



Council of the
European Union

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NOTE

From:	Presidency
To:	Delegations
Subject:	Revised draft Council Conclusions on Smart Regulation

Delegations will find in Annex revised draft Council Conclusions on Smart Regulation.

Revised draft COUNCIL CONCLUSIONS ON SMART REGULATION

The Council (Competitiveness):

1. **REAFFIRMS that a clear, stable and predictable regulatory environment at EU level is necessary to meet the concrete needs of European citizens and businesses, including in social, financial, environmental, consumer or external areas; STRESSES the role of smart regulation as an essential tool for achieving EU policy goals, including the effective functioning of the Single Market, at minimum cost and for enhancing competitiveness, growth and opportunities for jobs, always taking into account proper protection of consumers, health, the environment and employees.**
2. ACKNOWLEDGES that European regulation should be “fit for purpose” through the effective use of smart regulation tools (~~regulatory costs reduction, fitness checks, integrated~~ impact assessment, *ex-post* evaluation, **fitness checks, simplification** and stakeholder consultation) **throughout the legislative cycle**, particularly **taking into account** ~~for~~ small and medium-**size** enterprises (SMEs) and micro-enterprises.
3. **EMPHASISES** that smart regulation ~~tools are~~ **is** among key drivers for addressing the challenges of delivering economic growth and fostering competitiveness by all the European Institutions and the Member States; WELCOMES the invitation of the European Council to the EU institutions and the Member States to continue to support **and better use** smart regulation tools throughout the legislative cycle, both at EU and national level¹.
4. **ACKNOWLEDGES the importance of making EU legislation more understandable and user-friendly for EU citizens and businesses; CALLS ON the Commission to move forward with simplification initiatives.**

*All changes compared to doc. 13467/14 are indicated in **bold underlined** and ~~strikethrough~~.

¹ Doc. EUCO 79/14.

REFIT Programme

5. WELCOMES the Commission's Communication on Regulatory Fitness and Performance (REFIT): State of play and Outlook²; in this respect, RECALLS the invitation of the June 2014 European Council to proceed to its detailed examination; ~~ENCOURAGES~~ **CALLS ON** the [upcoming]³ Commission to reaffirm its commitment to an ambitious REFIT programme, accelerating its implementation and including further **evaluations**, simplifications, withdrawals and repeals of the most burdensome EU proposals and legislation.
6. CONSIDERS Regulatory Fitness a shared goal for EU institutions and Member States. Close cooperation between the Commission, Council and Member States, also through joint evaluations, is critical to a successful implementation of the REFIT programme and the generation of concrete benefits on the ground. In this respect, WELCOMES Member States' contributions to the ongoing joint evaluations and INVITES them to continue to contribute to the evaluation of the effects of selected legislative proposals from a smart regulation perspective, ~~with a special emphasis on competitiveness~~ **and to the ex-post evaluation of the real costs and benefits of legislation already in force.**
7. INVITES Member States **and stakeholders** to actively contribute to the implementation of the REFIT programme, ~~possibly suggesting~~, **if appropriate**, other areas or legislative initiatives **and simplifications** where there is greater potential for **benefits or** cost savings **for businesses, citizens and public administrations.**

² Doc. 10648/14.

³ [Square brackets] to be removed prior to the adoption of these Conclusions once the new Commission is in place.

8. WELCOMES the first edition of the annual REFIT scoreboard⁴ that allows for the assessment of progress made in all policy areas and for each initiative identified by the Commission, including actions taken by the Council and the European Parliament. At the same time, in order to increase the information about REFIT results and to make REFIT monitoring more effective, CALLS ON the Commission to integrate ~~the REFIT scoreboard with~~ an annual assessment of the main **quantitative and qualitative** benefits produced for end-users **into the REFIT scoreboard**, also on the basis ~~of Member States contributions~~ **stakeholder consultation**, especially in terms of regulatory burden reductions, **and** **ENCOURAGES Member States to contribute also through available relevant data.**
9. STRONGLY SUPPORTS the commitment made by the Commission in its Communication “Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook” to further strengthen the quality, scope and targeting of **stakeholder** consultations, **including enhanced feedback to stakeholders, and CALLS ON the Commission to explore ways on how to better involve stakeholders in the consultation process at an early stage.**

SMEs and micro-enterprises

10. UNDERLINES the necessity of continuing actions to reduce the overall burden of EU regulation on SMEs **and micro-enterprises** by respecting the proportionality principle in relation to the size and risk level of businesses.
11. STRESSES the importance of guaranteeing **by all the EU institutions** a ~~the~~ rigorous application of the "Think Small First" principle **across smart regulation tools at EU level, including the use** ~~and~~ of the “SME Test” ~~at EU level~~ **in impact assessment**, so that legislative proposals take into account the **concrete** needs **and constraints** of ~~small and medium-sized enterprises~~ **SMEs and micro-enterprises in particular, and the assessment of the effects on SMEs in ex-post evaluations.**
12. ENCOURAGES Member States to increase the exchange **and transfer** of good practices on how to better implement the “Think Small First” principle and the “SME Test” at national level.

⁴ Doc. 10648/14 ADD1, SWD(2014) 192 final

Regulatory Burden Reduction

13. ACKNOWLEDGES that both EU institutions and Member States have made concrete steps into successfully implementing the REFIT programme, but CONSIDERS that further, **intensive** efforts **at all levels** are needed to reduce the overall regulatory burden.
14. CALLS ON the ~~Commission~~ **EU institutions** to enhance efforts to reduce the overall regulatory burden, without undermining the policy goals of regulation, ~~always taking into account the proper protection of consumers, health, the environment and employees;~~ **CALLS ON the Commission to** by introducing – also on the basis of stakeholder consultation – sectoral **reduction** targets in particularly burdensome areas, especially for SMEs, within the REFIT Programme. This selective approach would not require a baseline measurement and would **strike a balance between the costs and benefits of regulation** ~~not exclude that the benefits of regulation are considered.~~

Impact Assessment

15. RECALLS the recommendations identified in the 2014 Annual Report on Impact Assessment within the Council⁵ following the completion of the three pilot projects; AGREES that, in order to help delegations to better understand the ~~reasoning behind~~ **objectives and effects of** the Commission's proposals, the practice of presenting the Commission's Impact Assessment (IA) at an early stage of the debate at the relevant Council Working Parties and of examining it through the indicative checklist should be extended to all legislative proposals accompanied by an IA, **and COMMITS ITSELF to take the necessary steps in this respect, without delay; STRESSES that IAs within the Council should not be used as an instrument to unduly delay or hinder the legislative process.**
16. STRESSES the importance of ~~enhancing the~~ **applying** competitiveness proofing within the **Commission's integrated IAs in all policy areas, with the aim to contribute to systematic mainstreaming of industrial competitiveness.**

⁵ Doc. 10882/14.

17. ~~INVITES~~ **CALLS ON** the Commission:
- to ensure involvement of the Impact Assessment Board (IAB), **where appropriate**, at an early stage of the Commission decision making process;
 - to consider options to enhance the IA scrutiny process, by ensuring that the actual competences used in it are strengthened by ~~systematically involving external~~ **bringing in outside, independent** expertise, **in a systematic and transparent way**.
18. **CALLS ON** the Commission:
- to ~~strengthen the connection between its IA process and stakeholder engagement, by consulting stakeholders also on preliminary information on the expected effects of the options considered~~ **ensure that stakeholders and Member States can contribute at an early stage in the process of impact assessments**. This might enable stakeholders to have a better informed opinion and to contribute evidence to inform the IA the Commission subsequently prepares alongside the final legislative proposal. **This should be one element of a broader strengthening of the Commission's consultation process, which should also pay attention to the consistent use of roadmaps, the quality of consultation documents, and the provision of feed-back on consultation results;**
 - to publish an annual report on the likely impacts of its proposals as shown in the IAs produced in the previous year, in order to increase the amount of available information on the expected effects of proposed legislation. The report should ~~take into account, as far as possible, the contents included in~~ **be integrated into** the REFIT scoreboard in order to track changes as introduced in the legislative process and subsequent implementation process.
 - to ~~consider~~ **introduce** a digital dimension in the IA process to ensure that all new legislation is made fit for the digital age and addresses all possible ways in which digital solutions can reduce burdens for citizens and businesses.

Ex-post Evaluation

19. **SUPPORTS stronger ex-post evaluation of the performance of EU regulation, making use *inter alia* of available evidence and data from Member States and stakeholders, identifying potential areas for cost savings and producing sound information useful for ensuring that EU regulation provides the maximum benefits for citizens and businesses.**
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