



## EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

### OPINION OF THE HIGH LEVEL GROUP

#### Subject: Future extension of the scope of the Action Programme

#### I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to advise the European Commission with regard to the Action Programme for Reducing Administrative Burdens in the European Union.<sup>1</sup> The aim of the Commission is to reduce administrative burdens on businesses arising from EU legislation by 25 % by 2012. In its meeting on 17 September 2009 the HLG adopted its Intermediate Report which included the opinions adopted for all 13 priority areas covering the 42 acts originally in scope of the Action Programme.<sup>2</sup>
- (2) On 28 January 2009 the Commission decided to extend the scope of the Action Programme by another 30 acts.<sup>3</sup> The HLG gave its advice in an opinion on this extension adopted on 20 May 2010 as well as in sectoral opinions for the priority areas Environment and Transport adopted on 20 May and 8 July 2010 respectively.<sup>4</sup>
- (3) On 22 October 2009 the Barroso I Commission identified 28 acts where potential for further reduction could exist and which may, for all or some, be part of new initiatives for reducing administrative burdens.<sup>5</sup> These acts would either extend the scope of the current 13 priority areas or add new areas to the Action Programme in the field of civil law / commercial law, internal market for goods, R&D funding programmes and tourism. The current Commission intends to decide about the second extension of the Action Programme by the end of this year.
- (4) The HLG's mandate explicitly mentions that the group will suggest which additional pieces of existing legislation could be included in the EU-wide measurement exercise,

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<sup>1</sup> Cf. Art. 2 of Commission Decision of 31 August 2007 – C(2007)4063

<sup>2</sup> Cf. HLG website on: [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index\\_en.htm](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index_en.htm)

<sup>3</sup> Cf. 6. of Commission Working Document COM(2009)16 as well as its Annex 9.

<sup>4</sup> [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index\\_en.htm](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index_en.htm)

<sup>5</sup> Cf. COM(2009)544 section 5 as well as its Annex F.

as necessary.<sup>6</sup> In this context HLG members came up with further suggestions for the extension of the Action Programme until March 2010. These suggestions had been transmitted to Commission services for their comments (cf. annexed overview). The services' feedback has been sent to HLG members at the end of June, and has been integrated in this opinion.

- (5) The HLG appointed Mr. Linschoten as coordinating reporting member for this opinion. Since Mr. Linschoten resigned from the HLG on 28 September 2010, the HLG appointed Ms. Fritsch as coordinating member for this opinion.

## II. General comments

- (6) The HLG supports the idea that the scope of the Action Programme for Reducing Administrative Burdens in the European Union can be extended. This is highlighted by the Commission's decision to extend the scope of the Action Programme in January 2009 and its proposal for a second extension of the Action Programme by a further 28 acts in October 2009.<sup>7</sup> In the HLG's view the European Union should take into account the entire *acquis communautaire*, in order to tackle unnecessary administrative burdens for businesses in a comprehensive manner. In addition, the HLG urges the Commission to take the issue of reducing unnecessary burdens for businesses into account whenever existing EU legislation is being reviewed, in order to ensure a systematic approach to reducing unnecessary administrative burdens where possible.
- (7) As VAT is the single most burdensome area of all priority areas in the present Action Programme and yet necessary for all business to handle on a day-to-day basis, the HLG wants to underline the importance of further simplification in this area. Though the HLG has already presented opinions for this area with an estimated aggregate reduction potential exceeding €25 bn.<sup>8</sup>, the HLG is convinced that the area still holds huge potential for further reductions of the administrative burdens as well as other simplification measures. The HLG therefore urges the Commission to keep VAT in the extended programme and initiate further analysis and hearings etc. in order to collect further suggestions for cutting unnecessary red tape.
- (8) Concerning the 28 acts suggested by the Barroso I Commission for a possible extension, the HLG supports the proposed extension including the new priority areas. Nevertheless, the HLG notes that the administrative burden reduction potential of most of these acts is assessed to be rather low.<sup>9</sup> The HLG believes that the scope of the Action Programme should be extended beyond the 28 proposed acts. In part III the HLG comes forth with suggestions. Furthermore, since the review of stakeholders'

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<sup>6</sup> C(2007)4063

<sup>7</sup> Cf. COM(2009)544, annex F.

<sup>8</sup> Cf. HLG opinions of 10 December 2008 (e-invoicing) and 28 May 2009 (priority area taxation).

<sup>9</sup> A preliminary assessment of high reduction potential is only given for the package on seed and plant propagating material and for Directive 92/83/EC on the harmonisation of the structures of excise duty on alcohol and alcoholic beverage.

suggestions for an extension was performed before the adoption of the Commission's 22 October 2009 Communication, the HLG calls upon the Commission to consider further suggestions received after that date for the extension of the Action Programme. In this respect, the HLG refers to its two opinions on offline suggestions adopted on 12 November 2009 and 28 January 2010 respectively. These opinions also deal with stakeholder complaints about acts not covered by the Action Programme, such as Regulations (EC) No 852-854/2004 on food hygiene, Regulation (EC) No 2150/2002 on waste statistics, Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures, Directive 2006/42/EC on machinery, Regulation (EC) No 1207/2001 on preferential trade<sup>10</sup> or Directive 1999/70/EC on fixed-term work. Moreover, the HLG refers to its 7 July 2009 opinion on offline suggestions which deals with further acts not covered by the Action Programme so far, e.g. in the area of Financial Services.

- (9) The HLG underlines that the Action Programme can only be effective if the coming extension consists of acts for which reduction measures still need to be identified. The last extension consisted of acts of which for the majority reduction measures were already adopted, even well before 2007. The Action Programme should envisage the promotion of new reduction measures.
- (10) The HLG regrets that the process of implementing its recommendations for administrative burden reduction by the EU institutions is slow and thus undermines its credibility.
- (11) Businesses do not distinguish between administrative burdens as defined by the Standard Cost Model and other costs arising from legislation. Problems related to inconsistencies, multiple reporting obligations of similar information, overlaps and/or gaps between different directives, differing definitions etc. may fall outside the definition, but are still part of the regulatory burden for business. In fact, the administrative burdens are only a small part of the total regulatory costs entailed by businesses. While the HLG does not touch upon the scope or objective of the legislation, it nevertheless urges the Commission to look into the possibility to extend the approach to compliance costs. In the current economic situation it is essential that all possibilities are explored to reduce unnecessary costs for businesses. The HLG therefore welcomes the intention of the Commission “to launch pilot evaluations that would look at an entire policy sector to identify overlaps, gaps, inconsistencies, obsolete measures, excessive administrative burdens, etc. Implementation difficulties, high compliance costs and stakeholder complaints may serve as indicators to identify the policy sectors most in need of this approach.”<sup>11</sup>
- (12) The HLG urges the Commission to consult the Group on the methodology that will be used to measure the new extension acts well before the measurements start. In the HLG’s opinion of May 2010 recommendations were made to improve the last methodology used by CEPS. The HLG urges the Commission to look into this, and emphasises that at least stakeholders should be consulted while measuring the

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<sup>10</sup> Now integrated into the Modernised Customs Code (Regulation (EC) No 450/2008, cf. recital 39, Art. 186).

<sup>11</sup> Cf. COM(2010)135 Commission Work Programme 2010 – Time to act, p. 10.

administrative burdens. Only this will make a more realistic estimation possible, increasing the credibility of the approach.

- (13) An overview of all information obligations imposed on businesses by the *acquis* does not exist. This makes it difficult for the HLG to come forth with a complete overview for new acts that should be taken up for a structured approach. The suggestions made in part III are suggestions based on the experience from the stakeholders consulted and the members of the Group. It is by no means an extensive list. Given the reactions of stakeholders to this issue as well as to the numerous suggestions for policy sectors that could be subject to pilot policy evaluations within the consultation on smart regulation<sup>12</sup>, the HLG recommends that the Commission repeats the consultation of stakeholders on possible areas for action concerning simplification and administrative burden reduction potential on a more regular basis. Furthermore, the HLG advises the Commission to start with the first steps to allow for a complete revision of the *acquis* on this issue.
- (14) Proposals that are still being negotiated have also raised concerns among business stakeholders. An example is the proposal for a directive on implementing the principle of equal treatment (COM (2008) 426). The HLG urges the Commission, the Council and the European Parliament to take into account the administrative burdens on business and citizens when deciding on and implementing new EU legislation. Unfortunately, there are still cases where new proposals lead to disproportionate burdens.
- (15) Since stakeholders often complain about the cumulative effects of different pieces of legislation (e.g. inconsistent definitions and obligations, overlaps, gaps etc.) rather than about an individual act, these interconnections need to be addressed within the smart regulation approach.

### **III. HLG suggestions for extension**

#### ***1. Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid***

- (16) Under the current practice the accountability requirements for all grants are the same, regardless of the amount involved. Especially for smaller beneficiaries these requirements, even though the risk involved is lower, excessively raise administrative costs making them reluctant to apply for these grants. According to the stakeholder these requirements, especially in times of economic crisis, seriously hinder proper accessibility to grants for smaller beneficiaries.
- (17) According to the Commission Regulation No 1998/2006 had already substantially reduced the administrative burdens for public authorities, the beneficiaries and the Commission, since it clarified that grants that constitute *de minimis* aids do not need to be notified. Nevertheless, the Commission states that it will consider possibilities to simplify the administrative burden linked to the application of the regulation in the context of the future revision of the regulation (which applies until 2013).

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<sup>12</sup> Cf. paragraph 15 of the 8 July HLG opinion on the Stakeholder consultation on Smart Regulation

- (18) In the HLG's view a measurement of the administrative burdens of this regulation should be undertaken ahead of its future revision, in order to identify further reduction potential. The HLG supports an extension of the Action Programme by this regulation.

***2. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data***

- (19) A company with offices in several Member States is confronted with the obligation to report handling of data in all these Member States. The requirements related to the content of the report differ per Member State. It is expected that the reduction of annoyance caused by the time and effort spent towards determining notification requirements in each Member State as well as the need for multiple notifications in different Member States will have a significant impact on organisations operating in more than one Member State
- (20) This directive is included in the Simplification Programme as part of the revision of the data protection framework foreseen for 2010.<sup>13</sup> The Commission has carried out a public consultation at the end of 2009 and evaluated the contributions for the revision of the framework. An external study has been commissioned to assess the impacts of that revision. According to the Commission the reduction of administrative burdens will be one of the elements that will be considered. According to a study conducted by the Commission in 2005 the costs of compliance with the national legislation implementing this directive were limited.
- (21) An inclusion in the simplification programme does not mean that administrative burdens are being reconsidered consistently. In the HLG's view the complaints by companies indicate that companies perceive this directive as burdensome. The HLG recommends including this directive in the Action Programme and, when examining the directive, putting particular emphasis on the irritation factor of the obligations contained in this directive, also for SMEs.

***3. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing***

- (22) Not every Politically Exposed Person (PEP) poses the same risk (e.g. they request different services, etc). The EU could specify in the directive that institutions should be able to determine whether a customer is a politically exposed person in situations where there is an enhanced risk of corruption. A risk based approach is needed.
- (23) The Commission states that Directive 2005/60/EC has a limited scope, since it only applies to business relationships with PEPs who do not reside in the country of the financial institution. In this case financial institutions have to take some specific measures such as senior management approval of the relationship or the enhanced monitoring of the business relationship. The directive already allows for a risk-based approach in the case of PEPs who reside in the country of the financial institution. The

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<sup>13</sup> Cf. Annex III, p. 34, to the Commission's Work Programme for 2010, [http://ec.europa.eu/atwork/programmes/index\\_en.htm](http://ec.europa.eu/atwork/programmes/index_en.htm)

Financial Action Task Force (FATF)<sup>14</sup> is currently revising its voluntary but influential international standards on this issue. The expected revision will however most likely strengthen the standards further by also including domestic PEPs. The Commission shares some of the stakeholders' concerns and has strived for accommodating them in Commission Directive 2006/70/EC, which is much more specific than the FATF definition on PEPs.

(24) The HLG recommends including this directive in the Action Programme.

***4. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)***

(25) Business stakeholders have repeatedly complained about the disproportionate burdens stemming from REACH. If the Commission wants to tackle administrative burdens in a serious manner and wants its approach to have a noticeable effect, even the more sensitive issues should be addressed.

(26) The Commission acknowledges that the regulation has imposed a large number of administrative requirements on the industry. In order to limit them to the necessary minimum, an extensive impact assessment had been made and pilot studies had been carried out before the adoption of the regulation. Despite all efforts some shortcomings may remain. The Commission is working closely with the European Chemical Agency, competent authorities in Member States and industry representatives to drive the implementation process as smoothly as possible (guidelines, helpdesk, establishment of a contact group identifying and resolving priority issues of concern for the industry). By 2012 the Commission will evaluate the administrative burdens on the industry including potential cases of gaps and overlaps between REACH and other EU legislation and ways of addressing them.

(27) The HLG advises the Commission to include REACH in the Action Programme and measure the administrative burdens as part of the evaluation of the regulation in 2012. In this context the HLG recalls its 8 July opinion on the stakeholder consultation on smart regulation during which contributions both from environmental and health organisations as well as from the chemical industry had suggested REACH as a policy sector for a pilot policy evaluation.<sup>15</sup>

***5. Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment; Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings; Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases***

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<sup>14</sup> Global standard setter in the area of anti-laundering.

<sup>15</sup> Cf. HLG opinion, paragraph 15, [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/100708\\_opinion\\_smart\\_reg\\_consultation\\_incl\\_annexes\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/files/100708_opinion_smart_reg_consultation_incl_annexes_en.pdf); cf. EEB contribution on question 4: "Given that with regards to REACH there has been such a grim debate on the costs of it, this could be subject to a pilot policy evaluation, but only once REACH has really delivered on authorizations and substitutions."

***and Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources***

- (28) All these acts impose obligations regarding cooling installations. Stakeholders are confronted with differing definitions and obligations stemming from for example inspections and certification. This situation creates duplications which are inconsistent entailing unnecessary costs and a high level of irritation.
- (29) Directive 97/23/EC is part of the alignment of ten directives to the New Legislative Framework (Decision 768/2008) foreseen for the first quarter of 2011. This alignment is meant to result in a significant reduction of administrative burdens.
- (30) On 19 May 2010 a recast of Directive 2002/91/EC on the energy performance of buildings (2002/91/EC) was adopted in order to strengthen the energy performance requirements and to clarify and streamline some of its provisions.<sup>16</sup> Art. 19 of Directive 2010/31/EU foresees a review by 1 January 2017. The HLG recommends a measurement of administrative costs and burdens linked to the new directive well ahead of the revision date and welcomes the announcement by the Commission that a best practice exchange on how to set up the most effective system will be encouraged in the "concerted action" forum.
- (31) Art. 10 of Regulation (EC) No 842/2006 foresees a report on the application of the Regulation by July 2011. According to the Commission this review work is currently underway and foreseen in the Commission's Work Programme.
- (32) Directive 2009/28/EC should be implemented by Member States by December 2010. According to the Commission one of its objectives was to lower administrative burden for businesses. Art. 23 of the directive foresees a number of reporting obligations for the Commission starting from 2012 both on substance and functioning of the rules, based on reports by Member States.
- (33) The HLG recommends that the Commission includes all above mentioned acts in the Action Programme. In addition, an extension to the other nine directives<sup>17</sup> that are currently subject to the alignment to the new regulatory standards set out in Decision 768/2008) should be considered. Within the framework of the impact assessments for future product safety and free movement legislation (updating of existing legislation or new proposals) the recourse to the provisions of Decision 768/2008 should be systematically examined and non recourse duly justified, in order to benefit from further burden reduction potential. Furthermore, concerning Regulation 842/2006 the HLG recommends that the report on its application should already integrate a measurement of the respective administrative burdens. For directives 2010/31/EU and

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<sup>16</sup> Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings; Impact Assessment and Summary SEC(2008)2864/2865, IAB opinion SEC(2008)2822, pt. 3: Administrative costs should be assessed using the EU SCM; cf. [http://ec.europa.eu/governance/impact/ia\\_carried\\_out/cia\\_2008\\_en.htm#tren](http://ec.europa.eu/governance/impact/ia_carried_out/cia_2008_en.htm#tren)

<sup>17</sup> Directive 2006/95/EEC ('Low Voltage Directive'), Directive 2009//105/EC ('Simple Pressure Vessels Directive'), Directive 90/384/EEC ('Non-automatic Weighing Instruments Directive'), Directive 93/15/EEC ('Civil Explosives Directive'), Directive 94/9/EC ('ATEX Directive'), Directive 95/16/EC ('Lifts Directive'), Directive 2004/22/EC ('Measuring Instruments Directive'), Directive 2004/108/EC ('Electromagnetic Compatibility Directive'), Directive 2007/23/EC ('Pyrotechnic articles Directive')

2009/28/EC the HLG is of the view that the Commission should include a measurement of the administrative burdens at the latest in the context of the future review and reporting activities as foreseen by the directives. As mentioned in part II, the cumulative effects of different pieces of legislation and the interconnections between different acts need to be addressed within the smart regulation approach.

***6. Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy; Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora***

- (34) Regarding Directive 2000/60/EC, the Commission is already working on reducing administrative burdens in this field by progressively reducing (until 2013) the number of Directives, from 18 to 9, progressively repealing 17 different reporting or notification obligations for Member States. Forecasts indicate a reduction in reporting effort by 40 % by 2013. The HLG asks the Commission for an update during 2012 of the reduction achieved by then and recommends that the Commission looks into possibilities to integrate the existing measurements into the Action Programme.
- (35) Concerning the implementation of the directive 91/676/EEC, the Commission refers to a report submitted to the European Parliament and the Council in February 2010.<sup>18</sup> The results from Member States in the report are likely to be based on information from farmers and other stakeholders who are directly and indirectly concerned by this directive. The report does not contain any reference to administrative burdens. Thus, the HLG recommends that the directive is included in the Action Programme, in order to identify possible simplification and administrative burden reduction possibilities.
- (36) According to the Commission an evaluation is being planned for Directive 92/43/EEC in 2013. Some stakeholders have complained about extensive reporting burdens (in particular for public authorities) and called for simplification of this directive and a merger with the Birds Directive<sup>19</sup>, in order to realise synergies. In view of its extended mandate, the HLG recommends that the Commission carries out a comprehensive study of the simplification potential of the directives including the potential for merging the two directives.
- (37) As mentioned in part II, the cumulative effects of different pieces of legislation and the interconnections between different acts need to be addressed within the smart regulation approach.

***7. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers***

- (38) The directive was to be transposed by Member States by 12 May 2010. According to the Commission the costs caused by the new information obligations are outweighed

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<sup>18</sup> Cf. COM(2010)47

<sup>19</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version of Directive 79/409/EEC)

by the increasing product knowledge of the consumer and its capacity to easily compare competing products due to standardised pre-contractual information (Standard European Consumer Credit Information). An analysis of the functioning of the directive will be provided in view of the Commission's report foreseen for May 2013. In light of the high administrative burden of almost € 500 m. measured for Germany alone, the HLG advises the Commission to include this directive in the Action Programme and to ensure that a comprehensive measurement of the administrative burdens is carried out well ahead of the above mentioned Commission's report to feed into the analysis of the functioning of the directive, in order to identify reduction potential.

### **8. Waste Recycling**

- (39) Waste recycling legislation is becoming increasingly important to business and has been suggested to be included in the measurement exercise. The Commission has included certain pieces of waste legislation in its Work Programme.<sup>20</sup> The preparations for a full review of the recycling directives have already started. Results are not expected before 2012. The HLG advises the Commission to include the respective directives not measured so far in the Action Programme, in order to complement the measurement of the administrative burden of the waste acquis as part of the ongoing screening process.

## **IV. Additional burden reduction potential**

- (40) In addition to the acts mentioned above, the HLG calls upon the Commission to closely look into the burden reduction potential in the following areas.

### ***Equal treatment***

- (41) Currently, a proposal for a council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation is still being negotiated.<sup>21</sup> According to the Commission the directive takes into account the need to reduce the cost for business as much as possible by building largely on concepts used in the existing directives with which economic operators are familiar. Nevertheless, business stakeholders underline the extensive administrative burdens which this concept directive implies. In a European Business Test Panel consultation businesses had also expressed the wish to have the same level of protection from discrimination across the EU. The HLG is of the view that further possibilities for administrative burden reduction should be thoroughly investigated in the ongoing process.

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<sup>20</sup> Cf. Annex III, p. 34, to the Commission's Work Programme for 2010, [http://ec.europa.eu/atwork/programmes/index\\_en.htm](http://ec.europa.eu/atwork/programmes/index_en.htm)

<sup>21</sup> COM(2008)426

- (42) The VAT package<sup>22</sup> entered into force on 1 January 2010. Even though the package has simplified cross border Business to Business (B2B) services to some extent, it also leads to new and unnecessary administrative burdens. Sellers and buyers have to report cross border sales and acquisition already in the same period the service was supplied. This obligation is impossible to meet for business as no information is available for booking at that time at the purchaser's end of the transaction and the company providing the service cannot access information on the services provided at such short notice. The HLG urges the Commission to initiate changes as the present rules cannot be applied. The Commission is prepared to look at the chargeability to tax for cross border supplies of services in the forthcoming Green Paper.

Furthermore, stakeholders underline the high level of compliance cost arising from the package. One example is that the VAT package has increased the number of businesses obliged to submit periodic VAT statements on top of their normal VAT returns. Business are required to submit periodic VAT statements from the first euro of supply of services B2B cross border and the periodic statement requires specification of the sale for each buyer, identified by VAT registration number. This is an increased reporting obligation and increase of the administrative burdens for business. The HLG urges the Commission to investigate the possibility of introducing a threshold for business with minor amounts of cross border turnover or other means of simplification to avoid excessive information obligations that may otherwise discourage small business from starting to trade cross border.

- (43) A huge simplification would be achieved if business were allowed to report all their sale of goods and services only once, to their national tax agency regardless of where the VAT was charged. The final apportionment of VAT to be charged or refunded is a technical issue to be cleared between the Member States and should not concern business. According to the Commission this is the aim of the one-stop-shop proposed by the Commission in October 2004<sup>23</sup> which would entail substantial savings for businesses. This proposal is still blocked in Council. The HLG is aware of the difficulty in completing this reform but encourages the Commission to keep trying as substantial development and maturity in e-government among the Member States may have increased the possibility of a successful outcome.

### *Patents*

- (44) In December 2009 the European Council reached an agreement for a community patent that should substitute the previous European Patent that obliged to multiple registrations in each Member State with a single procedure. The Commission's proposal for a Community patent (now referred to as the EU patent) would provide for the possibility for innovators having EU-wide protection for their inventions. This

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<sup>22</sup> Council Directive 2008/8/EC of 12 February 2008 as regards the place of supply of services; Council Directive 2008/9/EC of 12 February laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State; Council Regulation (EC) No 143/2008 of 12 February 2008 amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation and the exchange of information concerning the rules relating to the place of supply of services, the special schemes and the refund procedure for value added tax

<sup>23</sup> COM(2004)728; cf. also Sectoral Reduction Plan for taxation/customs, point 11.1.4, Annex C to COM(2009)544

would reduce administrative burden compared to the European patent by removing the need to validate the patent in Member States where a translation of the patent in their national language(s) is often required. It is still under discussion which language/s should be used for the official application and for the certificate, and the discussion seems not to be an easy one. The HLG calls upon the Commission and those involved in the process to strive for solutions with the least possible administrative burdens. In this context, the registration process should be as simple as possible; in order to achieve this, the experience with other registration processes such as for pharmaceutical products should be taken into account.

## V. Conclusions<sup>24</sup>

- (45) *The HLG stresses the importance of common efforts to reduce administrative burdens for businesses. These efforts must be extended and intensified both on the European the national and the regional level, in order to reach the target of reducing administrative burdens in a sustainable manner.*
- (46) *The HLG advises the Commission to extend the Action Programme to at least the following acts:*
- Ø *Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid*
  - Ø *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data*
  - Ø *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing*
  - Ø *Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)*
  - Ø *the directives currently included in the alignment to the New Legislative Framework (Decision 768/2008), in particular Directive 97/23/EC of the*

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<sup>24</sup> Ms Jongerius, Mr Hontelez and Mr Murray voted against this report because there was no possibility to vote on individual proposals which, for various reasons, were not appropriate for inclusion in the Action Programme and consideration by the High Level Group. They felt that some proposals, in their view, were not substantiated with verifiable stakeholder input, leading to the risk that Commission would be asked to invest time and money in issues with little potential for administrative burden reductions. Other proposals and comments were, in their view, outside the scope of the mandate of the HLG, such as on Equal Treatment and on the Habitats Directive. Yet other proposals were proposing action after the new Action Programme is due to end (Buildings Directive, Renewables Directive). For these reasons, the three members were particularly against paragraphs 25 and 27 (REACH), 28 - 33 (Environment), 35 (Nitrates Directive), and consequently in favour of the deletion of paragraph 48 and the 4<sup>th</sup>, 6<sup>th</sup>-8<sup>th</sup> and 10<sup>th</sup>-12<sup>th</sup> indents of paragraph 46.

*European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment*

- Ø *Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings*
  - Ø *Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases*
  - Ø *Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources*
  - Ø *Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy*
  - Ø *Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources*
  - Ø *Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers*
  - Ø *the recycling directives not measured in the Action Programme so far*
- (47) *In addition, the HLG calls upon the Commission to consider further suggestions received after the publication of the Commission's Communication of 22 October 2009 on the basis of the latest offline opinions adopted by the HLG (cf. paragraph 8).*
- (48) *In view of its extended mandate, the HLG recommends that the Commission carries out a comprehensive study of the simplification potential of the directive on the conservation of natural habitats and of wild fauna and flora as well as of the birds directive. In this study the potential for merging the two directives should be examined.*
- (49) *It is of utmost importance that the Commission will continue its work after 2012 to reduce the administrative burdens for businesses in the stock of EU legislation. There still exists a considerable potential for administrative burden reduction. This demands a continuous effort. The HLG advises the Commission to address this issue in the coming smart regulation approach and to find a systematic and structured approach in identifying legislation with a simplification / reduction potential. In this context the HLG would like to underline the importance of compliance costs as well.*
- (50) *The HLG sees additional administrative burden reduction potential regarding the issues mentioned above under IV related to equal opportunities, VAT and patents, and asks the Commission to take a close look into the burden reduction potential when dealing with these issues.*
- (51) *While the HLG appreciates that all reductions and simplifications must take account of the underlying objectives of the legal acts in question, the HLG wishes to underline that reducing unnecessary administrative burdens is essential to ensure that the acts are actually delivering these objectives.*

Brussels, 22 October 2010