

OPINION OF THE HIGH LEVEL GROUP OF INDEPENDENT STAKEHOLDERS ON ADMINISTRATIVE BURDENS

Subject: Fast Track Actions (FTAs) 2008

Background on FTAs

A key part of the Action Programme on administrative burden reduction in the EU consists of a large-scale analysis of administrative burdens in 2007/08, to be followed by comprehensive simplification proposals. However, in order to produce concrete results in the short run, the Action Programme also includes actions for immediate implementation that are likely to generate significant benefits through relatively minor changes in existing legislative acts. Because of the nature of the changes required, these actions can be adopted fairly quickly. They are therefore called "Fast Track Actions" (FTA).

Ten FTA affecting European businesses were already tabled in 2007 by the EU Commission in order to significantly speed up the process for the adoption of legislative measures concerning reduction of administrative burden. This package was already adopted with high priority in January 2007 and has been explicitly endorsed in March 2007 by the heads of state and government at the Spring European Council. Thereby the FTA package 2007 generated higher visibility and general support by the Member States. Calling the ten proposals *Fast Track Actions* was meant to keep them out of political disputes, and allow them to be adopted swiftly via comitology or legislative procedures. Although it was not possible to finalise all FTA from 2007 by the end of that year, this approach gave the procedure a clear impetus. The Commission intends therefore to continue to use this strategy by adopting another FTA package in 2008 and has asked the High Level Group to give an opinion on the actions that are intended to be part of the FTA package for 2008.

In order to reduce administrative burden by 25% by 2012 (a target endorsed by the European Council of March 2007), the EU will need to amend or repeal a relatively large number of legislative provisions. Most reduction recommendations will be available at the end of 2008 or early in 2009. In many cases, the European Commission will consult stakeholders and conduct an impact assessment before presenting legislative proposals to the European Parliament and the Council. All in all, the entire process of adopting new legislation normally takes up to 3 or 4 years.

While this institutional framework allows for the necessary transparency and open discussion in an enlarged European Union, it makes it difficult to handle pressing needs to revise or adopt new actions *that are only intended to reduce the administrative burden*. This is particularly true of the EU initiatives to simplify EU legislation and/or reduce administrative burdens on European businesses (two pillars of "Better Regulation").

This structural problem has repeatedly been the subject of inter-institutional consultations in recent years. In 2003, the European Parliament, the Council and the Commission even

pledged "to modify their working methods by introducing, for example, ad hoc structures with the specific task of simplifying legislation".¹

With new European elections scheduled for June 2009, the European Parliament announced that it would not consider new legislative initiatives after March/April 2009. Experience from previous elections indicates that normal legislative work might not be back to full speed before November 2009.

In view of this situation, it may be difficult for the EU to reach its 25% reduction objective by 2012. The risk of the EU failing to meet its objective makes the Fast Track Actions (FTAs) particularly important for speeding up legislative projects. This is true for all stakeholders at EU level and in the 27 Member States who are involved directly or indirectly in the legislative procedure.

In view of this situation the High Level Group calls upon all parties involved to use already existing procedures to speed up the implementation of the proposed measures and, where necessary and feasible, to foresee new such procedures.

In order to review the progress regarding the use or introduction of fast track procedures the High Level Group asks the Commission to present, starting from 1 July 2008 and every six months thereafter, a progress report on the use and implementation of all the above mentioned and linked measures as well on EU and national level.

2008 FTA package

The EU Commission submitted a series of documents regarding the 2008 FTA package to all members of the High Level Group. Actions envisaged as part of the 2008 FTA package are listed in the table attached as annex 1 [Note by the reporting member: The final package has not yet been submitted. The assessments which follow are based on the Proposals submitted by the Secretariat on February 8, 2008.]

Procedure

In its constituent meeting, the High Level Group agreed that its members Mr Berger and Mr Illy will act respectively as reporting and deputy reporting members. The reporting members drafted the text of the opinion and submitted it to the chair. The chair hereby submits this opinion to the High Level Group in agreement with the reporting members.

¹ "Within six months of the date upon which this Agreement comes into force, the European Parliament and the Council, whose task it would be as legislative authority to adopt at the final stage the proposals for simplified acts, need to modify their working methods by introducing, for example, ad hoc structures with the specific task of simplifying legislation". European Parliament, Council, Commission, Inter-Institutional Agreement on Better Law-Making, Official Journal of the European Union C321/1, December 31, 2003, paragraph 36.

General assessment of the actions

The High Level Group welcomes the Fast Track Actions, insofar as they lead to a reduction in the cost of bureaucracy/administrative burden on the European economy.

In addition, the High Level Group welcomes that the Commission has decided not to wait with reducing the burden on European businesses until the consortium of consultants has analysed the costs of bureaucracy and submitted proposals as to how these costs can be reduced. Instead, it intends to quickly propose initial reductions in the context of Fast Track Actions. This approach has already proved its worth last year and led to initial savings of EUR 500 million.

It must nevertheless be noted that neither the reporting members nor the High Level Group can yet assess whether and to what extent the proposed FTA package might lead to such savings. This assessment is not yet possible because quantified data are at present available either only in rudimentary form or not at all.

At present, the High Level Group has quantified data for only 4 of the 16 Fast Track Actions; these data are largely derived from surveys in two Member States (UK and DK). No quantified data whatsoever are yet available for the remaining 12 proposals.

Valid quantified data are indispensable if the High Level Group is to discharge its duties fully as defined by Article 2 of the Commission Decision to establish a High Level Group of independent stakeholders on administrative burdens. In the opinion of the High Level Group, the Secretariat of the High Level Group must be enabled, in cooperation with the Directorates-General concerned, the Impact Assessment Board and the consortium, to ensure that such quantified data is available for the Fast Track Actions. Quantification is in addition a pre-condition for a successful implementation of the Action Programme. A comprehensible and transparent reduction of administrative burden by 25% till 2012 is only possible with a respective estimation of the cost that the reduction measures represent.

The High Level Group is therefore not yet able to submit a final assessment of the Fast Track Actions. This can only be done if the quantitative data which are still lacking are immediately gathered by the EU Commission. Only then can the High Level Group submit a final assessment which can be forwarded to the European Parliament and the EU Council of Ministers for inclusion in deliberations concerning the ongoing legislative process.

The High Level Group believes that a "quick quantitative check" to give a rough estimate of the reduction potential would be possible within six weeks at most. This check up should be entrusted to the specialists in the relevant Directorates-General, assisted by two to three experienced staff from the consortium. Cost could be calculated based on the outcome of the inventorying exercise (13 priority areas) and data from Member States, who already have experience of calculating the cost of such activities using the standard cost model.

Notwithstanding the lack of quantitative data mentioned above, the High Level Group has nevertheless carried out an initial assessment of the FTA proposals as best it could, drawing on a number of specialist reports at its disposal. Where no relevant information was available, the High Level Group on some occasions formulated inspection orders

regarding alternative options for further moves to eliminate bureaucracy (such as raising thresholds or reducing the number of companies required to disclose information).

The High Level Group would also point out that two of the sixteen Fast Track Actions may still be withdrawn by the Commission (information as of February 20, 2008). This would lead to a corresponding reduction in the potential to reduce economic burdens.

Individual assessment of the actions

In light of the general assessment of the actions presented in the preceding section, the chairman hereby submits this opinion in agreement with the reporting members. Answers to the question listed below are expected by the group to be given together with the results of the desired quantitative quick check.

Number	Comment
1	<p>This proposal for a Fast Track Action stems from a proposal by the AAF, the trade association representing the interests of the starch industry (foodstuffs) both at European and international level. It represents a straightforward and real reduction potential.</p> <p>However, it affects only a small portion of the population (the producers of food products containing modified starch). Extrapolating from the data available for two Member States indicates a potential reduction of between EUR 156,224 and EUR 780,047.</p> <p>The group asks the Commission to examine whether an additional increase of the threshold value above the envisaged 50 EUR/t would be possible.</p> <p>Furthermore, the group asks the Commission if similar reporting commitments do exist for businesses in related industries (e.g. other food producers) which could also profit from a simplification of administrative procedures.</p> <p>The group also requests clarification as to whether the regulation in the form described is in force in all Member States (in the light of information to the contrary from Member States).</p>
2	<p>This proposal for a Fast Track Action concerns the removal of the obligation to report (on a single occasion or once every six months) on reserves for flexibility for the emission targets affecting mobile combustion engines used off-road (e.g. in industrial and construction machinery, agriculture and forestry machinery, etc.). This would also affect only a small number of businesses; quantified data are not available.</p> <p>The group asks the Commission whether similar reporting</p>

	<p>obligations exist for stationary combustion engines (e.g. in generators) which could also profit from a simplification of administrative procedures.</p> <p>The group asks the Commission whether identical reporting obligations exist at national level for the same information (reduplicated reporting obligations).</p> <p>Furthermore, the group asks for clarification as to whether these reporting obligations in the form discussed above are complied with systematically in all Member States or have already been superseded by new regulations at national level. This may also affect the reporting obligations in related areas.</p>
3	<p>This proposal for a Fast Track Action concerns the reduction of administrative burdens on producers relating to the requirement on Member States to give notice of the intention to operate radio-communication equipment. However, the procedures applied in Member States would not be standardized as a result of the alteration. In addition, the regulation affects only a small number of businesses (according to current estimates, around 50,000 notifications per year are made EU-wide).</p> <p>The group asks the Commission how large the estimated potential reduction in administrative burdens would be as a result of an EU-wide harmonisation of the reporting obligations.</p> <p>In addition, the group asks to what extent the introduction of one-stop notification systems (the Member State informing the EU) while retaining national notification procedures would lead to a reduction in bureaucracy and avoid reduplicated notifications.</p> <p>One positive point is that the Commission has recognised the potentially much more important part played by the EU-wide harmonisation of the use of radio frequencies and has addressed this issue in a recently proposed Directive (Framework Directive for electronic communications, in accordance with proposal COM(2007) 697).</p> <p>The group asks the Commission about the current state of proceedings regarding said Directive with respect to the reduction of bureaucracy.</p>
4	<p>This proposal for a Fast Track Action concerns the "variation directives" for the registration of pharmaceuticals (e.g. following variations of the production process, packaging or address of the manufacturer).</p> <p>Variations of pharmaceuticals create a considerable administrative burden</p>

	<p>both for the industry and for the responsible authorities. Dealing with them accounts for an estimated 60% of the staff and cost of regulatory departments in businesses. At the same time, there exists a responsibility to protect both patients and society.</p> <p>The High Level Group welcomes the proposed reduction of bureaucracy within the framework of the variation directives within the EU.</p> <p>The group asks the Commission whether said reporting obligations could not be reduced or standardised as a whole and/or more strongly concentrated (e.g. for variations of packaging).</p> <p>The group asks the Commission whether within the framework of a consultation with the European Medicines Agency further actions aimed at simplifying the procedures could be suggested.</p> <p>The group asks the Commission whether identical reporting obligations exist at national level for the same information (reduplicated reporting obligations).</p> <p><i>Mr. Murray and Mr. Hontelez, members of the HLG, wish to express their dissenting opinion as far as humane medicaments are concerned by this proposal. Both members are of the view that this proposal should not be dealt with as a fast track action but within the normal process of the administrative burden reduction programme.</i></p>
5	<p>This proposal for a Fast Track Action relates to the harmonisation of definitions of volatile organic compounds.</p> <p>In principle, the harmonisation of conflicting definitions in EU law does not in itself constitute an action to reduce the burden of bureaucracy within the standard cost model. Moreover, the regulation affects only a small number of businesses. When harmonising or changing definitions information obligations and measurable administrative burden on businesses can indirectly be affected; these will then have to be quantified. For this reason an assessment is not possible at the present time.</p>
6	<p>This proposal for a Fast Track Action concerns a clarification of an article in the Battery Directive (unclear key date regulation and its implications on the taking back of batteries currently in circulation on the market).</p> <p>This action likewise does not relate to information obligations by businesses and does not constitute a direct reduction in the burden of bureaucracy within the standard cost model. The regulation nevertheless runs the risk, in the absence of a clarification, of entailing a burden for citizens and businesses. At the same time, it is unclear from information available whether the legislator does not, in fact, wish old batteries to be taken out of circulation. For this reason an assessment is not possible at the present time.</p>

<p>7</p>	<p>This proposal for a Fast Track Action concerns the relaxation of statistical reporting, particularly for small- and medium-sized enterprises (SMEs).</p> <p>The High Level Group welcomes the proposed reduction of bureaucracy regarding reporting for the purposes of drawing up intra-community trade statistics. The potential is particularly important for SMEs, with approximately 200,000 businesses directly affected by this regulation.</p> <p>The group asks the Commission whether the minimum reporting threshold for incoming goods can be lowered further than the proposed 95% of the trading value (e.g. by setting a higher value for minimum reporting every 3 or 6 months in return for lowering the threshold value still further in other months).</p> <p>The group further asks the Commission whether it would consider reducing the threshold value for the company providing the goods, too.</p> <p>The group asks the Commission whether the reports could not be simplified such that reporting for the country providing the goods and the country receiving the goods occurred at the same time (e.g. by the company providing the goods only).</p> <p>The group asks the Commission whether identical reporting obligations exist at national level for the same information (reduplicated report obligations).</p>
<p>8</p>	<p><i>Note from the secretariat: This proposal has been withdrawn by the Commission from the list of FTA for 2008</i></p> <p>This proposal for a Fast Track Action concerns an extension of the interval of inspections of fishing vessels. The High Level Group in principle welcomes the proposed reduction of bureaucracy relating to the existing security regulation for fishing vessels, as information obligations are affected indirectly at least. However, the regulation affects only a small number of businesses (a rough estimate for Denmark indicates approx. EUR 200,000).</p> <p>One comment on this action nevertheless notes that extending the interval between two inspections from four to five years would violate the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (known as the "Torremolinos Protocol"). This matter should first be fully clarified.</p> <p>The group therefore asks the Commission whether the potential reduction can indeed be realised and/or whether, in this context, there is the possibility of other actions aimed at further reducing</p>

	<p>bureaucracy (such as in related information obligations in the fishing industry at national and European level).</p> <p>If the action is found to be conform to the Convention, the group further asks the Commission whether it would not be desirable to extend the interval between inspections to a period of more than five years, and whether the minimum length for fishing vessels covered by the regulation could not be raised above 24 metres so as to reduce administrative cost.</p> <p>The group asks the Commission to extrapolate till its next meeting administrative cost for the EU as a whole in order to better assess the reduction potential.</p>
9	<p><i>Note from the secretariat: This proposal has been withdrawn by the Commission from the list of FTA for 2008</i></p>
10	<p>This proposal for a Fast Track Action concerns the publication of information in national gazettes which has already been announced in (electronic) trade registers.</p> <p>This Directive is part of the Action Programme and, as such, will be analysed by the consortium. The High Level Group welcomes the proposed reduction of bureaucracy regarding paper-based publications which also appear in electronic form.</p> <p>The group asks the Commission whether such duplicate publications – and hence the rule as a whole – cannot be eliminated altogether (the current intention is merely to halt the publication of business data where this gives rise to cost).</p> <p>Furthermore, Estonia can be held up as an example of good practice in how to handle publication obligations. Estonia dispensed with the obligation to publish particulars in the national gazette provided by Article 3 of the First Directive already as of 1 February 2003 when publication of the consolidated text of entries in the official publication "Ametlikud Teadaanded" was substituted by publication of a reference concerning the making of an entry on the web page of the Registers and Information Centre. As of 3 March 2002, the commercial register, non-profit associations and foundations register and commercial pledge register are maintained in electronic form. Based on Estonian national law, a register entry has legal effect as of the moment when a reference on making the entry is published in a public computer network.</p> <p>The group asks the Commission whether the publication procedure in Estonia could not be applied more broadly as an example of reducing bureaucracy cost.</p> <p>The group asks the Commission whether the mentioned cost of 2,5 MEUR based on measurements in two Member States can be replaced in the framework of the current inventory exercise by a new estimate for the</p>

	whole of the EU.
11	<p>This proposal for a Fast Track Action concerns the mutual recognition and translation of official documents in Member States.</p> <p>This Directive is part of the Action Programme and, as such, will be analysed by the consortium. The High Level Group in principle welcomes the proposed reduction of bureaucracy.</p> <p>The group asks the Commission whether all additional translations and reduplicated recognition of official documents between Member States can be avoided. In this case, however, a detailed analysis must first be obtained, particularly with respect to legal certainty in the mutual recognition of documents.</p> <p>The group asks the Commission whether the mentioned cost of 1,39 – 3,5 MEUR based on measurements in two Member States can be replaced in the framework of the current inventory exercise by a new estimate for the whole of the EU.</p>
12	<i>Note from the secretariat: This proposal has been withdrawn by the Commission from the list of FTA for 2008</i>
13	<p><i>Note from the secretariat: This proposal has been withdrawn by the Commission from the list of FTA for 2008</i></p> <p>This Directive deals with the reduplicated publication of written documentation at the level of Member States as well and, subsequently, at EU level, and with the decision not to publish in paper form if sufficient information is available electronically.</p> <p>The High Level Group in principle welcomes this proposed reduction of bureaucracy.</p> <p>The group asks the Commission whether a complete harmonisation of the Transparency and Prospectus Directive could not put an end to all forms of parallel reporting.</p>
14-16	<p><i>Note from the secretariat: Proposal 14 has been withdrawn by the Commission from the list of FTA for 2008</i></p> <p>These Directives, for which the Directorate-General Internal Market and Services is responsible, are part of the Action Programme and, as such, will be analysed by the consortium. The Directives concern accounting standards and disclosure requirements for businesses and should be assessed as a whole when the analysis is completed.</p> <p>The group asks the Commission whether analyses relating to the rules in question could be brought forward in time.</p> <p>Insofar as this concerns the clarification of existing legislation (Action 15), the proposed FTA should be introduced into the legislative</p>

	procedure immediately.
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Final remarks

Fast Track Actions are a key element in reducing bureaucracy in Europe. They are also highly significant with regard to the immediate legal implementation of actions which have already been agreed and which are aimed at reducing the cost of bureaucracy.

However, the full potential of Fast Track Actions does not appear to be realised at present. The High Level Group therefore suggests that the efforts to identify further FTAs be increased. To this end, a contest involving all Member States should be set up, the aim of which would be to generate new suggestions on reducing bureaucracy. This contest should be aimed at businesses and citizens; furthermore associations (national and European trade and industry associations) should be addressed as well. To generate high-quality suggestions, a special web page should be developed outlining the minimum requirements and enabling the submission of proposals. e.g. the existing on-line consultation tool could be developed in that sense.. Contests in each of the Member States should be announced by media partners and provided with clear deadlines. The prize ceremony at the conclusion of the contest should be staged in such a way that the winners receive the necessary public attention. Given sufficient response to the contest, prizes could be awarded on EU as well as on national level. The High Level Group declares itself willing to help generate interest in such a competition, as well as to be involved in the tasks of the jury and organising the award ceremony.

It is the wish of the High Level Group that the Commission should propose during the course of 2008 another package of FTAs offering significant potential savings. This should be drawn up on the basis of the results of the contest and the planned workshops with Member States. It could also draw on direct submissions from businesses and trade and industry associations made to the chairman or members of the High Level Group.

Brussels, February 26, 2008