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COMMISSION STAFF WORKING DOCUMENT

**Assessing Business Start-up Procedures in the context of the renewed Lisbon strategy
for growth and jobs**

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1. INTRODUCTION

One of the European Commission's goals is to encourage an environment conducive to entrepreneurship. This principle was already at the core of the Lisbon Strategy as early as 2000. Making it less bureaucratic to start-up a new business is a very basic element in this context. Moreover, the European Charter for Small Enterprises, in one of its ten lines of action, called for cheaper and faster business start-ups.

Following on from the mid-term revision of the Lisbon strategy, the Council recommendation of 12 July 2005 on the broad guidelines for the economic policies of the Member States and the Community (2005 to 2008)¹ indicates, in its guideline 14, that Member States should “reduce the administrative burden that bears upon enterprises, particularly on SMEs and start-ups” and, in guideline 15, that the Member States should “provide relevant support services, like the creation of one-stop contact points”.

Building on these integrated guidelines and on the first Annual Report on the implementation of the renewed Lisbon strategy “Time to move up a gear”² the presidency conclusions of the Brussels European Council 23/24 March 2006³ (point 30), state that:

“The Member States should establish, by 2007, a one-stop-shop, or arrangements with equivalent effect, for setting up a company in a quick and simple way. Member States should take adequate measures to considerably reduce the average time for setting up a business, especially an SME, with the objective of being able to do this within one week anywhere in the EU by the end of 2007. Start-up fees should be as low as possible and the recruitment of a first employee should not involve more than one public administration point.”

The speeding up and simplification of start-up procedures will also help the Member States to set up “Points of Single Contact” (“PSCs”) for services providers by December 2009⁴.

In 2006, the Commission has been tracking Member States' progress in the area of simplification of start-up procedures via the implementation of the Member States' Lisbon National Reform Programmes in their Annual Progress Reports. In relation to start-ups, three areas are under scrutiny:

- Operational one-stop-shops for start-ups before the end of 2007;
- Setting up of a company to be possible anywhere in Europe in less than one week before the end of 2007, and

¹ 2005/601/EC

² COM (2006) 30

³ Council of the European Union 7775/06 of 24 March 2006

⁴ See “Services Directive” (Directive 2006/123/EC, OJL 376, 27.12.2006, p.36) Articles 6, 7 and 8.

- Costs (fees) to set up a company should be reduced to the minimum possible.

To follow up on the Spring Council conclusions and to identify the latest developments, the Commission organised a workshop on start-up procedures in November 2006 with the National Start-up Co-ordinators.

The workshop concluded that there is a need to define which procedural steps should be included when measuring the time to start-up a company and a proposal was made to create a “basket” of companies that may act as benchmarks for all Member States. The functions that a one-stop-shop for start-ups should cover also needed further precision.

Finally, the Communication from the Commission to the Spring European Council Implementing the renewed Lisbon strategy for growth and jobs “A year of delivery”⁵ indicates that the Commission will provide guidance on the relevant definitions in relation to the three aforementioned areas.

Following the announcement made in the above Commission Communication, this staff working paper aims to provide further guidance on how to implement the Spring Council conclusions on start-up procedures. The use of such common definitions will enable the measurement of progress towards the Spring Summit conclusions in a comparable way across the Member States.

The Commission will monitor the progress made. The Member States are encouraged to report, in their National Progress Reports, on their situation and policy measures taken relating to start-up procedures as outlined in this paper. The use of an external contractor to collect data on start-up procedures in the Member States is also being explored.

2. DEFINITION OF START-UP PROCEDURES

For the purposes of monitoring progress towards the targets set by the European Council, the procedures required to start-up a company are understood to refer to a private limited company⁶ both because it is a societal form involving more and potentially more complex processes than individual firms and also for its higher potential for growth and job creation. Should multiple legal forms of a private limited company exist in one country, the most prevalent one should be used for measurement.

The procedural cycle for a start-up can only be considered complete when the company is fully operational to develop its economic activities. Mere registration is not sufficient. The final aim is not the creation of a new legal entity (a new name on the registry) but the creation of a new entity fully capable of carrying out an economic activity (a new company).

Procedures must include pre-registration and registration and contemplate all the processes and documentation required by all the different layers of administration, whether local, regional or national. In addition, possible variations in terms of procedural steps, their length and their costs within a country will have to be taken into account.

⁵ COM (2006) 816

⁶ For information, equivalent societal form in the different Member States is provided in annex 1.

Annex 2 provides an extensive list with examples of the potential procedural steps for reference purposes. Some of the procedures may not be required in all the Member States. At the same time, depending i.a. on the type of activity, some Member States may impose additional requirements related e.g. to environmental or health and safety regulations.

In order to facilitate measurements and comparability between Member States five specific model companies have been selected and are described in section 3. Time, cost and procedures required to start up each of these five private limited companies will be the basis for the assessment.

2.1. Time

Measure of time for start-up procedures shall include all steps necessary from the entrepreneur's submission of the official application to start the registration procedure until the company is in possession of all the legal permits, certifications and documentation to be fully operational.

Advice, training and support in the elaboration of business plans or any other support service that may be provided is not to be considered part of the administrative procedure unless it is an integral part of the registration process.

Compliance with the Spring Summit commitment⁷ would require that each of these companies can be set up in one week, i.e. 5 working days. The attainment rate is based on how many of the five benchmark companies can be set up in 5 working days.

2.2. Cost

The cost of setting up a company must include all the fees and costs associated with the procedures enunciated in the previous point plus certificates from third parties that are required for the registration process. It will not include any form of capital that the company may be required to set aside as long as these funds remain in the possession of the future firm.

2.3. Functions of one-stop-shops

One-stop-shops must be fully capable of handling all the procedural steps pertaining to the pre registration and registration of a company so that an entrepreneur may only need one single point of contact to carry out all the aforementioned procedures and processes.

One-stop-shops will have to be in a position to handle both the full registration process for any company irrespective of societal form or size and guide and advise the entrepreneur on all the administrative matters pertaining to the registration and pre- registration of a company.

In addition, one-stop-shops will ideally also be able to furnish additional services to would-be entrepreneurs such as coaching, training, financial advice and business plan guidance.

As mentioned before, this objective largely converges with the provisions of the "Services Directive", which obliges Member States by the end of 2009 to make it possible for providers to complete all procedures and formalities relating to the access to and the exercise of their

⁷ Full text of relevant section (point 30) of the 2006 Spring Council decision is included in the opening point "Introduction".

activities, at a distance and by electronic means, through "Points of Single Contact" ("PSCs"). The PSCs will also have to provide easy access to general information concerning requirements applicable to service activities.

3. BASKET OF BENCHMARK COMPANIES

All businesses must be in the form of a private limited company. As any one example of a company in a given sector may not be representative on its own, it will be useful to look at several types of activities. The list below suggests five 'benchmark' companies for which the start-up procedures are likely to involve different steps.

It is to be assumed that the company takes over/rents existing premises. Costs, procedural steps and times pertaining to the actual building of the premises are thus not to be considered.

However, any procedures related to environmental and health and safety regulations that may be applicable to the start of operations (excluding construction work) will have to be included.

3.1. A manufacturer of steel products

A company with a steel/alloys production facility involving forging, casting or stamping. This company will be operating a small furnace: potential air pollution will have to be considered.

3.2. A manufacturer of small IT devices

A hardware manufacturer of small devices in low quantities to be integrated into computers or other bigger electronic devices.

3.3. A hotel with a restaurant

Must not be a member of a franchise. Must have its own kitchen producing most of the items on the menu.

3.4. A plumbing company

The company must be certified and capable of central heating, air conditioning and industrial installations.

3.5. A wholesale or retail distributor

A wholesale/retail company distributing food items. Must have its own warehouse of at least 500 sq. metres. Part of the company's sales will be via e-business and/or mail order.

ANNEX 1: CHARACTERISTICS AND TYPICAL FORMS OF LIMITED LIABILITY COMPANIES IN THE EU MEMBER STATES

A private limited company fulfils the following criteria:

- Incorporated legal entity;
- Legal identity separate from & independent of owners or shareholders;
- Liability to creditors is limited to the extent of the company's assets;
- Liability of shareholders/owners is limited to the amount of capital contributed and subscribed for;
- Unable to raise any form of capital through 'public' subscription or to be listed on a public capital market.
- Set up to trade actively (not dormant)

Equivalent denominations in the Member States:

Belgium	<i>SPRL/BVBA ("société de personnes à responsabilité limitée")/Besloten Vennootschap met Beperkte Aansprakelijkheid</i>
Bulgaria	<i>ООД ("Дружество с ограничена отговорност")</i>
Czech Republic	<i>s.r.o. ("společnost s ručením omezeným")</i>
Denmark	<i>ApS ("Anpartsselskab")</i>
Germany	<i>GmbH ("Gesellschaft mit beschränkter Haftung")</i>
Estonia	<i>OÜ "osüühing"</i>
Ireland	<i>Ltd ("Limited company")</i>
Greece	<i>EPE ("eteria periorismensis efthinis")</i>
Spain	<i>SL ("sociedad limitada")</i>
France	<i>SARL ("Societe a responsabilite limitee")</i>
Italy	<i>SrL ("societa a responsabilita limitata")</i>
Cyprus	<i>"idiotiki eteria periorismensis efthinis"</i>
Latvia	<i>"sabiedrība ar ierobežotu atbildību"</i>
Lithuania	<i>UAB "uždaroji akcinė bendrovė"</i>
Luxembourg	<i>SARL ("Societe a responsabilite limitee")</i>
Hungary	<i>Kft ("korlátolt felelősségű társaság")</i>
Malta	<i>Ltd ("kumpanija privata — private limited liability company")</i>
Netherlands	<i>BV ("besloten vennootschap")</i>
Austria	<i>GesmbH ("Gesellschaft mit beschränkter Haftung")</i>
Poland	<i>Z.O.O. ("spółka z ograniczoną odpowiedzialnością")</i>

Portugal	<i>Lda</i> (“ <i>sociedade per quotas de responsabilidade limitada</i> ”)
Romania	<i>SRL</i> (“ <i>Societate cu răspundere limitată</i> ”)
Slovenia	<i>d.o.o.</i> (<i>družba z omejeno odgovornostjo</i>)
Slovakia	<i>s.r.o.</i> (“ <i>spoločnosť s ručením obmedzeným</i> ”)
Finland	<i>Oy</i> (“ <i>yksityinen osakeyhtiö</i> ”)
Sweden	<i>AB</i> (“ <i>Privat Aktiebolag</i> ”)
United Kingdom	<i>Ltd</i> (“ <i>Limited company</i> ”)

ANNEX 2: LIST OF PROCEDURAL STEPS

The below list provides examples of potential procedural steps for reference purposes. Many of them are not mandatory in all the Member States. The steps outlined below include both pre-registration and registration procedures. At the same time, depending i.a. on the type of activity, some Member States may impose additional requirements related e.g. to environmental or health and safety regulations.

(1)	Formal approval of proposed name
(2)	Confirm skills/qualifications with authorities (if applicable to all new enterprises)
(3)	Obtain certificate of no outstanding taxes
(4)	Obtain certificate of “good character” (no criminal record, etc.)
(5)	Obtain overall permit to conduct economic activity (if applicable to all new enterprises)
(6)	Complete management training course (if applicable to all new enterprises)
(7)	Registration of domicile of business
(8)	Formal validation of signatures of representatives of the business
(9)	Notary draws up or confirms formal deed of incorporation/partnership agreement/registration deed
(10)	Founders/advisers draw up formal deed of incorporation/partnership agreement/registration deed
(11)	Appoint Board Members/Manager
(12)	Open bank account and deposit capital
(13)	Obtain certificate from bank of capital deposited
(14)	Audit report on deed of incorporation/foundation report or equivalent
(15)	Create financial plan to show viability
(16)	Hold statutory meetings (shareholders/ subscribers, approval of foundation report by board, etc.)
(17)	Shares offered for subscription
(18)	Lawyer or notary certifies documents for submission to registration authorities
(19)	Prepare dossier for registration authorities
(20)	Certificate of all social security charges paid
(21)	Certificate of all compulsory healthcare paid
(22)	Obtain certificate of management skills
(23)	Legal announcement in newspapers
(24)	Submit registration dossier to “one-stop-shop”
(25)	Seek approval for registration from Commercial Court/Court of First Instance or equivalent
(26)	Seek approval from Companies Agency or equivalent
(27)	Seek approval for registration from local/municipal authorities
(28)	Seek approval for registration from central government
(29)	Approval of name by official agency

(30)	Register with Commercial Court/Trade Register/Companies Agency/Craft Register or equivalent
(31)	Register with Trade Association/Chamber of Commerce
(32)	Tax Office or equivalent stamps/certify company records or account books
(33)	Publish registration in Official Journal or equivalent
(34)	Apply for tax identification card/number
(35)	Apply for opening licence from local/municipal authorities
(36)	Obtain mandatory pension insurance
(37)	Obtain mandatory civil insurance, e.g. employers' liability
(38)	Notify Tax Office (all taxes)
(39)	Notify Social Security Office or insurance fund
(40)	Notify VAT Office
(41)	Notify Business Tax Office
(42)	Notify National Statistical Office
(43)	Notify Ministry of Labour
(44)	Notify local/municipal tax authorities
(45)	Notify other local/municipal authorities of registration
(46)	Tax office verifies business domicile
(47)	Notify Post Office
(48)	Obtain administrative approval for e-business/e-commerce
(49)	Compulsory accident insurance