

**COVER NOTE**

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from : Secretariat

to : The Convention

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Subject : Proposal on behalf of the UNICE presented by Mr Georges Jacobs, Observer at the Convention:

- “UNICE proposal to establish an independent advisory group for business impact assessment of EU regulation”

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The Secretary General of the Convention has received from Mr Georges Jacobs, Observer at the Convention, the attached proposal on behalf of the UNICE.

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<p style="text-align: center;"><b>UNICE PROPOSAL TO ESTABLISH AN INDEPENDENT ADVISORY GROUP FOR BUSINESS IMPACT ASSESSMENT OF EU REGULATION</b></p>
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## **UNICE COMMENTS**

### **1. EFFECTIVE BUSINESS IMPACT ASSESSMENT OF EU LEGISLATION IS ESSENTIAL**

The Preasidium of the Convention has proposed that there should not be a rigid catalogue of competences. UNICE strongly supports this proposal. But it should be counterbalanced by a much more substantial assessment of the business impact of regulation than is currently the case.

The assessment of the impact of EU legislation for business is unsatisfactory. Improvements are imperative. Deregulation and reduction of the administrative burden of European legislation and a rigorous cost-benefit analysis of legislation entail a direct cost-saving for business, and free scarce human and financial resources for more productive activities. They thus contribute to the EU's strategic goal of becoming the most competitive and dynamic knowledge-based economy in the world. In line with the conclusions of all recent summits of the European Council, deregulation and reduction of the administrative burden should be a top priority on the strategic agenda.

Earlier initiatives such as SLIM, the European Business Test Panel and BEST already aimed at relieving the regulatory and administrative burden. But they show poor results. The current Commission action plan "Simplifying and improving the regulatory environment" is encouraging, but lacks two essential features: it does not provide for a structural approach to reduce the administrative burden and deregulate European legislation, and it does not provide for an independent assessment.

### **2. OBLIGATORY ASSESSMENT BY THE COMMISSION AND AN INDEPENDENT ADVISORY GROUP**

Therefore, two things should happen. In the first place business impact assessment (BIA) should become obligatory for the Commission for new legislative initiatives. In the second place an independent advisory group should be created to stimulate and monitor assessments by the EU institutions, assuring objectivity and encouraging best practice in impact assessments across the legislative institutions. This monitoring may include opinions attached to business impact assessments or specific independently executed benchmarking assessments.

### **3. AN INDEPENDENT ADVISORY GROUP AT EU LEVEL**

UNICE proposes creation of:

- an independent advisory group of limited size (*not* an additional Community institution),
- composed of experts (lawyers, economists, public management).

Its task would be:

- in essence, providing expertise and stimulating the Commission to carry out systematic assessments, and screening the assessments carried out by the EU institutions;
- promoting the quality and the consistency of the assessments in a dialogue with the institutions, including using scoreboards, independent tests assessments to serve as benchmarks;
- carrying out assessments on existing legislation, providing the Commission, the Council of Ministers and the European Parliament with a facts-based cost-benefit assessment.

The independent advisory group should be involved in as early a stage as possible of the legislative process, and present its suggestions within a limited timeframe, in order to minimise the risk of delay.

The independent advisory group is not an aim in itself, but an instrument to improve the quality and the consistent application of cost benefit assessments by the EU-institutions, thus being an aid to, not a substitute for, political decision-making by the existing EU institutions; the advisory group will refrain from issuing a political decision of its own.

The independent advisory group could be created by the new 'Protocol on the application of the principles of subsidiarity and proportionality', mentioned in article 9 of the draft Constitutional Treaty (version of February 26, 2003). An amendment to that end has been proposed by UNICE in the Convention.

#### **4. EXAMPLES OF THE ROLE THE INDEPENDENT ADVISORY GROUP COULD PLAY**

I. The future EC directive concerning statistics of international services will require certain categories of European companies to deliver detailed information concerning the import and export of services (subdivided by type of service and by country) to their national statistical offices. It is expected that the national statistical offices are going to place high demands as to the registration requirements on the basis of the aforementioned EC directive. Companies will be forced to adapt their administrative systems and to rearrange their registration procedures, which will raise administrative costs.

Until now, the companies and business associations concerned have not been involved in the drafting phase of this directive. In addition, no business impact assessment has been made and no alternatives have been explored.

An independent advisory group would have indicated that an explicit business impact analysis of this draft directive is necessary and would have asked the Commission to explore less burdensome options.

II. The Commission is currently finalising a legislative proposal concerning the manufacturing and use of chemical substances. In essence, the proposed regulation is aimed at a regulatory system for the registration, evaluation and authorisation of chemicals (REACH). A database system will be set up to produce sufficient information on the production and use of chemicals in Europe. The sectors concerned must provide the necessary information, including risk assessments related to the chemicals they manufacture or use.

An independent advisory group would have notified there are thousands of substances for which a risk assessment and information will be required, and that the time span for delivering this information is relatively short. In addition, an independent advisory group would have pointed out that most of the costs involved in obtaining information and carrying out the tests (about 80%) will be accounted for by a minority of companies (about 20%). Such an advisory group would have concluded that the Commission had not tried to choose the least burdensome option in terms of administrative costs and would have advised the Commission to find less costly alternatives within the specific aims of the regulation.