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NOTE

From:	Presidency
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Subject:	Revised draft Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014 - 2020)

The Working Party on Competitiveness and Growth examined the above proposal at its meetings on 13 January, 1 and 17 February. It also discussed the impact assessment accompanying the proposal. At this stage all delegations have a general scrutiny reservation. The French and the United Kingdom delegations have entered a parliamentary scrutiny reservation.

The present text contains only the articles of the proposal, as the Presidency intends to concentrate its work on them.

New text compared to doc. 17489/11 has been put in **bold and underlined**. Deleted text has been marked by ~~strikethrough~~.

2011/0394 (COD)

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing a Programme for the Competitiveness of Enterprises and small and medium-
sized enterprises (2014 - 2020)
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 173 and 195 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national **p**arliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

(pm. recitals)

HAVING ADOPTED THIS REGULATION:

CHAPTER I

Subject matter

Article 1

Establishment

A programme for Union actions to improve the competitiveness of enterprises, with special emphasis on small and medium-sized enterprises (SMEs) (hereinafter "the Programme"), is established for the period from 1 January 2014 to 31 December 2020.

Article 1a

Definition

1. For the purpose of this regulation "SME" shall mean an enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. Small enterprises and microenterprises constitute subcategories of SMEs. "Small enterprise" shall mean an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million. "Microenterprise" shall mean an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million¹.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to amend the definition in paragraph 1 to the extent necessary to take account of economic developments.

¹ Recommendation 2003/361/EC

Article 2

General objectives

1. The Programme shall contribute to the following general objectives, paying particular attention to the specific needs of **European SMEs and of SMEs in countries participating in the Programme according to Article 5** ~~at European and global level:~~
 - (a) strengthening the competitiveness and sustainability of the Union's enterprises, **particularly SMEs** ~~including in the tourism sector;~~
 - (b) encouraging an entrepreneurial culture and promoting the creation and growth of SMEs.
2. The achievement of the objectives referred to in paragraph 1 shall be measured by the following indicators:
 - (a) percentage of growth of the Union's **SMEs in the manufacturing and services** ~~industrial~~ sectors in relation to total Gross Domestic Product (GDP) growth;
 - (b) Union ~~manufacturing~~ output growth in eco-industries **compared with the Union's output growth**;
 - (c) ~~changes in~~ **reduction of the** administrative burden on SMEs;
 - (d) SME growth in terms of ~~added~~-value **added** and number of employees;
 - (e) SME turnover ~~rate~~; **and**
 - (f) **share of SMEs selling goods in more than one Member States or exporting to third countries.**

A detailed list of indicators and targets for the Programme are set out in Annex I.

3. The Programme shall support the implementation of the Europe 2020 Strategy and shall contribute to achieving the objective of “smart, sustainable and inclusive growth”. In particular, the Programme shall contribute to the headline target concerning employment.

CHAPTER II

Specific objectives and fields of action

Article 3

Specific objectives

1. The specific objectives of the Programme shall be:

(a) to improve access to finance for SMEs in the form of equity and debt;

(b) to improve access to markets, particularly inside the Union;

(c) to improve framework conditions for the competitiveness and sustainability of Union enterprises, **particularly SMEs, in manufacturing and services sectors** including in the tourism sector;

(d) to promote entrepreneurship **and entrepreneurship culture**, ~~including among specific target groups;~~

~~(c) — To improve access to finance for SMEs in the form of equity and debt;~~

~~(d) — To improve access to markets inside the Union and globally.~~

2. The need of enterprises to adapt to a low-carbon, climate-resilient, energy and resource-efficient economy shall be promoted in the implementation of the Programme.

3. To measure the impact of the Programme in achieving the specific objectives referred to in paragraph 1, performance indicators shall be used. Those indicators are set out in Annex I.
4. **The annual work programmes referred to in Article 10 shall specify in detail all actions to be implemented under this Programme.**

Article 4

Budget

1. The financial envelope for implementing the Programme shall be EUR [2,522 billion], of which ~~approximately~~ **no less than** EUR [1,4 billion/**55,5 pct.**] shall be allocated to financial instruments.
2. The financial envelope established under this Regulation may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the Programme and the achievement of its objectives. In particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the Union as far as they are related to the general objectives of the Programme, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the Programme.
3. The financial allocation may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Decision No 1639/2006/EC of the European Parliament and of the Council of **24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013)**¹. If necessary, appropriations may be entered in the budget beyond 2020 to cover similar expenses, in order to enable the management of actions not yet completed by 31 December 2020.

¹ OJ L 310, 9.11.2006, p. 15.

Article 5

Participation of third countries

1. The **following countries may participate in all or part of the Programme** ~~Programme shall be open to the participation of:~~
 - (a) European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement, and other European countries when agreements and procedures so allow;
 - (b) acceding countries, candidate countries and potential candidates in accordance with the general principles and general terms and conditions for the participation of those countries in Union's programmes established in the respective Framework Agreements and Association Council Decisions, or similar arrangements;
 - (c) countries falling under the scope of the European neighbourhood policies, when agreements and procedures so allow and in accordance with the general principles and general terms and conditions for the participation of those countries in Union's programmes established in the respective Framework Agreements, Protocols to Association Agreements and Association Council Decisions.
- ~~2. — Entities established in countries referred to in paragraph 1, in case the conditions established in that paragraph are not fulfilled or when those countries decide not to join the Programme, or entities established in other third countries may participate in actions under the Programme.~~
- ~~3. — Such entities shall not be entitled to receive Union financial contributions, except where it is indispensable for the Programme, in particular in terms of competitiveness and access to markets for Union enterprises. That exception shall not apply to entities which are profit-making.~~

Article 5a

Participation of Entities of non-participating countries

1. Entities established in countries referred to in Article 5, in case the conditions established in that article are not fulfilled or when those countries decide not to join the Programme, or entities established in other third countries may participate in actions under the Programme.
2. Such entities shall not be entitled to receive Union financial contributions, except where it is indispensable for the Programme, in particular in terms of competitiveness and access to markets for Union enterprises. That exception shall not apply to entities which are profit-making.

Article 6

Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises

1. The Commission shall support actions to improve and strengthen the competitiveness and sustainability of Union enterprises, particularly SMEs, so as to enhance the effectiveness, coherence, **coordination** and consistency of national policies promoting competitiveness, sustainability and the growth of **Union** enterprises ~~in Europe~~.
2. The Commission may support actions intended to develop new competitiveness strategies. Such actions may include the following:

- (a) measures to improve the design, implementation and evaluation of policies affecting the competitiveness and sustainability of enterprises, **including promoting the development of sustainable products, services and processes**, including disaster resilience, and to secure the development of appropriate infrastructures, **sharing best practices on framework conditions and the management of** world class clusters and business networks, ~~framework conditions~~, **as well as promoting resource efficiency and corporate social responsibility**; develop sustainable products, services and processes;
- (b) ~~measures to encourage cooperation in policy making and exchange of good practices among the Member States, other countries participating in the Programme and the Union's main competitors, and to address international aspects of competitiveness policies~~ **measures to address international aspects of competitiveness policies, focusing particularly on policy cooperation between Member States, other countries participating in the Programme and the Union's main competitors**;
- (c) support for SME policy development, ~~and cooperation between policy makers~~ **and exchange of good practices among Member States**, particularly with a view to improving the ease-of-access to programmes and measures for SMEs **in line with the Small Business Act**;
- (d) measures to promote the competitiveness and sustainability of the Union enterprises in the tourism sector by promoting cooperation between Member States, particularly by the exchange of good practice.**
3. The Commission may support initiatives accelerating the emergence of competitive industries based on cross-sectoral activities. ~~in areas characterised by a high proportion of SMEs and with a high contribution to the Union's GDP. Such initiatives shall stimulate development of new markets and the supply of goods and services based on the most competitive business models or on modified value chains. They shall include initiatives to enhance productivity, resource efficiency, sustainability and corporate social responsibility.~~

Article 7

Actions to promote entrepreneurship

1. The Commission shall contribute to promoting entrepreneurship by improving framework conditions affecting the development of entrepreneurship. The Commission shall support a business environment favourable to enterprise development and growth, **business transfer and second chance (re-start)**.
2. Particular attention shall be paid to **specific target groups, such as** young, **ethnic minority** and female entrepreneurs. ~~as well as specific target groups.~~
3. The Commission may support Member States' measures to build **and facilitate** entrepreneurial education, **training**, skills and attitudes, in particular among potential and new entrepreneurs.

Article 8

Actions to improve access to finance for SMEs

1. The Commission shall support actions which aim to improve access to finance for SMEs in their start-up ~~and~~, growth **and transfer** phases, being complementary to the Member States' use of financial instruments for SMEs at national and regional level. In order to ensure complementarity, ~~these~~ **such** actions ~~will~~ **shall** be closely coordinated with those undertaken in the framework of cohesion policy and **Horizon 2020** ~~at national level~~. Such actions shall aim to stimulate the supply of both equity and debt finance.
2. ~~As part of the~~ **In addition to** actions referred to in paragraph 1, **Union support may also be given to actions** ~~the Commission shall develop measures, subject to market demand, to~~ improve cross-border and multi-country financing **subject to market demand and without creating market distortions**, thereby assisting SMEs to internationalise their activities in compliance with Union law.
3. Details of the actions referred to in paragraph 1 are laid down in Annex II.

Article 9

Actions to improve access to markets

1. ~~In order~~ To continue improving the competitiveness and access to markets of ~~Union~~ EU enterprises, the Commission shall maintain its support for the Enterprise Europe Network **providing a comprehensive and integrated services to SMEs, including information and advice on EU initiatives and legislation, the promotion of EU funding programmes and access to finance and the facilitation of cross-border R&D, technology and innovation partnerships. It shall maintain a communication channel between SMEs and the Commission, seeking feedback on forthcoming legislation and initiatives and focus on exploiting the opportunities of the Single Market. Implementation of the Network shall be closely coordinated with the Member States to avoid duplication of existing activities.**
2. The Commission may support actions to improve SMEs access to the Single Market including information provision **(including through digital services)** and awareness-raising.
3. Specific measures ~~shall~~ may aim to facilitate SMEs access to markets outside the Union, ~~and to~~ **in particular providing information, negotiating with third countries to remove market-entry barriers and continuing** strengthening existing support services ~~in those markets. SMEs may receive support through the Programme as regards standards and intellectual property rights in priority third countries.~~ **These measures shall complement but not duplicate core trade promotion activities of Member States.**
4. Actions under the Programme may aim to foster international industrial cooperation, including industrial and regulatory dialogues with third countries. Specific measures may aim to reduce differences between the Union and other countries in regulatory frameworks for industrial products, **to contribute to the development of** industrial policy and the improvement of the business environment.

CHAPTER III

Implementation of the Programme

Article 10

Annual work programme

1. In order to implement the Programme, the Commission shall adopt separate ~~an~~ annual work programmes for financial and non-financial instruments reflecting the objectives set out in Europe 2020 and in accordance with the examination procedure referred to in Article 16(2). Such annual work programmes shall set out in detail:
 - (a) the objectives pursued, the expected results the method of implementation and their total amount;
 - (b) ~~They shall also contain~~ a description of the actions to be financed, an indication of the amount allocated to each action, an indicative implementation timetable and a payment profile;
 - (c) as well as appropriate qualitative and quantitative indicators for analysing and monitoring effectiveness in delivering outcomes and achievements of the objectives;
~~They shall include for grants~~
 - (d) the priorities, the essential evaluation criteria of the measures and the maximum rate of co-financing as regards grants.
2. The Commission shall implement the Programme in accordance with the Financial Regulation (Regulation (EU) No XXX/2012 [New Financial Regulation]).
3. The Programme shall be implemented so as to ensure that actions supported take account of future developments and needs, particularly after the interim evaluation, referred to in Article 12(3), and that they are relevant to evolving markets, economy and changes in society.

Article 11

Support measures

1. In addition to the measures covered by the work programme referred to in Article 10, the Commission shall regularly undertake support measures, including the following:
 - (a) the analysis and monitoring of sectoral and cross-sectoral competitiveness issues;
 - (b) the identification of good practices and policy approaches, and their further development;
 - (c) impact assessments of Union measures of particular relevance for the competitiveness of enterprises, with a view to identifying areas of existing legislation that need to be simplified, or areas in which new legislative measures need to be proposed;
 - (d) the evaluation of legislation affecting enterprises, specific industrial policy and competitiveness-related measures.
2. These support measures referred to in paragraph 1 shall not necessarily form part of the annual work programmes referred to in Article 10. **The total cost of these support measures shall be no more than [3 pct.] of the Programme's financial envelope for the non-financial instruments. The Committee within the meaning of Article 16 shall be regularly informed of the actions and costs.**

Article 12

Monitoring and evaluation

1. The Commission shall monitor the implementation and management of the Programme.
2. The Commission shall draw up an annual monitoring report examining the efficiency and effectiveness of supported actions in terms of financial implementation, results and, where possible, impact. The report shall include information on the amount of climate-related expenditure and the impact of support to climate-change objectives to the extent that the collection of this information does not create an unjustified administrative burden for SMEs.
3. By 2018 at the latest, the Commission shall establish an evaluation report on the achievement of the objectives of all the actions supported under the Programme at the level of results and impacts, the efficiency of the use of resources and its European added value, in view of a decision on the renewal, modification or suspension of the measures. The evaluation report shall also address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account evaluation results on the long-term impact of the predecessor measures **and shall feed into a decision on a possible renewal, modification or suspension of a subsequent measure.**
4. ~~An~~ **The Commission shall establish a final** evaluation report ~~shall be established~~ on the longer-term impacts and the sustainability of effects of the measures. ~~to feed into a decision on a possible renewal, modification or suspension of a subsequent measure~~

5. ~~A~~ **The Commission shall develop a** set of key performance indicators ~~shall be developed~~ as a basis for assessing the extent to which the objectives of the actions supported under the Programme have been achieved. ~~They~~ **Such objectives** shall be measured against pre-defined baselines reflecting the situation before implementation of the actions.
6. ~~All involved parties shall provide the Commission with all the data and information necessary to permit the monitoring and evaluation of the concerned measures.~~ **All grant beneficiaries and other parties involved who have received Union funds under this Regulation, shall provide the Commission with all the appropriate and necessary data and information for the monitoring and evaluation of the measures concerned.**

CHAPTER IV

Financial provisions and forms of financial assistance

Article 13

Forms of financial assistance

The Union's financial assistance under the Programme may be implemented indirectly by delegating budget implementation tasks to the entities listed in Article XX of Regulation (EU) No XXX/2012 [New Financial Regulation].

Article 14

Financial instruments

1. Financial instruments under the Programme ¹shall be operated with the aim of facilitating access to finance for ~~growth-oriented~~ SMEs. The financial instruments shall include an equity facility and a loan guarantee facility.
2. The financial instruments for ~~growth-oriented~~ SMEs may, where appropriate, be combined with **and complement** other financial instruments established by Member States and their managing authorities **in the context of the operations of the Structural Funds**² and **with** grants funded ~~from~~ by the Union, including under this Regulation.
3. The financial instruments shall aim to preserve the value of assets provided by the Union budget. They may generate acceptable returns to meet the objectives of other partners or investors.
4. ~~In accordance with Article 18(4) of Regulation (EU) No XXXX/2012 [New Financial Regulation],~~ [Revenues and repayments generated by one financial instrument shall be assigned to that financial instrument³. For financial instruments already set up in the multiannual financial framework for the 2007-2013 period, revenues and repayments generated by operations started in that period shall be assigned to the **relevant** financial instrument in the period 2014-2020. **The Committee within the meaning of Article 16 shall be informed of such assignments.**]

¹ **Set up in accordance with Title VIII of Regulation (EC) No XXXX/2012 [New Financial Regulation of 2012]**

² **In accordance with [Article 33(1)(a) of Regulation (EU) No XXX/201X [New Regulation on Structural Funds]]**

³ **In accordance with Article 18(4) of Regulation (EU) No XXXX/2012 [New Financial Regulation],**

Article 15

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of amounts wrongly paid and, where appropriate, by effective, proportionate penalties that act as a deterrent.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors and other third parties who have received Union funds under this Regulation.
3. The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in **Council** Regulation (Euratom, EC) No 2185/96¹ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement- or grant decision or a contract concerning Union funding.
4. Without prejudice to the first and second paragraphs, cooperation agreements with third countries and international organisations and grant agreements and grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct audits, on-the-spot checks and inspections.

¹ **OJ L 292, 15.11.1996, p.2, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning the 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.**

CHAPTER V

Committee and final provisions

Article 16

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 17

Delegated acts

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning **additions** changes to the indicators provided in the list in Annex I to this Regulation if these those indicators **could help** ~~do not prove suitable to~~ measure the progress in achieving the Programmes general and specific objectives.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning changes to the details of the specific actions set out in Annex II to this Regulation if economic market developments so require or according to the results achieved by the Competitiveness and Innovation Framework Programme **SME Guarantee Facility (SMEG), the High Growth and Innovative SME Facility (GIF)** Loan Guarantee Facility (LGF) and the Risk Sharing Instrument (RSI) of the 7th Framework Programme for Risk Sharing Financial Facility.
- ~~3. Where imperative grounds of urgency so require such as rapidly changing economic conditions, the procedure provided for in Article 19 shall apply to delegated acts adopted pursuant to this Article.~~

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The ~~delegation of power~~ **to adopt delegated acts** referred to in Article 17 shall be conferred on the Commission for a period of seven years from [*the date of entry into force of the basic legislative act*].
3. The delegation of power referred to in Article 17 may be revoked at any time by the European Parliament or by the Council. A decision of ~~revocation~~ **to revoke** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 17 shall enter into force only if no objection has been expressed either **by** the European Parliament or **by** the Council within a period of two months ~~following the~~ of notification **of** that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or **of** the Council.

Article 19

Urgency procedure

- ~~1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.~~
- ~~2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 18(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.~~

Article 20-19

Repeal and transitional provisions

1. Decision **No** 1639/2006/EC is repealed with effect from 1 January 2014.
2. However, actions initiated under Decision **No** 1639/2006/EC and financial obligations related to those actions shall continue to be governed by that Decision until their completion.
3. The financial allocation referred to in Article 4 may also cover the technical and administrative assistance expenses necessary to ensure the transition between this programme and the measures adopted under Decision **No** 1639/2006/EC. **The Committee within the meaning of Article 16 shall be informed of these expenses.**

Article-~~21~~ 20

Entry into force

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ~~Strasbourg~~,

For the European Parliament
The President

For the Council
The President
