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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

Outcome of the screening of legislative proposals pending before the Legislator

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As announced in its Communication of 16 March 2005 on “Better Regulation for Growth and Jobs in the European Union”¹, the Commission has decided to introduce a step change in the way it seeks to ensure that the quality of legislation in Europe promotes the objectives of the Partnership for Growth and Jobs.

To enhance European competitiveness, the regulatory environment in the European Union has to be of the highest standard possible. To attain this goal, the “acquis communautaire”, the existing stock of legislation, needs to be simplified, where necessary, and updated, for which an array of measures is foreseen, including, notably, the launch of a new phase of the Simplification programme in October 2005.

The Commission has also decided that better regulation needs to be integrated in the design of policy and that new legislative proposals presented by the Commission must seek to promote better regulation and contribute to competitiveness. This is notably put in practice by the requirement that new legislative initiatives are now subject to an impact assessment as announced in the Commission’s legislative and work programme for 2005, for which extensive and detailed guidelines were recently adopted².

As regards proposals presented by the Commission in the past and pending in the legislative process, the March Communication stated the Commission’s intention “to screen proposals that are pending before the Council/Parliament with regard to their general relevance, their impact on competitiveness and other effects”. The objectives, process and outcomes of this screening exercise, which is the first of its kind, are presented in this Communication.

1. Objectives of the screening of pending proposals

The screening exercise aimed at enabling the Commission to ensure that all pending legislative proposals are fully consistent with the political priorities of the Commission and to check whether changed circumstances justify a review of the initial approach followed.

Where a review was deemed necessary, the screening exercise has also identified the appropriate measures to be taken, such as modification, replacement or withdrawal of pending proposals and improving the assessment of their impacts.

More specifically, the screening exercise aimed at testing pending proposals on three accounts:

First, pending proposals were examined for their consistency with the EU Lisbon objectives and in particular the goal of promoting competitiveness. The criteria used for evaluating

¹ COM(2005) 97.

² SEC(2005) 791.

proposals in this respect were those specified in the ‘competitiveness test’ that forms part of the recently revised impact assessment guidelines³.

Secondly, pending proposals were checked for possible lack of substantial progress in the legislative process for a significant period of time. In these cases, the reasons for slow advancement and the chances for unblocking this situation were also examined.

Third, pending proposals were examined to determine whether they meet current better regulation requirements, notably with regard to appropriate impact assessments. This criterion affects in particular those proposals presented at a time when impact assessments were not a formal requirement.

2. Process of the screening exercise

At the launch of the screening exercise in April 2005, the total number of pending proposals was 489⁴. The scope of the exercise defined by the March Communication was explicitly limited to pending proposals dated before 1 January 2004. This amounted to 183 proposals.

These were subjected to a careful assessment which led to the identification of about 100 proposals that constitute truly new legislative initiatives and that were further evaluated for possible adverse effects on competitiveness and broader economic effects. The rest consist of proposals that are likely to have limited or no impact on competitiveness. These relate mainly to proposals resulting from international obligations or constituting adaptations of the *acquis* to scientific and technical progress. Some of these proposals also directly contribute to “better regulation” as they codify or simplify the *acquis*.

3. Outcomes of the screening exercise

Following a detailed analysis of all the outstanding proposals, the Commission envisages two broad types of action:

(1) Proposals to be withdrawn. The Commission intends to withdraw in total 68 proposals. These proposals are considered not to be consistent with the Lisbon objectives or Better Regulation principles, or they are making insufficient progress in the legislative process or are no longer topical⁵ (e.g. the objectives are already being achieved by other means, or will be achieved by other means). Some of these proposals may be reconsidered in the light of further analysis. In some cases the Commission intends to reconsider the need for a legislative intervention in the light of the results of a comprehensive impact assessment.

(2) Proposals to be maintained in the legislative process but with economic analysis to be presented to the assessment of the legislative authority⁶. This concerns 5 proposals of which the Commission is convinced that they remain important, but where additional presentation of the analysis of their impact is likely to facilitate decision making by the Legislative Authority.

³ See footnote 2.

⁴ Indeed, the Commission deals, each year, with a turn-over of around 200/250 proposals stemming from EU international obligations, the need to update the “*acquis communautaire*” and/or to respond to commitments with the Legislator.

⁵ The Commission has carried out regular withdrawal exercises which have reduced the pool of pending proposals. 34 proposals were withdrawn in 1997, 58 in 1999, 108 in 2001 and 102 in 2004.

⁶ Fluorinated gases, Shipment of waste, Signature of convention on aircraft mobile equipment, VAT travel agents and VAT Administrative cooperation.

Thus, as a result of the Commission's screening, in total some 73 pending proposals will be subject to some form of intervention. This covers proposals that do not fully meet competitiveness objectives, those for which further economic analysis needs to be brought to the assessment of the Legislator as well as proposals that are not advancing sufficiently in the legislative process or have become obsolete.

The withdrawals in particular represent some 31%⁷ of all pending proposals from before 1 January 2004. All interventions including proposals singled out for further economic analysis actually represent 33 %⁸ of those pending proposals.

Moreover, for at least 2 proposals, the screening exercise has produced results that do not fall directly into the above categories. First, concerning the proposal for a Council Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents – optical radiations, 1992/0449/COD, for which the screening exercise has led the Commission to conclude that the aspects dealing with exposure of workers to natural optical radiation should be deleted, as proposed also by the European Parliament.

Secondly, concerning the proposal on Temporary Workers (2002/0072/COD), the Commission reserves its position to reconsider the proposal in light of future discussions on other proposals.

The Annex to this communication summarises the situation and gives details of the proposals concerned.

Conclusion

The screening exercise of pending proposals is the first ever comprehensive screening undertaken by the Commission. This testifies to the European Commission's commitment to the Partnership for Growth and Jobs and to ensuring that Better Regulation principles are implemented in practice with rigour.

The actions resulting from the screening exercise, i.e. the planned interventions on pending proposals as set out in the annex, are designed to have a positive effect for meeting the Lisbon objectives, by supporting competitiveness, for the development of a better legislative environment and for eliminating proposals that have no real prospect for adoption or have become obsolete.

The withdrawal of pending proposals will, in some cases, take place in the framework of an overall review of policies or with the intention to reconsider proposals in the light of new policy elements and a comprehensive impact assessment.

In line with the commitments in the Framework Agreement on Relations between the European Parliament and the Commission (paragraph 32), the Commission is hereby giving prior notification to Parliament and the Council before withdrawing its proposals.

⁷ Out of a total of 68 withdrawals, 12 are proposals adopted by the Commission in 2004.

⁸ See footnote 7.

ANNEX

1- Proposals to be withdrawn

Agriculture

- COM(88) 431/2: Proposal for a COUNCIL DIRECTIVE establishing the terms and conditions of officially supported export credits for agricultural products
- 1994/0254/CNS: Proposal for a COUNCIL REGULATION (EC) on the crediting of securities, deposits and guarantees furnished under the common agricultural policy and subsequently forfeited, and repealing Regulation (EEC) No 352/78
- 2000/0152/CNS: Proposal for a COUNCIL REGULATION amending Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops, in order to include rice
- COM(2003) 89: Proposal for a COUNCIL REGULATION authorising the offer and delivery for direct human consumption of certain wines imported from Australia which may have undergone oenological practices not provided for in Regulation (EC) No 1493/1999

Competition

- 1997/0137/CNS: Proposal for a COUNCIL REGULATION (EC) amending Regulation (EEC) No. 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector
- 1997/0138/CNS: Proposal for a COUNCIL REGULATION (EC) on the application of Article 85(3) of the Treaty to certain categories of agreement and concerted practices in the air transport sector between the Community and third countries

Development

- COM(1999) 273: Proposal for a DECISION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE MEMBER STATES MEETING WITHIN THE COUNCIL authorising the Commission to open negotiations with the ACP States with a view to amending the third ACP-EEC Convention, signed at Lomé on 8 December 1984, the fourth ACP-EEC Convention, signed at Lomé on 15 December 1989, and the fourth ACP-EC Convention as revised by the Mauritius Agreement of 4 November 1995

Economic and Financial Affairs

- SEC(2004) 485/2: Proposal for a COUNCIL DECISION on making public the recommendation with a view to giving early warning to Italy in order to prevent the occurrence of an excessive deficit

Enlargement

- 1996/0153/ACC: Proposal for a COUNCIL DECISION concerning the conclusion of an Agreement in the form of an exchange of letters in the area of certification of industrial products under the framework of the Europe Agreement between the European

Community and its member states of the one part, and the Republic of Poland of the other part

- COM(1999) 675: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 676: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 678: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 679: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 680: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 681 : Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 682: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes
- COM(1999) 684: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part, with regard to the adoption of provisions for the co-ordination of social security schemes

- 2002/0213/CNS: Proposal for a COUNCIL AND COMMISSION DECISION .../.../EC, ECSC on the conclusion of an additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, with regard to an extension of the period foreseen in the provisions of Article 8(4) of Protocol 2 of the Europe Agreement with the Czech Republic
- 2002/0027/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community within the Association Committee established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part, with regard to the adoption of a Regional aid map on the basis of which public aid granted by the Slovak Republic will be assessed
- 2002/0145/ACC: Proposal for a COUNCIL DECISION relating to the conclusion of an Additional Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take account of the outcome of the negotiations between the parties on new mutual agricultural concessions

Enterprise and Industry

- 1991/0386/COD: Proposal for a Regulation of the European Parliament and of the Council on the statute for a European association
- 1991/0390/COD : Proposal for a Regulation of the European Parliament and of the Council on the statute for a European mutual society
- 1991/0387/COD: Proposal for a Directive of the European Parliament and of the Council supplementing the Statute for a European association with regard to the involvement of employees
- 1991/0391/COD: Proposal for a Directive of the European Parliament and of the Council supplementing the Statute for a European mutual society with regard to the involvement of employees
- SEC(90) 431: Proposal for a COUNCIL REGULATION (EEC) amending Regulation (EEC) No 428/89 concerning the export of certain dangerous chemicals
- 2000/0235/COD: Proposal for a EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE amending Directive 80/232/EEC as regards the range of nominal weights for coffee extracts and chicory extracts
- 2003/0289/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 3 of the Europe Agreement between the European Community and the Republic of Hungary
- 2004/0005/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Slovak Republic,

of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 3 of the Europe Agreement between the European Community and the Slovak Republic

- 2004/0006/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 3 of the Europe Agreement between the European Community and the Republic of Slovenia
- 2004/0015/ACC : Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 2 of the Europe Agreement between the European Community and the Republic of Latvia
- 2004/0021/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 2 of the Europe Agreement between the European Community and the Republic of Estonia
- 2004/0019/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 2 of the Europe Agreement between the European Community and the Republic of Lithuania
- 2004/0034/ACC: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Agreement between the European Economic Community and Malta concerning the improvements of the trade arrangements for processed agricultural products
- COM(2004) 1: Proposal for a COUNCIL DECISION on the position to be taken by the Community in the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, concerning the improvement of the trade arrangements for processed agricultural products provided for in Protocol 3 of the Europe Agreement between the European Community and the Czech Republic

Environment

- 2001/0188/CNS: Proposal for a COUNCIL DECISION relating to the conclusion, on behalf of the Community, of the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes

- COM(2003) 263: Proposal for a COUNCIL DECISION on the signature, on behalf of the European Community of the Protocol on civil liability and compensation for damage caused by the transboundary effects of industrial accidents transboundary watercourses

Fisheries and Maritime Affairs

- 2001/0096/CNS: Proposal for a COUNCIL REGULATION amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy
- 2001/0299/CNS: Proposal for a COUNCIL REGULATION establishing measures for the recovery of cod and hake stocks
- 2002/0275/CNS: Proposal for a COUNCIL REGULATION for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms
- COM(2004) 783: Proposal for a COUNCIL REGULATION amending Regulation (EC) No 2287/2003 as concerns fishing opportunities for Norway lobster in the North Sea
- COM(2004) 797: Proposal for a COUNCIL REGULATION amending Regulation (EC) No 2287/2003 as concerns fishing opportunities for herring in the Baltic Sea

Internal Market and Services

- 2001/0227/COD: Proposal for a European Parliament and Council Regulation on sales promotion in the internal market
- 1997/0356/COD: Proposal for a European Parliament and Council Directive approximating the legal arrangements for the protection of inventions by utility model

Justice, Freedom and Security

- 2001/0155/CNS: Proposal for a Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding 6 months
- 2003/0311/COD: Proposal for a COUNCIL REGULATION on the European Monitoring Centre for Drugs and Drug Addiction (recast)

External Relations

- 2000/0027/ACC: Proposal for a COUNCIL DECISION to refer the dispute regarding the procedure of state registration (renewal of registration) of medicinal products and related fees in Ukraine and to determine the position to be adopted by the Community in the Cooperation Council to settle the dispute
- 2000/0166/ACC: Proposal for a COUNCIL DECISION to supply the Cooperation Council with all relevant information required for a thorough examination of the situation in respect of the import ban imposed by the Russian Federation on fresh eggs for human consumption originating in the European Community
- 2000/0196/ACC: Proposal for a COUNCIL DECISION to supply the Cooperation Council with all relevant information required for a thorough examination of the situation in respect

of the failure by the Russian Federation to fulfil its obligations under the Partnership and Cooperation Agreement in regard to trade in alcoholic beverages

- 2000/0247/ACC: Proposal for a COUNCIL REGULATION on countermeasures in response to the failure of the Russian Federation to fulfil its obligations under the Partnership and Cooperation Agreement in regard to trade in alcoholic beverages
- 2002/0139/COD: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning Community cooperation with Asian and Latin American countries and amending Council Regulation (EC) No 2258/96
- 2003/0160/AVC: Proposal for a COUNCIL DECISION on the signing of an agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area and four related agreements
- COM(2003) 255/2: Amended proposal for a COUNCIL DECISION approving the conclusion by the Commission, on behalf of the European Atomic Energy Community, of an Agreement on a Multilateral Nuclear Environmental Programme in the Russian Federation and of its Protocol on Claims, Legal Proceedings and Indemnification

Research

- COM(2003) 149: Proposal for a COUNCIL DECISION amending the Council Decision of 16 December 1980 setting up the consultative committee for the fusion programme

Health and Consumer Protection

- 1997/0027/COD: Proposal for a European Parliament and Council Directive amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs
- 2000/0180/COD: Proposal for a EUROPEAN PARLIAMENT AND COUNCIL REGULATION laying down detailed rules for the organisation of official controls on products of animal origin intended for human consumption

Codification

- 2003/0288/CNS: Proposal for a COUNCIL REGULATION laying down general rules for the application of measures to improve the production and marketing of honey (consolidated version)

Taxation and Customs Union

- 2001/0266/CNS: Proposal for Council Directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels
- 2002/0191/CNS: Proposal for a COUNCIL DIRECTIVE amending Directive 92/81/EEC and Directive 92/82/EEC to introduce special tax arrangements for diesel fuel used for commercial purposes and to align the excise duties on petrol and diesel fuel

- 1998/0210/CNS: Proposal for a COUNCIL REGULATION (EC) on verification measures, measures relating to the refund system and administrative co-operation measures necessary for the application of Directive 98/xxx/EC
- 1998/0209/CNS: Proposal for a COUNCIL DIRECTIVE amending Directive 77/388/EEC as regards the rules governing the right to deduct value added tax

Trade

- 2004/0101/ACC: Proposal for a COUNCIL DECISION on the application of certain guidelines in the field of officially supported export credits
- COM(2004) 697: Proposal for a COUNCIL DECISION amending Council Decision 2001/855/EC of 15 November 2001 authorising the automatic renewal or continuation in force of provisions governing matters covered by the common commercial policy contained in the friendship, trade and navigation treaties and trade agreements concluded by Member States and third countries

Energy and Transport

- 1997/0212/COD: Proposal for a Council Directive on safety requirements and attestation of professional competence for cabin crews in Civil Aviation
- 1998/0096/COD: Proposal for a Council Directive on a transparent system of harmonised rules for driving restrictions on heavy goods vehicles involved in international transport on designated roads (“weekend bans”)
- 1996/0301/CNS: Proposal for a COUNCIL DECISION on the conclusion of the Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other
- 1998/0349/COD: Proposal for a COUNCIL REGULATION (EC) amending Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical rules and administrative procedures in the field of civil aviation
- 2001/0225/CNS: Proposal for a COUNCIL DECISION to conclude for the European Community (EC) the “International Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management”

2- Proposals to be withdrawn and EU action to be reconsidered in the light of further analysis of the impacts

Justice, Freedom and Security

- 2001/0154/CNS: Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities

3- Proposals to be maintained - economic analysis to be presented for the consideration of the legislative authority

Environment

- 2003/0189/COD: Proposal for a European Parliament and Council Regulation on certain fluorinated greenhouse gases
- 2003/0139/COD: Proposal for a European Parliament and Council Regulation on shipments of waste

Justice, Freedom and Security

- 2002/0312/ACC: Proposal for a Council Decision on the signing by the EC of the Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment; adopted jointly in Cape Town on 16/11/2001

Taxation and Customs Union

- 2002/0041/CNS: Proposal for a Council Directive modifying directive 77/388/CEE on travel agents: special VAT scheme
- 2003/0057/COD: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 218/92 on administrative co-operation in the field of indirect taxation (VAT) as regards additional measures regarding supplies of travel services