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COMMUNICATION FROM THE COMMISSION

**TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE
REGIONS**

Updating and simplifying the Community acquis

{SEC (2003) 165 }

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The Commission Staff Working Document (SEC (2003) 165), accompanying the present Communication, provides detailed information on definitions and planned Commission work.

Executive summary

This Communication takes forward the Commission's Better Regulation initiative from June 2002 and, in so doing, fulfils the commitment made in its Action Plan to launch initiatives for a policy concerning the Community's existing body of law.

At its heart is the objective of securing a reliable, up-to-date and user-friendly body of EC Law to the benefit of citizens, workers and businesses. This objective was developed in the Commission's White Paper on European Governance and in its contributions to the Lisbon Strategy, all of which were unanimously welcomed by the other Community institutions and bodies, as well as stakeholders and citizens.

Although citizens and operators are mainly faced with legislation for which the Member States are responsible, the Community must set a good example. Now is the time for concrete action and the Commission calls upon the Member States to complement this action with coherent engagements on their side.

The Commission's Better Regulation initiative of June 2002 aims at ensuring that better regulation is pursued in the daily legislative work of the Community (for which the Action Plan proposed a series of measures) but also calls for attention to the stock of Community legislation, which sometimes dates back several decades. Since the foundation of the European Communities, this body of existing legislation has never been subject to a comprehensive review of its organisation, presentation and proportionality.

The present Communication, and its proposed Framework for Action, delivers such a policy. With full political support, it will deliver:

- The removal of "dead wood" - legal texts that are obsolete and outdated - leading to considerable reduction in the volume of the Community acquis without changing the legal status,
- Rewriting legal texts to render them more coherent and understandable, again without changing the legal status
- Improving the presentation of the Community acquis and developing more user-friendly access to consult and use Community law
- The beginning of a long-term process of gradual modernisation and simplification of existing legislation and policies – not to deregulate or cut back the acquis but to replace past policy approaches with better adapted and proportional regulatory instruments.

The proposed Framework defines six objectives, associated to each of which are a number of specific actions.

For the **simplification programme** (to December 2004) the Commission proposes examples of prioritisation indicators on which, case by case, it will determine its

priorities. The priorities for Phase I (to September 2003) are given. Following a dialogue with the other institutions and stakeholders, the Commission will take forward the work in two further phases (to March 2004 and December 2004).

To secure an up-to-date, reliable and user-friendly body of EC legislation, requires a series of actions. First, the **consolidation** of the existing acquis which will be completed by mid-2003 and in future will be carried out automatically whenever existing legislation is amended. Secondly, the on-going **codification** initiative needs to be intensified and prioritised with adapted and fast-track treatment in the Parliament and Council. Thirdly, as a contribution to improve the presentation of the Community acquis and develop more user-friendly access for consulting and making use of Community law, it is proposed to more clearly present **the active and generally applicable legislation**. This requires removal of obsolete legislation through formal repeal or by the use of other instruments. While past and present legislation will always remain on record for specialist consultation in the database CELEX, a better presentation of the active and generally applicable acquis will facilitate citizens' and other stakeholders' use and reading of relevant Community law by making the key reference instruments (EUR-Lex and the Directory of Legislation in Force) more accurate, considerably slimmer and more user-friendly.

However, little will be achieved without **transparency of the process** and strong **political commitment and control**, as well as adequate resources – where all institutions need to contribute. For its part, the Commission will undertake a six-monthly review to end-2004 of the progress made within the Framework for Action. The other institutions should consider how best politically to monitor and contribute to progress. Progress will certainly be frustrated by the absence of priority treatment for adopting simplification and codification proposals and therefore a successful conclusion to the Inter-institutional Agreement on Better Regulation is essential.

The Commission has proposed a concrete and ambitious plan of action up to the end of 2004. A positive political response is therefore urgently sought from the European Parliament and the European Council.

COMMUNICATION FROM THE COMMISSION

TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Updating and simplifying the Community acquis

The Framework for Action

Legislation lies at the heart of the Union's economic and political success. It has created major new rights for citizens and workers and has opened up markets across Europe. In many areas, it has allowed 15 disparate sets of national laws to be concentrated into a single piece of legislation applying across the Union. The benefits are there for all to see. Yet Governments, citizens and businesses sometimes criticise laws they perceive as being unnecessarily burdensome and overly complex not always distinguishing between Community law as such and Member States' transposition of that law into national legislation.

Sometimes such perceptions spill over into an all embracing demand that all EU law should be savagely cut back. The Commission firmly rejects such demands. The present Communication confirms the Commission's determination to carry through agreed legislative reforms to ensure that Community rules are clear, understandable and proportionate to their legitimate objectives. It fulfils the commitment made in its Better Regulation Action Plan of 2002 and echoes the message of the Synthesis Report to the European Council. Wherever possible, the legal rules in force must be updated and simplified and, where they are dispersed across different legal instruments, focussed into a single user-friendly instrument by the processes of consolidation and codification. Given the accession of ten new Member States in May 2004 and the consequential increase of the number of official languages into which legislation must be translated, the urgency and importance of this task is stark.

This Communication provides a coherent operational and detailed Framework for Action to update and simplify, wherever appropriate, the existing body of binding secondary Community legislation. There is no single definition of what constitutes the acquis: for some purposes, use is made of a very broad definition to include, in addition to the treaties, regulations, directives and decisions, the case law of the Court of Justice and non-binding acts such as resolutions and recommendations. For the purpose of the present Communication, a narrower definition is more appropriate, at least in a first stage. The present initiative therefore defines the target acquis as binding secondary legislation, i.e. regulations, directives and decisions in the sense of Article 249 of the TEC (hereafter referred to as "the acquis"). This body of legislation amounted at the end of 2002 to 97.000 pages of the Official Journal.

The Framework for Action comprises 6 objectives, each with a number of key actions designed to make the legislation more accurate, user-friendly and up-to-date. The 6 objectives and their associated actions are summarised in Annex 1.

Objective 1 sets out the actions proposed wherever necessary to simplify the acquis and the indicators on which the priorities for simplification will be based. It outlines the sectors which will be scrutinised for their simplification potential during phase I of the simplification programme (February to September 2003). Phases II (October 2003 to March 2004) and III (April 2004 to the end of this year) of that programme will continue the process of scrutinising the acquis for simplification candidates and will incorporate formal proposals by the Commission to simplify the legislation concerned. **Objectives 2 – 4** describe the measures needed (notably, consolidation, codification and repeal) to secure a more up-to-date, reliable and user-friendly body of European law. **Objectives 5 & 6** complete the Framework by outlining how this work will be carried out and how political and technical control of the process will be managed.

1. OBJECTIVE ONE :

SIMPLIFY THE ACQUIS

Over recent years there has been a good deal of activity within the Commission to simplify and otherwise improve EU legislation in order directly to benefit its users by means of major revisions to the legislative approach and often to the underlying policy.

The present Communication refers to simplification in a wide sense.

Simplification can on the one hand mean modification of legislation without affecting the substance of the underlying policy. This can be relevant when, for example, more efficient or proportional legislative instruments and techniques are available than those currently used. This corresponds to the standard approach based on neutrality on the underlying political choices.

On the other hand, simplification can also mean efforts to simplify the substance of a policy, for example its objectives or its scope. In such specific cases, it may be necessary to adapt or even entirely rethink the legislative approach.

Simplification is a complex and diffuse process and requires considerable resources. Over time, this has meant that the effort to simplify has tended to become dispersed and thus the results to date have not met expectations. Simplification proposals made by the Commission have been relatively few and have rarely been given particular priority by the Parliament and the Council. Simplifying secondary Community legislation must be accorded a higher political priority and be based on an explicitly defined and coherent strategy which commands a strong underlying political support with active political oversight from all the institutions.

The three key actions associated with simplifying the Community's acquis (Objective 1) are the following:

- First, the development of prioritisation indicators on which the acquis will be screened on a case by case basis in order to identify and prioritize policy areas where the relevant legislation could be a candidate for simplification. (Action A)
- Secondly, based on these indicators, the Commission presents its initial list of priority policy areas that have been selected in order to screen their potential for subsequent simplification initiatives. (Phase I from February to September 2003). There will be two further phases: phase II will run from October 2003 to March 2004 and phase III from April 2004 to the end of that year. (Action B)
- Thirdly, the methodology and procedures that will be adopted to prepare the Commission's simplification proposals and processes. (Action C)

These three actions are described in more detail below.

Action A: Indicators for prioritizing

There are many different prioritisation indicators that could be applied in order to assess the priority that should be given to different policy areas for future simplification (and also codification – see objective 3 below). The indicators – examples of which are proposed in **Table 1** – will, therefore, need to be applied on a case by case basis to determine the relative priority of each policy area for achieving legislative simplification. The opportunity to simplify any existing legal instrument could, of course, also present itself during legislative work that is, for wider policy reasons, already taking place or where policy reviews have been programmed.

Table 1: Examples of indicators for prioritisation on a case by case basis

1. Importance of a particular policy area, assessed through two specific indicators:

- The policy areas' relative importance within the European economy and the EU Internal Market in terms of growth, competitiveness and jobs;
- The weight a particular policy area represents in terms of its share of the EU secondary Community law and how significantly its functioning is influenced by EU legislation (for example indicated by the number of legal acts and Official Journal pages) and the level of technical details included in the existing acts in force.

2. Where there are indications of potential problems with existing legislation, be it linked to Member States (indicated by number and significance of infringements), or from citizens and other stakeholders (expressed as complaints; the response to consultations; or where the legislation is difficult to understand and apply).

- Where there are difficulties in implementing the legislation because of successive amendments, overlapping or conflicting requirements and potential legal uncertainty resulting from inconsistent definitions or terminology, or as a result of Member State transposition which has itself added unnecessary, complicated, detailed or excessive provisions.
- Where experience has shown that administrative implementation and compliance costs appear disproportionate in relation to the benefits sought by the EC legislator and achieved; and/or the potential for legislative (and policy) simplification is considerable.
- Where there are potential major risks (fundamental rights, the environment, consumers, health or safety; industries or services, etc.) that are not satisfactorily targeted by existing legislation but which could be addressed in a simplification initiative rather than in a new legislative proposal.

3. Where new political initiatives or evolving regulatory practices may justify legislative update and consequently an opportunity to simplify the acquis:

- Where the application of horizontal initiatives (sustainable development, environmental concerns; safety; fundamental rights, etc.) require updating and amendment in respect of a particular sector;
- Where the legislative approach may no longer be appropriate and could be replaced by more efficient, flexible and proportionate instruments (for example, framework directives, new approach directives or “softer” regulatory alternatives). In addition, evaluation of Community policies should be more systematically used to establish the possible need for simplification;
- Where new obligations (for example, resulting from international agreements) require updated legislation or changes to the legislative format chosen in order to exploit more effectively the potential synergies between overlapping regulatory regimes, or where European legislation refers to international agreements and annexes such agreements to Community legal acts¹.

¹ Such as those international standards developed, in accordance with the World Trade Organisation/Agreement on Technical Barriers to Trade/Agreement on Sanitary and Phytosanitary Measures; by intergovernmental organisations (including International Standards Organisation, International Electrotechnical Committee) or other treaty organisations (such as Codex Alimentarius, International Maritime Organisation).

Action B: The Commission's priorities in the First Phase (February – September 2003)

On the basis of indicators of the kind set out in Table 1, the Commission is now undertaking its first-ever, systematic horizontal screening of the Community acquis and has already identified, as part of its first phase initiative (to September 2003), specific policy areas that will be subjected to a detailed scrutiny for their simplification potential, including through recasting. (Table 2). Within a number of these policy areas, specific legislation has already been identified for closer examination of their simplification potential before the Commission decides whether to prepare formal proposals (Annex 2). A number of simplification initiatives have already been formally announced and, in many cases, are now on the table of the Parliament and the Council: the Commission urges these institutions to give urgent attention to completing their work (Annex 3).

Table 2: Priority policy areas for phase I

| Policy area | Specific legislation |
|---------------------------------|---|
| – Industrial products | – Motor Vehicles type-approval system – Marketing authorisation for medicinal products – Processed agricultural products |
| – Agriculture and CAP | – CAP reform - a long term perspective for sustainable agriculture – Implementing rules in the rural policy sector – State aids exemption regulations |
| – Health and Food safety | – Feed materials and compound feedingstuffs – Food contact materials – Novel foods |
| – Taxation and Customs | – Capital duty directive |
| – Employment and Social affairs | – Health and safety at the work place – Equal treatment between men and women |
| – Drugs | – European Monitoring Centre for Drugs |
| – Competition | – Implementation rules on Merger Regulation – Implementation rules on Antitrust Regulation – State Aids procedures and rules |
| – Environment | – Waste legislation – Air quality legislation |
| – European contract law | – Common Frame of Reference |

Action C: Methodology and procedures

The Commission's Interactive Policy Making (IPM) on-line consultation mechanism will provide some immediate feedback on the present Communication (notably on the prioritisation indicators and on policy areas in need of simplification)². As is the case for all legislation, careful preparation - including appropriate consultation - will be needed in respect of every simplification proposal. The Commission will apply best practices in preparing simplification proposals including those developed in SLIM and other sectoral simplification programmes. The Commission's integrated framework for impact assessment³ and interactive consultation processes (questionnaires, dialogues, etc.), the IPM on-line consultation mechanism⁴ and other targeted consultation mechanisms can, where appropriate, contribute to ensure a more systematic assessment of the potential for simplification.

The priorities for simplification in the future will be incorporated in the Commission's Legislative Work Programme (CLWP) for 2004 and beyond. A special section in the CLWP will cover simplification and codification activities thus clearly demonstrating the Commission's political commitment to the process. However, inter-institutional procedures that ensure an effective and speedy response in handling these proposals will be essential (see Objective 6 below).

Objective One – Summary of proposed actions

- The Commission has proposed indicators for prioritising simplification work. The Council and Parliament are invited urgently to comment on these indicators in anticipation of the Commission's preparation of its simplification proposals for phases II and III.
- The Commission invites the Council and Parliament to agree urgently on adapted and rapid procedures for the adoption of the Commission's proposals for simplification.
- The Parliament and the Council will be invited to support future simplification priorities within the context of the Commission's Legislative Work Programme.
- The Parliament and the Council are invited to give speedy consideration to pending simplification proposals

² <http://europa.eu.int/yourvoice/>

³ COM(2002)276 final of 5.6.2001

⁴ http://europa.eu.int/comm/internal_market/ipm.htm

2. OBJECTIVE TWO :

CONSOLIDATION OF THE ACQUIS MUST BE COMPLETED AND KEPT RIGOROUSLY UP-TO-DATE

Consolidation⁵ integrates (in a single, non legally-binding text) the provisions of the original instrument together with all subsequent amendments to it. As for codification, no fundamental changes to the substance or form of existing legislation are involved. Consolidation brings benefits to citizens, administrations and business in the form of a more accessible, transparent legislative framework, and has the advantages that costly or time-consuming preparatory work is minimised, no legal process is necessary, and the cost and delay of publishing in the Official Journal is avoided. However, unlike codification, consolidation does not result in a legally-binding text.

For these reasons, an exercise to consolidate the acquis and make it available via the EUR-Lex website⁶ was begun in 1996 with major progress being made in the last two years. It is estimated that, to date, two thirds of the acquis has been consolidated, allowing the whole programme to be completed by June 2003. It is estimated that the complete consolidation programme could reduce the volume of texts by as much as 20.000 OJ pages (however, without reducing the volume of the legislation itself). Thereafter the consolidation of newly adopted legislation will be undertaken automatically whenever an amendment to any text included in the acquis is published in the Official Journal.

Objective Two – Summary of Proposed Actions

- Consolidation offers a valuable, user-friendly service even though the texts are not legally binding. Attention is, however, required to ensure that its presentation to stakeholders is improved (Objective 4).
- Consolidation is the basis for subsequent codification. The present exercise should therefore be completed by its projected deadline of June 2003 and continue thereafter to incorporate, automatically, subsequent legislative changes to any text included in the acquis.

⁵ The Commission Staff Working Document (SEC (2003) 165) associated with this Communication provides more detailed definitions of consolidation, codification, recasting and simplification and describes CELEX, the Directory of Legislation in Force and EUR-Lex.

⁶ <http://europa.eu.int/eur-lex/>

3. OBJECTIVE THREE :

CODIFICATION

Codification seeks to clarify the law by bringing together, in a new legal act, all the provisions of an act together with any subsequent amendments. This process renders the law simpler by establishing a single authoritative text, notably by deleting obsolete and overlapping provisions ; by harmonising terms and definitions ; and by correcting errors without substantive change. Codification brings major benefits by providing legally secure texts that are far more readily understood by users. It also cuts back on the volume of the secondary Community legislation (by an estimated 35,000 OJ pages compared with the 22,500 pages that represent the 25% objective for reduction set in the Commission's Communication to the Laeken European Council in December 2001⁷).

In its Communication of November 2001, the Commission launched a major codification exercise the objective of which is, by the end of 2005, to have codified wherever necessary the entire Community acquis⁸. To date, of some 2,400 "families" of legal acts⁹, 36 codified texts have been proposed to the Legislator (replacing 354 pre-existing acts). Some 220 codification initiatives will be proposed/adopted by the Commission during phase I while nearly 600 more will be presented during phase II (before March 2004). It has, however, been agreed inter-institutionally that, prior to the next accession date of May 2004, the formal adoption and publication of codified texts will be suspended in the preceding nine months. The reason for this significant delay is that it allows the acquis to remain stable to ease the burden on the new Member States in incorporating EU legislation. It also reflects the absorption of technical services in the task of translating all necessary legal instruments into the additional official languages of the Union. The Commission will, nevertheless, continue its technical work preparing proposals for codification during the nine-month period with a view to publication after enlargement.

For its part, the Commission confirms its intention to finalize its current codification programme by end-2005. The sheer size of the challenge reinforces the view that clear priorities for future codification work must be established. To do this, the Commission will base its work on the prioritisation indicators proposed for simplification adapted as appropriate. In a separate document of the services¹⁰, codification proposals in respect of phase I and II work (from February 2003 to March 2004) are set out. The Commission will up-date its codification programming ahead of phases II and III. Codification planning will also be reflected in the Commission's Work Programmes as of 2004.

Recasting legislation

Existing secondary legislation may also be recast. Where codification is a textual exercise implying no change in policy, recasting involves substantial modification of the basic

⁷ COM (2001) 726 of 5.12.2001

⁸ COM(2001)645 of 21.11.2001

⁹ A "family" of legal acts comprises a basic act and the amendments to it.

¹⁰ SEC (2003) 165

legal act. The primary purpose of a recast is the substantial amendment while the opportunity is used also to codify the basic act and all subsequent amendments. Recasting was not covered in the November 2001 Communication on codification. The Commission will, for 2004, establish a horizontal programme for recasting work and will use, more systematically recasting exercises to secure substantial legislative simplification. In addition, where acts have been codified as part of the codification exercise, future amendment to those acts should be made, in principle, by way of recast, lest the benefits of the exercise be quickly lost.

The legislative process

The Council and the Parliament are invited, actively to identify ways - formally or informally - to speed up the legislative processes in respect of codification measures. (Objective 6 deals with this aspect more fully). The Parliament and the Council are invited to adopt the proposals in the codification programme no later than the end of 2006 while avoiding, in particular, to reopen negotiations on substantive issues.

Objective three – Summary of Proposed Actions

- The Commission will prioritise its codification exercise to reflect the indicators suggested in table 1, adapted as appropriate.
- The Commission will complete its codification programme by the end of 2005 and will establish annual horizontal programming of recasting, as of 2004.
- The Parliament and Council are invited to give urgent consideration to the Commission's proposals under the codification programme (phases I – III and in 2005), in order to adopt all proposals under this programme no later than end-2006. In so doing every effort should be made to avoid the reopening substantive issues for re-negotiation.
- Adapted fast track procedures should be urgently agreed for inter-institutional decision-making as proposed in the Commission's Better Regulation Action Plan (Objective 6).

4. OBJECTIVE FOUR :

REVIEWING THE ORGANIZATION AND PRESENTATION OF THE ACQUIS

Since the foundation of the European Communities, the acquis has never been the subject of a comprehensive review of its organization, structure or presentation. There is no single definition of what constitutes the acquis: for some purposes, use is made of a very broad definition to include, in addition to the treaties, regulations, directives and decisions, the case law of the Court of Justice and non-binding acts (such as resolutions and recommendations). Since the objective of the present Communication is to simplify

and update the acquis, a narrower definition is more appropriate and the target acquis is therefore defined as binding acts, i.e. regulations, directives and decisions (including general decisions and decisions with individual addressees) in the sense of Article 249 TEC. This definition covers acts adopted by the Commission alone (autonomous acts) including implementing legislation under comitology procedures. The body of laws thus identified contains all the acts of Community law which create rights and obligations for the citizens of the Union.

The Community acquis, thus defined, contains numerous texts that are obsolete but nevertheless remain legally in force. These include legal acts with time-limited application or of application only at the time of their adoption. (For example, the fixing of agricultural prices in a given harvest year or the grant of a particular time-limited status, derogation or financial support to a Member State or other entity). Other legal acts continue formally to exist even though their legal basis has been altered or has disappeared. Many acts are addressed exclusively to individual Member States or operators and therefore are of little or no general interest or relevance.

The Office for Official Publications (OPOCE) manages the CELEX database, the official authoritative basis for all other reference documents (such as the Directory of Legislation in Force, printed twice a year (January and July), and the EUR-Lex portal database). These instruments are agreed inter-institutionally, as are the legislative classifications they use (which some Member States also reflect at national level).

All past and present Community legislation is registered in the CELEX database. Within this database, different parameters concerning the legal or administrative status of legal acts can be registered, for example whether an act is in force or not.

Experience shows that the Directory of Legislation in Force is not, in fact, a true reflection of the Community legislation actually in force. In addition to the need for a more faithful reflection of law currently in force, both CELEX and its derived instruments, the Directory of Legislation in Force and EUR-Lex could be significantly improved in terms of userfriendliness and relevance, both for the Community institutions and professionals, and for the general public.

To pursue these objectives, the Commission proposes three actions:

Action A: Clarifying which legislation is in force

Repeals

There is a confirmed need formally to repeal obsolete legal acts. For autonomous acts, the Commission intends to move ahead quickly on its own authority and repeal several hundred Commission acts by launching formal procedures shortly. A similar initiative relating to acts requiring decision of the Parliament and/or Council will also be prepared for submission before the end of phase I (September 2003).

Identifying the acquis in force

For many legal acts, formal repeal could give rise potentially to legal doubts. Nevertheless many such acts are clearly obsolete and do not need to be included within an active acquis (for example, where agricultural price levels in a particular year have been set). However, their exact status needs to be clearly and formally indicated.

Some inter-institutional consideration will be needed to decide how best to remove obsolete and potentially misleading information from the acquis, in particular in legislation agreed by the Council and the Parliament. However, in respect of autonomous acts that have become obsolete because their validity in time has expired, the Commission will prepare a formal recognition of obsolescence to remove such acts from the active “acquis”. The Commission proposes that a similar approach of formal recognition of obsolescence should, where appropriate, also be applied for legislative acts adopted by the other institutions.

For Commission acts alone, the Commission services have already provisionally identified more than 450 acts (representing well over 1000 OJ pages) as candidates for repeal or a formal recognition of obsolescence (the identified candidate acts are listed in the Commission Staff Working Document, accompanying the present Communication).

Action B: Presenting the “active and generally applicable acquis”

In addition to the necessary clarification of what legislation is actually in force, the Community could offer the general public a much more accessible and user-friendly presentation of the most relevant body of Community law. To this end, it could be helpful to identify the “active and generally applicable acquis”, consisting of active and generally applicable secondary legislation. Legal act which have specific importance and relevance only to those entities formally addressed in the instrument concerned are of little or no interest to the vast majority of users and could be clearly delimited from this presentation. Such acts represent considerable volumes of text (for the agricultural sector alone, some 600 acts representing nearly 2000 OJ pages have already been identified provisionally). Whilst they should not be formally repealed they can quite clearly be identified from the generally applicable acquis (without formal proposals being made) by means of specific references within CELEX.

Presenting such an “active and generally applicable acquis” will not change the state of law, nor would it introduce a ranking of existing legislation. It would, rather, be a non-legal but more accessible presentation of the most relevant legislation.

Action C: Reliable and useful reference instruments

CELEX and the derived reference instruments are essential tools. In the light of experience, and given the availability of modern computer technologies, improvements in their content, presentation and user-friendliness are now possible and desirable. In addition to correcting the present imperfections of the acquis itself (see above), there is also scope for improvements to allow more efficient and time-saving scrutiny.

Clearer official definitions would also improve the user-friendliness of the different reference bases thereby providing enhanced services to users, for example by identifying the Commission service responsible for a particular legislative act.

To maintain an up-to-date acquis requires continued attention from all institutions. The Commission intends to take initiative to the necessary inter-institutional collaboration. The Commission will, from 2004, annually review all exercises designed to streamline the acquis.

Objective Four – Summary of Proposed Actions

- Every effort should be made to identify and give an appropriate presentation to Community legislation which is active and generally applicable (the “active and generally applicable acquis”).
- The Commission will immediately proceed to repeal autonomous acts after final legal verification of the candidates identified so far. It will continue its screening of the acquis to identify similar candidates for repeal during later phases. In phase I the Commission will also propose for urgent repeal, those legal acts that require formal decisions from Parliament and/or the Council.
- An inter-institutional Task Force coordinated by the Commission (with external user advice) should further undertake an authoritative and systematic review of the acquis and come forward with proposals by the end of 2003 on its definition and presentation, including appropriate methods to establish formal recognition of obsolescence, and differentiation between acts that are generally applicable and acts with very specific purposes.
- The accuracy, quality and user-friendliness of CELEX, the Directory of Legislation in Force and EUR-Lex should be enhanced. To achieve this, the inter-institutional Task Force proposed above should come forward with proposals by the end of 2003.
- From 2004, the Commission will conduct annual reviews to continue efforts to streamline the acquis.

5. OBJECTIVE FIVE :

ENSURE TRANSPARENCY AND EFFECTIVE MONITORING AT POLITICAL AND TECHNICAL LEVEL

Despite significant activity by the Commission and OPOCE over the past few years to update and simplify the acquis (notably by consolidation and codification) it is clear that such actions lack a coherent, inter-related strategy and the political support that would give the process real momentum. To heighten political awareness and commitment full transparency is needed to track progress on consolidation, simplification and repeals.

That transparency needs to be under-pinned by political scrutiny and effective reporting mechanisms.

As part of the Framework for Action, the Commission will establish a monitoring/reporting tool in the form of a summary scoreboard. In 2003 and 2004, during the 3 phases of intensive work, this scoreboard will be reviewed at approximately six-monthly intervals by the College of Commissioners and, if they so decide, by the Council and Parliament. The scoreboard will provide information on the evolution of the stock of Community law and, in particular, the progress being made with regard to the simplification, codification and repeals targets. (The simplification and codification programmes themselves will also be available). The scoreboard will have broad and on-going relevance for maintaining momentum and direction to the work of the Commission, the Parliament and the Council and will also be included in the Commission's annual report on better regulation.

The Commission will also review its internal arrangements with regard to its procedures, progress reporting and political oversight, a pre-condition for which is the further development of the basic reference tools, in particular the CELEX database, to allow easier and clearer identification and quantification of the components of Community law and its attribution to operational Commission services. Further discussion with OPOCE to secure such change will continue (see also Objective 4).

It is for the Council and the Parliament to consider how best, in addition to the summary scoreboard, to coordinate and monitor progress within their own institutions. For its part, the Commission will pursue the objectives of the present Framework for Action using the existing co-ordination mechanisms, including targeted mechanisms established in the Better Regulation Action Plan (in particular the legislative network which brings together all legislative services of the Commission under the coordination of the Secretariat General and the internal Commission working group on codification). Inter-institutional working relations will also have to be strengthened.

These procedures should ensure the complete integration of the Framework's objectives and actions into the Commission's annual programming cycle, the annual work programme, and the annual cycle on implementation of the Lisbon strategy. The annual report on "Better Regulation" will incorporate information of the progress made in the Framework and be used in preparing the Commission's annual work programme and the report to the Spring European Council.

Objective Five – Summary of Proposed Actions

- The Commission will establish a summary scoreboard on the evolution of Community law and the progress towards achieving the objectives outlined in the Framework for Action.
- The Framework will be fully integrated into the Commission's annual work programme.

- The Commission will incorporate information on progress made within the Framework for Action in its annual “Better Regulation” report.

6. OBJECTIVE SIX :

ESTABLISH AN EFFECTIVE IMPLEMENTATION STRATEGY

Inter-institutional collaboration

The Commission recognises that, given its right of initiative and its role as guardian of the Treaties, it has the primary responsibility to ensure the maintenance of Community law on a continual basis. Operationally, managing the *acquis* is most efficiently undertaken policy area by policy area, but with the strong element of horizontal coordination that will be provided by the Framework for Action. However the objectives of the present Communication can only be achieved with the full and active co-operation of the European Parliament and the Council, not least because amending or repealing legislation, as is the case for adopting legislation, requires legislative procedures involving those institutions.

In order to provide adapted and more streamlined procedures within the legislative rules of the Treaty, inter-institutional agreements have already been established for some processes. These are the Inter-Institutional Agreement on Accelerated Working Method for Official Codification¹¹ and the Inter-Institutional Agreement for a More Structured Use of the Recasting Technique for Legal Acts¹². Nonetheless, experience confirms that the present inter-institutional collaborative arrangements need to be strengthened, in particular in two areas.

- First, in relation to simplification proposals (Objective 1), normal decision-making procedures are, at present, followed without the benefit of collaborative effort, priority-setting, or accelerated procedures that are targeted specifically at simplification. The Council and Parliament need to give appropriate priority to individual Commission proposals, particularly avoiding the temptation of adding new and cumbersome requirements.
- Secondly, the emerging codification programme (Objective 3) also needs to be supported by accelerated procedures to secure the urgent adoption of Commission proposals, notably at the first reading within the prescribed deadlines (for example twelve months) under co-decision procedure.

The Commission again calls on the Council and the Parliament – as it did in its Action Plan on Better Regulation – to agree that the relevant procedures should be adapted and

¹¹ Agreement of 20.12.1994, OJ 1996/C 102/2 of 4.4.1996.

¹² Agreement of 28.11.2001, OJ 2002/C 77/1 of 28.3.2002.

streamlined in the context of the inter-institutional agreement on better regulation currently being negotiated.

Apply best practices to ensure continued maintenance of the acquis

Legislative simplification should start at the earliest stage when proposals for new or amended legislation are under consideration. The objective here is to ensure that secondary Community legislation is subjected to systematic review, notably with regard to good regulatory techniques and user-friendliness, while continuing to meet its intended aims efficiently and effectively and in a proportionate manner. The Commission will take steps to introduce a more systematic approach in the management of existing EC legislation by applying the following basic guidelines:

- Consolidation will automatically occur whenever there is an amendment to a legislative act. For codification, criteria will be established (and published) to trigger automatic codification when legislation is being amended, for example, for the fifth time. These criteria will be reviewed annually, in light of available resources.
- There will be a systematic effort to ensure repeal of acts that are being substituted or replaced by new texts. New texts will be so drafted as to ensure that any limitations on the validity of new acts are expressly stated.

Future proposals to amend existing legislation will be subjected to the same standards as those applicable for new legislative proposals following the Better Regulation Action Plan. Of particular relevance are the following aspects:

- Respect of the requirements relating to the quality of legislative drafting¹³.
- Wherever appropriate, review or sunset clauses will be proposed in new legal acts.
- There will be an impact assessment (and public consultation) wherever appropriate.
- Alternative regulatory options will be systematically examined.

Securing the necessary resources

While the long-term benefits and cost-saving of a leaner and cleaner Community acquis are undisputed, the short-term efforts to achieve improvements demand adequate resources that are stable and predictable otherwise a rational flow of work will not be maintained. The resource issue will be handled by those involved throughout the time span required to complete the actions set out in the Framework for Action.

¹³ Inter-institutional Agreement on the Quality of Drafting – OJ 1999/C 73

Objective Six – Summary of Proposed Actions

- Inter-institutional agreement is urgently needed on adapted and fast-track procedures for adoption of simplification and codification proposals.
- The institutions should apply best practices to ensure easy and continued maintenance of Community legislation.
- The Commission will reinforce its internal coordination through its legislative network of key services, coordinated by the Secretariat General.
- The institutions should commit the necessary resources to implement this Framework for Action.

7. NEXT STEPS

With the present initiative, the Commission provides a political and practical framework of action that will lead us to clear benefits at all levels in the EU, the institutions and for citizens and businesses.

The initiative can succeed only with firm and urgent support from the other institutions and key actors. Early confirmation of support for the general objectives and actions of this initiative is essential. In particular, the Commission invites the European Council, meeting in March 2003, to endorse the Communication as part of the actions needed to achieve the Lisbon objectives. The European Parliament is also invited to endorse this approach.

The Commission will launch the necessary preparatory work to ensure the rapid implementation of the phase II and III actions. The other institutions are invited to give priority to these proposals, in particular, by concluding the inter-institutional agreement on “better regulation” and by launching the necessary inter-institutional collaboration to review the definitions and presentation of the acquis and the databases in which the acquis is recorded.

Annex 1 : Summary of the initiatives in the Framework for action

| | Objective | Actions to be undertaken | Deadline | Responsible |
|---|--|--|-------------------------------|------------------------------------|
| 1 | Simplify the existing acquis | A : The Council and Parliament are invited to comment on the Commission's proposed indicators for prioritising simplification | March 2003 | Commission, Council and Parliament |
| | | B : Simplification proposals for Phase I: Council and Parliament to give urgent consideration | N/A | Idem |
| | | C : Methodology and procedures: Commission, Council and Parliament to agree on adapted and fast-track procedures in the context of the inter-institutional agreement on better regulation, currently under negotiation | March 2003 | Idem |
| | | D : Simplification Phase II and III: Commission to make prioritisation proposals based on prioritisation indicators | September 2003 and March 2004 | Idem |
| 2 | Consolidation of the acquis must be completed and kept rigorously up-to-date | A: Complete the on-going consolidation exercise | June 2003 | OPOCE |
| | | B: Ensure consolidation whenever existing legislation is amended | On-going after June 2003 | Idem |

| | Objective | Actions to be undertaken | Deadline | Responsible |
|---|--------------|---|----------------------|------------------------|
| 3 | Codification | A: Council and Parliament to give urgent consideration to the Commission's Phase I codification proposals | N/A | Parliament and Council |
| | | B: The Commission to complete its codification programme by the end of 2005 (through Phases I-III, and annual programming for 2005). | End-2005 | Commission |
| | | C: The Parliament and Council are invited to give urgent consideration to the Commission's proposals under the codification programme (Phases I - III and in 2005), in order to adopt all proposals under this programme no later than by end-2006. | End-2006 | Parliament and Council |
| | | D: Establish a horizontal rolling programming of recasting | Annually, as of 2004 | Commission |

| | Objective | Actions to be undertaken | Deadline | Responsible |
|---|---|--|-----------------------------------|---|
| 4 | Reviewing the organisation and presentation of the acquis | A: Immediate repeal of out-of-date autonomous legislation by Commission (Phase I) | February 2003 | Commission |
| | | B: Based on Commission's proposals, urgent adoption by Parliament and Council of proposed repeals (Phase I) | Commission proposal by April 2003 | Council and Parliament |
| | | C: An inter-institutional Task Force should review the organisation and presentation of the acquis and come forward with proposals | End-2003 | Commission, Parliament and Council |
| | | D: Improve CELEX, Directory of Legislation in Force and EUR-Lex concerning reliability and user-friendliness | End-2003 | OPOCE with inter-institutional collaboration and external user advice |
| | | E: Starting in 2004, the Commission will annually review and implement/propose measures to streamline the acquis | Annually, starting in 2004 | Idem |

| | Objective | Actions to be undertaken | Deadline | Responsible |
|---|--|---|---------------------------------------|------------------------------------|
| 5 | Transparency and effective monitoring at political and technical level | A : Commission to establish a summary scoreboard on the evolution of Community law and the progress with regard to the targets of the Framework for Action | September 2003, report every 6 months | Commission |
| | | B: Commission to prepare “Better Regulation” report | Annually, starting 2003 | Idem |
| 6 | Establish an effective implementation strategy | A: Conclude the inter-institutional agreement on better regulation, including adapted and fast-track procedures for adoption of simplification and codification proposals | March 2003 | Commission, Council and Parliament |
| | | B: The institutions to apply best practices to ensure continued maintenance of Community legislation | On-going | Idem |
| | | C: The institutions to secure the necessary resources to implement this Framework of Action | On-going | Commission, Council and Parliament |

Annex 2 : List of projects with simplification implications

* Indicates projects included in the Work Programme for 2003

| Regulatory area | Subject and explanatory notes |
|--|---|
| Automotive construction (ENTR) | -Entire <u>type-approval system</u> for all categories of Motor Vehicles contained in some 90 directives, totalling about 260 legal acts and 4.600 OJ pages. -Three phases: (1) codification, (2) simplification by making cross-reference to equivalent UN/ECE regulations to avoid duplication and (3) migration of regional regulations (mainly EU, Japan and USA) towards a world wide unified system of UN regulations. |
| Automotive systems* (ENTR) | - Modernisation of Directives 88/77/EEC and 1999/96 on emissions from heavy-duty vehicles - Recasting of framework Directive 70/156/CEE relating to type approval of motor vehicles and their trailers |
| Cosmetic products * (ENTR) | Recast and modernisation of Directive 76/768/EEC under SLIM review |
| Metrology & Packaging * (ENTR) | Modernisation of existing Pre-packaging legislation following a SLIM review |
| Toys * (ENTR) | Codification, modernisation and recast of Council Directive 88/378/EEC on the safety of toys. Planned completion 2004 |
| Medicinal products (ENTR) | Simplification of Regulations (EC) 541/95 and 542/95 on the examination of variations to the terms of a marketing authorisation of a medicinal product. Planned completion 2003 |
| Agricultural Products (ENTR) | Recasting and merging of Regulations (EC) 1520/2000, 3223/93 and (EEC) 3615/92 on Processed Agricultural Products for simplification. Planned completion: 2004. |
| Agriculture (AGRI) | CAP reform - a long term perspective for sustainable agriculture |
| Agriculture (AGRI) | Simplification of the implementing rules in the rural policy sector. Planned completion 2003 |
| Common Agricultural Policy * (AGRI) | Several adaptations of agricultural regimes, taking equally into account simplification objectives; the principal sectors concerned include fresh fruit and vegetables, tobacco, olive oil, cotton, CAP information actions, and state aids exemption regulations. |

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| Air transport * (TREN) | Consolidation and simplification of Regulations 2407/92, 2408/92 and 2409/92 on the functioning of the market Consolidation and simplification of Regulations 2299/89, 3089/93 and 323/99 on the reservation systems |
| Airports * (TREN) | Modification to Council Directive 96/67/EC on the access to the ground handling market in Community airports. |
| Road & inland transport * (TREN) | Recast of Directive 88/599/EEC on road transport procedures |
| Road safety * (TREN) | New directive on driving licences to replace 6 older directives (91/439, 94/72, 96/47, 96/427, 97/26, 2000/56) |
| Maritime transport * (TREN) | Amendment and possible recasting of Regulation (EC) 613/91 on the registration of ships Amendment and possible recasting of Directive 95/21/EC on the control of ships in harbours. |
| Energy* (TREN) | Simplification of Directive 92/42/EEC on the energetic efficiency of apparatus |
| Food safety/Feed legislation (SANCO) | - Recast for modernisation of Regulations on feed materials and compound feedingstuffs. - Recast and merging of directives 79/373/EEC and 96/25/EC for harmonisation and simplification of the procedures. Completed by 2006. |
| Food safety/Food contact materials (SANCO) | Recast for modernisation of framework Directive on food contact materials based on directives 80/590/EEC and 89/109/EEC and on plastic materials. Harmonisation and simplification of procedures Completed by 2006. |
| Food safety/Novel foods (SANCO) | Recast for modernisation of Regulation 258/1997 on novel foods. Implementation of a centralised procedure of authorisation. Completed by 2006. |

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| Pesticides in plant protection * (SANCO/ ENV) | Simplification of 5 Directives (76/895, 86/362, 86/363, 90/642, 91/414) following a SLIM review. Completed by 2003 |
| Drugs (JAI) | Recast of Council Regulation (EEC) 302/93 on the European Monitoring Centre for Drugs |
| Taxation (TAXUD) | Recast for modernisation and simplification of Capital Duty Directive (69/335/EEC) |
| Customs Union * (TAXUD) | Revision of the existing Customs regime (Phase II) planned for 2003/2004 |
| Taxation* (TAXUD) | Recasting for simplification of the Sixth (77/388/EEC- 28 acts and some 150 OJ pages) and Eighth (79/1072/EEC) VAT Directives following a SLIM review |
| European Contract Law (SANCO/JAI/ENTR/ MARKT) | Review of the current acquis contained in some 20 sectoral directives Two phases : (1) Elaboration of a common frame of reference with definitions of basic concepts to be used (2) when review existing acquis and submitting new proposals. Phase one to be completed by 2007 |
| Social affairs (EMPL) | Recast for modernisation of Directives on equal treatment between men and women |
| Employment (EMPL) | Review of existing rules on Health and safety at the work place legislation |
| Competition* (COMP) | Revision of Council Merger Regulation EEC 4064/89 and other related implementing and interpretative merger rules. Planned completion: end of 2003, depending on progress made in the Council working Group |
| State aids* (COMP) | Simplification of State Aids procedures and rules |

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| Competition* (COMP) | Revision of Commission Implementing Regulation on Antitrust (27/62) and other related implementing and interpretative rules. Launch 2003, completed 2004 |
| Waste (ENV) | Simplification of existing waste legislation |
| Air quality (ENV) | Revision for simplification of air legislation based on Framework Directive 96/62/EC, following the Commission's communication on clean air (COM(2001)245), completion planned for 2005. |

Annex 3 :

Legislative proposals with simplification implications already adopted by the Commission and pending before the other institutions

| Regulatory area | Subject of the project |
|--------------------------------|---|
| Automotive products (ENTR) | Recast of Directive 71/127/EEC relating to rear-view mirrors (COM(2001)811 of 7/1/2002) and of Directive 74/150/EEC relating to type approval of wheeled agricultural to forestry tractors (COM(2002)6 of 16/1/2202 |
| Detergents (ENTR) | New regulation COM(2002)485 of 4/9/2002 replacing and modernising 5 older directives |
| Drug precursors (ENTR) | New regulation (COM(2002)494 of 10/9/2002) replacing and modernising 3 older directives and 2 older regulations. |
| Electrical equipment (ENTR) | Simplification of the Electromagnetic Compatibility Directive (89/336/EEC) following a SLIM review – COM(2002)759 of 23/12/2002 |
| Fertilisers (ENTR) | New regulation COM(2001)508 and COM(2002)318 of 14/9/2001 to replace and modernise 18 older directives following a SLIM review |
| Food safety (SANCO) | <ul style="list-style-type: none"> - Four new Regulations and one Directive (COM(2000)438 of 14/7/2000) to replace and simplify existing 17 Directives on the hygiene of food - Recast of the rules on the official controls on feed and food (to be adopted by the Commission in Feb 2003) - Recast and simplification of the legislation on additives for animal feed (COM(2001)153 of 22/3/2002 |
| Road transport (TREN) | New Regulation (COM(2001)573) replacing and simplifying Regulation EEC 3820/85 on driving conditions |

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| Energy (TREN) | Proposals concerning coordinated measures on the security of energy supply (COM(2002)488 final) |
| Energy (TREN) | Amended proposals concerning rules for the internal markets in electricity and natural gas (COM(2002)304 final) |
| Social security (EMPL) | New Regulation to replace and recast Regulations 1408/7 and 574/72 on the co-ordination of social security schemes, following a SLIM review |
| Public procurement (MARKT) | Recast of current 5 old Directives into 2 new Directives (COM(2000)275 and 276 of 30 and 31/8/2000) on classic sectors and utilities. |
| Professional qualifications (MARKT) | Recast proposal COM(2002) 119 of 7/3/2002 to replace 35 existing measures by one, following a SLIM review |
| Company law (MARKT) | Simplification of rules in First Company Law Directive adopted (COM(2002) 279 of 3.6.2002), following a SLIM review |