



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: Presidency
To: Delegations
Subject: Draft Council Conclusions on Smart Regulation

Delegations will find in Annex Draft Council Conclusions on Smart Regulation.

DRAFT COUNCIL CONCLUSIONS ON SMART REGULATION

The Council (Competitiveness):

1. ACKNOWLEDGES that European regulation should be “fit for purpose” through the effective use of smart regulation tools (regulatory costs reduction, fitness checks, impact assessment, evaluation and stakeholder consultation), particularly for small and medium enterprises (SMEs) and micro-enterprises; that smart regulation tools are 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 smart regulation tools throughout the legislative cycle, both at EU and national level¹.

REFIT Programme

2. 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 the [upcoming]³ Commission to reaffirm its commitment to an ambitious REFIT programme, accelerating its implementation and including further simplifications, withdrawals and repeals of the most burdensome EU proposals and legislation.

¹ Doc. EUCO 79/14.

² Doc. 10648/14.

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

3. 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.
4. INVITES Member States to actively contribute to the implementation of the REFIT programme, possibly suggesting other areas or legislative initiatives where there is greater potential for cost savings.
5. 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 benefits produced for end-users, also on the basis of Member States contributions, especially in terms of regulatory burden reductions.
6. 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 consultations.

Regulatory Burden Reduction

7. ACKNOWLEDGES that both EU institutions and Member States have made concrete steps into successfully implementing the REFIT programme, but CONSIDERS that further efforts are needed to reduce the overall regulatory burden.

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

8. CALLS ON the Commission 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, by introducing – also on the basis of stakeholder consultation – sectoral targets in particularly burdensome areas, especially for SMEs, within the REFIT Programme. This selective approach would not require a baseline measurement and would not exclude that the benefits of regulation are considered.

SMEs

9. UNDERLINES the necessity of continuing actions to reduce the overall burden of EU regulation on SMEs by respecting the proportionality principle in relation to the size and risk level of businesses.
10. STRESSES the importance of guaranteeing a rigorous application of the "Think Small First" principle and of the "SME Test" at EU level, so that legislative proposals take into account the needs of small and medium-sized enterprises.
11. ENCOURAGES Member States to increase the exchange of good practices on how to better implement the "Think Small First" principle and the "SME Test" at national level.

Impact Assessment

12. 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 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.

⁵ Doc. 10882/14.

13. STRESSES the importance of enhancing the competitiveness proofing within the IA.
14. INVITES the Commission:
- to ensure involvement of the Impact Assessment Board (IAB) 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 expertise.
15. 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. 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.
 - 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 the REFIT scoreboard in order to track changes as introduced in the legislative process and subsequent implementation process.
 - to consider 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.
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