



OPINION OF THE HIGH LEVEL GROUP

Subject: Stakeholders' suggestions ('offline-consultation')

I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to *inter alia* advise the Commission on suggestions for administrative burdens reduction measures. In addition to the suggestions by consultants, via the online consultation or on the occasion of local workshops with businesses in Member States, the HLG members and the Commission receive occasional reports or letters by external stakeholders suggesting reduction ideas. These ideas have been labelled "offline suggestions".
- (2) Mr. Linschoten was appointed coordinating reporting member for these offline suggestions. The HLG works on these suggestions in the following way: at first, the secretariat assesses the incoming proposals with the help of those Directorates-General of the Commission that are competent in the subject matter. At the same time suggestions are filtered out which do not concern European legislation at all. Secondly, the HLG's reporting members look at suggestions in their respective priority area for which first reactions from Commission services are available. The result of this process is an opinion of the HLG addressed to Commission.
- (3) The HLG wishes to recall in this context that the mandate of the Commission as well as that of the European Parliament will come to an end in the second half of 2009. Legislative proposals will therefore have to be introduced as early as possible and in any case before March/April 2009 in order to make their adoption within this legislature technically feasible.
- (4) The HLG calls upon the college of Commissioners and Commission services to take all necessary steps to ensure that legislative proposals are introduced in time. The HLG wishes to underline that achieving the aim of a reduction of administrative burden by 25% till 2012 will only be feasible with as many concrete reduction measures as possible.

II. General comments

- (5) The HLG has so far received more than 170 ideas from stakeholders. Some of these ideas are not related to EU legislation, some do not refer to administrative burden or are too general to be taken forward according to Commission services.

This opinion refers to a first batch of 21 suggestions for which preliminary assessments are available. The selected suggestions include ideas for several priority areas as well as ideas outside the scope of priority-areas.

- (6) The HLG will deal with the remaining offline suggestions in a similar way as this opinion. In the next planned meetings an opinion will be discussed based on a batch of similar size. In that way the HLG will deal in a continuous way with these suggestions submitted by public authorities, business associations and/or individual business which continue to submit new offline-contributions. The HLG will also look into which steps have been undertaken in relation to the suggestions dealt with already.
- (7) Experience so far shows that more than 50 percent of the ideas from stakeholders are outside the scope of the measurement of the action programme. This shows that in the view of stakeholders there are relevant policy areas that are not in the measurement. The HLG calls upon the Commission to ensure that all ideas that may cut administrative burdens are seriously taken into account, regardless of the boundaries of the Action Programme.

III. Suggestions by Priority Area

- (8) *Priority Area: Tax Law (VAT).* Suggestion 1 and 2 concern the rules on electronic invoicing in Directive 2006/112/EC on the common system of value added tax (VAT). The directive contains several possibilities for the implementation of e-invoicing, which leads to huge differences in demands and needs by Member States. Therefore, the stakeholders argue for a uniform EU standard for e-invoicing. The stakeholders point out that a change from paper to e-invoicing among businesses would bring significant cost savings. The Commission is currently working on a revision of the rules on invoicing which will be presented before the end of the year. *As the HLG plans to discuss and evaluate the issue of e-invoicing including the planned reform in more detail during its meeting on the 22 October, the HLG would appreciate to be updated with the latest results about the ongoing revision before that date.*
- (9) *Priority Area: Tax Law.* Suggestion 3 is related to implementing provisions for the Community Customs Code in the field of short sea shipping. Stakeholders question the necessity to submit documents proving that cargo is not from outside EU upon each arrival in another EU port. *The HLG agrees with stakeholders that digital possibilities for tracking cargo are less burdensome and therefore a preferred option. The HLG calls upon the Commission to undertake the necessary steps to modify or abolish these rules or to adopt a legislative proposal to that end, if the Customs Code itself would need to be modified or amended [ref footnote¹.*
- (10) *Priority Area: Environment.* Suggestion 4 pleads for a harmonisation of the European Waste List. The Commission is currently conducting a review of the European Waste List, in order to simplify and modernise it. This includes Member State and stakeholder consultation, to be completed in 2008. *The HLG*

¹ *The Community Customs Code is a Council Regulation (no. 2913/92) whilst the implementing measures are Commission regulations.*

welcomes the initiative to simplify and modernise the European Waste List and calls upon the Commission to incorporate measures to reduce administrative burdens in the reform.

- (11) *Priority Area: Environment.* Stakeholders call for a simplification of the criteria on the eco-label for SMEs in Suggestion 5. The Commission is reviewing the eco-label regulation (No. 1980/2000) at the moment. The revised eco-label aims not only at simplifying criteria and abolishing annual fees but also simplifying the assessment and verification process. *The HLG welcomes the Commission's simplification efforts.*
- (12) *Priority Area: Environment.* Suggestion 6 concerns the Biocide Directive (98/8/EC). Stakeholders argue for centralising and simplifying testing for active substances and product registration. The Commission is currently preparing a major revision of the Biocide Directive, which is expected to be adopted in November 2008. *The HLG calls upon the Commission to take stakeholders' views into account when revising the directive.*
- (13) *Priority Area: Environment.* Suggestions 7 and 8 deal with the EMAS (Eco Management and Audit Scheme). Stakeholders call for less bureaucratic registration procedures and an extension of administrative simplifications to companies not registered (e.g. companies that are ISO 14001 certified). The Commission points out that the protection level of the environment is better safe guarded by EMAS. Thus, EMAS privileges should remain reserved for EMAS registered companies. However, the Commission's proposal for revision² contains rules allowing for an easy step-up from other environmental management systems to EMAS, and facilitates the process especially for SMEs. *The HLG welcomes the proposed simplifications.*
- (14) *Priority Area: Financial Services.* Suggestion 9 deals with record keeping obligations for investment firms regarding telephone and email conversations. According to stakeholders such an obligation is not necessary. The Commission will address this politically sensitive matter in a report due in mid-2010. *The HLG calls upon the Commission to make a more substantive assessment of this idea ahead of its 2010 review to see whether the issue at stake should be addressed earlier than currently foreseen.*
- (15) *Priority Area: Financial services.* Suggestions 10 to 12 concern the Prospectus Directive (2003/71/EC). Stakeholders call for the deletion of certain provisions in the directive (Art. 10(1), 14(7), 18). The Commission is currently working on a review of the directive. A report will be submitted to public consultation in the third quarter of 2008, before presenting a final report to Council and Parliament by end 2008/beginning 2009. *In the view of the HLG the suggestions advanced by stakeholders show that there is significant potential for simplification and administrative burden reduction within the Prospectus Directive. Therefore, the HLG calls upon the Commission to give due consideration to stakeholders' ideas in its report on the functioning of the prospectus regime and to include the ideas referred to in this opinion in the report that is going to be submitted to public consultation.*

² Cf. COM(2008)402

- (16) *Priority Area: Public Procurement.* Suggestion 13 deals with statistical obligations contained in Directive 2004/17/EC concerning procurement procedures of entities operating in the water, energy, transport and postal services sectors. The Commission points out that the statistical obligations defined in Art. 67 of that directive result from obligations at WTO level which are currently renegotiated. With regard to the current state of play, the Commission is confident that statistical obligations will be lightened, once the revised agreement enters into force. *The HLG calls upon the Commission to continue seeking opportunities to abolish or minimize statistical obligations in the above mentioned directive*
- (17) *Priority Area: Statistics.* Suggestions 14 to 16 concern various statistics. The first two suggestions advocate the harmonisation of different measures of quantity in certain statistics. The Commission points out that the users of the different statistics had so far preferred different measures of quantity, and that the problems mentioned only occur in DK and SE, which do not use the list used in other Member States. A change could thus mean additional burden for other Member States. An alternative for DK and SE would be to propose changes to individual products in the existing procedures. The Commission nevertheless agreed to investigate the possibility of a harmonisation. The third suggestion argues for the abolition of those parts within structural business statistics which relate to environmental investments, since it was a guessing game for enterprises to indicate the share related to environmental purposes within an investment. According to the Commission a new regulation on structural business statistics came into force in March 2008, which includes a substantial reduction potential for Member States from the reference year 2008 onwards. Environmental costs will be reviewed before the end of 2008, according to the Commission changes are however unlikely in the short or medium term. *The HLG stresses that the overall effects of harmonisation suggested, should lead to a net reduction of administrative burdens i.e the measure should be beneficial for the EU as a whole. The HLG calls upon the Commission to give due consideration to better harmonize the nomenclatures and the need for changes in the environmental statistic area of the structural business statistics. The Commission should, secure the involvement of business associations. The HLG plans to have a discussion on the Priority area Statistics in Spring 2009, and will ask the Commission to supply information on this suggestions.*
- (18) *Priority Area: Agriculture/ Food Safety.* The last suggestion (17) deals with legislation on identification, registration and labelling of bovine animals (Regulation No. 1760/2000) and ovine and caprine animals (Regulation No. 21/2004). According to the stakeholder's comment, the legislation is causing too many burdens at the farmer's end so that the legislation should be screened with a view to lighten provisions for them.³ The Commission is about to launch a project on the interoperability of bovine databases to see whether IT-based network solutions could possibly replace the animal passports in the future. *The HLG welcomes the Commission's activities to better explore the opportunities of IT and RFID based solutions and encourages the Commission to look into*

³ E.g. the bovine regulation could be aligned with the one on caprine and the farmer's register could be made an optional, no longer obligatory requirement – provided that instead a central database keeps the information always available on the holding (e.g. online access to the central database).

possibilities to further lighten provisions for farmers without violating their overall purpose.

IV. Conclusions

- (19) *The HLG takes note of the suggestions made by stakeholders and encourages the Commission to take a proactive approach. Common efforts to reduce administrative burden for business must still be extended and intensified, in order to reach the target of reducing red tape in a sustainable manner. The HLG welcomes the active involvement of stakeholders in this process. The HLG is of the opinion that many suggestions reviewed by the HLG prove that stakeholders have a vital role to play in the process of making European legislation less burdensome for business. The suggestions made by stakeholders should be taken as an incentive for new initiatives as well as an opportunity to broaden existing initiatives to reduce red tape. The HLG would appreciate to be informed about the results of the Commission's review of certain legislative acts mentioned above in due time.*
- (20) *The HLG signals that some of the stakeholder suggestions fall outside the scope of the Action Program. Sometimes proposals refer to administrative burdens in legislation that is not measured, or refers to other costs that are not included in the definition of administrative burdens. In view of the HLG Better Regulation requires a mindset where all these efforts of stakeholders are seriously taken into consideration and it asks the Commission to ensure an adequate follow-up.*
- (21) *In view of the savings potential related to e-invoicing in the area of VAT, the HLG in particular welcomes the Commission's initiative in this field and strongly supports this initiative.*
- (22) *The HLG is aware that for meeting the reduction target of 25 % it is crucial to keep the process ongoing. Therefore, the HLG would appreciate more information from the Commission on the further proceedings of the stakeholders' suggestions including the selected suggestions.*

Brussels, 18 September 2008