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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
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Review of SLIM : Simpler Legislation for the Internal Market

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INTRODUCTION

The Internal Market is founded on rules designed to remove obstacles to cross-border trade, increasing competition and bringing the benefits of wider choice and lower prices to the consumer. The cornerstone is the principle of mutual recognition. Where necessary, harmonised rules have been agreed. Since one of their objectives is to make it easier to do business in the Internal Market, they must achieve their objectives in a way which avoids all unnecessary red tape and excessive compliance costs.

The Commission has stepped up its efforts to improve regulatory quality and reduce the regulatory burden. SLIM is a key initiative in this field¹. Others include the Business Test Panel and the BEST (Business Environment Simplification Task Force) Action Plan². Small teams of Member State officials and users of the legislation aim to identify concrete suggestions to simplify Community legislation in a particular sector. Fourteen such sectors have been examined since 1996³. It is now time to examine the strengths and weaknesses of SLIM policy.

Aims of the review

The overall aim of this review is to evaluate the effectiveness of SLIM as an instrument for achieving legislative simplification and recommend action to improve its effectiveness. The key areas addressed are:

- the objectives of SLIM;
- the selection of legislation for review under SLIM;
- the operation and management of teams;
- the implementation of recommendations.

¹ COM(1996) 204 Final, "Simpler Legislation for the Internal Market (SLIM) : A Pilot Project".

² COM(1998) 550 Final, "Action Plan to promote entrepreneurship and competitiveness".

³ COM(1996) 559 Final, "Report of the Commission on the SLIM Pilot Project".
COM(1997) 618 Final, "Results of the second phase of SLIM and follow-up of the implementation of the first phase recommendations".
COM(1999) 88 Final, "Results of the third phase of SLIM and the implementation of the recommendations of the first and second phases".

Methodology

In preparing this review, the Commission has taken account of:

- the results of a survey of former SLIM team members from phases I to III (see part 1 of the working document of the Commission services "Review of SLIM: Background material to the Communication of the Commission" – SEC(2000) 336);
- interviews with Commission officials associated with SLIM exercises or involved in the area of regulatory quality;
- the views of Member States as expressed by their representatives on the Internal Market Advisory Committee (IMAC) (Detailed submissions were received from six Member States);
- reports and Resolutions of the European Parliament;
- opinions of the Economic and Social Committee.

THE OBJECTIVES OF SLIM

The broad objective is to streamline the operation of the Internal Market by identifying ways in which relevant legislation can be simplified and improved. The focus is on those provisions which give rise to excessive implementation costs and administrative burdens, diverging interpretations and national application measures and difficulties in application. Whilst every effort must be made to simplify the Community legislative framework, SLIM recommendations must safeguard the essential elements of the *acquis communautaire* and ensure a high level of safety for consumers and protection of the environment.

Experience in the first three phases of SLIM has shown that the broad objective of the initiative is widely understood. Nevertheless, it would be useful to restate the objectives of SLIM and in so doing, clarify what constitutes simplification and how it should be interpreted by teams.

The Commission will:

- draw up a clear definition of the overall objectives of SLIM to be incorporated into a new set of guidelines;
- set out clearly the mandate of each individual team in the Working Document to launch the relevant SLIM phase.

SELECTION OF LEGISLATIVE AREAS FOR SIMPLIFICATION

Areas of legislation for examination by each team are currently identified on the basis of suggestions from Member States, the European Parliament, the Economic and Social Committee and trade/business organisations and the services of the Commission. A list of all sectors proposed for simplification is set out in part 2 of the working document "Review of SLIM: Background material to the Communication of the Commission", with an indication of subsequent action.

There are no fixed criteria for selecting legislative areas for review nor firm rules for including (or excluding) particular sectors. Selection may be due to difficulties in implementation, ambiguities or inconsistencies in texts, complexity arising from successive amendments, or in some cases lengthy procedures resulting in an unacceptable level of costs/administrative burdens being placed on business and enforcement authorities. There is a clear danger that areas where simplification is needed may be overlooked. There is also a risk that SLIM may be viewed as an opportunity to reopen discussion in areas where one or more Member States originally dissented from the majority view in Council on its adoption.

The analysis of the follow-up to SLIM reports (see below) also raises several points to be borne in mind when selecting sectors:

- The link between the SLIM exercise and any policy review process that was currently underway should be taken into account. Would a short, focussed consideration of the scope for simplification contribute in streamlining any future legislative proposals ?
- Where there is no pre-existing policy review, is simplification the real issue or does the legislation need to be the subject of an overall review ?
- Is the problem the complexity of the legislation or ineffective application and enforcement which is not necessarily due to complexity ?
- If legislative proposals are already before Council and Parliament, are they likely to cause a long delay in implementing any new legislative recommendations from the SLIM team ?

The "age" of the legislation to be simplified is also a relevant factor. Legislation which has been submitted to SLIM teams is usually at least 5 years old and often the basic legislation has been in existence for 10 or 20 years or even longer. The Commission rejected SLIM scrutiny where legislation was too recent. Only legislation which has been in force for a sufficiently long time to allow its strengths and weaknesses to be identified should be subjected to SLIM : a minimum of 5 years from the transposition deadline appears reasonable and in accordance with practice to date.

Any party proposing sectors for review should indicate :

- the reasons, including the problems to be addressed and the benefits that might be anticipated from simplification,
- the features of the legislation giving rise to disproportionate administrative burden/costs and how they might be significantly reduced.

The Commission acknowledges the need to improve the selection process. However, in keeping with its right of initiative, the Commission will make the final selection on its own responsibility. It invites suggestions for action provided they are accompanied by a statement of the reasons for proposing particular sectors, the key problems which arise and the expected benefits of simplification. For its part, the Commission will indicate the reasons for rejecting certain proposals and will discuss the selection of sectors for review with Member States in a special formation of the Internal Market Advisory Committee (see below). The Commission will also discuss future actions with the European Parliament, with whom it will seek to agree appropriate arrangements for consultation.

MANAGEMENT OF SLIM TEAMS

General principles of SLIM

Although the autonomous working methods of SLIM teams allows them to work with speed and flexibility, a number of Member States have stressed the need to create some type of advisory committee which could follow and help guide the work of teams in order to :

- help identify sectors for inclusion and provide a forum for discussion on the simplification objectives of each team (see above);
- provide co-ordination and bring greater transparency to the work of individual teams;
- receive minutes of team meetings and hear interim and progress reports from team chairpersons;
- ensure better links between teams and other parallel review exercises where appropriate;

The Commission emphasises the advantages of the autonomous and informal working methods of SLIM teams but will convene a subgroup of IMAC for the purposes of SLIM and related regulatory quality matters. This procedural proposal must not generate undue delays in the start up or conclusion of SLIM exercises.

Operation of SLIM teams

SLIM exercises are conducted within a tight timeframe (rarely exceeding six months). Even though this is a relatively short time in which to deal with often complex issues, it is generally considered a realistic timeframe although some indicated that there was insufficient time (between meetings) to consult colleagues in national services and parent organisations and insufficient time to draw up the final report and recommendations.

The Commission will encourage teams to take account of such considerations.

The representativeness of teams

SLIM teams comprise officials from some but not all Member States pointing to a problem of “ownership” when it comes to implementing recommendations which have not been developed and agreed by all Member States⁴.

The Commission does not wish fundamentally to alter the nature of SLIM teams by including representatives of all Member States in each SLIM team. This would result in a significant increase in their size, thereby losing the advantages of flexibility and informality. The Commission proposes to increase transparency and enhanced interaction with relevant sectoral committees and the proposed Internal Market Advisory subcommittee, which will be convened at the beginning and end of each phase, before formal adoption of the team reports. However, this must not compromise the independence of the individual teams (which will present their reports on their own responsibility) nor the right of the Commission to decide on its response.

Team membership

Some Member States suggested that current rules be amended in two important respects : the Chairperson (nominated by the Commission) should not necessarily be an expert in the sector under review but rather should have appropriate experience as a team/project leader. Secondly, provision should be made for the participation (as team members) of experts in the field of regulatory reform. However, former team members were almost equally divided on the usefulness of external expertise (only 52% thought it could enhance team output).

⁴ SLIM teams are generally composed of five Member State officials and an equal number of user representatives and chaired by a Commission official.

The Commission considers that the Chairperson should ideally combine an adequate knowledge of the legislation under review with appropriate project-leadership skills. However, the Commission will explore with IMAC whether it would be useful for a member of its subcommittee to be designated as a regulatory reform correspondent (and possible participant) for each SLIM team. Such a correspondent could help the sectoral experts on SLIM teams to keep the focus on the regulatory reform dimension of their task. The feasibility and desirability of providing independent technical assistance funded by the Commission will be examined.

Transparency of the work of SLIM teams

Confidence in the SLIM initiative requires that transparency should be enshrined as a fundamental principle. Meeting reports and discussion documents of teams must be widely circulated. Whilst every opportunity should be given to parties not represented to follow and contribute to discussions, participants in SLIM teams felt that insufficient publicity is given to the work of SLIM teams and that efforts to keep all interested parties more fully informed should be increased. A number of suggestions to increase transparency were made.

Transparency is clearly a key principle in the operation of SLIM. SLIM exercises must be fully and regularly reported. This will be achieved, inter alia, by early announcements (including on web-sites) of the sectors identified, targeted information to those most affected in that sector and flash reports of meetings of the SLIM teams.

Tracking team recommendations

At the end of each SLIM exercise, the Commission gives broad indications on how it intends to proceed with those recommendations it has accepted. Many have suggested that the tracking of progress could be improved.

The Commission will publish a yearly working document which focuses exclusively on the follow-up to SLIM reports, tracks the progress of legislative proposals, highlights where delays are occurring and indicates when the follow-up action has been completed. This will provide the opportunity to give clear and detailed information on follow-up while allowing the reports on each individual future SLIM phase to be more succinct.

STATE OF IMPLEMENTATION OF RECOMMENDATIONS

The SLIM initiative is voluntary in nature : not all Member States or Commission services participate in each individual exercise. Recommendations, though often persuasive and carrying much weight, are not binding and must compete with other policy perspectives.

Of the 11 sectors covered on phases I – III, the Commission has proposed Council and Parliament legislation in 6 (Intrastat, recognition of diplomas, ornamental plants, VAT, the combined nomenclature for external trade and social security). The average

length of time between the SLIM report and these proposals was about 11 months. However, Council and Parliament have adopted only three : Intrastat (one of the two proposals), ornamental plants and the combined nomenclature for external trade taking 24 months, 7 months and 2 months respectively to do so. In the case of combined nomenclature for external trade, a code of conduct to facilitate the management of the nomenclature has also been published. In the other three sectors and in the case of the second Intrastat proposal, discussions in Council and Parliament continue averaging 18 months. It should be noted, however, that in November 1999 the Council reached agreement on a common position on the SLIM proposals on the recognition of diplomas⁵.

No legislative proposal has been made on construction products (phase I) after 3 years, on fertilisers or banking (after 2 years), nor on electromagnetic compatibility or insurance (after 11 months). In the case of construction products and banking, the SLIM teams themselves acknowledged that there would be no immediate legislative proposal. In the case of construction products, a number of options were identified, and the Commission adopted a two-stage approach combining non-legislative action (to improve implementation) with amendment of the Directive as a longer term aim. In banking, no major simplification was considered possible by the SLIM team : amendment needed to await codification, which has been under discussion in Council and Parliament for over two years. A revised proposal was put forward in 1999. In the case of fertilisers and electromagnetic compatibility (EMC) further consultations with Member States are underway in order to prepare the legislative proposals. In the case of insurance, the Commission has concentrated initially on preparing the recasting proposal for life assurance (for submission shortly), to be followed by the codification of the non-life directives.

This analysis suggests that the possibility for rapid follow-up should be taken into consideration when selecting sectors for inclusion in SLIM.

The Commission will propose a SLIM exercise only when simplification is the real issue and where simplification proposals can be put forward within a reasonable time (about 6 months after the SLIM report). This may depend on whether SLIM feeds into a pre-existing review process or is the first step following which further consultation must take place. When legislative proposals have been made within a reasonable time by the Commission following preparatory work with the Member States, this should be matched by their speedy adoption by Council and Parliament.

⁵ Part 3 of the working document of the Commission services "Review of SLIM: Background material to the Communication of the Commission" sets out progress on SLIM recommendations.

SLIM AND SIMPLIFICATION AT NATIONAL LEVEL

EU legislation governing business in the Union is far outweighed by national legislation. A recent Swedish Employers' Confederation study found that fewer than 10% of Swedish laws and regulations are linked to the EU⁶. The importance of simplifying national rules is central to the BEST Action Plan.

Some SLIM teams have tried to incorporate parallel reviews of national implementation of the Community legislation under examination. This has never been successfully undertaken or completed if attempted. Small SLIM teams cannot readily undertake this task. The solution lies in Member States' agreeing to report on the scope for simplifying legislation at national level affecting the sectors under review in each SLIM exercise.

It is proposed that the 5 Member States whose officials participate in a SLIM team dealing with a particular sector should provide a report on the scope for simplifying national legislation in the same sector. This report could be presented by the Member State representatives on the proposed special format of IMAC. Ideally, at least one such national report per sector would be prepared by means of a parallel SLIM-type exercise organised at national level by the Member State. In addition, Member States should report regularly in IMAC, and from time to time at Council level, on their independent programmes of regulatory simplification.

⁶ "How does the EU hinder Swedish deregulation?" by Fredrik Sterzel, Swedish Employers' Confederation (SAF), November 1999.

Key Action points arising from the review

- A special IMAC formation of “better regulation” specialists (like the heads of co-ordination centres formation), which would help to steer SLIM and provide a forum for discussion of “candidate” sectors;
- Involvement of some of these specialists as designated “regulatory quality correspondents” to specific SLIM teams;
- Commission to consider feasibility/desirability of appointing independent experts to assist teams;
- Consultation of Member States (through new IMAC formation) and of European Parliament on the selection of sectors;
- A requirement that any party putting forward a sector for review should state clearly the areas needing simplification and the expected benefits, while the Commission would agree to explain its reasons for rejecting suggestions;
- IMAC to be consulted at the beginning and end of each phase;
- Preparation of a guide for SLIM chairpersons and team members, including a clear definition of the overall objectives;
- Clear definition of the objectives of individual teams in the working document setting up each phase (which would be discussed in the new IMAC formation);
- More transparency with regard to the work of teams, including “flash” reports to be provided on relevant web sites within two or three days of each meeting;
- IMAC “better regulation” representatives of the Member States with officials on a particular SLIM team to report on the situation regarding national legislation in the sector in question; at least one such report per sector to be based on a parallel national SLIM exercise;
- The Commission to set itself a target of coming forward with proposals within 6 months of a SLIM report;
- Council and Parliament called on to develop mechanisms to ensure that simplification proposals are adopted quickly;
- The Commission to ensure the appropriate administrative support.
- Member States to report regularly to IMAC and the Internal Market Council on independent national simplification programmes;
- The Commission to develop the coherence and synergies between its various better regulation initiatives with a view to developing an effective ongoing programme of simplification.