

Final – 9.10.23

Reducing bureaucracy in these unprecedented times –

French-German Paper on Better Regulation and Modern Administration in Europe

In the context of an increasing international competition for investments, skills and innovation for the twin green and digital transitions, the European Union needs to maintain a robust and future-proof economy, that secures long-term prosperity and safeguards our productivity and competitiveness as well as an ecologically sound development.

During the Versailles Summit in March 2022, the Heads of State and Government committed to bolster the EU's industrial capacities, to reduce its energy dependencies and to build a robust economic base. A powerful enabler to achieve this agenda is to drastically reform, simplify and fast-track administrative procedures to authorise investment projects in the EU and to create a simple and predictable regulatory environment, particularly for SMEs.

As we aim to speed up and lighten the load, we will not sacrifice our political ambition and related standards. Indeed, it is precisely those standards that set the EU apart from any other global region as an economic area that is able to reconcile economic growth with ecological sustainability and social welfare.

However, we must dismantle any rule where the inhibiting effect outweighs the social benefit. We want to unleash creative forces in business, civil society and administration. Achieving a meaningful reduction in bureaucracy starts at national level and must continue at the European level. Our approach is to reduce disproportionate administrative and regulatory burden for the economy.

To this end, we will be building on existing Franco-German initiatives introduced by the Treaty of Aachen to reduce bureaucratic costs and minimise the burden of cross-border regulatory impacts. We will also seek the support both from the European Institutions and from our partners in Europe. In this context, we welcome the announcement that the European Commission is to present proposals this year to reduce by 25 percent reporting requirements for companies resulting from EU legislation, without undermining the related policy objectives. We also very much welcome the appointment of a dedicated EU SME Envoy to advocate SME's interests and enable an SME-friendly regulation.

We therefore call on the European Commission to develop an ambitious Bureaucracy Reduction Action Plan, with measures i) in the short term, to reduce unnecessary administrative and legislative bureaucratic burdens, ii) in the long term, to improve the way EU public policies are produced, to truly turn regulation into an element of Europe's competitiveness, and iii) to make the transformation of our economies a success. To this end, the following measures and projects should be examined:

I. Reduce administrative burden for companies

A/ It is essential that **effective digital-readiness checks are conducted consistently** ("digital by default") with the aim of improving the quality of legislation at Union level. Some EU Member States, including Germany, have had good experiences with this already at national level.

B/ We also intend to focus on small and medium-sized enterprises (**SMEs**) in the legislative process and limit the burdens affecting them to what is strictly necessary. We will ask the European Commission to expand the **EU definition of SMEs** in the Commission Recommendation of 6 May 2003 by adding a further company category of 'small mid-caps' (250-500 employees) and to carry out a renewed review of the **financial thresholds** set out by the SME definition, to take inflation into account. We ask the Commission to carefully analyse the impacts of a potential revision of the EU SME definition (notably the financial impact) especially on public support programs, and to ensure that it is in line with the rules of the single market and does not distort competition within the EU.

C/ We call for the abolition of duplicate reporting obligations. This does not just apply to existing obligations. For all upcoming initiatives at the EU level, it is particularly important to examine the extent to which there is any **risk of duplicate reporting and recording obligations**. These obligations should be reduced to what is absolutely necessary, taking into account the purpose of the reporting.

D/ In a revision of the **General Data Protection Regulation (GDPR)**, we will strive for greater legal certainty and more effective enforcement, for example by formulating **clearer** provisions. Without lowering the level of protection afforded by the GDPR, we will also examine further adjustments to effectively **relieve SMEs and start-ups**, non-profit organisations and the voluntary sector of obligations to provide information, documentation and proof of compliance. For EU regulations on data and digital issues, it must also be ensured that reporting obligations and compliance burdens are targeted, proportionate and coordinated.

E/ We support the current Europe-wide networking of **national transparency registers and of collection bodies related to the European Single Access Point (ESAP)**, with the aim of giving digital access to companies' financial and sustainability-related information, as well as on investment products. For instance, it coincides with the current development of a French digital platform enabling companies to prepare and submit their sustainability report, as this platform could offer companies the option to submit their report to the ESAP directly. Collecting company financial and sustainability data on a European register would reduce asymmetrical information, thus improving markets efficiency, particularly with a view to better target sustainable investments.

F/ As regards the **implementation of industrial projects**, it is key that the mandatory environmental studies are well calibrated and predictable for companies. The requirements under these studies

should be adjusted according to the project's expected impact on the environment and potential case-by-case studies should not create excessive uncertainty and delays for companies.

II. Improve EU legislation in the long-term

A/ We take seriously all efforts for **Better Regulation** without sacrificing the necessary protection standards, and we are committed to their effective implementation. The instruments this requires are already available at EU level – and we call for their consistent application by the European Commission. In particular, this will mean consistently performing **impact assessments and conducting the Competitiveness check as well as the SME test with clear cost-benefit assessments** (especially for any new additional burdens), notably in a context of increased international competition and especially for legislations where mirror measures are not envisaged. **Digitalisation must be advanced rigorously and must be present in our thinking at all stages of the legislative process.** Legislation should provide reliable framework conditions for investments along the necessary path of transformation in a way which is in principle open to all modes of technology and never needlessly hinder fast-moving developments. Mechanisms for implementation and governance should be limited to what is strictly necessary and should be designed to be as lean and efficient as possible.

B/ We aim at a **simple and understandable law**, abiding by Montesquieu's golden rule: **If it is not necessary to make a law, it is necessary not to make a law.** In addition, national and European rules need to complement each other in a spirit of subsidiarity, while avoiding whenever possible the burden deriving from the co-existence of 27 different rules, which particularly penalises SMEs. Requirements regarding the notification of national rules, including Directive 2015/1535, should be simplified and made more flexible in order to allow Member States to act swiftly, without prejudice to the single market.

C/ When it comes to the ex-post evaluation of EU regulations, we advocate for a **holistic and implementation-oriented examination.** Germany has had good experiences with this at national level, with the so-called “reality checks”. The objective is to identify unnecessary bureaucratic obstacles in our efforts towards the green transition. **Reality checks** involve different actors from practice in the identified field to identify the origins of red tape. Tests should be conducted in a holistic way by considering the whole process from investment-decision to operation. This method would also be beneficial at the EU level.

D/ As regards the **regulatory impact assessment**, we advocate for a standardised, complete and methodologically sound collection, presentation and quantification of the cost implications of EU legislation, as well as clear cost-benefit comparisons. Again, we should not recreate bureaucracy with unnecessarily strict evaluation frameworks and templates. But we should ensure that we anticipate and quantify the value added and the externalities of a policy. As part of this endeavour, we also call for the development of a bureaucracy cost index to make the increase and reduction of bureaucracy costs over time transparent.

III. Make the transformation of our economies a success

A/ To make the transformation of our economies a success, we will explore the **inclusion of non-price criteria linked to sustainability and security of supply**, as part of public procurement tendering processes and public support schemes for key green technologies, using for these objectives all flexibilities as provided for by EU laws and WTO rules, while providing Member States with the flexibility to decide where and which criteria justify their use. It is also key that environmental requirements apply on the European territory, through regulation as well as to the imported products, via ad hoc taxes and specific criteria as it is being developed under the eco-design regulation.

B/ To accelerate the development and modernisation of sustainable production capacities for industrial facilities, renewable energy facilities and grids as well as infrastructure projects, we will advocate **faster and simpler planning and approval procedures**. In particular, we call for reporting requirements to be reduced – and not increased.

C/ The Commission must focus on **finalizing the adoption of the Green Deal and enter the next phase of its implementation** (ensuring legislative coherence and effectiveness) and that the transition will become a success story for our industry and European competitiveness, too. It is particularly key to finalise the adoption of the most impacting texts and clarify the application delays, including for the secondary legislation, in order to limit the legal uncertainty companies are currently facing. Such predictability is needed for companies to adjust their business plans and launch the necessary investments for the transition, while making the appropriate compliance arrangements.

D/ Overall, in order to relieve the burden and accelerate investment, we need a consistent regulatory environment in which individual legislative initiatives from different policy areas are not viewed in isolation but rather in the context of their **interaction with other regulation**, and coordinated with a view to their overall effect.

IV. Involve the relevant stakeholders

In order to launch a broader and more comprehensive agenda for reducing bureaucracy at European level, Germany and France will set up a process to integrate input from their respective business associations, including the SME perspective, and other relevant stakeholders. This joint work should support the French and German governments, as well as the European Commission, in i) identifying unnecessary bureaucratic obstacles at European level and ii) inspiring the work programme of the future European Commission (2024-2029) in order to strengthen competitiveness by relying on EU regulation. We invite the European Commission to take all suggestions into account in its Bureaucracy Reduction Action Plan.