

Information Note from the European Commission

Better regulation

Competitiveness Council 27 november 2003

1. The inter-institutional agreement on better regulation

When launching its Action Plan “simplifying and improving the regulatory environment”, the Commission not only outlined action that it intended to take on its own responsibility but also called on the other institutions and the Member States to contribute to the achievement of the objectives, either individually or in collaboration with the Commission.

For those actions that require co-ordinated or joint implementation by the institutions, the Commission proposed to establish an inter-institutional agreement to provide a stable context for better regulation.

Following the invitation made by the European Council of Seville in June 2002, the European Parliament, the Council and the Commission reached an agreement in early June this year. After formal approval by the three institutions, the agreement is now ready to be signed (likely to take place in early December).

The main objectives of the agreement are to improve the quality of Community legislation, its accessibility and its transposition into national law. The agreement entrenches best practices and sets out new objectives and commitments.

The main elements of the agreement include:

- Improvement of inter-institutional co-ordination and transparency. The three institutions will reinforce their coordination through their respective annual legislative timetables with a view to reaching agreement on joint annual programming. Besides, the Commission and the Council undertake to reinforce their presence and participation in discussions at European Parliament committee meetings and plenary sittings.
- A framework for ‘soft law’ instruments that should facilitate their future use. The three institutions have for the first time established a common definition of co-regulation and self-regulation¹. They also agreed on general limits and conditions to the use of those methods, defining the role of each institution in the process and ensuring that the prerogatives of the legislative authorities are respected. In

¹ The Inter-institutional Agreement on better law-making provides the following definitions: Co-regulation: “... the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, NGOs or associations)”; Self-regulation: “the possibility for economic operators, the social partners, NGOs or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practices or sectoral agreements)”.

particular, co-regulation and self-regulation “will not be applicable where fundamental rights or important political options are at stake or in situations where the rules must be applied in a uniform fashion in all Member States”. Under co-regulation, following notification of a draft agreement prepared by interested parties, the Parliament and the Council will have the right to suggest amendments to the agreement, object to its entry into force and, possibly, ask the Commission to submit a proposal for a legislative act. As for self-regulation, the Commission will keep the legislators informed by reporting on the practices it regards as effective and satisfactory in terms of representativeness.

- Increased use of impact assessment in Community decision-making. Where the codecision procedure applies, the Parliament and the Council may have impact assessments carried out prior to the adoption of any substantive amendment. The three institutions will also examine the possibility of establishing a common methodology on the basis of experience gained.
- Commitment to set a binding time limit for the transposition of the directives into national law. Each directive should indicate that time limit which should be as short as possible and generally not exceed two years.

The Commission welcomes this agreement as broadly coherent with the initiatives set out in its June 2002 action plan on better regulation. It marks the most ambitious effort yet undertaken in favour of better regulation by associating the three institutions in an overall strategy for better law-making at EU level, while respecting the responsibilities of each institution.

The Commission notes with satisfaction that the existing High-Level Technical Group on Inter-institutional Cooperation will be responsible for implementing and monitoring the agreement.

2. The framework action “Updating and simplifying the Community *acquis*”

The Commission adopted the 24th October the first interim report on implementation of the Framework for Action² launched in February 2003 on “Updating and simplifying the Community *acquis*”³.

This initiative implements one of the actions of its “Better Regulation” initiative of June 2002 and aims to secure a clear, understandable, up-to-date and user-friendly body of secondary Community law and responds also to the objective to improve the regulatory environment in which business operate to enhance competitiveness as one of the goal set out in the Lisbon strategy.

Over the lifetime of the Communities, the *acquis* has not before been subject to a comprehensive policy aimed at keeping it up to date, at simplifying it and at improving its organisation and presentation. Such a policy was launched by the Commission with the February 2003 initiative and its successful implementation is

² COM (2003) 623.

³ COM (2003) 71.

essential for achieving the wider objectives behind the Commission's "better regulation" initiative of June 2002.

The first interim report outlines work during Phase I (February – September 2003) and sets out planned work for Phase II (October 2003 – March 2004).

The report covers the broad objectives of the February Communication which can be summarised as follows:

- ***Simplification***

The first objective is to simplify, wherever possible, existing secondary legislation. This action aims to start a process of modernisation and simplification of existing legislation and policies - not to deregulate or cut back the *acquis* - but to replace, when possible, past approaches with better adapted regulatory instruments.

A horizontal policy for legislative simplification is emerging. Commission services are now screening nearly 20 policy sectors for simplification potential which could result in future simplification proposals for Parliament and Council. Around 170 directives and regulations have already been identified as confirmed or potential candidates for simplification and are currently under active examination by the Commission services.

Of 23 planned simplification proposals for Phase I (February - September 2003), 14 have been adopted and 4 more are planned before the end of 2003. 4 additional simplification proposals have been adopted in Phase I although not included in the February engagements.

During Phase II (October 2003 - March 2004) the Commission is planning to finalise 9 newly identified candidate acts for simplification. In total, counting initiatives originally planned for Phase II (6 initiatives), postponed Phase I initiatives and newly identified ones, 23 proposals for simplification of directives and regulations are now planned to be adopted in Phase II.

- ***Up-dating and reducing the volume of Community legislation***

The second broad objective is to up-date and reduce the volume of Community legislation. This is pursued through a series of actions.

A vast programme of **consolidation** was launched in 1996 and completed in June 2003 as planned.

The even more demanding **codification** programme launched in November 2001 is now at cruising speed and is set, despite significant obstacles, to be completed by the end of 2005 as planned. During Phase I the Commission adopted 7 codified Commission acts and 15 proposals for codified acts to be adopted by the European Parliament and the Council. During Phase II (October 2003 - March 2004) it plans to adopt or propose some 150 codifications.

The reinforced efforts to **remove obsolete legislation** through formal repeal or by an additional instrument of "declaration of obsolescence" is beginning to give concrete results, although delays have occurred: Preparatory work carried out

during Phase I should shortly result in the elimination of 30 obsolete legal acts and some 600 more are under consideration and could in part be implemented during Phase II.

- *Organisation and presentation of the Community Acquis*

Third, the initiative to develop a more reliable and user-friendly **organisation and presentation** of the “active and generally applicable *acquis*” is being taken forward.

- *Transparent and effective implementation*

Finally, the Commission’s Framework for Action aims at providing a coherent framework for all Community action and to provide the technical and political focus required to obtain concrete results. The Commission will regularly present information on the progress made with regard to the simplification, codification and repeals & declarations of obsolescence. The recently concluded inter-institutional agreement on better lawmaking should provide a framework for more efficient inter-institutional collaboration.

