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SIMPLIFYING ADMINISTRATIVE PROCEDURES

WITHIN THE COMMUNITY

- General Considerations -

(Communication from the Commission)

COMMISSION OF THE EUROPEAN COMMUNITIES

CORRIGENDUM

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Concerne toutes les langues

SIMPLIFYING ADMINISTRATIVE PROCEDURES

WITHIN THE COMMUNITY

- General Considerations -

(Communication from the Commission)

COMMISSION OF THE EUROPEAN COMMUNITIES

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CORRIGENDUM

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Concerne toutes les langues

SIMPLIFYING ADMINISTRATIVE PROCEDURES

WITHIN THE COMMUNITY

- General Considerations -

(Communication from the Commission)

INTRODUCTION

1. It is universally recognized today that simpler administrative procedures are essential to the development of business undertakings, and of small and medium-sized enterprises in particular, and that it makes a significant contribution to our economic growth. It is all the more necessary as firms are having to take steps to increase their competitiveness in the context of the completion of the internal market and of winning new markets in third countries.
2. At Community level, the action programme for SMEs⁽¹⁾ approved by the Council on 3 November 1986, took account of this concern, which has been expressed on several occasions by the European Council and in particular at its meeting in Luxembourg on 2 and 3 December 1985.

On 3 November 1986 the Council also approved a statement on reducing the administrative burden on business. In particular, the Council :

- noted with satisfaction that the assessment procedure introduced by the Commission, under which all new proposals are accompanied by a note containing realistic estimates of costs on business, became operative on 1 June 1986. The Council invited the Commission to report on the initial operation of the system;
- noted the Commission's intentions concerning plans to reduce the burdens on business, particularly those resulting from existing Community instruments as mentioned in the communication. The Council invited the Commission to report on the results of the outside consultants' study, with appropriate recommendations for action;
- agreed to a regular exchange of information on action undertaken by Member States and the Commission to improve the business environment, and invited the Commission to make the necessary procedural arrangements;

(1) COM (86) 445 final

- welcomed the Commission's intention to report on the links the SME Task Force had established with business organizations and the role and effectiveness of their contribution to its work on reducing administrative burdens."

3. In its first report in June 1987⁽²⁾ and its second report in February 1988⁽³⁾ on the realization of the objectives of the Community Action Programme for SMEs, the Commission referred to the operation of its assessment procedure, the main conclusions of the study on Community assessment procedure, the main conclusions of the study on Community legislation, the exchange of information on action undertaken by Member States to simplify administrative procedures and to cooperation with business organisations.

The purpose of this document is to provide the Council with a basis for discussing the action taken at Community and national levels with a view to an overall simplification of administrative procedure and in the light of the initial results of the work undertaken.

A. ACTION TAKEN BY THE COMMISSION

4. As regards improving the business environment and as far as the assessment procedure is concerned, the Commission wishes to stress its concern at the situation of all businesses. All firms require a favourable environment and it is with this in view that existing and future legislation must be considered. It is nevertheless clear that SMEs are particularly vulnerable to the effect of administrative burdens and constraints and that special attention must be given to their situation.

(2) COM (87) 238

(3) COM (88) 64 final

5. The Commission asked outside consultants to carry out a study of the obligations imposed on SMEs by existing Community legislation in certain specific areas, and this study has now been completed. Its conclusions include the following observations :
 - SMEs are not well acquainted with Community legislation; they are generally not aware of the legislative basis of the constraints to which they are subject; Community Directives are frequently not consolidated and this adds to their confusion;
 - The complexity of some Community legislation, is often the result of compromises reached to avoid difficulties within different Member States;
 - the large number of options and exemptions results in considerable differences between the laws of different countries;
 - In some areas, harmonization has sometimes been excessively detailed, entailing unnecessary costs for the firms concerned; harmonization should therefore be carried out only to the extent necessary.

On the last point, the Commission is already following this principle, e.g. by applying the new approach in setting up norms and Community standards.

6. The Commission is currently considering what action to take on the report and will make known its conclusions. The creation of an Advisory Committee on the Business Environment is one of the proposals being studied.

7. Early in 1986 the Commission decided to introduce a system to evaluate the impact of its own proposals on business. Pursuant to that decision, each proposal for legislation must now be accompanied by a description of its likely effects on competitiveness and employment when it comes before the Commission. This description consists of an "objective statement", the purpose of which is to facilitate decision-making within the Community institutions. The impact assessment statement was introduced as an internal document within the Commission in June 1986 and in November 1986 it was decided to transmit the statement to the Council and to Parliament with each legislative proposal. This is a

particularly significant decision in view of the role played by Parliament and the Council in the legislative process under the Single European Act. Although the assessment system does not necessarily call into question the immediate objectives of a particular proposal, it ensures that the legislative authorities are fully aware of the proposal's implications for business.

If the impact assessment statement shows that there will be considerable additional costs for businesses, this does not necessarily mean that the proposal is "bad" or even "economically bad". It simply states an important fact which must be taken into consideration in any decision. The statement is drawn up at the earliest possible stage in the drafting of the proposal. The responsible official in the Directorate-General concerned is thus aware if the proposal would entail any particular difficulties for businesses. The proposal may be amended in the light of this first appraisal.

8. The existence of the impact assessment system explicitly obliges officials to consider in depth the economic consequences of their proposals. The Commission takes the view that, in preparing new measures, it is essential to consult any economic bodies concerned. The impact assessment statement asks specific questions about the consultations which have taken place. The completed document is then forwarded to the SME Task Force for its requisite approval. Once this has been given, the proposals and its assessment statement are sent to the Commission Secretariat-General and are subsequently issued as an official document. The assessment is presented to the Commission and then to the Council and Parliament.
9. Although the Commission is aware that the impact assessment system is beginning to work satisfactorily, it continues to press for improvement. The examination of the Commission's annual Work Programme and experience of the system's operation to date will make it possible to identify and select well in advance those proposals which have a major impact on business so that evaluation and consultation with businesses can take place without delay.

The procedural rules affecting the system are currently changed so as to ensure that they cover the legislation which may be adopted under delegated powers and also any amendments proposed by Parliament and the Economic and Social Committee. As already stated, the Parliament has an increasingly important role to play under the cooperation clauses of the Single European Act and because of its increased powers to amend proposals.

In the light of existing legislation and of experience so far, new guidelines are being prepared for all Commission staff to ensure that the impact of proposals on businesses is given due consideration at the conceptual stage.

This will involve cost-benefit analyses and appropriate "necessity tests" and will lead to automatic consideration of such matters as :

- easing of requirements in the case of certain specific categories of undertaking which may be only marginally affected by the proposal;
- keeping records and administrative requirements to a minimum;
- allowing a special extension of the period required for approval in the case of those undertakings or industries which are considered to be most severely affected by the proposal;
- minimizing the number of decisions taken and requirements imposed by each Member State;
- reducing the obligations incumbent upon SMEs on the basis of the general principle that, where possible, such requirements should be commensurate with the size of the undertaking concerned.

Consideration will also be given to ways of improving the procedures for consulting business organisations.

10. It should not be forgotten that several pieces of Community legislation, in particular those contained in the White Paper on attaining the internal market, have themselves involved administrative simplification. Examples include the new approach to

harmonization of technical rules and norms and the single administrative customs document which came into force on 1 January 1988. In addition the Commission is continuing its effort, to improve the transparency of Community law by consolidation, by publishing vade-mecums, specific communications, etc.

11. Finally, in so far as Community laws have to be transposed into national laws, Member State authorities must ensure that their implementing legislation is sufficiently simple and comparable between countries. Here again consolidation and promoting awareness of legislation can contribute greatly to transparency and clarification.

B. ACTION TAKEN BY THE MEMBER STATES

12. The Subcommittee of the Directors-General for Industry dealing with the Business Environment, which was set up by the Commission as a result of the Council's statement in November 1986, met on 27 April 1987 and 13 January 1988. Its discussions focused on the simplification of administrative procedures in the Member States. Bilateral seminars also took place. On the basis of contributions from the national authorities and other sources, the Commission is now preparing a detailed report which will be sent to the Subcommittee and the business organisations before being published during the second half of 1988. Its purpose is to bring about "cross-fertilization" within the Community and, if possible, concrete recommendations. The action undertaken at the present time may be summarized as follows.
13. Administrative simplification is initially being tackled at an institutional level, by setting up a permanent or temporary body, with consultative or executive powers, at national or local level. The remit of this body is to draw up an inventory of the laws and obligations to which businesses are subject and to propose ways in which the burden can be reduced.

14. Only limited use has been made of temporary structures. A committee of experts is set up for a limited period, whose function is to inform the executive and the legislature about the existing situation and the steps which can be taken. This generally leads to a widely circulated report (as, for example, in the case of the "Grapperhaus" and "Oost" committees in the Netherlands). In some cases a report is requested from the business organisations themselves (e.g. the report of the "SME Trustee" in Luxembourg).

The most prominent and widespread schemes involve setting up permanent structures or, at least, bodies with a renewable mandate. Several Member States have set up a specific government body to deal with deregulation.

15. In the United Kingdom, all proposals for legislation must be accompanied by a "Compliance Cost Assessment" (CCA) which Ministers must take into account when taking their decision. These assessments, of a quantitative nature, are carried out in consultation with the business organisations and may be published on request. It follows that no new legislation can be introduced until the implications for business have been identified.

An "Enterprise and Deregulation Unit" (EDU) was formed early in 1985 within the Cabinet Office. It set up a Consultative Committee consisting of business representatives and maintains close contacts with business organizations for the purpose of examining legislative proposals and CCAs. The EDU examines, twice yearly, all the proposed legislation which the ministers intend to put forward in the next six months. It identifies those proposals which are likely to impose financial or administrative costs on businesses or which involve unnecessary burdens; in such cases the EDU discusses the CCA in detail with business people.

The EDU and its network throughout the administration have started reviewing existing laws and regulations with a view to simplifying or abolishing some of them.

16. In Germany, an "Independent committee for the simplification of law and administration", known as the Waffenschmidt Committee, was set up on 26 November 1983 under the auspices of the Federal Ministry of Internal Affairs. It is composed of 13 members from the worlds of business (the chief administrators of the Federal Union of German Industry and the Federation of German Chambers of Commerce and Industry), politics, law and science, and representatives of the Länder and of local authorities. Its terms of reference are very broad : to examine existing and proposed legislation, to simplify national and Community legislation and to improve relations between the citizen and the authorities.

To date, the Committee has met about 28 times. At the outset of its discussions, it asked for public submissions on problems and proposed solutions. As a result of these consultations, some 1.500 specific suggestions put forward by private individuals or by organizations were examined. The Commission is also studying, on its own initiative, certain specific cases : on one hand, by using ten standard questions and, on the other hand, by asking the national ministries concerned for their position. On the basis of this review, certain projects to simplify legal and administrative provisions can be developed.

17. In France, a number of special bodies have been set up at interministerial level :

- the Committee for Simplifying Formalities for Enterprises (COSIFORME), set up by the Decree of 18 July 1983. It is composed of 13 representatives and advisers from industrial, commercial and craft businesses and eight representatives of the main ministerial departments concerned. Its brief is to study all questions relating to various formalities, to the supply of information which is required of industrial, commercial and craft enterprises and to the simplification of the procedures which must be followed in their relations with public bodies and authorities. Any proposed legislation likely to entail an administrative burden for businesses may be referred to the

Committee; questions may also be referred to it by a natural or legal person. COSIFORME publishes an annual report and may publish its opinions or recommendations. Having formulated some 269 proposals for simpler procedures in five pilot departments, several practical measures have been implemented by the Minister responsible for administrative reform :

- The Interministerial Committee for Computerization and Government Office Automation.

- The Centre for registering and revising administrative forms.

18. In Belgium, a "Committee responsible for monitoring and studying the simplification and reduction of the administrative obligations and formalities applicable to SMEs and the self-employment", known as CONFORM, was set up in 1982. Before the entry into force of any proposed law, Royal or Ministerial Decree, administrative circular, directive or document which would impose an administrative formality on SMEs and the self-employment, CONFORM must be consulted unless evidence is provided that urgent circumstances make this impossible. Within one month, CONFORM must submit its comments and proposals for simplification to the Minister responsible and it may also make proposals concerning existing legislation. The Minister must substantiate his decision. Where proposals are rejected, the Committee may, within one month, refer the matter to an ad hoc committee chaired by the Prime Minister.

19. In Ireland, the Industrial Costs Monitoring Group, set up in 1963, is an interministerial committee chaired by the Department of Industry and Commerce and includes representatives from Government Departments, private industry, the Industrial Development Authority and the Central Statistics Office. The Group examines bills which have implications for business costs. In the light of experience, it has been agreed to refine its approach by using a carefully worded questionnaire to assess the impact of legislation on businesses.

20. Greece is setting up a special committee of 11 members, responsible for drawing up a standard code of administrative procedure for private enterprises and all local associations of self-employed workers in order to harmonize and simplify procedures. In Denmark, a committee has been set up under the auspices of the Ministry of Finance with responsibility for simplifying administrative procedures for all businesses. In the Netherlands, a "deregulation committee" has recently been set up, but it is too soon for its performance to be assessed.

21. Decentralization can help to simplify administrative requirements, but it can also create further administrative layers and complications. Some specifically local structures are of genuine assistance to SMEs when administrative formalities have to be complied with (e.g. one-stop shops, management advice centres, administration guidance centres, etc.). Experiments in administrative reform are often conducted locally before such reforms are generalized.

22. Notwithstanding the creation of "ad hoc" structures, one very important way of helping businesses is to improve legislation which has a direct or indirect impact on their economic activity. It is becoming increasingly apparent that legislative situations must be clarified as far as possible so that the time spent on dealing with them can instead be devoted to the essential tasks of production, making better use of resources and marketing. Methods must be developed which will eliminate legislative duplication.

Once inventories of existing legislation have been compiled, in particular by the bodies referred to above, this should normally lead to texts considered obsolete being amended or repealed. In Germany for example, a number of laws, decrees and regulations have been simplified or abolished, notably in the field of construction and urban renewal, at the instigation of the Waffenschmidt Committee. In Italy, the report of the "Subcommittee for deregulation" was the basis for a draft law on legislative

rationalization which provides for the setting up of a central office for legislative coordination.

The essential task of the committees or bodies set up at national level is to improve draft legislation. The process of arbitration at pre-government and government levels is a complex one but the German and British experiences show that it works. No Member State seems to have given its deregulation units a strict and formal power of veto; on the other hand, they clearly have real powers to amend draft legislation - powers often comparable to those of a Parliamentary committee.

23. Several Member States have begun to simplify specific arrangements which have a considerable impact on SMEs : social security, taxation and accountancy arrangements, systems of grants and loans to businesses, etc. Full details of these measures will be given in the document referred to in paragraph 12. Simpler social security arrangements are often linked to job recruitment. There is also at present a tendency in several Member States to reduce direct aid to businesses and to lower tax rates while enlarging the assessment basis. This is leading to greater simplification and transparency of tax-systems which is clearly in the interest of SMEs.
24. Action is also being taken on surveys, inspections and authorizations. It is apparent that different bodies often ask undertakings to supply the same information in a wide variety of forms. In several Member States, there is now a tendency to combine all taxation and social security statistics on a single form or in one survey. Price controls have also been abolished or relaxed.
25. Above all, the administrative documents themselves need improving. When it comes to cutting red tape, spectacular measures are not necessarily the most effective. Simplification is achieved by taking extremely practical and precise steps. Of greatest importance is the rationalization and standardization of forms, notices and circulars. The new forms to be introduced by public authorities must first be made available for examination by the

consultative bodies referred to above. As a result, any developments regarding such documents would have to be properly justified in terms of rationalization, harmonization and simplification. Despite the efforts being made in Member States, there are clearly still too many forms.

26. The extension of new technology to all sectors represents an opportunity to reduce paper-work wherever it is possible. The developments taking place are such that the technological revolution and the "cultural" revolution (de-bureaucratization, de-regulation, simplification) can have reciprocal and multiplier effects.
27. Public authorities are now beginning to adopt the "simpler is better" approach and to realize that their own power is not proportional to the complexity of the procedures which they impose, but rather that they can rise in society's esteem by adopting a less elaborate style. However, they themselves must place the interests of public service before those of internal organization, and those holding the reins of government must create sufficient drive and motivation for such changes to take place.
28. Public authorities should, for example, select those officials whose duties involve dealing with the public on the basis of their ability to communicate; such officials should no longer be faceless bureaucrats; staff directories should be supplied to businesses; meetings should be arranged between the authority and associations of SMEs; guidance notes, public information leaflets, etc. should be published; authorities should make more frequent use of the media and present a more modern image of themselves; departments and services should be more clearly presented in telephone directories, etc.
29. Tomorrow's administrators are today being trained in our schools and universities. Action at this stage to inculcate a positive attitude towards administrative simplicity would bring dividends in the future. It should also be given a place in the in-service

training and re-training of officials. In Greece, for example, training institutions hold special seminars on devising ways of simplifying procedures. Intra-Community exchanges are also needed.

CONCLUSION

30. Administrative simplification to help businesses is only in its infancy, although it is more advanced in some Member States than in others. It must be recognized that, in most cases, action has been taken at an institutional level and that there is a danger of trying to solve administrative problems due to cumbersome organization, by setting up new bodies or introducing additional administrative procedures. There is not yet an optimum amount of interaction (with or without Community intervention) between public authorities. What is needed within the Community is a constant interchange of ideas and information, a sort of ongoing seminar in which various experiences can be compared, so that the success achieved with some SMEs can inspire others and so that setbacks can also be clearly identified.
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