Minimising administrative costs imposed by legislation

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PURPOSE: to minimize administrative costs imposed by legislation.

CONTENT: Concern for regulatory costs imposed by EU legislation is not new. The Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing the European Community already provides that “any burden, whether financial or administrative, falling upon the Community, national governments, local authorities, economic operators or citizens needs to be minimised and proportionate to the objective to be achieved”. In the EU’s approach to better regulation, the preparation of new legislation and simplification of existing legislation take into account the overall benefits and costs.

Therefore, regulatory costs, of which administrative obligations are just one element, must be analysed in a broader context, encompassing in an integrated way the economic, social and environmental costs and benefits of regulation. This is why the assessment of administrative burdens must continue to form a part of the Commission’s integrated impact assessment procedure. Measuring administrative costs can help to improve the regulatory environment, but it cannot take a disproportionate weight in that broader analysis. Nor can EU legislation be presented as a mere cost factor, in particular as it often replaces 25 different national legislations and thus decreases operating costs at EU level.

It is also necessary to recognise the benefits of reporting and information obligations of EU legislation. Without the resulting data streams for public authorities and companies, enforcement and implementation will be severely restricted to the detriment of economic, social and environmental objectives. It is therefore a question of ensuring a proper balance where reporting and information costs are proportionate to the benefits they bring. Moreover, some of these benefits accrue directly to businesses. Business can, for example, benefit from having a better understanding of how it uses its resources and can use this information to identify process innovations that increase productivity.

The Commission already evaluates administrative costs when assessing the possible impact of new initiativesand when simplifying existing legislation. However, it may be possible in the broad EU framework for better regulation to ensure that administrative costs arising from EU legislation are better evaluated, controlled and minimised, while ensuring proper enforcement of public rules.

This is one of the objectives set by the “Joint Initiative on Regulatory Reform” adopted on 26 January 2004 by the countries holding the presidency of the Council in 2004-5.

The Commission agreed to examine the feasibility of developing a common approach with the other institutions and with Member States to quantify and minimise administrative costs in a proportionate manner. Without questioning the need for regulatory authorities to pursue policy objectives through legislation, there is scope for considering more carefully the design of EU regulations at all stages of the legislative procedure and implementation by Member States.

However, the Commission also stresses that before embarking on a common endeavour, some serious questions need to be addressed. Different approaches to quantifying administrative costs exist, but there is not necessarily a one-size-fits-all approach to data collection that is applicable for all policies at the EU level. A flexible approach therefore needs to be developed. Moreover, a common approach needs to be accompanied by recognition of the shared responsibility of EU institutions and Member States and be

consistent with the balanced and integrated approach endorsed inter alia in the Interinstitutional Agreement on “Better Lawmaking”. Lastly, the Commission will continue to exercise its right of initiative based on its own best judgment of the impacts of its proposals.

The pilot phase to be launched builds on the experience of Commission services in assessing administrative costs in the context of impact assessments, work of various Member States and international organisations in this domain, as well as on the recent analysis of the Economic Policy Committee and the conclusions of the Council (ECOFIN) of 21 October 2004. It starts by examining the need for a common approach at EU level and the criteria that such an approach should meet. It then outlines a possible approach, its scope of application and some preconditions for its possible introduction and use. Lastly, this Staff Working Document sets out the launch of a pilot phase to test the feasibility and value-added of a common approach.