigs sow stalls - Directives 1999/74/EC and 2008/120/EC
- Marketing standards for eggs - Regulation (EC) No 589/2008
- Certain aspects of the sale of consumer goods and associated guarantees - Directive 1999/44/EC
- Unfair business-to-consumer commercial practices - Directive 2005/29/EC
- Misleading and comparative advertising - Directive 2006/114/EC
- Pharmaceuticals - Directive 2001/83/EC
- Traditional herbal products - Directive 2001/83/EU
- Other



### Customs

- Modernised Customs Code - Regulation (EC) No 450/2008
- Other

### Employment and Social Affairs

- Measures to encourage improvements in the safety and health of workers at work - Council Directive 89/391/EEC
- Minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) - Directive 2002/44/EC
- Protection of workers from the risks related to exposure to carcinogens or mutagens at work - Directive 2004/37/EC
  
- Posting of workers in the framework of the provision of services - Directive 96/71/EC
- Working time directive - Directive 2003/88
- Temporary agency work - Directive 2008/104/EC
  
- Implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC - Council Directive 2010/18/EU
- Other

### Environment

- Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) -Regulation (EC) No 1907/2006
- Shipments of waste - Regulation (EC) No 1013/2006
- Waste framework directive -Directive 2008/98- and List of waste -Decision 2000/532/EC-
  
- Packaging and packaging waste - Directive 94/62/EC
- Restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC
- Waste electrical and electronic equipment (WEEE) - Directive 2012/19/EC
  
- Rules for harmonised free allocation of emission allowances - Decision 2011/278
- Fluorinated greenhouse gases - Regulation (EC) No 842/2006

- Habitat directive - Directive 92/43/EC
- Making available on the market and use of biocidal products - Regulation (EU) No 528/2012
- Illegal timber - Regulation (EU) No 995/2010
- Other

#### Sectoral product safety legislation

- Medical devices - Council Directive 93/42/EEC
- Machinery - Directive 2006/42/EC amending Directive 95/16/EC (recast)
- Electrical equipment designed for use within certain voltage limits - Directive 2006/95/EC (*Help: (revision proposed with Com/2011/0763 final) )*)
- Safety of toys - Directive 2009/48/EC
- Gas Appliances - Directive 2009/142/EC
- Cosmetic products - Regulation (EC) No 1223/2009
- Construction products - Regulation (EU) No 305/2011
- Other

#### Services

- Services in the internal market - Directive 2006/123/EC
- Recognition of professional qualifications - Directive 2005/36/EC (*Help: (revision proposed with Com(2011)0883) )*)
- Other

#### Business environment

- Procurement procedures of entities operating in the water, energy, transport and postal services sectors - Directive 2004/17/EC (*Help: (revision proposed with Com(2011)0895 final) )*)
- Procedures for the award of public works contracts, public supply contracts and public service contracts - Directive 2004/18/EC (*Help: (revision proposed with Com(2011)0896 final) )*)
- European order for payment procedure - Regulation (EC) No 1896/2006
- Data protection - Directive 95/46/EC (*Help: (revision proposed with Com(2012)11 final) )*)
- Anti-dumping duty on the import of plastic bags - Regulation (EC) 1425/2006

- Other

#### Statistics

- 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
- Other

#### Taxation

- Common system of value added tax - Council Directive 2006/112/EC
- Refund of value added tax to taxable persons not established in the Member State of refund but established in another Member State - Council Directive 2008/9/EC
- General arrangements for excise duty - Council Directive 2008/118/EC
  
- Framework for the taxation of energy products and electricity - Directive 2003/96/EC
- Other

#### Transport

- Recording equipment in road transport - Council Regulation (EEC) No 3821/85 (*Help: (revision proposed with Com/2011/0451) )*
- Social legislation relating to road transport - Regulation (EC) No 561/2006 (*Help: (revision proposed with Com/2011/0451) )*
- Safety rules and standards for passenger ships - Directive 2009/45/EC
  
- Other

*Here you can add "other" pieces of EU legislation*

### **B.3 If there are other regulatory requirements you find burdensome**

Please describe them here:

## C. Successful revisions of EU legislation

C.1 Can you give an example of a piece of legislation which has been successfully revised and which is now less burdensome?

- Yes
- Do not know
- No

Please specify:

## ANNEX 2: Non-EU replies

### What are the most burdensome policy areas for SME?

#### Replies from SMEs (non-EU)

	<i>CATEGORY</i>	<b>POLICY AREA</b>	<b>SMEs</b>
1	<i>Customs</i>	Customs controls and formalities	61
2	<i>Transport</i>	Transport of goods	55
3	<i>Product safety</i>	Use of standards	50
4	<i>Product safety</i>	Controls / Inspections	41
5	<i>Environment</i>	Chemicals	35
6	<i>Customs</i>	Classification of goods	35
7	<i>Product safety</i>	Labelling obligations	32
8	<i>Customs</i>	Custom tariffs	31
9	<i>Product safety</i>	CE marking rules	28
10	<i>Environment</i>	Eco-labelling	26
11	<i>Taxation</i>	Direct taxes (income, capital, double taxation)	25
12	<i>Employment and Social Affairs</i>	Free movement of workers	25
13	<i>Product safety</i>	Information obligations (i.e. language requirements, instructions for use/safety)	24
14	<i>Consumer protection</i>	Food Safety (hygiene, labelling, etc.)	24
15	<i>Taxation</i>	Other indirect taxes	24
16	<i>Services</i>	Provision of services across borders	24
17	<i>Energy</i>	Energy efficiency	24
18	<i>Services</i>	Recognition of professional qualifications	22
19	<i>Environment</i>	Industrial environmental audit	21
20	<i>Taxation</i>	VAT	20
20	<i>Employment and Social Affairs</i>	Health & Safety at work	20
20	<i>Consumer protection</i>	Legal redress and settlement of disputes	20