

High Level Group on  
Administrative Burdens



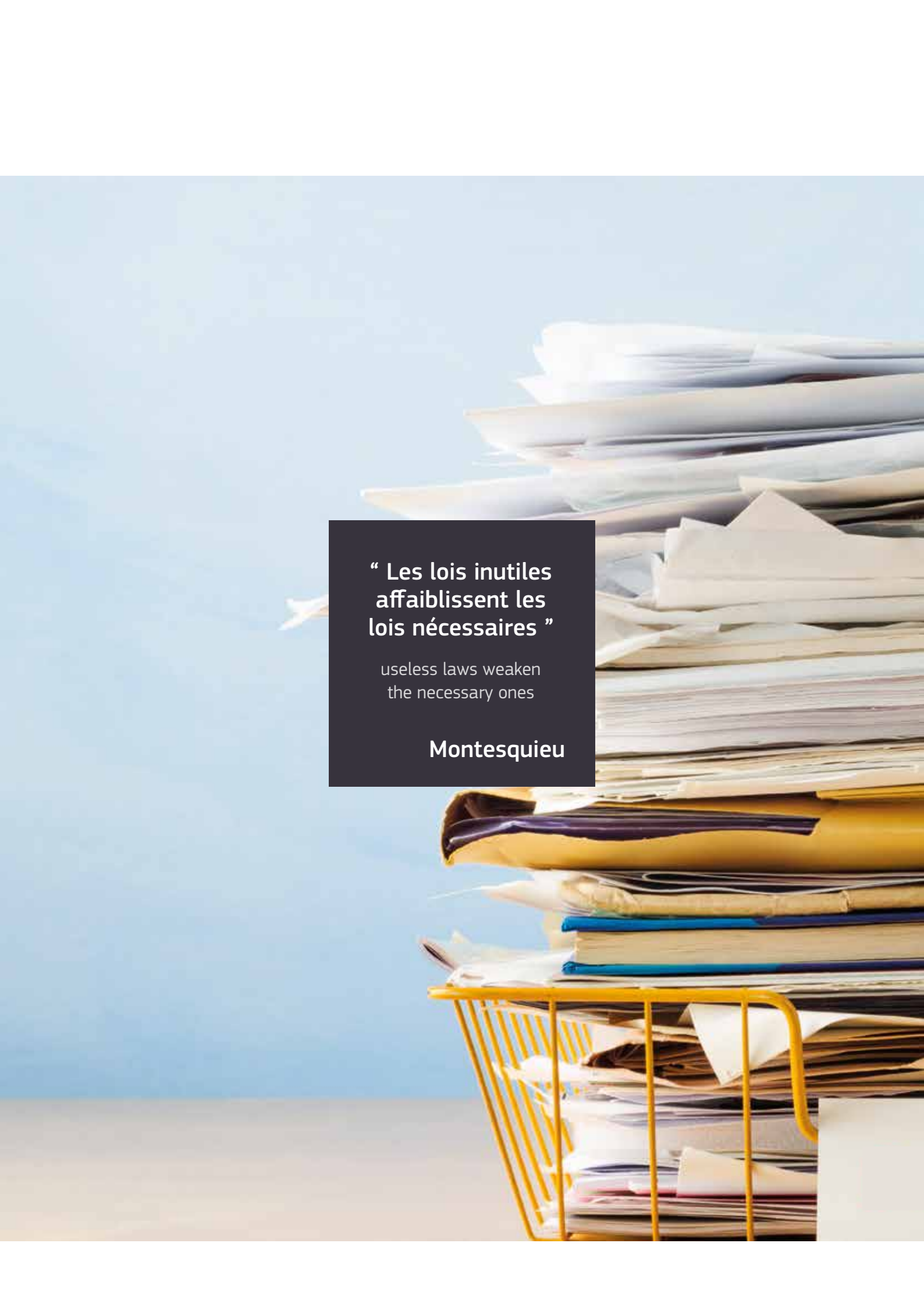
# Cutting **Red Tape** in Europe

Legacy and outlook

Final Report

Brussels, 24 July 2014



A large stack of papers and folders is piled high in a yellow wire basket. The papers are of various colors, including white, yellow, and blue. The basket is positioned in the lower right corner of the frame. The background is a clear, light blue sky with a few wispy clouds. The overall composition is clean and modern.

**“ Les lois inutiles  
affaiblissent les  
lois nécessaires ”**

useless laws weaken  
the necessary ones

**Montesquieu**



## THE HLG

The High Level Group on Administrative Burdens (HLG) was set up in 2007 to advise the European Commission on the implementation of the Action Programme for Reducing Administrative Burdens in the European Union. It is chaired by Edmund Stoiber, former Prime Minister of Bavaria, and consists of 15 members selected on the basis of their expertise in better regulation and the policy areas covered by the Action Programme.

The HLG's mandate was prolonged and extended twice in 2010 and 2012 and ends on 31 October 2014. This is its Final Report. Overall, the HLG has adopted more

than 45 opinions and reports which present to the Commission several hundred suggestions on how to reduce administrative burdens and outline best practice in the Member States on implementing EU legislation in the least burdensome way. Many of these suggestions have been submitted to the HLG by stakeholders such as individual enterprises or business associations, national, regional and local governments or individual citizens. The total administrative burden reduction potential of all recommendations made by the HLG is estimated to exceed EUR 41 billion annually.

Further information is available on the HLG website:

➔ [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/high\\_level\\_group\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm)

## THE MEMBERS OF THE HLG ARE:

STOIBER Edmund (Chairman)  
 ALMGREN Gunilla  
 BERGER Roland  
 CARVALHO GOUCHA Gabriel Côte-Real de  
 CASADO NAVARRO-RUBIO Jesús  
 GIBBONS Michael  
 KOSINSKA Monika  
 LEITÃO MARQUES Maria Manuel

LUDEWIG Johannes  
 MURRAY Jim  
 PESONEN Pekka  
 RENSHAW Nina  
 RØNNE MØLLER Heidi  
 STARCZEWSKA-KRZYSZTOSZEK Małgorzata  
 TEN HOOPEN Jan

## FOREWORD BY EDMUND STOIBER



After seven years of work, the High Level Group on Administrative Burdens presents its Final Report with far-reaching recommendations on Smart Regulation and cutting red tape in the EU.

With a view to the new Commission taking office on 1 November 2014, I would like to focus on the following future challenges:

The importance of European law-making for our daily life, especially in the areas of health, consumer and environment protection, but also in respect of company law, labour law and the finance sector will increase further. In our complex and complicated world, people want more safety according to the precautionary principle – provided by the state. The instrument to achieve this is the creation of new rules. This is why it is so important that these rules be designed in the least burdensome way possible for businesses and citizens.

In the past, this was unfortunately not always the case. Instead the political objective of the legislation was predominant whilst any resulting bureaucratic burdens were rarely taken into

consideration. Meanwhile, more and more detailed rules which affect the daily life of citizens have tarnished the image of the EU in the public opinion and resulted in the EU being regarded as a “bureaucratic monster”. Europe-wide opinion polls regularly indicate that a quarter of respondents perceive the EU as first and foremost a bureaucracy. Indeed, the President of the European Commission, José Manuel Barroso, pointed out in his State of the Union Speech 2013 that 74 percent of Europeans subscribe to the view that the EU is producing too much red tape.

Cutting red tape and Smart Regulation is therefore an important political signal from the European Commission to businesses and citizens: „We have understood“. President Barroso has initiated a fundamental change which unfortunately the public has not yet been made sufficiently aware of. With the launch of the Action Programme on Reducing Administrative Burdens on 24 January 2007, the Commission has for the first time started to systematically cut red tape. The High Level Group on Administrative Burdens as one of the pillars of the Action Programme has supported the Commission to the best of its abilities with several hundred concrete suggestions for the reduction of red tape which amount to an estimated savings potential of around EUR 41 billion per annum.

With the new approach of Smart Regulation and the launch of the REFIT Programme (Commission Communication of 2 October 2013), President Barroso and the Commission as a whole have initiated a fundamental change in the EU law-making process. I believe that this re-direction, which has led to a change of working methods within the Commission, is a real “quantum leap”.

This underlines that the EU institutions and Member States bear a shared responsibility for Smart Regulation, especially when transposing European rules into national law: Frequently, inefficient implementation of European rules is a major reason for unnecessary bureaucracy. In order to achieve a better perception and understanding of the activities and successes of the Commission by the public, the Commission must become more political and improve the communication of its activities in Brussels and in the Member States significantly. As Aristotle said: “It is not the deeds that move the people, but the words about the deeds”.

**Dr. Edmund Stoiber**

A handwritten signature in blue ink, appearing to read 'Edmund Stoiber', written in a cursive style.

## EXECUTIVE SUMMARY

Unnecessary bureaucracy tarnishes the image of the European Union and is a burden for businesses and citizens. It also hampers economic growth and the creation of new job opportunities. In order to change this, Smart Regulation is the key element for the future EU law-making process: Where it is necessary to regulate, legislation must be designed so as to achieve policy objectives most effectively and at lowest cost to society, citizens and business. Legislation that limits entrepreneurship unnecessarily should be addressed.

While the Commission has made significant progress on cutting red tape and smart regulation, the HLG believes that much more

can and must be done. It is essential that the Commission, the other EU institutions and Member States all come forward jointly with an ambitious programme of proposals, targets and mechanisms for eliminating unnecessary and bureaucratic red tape which will strengthen Europe's capacity to prosper. All protagonists involved in the legislative process need to be more ambitious in reducing regulatory costs, taking into account consumer and employee protection as well as health and environment concerns.

Based on the conclusions of this report and the experience of its past work, the HLG thus puts forward the following recommendations<sup>1</sup>:

### THE HLG RECOMMENDS THAT THE COMMISSION

- (1) adopt a new EU Action programme and strengthen existing EU programmes for reducing overall regulatory costs such as REFIT, set a net target for reducing regulatory costs and publish annual statements of the total net cost or benefit of new legislative proposals;
- (2) introduce a system of offsetting new burdens on businesses stemming from EU legislation by removing existing burdens from elsewhere within the aquis;
- (3) improve engagement with stakeholders through comprehensive public consultation on draft legislative proposals and an accompanying draft impact assessment before the proposal is adopted by the Commission;
- (4) rigorously apply the "Think Small First" principle and competitiveness test to all proposals for legislation and put specific focus on the needs of SMEs and micro-businesses. SMEs and micro-businesses should be exempted from EU obligations as far as this is possible and the political aim of the legislation is not jeopardized;

<sup>1</sup> The recommendations of the report were adopted with 11 votes in favour and 3 votes against. For further information see footnote 84.



- (5) develop a common EU methodology to measure regulatory costs and benefits and make the evaluation of all EU legislation compulsory on the basis of this common methodology to measure actual outcomes against original objectives before any proposal for revision or new legislation is made;
- (6) substantially improve its media communication of its activities, in collaboration with Member States, in order to foster public understanding and support for the work of the EU and to counteract prejudices which damage the perception of the EU institutions and their activities.

#### THE HLG RECOMMENDS THAT ALL EUROPEAN INSTITUTIONS

- (7) declare political commitment to focus only on those interventions which are indispensable at EU level, which increase the effectiveness and efficiency of EU legislation and which add the greatest value in comparison to national or regional action;
- (8) empower an independent body to scrutinise the Commission's impact assessments before the legislative proposal is adopted by the Commission and to assess the evidence base and costs and benefits supporting

legislative amendments by the European Parliament and Council before the legislation is adopted;

- (9) empower an European Ombudsman to act as an EU-wide contact point for complaints and suggestions for the reduction of red tape;
- (10) accelerate the legislative process as much as possible without compromising comprehensive stakeholder engagement and consultation or the democratic process.

#### THE HLG RECOMMENDS THAT ALL MEMBER STATES

- (11) adopt ambitious national targets to reduce overall regulatory costs, accelerate national implementation of EU legislation and to make "gold-plating" transparent by outlining where and why elements of implementing measures go beyond the requirements set out by EU legislation;
- (12) exchange best practice on the transposition of EU legislation into national law, promote the use of information and communication technologies and apply the "only once" principle by sharing submitted data between administrative bodies.

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## INTRODUCTION

1. Context: From “Better Regulation” to “REFIT”
2. Setting up the High Level Group on Administrative Burdens

# 1 INTRODUCTION

This document constitutes the Final Report of the High Level Group on Administrative Burdens (HLG) at the end of its third mandate. During the seven years of its existence, the HLG advised the European Commission on administrative burden reduction. With this report, the HLG addresses its most important achievements, the lessons learnt and recommendations for the future.

## 1. Context: From “Better Regulation” to “REFIT”

The European Union comprises one of the largest single economic areas in the world. Under the treaties, one of the main purposes of EU legislation is to create an internal market for the free movement of capital, goods and services and people. An essential prerequisite to achieving this goal and maintaining a positive business environment is a clear, stable, high-quality legal framework that applies equally in all 28 EU Member States, provides a level playing field for business and protects the rights of consumers, workers and citizens according to common standards across all Member States. In many instances, EU legislation harmonizes or replaces different rules in each of the 28 Member States, making national markets mutually and equally accessible and reducing administrative costs overall to realize a fully functional internal market for business operating in different Member States. While legislation is essential to achieving policy objectives and creating benefits for

businesses and society, it can however also generate regulatory costs and burdens. Such burdens can, for example, arise in the form of legal obligations requiring a business to provide information to third parties or to keep certain records. In order to ensure competitiveness in a globalised world, to adjust to new social challenges and to achieve the underlying purpose of a policy more efficiently and effectively, legislation and the regulatory cost and burden arising from it must be constantly reviewed and improved.

In response to these concerns, the European Commission has made a concerted effort over the past years to streamline legislation and reduce administrative burdens. In 2002, it embarked on an ambitious “Better Regulation” programme to simplify and generally improve the regulatory environment. Inter alia, it introduced impact assessments of major Commission proposals and factored consultation into all Commission initiatives<sup>2</sup>. As part of “Better Regulation” and of the efforts to generate more growth and jobs in Europe, the Commission proposed in November 2006 a strategy to reduce the unnecessary administrative burden on businesses of existing EU legislation. This so-called “Action Programme for Reducing Administrative Burdens in the EU”<sup>3</sup> (Action Programme) was endorsed by the European Council in March 2007 and set the target, to be achieved jointly by the EU and Member States, to reduce administrative burdens to businesses by 25% by 2012<sup>4</sup>. The Action Programme was flanked by a policy of “Smart Regulation”<sup>5</sup>

2 Brochure “Better Regulation – simply explained”,  
 ➔ [http://ec.europa.eu/smart-regulation/better\\_regulation/documents/brochure/brochure\\_en.pdf](http://ec.europa.eu/smart-regulation/better_regulation/documents/brochure/brochure_en.pdf).

3 COM(2007) 23 – Action Programme for Reducing Administrative Burdens in the European Union. The Action Programme is covered in detail in Chapter III of this report.

4 COM(2006) 691 – Measuring administrative costs and reducing administrative burdens in the European Union; COM(2006) 689 – A strategic review of Better Regulation in the European Union.

5 COM(2010) 543 – Smart Regulation in the European Union.

in 2010. Smart Regulation means delivering EU policies and laws that bring the greatest possible benefits to people and businesses in the most effective way.

In December 2012, the Commission further stepped up its efforts in the field of Smart Regulation by launching the “Regulatory Fitness and Performance Programme (REFIT)”<sup>6</sup>, which is aimed at eliminating unnecessary regulatory burdens and ensuring that the body of EU legislation remains fit for purpose. Under REFIT, the EU’s regulatory acquis is continually being screened for burdens, gaps and inefficiencies in order to evaluate and, if appropriate, revise those laws where the assessment points to a need for action. REFIT also includes a follow-up to the Action Programme called ABRplus, which focuses on how Member States have transposed selected measures from the Action Programme into national legislation<sup>7</sup>.

## 2. Setting up the High Level Group on Administrative Burdens

The Commission announced its intention to take a transparent approach towards implementing the Action Programme by involving stakeholders from all over the EU and contin-

uously benefiting from their input<sup>8</sup>. Following this approach, on 31 August 2007, the Commission set up the High Level Group on Administrative Burdens (HLG) as an independent expert group in order to assist with the implementation of the Action Programme<sup>9</sup>. Edmund Stoiber, outgoing Prime Minister of Bavaria, was appointed Chairman on 14 September 2007. The remaining 14 members were appointed on 19 November 2007 and included the leaders of several bodies responsible for cutting regulatory costs at national level, representatives from the world of industry, small and medium sized enterprises, environmental and consumer organisations as well as social partners. The European Parliament, the Committee of the Regions, the Swedish Better Regulation Council Regelrådet and the Czech Regulatory Impact Assessment Board followed the work of the HLG as observers<sup>10</sup>. The HLG held its inaugural meeting on 17 January 2008 and its mandate was prolonged and extended twice by the Commission, in August 2010 and December 2012.

All opinions, case studies, presentations and minutes from the meetings are published on the HLG website<sup>11</sup>.

6 COM(2012) 746 - EU Regulatory Fitness.

7 The ABRplus programme is covered in Chapter IV, the REFIT programme in Chapter V of this report.

8 COM(2007) 23 - Action Programme for Reducing Administrative Burdens in the European Union.

9 Commission Decision of 31 August 2007, C(2007)4063, see Annex 1 of this report.

10 For a full list of members and observers of the HLG see Annex 2 of this report.

11 For a list of the opinions and reports adopted by the HLG, of presentations to the HLG and bilateral exchanges, cf. Annexes 3-7 of this report.

HLG website: [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/high\\_level\\_group\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm).



## LOOKING BACK

### 1. Key achievements of the HLG

- a. First Mandate:  
Advice on the Action Programme
- b. Second Mandate:  
Best Practice Report
- c. Third Mandate:  
Case studies on ABRplus

### 2. Other achievements of the HLG

### 3. Activities of the HLG Chairman and members



## 2 LOOKING BACK

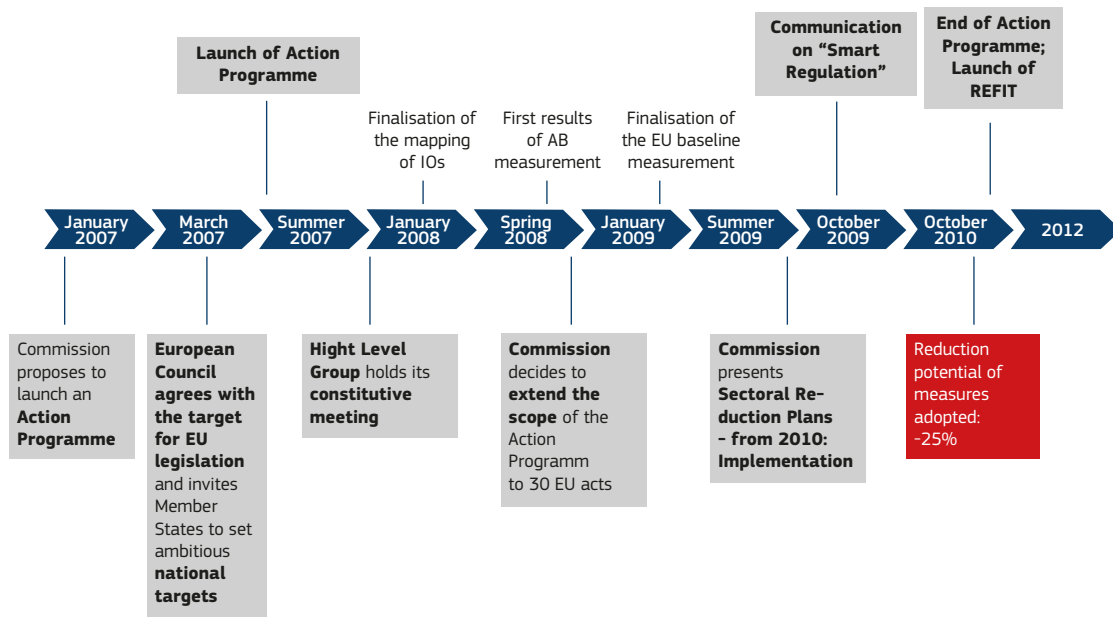
### 1. Key achievements of the HLG

#### a. First Mandate: Advice on the Action Programme

Under the first mandate<sup>12</sup> (31 August 2007 – 31 August 2010), the HLG's main task was to advise the Commission on administrative burden reduction measures under the Action Pro-

gramme and to suggest additional pieces of existing legislation to be included in the exercise. As part of the Action Programme, the Commission mapped the entire legislative acquis of the EU and measured the administrative cost to businesses stemming from information obligations laid down in EU legislation with the help of a consortium of consultants.

#### *Timeline of events under the first mandate:*



Under its first mandate, the main work of the HLG was to follow and assess the reports of the consortium and to identify measures to further reduce administrative burdens. In doing so, the HLG discussed the findings of the measurement exercise with the consultants, observers to the HLG, representatives from governments and national authorities of the Member States and from the European Court

of Auditors and stakeholders. On the basis of this work, the HLG made more than 300 concrete proposals for administrative burden reduction measures<sup>13</sup>. The suggestions by the HLG overlap with proposals by the Commission. With the support of the HLG, measures with an annual reduction potential of EUR 33.4 billion have been adopted by the European Parliament and Council to date<sup>14</sup>.

<sup>12</sup> Commission Decision of 31 August 2007, C(2007)4063, see Annex 1 of this report.

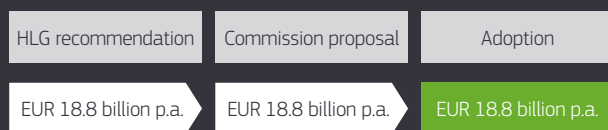
<sup>13</sup> For an overview of all suggestions made by the HLG and the resulting follow-up, see Annex 8 of this report.

<sup>14</sup> On the results of the Action Programme, see Chapter III of this report.

## MOST IMPORTANT HLG RECOMMENDATIONS AND THEIR LEGISLATIVE EVOLUTION

Due to the prolongation of its mandate to a total of 7 years, the HLG was able to make important simplification proposals to the Commission and to actively support their adoption by the European Parliament and the Council. In particular:

### (1) Taxation (VAT)/Customs – Electronic invoicing



The consortium had already provided measurements of administrative burdens related to Value Added Tax (VAT)-specific costs and presented ideas for a revision of the rules on invoicing in the VAT Directives. The HLG encouraged the Commission in October 2008 to carefully examine and amend, where appropriate, the current invoicing rules. In particular, the HLG called on the Commission to foster a wider use of electronic invoicing by organising inter-company billing electronically<sup>15</sup>. Due to the large num-

ber of bills sent from one company to another, the administrative burden reduction potential of this proposal was estimated to amount to **EUR 18.8 billion per annum**<sup>16</sup>. The Commission made the HLG recommendation its own by putting forward the respective legislative proposal in January 2009. Directive 2010/45/EU aimed at simplifying VAT invoicing requirements, in particular as regards electronic invoicing, was adopted in July 2010 and took effect from 1 January 2013<sup>17</sup>.

### (2) Annual Accounts/Company law – Exemption of micro-entities



In the field of company law, the HLG advised the Commission in July 2008 to exempt micro-entities, i.e. companies defined as having less than 10 employees, a balance sheet total below EUR 500,000 and a turnover of below EUR 1 million, from the scope of the European accounting and auditing rules<sup>18</sup>. The Commission presented a legislative proposal in February 2009, aiming for an outright exemption for micro-entities from all EU accounting requirements. Due to the vast number of

15 HLG opinion on the reform of the rules on invoicing and electronic invoicing in Directive 2006/112/EC (VAT Directive) of 22 October 2008, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/opinion\\_on\\_va\\_invoicing\\_reform\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/opinion_on_va_invoicing_reform_en.pdf).

16 SWD(2012) 423 - Action Programme for Reducing Administrative Burdens in the EU, Final Report.

17 The realized savings potential depends on the implementation in Member States. For further information on this measure and the achieved reduction potential, see ABRplus case study on e-invoicing, Annex 10 of this report.

18 HLG opinion on the priority area of Company Law/Annual Accounts of 10 July 2008, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/080710\\_hlg\\_op\\_comp\\_law\\_final\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/080710_hlg_op_comp_law_final_en.pdf). The realized savings potential depends on the implementation in Member States. For further information on this measure and the achieved reduction potential see ABRplus case study on exemptions for micro-entities from the accounting regime, Annex 10 of this report.

micro-entities in Europe, this proposal was estimated to lead to a reduction potential of **EUR 6.3 billion per annum**<sup>19</sup>. However, the European Parliament and Council introduced amendments to the Commission proposal during the legislative process. Thus, minimal accounting requirements were retained and, by lowering the thresholds on balance sheet total and turnover, fewer companies than originally anticipated benefitted from the measure, which reduced the savings potential to **EUR 3.4 billion per year**. The amended proposal was adopted as Directive 2012/6/EU on 14 March 2012. The implementation of the exemptions is optional for Member States.

### (3) Transport – Exemption from the digital tachograph requirement for craft businesses



In January 2009, the HLG proposed<sup>20</sup> that the Commission consider exempting more businesses, in particular craft industries, from the obligation to use a tachograph for journeys within a radius of at least 150 km from the company base (previously: 50 km) on condi-

tion that driving the vehicle does not constitute the driver's main activity (**estimated reduction of burdens: up to EUR 59 million per annum**)<sup>21</sup>. Although the savings potential of this proposal is limited, the proposal has an important political significance as it was also awarded with the first prize in a Europe wide competition organized by the HLG in 2008/2009<sup>22</sup>. Almost 2.5 years later, on 19 July 2011, the Commission proposed to allow Member States to grant exemptions from the tachograph obligation for certain users such as craftsmen within a uniformly extended radius of 100 km (estimated reduction of administrative burden: **EUR 52.8 million per annum**). The proposal was endorsed by the European Parliament on 15 January 2014 following an informal agreement between Parliament and Council and entered into force on 1 March 2014<sup>23</sup>.

19 COM(2009) 544 Annex - Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions.

20 The proposal was submitted by the winner of the "Best Idea for Red Tape Reduction Award" organized by the HLG in 2008, see section 2. "Other achievements by the HLG" below.

21 HLG Opinion on stakeholder suggestions of 20 January 2009, [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/090114\\_finver\\_hlg\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/090114_finver_hlg_en.pdf); HLG Opinion on the priority area on transport of 9 March 2009, [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/hlg\\_opinion\\_transport\\_050309\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/hlg_opinion_transport_050309_en.pdf).

22 See below section 2 "Other achievements by the HLG".

23 The realized savings potential depends on the implementation in Member States. For further information on this measure and the achieved reduction potential see ABRplus case study on the digital tachograph, Annex 10 of this report.

## b. Second Mandate: Best Practice Report

In the second mandate<sup>24</sup> (September 2010 – December 2012), the HLG was tasked with reporting by November 2011 on best practice in Member States in implementing EU legislation in the least burdensome way. The extended mandate also requested that the HLG continue advising the Commission on suggestions to reduce administrative burdens and on its rolling Simplification Programme, thus providing for a more regular and structured exchange with the Commission's Impact Assessment Board<sup>25</sup>.

The most prominent achievement of the second mandate is the report "Europe can do better"<sup>26</sup> of 15 November 2011, which outlines best practice examples of implementation of EU legislation in the least burdensome way in Member States. Work carried out as part of the Action Programme had shown that 32% of the administrative burdens of EU origin felt by businesses in the Member States are in fact not caused by the requirements of EU legislation as such, but by the decisions of some Member States to go beyond what is required by EU legislation (so-called "gold-plating") or inefficient national, regional or local implementation of EU requirements in Member States (gold-plat-

ing 4%, inefficient implementation 28%, total 32%)<sup>27</sup>: For example, an evaluation of the EU public procurement rules by the Commission in 2011 showed that the typical duration of a procurement procedure from the dispatch of a contract notice to its award varied between 77 days in Latvia to 241 days in Malta<sup>28</sup>. If all Member States were to transpose EU legislation into national rules in a manner as efficient as that applied in the most efficient Member State and without gold-plating, administrative burdens could be reduced by up to 32%<sup>29</sup>. Based on the total administrative burden of EUR 124 billion per annum measured under the Action Programme, this amounts to a reduction potential of nearly EUR 40 billion per annum.

For the Best Practice Report, the HLG collected more than 300 examples for an initial overview from national governments, the Committee of the Regions, stakeholders such as business organizations from Austria, Denmark, Finland, Germany, Luxembourg, the Netherlands and Spain and from research on existing sources including information held by Commission services. In the report, the HLG outlined 74 concrete examples of best practice of implementation of EU law in Member States in the least burdensome way, covering a wide range of areas and all Member States.

24 Commission Decision of 17 August 2010, 2010/C 223/03 – cf. Annex 1 of this report.

25 Further information about the Impact Assessment Board can be found at [http://ec.europa.eu/smart-regulation/impact/iab/iab\\_en.htm](http://ec.europa.eu/smart-regulation/impact/iab/iab_en.htm).

26 "Europe can do better – Report on best practice in Member States to implement EU legislation in the least burdensome way" of 15 November 2011, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/best\\_practice\\_report/docs/bp\\_report\\_signature\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/best_practice_report/docs/bp_report_signature_en.pdf) – Annexes to the Report: [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/high\\_level\\_group\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm).

27 COM(2009)544 – Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions, p. 6.

28 "Europe can do better – Report on best practice in Member States to implement EU legislation in the least burdensome way" of 15 November 2011, p. 13.

29 COM(2009)544 – Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions, p.6.

## ILLUSTRATIVE EXAMPLES FROM THE BEST PRACTICE REPORT

**UK - Transposition framework:** The UK government has drawn up “guiding principles” that all its departments must abide by when transposing EU legislation. These include checking whether pre-existing UK standards are retained which are higher than those required by the EU legislation or explaining any gold-plating in impact assessments.

**Denmark - Mandatory digital communication:** As of 2013, the Danish e-government strategy requires all letters to businesses to be sent digitally and makes selected digital reporting systems mandatory by 2015. All business reporting to the Danish authorities will be centralised on one website.

**Portugal - Digitalised public procurement:** Since 2009, tender procedures in Portugal must be performed through an electronic platform. The electronic public procurement rate in Portugal is 75% (2010), whereas the EU average is estimated to be less than 5%.

**Austria, Czech Republic, Germany - “Grenzoffensive”:** cross-border initiative for small and medium-sized enterprises (SMEs) – minimising or eliminating administrative obstacles that local SMEs face when they wish to expand their activities to the other side of the border in the neighbouring regions of Upper Austria, South Bohemia and Bavaria. “Grenzoffensive” facilitates the provision of cross-border services and particularly procedures regarding the posting of workers, presents the relevant legislation, explains procedures and electronic format of all necessary forms on one website and provides training seminars and counselling to SMEs.

Based on the examples analysed for the preparation of the report, the HLG presented a checklist for good implementation of EU legislation and gave the following key recommendations:

- Member States – supported by the Commission – should develop a framework for a regular and structured exchange of best practice of implementation of EU legislation;
- the checklist for good implementation of EU legislation should be used by authorities responsible for the implementation of EU legislation to avoid burdensome elements of implementation to the widest possible extent<sup>30</sup>.

30 “Europe can do better – Report on best practice in Member States to implement EU legislation in the least burdensome way” of 15 November 2011, p. 71 ff.

### c. Third Mandate: Case studies on ABRplus

In January 2013, the mandate of the HLG was extended for a second time. Under the third mandate<sup>31</sup> (January 2013 – October 2014), the HLG was tasked inter alia with advising the Commission on reducing administrative burdens on business, in particular on SMEs and micro companies, and on measures that can be taken at national level to help Member States apply the EU legislation adopted under the Action Programme in the least burdensome way.

The most prominent feature of the Third Mandate was the assessment and comparison of how effectively selected administrative burden reduction measures adopted under the Action Programme have been implemented by Member States. Under the Action Programme, the EU legislators had adopted legislative measures estimated to lead to a decrease of 25% of the administrative burdens to businesses stemming from EU legislation. After the end of the Action Programme, the Commission implemented a follow-up programme (“ABRplus”) covering 12 selected legislative measures from the Action Programme: Since the benefits of the Action Programme will not materialize until the measures are successfully implemented in the Member States, ABRplus aims to follow up with Member States in order to assess whether the reduction potential estimated for these 12 legislative measures has indeed been achieved on the ground after national implementation. The HLG was tasked

with assisting and advising on this follow-up by comparing estimated results with the initial estimates and facilitating best practice exchange between Member States<sup>32</sup>.

In doing so, the HLG selected eight out of the 12 ABRplus items and analysed their implementation in Member States in the form of case studies<sup>33</sup>. Each case study identifies best practices of implementation based on reports by Member States, feedback by stakeholders and information from Commission services, and provides recommendations for further burden reduction measures.

The ABRplus programme is analysed in more detail in Chapter IV of this report.

## 2. Other achievements of the HLG

Stakeholders had at all times the opportunity to provide the HLG with suggestions on how to reduce administrative burden. Consequently, the Chairman has received, as a kind of “ombudsman” hundreds of inputs from citizens, associations, entrepreneurs and Member States. The HLG addressed these suggestions in its opinions and called upon the Commission or, on occasion, Member States for further action to tackle these concerns<sup>34</sup>.

In 2008, the HLG organised with the support of the Commission, a competition named “Best Idea for Red Tape Reduction Award” with a view to generating new suggestions on

31 Commission Decision of 5 December 2012, 2010/C 223/03, see Annex 1 of this report.

32 COM(2012)746 – EU Regulatory Fitness, p. 5.

33 All case studies are attached in Annex 10 of this report.

34 For an overview over stakeholder suggestions made to the HLG and the resulting follow-up, see Annex 8 of this report.

reducing administrative burdens. By the time of the deadline, almost 500 entries from all over Europe and across all policy fields of the Action Programme were submitted. The ideas were evaluated according to criteria such as originality, feasibility and overall potential to reduce burdens notably for SMEs and the winner and two runner-ups were selected by an independent jury. On 13 May 2009, the German Confederation of Skilled Crafts (ZDH) received the Best Idea for Red Tape Reduction Award for its idea to exempt more craft businesses from the obligation to use a ta-

chograph for short distances. The runners-up included the Federation of Swedish Farmers (LRF) which proposed that food manufacturers producing small quantities (such as beekeepers) should not have to register as food businesses when providing small deliveries to wholesalers or packaging establishments, and the Austrian SME Kutsam GmbH & Co. KG, which proposed that statistical data for Intra-Community trade should only be collected from the exporter in future, instead of both from the exporter and the importer (single-flow reporting).

## EXAMPLES OF STAKEHOLDER SUGGESTIONS SUCCESSFULLY TAKEN FORWARD BY THE HLG

**Environment – REACH:** The Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) is both extensive and complicated and large parts of the guidance manuals provided to users are available in English only. Stakeholders had asked for translations of the guidance documents and for exemptions from the REACH regime for SMEs. In its opinion of 20 January 2009, the HLG urged the European Chemicals Agency (ECHA) to provide the translations as soon as possible and called upon the Commission to take a closer look into possible further reductions of administrative burdens, in particular for SMEs<sup>35</sup>. Up to now, ECHA has translated most parts of the guidance documents into all official EU languages and appointed an SME Am-

bassador to deal with the specific needs of SMEs. The Commission's REACH review of February 2013 contained a dozen recommendations specifically focusing on SMEs, which are now followed up by ECHA.

**Agriculture – voluntary beef labelling:** Regulation (EC) No 1760/2000 of 17 July 2000 establishes a system for the identification, registration and labelling of bovine animals and beef and beef products with a view to fostering consumer confidence and to trace animals for the control of infectious diseases. It also lays down rules for a voluntary beef labelling system including the approval of certain labelling specifications by the competent authority of Member States, which places administrative burden on stakeholders. Following a stakeholder suggestion, the HLG thus suggested repealing the notification requirement with regard to the use of additional labelling indications other than those which are com-

35 HLG Opinion on stakeholder suggestions of 20 January 2009, [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/090114\\_finver\\_hlg\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/090114_finver_hlg_en.pdf).

pulsory<sup>36</sup>. The Commission followed the advice of the HLG by proposing to abolish these requirements. The proposal was adopted accordingly by both the European Parliament and the Council in May 2014.

**Statistics – establishment of a single-flow reporting system:** Statistical data for Intra-EU trade is currently collected from both exporting and importing companies. In the context of the “Best Idea for Red Tape Reduction Award”, stakeholders proposed only collecting data from the exporter and maintaining data for the import statistics by collecting the data on

exports from the other Member States, thus avoiding duplicated reporting of exports and imports between Member States (single-flow reporting). In its Opinion of 7 July 2009 on the priority area of statistics<sup>37</sup>, the HLG took this proposal forward by calling upon the Commission to continue to look at further areas for simplification, with the aim of implementing a single flow system within a five-year period. As a result, the Commission has in January 2013 launched the SIMSTAT project, aimed at the establishment of a system for the micro data exchange between Member States in a single-flow system.

The HLG also advised the Commission on its Smart Regulation approach, such as the extension of the Action Programme by another 30 legal acts<sup>38</sup> and the Stakeholder Consultation on Smart Regulation<sup>39</sup>. During its mandate, the HLG discussed with President Barroso, individual Commissioners and Commission services<sup>40</sup>, the European Parliament and representatives

from different Member States, the state of play on administrative burden reduction at EU and Member State level. The exchanges with the chair of the Commission’s Impact Assessment Board and business organisations and owners of small businesses<sup>41</sup> were put on a formal and regular footing.

36 HLG Opinion on the priority area of Agriculture / Agricultural subsidies of 5 March 2009, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/hlg\\_opinion\\_agriculture\\_050309\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/hlg_opinion_agriculture_050309_en.pdf).

37 HLG Opinion on the priority area of Statistics of 7 July 2009, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/hlg\\_opinion\\_070709\\_statistics.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/hlg_opinion_070709_statistics.pdf).

38 HLG Opinion on the extension of the scope of the Action Programme by 30 additional acts of 20 May 2010, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/administrative-burdens/high-level-group/files/2010\\_05\\_20\\_hlg\\_ab\\_opinion\\_january\\_2009\\_extension\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/administrative-burdens/high-level-group/files/2010_05_20_hlg_ab_opinion_january_2009_extension_en.pdf).

39 HLG Opinion on stakeholder consultation on Smart Regulation of 8 July 2010, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/administrative-burdens/high-level-group/files/10\\_07\\_08\\_final\\_opinion\\_smart\\_reg\\_consultation\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/administrative-burdens/high-level-group/files/10_07_08_final_opinion_smart_reg_consultation_en.pdf).

40 For a list of exchanges of the HLG with Commissioners and Commission services see Annex 5 of this report.

41 The exchange with owners of small or medium-sized businesses is detailed in Annex 6 of this report.



### **3. Activities of the HLG Chairman and members**

Outside of the HLG plenary sessions, various activities were undertaken to promote administrative burden reduction within the Commission, other EU institutions and in Member States. The Chairman and HLG members discussed the issue of cutting red tape with various bodies and stakeholders. In this context, public meetings of the HLG were held in Stockholm (2009), Amsterdam (2011), Warsaw (2011), Lisbon (2012) and Berlin (2013). In particular, the Chairman has promoted the Commission's work to cut red tape in groups, committees and other bodies of the European Parliament, and the Competitiveness Council. During visits to Member State governments, and in numerous events and conversations with associations, stakeholders and journalists he urged these institutions to help make administrative burden reduction a success<sup>42</sup>.

Overall, the HLG has made a significant contribution to bringing the issue of administrative burden reduction to the attention of not only the European institutions, but also of Member States. It has thus become more difficult to present evidence for the accusation frequently levelled in the media that the EU is causing overwhelming bureaucracy.

42 For a list of the bilateral exchanges of the Chairman see Annex 7 of this report.

# THE ACTION PROGRAMME FOR REDUCING ADMINISTRATIVE BURDENS IN THE EU

## 1. Parameters of the Action Programme

- a. Beneficiaries: Business
- b. Focus: Administrative costs and burdens from EU information obligations
- c. Scope: 72 legislative measures in 13 priority areas

## 2. Results of the Action Programme – Analysis by the HLG

- a. Overview
- b. Detailed analysis of the results of the Action Programme
  - I. Most burdensome areas*
  - II. Source of administrative burden*
  - III. Length of legislative procedure*
  - IV. Savings potential*

## 3. Overall conclusions on the Action Programme

## 3 THE ACTION PROGRAMME FOR REDUCING ADMINISTRATIVE BURDENS IN THE EU

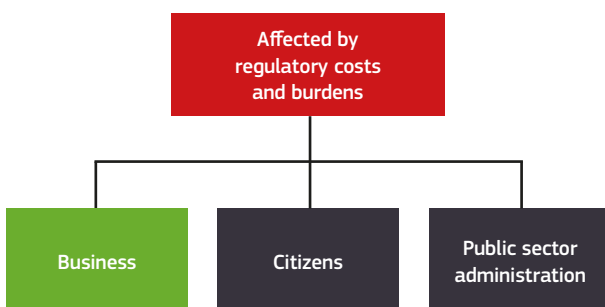
The “Action Programme for Reducing Administrative Burdens in the EU”<sup>43</sup> (Action Programme) of March 2007 set the target to reduce administrative burdens to businesses by 25% by 2012, to be achieved jointly by the EU and Member States. Below, the HLG aims to critically analyse the outline, scope and results of the Action Programme.

### 1. Parameters of the Action Programme

#### a. Beneficiaries: Business

Regulatory costs and burdens can affect business, citizens and administrative authorities. The Commission chose to focus the scope of the Action Programme to business.

#### *Beneficiaries of the Action Programme:*



The core argument for focusing the Action Programme on business was that unnecessary administrative costs can hamper economic activity: By reducing unnecessary reporting requirements, a company’s employees can spend more time on core business activities,

which may reduce production costs and allow additional investment and innovation activities to materialise, thus improving overall productivity and competitiveness.

According to the Commission, achieving the objective of the Action Programme could lead to economic growth and an increase in the level of EU GDP of approximately 1.4% or EUR 150 billion per annum in the medium term<sup>44</sup> and would bring substantial improvements for consumers, such as lower prices. As a result, society would gain indirect benefits<sup>45</sup>.

### HLG CONCLUSIONS

The HLG acknowledges that the Action Programme was committed to business and supports this approach as it matched well with the Commission’s commitment to the “Growth and Jobs” strategy and similar programmes taken up by certain Member States<sup>46</sup>. At the time of the launch of the Action Programme, there was political support for easing burdens on business in order to boost growth.

At the same time, the HLG notes the lively engagement of citizens during this programme. This indicates the importance of tackling administrative burdens arising from legislation to citizens. The HLG therefore recommends that future burden reduction strategies not only focus on business, but also on citizens and public administration authorities.

43 COM(2007) 23 – Action Programme for Reducing Administrative Burdens in the European Union.

44 SWD(2012) 423 – Action Programme for Reducing Administrative Burdens in the EU Final Report, p. 3.

45 COM(2007) 23 – Action Programme on Reducing Administrative Burdens in the EU, p. 3.

46 For instance, Germany adopted a Programme on Federal level: <http://www.bundesregierung.de/Webs/Breg/DE/Themen/Buerokratieabbau/Programm/Programm-Ueberblick.html>.

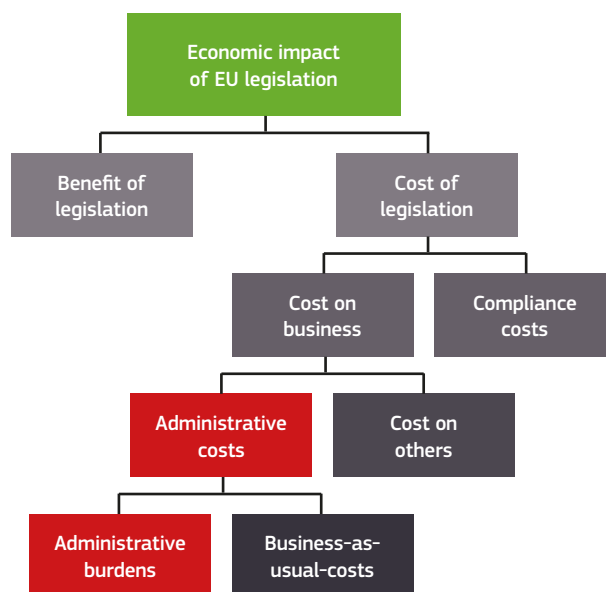
## b. Focus: Administrative costs and burdens from EU information obligations

Complying with legislation involves various types of costs for the addressees of the legislation, (so called regulatory costs). For the purposes of the Action Programme, these were identified as follows<sup>47</sup>:

- **Administrative costs** are costs incurred by businesses, public authorities and citizens in meeting legal obligations to provide information on their activities to public authorities or private parties (information obligations);
- Administrative costs are the sum of **administrative burden** (i.e. information that is solely collected because of a legal obligation to do so) and **business-as-usual-costs** (i.e. information that would be collected and processes by businesses even in the absence of a legal obligation to do so);
- **Compliance costs**, which must be distinguished from administrative costs and burdens. Compliance costs stem from the requirements of the legislation, such as costs induced by the development of new products or processes that meet new social and environmental standards.

The Commission decided to dedicate the Action Programme to measuring administrative costs and reducing administrative burden to businesses arising from EU law, i.e. to reducing those costs which businesses incur in having to meet EU legislation which obliges them to provide information to public authorities or private parties<sup>48</sup>. Consequently, the reduction measures under the Action Programme were limited to streamlining information requirements. They were however not designed to affect the basic design of the underlying legislation.

### *Focus of the Action Programme:*



47 COM(2006) 691 – Measuring administrative costs and reducing administrative burdens in the European Union, p. 3 f.. For a definition of administrative, compliance and regulatory costs cf. OECD Regulatory Compliance Cost Assessment Guidance, [http://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance\\_9789264209657-en](http://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance_9789264209657-en).

48 COM(2009) 544 - Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions, p. 3; COM(2006) 691 – Measuring administrative costs and reducing administrative burdens in the European Union, p. 4.

## HLG CONCLUSIONS

The decision to limit **the Action Programme** to administrative costs (to be measured) and administrative burdens (to be reduced) **was comprehensible for the HLG**. The approach of concentrating on administrative burden had already been chosen by some Member States. The advantages of this restriction were as follows:

Firstly, the Commission did not need to start from scratch in developing a measurement instrument, as the work was built on the already available Standard Cost Model providing monetary estimations.

Secondly, delivering monetary results paved the way for reduction plans and identified priority areas.

Thirdly, it allowed for an evidence-based approach on how to achieve the objectives of the policy in the least burdensome way.

As the Commission is now determined to remove not only administrative but any unnecessary regulatory burdens under the REFIT-programme<sup>49</sup>, **the HLG advises the Commission to extend the strategy to reducing unnecessary compliance costs and to continue with reducing administrative burdens in any future smart regulation activity.**

### c. Scope: 72 legislative measures in 13 priority areas

The Action Programme did not cover the entire body of EU legislation in force. 13 priority areas were selected, in which the most burdensome information obligations were identified and measured:

- 1) *Agriculture and Agricultural Subsidies*
- 2) *Annual Accounts / Company law*
- 3) *Cohesion Policy*
- 4) *Environment*
- 5) *Financial Services*
- 6) *Fisheries*
- 7) *Food Safety*
- 8) *Pharmaceutical Legislation*
- 9) *Public Procurement*
- 10) *Statistics*
- 11) *Taxation (VAT) / Customs*
- 12) *Transport*
- 13) *Working Environment / Employment Relations*

The choice of the 13 priority areas was based on a pilot study on administrative burden from 2006 as well as information provided by Member States and stakeholders<sup>50</sup>.

Before selecting appropriate measures to achieve the envisaged reduction, the Commission decided to map the legislative acquis of the EU and to assess its administrative burden. This was done by carrying out partial baseline measurements<sup>51</sup> of the actual administrative cost of information

49 A detailed analysis of the REFIT programme is given in Chapter V of this report.

50 "Pilot project on Administrative Burden – Final Report" by WiFo and CEPS for the European Commission, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/pilot-study\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/pilot-study_en.pdf).

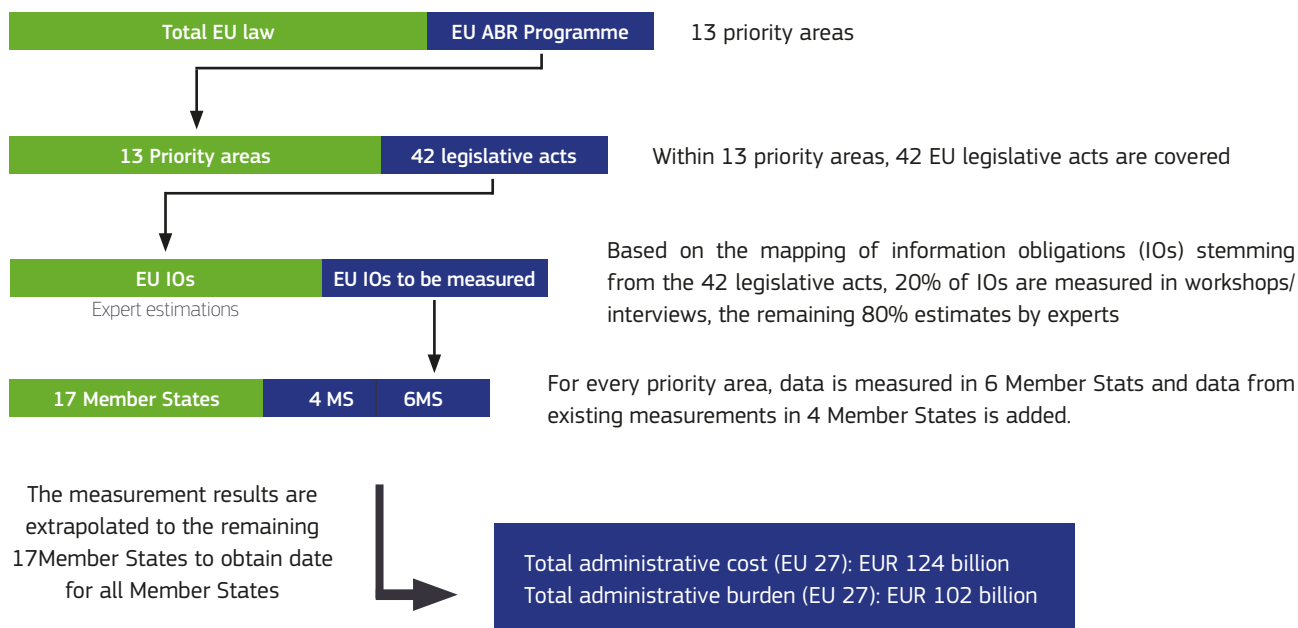
51 A baseline measurement is an ex post measurement, in this case of administrative costs that enterprises experience at a given point in time by following a current set of rules.

obligations for businesses according to the Standard Cost Model (SCM) developed in the Netherlands<sup>52</sup>. The Commission hired a consortium of external consultants<sup>53</sup> to assist with this measurement.

Data for calculation was collected primarily through workshops and interviews with a

sample of businesses in six Member States. This data was supplemented by existing data from the only four Member States (Czech Republic, Denmark, the Netherlands and the United Kingdom) which had previously carried out SCM measurements<sup>54</sup>. The data for the remaining EU Member States was then estimated through extrapolation.

### *The baseline measurement procedure<sup>55</sup>:*



52 Further information about the Standard Cost Model: [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/scm\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/scm_en.htm).

53 Capgemini, Deloitte, Rambøll Management.

54 The state of play in other countries measuring administrative costs is illustrated in the study "Pilot project on Administrative Burden – Final Report" by WiFo and CEPS for the European Commission, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/pilot-study\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/pilot-study_en.pdf).

55 Source: Presentation by Capgemini, Deloitte, Rambøll Management to the HLG on 26 February 2008, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/presentations\\_to\\_hlg\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/presentations_to_hlg_en.pdf).

The consortium's main findings of the baseline measurement conducted for the Commission were<sup>56</sup>:

- A very high proportion of administrative burdens stem from a limited number of information obligations in a couple of policy areas (for example, taxation and company law account for more than 80% of the total burden measured and the ten most important information obligations overall account for more than 77% of the total burden of EU origin<sup>57</sup>),
- information obligations generally impose a proportionately higher burden on small and medium-sized businesses,
- the degree to which businesses consider an information obligation to be irritating is very often uncorrelated to the administrative burdens imposed,
- an estimated 32% of administrative burdens of EU origin is the result of the decision of some Member States to go beyond what is required by EU legislation (gold-plating) and of the inefficiency in their national procedures.

Those legislative proposals aimed at achieving the target set by the Action Programme to reduce administrative burden by 25% by 2012 were put forward by the Commission in different stages. Originally, in 2007, the Action Programme focused on 42 EU legal acts within the 13 priority areas. Two years later, the Commission extended the Action Programme by 30 additional EU acts in the same policy areas<sup>58</sup>. In total, the Programme therefore covered 72 acts. These 72 legislative acts were estimated to cause 80% of the total administrative burden (around EUR 124 billion per year) stemming from information obligations imposed by EU legislation on businesses, while only accounting for 20% of the total legislative acquis of the EU.

Some proposals were integrated in so-called 'Fast-track' packages with which the Commission put forward immediate measures likely to generate significant benefits through merely technical changes to existing rules.

56 COM(2009) 544 - Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions, p. 4 with further reference to published consortium studies.

57 Presentation by Capgemini, Deloitte, Rambøll Management to the HLG, 26 February 2008, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/presentations\\_to\\_hlg\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/presentations_to_hlg_en.pdf).

58 COM(2009)16 - Reducing Administrative Burdens in the European Union, Annex to the third Strategic Review on "Better Regulation" in the European Union.

## HLG CONCLUSIONS

The HLG emphasizes that the **exact share of the total potential administrative burdens on business remained unclear, as the Action Programme** could not measure the entire administrative burden arising from EU legislation, but rather **focused on identifying the areas and pieces of legislation with the highest estimated administrative burden and therefore the highest reduction potential.** Due to the extrapolation of calculations from a limited number of countries to (then) 27 Member States, the figures are by their very nature estimations rather than precise calculations. Whilst total estimates at EU level are very significant, the Consortium itself concluded that reliable data is limited<sup>59</sup>. However, the calculations give an important indication of the burden which makes it possible to set priorities.

The **HLG supports the approach to concentrate on reduction proposals within selected priority areas** and to put forward proposals where reduction targets are easily achievable. Furthermore, the HLG appreciates the approach of the first selection: The 42 proposals were chosen based on an existing overview. **The HLG underlines the importance of an evidence-based approach when selecting burdensome areas. The**

**HLG further notes that areas with a relatively low cost can have a high impact when affecting a small target group.**

The HLG particularly welcomes the **fact that business stakeholders were consulted before the first 42 proposals for reducing administrative burdens were adopted.** Hence, the HLG identifies as a shortcoming that on the extension of the programme to further 30 actions, neither **the stakeholders nor the HLG were consulted. The HLG therefore advises the Commission to continue to consult stakeholders such as business stakeholders as well as trade unions, consumers and environmental organisations.**

Overall, the Action Programme has delivered a meaningful start for tackling administrative burden. However, beyond the selected priority areas, **other burdensome areas have not been sufficiently identified.** It is therefore of great importance to keep up the momentum for reducing unnecessary administrative burdens and to **search for further possible reduction measures within the entire EU aquis. The HLG therefore supports the objective of the Commission's REFIT strategy to "detect regulatory burdens, gaps and inefficiencies"**<sup>60</sup> and calls on the Commission to put forward appropriate reduction measures.

59 Presentation by Capgemini, Deloitte, Rambøll Management to the HLG on 26 February 2008, [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/docs/enterprise/files/presentations\\_to\\_hlg\\_en.pdf](http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/presentations_to_hlg_en.pdf).

60 COM(2013) 685 - Regulatory Fitness and Performance (REFIT): Results and Next Steps.



## 2. Results of the Action Programme – Analysis by the HLG

### a. Overview

The following table gives an overview of the initiatives the Commission has put forward within the Action Programme as well as the development of these proposals in the legislative procedure:

Priority area	Administrative burden (in million EUR)	Proposed by the Commission (sectoral reduction figure in million EUR)	Adopted (sectoral reduction figure in million EUR*)	Reduction achieved (in % of administrative burden)*
Agriculture / Agricultural Subsidies	5 289.7	-1 891.4	-1 891.4	-36%
Annual Accounts / Company Law	14 589.1	-10 043.5	-6 631.3	-45%
Cohesion Policy	929.1	-234.9	-234.9	-25.3%
Environment	1 180.6	-302.7	-302.7	-25.6%
Financial Services	939.6	+29.5	-141.5 <sup>61</sup>	-15%
Fisheries	73.9	-33.4	-25.9 <sup>62</sup>	-35%
Food Safety	4 073.3	+78.8	+78.8	+1.9%
Pharmaceutical Legislation	943.5	-368.5	-368.5	-39%
Public Procurement	216.3	-216.6	-216.6	-100.14%
Statistics	779.5	-329.6	-329.6	-42%
Taxation / Customs	87 005.3	-26 334.3	-21 936.9	-25%
Transport	3 861.7	-1 263.3	-1 163.3	-27%
Working Environment / Employment Relations	3 879.2	-232.5	-232.5	-6%
<b>Total</b>	<b>123 760.8</b>	<b>-41 142.4</b>	<b>-33 396.3</b>	<b>-26.98%</b>

\*= It is not yet possible to measure the actual results of the adopted reduction proposals as the deadline for entering into force of the measures at EU level and/or the deadline for the transposition into national legislation has not yet been reached.

61 Still pending: COM (2012) 352 - Proposal for a Regulation on key information documents for investment products – this proposal is due to increase the administrative burden in the priority area Financial Services by EUR 171 million – for the state of play of the legislative procedure cf. <http://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:52012PC0352&qid=1404736056552>.

62 One legislative act leading to an estimated reduction by EUR 19.0 million had been already proposed before the launch of the Action Programme (see Annex 9 of this report).

As the table indicates, measures worth an estimated EUR 33.4 billion in annual savings for businesses have been adopted at EU level to date. This represents an estimated 27%-reduction of the measured total of administrative burdens stemming from EU legislation, which have been estimated at EUR 123.8 billion<sup>63</sup>. It was the first time that such a programme was executed at EU level. The involvement of the HLG was therefore of great value as the HLG helped the Commission to coordinate the process and delivered input for reduction measures.

## b. Detailed analysis of the results of the Action Programme<sup>64</sup>

### *1. Most burdensome areas*

The share of administrative burden identified in the 13 areas varies considerably. Hence, in order to achieve the 25% target it was crucial to identify and adopt measures in those areas which have the most noticeable impact on business.

The three most burdensome areas, Taxation/Customs, Annual Accounts/Company law and Agriculture/Agriculture Subsidies, delivered a share of around 86% of the total administrative burden to business measured under the Action Programme. Out of these three, the Taxation and Customs legislation has been considered as the most important priority area to tackle, given that 70% of the total administrative burden can be attributed to this area. In contrast, the administrative burden stemming from the seven acts in the priority area Environment was estimated at around EUR 1.2 billion per annum, i.e. less than 1% of the estimated total administrative burden. However,

businesses perceive the burden to be much higher in this area.

The HLG was particularly active in those three most burdensome areas by supporting the Commission in putting forward relevant proposals. Here, a limited number of proposals delivered a significant administrative burden reduction potential:

- In the area of **Taxation (VAT)/Customs**, the involvement of the HLG can be considered particularly successful: As suggested by the HLG, the Commission proposed a legislative act aimed at suppressing additional requirements on invoices and enabling wider use of electronic invoicing. This one legislative proposal accounted for a reduction potential of **EUR 18.8 billion per annum**, making it by far the biggest single reduction proposal. This success is of particular significance as VAT legislation is of crucial strategic importance for the functioning of the single market, the creation of economic growth and jobs and the competitiveness of SMEs. Every company in Europe selling goods or services and thus issuing an invoice is affected by regulatory burdens in this area, with SMEs disproportionately burdened in comparison to bigger companies.
- In the area of **Annual Accounts/Company law**, the HLG suggested allowing Member States to exempt micro-entities from the scope of the European accounting and auditing rules. This accounted for an annual savings potential of **EUR 6.3 billion**, the lion's share of the administrative burden reduction of all legislative acts proposed in this area (around EUR 10 billion per annum).

63 SWD(2012) 423 – Action Programme for Reducing Administrative Burdens in the EU Final Report.

64 For further details on the Action Programme, cf. Annex 9 of this report.

- The proposed legislative acts in the area of **Agriculture/Agriculture Subsidies** that were already adopted by 2009 entailed a reduction of administrative burden of approximately **EUR 1.9 billion per annum**, i.e. by 36%.

## **II. Source of administrative burden**

Work carried out as part of the Action Programme<sup>65</sup> has shown that an estimated 32% of the administrative burdens of EU origin felt by businesses in the Member States are in fact not caused by the requirements of EU legislation as such, but are the result of the decision of some Member States to go beyond what is required by EU legislation (gold-plating) or of inefficient national, regional or local implementation of EU requirements in Member States (gold-plating 4%, inefficient implementation 28%, total 32%).

## **III. Length of legislative procedure**

One important reduction proposal in the area of Transport has been delayed for a long time. The HLG proposed to the Commission on 20 January 2009 to extend the exemption from the requirement to use a digital tachograph to all craft industry journeys irrespective of the vehicle weight within a radius of at least 150 km from the company base<sup>66</sup>. On 19 July 2011, almost 2.5 years later, the Commission proposed allowing Member States to grant exemptions, however only within a radius of

100 km. The proposal was endorsed by the European Parliament in second reading only almost three years later, on 15 January 2014 with effect from 2 March 2016 (some articles from 2 March 2015). The proposal was highly controversial between stakeholders and in the Council, which led to an extremely lengthy legislative procedure. Overall, the proposal took five years – through all three HLG mandates – from the suggestion by the HLG to final adoption by the co-legislators, and will take another two years to enter into full effect. This was a very negative experience for the HLG.

## **IV. Savings potential**

The Action Programme did not realize the full savings potential calculated in advance by the consortium<sup>67</sup>.

Some HLG recommendations were not taken up in full by the Commission or, even if the Commission made the HLG proposal its own, they were amended by the co-legislators. One example for the former case is the exemptions from the tachograph requirements (priority area Transport): Whereas the HLG proposed exempting all craft industry journeys within a radius of at least 150 km from the company base (estimated burden reduction: up to EUR 59 million per annum), the Commission only proposed a radius of 100 km (estimated burden reduction: EUR 52.8 million per annum). The latter case is exemplified in the area of

65 COM(2009) 544 - Action Programme for Reducing Administrative Burdens in the EU, Sectoral Reduction Plans and 2009 Actions, p. 6.

66 Opinion of the HLG on stakeholder suggestions of 20 January 2009, [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/090114\\_finver\\_hlg\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/090114_finver_hlg_en.pdf); Opinion of the HLG on the priority area on transport of 9 March 2009, [http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/hlg\\_opinion\\_transport\\_050309\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/hlg_opinion_transport_050309_en.pdf). For further information about this measure see ABRplus case study on digital tachograph, Annex 10 of this report.

67 For a full account of the adopted measures bringing about a reduction of administrative burdens cf. SWD(2012) 423 – Action Programme for Reducing Administrative Burdens in the EU Final Report.

Annual Accounts/Company law: Although the Commission took up in full the HLG recommendation for allowing Member States to exempt micro-entities from the scope of the European accounting and auditing rules for companies, the amendments introduced by Parliament and Council reduced the potential savings substantially from originally EUR 6.3 billion to EUR 3.4 billion per annum<sup>68</sup>.

In other cases, the Commission had to withdraw legislative proposals due to insurmountable obstacles within the legislative process: A proposal to simplify obligations concerning the publication and translation of financial information<sup>69</sup> from the area of Annual Accounts/Company law which could have led to savings of EUR 660 million per annum was finally withdrawn by the Commission due to lack of agreement in the Council. Likewise, the Commission proposal to set up a one-stop-shop for VAT (area Taxation/Customs, estimated administrative burden reduction potential: EUR 4.4 billion)<sup>70</sup> had to be withdrawn by the Commission on 21 May 2014 as the Council was unable to reach to an agreement on some elements of it, while others were adopted under a separate proposal. The lack of agreement in the Council is especially unfortunate as the priority area of VAT is of strategic importance both for the functioning of the European single market and the competitiveness of SMEs.

Not all proposals which have been proposed under the Action Programme have already delivered administrative burden reduction re-

sults. Especially in the areas of Public Procurement and Environment, some proposals will only enter into force or become applicable in 2014 or later. Hence, confirmation of the real impact is not possible at this point.

The Action Programme tackled also areas where it was already foreseeable that an increase of administrative burden would occur within the period 2007-2012. This is the case in the areas of Food Safety and Financial Services, although ultimately in both priority areas an overall reduction of administrative burdens was achieved. Upon calculating the achievable reduction potential in the area of Food Safety, the Commission had already taken into account around EUR 104 million of additional annual administrative burdens linked to a Commission proposal on food information to consumers which responded mainly to requests from stakeholders and industry. The adopted text however led to major simplification and modernisation of food-labelling rules<sup>71</sup>. In the area of Financial Services, the initial estimated savings could not be achieved partly because of the financial crisis: Retail investors had lost money through investments which involved risks that were not always transparent to them. Hence, policy makers reacted by increasing transparency requirements for investments, thereby also increasing administrative burdens. The Commission proposal on key information documents for investment products<sup>72</sup> is estimated to lead to an increase of administrative burden by around EUR 171 million per year.

68 Both cases are covered in detail in ABRplus case studies, see Annex 10 of this report.

69 COM(2008) 194 of 17 April 2008.

70 COM(2004)728-1 of 29 October 2004.

71 Regulation (EC) No 1169/2011 of 25 October 2011. As the Regulation will only enter into force from December 2014, the real impact cannot be calculated as of today.

72 COM(2012) 352 of 3 July 2012.

### 3. Overall conclusions on the Action Programme

**The HLG congratulates the Commission** on its proposals, as well as the negotiators from the European Parliament and the Council on the agreements reached, **for achieving the reduction target for administrative burdens of 25% at EU level within the 13 priority areas during the period of 2007-2012.**

**The HLG welcomes the fact** that the Commission has given special **attention to addressing those areas which impose a particularly large part of the total administrative burden.** Overall, it can be concluded that the Action Programme brought significant reductions to business in the most burdensome policy areas.

The HLG notes that not all proposals for reduction potential have been taken up. Hence, there is **still scope for tapping the full potential of further burden reduction** arising from legislation to business as well as to the other aggrieved parties which were not in the target group of the Action programme. Thus, the HLG urges the Commission and the other institutions involved in the legislative process to continue their efforts to reduce unnecessary regulatory costs and burdens not only on businesses, but also on citizens and public administrations and to tackle first and foremost those policy areas which are of strategic importance for reaching the goals outlined in the European treaties.

Without the **contribution of the HLG**, particularly in areas where the administrative burden was high, it is unlikely that all proposals and thus the entire programme would have delivered the achieved results. The HLG not only made suggestions for reduction proposals but also the personal engagement of the HLG members put helpful pressure on the Commission.

Although various proposals have been adopted, there are many instances where the deadline for transposition or application of the adopted measures has **not yet been reached. It is therefore not yet possible to measure the full impact of the adopted HLG proposals.** For the HLG, the end of the Action Programme can be therefore seen only as **a beginning for further scrutiny and evaluation of achieved reductions.**

The **long duration of legislative procedures** has sometimes substantially delayed the envisaged benefits for the addressees. Notably the amendment to the tachograph legislation took almost five years. **The HLG calls on the Commission and the policy makers to be conscious** that such lengthy legislative procedures significantly undermine, in the **view of the European citizens**, the credibility of the European institutions. Also, it hampers the possibility of rapidly reviewing legislation that does not have the effects originally intended.

## ABRPLUS- PROGRAMME

1. **Scope of the HLG 's involvement in ABRplus**
2. **Findings of the HLG on ABRplus**
3. **Overall HLG conclusions on ABRplus**

## 4 ABRPLUS-PROGRAMME

### 1. Scope of the HLG's involvement in ABRplus

On 12 December 2012, the Commission announced a follow-up-programme to the Action Programme ("ABRplus") with a view to determining whether and how Member States have transposed selected administrative burden reduction measures adopted under the Action Programme into national law<sup>73</sup>. As the reduction target of 25% of the Action Programme can only be achieved by the EU and Member States in a joint effort, benefits arising from EU legislation will not materialise until the measures are successfully implemented in Member States. Under ABRplus, the Commis-

sion asked Member States and business representative organizations to report on implementation and tasked the HLG with assisting and advising on this exercise by comparing Member State implementation and achieved results with initial estimates and to identify best practices of implementation.

To this end, the HLG selected 8 ABRplus measures for detailed scrutiny in the form of case studies. Each case study identifies best practices of implementation, gathers stakeholder feedback and puts forward recommendations on the basis of these findings. All ABRplus opinions of the HLG were adopted on 22 September 2014 and are annexed to this report.

List of ABRplus items covered by the HLG

Priority area	Measure
Annual Accounts / Company Law	1. Allowing more SMEs to benefit from simplified accounting/auditing regimes 2. Allowing Member States to exempt micro enterprises from certain provisions of the accounting directives
Public Procurement	3. Only the winning enterprise needs to submit the documents demonstrating suitability as a tenderer in a procurement procedure
Statistics	4. Reducing the number of respondents when compiling statistics on intra-EU trade 5. Reducing reporting requirements on industrial production in the EU
Taxation / Customs	6. Suppressing additional requirements on invoices and enabling wider use of electronic invoicing 7. Suppressing the obligation to fill out paper forms in the language of the Member State of refund in the VAT refund procedure
Transport	8. Digital tachograph (in particular introduction of digital tachographs and simplifying the use of digital tachographs, keeping in mind the future widening of the exemption of small craft business from tachograph requirements and further simplifications)

<sup>73</sup> The measurement procedure under the Action Programme and the estimated savings potential per priority area are outlined in detail in Chapter III of this report.

## 2. Findings of the HLG on ABRplus

On the basis of its work under ABRplus, the HLG was able to draw the following conclusions<sup>74</sup>:

The feedback received from Member States has confirmed that administrative burden reduction is steadily underway across Europe. The selected EU legislative measures have, as far as they have become enforceable at EU level and their implementation necessary, been transposed into national law by most Member States. The remaining Member States have announced their intention to implement these measures in the near future. Overall, business stakeholders have welcomed the efforts made to reduce administrative burdens and are starting to feel the positive effects in their everyday work.

A main finding of the ABRplus case studies is a lack of quantification of the actual administrative burden reduction potential realized in many Member States that would facilitate comparison to the ex-ante-estimations made at EU level. Nevertheless, the assessment of implementation reports by Member States shows that for most areas a significant reduction in administrative burdens has been achieved:

- Taxation (VAT)/Customs, suppressing additional requirements on invoices and enabling wider use of electronic invoicing (EU-wide reduction potential: EUR 18.8 billion per annum): The realized savings potential in Germany alone amounts to EUR 4.05 billion per annum. The Netherlands have reported an

estimated EUR 300 million, Slovakia EUR 63.5 million of realized savings potential.

- Annual Accounts/Company law, allowing more SMEs to benefit from simplified accounting/auditing regimes (EU-wide reduction potential: EUR 862.6 million): Quantifications show for Germany an achieved reduction of EUR 300 million, for the UK EUR 45 million, for Austria EUR 20 million.
- Statistics, reducing the number of respondents when compiling statistics on intra-EU trade (EU-wide reduction potential: EUR 134.3 million): Quantifications were submitted by 11 Member States, e.g. Austria EUR 1.4 million, Germany EUR 19 million, Romania EUR 2.4 million, UK EUR 3.8 million, Slovenia EUR 2.9 million.

Significant further savings are possible once the implementation of the reduction measures and quantifications by Member States are completed.

However, the HLG was also able to identify the following shortcomings:

- Member States have varying approaches to implementing EU legislation into their national legal framework: Some Member States have chosen not to fully avail themselves of options granted to them by EU legislation, whose implementation could have brought significant burden reduction for business (e.g. the Member State option to exempt SMEs and micro-entities from certain accounting requirements).

74 E.g. OECD Regulatory Compliance Cost Assessment Guidance, [http://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance\\_9789264209657-en](http://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance_9789264209657-en).



- There is still a significant gap between the administrative burden reduction potential estimated by the Commission under the Action Programme and the savings achieved in Member States after implementation of the reduction measures. The savings estimation of the Commission was based on measurements made under the Action Programme that involved an extrapolation of available data from six Member States<sup>75</sup> to all Member States. Due to resulting uncertainty in the measurements, the savings potential identified under the Action Programme could by nature only be an estimate. This lack of solid data at the launch of the Action Programme has translated itself into an estimation gap under ABRplus: In some cases, the burdens had been misinterpreted. For example, Member State reporting on the implementation of the ABRplus measure to abolish the notification of transport tariffs and alleviating the obligation to keep documentary evidence on board (priority area Transport) revealed that the administrative burden estimated for this legislative measure never existed in reality as the original act - which had been removed under the Action Programme (estimated reduction potential: EUR 114.7 million) - had never been implemented in Member States or applied by stakeholders in the first place. Therefore, its abolition has not made any significant difference to businesses; instead, the provisions of the original act were “dead weight”.
- The quality of administrative burden measurements differs between Member States. Some Member States experience difficulty with or do not have the capacity for measuring regulatory costs. As a result, there is a lack of available data on the burden reduction actually achieved on the ground.
- If an EU Directive states options that Member States can choose to implement or not, stakeholders are in most cases not explicitly informed about these options. This can be detrimental to achieving a debate in Member States on the possibilities of implementation. Also, stakeholders continue to identify less burdensome alternatives of implementation and other unnecessary burdens resulting from measures adopted under the Action Programme. This highlights the importance of an active exchange between the Commission, Member States and stakeholders.

### 3. Overall HLG conclusions on ABRplus

The ABRplus exercise has shown that administrative burden reduction is steadily underway across Europe and significant savings have already been achieved.

However, the full savings potential estimated under the Action Programme has not yet been fully realized. This is on the one hand due to extrapolation of burden measurements under the Action Programme, on the other hand to a lack of savings quantifications in many Member States. Strong data is however important to achieve effective legislation. At the moment, there is no structural method of data-sharing between Member States and Commission on how EU legislation takes form in practice, nor on its actual impacts.

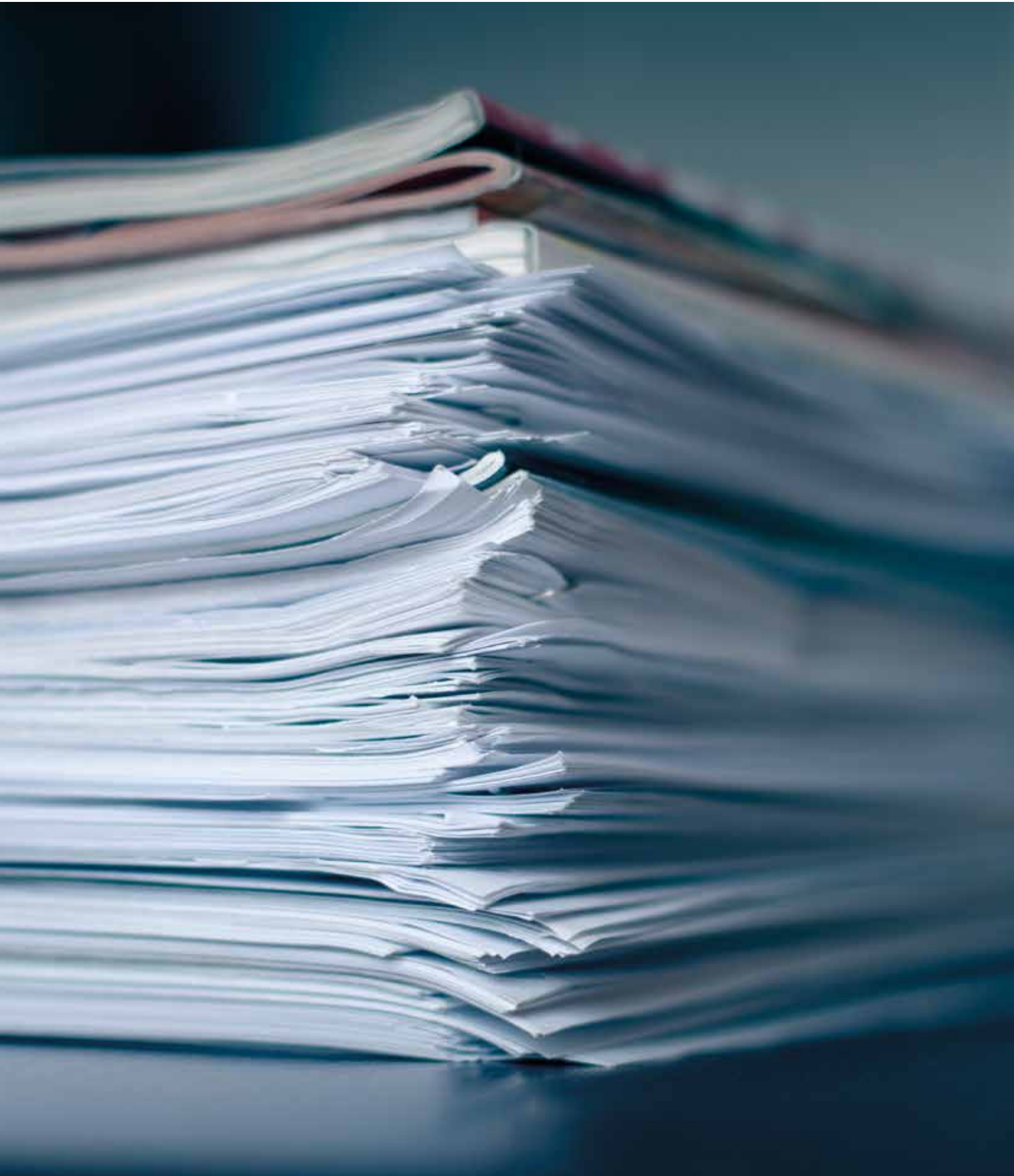
The HLG underlines the **importance of solid data quantification at the start of a programme** as savings estimations lead to expectations amongst stakeholders. Furthermore, all saving estimations need to be off-set by estimated increases of new obligations under the same measure, i.e. **the focus should be on net effects**. The HLG therefore calls upon the **Commission and Member States to work out together a common, uniform and binding methodology to assess and calculate all regulatory costs**, thus facilitating identification of the most burdensome obligations and prioritization of remedies. Experiences should be shared between the Commission and Member States and use can be made of the work of OECD in this field<sup>76</sup>.

The HLG urges Member States to provide data to the Commission when EU legislation is being revised or evaluated. The **monitoring function of the Commission must be strengthened** within the framework of the treaties, enabling it to obtain concrete, up-to-date information on how EU legislation works in practice. This however **should not lead to double data collecting**. Instead, better use should be made of information already provided to Eurostat and to the Commission on policy issues.

The HLG calls on all **Member States to make use of all available legislative options offered to them by EU legislation to relieve business**, especially SMEs, as much as possible from unnecessary regulatory burdens. If there are options granted in the legislative measure for Member States on how to implement it, the Commission should outline these options and their respective consequences to stakeholders by publishing a synopsis or correlation table together with the legislative measure. Member States should be transparent when they impose requirements in the implementing measure beyond those foreseen in the EU legislation (“gold-plating”).

The HLG urges both the Commission and Member States to **strengthen and extend the exchange of best practices amongst Member States** in order to realize the full potential of administrative burden reduction and to **enter into a permanent and structured dialogue with stakeholders about possible suggestions for administrative burden reduction**. Under the mandates of the HLG, stakeholders could address their concerns to the HLG. This function should be made permanent at European level, preferably in the form of an independent institution.

76 The outcome of the first round of this screening exercise under REFIT has been published in SWD(2013) 401 - “Regulatory Fitness and Performance Programme (REFIT): Initial Results of the Mapping of the Acquis” on 1 August 2013.





## REGULATORY FITNESS: REFIT – FIT FOR GROWTH

1. The Regulatory Fitness and Performance Programme
2. Overall conclusions on REFIT

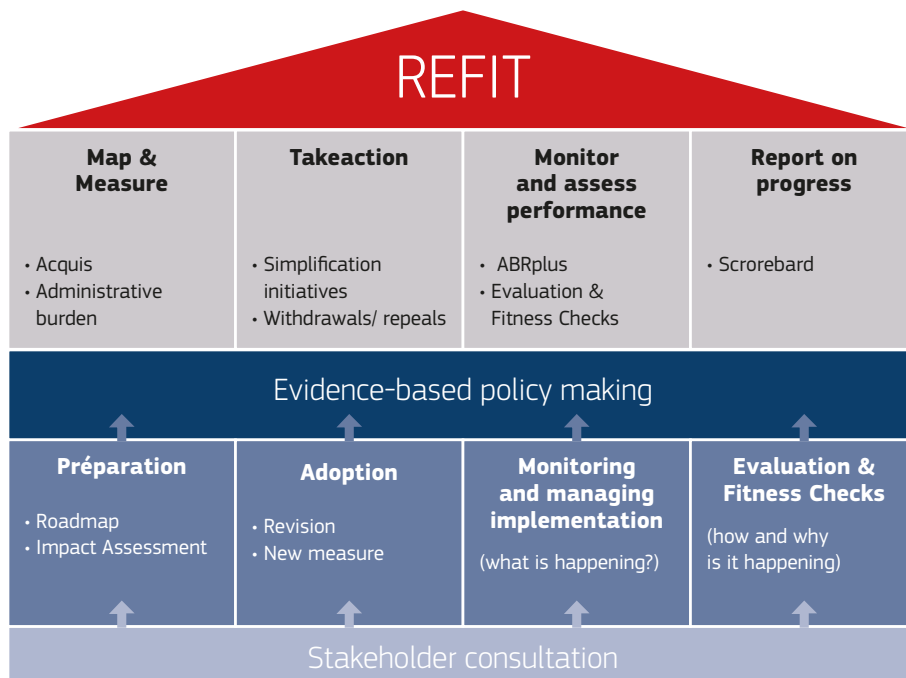
## 5 REGULATORY FITNESS: REFIT – FIT FOR GROWTH

### 1. The Regulatory Fitness and Performance Programme

As part of the continuous process of “Smart regulation”, the Commission initiated the Regulatory Fitness and Performance Programme (REFIT) on 12 December 2012<sup>77</sup> in order to identify, across the full range of EU regulation, actions to simplify EU legislation and to reduce regulatory costs, including the repeal or with-

drawal of legislation and proposals which are no longer necessary. REFIT is an annual rolling programme: Under REFIT, the Commission regularly screens the entire stock of EU legislation for burdens, inconsistencies and ineffective measures and identifies corrective action<sup>78</sup>. The aim is to make sure that policy objectives are achieved and the benefits of EU legislation are enjoyed at the lowest possible cost and with a minimum of administrative burden.

#### *The elements of REFIT:*



77 COM(2013) 685 - Regulatory Fitness and Performance (REFIT): Results and Next Steps.

78 Commission Press Memo MEMO/13/833 of 2 October 2013, [http://europa.eu/rapid/press-release\\_MEMO-13-833\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-833_en.htm).

In its second REFIT Communication of 2 October 2013<sup>79</sup>, the Commission defined over 100 individual actions such as legislative proposals to simplify and reduce regulatory burden, repeals of existing and withdrawals of proposals for new legislation, Fitness Checks and evaluations to assess efficiency and effectiveness of existing legislation and to prepare future initiatives and also identified areas where initiatives foreseen would not be taken forward<sup>80</sup>. Stakeholders from a broad range of interests provided input. The Commission also announced its intention to publish a scoreboard to track the progress of the REFIT initiatives through the legislative process and to monitor (at a later stage) the level of Member States implementation.

In its third REFIT Communication of 18 June 2014<sup>81</sup>, the Commission reported on the progress in implementing REFIT and proposed new initiatives for simplification, repeals and withdrawal. It has also published the first edition of the annual scoreboard<sup>82</sup> which assesses 133 initiatives identified by the Commission in the context of REFIT, its SME policy and the ABRplus programme and outlines simplification efforts and possible future REFIT actions.

## 2. Overall conclusions on REFIT

The HLG **compliments the Commission on its “Smart Regulation” agenda** which feeds into all parts of the policy cycle. With the introduction of this structural approach, the Commission is a frontrunner within the EU, matching the impact of EU legislation on businesses in Europe.

The HLG **welcomes REFIT as a new framework** within the Smart Regulation agenda. With REFIT, the Commission has made an **important step in the right direction** and shown ambition in the amount of measures proposed to be taken up, **but needs further strengthening in the future. The HLG supports the approach of making a selection of measures after having screened the entire stock of EU legislation** and invites the Commission to **outline the concrete criteria based on which the selection was made**. One of these criteria should be the amount of regulatory costs experienced by businesses, especially SMEs.

The REFIT Communication of 2014 shows that the Commission has set the first parameters for the framework and launched the first evaluations. The HLG especially supports the withdrawal of 53 legislative proposals on 21 May 2014, as they evidence the Commission’s ambition to achieve fast

79 COM(2014) 368 - Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook.

80 SWD(2014) 192 of 18 June 2014, [http://ec.europa.eu/smart-regulation/docs/scoreboard\\_en.pdf](http://ec.europa.eu/smart-regulation/docs/scoreboard_en.pdf)

81 These first REFIT measures and stakeholder concerns are outlined in Annex 11 of this report.

82 Three members, Monika Kosinska, Jim Murray and Heidi Rønne Møller, do not agree with all recommendations in this report. Their dissenting opinion is annexed to this report. HLG AB member Ms Nina Renshaw was not present during the adoption of the report including this chapter. Her position on the report is added to the dissenting opinion of Jim Murray, Monika Kosinska and Heidi Rønne Møller.

results. Nevertheless, the HLG **urges the Commission to accelerate the REFIT programme to strengthen its credibility**: All repeals announced in the Commission Work Programme of 2014 should be picked up as soon as possible. Also, for the sake of credibility the impression should be avoided that repeals can be reconsidered within a few years' time as are currently the cases with the proposal for a Directive on access to justice in environmental matters and the proposal for a Directive establishing a framework for the protection of soil.

The HLG stresses the **importance of a concrete timetable outlining which measure will be revised at what point in time**, which not only enables stakeholders to be provided with feedback in time, but also allows managing the expectation of stakeholders by stating expected reductions. The **introduction of the scoreboard is an important first step**. The information should however be made **more accessible to stakeholders** through, for instance, a digital application. Stakeholders could be approached to help design the scoreboard to help ensure that it matches their needs.

**Evaluations and impact assessments under REFIT** should clearly state current burdens suffered by stakeholders, **all changes that will decrease and all new elements that will increase regulatory costs**. Any increased additional costs should be measured, stated explicitly and **off-set with a reduction of existing regulatory costs elsewhere**. Furthermore, if the Commission does not pick up less burdensome alternatives as identified in a REFIT evaluation when revising

legislation, it should explain why it made this decision when proposing the revision.

Ultimately, the level of tangible results to businesses will define the success of REFIT. Even though the Action Programme has led to a reduction of administrative burdens, considerable effort is still needed to reduce regulatory costs for businesses and to contribute to Europe's growth potential and competitiveness. **Stakeholders have identified burdens they face on a daily basis<sup>83</sup> which need to be fed into the agenda of the Commission**. Although REFIT sets out a process, it lacks concrete quantified net reduction targets. The HLG emphasizes that a separate action programme is crucial to achieving tangible results and to stimulate ambition to reduce unnecessary burdens within the Commission. The Action Programme of 2007-2012 and experiences in Member States have shown that a separate programme with **a strong coordinating unit is essential to achieve results and to make it clear to stakeholders what can be expected**. The HLG therefore urges the Commission to draw up a separate, new action programme with a concrete target to reduce unnecessary burdens.

The HLG acknowledges that for burden reduction to be successful, an inclusive approach is needed. All EU institutions have to commit to a common ambition and to close cooperation. The HLG therefore calls upon **all EU-institutions to join forces** in order to draw up "fit for purpose" legislation. In this regard, the HLG urges all EU-institutions **to revise the Interinstitutional Agreement on better law-making of 2003**.

83 These first REFIT measures and stakeholder concerns are outlined in Annex 11 of this report.



## LOOKING FORWARD: RECOMMENDATIONS FOR FURTHER IMPROVEMENTS

1. Recommendations to the Commission
2. Recommendations to all European institutions
3. Recommendations to Member States
4. Explanatory notes



## 6 LOOKING FORWARD: RECOMMENDATIONS FOR FURTHER IMPROVEMENTS

Smart regulation is a key element for the future of EU legislation. Where it is necessary to regulate, legislation must be designed so as to achieve policy objectives most effectively and at the lowest possible cost to society, citizens and business.

While the Commission has made significant progress on cutting red tape and smart regulation, the HLG believes that much more can and must be done. It is essential that the Commission, the other EU institutions and Member States all come forward jointly with an ambitious programme of proposals, targets and mechanisms for eliminating unnecessary and bureaucratic red tape which will strengthen Europe's capacity to prosper. All protagonists involved in the legislative process need to be more ambitious reducing regulatory costs, taking into account consumer and employee protection as well as health and environment concerns.

Based on the conclusions of this report and the experience of its past work, the HLG thus puts forward the following recommendations<sup>84</sup>:

### 1. Recommendations to the Commission

The HLG recommends that the Commission

(1) adopt a new EU Action programme and strengthen existing EU programmes for reducing overall regulatory costs such as REFIT, set a net target for reducing regulatory costs and publish annual statements of the total net cost or benefit of new legislative proposals;

(2) introduce a system of offsetting new burdens on businesses stemming from EU legislation by removing existing burdens from elsewhere within the aquis;

(3) improve engagement with stakeholders through comprehensive public consultation on draft legislative proposals and an accompanying draft impact assessment before the proposal is adopted by the Commission;

(4) rigorously apply the "Think Small First" principle and competitiveness test to all proposals for legislation and put specific focus on the needs of SMEs and micro-businesses. SMEs and micro-businesses should be exempted from EU obligations as far as this is possible and the political aim of the legislation is not jeopardized;

(5) develop a common EU methodology to measure regulatory costs and benefits and make the evaluation of all EU legislation compulsory on the basis of this common methodology to measure actual outcomes against original objectives before any proposal for revision or new legislation is made;

(6) substantially improve its media communication of its activities, in collaboration with Member States, in order to foster public understanding and support for the work of the EU and to counteract prejudices which damage the perception of the EU institutions and their activities.

<sup>84</sup> Three members, Monika Kosinska, Jim Murray and Heidi Rønne Møller, do not agree with all recommendations in this report. Their dissenting opinion is annexed to this report. HLG AB member Ms Nina Renshaw was not present during the adoption of the report including this chapter. Her position on the report is added to the dissenting opinion of Jim Murray, Monika Kosinska and Heidi Rønne Møller.

## 2. Recommendations to all European institutions

The HLG recommends that all European institutions

- (7) declare political commitment to focus only on those interventions which are indispensable at EU level, which increase the effectiveness and efficiency of EU legislation and which add the greatest value in comparison to national or regional action;
- (8) empower an independent body to scrutinise the Commission's impact assessments before the legislative proposal is adopted by the Commission and to assess the evidence base and costs and benefits supporting legislative amendments by the European Parliament and Council before the legislation is adopted;
- (9) empower an European Ombudsman to act as an EU-wide contact point for complaints and suggestions for the reduction of red tape;
- (10) accelerate the legislative process as much as possible without compromising comprehensive stakeholder engagement and consultation or the democratic process.

## 3. Recommendations to Member States

The HLG recommends that all Member States

- (11) adopt ambitious national targets to reduce overall regulatory costs, accelerate national implementation of EU legislation and to make "gold-plating" transparent by outlining where and why elements of implementing measures go beyond the requirements set out by EU legislation;
- (12) exchange best practice on the transposition of EU legislation into national law, promote the use of information and communication technologies and apply the "only once" principle by sharing submitted data between administrative bodies.

## 4. Explanatory notes

### ***Recommendation 1: Strengthening overall regulatory burden reduction – net reduction target – annual statement***

#### **The HLG recommends that the Commission**

- > **adopt a new EU Action Programme and strengthen existing EU programmes for reducing overall regulatory costs such as REFIT,**
- > **set a net target for reducing regulatory costs,**
- > **publish annual statements of the total net cost or benefit of new legislative proposals.**

The Commission's Action Programme for Reducing Administrative Burdens came to an end in 2012. The European institutions must work together on new drivers and safeguards to ensure that smart regulation and reducing unnecessary burdens on business remain at the forefront of EU policy making. The HLG welcomes the Commission's progress on the REFIT programme. The impact of regulatory proposals is taken much more seriously by decision makers at the EU level, but there is still much more that needs to be done. While the HLG has seen the start of a culture change within the Commission, the pace of change needs to accelerate so that the robust development of impact assessment to the Commission's own rules are applied consistently and equally rigorously across all policy areas. The Commission should launch a new Action Programme on reducing regulatory burdens, thereby also taking into account costs and burden of regulations arising to citizens and public authorities with a net reduction target per target group. More use should be made of sunset clauses.

Ambitious undertakings need ambitious goals to enhance motivation and measure the success of future activities. It is therefore important to set a new net target for overall regulatory burden reduction. In doing so, the Commission must learn from the experiences of the Action Programme: The costs and benefit of legislation must be calculated as precisely as possible to a common and binding EU-wide methodology to determine the status quo and reflect accurately the change in burden on business.

The Commission must publish, therefore, an annual statement of the total net cost (i.e. the total costs vs. the total benefits) of all legislative proposals it brings forward, taking account of and updating the figures to include proposals for amendment to legislation by the European Parliament and the Council.

### ***Recommendation 2: Introduce a mechanism to offset new burdens***

#### **The HLG recommends that the Commission**

- > **introduce a system of offsetting new burdens on businesses stemming from EU legislation by removing existing burdens from elsewhere within the aquis.**

There exist different methods of offsetting or compensating new regulatory burdens across Europe, such as the 'one-in, one-out' principle introduced in the UK in 2011. Other Member States such as the Netherlands and France have introduced similar frameworks for controlling regulatory burdens whilst others have expressed an interest in doing so. A mechanism to offset regulatory burdens is important to keep the momentum of red tape reduction going and incentivise keeping the stock of existing legislation under review, prioritising the different options for new legislation.

**Recommendation 3: Public Consultation on draft impact assessments and draft legislative proposals**

**The HLG recommends that the Commission**

- > **improve engagement with stakeholders through comprehensive public consultation on draft legislative proposals and an accompanying draft impact assessment before the proposal is adopted by the Commission.**

The HLG reinforces its view, and that of the European Court of Auditors, that the Commission's policy making process would be enhanced and benefit from consulting stakeholders on draft impact assessments as well as on the concrete draft legislative text of any proposal.

Stakeholders play a significant role in assisting the Commission in securing more reliable data, commenting on the evidence base, strengthen the gaps in evidence – including on costs and benefits – ensuring serious alternative options have been explored and testing the robustness of assumptions made about the likely impact and effect of legislation on stakeholders. The Commission has made significant advances in ensuring that stakeholders are informed better of forthcoming proposals for legislation by way of the Commission Work Programme and Roadmaps. However, the information contained within these documents is often rudimentary and provides only limited analysis of potential burdens, or insight into the process and time line. Therefore, public consultation on Roadmaps is not likely to yield the full potential of stakeholder feedback.

The Commission should therefore launch public consultations on draft impact assessments for all legislative proposals, including mandates for trade negotiations, to make the most of stakeholder input. All impact assessments

should be drafted to a common template, include a two-page summary of the proposal and an assessment of the likely monetary and non-monetary costs and benefits it may have on society, with specific reference to business.

The policy development process would be improved tremendously by publicly consulting stakeholders on the concrete draft text of the legislative proposal – ideally together with the corresponding draft impact assessment – before the proposal is adopted by the Commission. This has been a valuable, long-term practice in many Member States. Publicly consulting stakeholders on the draft legislative text as well as the most comprehensive, up to date assessment of its policy objectives, alternatives and likely costs and benefits improves transparency and credibility of the decision making process within the Commission and offers a level playing field for all stakeholders regarding their participation in the legislative process. The legislative process is made more efficient as the views and data provided by stakeholders are amassed and assessed by the Commission, allowing it to build up a knowledge base which can be made use of in future policy making.

The Commission must ensure that the widest possible spectrum of stakeholders is alerted to public consultations using all available networks and avenues to reach out far and wide. Similarly, all stakeholder responses and any other external input into the EU policy making cycle must be made transparent and published where possible.

**Recommendation 4: Support SMEs: “Think Small First”, competitiveness test, exemptions for SMEs and micro-entities**

**The HLG recommends that the Commission**

- > **rigorously apply the “Think Small First” principle and competitiveness test to all proposals for legislation,**

- > **put specific focus on the needs of SMEs and micro-businesses,**
- > **exempt SMEs and micro-businesses from EU obligations as far as this is possible and the political aim of the legislation is not jeopardized.**

The HLG urges the Commission to be more ambitious in limiting the impact of EU legislation on SMEs. The burden of regulation affects SMEs disproportionately hard: While a larger enterprise may spend EUR 1 per employee on compliance, the impact and costs on smaller firms can multiply tenfold. It is therefore of particular importance to focus simplification activities on SMEs. Whereas a number of successful measures have contributed to relieving SMEs of burdens (e.g. full or partial exemptions, longer transition periods, reductions in fees and the introduction of ‘de minimis’ rules), this is not a time to become complacent.

The Commission must rigorously commit to the application of the “Think Small First” principle and bring forward more ambitious proposals to reduce unnecessary regulatory costs on small businesses. Legislation should be drawn up in such a way that it is fit for purpose from the perspective of the entrepreneur that has to cope with it. All legislative proposals should be measured against a competitiveness test demonstrating that the costs of the proposal are outweighed by the benefits and that implementation will be undertaken in the simplest way possible, avoiding any unnecessary complexity and bureaucracy. A concrete timeframe is needed for all new activities, including action to improve the EU legislation identified by SMEs as being the most burdensome, and report back to SMEs on progress made. The impact of regulatory proposals on business must be set out specifically in impact assessments, which must specifically identify

and explain any disproportionate burdens on micro businesses and SMEs.

The HLG supports the Commission’s commitment to propose lighter regimes for SMEs and exemptions for companies with fewer than ten employees. Action now needs to be taken to ensure compliance with the rule and to reverse the burden of proof to include SMEs. The Commission should exempt all micro businesses and SMEs from EU obligations as far as this is possible and appropriate taking into account the political objectives of the proposed legislation. Where exemption would have a detrimental impact on achieving the intended objectives of the specific policy, the impact on micro businesses and SMEs should be minimised.

***Recommendation 5: Compulsory evaluation, EU-wide methodology to measure costs and benefits of legislation***

**The HLG recommends that the Commission**

- > **develop a common EU methodology to measure regulatory costs and benefits,**
- > **make the evaluation of all EU legislation compulsory on the basis of this common methodology to measure actual outcomes against original objectives before any proposal for revision or new legislation is made.**

Experiences of the Action Programme and the ABRplus Programme have shown that any serious regulatory burden reduction exercise must start with a proper mapping and measurement of the legislative acquis and the amount of regulatory costs and benefits. As the reduction of regulatory costs stemming from EU legislation by nature has to take into account the corresponding implementation in Member States, it is vital that the

mapping and measurement of regulatory costs and burdens will be undertaken in and by Member States according to the same calculation standards and producing the same quality of data. Therefore, it is essential that the Commission and Member States develop in close collaboration, also with stakeholders and experts, a common methodology to be applied across the EU to calculate overall regulatory costs and benefits.

The Commission should make ex-post evaluation of all EU legislation compulsory on the basis of this common methodology before any proposal for revision is suggested and disseminate the results to stakeholders. The evaluation of outcomes of legislation against common standards for when and how to carry out evaluations is an essential part of the decision making process, as it provides the necessary evidence to support any proposals for next steps, measures outcomes against original objectives and estimates in impact assessments. Evaluation at EU level can also contribute to identifying and sharing best practice on implementation.

***Recommendation 6: Improve media communication***

**The HLG recommends that the Commission**

- > substantially improve its media communication of its activities, in collaboration with Member States, in order to foster public understanding and support for the work of the EU and to counteract prejudices which damage the perception of the EU institutions and their activities.**

The rise of EU-scepticism and even anti-EU voices in recent years has been demonstrated alarmingly by the outcome of the European Elections in May 2014. Many European citizens seem to perceive the EU, and predominantly the Commission, as a superfluous and

expensive bureaucratic monster whose sole aim is to interfere with the life of Europe's citizens and businesses by relentlessly churning out new over-detailed rules concocted in an inscrutable process behind closed doors. 65 years after the Schuman declaration, European citizens have lost sight of the founding visions of the European Union, taking its values and great successes such as peace, freedom of movement and security for granted. Upon closer inspection, it often turns out that many EU critics simply do not fully understand the mechanisms of EU decision-making, e.g. that the national government representative who blames the EU for all bad new rules has helped to create them in the Council. Alternatively, the critics are uninformed about how to get involved in the EU legislative process when criticising the lack of participation.

The EU – and most importantly, the Commission – needs to improve its image to win back the support of Europeans and foster public support and acceptance of EU policy making in order to avoid undermining the foundations of Europe. Public perception needs to be overhauled by a targeted media information campaign extolling the EU's achievements and successes. The aim of a particular policy initiative, the need to intervene at EU level and the public benefits generated from that initiative must be communicated more effectively, using all channels of media communication and immediately countering any unjustified accusations and factual distortions. The EU and particularly the Commission must try to reach out more extensively to citizens and businesses and enter into a permanent and transparent dialogue with all stakeholders. This aim can only be achieved in close collaboration with the Member States.

***Recommendation 7: Political self-restraint to focus on the most important things***

**The HLG recommends that all European institutions**

- > **declare political commitment to focus only on those interventions which are indispensable at EU level, which increase the effectiveness and efficiency of EU legislation and which add the greatest value in comparison to national or regional action.**

While the HLG welcomes the beginning of a culture change within the Commission, the pace of change is slow. The European Institutions must continue and increase their efforts to reduce unnecessary burdens for business and citizens, to maximise the benefits and meet policy objectives in the least costly, most efficient way. The EU must focus on the big issues with the objective aimed at adding the most value and have the greatest impact on European competitiveness. As President Barroso has stated in his State of the Union speech 2013, not everything needs a solution at European level. Instead, Europe must focus on where it can add most value. It needs to be big on big things and smaller on smaller things. The HLG believes that these words encompass the culture needed by the Commission to be more ambitious in tackling the barriers to European competitiveness and growth.

All institutions, particularly the Commission who has the exclusive right of initiative, must demonstrate political self-restraint and focus on intervening at EU level only when it is absolutely necessary to do so in order to reach the policy objective. Emphasis must be channelled towards reducing the overall volume and net burden of legislation. To that extent, the inter-institutional agreement on better law-making of 2003 should be revised, establishing common

smart regulation targets for all EU institutions. The Commission must place greater emphasis on alternatives to regulation. All impact assessments accompanying regulatory proposals must include an analysis of options for achieving the intended objective through non-legislative means.

***Recommendation 8: Independent body to scrutinize impact assessments***

**The HLG recommends that all European institutions**

- > **empower an independent body to scrutinise the Commission's impact assessment before the legislative proposal is adopted by the Commission and to assess the evidence base and costs and benefits supporting legislative amendments by the European Parliament and Council before the legislation is adopted.**

The HLG recommends that the EU institutions empower a single, common independent impact assessment body to assist the Commission as well as the European Parliament and the Council in scrutinising impact assessments for all legislative proposals and amendments to proposals in the legislative process. Where the impact assessment is not drawn up by the EU institution itself, the independent scrutiny body should assess the impact of the proposal or amendment itself.

Independent scrutiny bodies in the Netherlands, Germany, United Kingdom, Sweden and the Czech Republic have improved the quality of impact assessments, thus avoiding unnecessary burdens on business. Other EU Member States such as France and Spain are in the process of establishing independent scrutiny bodies. The EU Institutions should build on the experience of these Member States and

demonstrate that they too are committed to driving up the quality of impact assessments analysing and understanding the impact of proposals for amendments to legislation and ensuring that the impact of legislation on business as it is adopted is recorded accurately and consistently.

The Commission's Impact Assessment Board has provided valuable support to Directorates-General by scrutinizing their impact assessments. Nevertheless, the review of the internal Impact Assessment Guidelines must ensure that they are applied consistently rigorous across all Directorates-General in all policy areas to ensure the production of robust and high quality impact assessments. The HLG welcomed the European Parliament's decision to establish its own impact assessment unit of which the effectiveness still needs to be evaluated. However, the European Council is yet to follow this trend.

***Recommendation 9: European Ombudsman on regulatory burdens***

**The HLG recommends that all European institutions**

- > **empower an European Ombudsman to act as an EU-wide contact point for complaints and suggestions for the reduction of red tape.**

It is important for citizens and businesses to be reassured that their complaints about burdensome bureaucracy and unnecessary burdens are taken seriously. The HLG recommends, therefore that an independent European Ombudsman is empowered to act as a Europe wide contact point for complaints and suggestions from the public where EU legislation is having a direct and detrimental effect and where red tape can be reduced. The Om-

budsman must also be empowered to raise these concerns with the EU institutions and to follow up on how these are addressed.

***Recommendation 10: Acceleration of legislative process***

**The HLG recommends that all European institutions**

- > **accelerate the legislative process as much as possible without compromising comprehensive stakeholder engagement and consultation or the democratic process.**

To date, it can take up to seven years for a proposal for legislation to become European law – not counting the time needed for subsequent implemented by the Member States. Such lengthy legislative procedures significantly undermine in the view of the European citizens the credibility of the European institutions and hamper the possibility to quickly review legislation that does not have the effects originally intended.

All the European Institutions should therefore look at ways to improve and accelerate the legislative process where possible, without compromising the need for stakeholder engagement and public consultation, and respecting due democratic process. The benefits of comprehensive public consultation on draft legislation accompanied by an impact assessment would also help to accelerate the legislative process as the Commission could assess all stakeholder contributions and views in one single step, leading to a more informed, robust and balanced proposal from the outset.

***Recommendation 11: National reduction targets, making gold-plating transparent***

**The HLG recommends that all Member States**



- > **adopt ambitious national targets to reduce overall regulatory costs,**
- > **accelerate national implementation of EU legislation,**
- > **make “gold-plating” transparent by outlining where and why elements of implementing measures go beyond the requirements set out by EU legislation.**

Burden reduction can only be successful through the joint efforts of the EU Institutions and all Member States. Like the European Institutions, the Member States should therefore adopt similarly ambitious quantitative net targets for the reduction of unnecessary burdens. In particular, emphasis must be placed on reducing unnecessary burdens on SMEs and micro businesses. The Netherlands for example has introduced an overall net reduction target of EUR 2.5 billion of the burden of regulation imposed on businesses, citizens and society by 2017.

Member States should identify clearly national implementing measures that are not strictly required by EU law, and the reasons for including them. It is essential that the burden of gold-plating be made transparent.

This recommendation extends equally to regions and municipalities holding legislative competencies.

***Recommendation 12: Best practice exchange, promotion of ITC and the “only once” principle***

**The HLG recommends that all Member States**

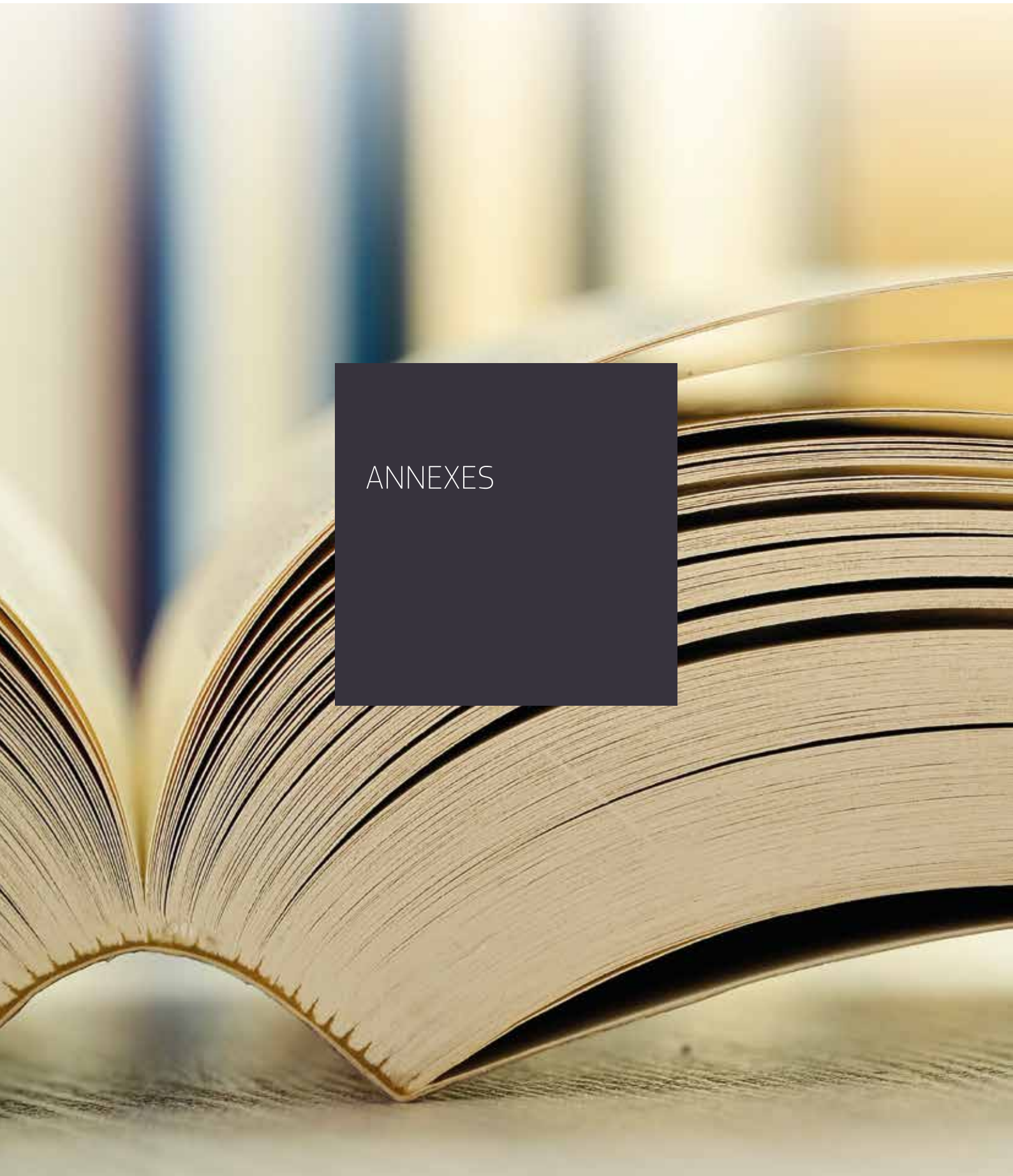
- > **exchange best practice on the transposition of EU legislation into national law,**

- > **promote the use of information and communication technologies,**
- > **apply the “only once” principle by sharing submitted data between administrative bodies.**

The HLG’s Best Practice Report and experience of the ABRplus exercise have shown that the exchange of best practices between Member States is vital for the success of burden reduction. Member States should establish a forum for the exchange of best practice between national agencies and responsible authorities. This forum should consider the wide range of policy and practical implications of implementation with the objective of submitting proposals to the Commission on how EU legislation can be improved, streamlined and reduce overall regulatory burdens.

In a world increasingly based on the electronic exchange of information, Member States should promote the use of information and communication technologies (ICTs; e.g. electronic ID, interoperability, e-certification, etc.) to reduce unnecessary burdens further. In order to reduce administrative burdens, Member States should apply the “only once, online” principle with regard to administrative requirements such as registration and reporting from businesses and citizens to public bodies by sharing of once submitted data between administrative bodies for multiple purposes, single points of contact for the same “life event” (e. g. “open or close an enterprise”, “find a job”) should be developed, and all correspondence between their public administration and society should be electronic.

This recommendation extends equally to regions and municipalities holding legislative competencies.



ANNEXES

## 7 ANNEXES

1. Mandates of the HLG
2. List of HLG members and their reporting areas, list of Observers to the HLG
3. List of opinions and reports adopted by the HLG
4. List of external presentations in HLG meetings\*
5. List of presentations and discussions with President Barroso, Vice-Presidents, Commissioners and Commission services\*
6. Exchange with owners of small or medium-sized businesses\*
7. Bilateral exchanges by the Chairman\*
8. Suggestions of the HLG (including stakeholder suggestions) and follow-up\*
9. Further details of the Action Programme on Reducing Administrative Burdens in the EU
10. Case studies on the national implementation of measures from the Action Programme for Reducing Administrative Burdens in the EU (“ABRplus”)\*
11. Further details on the REFIT programme – First REFIT measures
12. Dissenting opinion

\* available online only

**The full report and its Annexes are available on the HLG AB website:**  
➔ [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/high\\_level\\_group\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm)

High Level Group on  
Administrative Burdens

# Cutting **Red Tape** in Europe

Legacy and outlook

Final Report