

**ANNEX 2 TO THE REPORT ON THE FUNCTIONING OF PRODUCT AND CAPITAL MARKETS**

**ANALYSIS OF THE REPLIES TO THE QUESTIONNAIRES SENT BY  
THE DANISH PRESIDENCY ON ACTIONS TAKEN BY MEMBER  
STATES TO ELIMINATE BARRIERS TO THE CROSSBORDER  
PROVISION OF SERVICES AND TO MODERNISE AND SIMPLIFY  
NATIONAL LEGISLATION AND ADMINISTRATIVE PROCEDURES**

*WORKING DOCUMENT OF THE SERVICES OF THE COMMISSION*

## **I. INTRODUCTION**

The review of the Cardiff economic process concluded that the Competitiveness Council should focus discussions on a limited number of topics. Those discussions should be based on the analysis of the replies to questionnaires sent out to Member States by the Presidency. This annex presents the results of the first round of questionnaires sent to Member States on two topics: measures taken by Member States to eliminate barriers to cross border provision of services and measures to simplify regulation and reduce the regulatory burden on business.

The results of this first round should be taken with caution for two reasons.

1. First, this first year exercise should be considered a “pilot round”. Questionnaires had to be prepared and answered by national authorities in a very short period of time. In the future, the questionnaires will be discussed in depth by the Competitiveness and Growth Group before sending them out to Member States and national authorities will have more time to answer the questionnaires.
2. Given the special conditions under which this year’s questionnaires were answered by national authorities, the level of detail in the replies varies significantly across Member States. Unanswered questions do not necessarily imply lack of action by a Member State in that particular area. Insufficient information or time to collect detailed information from the relevant national authority may be responsible for the lack of reply.

Therefore, the results of the questionnaires should be interpreted just as “reported information” that can anchor the debate and not as the precise description of the situation in Member States in these two fields. It should also be noticed that the questionnaire sent out by the Presidency focussed on cross-border service provision or cross-border establishment. That is, although of great importance as well, barriers to cross-border demand for services have not been explicitly analysed in this exercise. The Internal Market for services can only be fully achieved if both, business and consumer interests, are met.

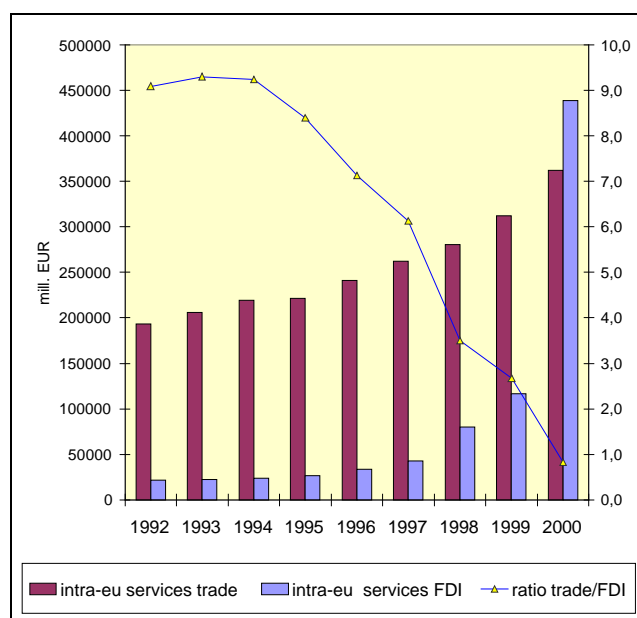
In order to facilitate discussion of these topics, the annex includes some background information. In addition, a few questions are proposed at the end of each section as a starting point for debate.

## **II. MEASURES TAKEN BY MEMBER STATES TO ELIMINATE OBSTACLES TO THE INTERNAL MARKET FOR SERVICES**

In 1999, the first Commission Cardiff report identified the services sector as one of the most important areas of the Internal Market requiring new measures to improve market performance. The third Commission Cardiff report showed the potential gains that could be realised from further integration in the business service sector. The recent Commission Report on the state of the Internal Market for services COM(2002) 441 has provided a comprehensive inventory of remaining barriers to cross-border activity in services sectors. The combination of these reports clearly demonstrates that ten years after the completion of the internal market, there is still a huge gap between the objective of an integrated EU economy and reality.

Indicators show that services remain performing well below the potential levels they could reach in a more integrated market environment. This year's Cardiff report has already underlined the potential for price convergence in services sectors (see figure 6 in the statistical annex).

**Figure A.1.1.: Comparative evolution of intra EU trade and FDI in services (1992-2000)**



Source: Eurostat

Foreign direct investment (FDI) in services has grown much faster than trade in services (see figure A.1.1). These high levels of FDI do not necessarily imply high levels of integration. Whenever FDI is carried out through mergers or acquisitions, it may be the result of firms' efforts to avoid obstacles to enter EU markets through direct establishment or trade. Unfortunately, balance of payments statistics do not allow us to make a clear distinction between "green-field" FDI and financial investments or mergers and acquisitions and the relative size of these two effects is uncertain.

***The lack of integration in services implies important economic costs that underpin the economic case for service sector reforms.***

The relatively poor performance and insufficient integration of services markets has important implications. Service providers facing barriers to the cross-border establishment or provision of services have to bear direct costs. For instance, providers trying to enter a new market may bear costs associated with complex legal assistance and the need to adapt their business models accordingly. Second, indirect costs caused by market fragmentation and the lack of competition, which affect not only the service provider's country but also the country imposing the restriction, have an even greater economic impact. In both cases, the negative impact is felt not just in the sector concerned, the development of which is held back, but also in all sectors using the service in question. The Commission is undertaking work to evaluate these costs and to develop indicators that can measure the performance of the Internal Market in services.

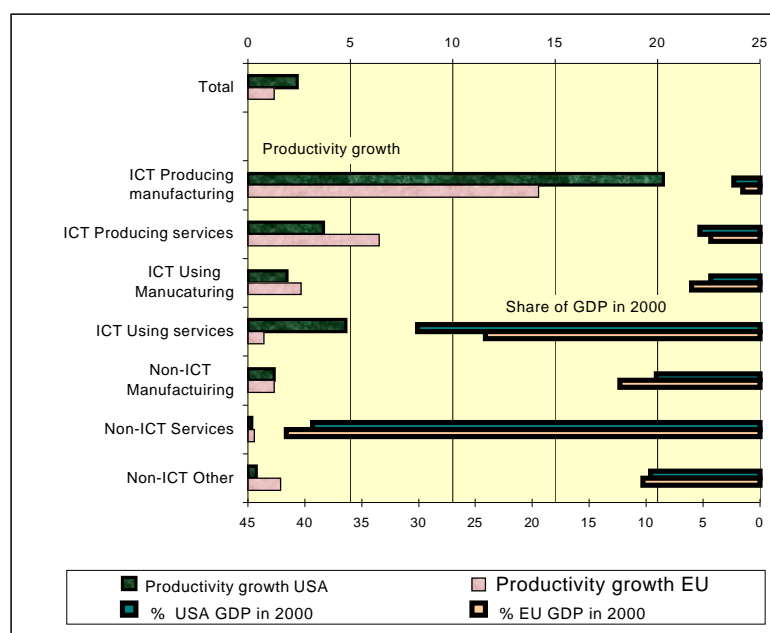
The current state of the EU services markets deprives the EU economy of significant potential benefits, but in addition, it currently imposes a heavy burden on the European

economy hindering our economic performance and preventing gains resulting from the Internal Market in other sectors being passed on to consumers.

In recent months, independent research<sup>1</sup> has revealed the reasons for the significant difference in the economic performance of the US and EU economies. The difference in performance of the services sectors using information and communications technologies (ICT) is one of the main reasons behind the increasing competitiveness gap between the US and EU economies.

Figure A.1.2. shows productivity growth in sectors that produce ICT technologies, sectors that use ICT technologies and non-ICT related sectors. The US ICT-producing manufacturing sector outperformed its European competitor whereas the European ICT-producing services sector outperformed its American counterpart. These sectors account for a very small share of their respective economies though, and therefore, they have a limited influence on the different overall performance of the US and EU economies. In contrast, ICT-using services sectors contribute to a large portion of both the European and US economies, and the large difference in the productivity performance of these sectors in the US and Europe explains to a large extent the difference in the overall economic performance of the American and European economies.

**Figure A.1.2. : Productivity growth by sector and sectoral share of GDP in the USA and the EU in 1995-2000**

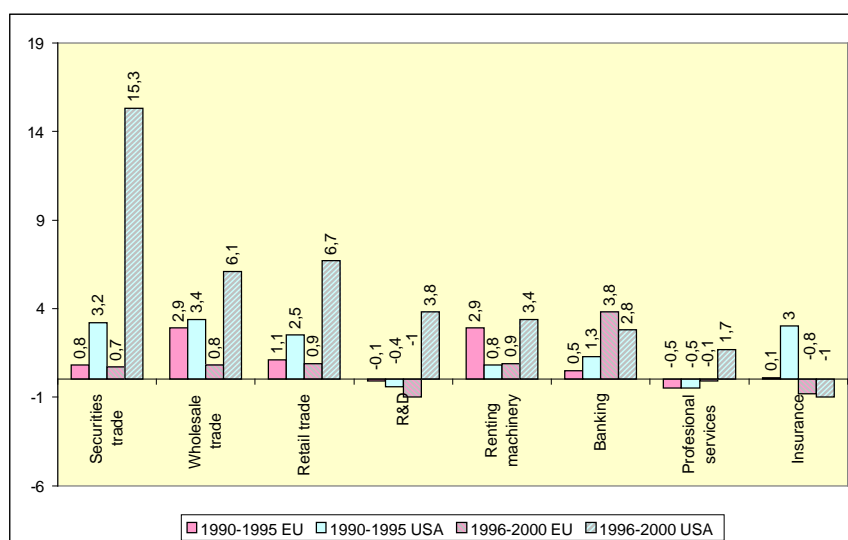


Source: Based on van Ark, Inklaar and McGuckin (2002)

<sup>1</sup> See Bart van Ark, R. Inklaar and R. H. McGuckin “Changing gear. Productivity, ICT and service Industries: Europe and the United States”. Paper for the ZEW Conference 2002 on Economics of information and Communications Technologies, June 24-25 Mannheim. See also McKinsey Global Institute, “US Productivity Growth 1995-2000, Understanding the contribution of Information Technology relative to other factors,” October 2001; McGuckin R.H. and van Ark B. “Making the most out of the information age: Productivity and Structural Reform in the New Economy”, Perspectives on a Global Economy, Report 1301.01. October 2001 and European Commission, SEC(2002) 528 “2002 Competitiveness report”.

Figure A.1.3. shows that ICT-using services subsectors exhibit very different labour productivity growth rates. Securities, wholesale and retail distribution experienced remarkable growth rates in the USA in the second half of the past decade while productivity growth was much more modest in Europe in those sectors.

**Figure A.1.3. : Labour productivity growth in ICT-using services subsectors  
1990-1995 and 1995-2000**



Source: Based on van Ark, Inklaar and McGuckin (2002)

Insufficient integration in services sectors may have been one of the reasons delaying the diffusion of ICT and therefore preventing European firms from benefiting from the large productivity increases experienced by their US competitors in recent years.<sup>2</sup> The good news is that ICT diffusion is underway in the EU as shown by innovation surveys. However, unless current obstacles to cross-border activities are removed, European firms and consumers will not be able to benefit from the competitiveness advantages offered by new technologies and the knowledge-based economy.

In summary, unless a functioning Internal Market in services can be created, the competitiveness objectives for Europe established at Lisbon will not be achieved.

In addition, a sizeable part of the benefits derived from the Internal Market in other sectors are currently being lost due to insufficient integration in services sectors.<sup>3</sup> Manufacturing sectors depend heavily on services such as distribution, insurance and other financial services, transport, business services and network industries. Inefficient performance of these sectors deprives citizens from already available benefits that are squandered or captured by the inefficient sectors. The Commission's Report on the State of the Internal Market for Services suggests that there are numerous barriers affecting

<sup>2</sup> Of course, insufficient integration is just one of the possible factors explaining these differences between the EU and the US. Other factors such as labour market rigidities or planning regulations should also be taken into account.

<sup>3</sup> See for instance J. François and I. Wooton "Market Access and competition in the services sector" and R. MacDonald and L. Ricci "PPP and the Balassa Samuelson Effect: The role of the Distribution sector". IMF Working Paper WP/01/38, 2001.

services which could be removed most effectively by Community action, and this is the focus of the second stage of the Services Strategy. Nevertheless, action at Member State level will also be required.”

### **What measures are Member States taking or planning to take to remove remaining barriers to cross-border provision of services in the internal market?**

As early as 1999, Internal Market Council conclusions produced in the context of the Cardiff process asked for Member State action to increase integration in the services sectors:

*“In order to enable full use to be made of the advantages and the economic potential of the Single Market in the services sector, additional efforts are required, particularly the complete and timely application by the Member States of Community Law in this field. The persistent fragmentation of services markets in the EU has to be overcome, consumer confidence increased and cross border provision of services facilitated”.*

The answers to the questionnaire<sup>4</sup> distributed by the Council Presidency report 131 measures adopted or in the process of being adopted by Member States to remove existing barriers to the cross-border provision of services. Most of these actions are sector-specific (76) although a significant number of measures (48) are horizontal.<sup>5</sup> Sweden, Portugal, Belgium and the Netherlands report more horizontal measures than the rest. Across sectors, postal services, telecommunications and transport are among the most frequently mentioned sectors requiring action. However, Member States seem to have applied very different criteria to define “horizontal” measures and these aggregate figures should be taken with caution.

Portugal (22), Sweden (21) and Greece (18) rank the highest in terms of number of measures introduced, followed by Belgium (15) and Denmark (13). Ireland and Austria only reported having introduced one measure, Germany 4 and the UK 5.

Countries reporting few measures emphasise that they are “unaware of legislation or regulations acting as barriers”. On the other hand, countries reporting a high number of measures often present them as efforts by national authorities to comply with Community directives or orientations in particular policy areas.

Thus, Member States rarely report cases of unilateral actions to modify legislation or regulations that may be acting as barriers to cross-border services provision. Nonetheless, examples to the contrary can be found. For instance, the Netherlands has removed a significant part of rules for the establishment of companies in that country -“Vestingswet”- in 2000, although four sectors (e.g. electricians) still have special requirements for safety, environmental or health purposes.

Most interventions by Member States are aimed at eliminating restrictions in the establishment phase of the product value added cycle. For instance, Belgium has removed barriers to establishment in the security services with the abolition of requirements of

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<sup>4</sup> All Member States with the exceptions of France and Luxembourg have answered the questionnaire but replies vary significantly in detail across countries.

<sup>5</sup> The nature of 7 measures is not specified.

residence and nationality for management staff. It will also take measures next year to remove lengthy and costly procedures for the allocation of licenses and permits.

These results seem to suggest that, so far, Member States' efforts to eliminate barriers to the cross-border provision of services are **fragmented** and **non-systematic**.

This fragmentation has important consequences for the efficiency of measures.

- (1) **Most of the measures reported by Member States are often aimed at removing obstacles in one or a limited number of stages of the value added chain.** The case of Sweden is exceptional as it reports having eliminated or soon to eliminate barriers in all stages of the value added chain. But in most cases, measures are partial and aim at particular stages of the value added chain. Even when actions target the same phase of the value added chain, Member States often tackle different areas and problems of very different nature. For instance, both Portugal and Italy consider problems related to the use of inputs very important. However, in the case of Italy, this required intervention concerning the rules affecting posting workers abroad, while in the case of Portugal, it required actions resulting from the enforcement of employment laws.

This may have a significant impact on the efficiency of the measures actually taken. As pointed out by the Commission report on the state of the Internal Market for services, the market performance of the sector will be improved only if barriers are eliminated in all the stages of the value chain. Only integrated solutions can avoid squandering potential improvements in market performance.

- (2) **The high proportion of sectoral measures may also limit the effectiveness of intervention at the Member State level.** Some countries do not report any horizontal measures at all (e.g. Germany). Member State intervention targets many different sectors in different countries. In addition, some measures presented as horizontal, i.e. not sector specific, are in fact sectoral although they may have an impact on other sectors too. For instance, Belgium presents actions taken in post and courier services and investigation and security services as "horizontal".

As pointed out in the Commission report, services are highly interdependent and many of them are often used in productive processes in manufacturing as well as in other services sectors. Potential productivity gains in any sector will be hampered by lack of action in services sectors that provide inputs for those sectors.

- (3) **Differences in the perception Member States have of the relative importance of different obstacles may result in fragmentation being maintained.** For instance, Portugal and Greece consider pre-authorisation licensing regimes as very important obstacles to the establishment of the service provider. However, Italy and Spain consider this a relatively less important problem and the UK considers it "unimportant". These different perceptions may be of reflect objective differences in existing national legislation and the barriers it creates
- (4) **Most sectoral measures reported by Member States are taken in sectors where Community intervention is active.** In many cases, Member States report openly that action is triggered by Community obligations, such as secondary law (in fields such as postal services, financial markets and telecommunications) or the case law of the European Court of Justice. This seems to be one reason behind Belgium's

removal of measures affecting the free establishment of firms providing security services. This seems to indicate that unilateral action by Member States to facilitate cross-border service provision is rare.

- (5) **Measures reported by Member States target some of the barriers mentioned in the Commission report but by and large, the obstacles identified by the Commission remain untouched by national interventions.** For instance, several Member States report having removed registration requirements for the provision of certain services. However, some Member States still report registration requirements for professionals in fields such as architecture or postal services. Moreover, there are no references to lifting maximum or minimum price regulations or amending the systems for the payment or reimbursement of VAT regulations while only four Member States report having taken measures to remove barriers in the retail distribution sector and two Member States report eliminating restrictions on opening hours in recent years.

As seen above, given the importance of these sectors for the diffusion of new technologies and increased productivity, it seems apparent that much still needs to be done to create the necessary conditions for unleashing the growth potential of the services sector.

These results suggest that although necessary, current intervention at the Member State level is insufficient to tackle effectively the many obstacles hindering further integration of the services sectors. The Conclusions of the November 2002 Competitiveness Council suggest some actions which Member States can take to improve the situation. These include providing more and better information to economic operators on the legal framework applying to them, full and rapid compliance with European Court of Justice judgements affecting the free provision of services and freedom of establishment, improving the coverage and quality of statistics on the services economy and encouraging the better representation of service providers at the national and Community level. It is also clear that action at the Community level is necessary both of a non-regulatory nature, in support of Member States taking the above measures, but also by regulation in order to remove legal barriers, where these cannot be removed by other means.

This conclusion has an important corollary. If continued, some types of national *ad-hoc* solutions might actually contribute to Internal Market fragmentation especially if it triggers some active measures by Member States to facilitate the activities of their firms abroad. Some of the few answers to the second part of the questionnaire might be considered as evidence confirming this risk. The problems reported are mainly focused on establishment and use of inputs. Problems with professional qualifications of craftsmen and compulsory enrolment in professional bodies are reported to be present especially in the water distribution and construction sectors. Activities are also reported to facilitate the selling and distribution of output, but the evidence is too limited to draw conclusions here.

#### **QUESTIONS FOR DEBATE**

1. What action can be taken to reduce the risk of Internal Market barriers being created by new regulation, including at regional or local level? Would it be useful to apply the open method of co-ordination to monitor future developments in this field?
2. What can be done to improve the amount and transparency of information available to businesses and consumers on the legal framework in other Member States?

3. What can be concluded from the low rate of response to the second part of the questionnaire? What is the perception Member States have of barriers to the cross-border provision of services faced by their firms in other Member States?

### **III. WHAT MEASURES HAVE MEMBER STATES TAKEN TO MODERNISE AND SIMPLIFY NATIONAL LEGISLATION AND ADMINISTRATIVE PROCEDURES WITH A VIEW TO FACILITATING BUSINESS START-UPS AND MARKET ACCESS FOR SMEs?**

Burdensome regulations and administrative obstacles hinder entrepreneurial dynamism and might reduce market efficiency, thereby undermining the achievement of Europe's competitiveness objectives. The European Council put the idea of better regulation forward already at its meeting in Edinburgh in December 1992. In subsequent years, various initiatives have been put in place and more recently (February 1999), the Internal Market Council identified the regulatory environment as an area where there is a need for further action, both at national and EU-level:

*“Continued efforts are required, at national as well as at Community level, to simplify and improve the legal and administrative framework. Less complicated and more user-friendly rules will reduce the administrative burden and costs for business, not least small and medium-sized enterprises, thereby creating more favourable conditions for entrepreneurship and employment.”*

At a recent Informal Council meeting in Nyborg in October 2002 ministers agreed that better regulation is a shared responsibility of all Community institutions and Member States. They agreed, furthermore, “that small businesses are disproportionately affected by administrative burdens. Policies need therefore to be developed having the smallest entities in mind.”<sup>6</sup>

This section presents evidence about better regulation efforts in the European Union with respect to small and medium-sized enterprises (SMEs) and start-ups from an Internal Market perspective. It is primarily based on the results of a questionnaire on simplification sent to the Member States this summer (see box 1).<sup>7</sup> The overview presented here is influenced by Internal Market considerations.

In addition, some actions taken by the European Commission are highlighted, the main findings summarised and some conclusions drawn.

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<sup>6</sup> Presidency Summary, Informal Council (Competitiveness) in Nyborg 11-12 October 2002. <http://www.eu2002.dk/>

<sup>7</sup> The replies have been organised in different ways in the Member States. In all but two cases the replies came from parts of the central government. In the cases of Germany and Italy, however, the Federal State of Berlin and a private business association, respectively completed the questionnaire. In addition, there are significant differences in both the numbers of questions answered by the Member States and number of replies to the individual questions. On average, Member States did answer hardly two thirds of the questions. While Portugal has answered all questions and Finland, Ireland and Sweden all but one, Austria, Spain and Germany answered only four or less. Likewise, some questions have been answered by only 40% or less of the Member States, other have been answered by more than 80%.

## Ways to find out about obstacles

*Consultations* with business or interest groups in general *are the prevalent instrument* used by Member States to get views and ideas on how to improve lawmaking.<sup>8</sup> Most Member States replied that they use both ad hoc mechanisms like hearings and more permanent structures or standing bodies (business organisations, Round Tables...).

However, there is a risk that this method can be somewhat unsystematic and non-transparent. Some dominant players that are not necessarily representative for the whole sector or industry may monopolise consultations. In addition, it seems that foreign firms or organisations are only rarely represented in such bodies or groups while it might be relatively easy to include them in surveys, which are also a widely used instrument.

### Box 1: Structure of the questionnaire

#### I. Learning about obstacles

- How is collection of businesses' opinion organised?
- What regard businesses as the most burdensome regulations?

#### II. Solving problems

- Measures taken to simplify procedures, to reduce compliance costs, to improve information or to improve lawmaking.
- Assessment of the effects, costs and effectiveness of such measures.

#### III. International aspects

- Are there systematic differences in from foreign companies or about foreign governments compared to domestic ones?
- Are there systematic differences between complaints from other EU Member States and those from third countries?

## Simplifying and modernising national regulations

Administrative simplification aims to reduce compliance costs by making procedures more efficient, providing information and making access to the administration easier. Member States have been especially successful in improving the provision of information to companies and simplifying business start-ups.

The *provision of information* has primarily been accomplished *through increased use of information and communication technologies (ICT)*. This allows not only providing information to business and citizens.

It also enables Member States to improve the internal organisation and procedures of their administrations in order to reduce costs and speed up processes. Information provided in 'multifunctional documents'<sup>9</sup>, becomes automatically available to other parts of the

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<sup>8</sup> More than three-quarters of the Member States have answered this part of the questionnaire. A question about the opinion of the administrations about the most serious concerns of businesses is difficult to analyse since only few Member States provided specific information. The areas mentioned are distributed across all sections ranging from returns for statistics to workplace assessments and cost of patenting. Likewise it is not possible to draw a clear distinction between concerns of SMEs on the one hand and concerns of start-ups on the other. In fact, more than half of the concerns cited for start-ups are also cited for SMEs.

<sup>9</sup> Multifunctional documents allow different users to extract the relevant information so that an applicant does not have to give the same information to numerous authorities.

administration requiring the same information. In this way information can be gathered and distributed efficiently. In many cases the number of official forms to be completed can be reduced without any loss of information needed to be collected.

Yet, information provided with the use of ICT might not always reach the target groups. Lack of financial and know-how resources in the start-up phase might deter the necessary investments in ICT as well as the corresponding IT- and Internet know-how. As a result entrepreneurs might not be in the position to use such tools even though it is clear that the possibility to comply with many regulations online would surely reduce time and consequently compliance costs. To make such investment affordable and worthwhile, governments should make as many services available online as possible and provide also the necessary software and technical assistance to potential users. Unfortunately, there is no detailed information available on the extent to which the one-stop shops or single access points established in the Member States actually provide such assistance.<sup>10</sup>

Most important and apparent achievements in the *simplification of* the administrative burden on *business start-ups* are the reduction in the number of licences or approvals, a cutback in the number of procedures, the switch from authorisation to self-certification and the removal of minimum qualifications. In addition, the registration of a new company has been significantly simplified and the respective fees have been reduced. As a rule, it seems that *virtually all the information needed to start up an enterprise is now available on-line* in the Member States. Such measures, which make the start-up process faster, easier and less costly, do unambiguously have a positive impact on business.

However, other measures reported by some Member States like exemptions for start-ups and SMEs from certain obligations - e.g. reductions in trade taxes or social contributions in order to relieve the financial burdens during the first phase of company life - are of a more ambivalent nature: on the one hand they facilitate the birth or life of start-ups, but they might later on hamper the growth of companies, for example, if companies risk losing these benefits when hiring additional personnel.

*The provision of information and the simplification of procedures should only be first steps. Better regulation needs to move on to the simplification and reduction in the substance of regulation.* The reviews of company laws in some Member States like Ireland, the Netherlands and the UK are examples of good practice on how to proceed in this respect.

*Measures to assess the effects of regulation are at least envisaged by all Member States.* These efforts have to be reinforced to arrive at a systematic evaluation or impact assessment of all measures with appropriate consultations of businesses.

On the basis of replies, the consultation of stakeholders is an obligatory part of the legislative process in many Member States. As described above, in most cases traditional methods like hearings, informal consultations or committees are used. More comprehensive instruments like impact assessments (IA) or evaluations, which include consultations with interest groups, are still being developed in most Member States. A common feature of almost all IA systems is a special focus on SMEs or at least business in general. Member States that have introduced IA already some time ago, still face considerable problems in getting them done carefully and impartially. Sometimes, even

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<sup>10</sup> An example of good practice in this latter respect is the Business Service Points in Finland.

important proposals pass the legislative process without being accompanied by an -in principle- obligatory IA.

*IA and the drafting of new regulation or amendments should from the start take due account of Internal Market aspects and therefore embrace companies or organisations from other Member States in an appropriate manner.* Having the Internal Market in mind already when drafting new national legislation will help to avoid problems and conflicts with Community legislation later on. Domestic firms will also benefit from such an approach as it reduces the adjustment necessary to do business in the Internal Market.

The questionnaire also suggests that *Member States do not have reliable information about the costs and effects of simplification measures.*<sup>11</sup> This confirms the urgent need for more and improved IA and evaluation of administrative measures. More reliable information should be seen as a foundation stone for any better regulation initiative to make administration more efficient and effective. Sweden's plan to develop a method for measuring administrative burdens on enterprises might serve as a good practice in this area.

### **Simplification efforts so far largely neglect the Internal Market perspective**

The abolishment of regulations or their reduction in substance is also important from the Internal Market point of view as this would benefit domestic companies as much as foreign companies. The simplification of procedures on the other hand does not help foreign firms as much as domestic ones as the former often do not have the same access to information and have therefore greater problems to comply even with the simplified regulations.

In addition, *most of the governmental or administrative web sites are only in the national language*, if at all only a small part of the contents is bilingual. The same is true for most one-stop shops. A try at the internet sites given in the replies to the questionnaire revealed that only the Swedish formality centre at the Swedish Patent and Registration Office provides this site in Swedish and English. In addition, there are explanations in English, although the forms themselves are only in Swedish. In all other cases, at best some introductory pages or a summary are available in foreign languages.

Replies to the questionnaire suggests that Member States hardly take aspects of the Internal Market into account when trying to improve their administration and regulation. Seemingly only a few Member States do systematically collect information about problems foreign firms face when trying to do business in their country or even about the problems domestic firms are confronted with abroad.<sup>12</sup>

If better regulation initiatives are too much focused at the national level they risk increasing the 'divide' between domestic and foreign enterprises instead of contributing to

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<sup>11</sup> The section of the questionnaire inquiring about the estimated costs and effects of simplification produced astonishingly few replies. Only four Member States replied to the question about effects and costs of simplification. Ireland and Portugal stated that there was no information available, Denmark and Sweden announced the introduction of measures allowing gathering such information.

<sup>12</sup> On average only about half of them have answered these questions at all. Only a few of those who answered provided details.

the functioning of the Internal Market. As a result, foreign citizens or businesses cannot profit from such improvements to the same extent as nationals. Simplification and reduction of the substance of regulation avoids this effect. It also significantly reduces the risk of conflicts with regulation in other Member States as every single regulation in a Member State risks to conflict with regulations in 14, and soon 24 other Member States.

### **Better Regulation at Community level**

#### *Commission intensifies its efforts for better regulation*

The Commission's primary focus is on improving the quality of its proposals and simplifying, where possible, existing measures. Already in 1996, the Commission launched the SLIM project to simplify legislation for the internal market (COM(1996) 204 final). Expert committees have examined EU law in 14 sectors so far. The June 2002 action plan on better regulation includes a number of proposals in this respect like the inclusion of a review clause in legislative acts and the Commission's commitment to presenting a multi-annual rolling simplification programme by the end of 2002.

The Commission has launched the BEST procedure<sup>13</sup> and a number of benchmarking exercises aiming at simplification and reducing compliance costs for business and citizens. The European Economic and Social Committee (EESC) as a standing body in which socio-economic organisations in the Member States of the European Union are represented, has a consultative role vis-à-vis the European Institutions. Furthermore, the European Commission has appointed a Director at the Enterprise Directorate-General as "SME Envoy" to step up exchanges with SMEs and their representative bodies.

With the adoption of the Better Regulation package in June 2002 the Commission intends to give a new impetus to improving the quality of Community law by setting out a number of actions to be taken by the Commission itself, the other Institutions as well as the Member States. The Communication on Impact Assessment (COM(2002)276) of June 5, 2002, for example, provides an improved and more coherent system for evaluation and impact assessment (IA). It aims to streamline the different approaches existing within the Commission. The new IA intends to assess economic, environmental as well as social impacts, among which impacts on health, safety and consumer rights, of new proposals to implement the Union's commitment to sustainable development. In that way effects on the regulatory environment of SMEs and start-ups as well as the effects on users and consumers are also taken into account. The Commission will ensure full transparency on the results of IA.

A second important example is the Communication on General Principles and Minimum Standards for Consultation (COM(2002)277) of June 5, 2002, which improves consistency and transparency in Commission consultation processes and ensures that all interested parties are consulted in an adequate way. It aims to establish wider and more open consultation so that stakeholders' opinions are better taken into account in order to avoid producing ineffective or unnecessarily burdensome regulation.

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<sup>13</sup> The BEST Procedure integrates the Commission's work on good practice in the enterprise field and co-ordinates with the benchmarking and other good practice activities in related policy areas, such as research, education, environment, economic and employment policy.

With 'EUR-Lex', a unique multilingual portal to European law, the Commission provides access not only to all Community legislation that is already in force but increasingly to proposals for legislation under preparation.

*Joint efforts on simplification of substance of regulation...*

More effort at all levels is needed to simplify existing regulation. Such action should include not only the simplification of procedures but should focus on simplification of substance of regulation. The latter not only makes life easier for business and citizens but also reduces the workload of the public administration. Member States as well as the Commission should therefore be more open to radical reforms in some areas as this might well produce better results than simply amending existing laws time and again.

The need for simplification of the substance of regulation is especially urgent for any additional specific requirements like technical qualifications and sectoral licenses or employment-related procedures. Such demands often cause significant delays and increase the costs for starting a business or its expansion.

*... combined with provident lawmaking...*

One conclusion drawn by the Danish Presidency at the informal Competitiveness Council in Nyborg in October 2002 was that digital solutions, such as electronic notifications and reporting could reduce businesses' administrative burdens and that digital solution in Community regulation should be further explored. So far, however, the initiatives of the Member States are mainly focused at the national level. Yet simplification and modernisation could easily be used at both levels to ease the burdens on SMEs and start-ups and at the same time to promote European market integration by reducing administrative barriers for foreign companies disproportionately. Member States should try not only to 'think small first' when simplifying procedures and providing information, but should 'think Internal Market' in parallel. In this way many obstacles for SMEs to do business internationally could be avoided right from the start.

*... an Internal Market perspective ...*

Like the fact that most one-stop shops, or information/contact points are only in the official language(s) of the respective Member State this lack of information or concern about problems of or with foreign firms or countries reveals the urgent need to focus more on the Internal Market dimension of better regulation.

*... to facilitate the achievement of the Lisbon goals!*

The identification and definition of indicators suitable for monitoring progress in the regulatory and administrative environment should make it easier for Member States to introduce specific quantitative targets in this policy area.

Such exercises and indicators should especially be used to promote Internal Market considerations in better regulation:

- Number of business portals, one-stop shops, etc. providing information and assistance in languages other than the national
- Provision of basic regulations in several languages

- Participation of foreign SMEs or organisations in consultations on new legislation
- Integration of Internal Market aspects into impact assessment schemes
- Systematic analysis of problems with domestic regulations faced by companies from other Member States.

#### QUESTIONS FOR DISCUSSION

1. Is there sufficient information available about problems companies face with foreign administrative regulation? Member States have hardly replied to questions inquiring about international aspects. This might of course be due to the unfortunate timing of the questionnaire or its design.
2. How can Internal Market aspects be better integrated into better regulation and simplification efforts in the Member States? Many national laws have been issued before the country's accession to the EU or before the establishment of the Internal Market. It would therefore be desirable to take Internal Market perspective into account when revising such laws. That way, unintended obstacles to the functioning of the Internal Market could be abolished at low or almost no cost. Therefore, **'think Internal Market'!**
3. How could benchmarking take into account progress in the consideration of these Internal Market aspects of better regulation? Should benchmarking and best practice exercises be complemented with a open method of co-ordination? Any of these options would require improvements in the statistical basis available for the monitoring of better regulation.