



Brussels, 18 May 2016
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COMPET 231
RECH 135

NOTE

From: Presidency
To: Council

Subject: **Draft Council Conclusions on "Better Regulation to strengthen competitiveness"** (*Non-legislative activity*)
- Adoption

1. On 8 April 2016, the Presidency presented draft Council conclusions on "Better regulation to strengthen competitiveness" which were examined by the Working Party on Competitiveness and Growth (Better Regulation) on 18 and 26 April and 4 May 2016. The discussions in the Working Party resulted in a large degree of support on the text set out in Annex to this Note.
2. The Permanent Representatives Committee examined and endorsed the draft Council conclusions on 11 May 2016.
3. The Council (Competitiveness) of 26 May 2016 is invited to adopt the conclusions as set out in the annex to this document.

DRAFT COUNCIL CONCLUSIONS ON BETTER REGULATION TO STRENGTHEN COMPETITIVENESS

“THE COUNCIL:

ACKNOWLEDGES that better regulation is a key driver for delivering economic growth and fostering innovation, competitiveness, SMEs and job creation, and for a fully functioning Single Market. **REITERATES** the need to ensure that EU regulation is transparent, simple and is achieved at minimum cost, and to always take into account a high level of protection of consumers, health, the environment and employees.

WELCOMES the Commission Communication “Better Regulation for better results, an EU agenda” of 19 May 2015¹ and the Interinstitutional Agreement by the European Parliament, the Council and the Commission on "Better Law-making" of 13 April 2016.²

Future proof and innovation-friendly legislation

- 1) **UNDERLINES** the importance of a sound regulatory framework conducive to research, innovation and competitiveness, and **WELCOMES** the Commission’s commitment to address the issue of future proof, fit for purpose and research and innovation-friendly legislation as part of the implementation of its better regulation guidelines and toolbox.
- 2) **STRESSES** that, when considering, developing or updating EU policy or regulatory measures, the 'Innovation Principle' should be applied, which entails taking into account the impact on research and innovation in the process of developing and reviewing regulation in all policy domains. **CALLS** on the Commission together with Member States, to further determine its use and to evaluate its potential impact.³

¹ Doc. 9079/15

² Doc. 15506/15

³ The Council recalls the Precautionary Principle.

- 3) In this respect, **CALLS** on the Commission and Member States to explore and exchange best practices as to how regulation can be made more future proof and enabling for research and innovation, making good use of existing concepts and practices from the Commission and Member States. These may include risk- and hazard-based approaches to regulation, the use of goal or outcome oriented legislation, the use of digital tools, possibilities for experimentation⁴, and flexibility.⁵ **INVITES** the Commission to assist in collecting the outcome of this exploration in the first half of 2017, including the experience of using the research and innovation and ICT assessment tools⁶ in Impact Assessments.
- 4) **WELCOMES** the Commission's commitment to address the issue of future proof, fit for purpose and research and innovation-friendly legislation also when dealing with existing legislation in the framework of the REFIT programme; **SUGGESTS** a review (for instance by a fitness check) on how regulation can be made more innovation-friendly and on how the regulatory framework can be made more supportive for the digitisation of industry, also on the basis of input from stakeholders on identified regulatory barriers to their innovation projects and actions, and (new) business models, such as through the recent call from the Commission on this topic. **CALLS** on the Commission and Member States to include the perspective of research and innovation-friendly and future proof regulation as part of their discussions on existing regulation within REFIT. **HIGHLIGHTS** the importance of single market rules that facilitate the scale-up of innovative European businesses that wish to offer goods and services across borders and/or establish in other Member States; **WELCOMES** the Commission's intention for the REFIT platform to assess suggestions from stakeholders on regulatory barriers to digitisation and innovation.

⁴ Such as the Regulatory Sandbox in the UK, Green Deals in the Netherlands and the Commission's intended Innovation Deals.

⁵ Such as the Right to Challenge and the use of sunset clauses.

⁶ Impact assessment toolbox 18 and 23.

Impact Assessment and Quantification of costs and benefits

- 5) **UNDERLINES** the importance of measuring the impact of EU regulation, taking into account both the costs and benefits, including long-term benefits for both society and business whenever possible the cost of non-Europe, the impact on competitiveness, the administrative and other regulatory burdens of the different options, and with full respect given to the principles of subsidiarity and proportionality, in line with the Inter-institutional Agreement on better law-making. **STRESSES** that quantified estimates of impacts should not be a goal in itself but be a tool for better policy-making and should as much as possible be available at the early stage of consultation. **RECALLS** the importance of cooperation between the Commission and Member States in ensuring that the information and data needed to monitor and evaluate the implementation of EU law is obtained while minimising additional administrative burden for business and Member States.
- 6) **ENCOURAGES** the Commission to be transparent on the criteria used to determine when legislative and non-legislative proposals of the Commission are expected to have significant impact and therefore an Impact Assessment will be undertaken by the Commission. **ENCOURAGES** the Commission to be transparent and predictable in which cases quantification of costs and benefits are is undertaken within the Commission's Impact Assessments, and the reasons for this.
- 7) **WELCOMES** the Commission's commitment in the Interinstitutional Agreement to further quantification of its simplification and administrative burdens reduction efforts, to present an annual burden survey and, where possible, to quantify the regulatory burden reduction or savings potential of individual proposals or legal acts; **INVITES** the Commission to include in the annual burden survey figures on the increase or reduction in burden of new legislation over the previous year.

- 8) **CALLS** on the Commission to continue its work on quantification of the burden reduction efforts by quantifying where feasible ex ante the expected results of the proposed initiatives in the REFIT scoreboard, based inter alia on impact assessments and existing methods, and making good use of available information from Member States and stakeholders. **CALLS** on the Commission to present the first results of its efforts to quantify the REFIT scoreboard and its annual burden survey in the first half of 2017.

Reduction Targets

- 9) **RECALLS** the Council Conclusions of December 2014⁷ that call on the Commission to develop and put in place – on the basis of input from Member States and stakeholders – reduction targets in particularly burdensome areas, especially for SMEs, within the REFIT Programme, which would not require baseline measurement and should consider at the same time the costs and benefits of regulation; **WELCOMES** the Commission’s recent commitment in this regard, and **URGES** the Commission to rapidly proceed on this to enable the introduction of reduction targets in 2017, whilst always taking into account a high level of protection of consumers, health, the environment and employees and the importance of a fully functioning Single Market. **UNDERLINES** that such targets should be well-defined, pragmatic and sound, and should focus on sectors or sets of regulation that are particularly burdensome, areas relevant for SMEs and with strong potential for innovation, and fitting within the current REFIT priorities.

⁷ Doc. 16000/14

Better Regulation and SMEs

- 10) **STRESSES** the economic importance of SMEs and micro-enterprises, notably for the creation of jobs. **STRESSES** the need for the better regulation policy and REFIT actions to address the needs of SMEs and in particular micro-enterprises; and **UNDERLINES** the importance of the rigorous application of the “Think Small First” principle and SME tests throughout the whole EU policy cycle in an integrated and balanced way and **SUGGESTS** for the European Parliament, the Commission and the Council to exchange information on best practices, methodologies and data in this area.
- 11) **WELCOMES** the Commission’s commitment to assess the impacts on SMEs in all impact assessments, and **UNDERLINES** the importance for the Commission in principle not to adopt legislative proposals in the absence of a positive opinion of the Regulatory Scrutiny Board on the respective draft Impact Assessments including the impact on SMEs.
- 12) **CALLS** on the Commission to ensure that measurements of impact of regulation on SMEs and micro-enterprises are consistently made and that all SME tests in Impact Assessments are robust, including consistent consultation of SMEs as part of all Impact Assessments, promoting broad and inclusive participation by SMEs and micro-enterprises in consultations, clear reporting in the Impact Assessment on the outcome of consultations of SME and micro-enterprises, and ensuring that Impact Assessments and consultations are easy to read for SMEs and micro-enterprises, both in terms of lay-out, wording and languages.
- 13) **INVITES** the Commission and Member States to explore the possibilities to support the development and use of digital tools making it easier to understand complex regulation and to comply with regulation once implemented.