



26 January 2004

Dear colleague,

**Joint Initiative on Regulatory Reform**

The European Commission's recent review of the European economy<sup>1</sup> pointed out that regulatory reform is a key element in seeking to achieve the goals of the Lisbon strategy. The IMF has made it clear that improvements in the EU regulatory framework could deliver as much as a 7 per cent increase in GDP and a 3 per cent increase in productivity in the longer term<sup>2</sup>.

The backdrop to the Lisbon strategy is an increasingly complex and interconnected world economy. The pace of economic change and innovation has accelerated beyond all expectations in recent decades, as has the degree of mobility of people, ideas and capital. And Europe itself is changing, with the expansion of the Union to twenty-five increasing the diversity of its membership.

In this context, the challenge for European policy-makers is to respond effectively to this environment, with policies that are adaptable and responsive, that respect and

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<sup>1</sup> 'The EU economy: 2003 Review', European Commission, COM (2003) 729

<sup>2</sup> 'When leaner isn't meaner: Measuring Benefits and Spillovers of Greater Competition in Europe', IMF, 2003

capitalise on diversity, and that are outward-looking - focused on the global picture as well as developments within the Union's own borders. This requires an increasing awareness of the importance of a well-designed regulatory framework for strong economic performance.

From an economic perspective, a well-designed regulatory framework can be useful for pursuing both greater efficiency and equity. The regulatory framework can correct for market failures and improve economic performance, and help structure the operation of markets to achieve greater fairness. Conversely, a poorly designed regulatory framework can have a negative effect on economic performance, and therefore on the economy's ability to generate employment and support social goals.

Following the publication of the Mandelkern Report, the Commission published an Action Plan on Simplifying and Improving the Regulatory Environment in 2002 which sets out a comprehensive range of actions to be undertaken by all the institutions of the Union and the Member States. The Commission's report "Better Lawmaking 2003" identifies significant progress achieved during 2003 in implementing this Action Plan. Of particular note are the publication of a number of regulatory impact assessments on Commission proposals, new standards for public consultation, progress on updating and simplifying the Community Acquis and conclusion of an Inter-institutional Agreement on Better Lawmaking.

However, a sustained effort will be required to build upon the momentum achieved to date in order to implement the Action Plan fully and to realise the potential contribution of better regulation to economic performance. In particular, we need further to enhance the quality of impact assessments and ensure that their analysis actually influences decision-making by the Commission, the Council and the European Parliament.

As a further measure to boost regulatory reform in Europe, the Irish, Dutch, Luxembourg and British Presidencies have agreed a joint initiative to prioritise regulatory reform over the course of 2004 and 2005.

To give effect to this Initiative, the four Presidencies propose that the following measures and actions will be undertaken.

### ***Monitoring and Supporting Progress***

- Both the Competitiveness Council and ECOFIN will review progress on Regulatory Reform in advance of the preparation of their inputs to the Spring Council.
- In consultation with the Competitiveness Council and ECOFIN, and drawing on the existing Commission MAP project, the Commission should propose indicators to measure progress with regulatory quality and reform at European and Member State level for activation through the Open Method of Co-ordination and for application in impact assessments. Progress can best be measured if such indicators are quantitative. A useful indicator could for instance be the administrative burden for companies. The Commission will be asked to consider whether it is possible to develop a common method to measure the administrative burden for companies due to European legislation.
- The Commission's Annual Report for 2004 should review progress since publication of the Action Plan and include proposals for future priorities and actions in relation to better regulation. This should incorporate updated targets as appropriate, as a contribution to the mid-term review of the Lisbon Process at the 2005 Spring Council.

### ***Institutional Leadership and Support***

- The new Commission should consider nominating a Vice-President with explicit responsibility for economic reform to provide leadership, from the highest level downwards. The Commission, as the EU institution with the right of initiative on legislation, has a crucial role in supporting and delivering progress in this area.
- As stated in the Commission's Action Plan, all three institutions (Commission, Council and Parliament) have a role to play in improving the regulatory

environment. In this context it is important to ensure that the Interinstitutional Agreement on Better Lawmaking is effectively implemented, including agreement by the Council and European Parliament to modify their working methods by introducing for instance ad hoc structures with the specific task of simplifying legislation.

- The decision of Coreper last year on establishment of a horizontal Council Better Regulation Working Group should be activated through agreement on its mandate. This Group will have an important role in supporting implementation of the Action Plan as well as supporting the Commission's efforts to further improve the quality of extended impact assessments.
- The existing informal network amongst Member States, the Directors and Experts of Better Regulation, should continue to work to promote and monitor progress on Better Regulation amongst Member States, and to share experience and best practice with the new Member States in particular. In addition, during its Presidency, Ireland will host an expert seminar on the contribution of Better Regulation to competitiveness and economic performance. The Netherlands will, during its own presidency, organise a high level conference on 'better regulation', with particular attention to elements of the Action Plan such as the simplification programme.
- The quality of impact assessments could be enhanced by continuing efforts to develop capacity to produce and evaluate assessments. Best practice suggests that a strong, central coordinating function can help to ensure that the analysis contained in the assessments will influence decision-making.

### ***Improving the Quality of Regulatory Proposals***

- The process of deciding which Commission proposals are subject to an Extended Impact Assessment should be agreed with Council annually. There should also be a more formal quality control on Extended Impact Assessments before a Commission proposal is published.
- Impact Assessments should be used as a basis for competitiveness-proofing of all proposals by the Competitiveness Council.

- The Council, the Commission, and the Parliament should make greater use of imaginative, outcome-based approaches to legislation, such as the New Approach. Mutual recognition can, in many areas, allow for greater progress in delivering shared objectives.
- The Commission should make greater use of review clauses in the design of regulation, extending them to a significant proportion of all new EU legislation.

### ***Simplification***

- A timetable should be agreed by the Council and Commission for a targeted process of simplification during 2004/5, including in the environmental and social areas. This process should focus on areas where the impact in terms of the burden on business and competitiveness is greatest.
- The current simplification programme has the potential to contribute significantly to reducing the negative economic impact of regulation, including through consolidation and codification.
- The potential benefits of this reduction, within the simplification programme, should be maximised, including by addressing administrative costs - as identified and measured by the Commission - and the effects of legislation on competitiveness. Member states could be asked to provide examples of legislation that their companies experience as particularly burdensome in order to allow the Commission to consider these issues in its simplification programme.

### ***Alternatives to Regulation***

- Due consideration should be given to the use of alternatives to regulation wherever possible, including, in the area of the Single Market, the pro-active use of competition policy, building on the conclusions of the March 2003 spring European Council and the welcome steps taken by the Commission in this area.

### ***Better Regulation at Member State Level***

- Improved regulatory processes and structures at Member State level will also make an important contribution to the economic performance of the Union and the realisation of competitive benefits from the internal market. Member States should commit to ongoing national regulatory reform initiatives, including the introduction of effective systems of impact assessment for new legislation and simplification programmes, building on the best practice that can be shared across Member States.

We are confident that you share with us the conviction that Better Regulation will help us meet the Lisbon objectives of creating growth and employment in the European Union and look forward to working with you on this issue during the next four presidencies.

Yours sincerely,

***Charlie McCreevy   Gerrit Zalm   Jean-Claude Juncker   Gordon Brown***