EU regulatory fitness and subsidiarity and proportionality - 19th report on Better lawmaking covering the year 2011

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PURPOSE: to present a programme, called **REFIT**, which aims at more targeted EU regulation.

BACKGROUND: EU legislation is essential to achieve the objectives of the EU Treaty and to set the conditions for smart, sustainable and inclusive growth, benefitting citizens, businesses and workers. Achieving these goals is a shared responsibility between the Commission, the other European Institutions and the Member States.

The economic and financial crisis has focused attention on the **costs of EU legislation** and the challenges of implementing and enforcing the laws already on the statute books. National administrations, already under strain, find it difficult to keep up with the transposition and application of EU legislation. Businesses and citizens raise concerns about the complexity and administrative load of laws. The European Council has therefore called for further efforts to reduce the overall regulatory burden at EU and national level.

The Commission is responding to these concerns. Since outlining new initiatives two years ago, it has consolidated its **impact assessment system**. The 25% target set under the Action Programme for Reducing Administrative Burdens has been met and exceeded. Legislation has been simplified and codified. Significant simplification proposals in several policy areas are being examined by the European Parliament and Council. Many problems on the correct application of EU legislation are being solved without having to resort to formal infringement procedures.

It would appear, nevertheless, necessary to further enhance the initiatives already taken.

CONTENT: the Commission will continue its activities in this field and is determined to meet policy goals at **minimum cost**, achieving the benefits that only EU legislation can bring and eliminating all unnecessary regulatory burden. It intends therefore to propose a programme designed to set in place **fitter regulation**.

To this end, it will:

- continue to strengthen its regulatory tools and to apply them systematically across its regulatory activities;
- also step up its implementation and enforcement in close cooperation with the other European institutions and the Member States;
- combine various initiatives now underway into a **Regulatory Fitness and Performance Programme** (REFIT) aimed at **eliminating unnecessary regulatory costs** (i.e. burden) and ensuring that the body of EU legislation remains fit for purpose.

Against quantitative targets: in its Communication, the Commission indicates that it **does not believe that setting global targets and/or quantitative formulae for managing the stock of legislation will produce the desired results**. This requires a more tailored approach with an assessment of actual benefits and costs - identifying whether they are directly related to EU legislation or to the implementation choices made by the Member States. Such an approach would make it possible to **more accurately target cost**

reduction and regulatory improvements and would be better suited to the specificities of EU policy making.

Main objective of a Regulatory Fitness and Performance Programme, REFIT: to move towards its goal, the Commission will launch a Regulatory Fitness and Performance Programme (REFIT) building on its experience in evaluating and reducing administrative burden. **REFIT will identify burdens, inconsistencies, gaps and ineffective measures**. Attention will be paid to possible regulatory burden related to how EU legislation is implemented at the national and sub-national level.

Through REFIT, the Commission will:

1. identify, assess, adopt, and monitor implementation of, initiatives which will result in **significant regulatory cost reduction** or simplification;
2. propose a **common framework for conducting assessments**, on the one hand, to show how they fit into the overall objective of ensuring smart regulation and eliminating burdens, to involve all relevant levels of government and, on the other, to facilitate wide stakeholder participation;
3. conduct a mapping exercise to identify the regulatory areas and pieces of legislation with the **greatest potential for simplifying rules and reducing regulatory cost for businesses and citizens** without compromising public policy objectives. Normally, the mapping will point to areas where further evaluation, including of costs and benefits, is needed. These evaluations will also assess whether quantitative targets for burden reduction should be examined in the concerned field and in relation to EU and Member States responsibilities respectively. Where the mapping provides sufficient evidence that more immediate action is needed, an impact assessment process for the proposals will be launched. Stakeholders will be informed throughout the process;
4. implement REFIT in a **transparent** manner: once the mapping and appropriate evaluation work has been conducted, REFIT evaluations will be publicly flagged in strengthened multiannual evaluation plans starting from 2014. A tracking system (**scoreboard**) will be set up to assess the progress of proposals through the EU institutions and at the implementation stage;
5. REFIT will include **a follow-on** to the Administrative Burden Reduction Programme (ABR) - ABR Plus. The 2007 Programme aimed to reduce burdens on business stemming from EU legislation by 25% by 2012. It covered around 80% of the main sources of administrative burden. The Commission has gone beyond the target by presenting proposals to cut the administrative burden by over 30 %, while measures equalling 25% have been adopted by the co-legislators. Benefits will not materialize until the ABR is successfully implemented. ABR Plus will therefore focus on follow-up in the Member States. Member States will be asked to report by 31 December 2013 on how they implemented ABR measures. Special measures will be set in place to evaluate the reduction in administrative burden **for SMEs.**

The Commission's communication presents the methodology, the tools and the partners that it envisages being involved in implementing the REFIT programme. This would include, among other things:

- the continuation of the impact assessment programme;
- further evaluation of implementation measures in force;
- the continuation of the systematic consultation of stakeholders;
- the involvement of all the European and Member States' institutions.