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REPORT FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT

**Results of the third Phase of SLIM and follow-up of the implementation
of the recommendations of the first and second Phases**

SUMMARY

1. The importance of and need for regulatory simplification has been highlighted since the launch of the Simpler Legislation for the Single Market Initiative (SLIM) by the Commission in May 1996.

Successive European Councils and Internal Market Council meetings have both encouraged and recommended the extension of SLIM in 1997 and 1998. The European Parliament has also manifested strong support.

2. The SLIM project is complemented by efforts to simplify national measures related to the Single Market. Moreover SLIM now functions along side other initiatives such as the follow-up to B.E.S.T and forms part of the general thrust towards better law making in the Community highlighted in the 1998 Commission Report to the Council¹ on Better Law Making.
3. This Report summarises the recommendations of the Phase III SLIM teams, which reviewed three sectors: insurance legislation, Social Security co-ordinating rules and the Electro-magnetic compatibility directive and the Commission's observations on these recommendations. It also informs the Council and the European Parliament on the progress being made towards the implementation of the SLIM recommendations arising from the two previous phases.
4. As in previous phases the SLIM teams consisted of a limited number of experts from national administrations and representatives of users of legislation. The SLIM meetings were chaired by nominees of the Commissioner responsible for the legislation reviewed. Efforts were made to obtain the views of those Member States and parties not directly represented in the teams.

I. INTRODUCTION

The Simpler Legislation for the Single Market Initiative (SLIM) was launched by the Commission in May 1996 with the overall aim of identifying ways in which Single Market legislation could be simplified.

In March 1998², the Commission announced the launch of the third phase of SLIM. This phase concentrated on three sectors: Insurance, Social Security and the implementation of the Electro-magnetic Compatibility Directive.

The sectors were selected following consultations with Member States, the European Parliament, the Economic and Social Committee and business representatives.

¹ Better Law-making, 1998 – A shared responsibility. COM (1998) 715 final of 1.12. 1998.

² Simpler Legislation for the Simple Market (SLIM) : Extension to a Third Phase – Working document of the Commission Services SEC (98) 559 of 26.03. 1998.

Phases one and two of SLIM concluded in 1996 and 1997 respectively³. Following the presentation of the SLIM teams dealing with the eight sectors examined, the Commission published its observations on the series of recommendations presented and, where appropriate proceeded to adopt proposals. Details on the follow-up to phases one and two are provided below under III.

II. SLIM-PHASE III.

Introduction

The third phase of SLIM was launched in March 1998. Three sectors were selected for examination following discussions between Member States, the European Parliament, the Economic and Social Committee and business representatives. These were Social Security co-ordinating rules, the Electro-magnetic Compatibility Directive and insurance legislation⁴.

A. Social Security co-ordinating Rules.

1. Background.

The SLIM team reviewed the implementation of regulations 1408/71 and 574/72, recent case law of the European Court of Justice in the field of Social Security and identified specific rules and procedures with an eye to their simplification. The series of recommendations presented by the SLIM team may be grouped under three broad headings:

- the scope of co-ordination (personal and material),
- the determination of applicable legislation,
- the co-ordination of the various categories of benefits.

With respect to the scope of co-ordination rules in general, certain members of the SLIM team indicated a preference for a number of legal instruments covering all Social Security rights for all insured persons including nationals from third countries. On the question of determining applicable law, the team recommended the retention of the principle that only one national (Social Security) legislative provision should apply in transnational situations. Equally, the team argued for the retention of the *lex loci laboris* principle with respect to persons engaged in professional activity. The team conducted a review of the possibility and necessity of co-ordinating a wide range of benefits⁵.

³ The outcome of phase one is reported in COM(96) 559 final of 6.11.1996 and phase two in COM (97) 618 final of 24.11. 1997.

⁴ Simpler Legislation for the Single Market (SLIM): Extension to a Third Phase -- Working document of the Commission Services SEC (98) 559 of 26.03. 1998.

⁵ Details on the recommendation and the Commission's observations are provided in Annex 1.

2. *State of play*

As reported in Annex 1, the Commission accepted the broad thrust of the recommendations. In effect the SLIM findings and suggestions dovetail with other ongoing initiatives⁶, to simplify the co-ordination of Social Security legislation and have been incorporated into a recent Commission proposal to establish a new legal framework for this sector⁷. This proposal was adopted by the Commission in December 1998 and will be considered by the Council, the European Parliament and the Economic and Social Committee later this year.

B. **The Electro-Magnetic Compatibility Directive**

1. *Background.*

The Directive, which came into force on a mandatory basis on 1 January 1996, seeks to ensure that:

- electromagnetic disturbances produced by electronic and electrical apparatus do not effect the correct functioning of other apparatus as well as radio, telecommunications networks and electricity networks,
- apparatus have an adequate level of immunity to electromagnetic disturbances to enable them to operate as intended.

Experience with the implementation of the Directive shows that it requires improvement through the introduction of simpler provisions and less red tape.

2. *Recommendations.*

The SLIM team concluded that revision should focus on the inclusion of definitions and key concepts incorporated in current Commission guidelines on the application of the Directive in order to provide greater legal security. In addition a clear definition of the protection requirements regarding such aspects as emission and immunity is recommended.

3. *State of play.*

The Commission has reviewed the recommendations and endorses the majority of them⁸. It recognises the need for revision, which should aim at further clarifying some of the key concepts and objectives inherent in the Directive and improving its uniform application.

The Commission will also give further consideration to a number of issues, which, while discussed by the SLIM team were not included in recommendations. One example refers to requirements for third party conformity assessments.

⁶ Modernisation and Improvement of Social Protection in the European Union COM(97) 102 of 12.03.97.

Action Plan for the free circulation of workers. COM(97)586 of 12.11.97

⁷ COM(98) 779

⁸ Details on the recommendations together with the observations of the Commission are provided in Annex 2

The Commission also endorses the recommendation of the SLIM panel that the European standard bodies CENELEC, CEN and ETSI should proceed to a strategic review of the harmonised standards relating to electromagnetic compatibility.

The findings of the SLIM team have been widely circulated. The preparations of the necessary amendments to the Directive will entail further clarification and thorough technical assessment. Broad consultations with interested parties will continue through 1999.

C. Insurance Legislation

1. Background.

The objective of the SLIM exercise was to examine the scope for improving and simplifying specific provisions of insurance legislation. However, taking account of the time constraints and the complexity of insurance directives, the exercise focused on the most important aspects of insurance directives. The SLIM team attached considerable importance to the codification of various texts concerning life assurance and non life insurance into a single text and the removal of any inconsistencies.

Notification procedures governing the provision of services and establishing branches were targeted for modification. The criteria for determining risk and the law applicable in the case of non life insurance were also scrutinised. In addition, the SLIM team reviewed a number of directives to determine whether these could be either repealed or simplified.

The SLIM exercise did not deal with matters concerning solvency rules applicable to insurance undertakings as these are currently under review by the Commission.

2. Recommendations

The SLIM team noted that notwithstanding the complexity of current legislation there is scope for the abolition, amendment or adaptation of existing provisions. However, the team cautioned against the belief that simplification would in itself resolve the difficulties observed in the application of current rules.

The main recommendations concern the codification of directives on life assurance and non life insurance and directives on compulsory third party insurance for motor vehicles once the Fourth Motor Insurance Directive has been adopted. Additional recommendations called for the retention of notification procedures in the context of Directives 92/49/EEC and 92/96/EEC, the statistical information requirements and the location of the risk criteria in the Second Insurance Directive (88/357/EEC)⁹. Following a review of the arrangements in some Member States concerning the tax representative of an insurance company wishing to operate by means of freedom to provide services, the team concluded that such provisions dissuade undertakings from exercising the freedom to provide services. Accordingly, the team called for the simplification of national rules to facilitate the operation of the internal market. The group also recommend a review of the existing procedure on transfer of portfolios, as well as bringing Directive 84/64/EEC (tourist assistance) and Directive 78/473/EEC (community coinsurance) into line with the

⁹ Details on recommendations and the Commission's observations are provided in Annex 3

supervisory provisions set up by Third Directive 92/49/EEC. It has also been recommended that Directive 73/240/EEC be repealed.

3. *State of play.*

The Commission has reviewed the recommendations presented by the SLIM team and can endorse many of them.

In the short term the Commission will concentrate on preparing proposals covering many of the more significant recommendations presented. For example in the area of codification, proposals will be presented in the near future on the recasting of the Life and non-Life Directives. The Directive on compulsory third party motor insurance will also be included in this process following the adoption of all motor insurance directives.

Work will also commence on analysing the updating procedures on notifications, for freedom to provide services and the establishment of branches. The Commission will also reflect on how to adapt the existing procedure on transfer of portfolios. The Commission is aware of the fact that diverging interpretation by Member States of the notion of general good affects the proper functioning of the Internal Market. Accordingly, the Commission intends to publish an Interpretative Communication in the first half of 1999.

III. IMPLEMENTATION OF SLIM PHASE I.

Background

Phase I concentrated on four sectors: Intrastat, the recognition of Diplomas, Ornamental plants and Construction products¹⁰ In the interim period progress has been achieved towards the implementation of the recommendations of the SLIM teams with respect to the four sectors.

A. *Intrastat.*

1. Background.

The SLIM team report recommended a number of proposals for simplification. These aimed at reducing data requirements to the minimum, the introduction and use of a simplified goods nomenclature, modifying the system for the collection of data and the adoption of a series of support measure to facilitate the introduction of a revised system.

2. Progress made.

In response to these recommendations, the Commission adopted two regulations simplifying the declaration of net mass and statistical value¹¹. These regulations entered

¹⁰ Communication from the Commission to the Council and the European Parliament: The SLIM Initiative. COM (96) 559 final of 06.11.1996.

¹¹ Commission Regulation (EC) 2385/96 of 16.12.1996, OJ. L 326 of 17.12.1996. Commission Regulation (EC) 860/97 of 14.05.1997, OJ, L123 of 15.05.1997

in to force on 1 January 1997 and 1 January 1998 respectively. It also introduced proposals concerning the reduction of the data elements collected and a simplified nomenclature. The former was discussed by the Council and a common position was agreed on 20 July 1998. However, the common position envisages a lesser degree of simplification than that contained in the Commission's proposal. Following the second reading it has not been possible to align the position of the Council and the European Parliament, and a conciliation procedure will be opened.

The nomenclature procedure is blocked in the Council pending progress on the Combined Nomenclature for external trade arising from SLIM Phase II.

B. Recognition of Diplomas.

1. Background

Following the presentation of the SLIM recommendations, the Commission introduced proposals to streamline the functioning of the Advisory Committee for Diplomas and simplify the updating of the lists of diplomas eligible for automatic recognition. In addition, it undertook to introduce a more output-orientated approach to the definition of education and training requirements in the context of a review of these requirements for the Nurses' Directive.

2. Progress made.

The Commission presented proposals on 2.12.1997 (COM (97) 638 incorporating a number of SLIM recommendations. These proposals reflect the Commission's commitment regarding simplified updating of the lists of qualifications eligible for automatic recognition under the Sectoral Directives.

The elements in the proposal dealing with automatic recognition were generally welcomed by Member States represented on the Committee on Economic Affairs, which met on 5.06.1998 and 4.12.1998.

The Legal Affairs Committee of the European Parliament examined the proposals on 27.05.1998 and following a plenary session on 2.07.1998, the Parliament submitted 19 amendments, which the Commission was unable to accept. A proposal for a Council Decision repealing the six Council Decisions setting up the Advisory Committees on Training will be submitted to the Council in the first half of 1999 to be replaced by a Commission Decision in 2000.

C. Ornamental Plants

1. Background.

In keeping with its undertaking to revise Directive 91/682/EEC on ornamental plants, the Commission brought forward proposals which inter alia sought to simplify existing legislation, enhance competitiveness of the sector and lighten the administrative burden on both suppliers and Member State authorities.

These proposals were adopted on 20 July 1998 as Council Directive 98/56/ EC on the marketing of propagating material of ornamental plants¹². The new directive will apply as from 1 July 1999 when it replaces Directive 91/682/EEC.

D. Construction Products.

1. Background.

In response to the proposals of the SLIM team, the Commission undertook to adopt measures designed to improve and accelerate the implementation of the Construction Products Directive (CPD – 89/106/EEC). With this aim in mind, intensive work is underway in the Commission, in collaboration with CEN, to remove all the technical obstacles that are delaying the standardisation process.

2. Progress to date.

Significant progress has been achieved with the implementation of the Directive. The Commission has completed the phase of issuing standardisation mandates to CEN. Thirty-five standards are forecast to be available in 1999 and the programme of standardisation will be progressively completed over the following years.

IV. IMPLEMENTATION OF SLIM PHASE II.

Introduction.

The second phase of SLIM reviewed the following sectors: Value Added Tax, Fertilisers, and the combined Nomenclature for External Trade, Banking Services. The SLIM team presented its reports in late 1997. The recommendations presented have been agreed in principle by the Commission and as detailed below, a number of initiatives have been taken to simplify the legislation in question.

A. Value Added Tax.

1. Background.

The main objective of the SLIM exercise was to simplify the relevant elements of VAT legislation in order to remove any excessive burdens and formalities on businesses. The SLIM team focused on the principal obligations on traders under the Sixth VAT Directive (77/388/EEC) and corresponding national application measures. Efforts to simplify VAT legislation through the SLIM exercise should be seen against the background of the Commission's work programme on the establishment of a common-origin based VAT system in the Community.

The recommendations of the SLIM team are intended to simplify VAT rules and procedures in eight specific areas of concern. These include proposals to modify rules applicable to tax representation, the reinforcement of the system of mutual assistance on

¹² O.J. L 226 of 13.8.98, p. 16

recovery, the introduction of the concept of single registration, improving the reliability of the information included in the common system of data exchange (VIES) and increasing the effectiveness of controls through the systematic registration of all firms. In addition, the SLIM team suggested that a series of studies be undertaken to examine possible harmonisation in the field of invoicing, the technical requirements for electronic invoicing and further reform of the Eighth Vat Directive.

2. *Progress made.*

The Commission, whilst accepting the recommendations in general, limited itself to introducing measures which would simplify the administrative obligations currently borne by traders. Further simplification will be attempted in the context of the changeover to the new VAT system announced in the Commission's Work Programme of 1998

With respect to concrete measures to reform VAT rules, the Commission adopted two proposals in June 1998. The first concerns the procedure for reimbursement to non-established taxpayers and changes to the rules regarding the right of deduction. A second proposal tackles changes to the rules on mutual assistance in recovery. The possibility of easing of the obligation with respect to tax representation has been examined and a proposal to modify the current rules was adopted by the Commission on 27 November 1998.

A study on electronic invoicing is currently under way and will conclude in 1999. Adaptation of the VIES system is also being pursued.

B. *Fertilisers.*

1. *Background.*

The SLIM exercise focused on existing legislation regarding fertilisers. Notwithstanding that the SLIM team concluded that the legislation worked well in many respects it recommended a series of improvements. The main recommendation envisages that one single recasting directive replace the existing 16 directives. Additional proposed modifications cover a uniform system of enforcement, an increased role for the Scientific Committee with respect to any new group of fertilisers and the adoption of definitions for fertilisers.

2. *Progress to date.*

The Commission endorsed the recommendations presented. Initial work has focused on the preparation of a draft single recasting directive along the lines suggested. A draft Commission proposal has been prepared and will be examined by national experts during 1999.

C. *The Combined Nomenclature for External Trade (CN)*

1. *Background*

The SLIM team focused on the following main issues: future requirements for a CN used in external trade, limitations to the growth and eventual reduction in the size of the nomenclature and modernising the CN.

The SLIM team deemed it appropriate to present recommendations which would be broadly compatible with those made with respect to the nomenclature for internal trade in the context of phase 1.

2. *Progress to date.*

Proposals to update and simplify a series of chapters in the CN have been drafted and discussed by the Committee and included in the updated CN regulation. Other sectors have been identified and deemed appropriate for negotiated changes in the nomenclature. Discussions on these changes are being conducted by the Commission and industry federations.

Efforts to accelerate progress in this field have been hampered by the divergent views held by providers and users of data collected and disseminated on the basis of CN codes.

Work is continuing on a recommendation that a review be conducted of the CN on a sectoral basis.

D. *Banking Services.*

1. *Background*

The SLIM exercise focused on a review of the implementation of the First and Second Banking Directives (77/780/EEC, 89/646/EEC). The team concluded that while substantial simplification could not be realised due to the complex nature of banking regulation in general, certain measures, if adopted, could improve current legislation. The measures identified relate to the need to avoid double reporting requirements, fast track adoption procedures for purely technical modifications to existing legislation, codification and changes to specific articles of the First and Second Banking Directives.

2. *Progress to date*

The recommendations were welcomed and generally endorsed by the Commission. Specific proposals arising from the SLIM exercise have been examined by both the Banking Advisory Committee and the Technical Group on the Interpretation and Application of Directives during 1997-1998. It is envisaged that this review will continue in 1999 and will focus on resolving inconsistencies and discrepancies noted in the codification process. Formal proposals to modify both Directives will not be tabled until the codification process has been completed.

Social security.

The SLIM team recommendations ¹³	The Commission's reactions
<p>1) Scope of coordination:</p> <p><u>Persons covered:</u></p> <p>Certain members of the SLIM team indicated a preference for :</p> <p>(i) adoption of several separate legal instruments to cover the various categories of persons or the different social security benefits.</p> <p>(ii) inclusion of third country nationals</p> <p><u>Matters covered:</u></p> <p>(i) adoption of an indicative list of social security branches to be covered by the coordination rules.</p> <p>(ii) adoption of a Community definition of the concept of social security in order to solve the problem of "limits" to application and coordination.</p> <p>(iii) extension of coordination to pre-retirement allowances.</p> <p>(iiii) inclusion of agreement-based schemes, without straying into labour-law territory.</p>	<p>The Commission would prefer a single legal instrument covering all the social security rights of all insured persons and designed with simplicity in mind.</p> <p>Accepted. The Commission intends to propose that all insured persons be covered without any distinction according to nationality.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission considers that the adoption of a Community definition of social security may be difficult in the current legal context.</p> <p>The Commission is in favour of these recommendations.</p> <p>The Commission intends to propose only the inclusion of agreement-based schemes made compulsory by national legislators.</p>

¹³ The Commission agrees with most of the recommendations made by the SLIM team, while recognising that individual team members held different views.

The SLIM team recommendations	The Commission's reactions
<p>(iv) As regards the inclusion of bilateral agreements between Member States and third countries regarding the scope of coordination, the suggested approach is to make a recommendation in each case.</p> <p>2) Determination of applicable legislation:</p> <p>Retention of the principle of uniformity of the applicable legislation, as well as the principle of the <i>lex loci laboris</i>. The <i>lex loci laboris</i> should be applied in respect of other benefits linked to professional activity. On the other hand, the <i>lex loci domicilii</i> could be retained in the case where there is no link with professional activity.</p> <p>3) Coordination of different categories of benefits:</p> <p><u>Sickness benefits:</u></p> <p>(i) division of the sickness chapter into two parts - one for benefits in cash and one for benefits in kind.</p> <p>(ii) specific coordination rules should be envisaged for dependency.</p> <p>(iii) integration of the pensioner in the country of residence and allocation of costs to the countries concerned.</p>	<p>The Commission points out that application of the coordination rules would not affect the competence of the Member States for the conclusion of such agreements and would provide insured persons with better protection.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission underscores the link between the concepts of sickness benefits in cash and those in kind, which would make this a sensitive matter and detract from the readability of the text.</p> <p>The Commission drew attention to the Molenaar case (C-160/96) where the Court ruled that German dependency benefits should be treated as sickness benefits in cash under Regulation 1408/71.</p> <p>The Commission endorses this recommendation.</p>

The SLIM team recommendations	The Commission's reactions
<p>(iii) amendments in favour of former frontier workers and members of frontier workers' families.</p> <p><u>Invalidity pensions:</u></p> <p>(i) extension of <i>pro rata</i> calculation to all pensions.</p> <p>(ii) benefits already granted should not be recalculated, to avoid red tape. Transitional provisions should be adopted.</p> <p><u>Old-age pensions:</u></p> <p>(i) Article 48 should be repealed, and insurance periods of less than one year should be taken into account for a pension entitlement, so as not to put migrant workers at a disadvantage; pensions already granted should not be recalculated; transitional provisions should enshrine the <i>status quo</i>.</p> <p><u>Unemployment:</u></p> <p>(i) extension of existing rights in order to export the benefits of those persons who move to another Member State in search of employment.</p> <p><u>Preretirement allowances:</u></p> <p>(i) need for a definition at European level and a mechanism for specific co-ordination.</p> <p><u>Family benefits:</u></p> <p>(i) repealing of Chapter 8, which includes specific rules on benefits for orphans and the dependent children of pensioners and the transfer of these benefits to Chapter 3.</p>	<p>The Commission agrees, and intends to offer former frontier workers the choice of seeking health care either in their country of residence or in the country in which they worked.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p> <p>The Commission is in favour of this recommendation.</p>

The SLIM team recommendations	The Commission's reactions
<p>(ii) as regards the introduction of a single priority rule, designating the country in which the legislation is most favourable as the one responsible for paying the benefits in respect of all entitlements pertaining to a given child and a given period, in several Member States, the members of the SLIM team have misgivings as to the comparability of the benefits provided for under the various legislations.</p> <p><u>Special benefits:</u></p> <p>(i) Adoption of precise criteria for the selection of special benefits to be paid by the insured's country of residence, and which would therefore not be exported.</p>	<p>The Commission intends to introduce into the rules of application the principle of a periodical review of these comparisons.</p> <p>The Commission is in favour of this recommendation.</p>

Electro-magnetic compatibility.

	SLIM Recommendation	Commission's Position
	<u>Free movement of goods</u>	
R 1	The EMC Directive should remain a total harmonisation Directive by which free movement of goods is ensured.	The Commission endorses this Recommendation
R 2	The text should ensure that no additional national measures related to EMC are created. The Directive should cover all relevant aspects of EMC, which would otherwise allow for such national measures on the basis of Article 36 of the Treaty.	The Commission endorses this Recommendation.
	<u>Global Considerations</u>	
R 3	EMC legislation should not result in added costs for consumers due to unique requirements where this cannot be appropriately justified as being essential for the European Market only.	One of the main objectives of the EMC Directive is to protect public interest regarding EMC phenomena. By means of the forthcoming revision of the Directive and harmonised standards, application should be rendered sound and efficient so as to reduce compliance cost as reasonably achievable. The EMC Directive has been one of the first regulations which covers this subject in such a systematic way. If the subject is addressed in a different way by other countries outside the EEA, this should also be taken into account. It should be noted that some of these countries are considering an evolution towards the European approach established by the EMC Directive.
R 4	European industry should address a global marketplace without unjustified additional costs and delays.	

	SLIM Recommendation	Commission's Position
	<u>Safeguarding the public interest (Safety)</u>	
R 5	Functional safety should be addressed in directives containing essential safety requirements.	The Commission welcomes this clarification. This may lead to a review of the link between the EMC Directive and other existing directives, particularly the Low Voltage Directive.
R 6	The impact of functional safety should be investigated in relation to both hardware and software.	
R 7	The Standing Committee of Working Parties under these directives should confirm whether or not functional safety is taken into account under their directives.	Further clarification initiated due to the SLIM report will be useful. The follow-up to the SLIM report should, however, focus on the EMC Directive and its application.
R 8	Immunity requirements should be more fully addressed in the EMC Directive to prevent new national legislation.	Accepted. An improved definition for immunity, in terms of protection requirements under the Directive, will be investigated.
R 9	The protection requirements of the Directive should contain the emission and immunity requirements in such detail that only specific technical questions (e.g. levels, test methods, requirements specific to certain products or product families) are left to standardisation.	The Commission will analyse the possible advantages of inserting more detailed protection requirements in the Directive. By doing so, it will be necessary to consider the technical evolution on EMC matters and its impact on the different EMC environments. Therefore, the concept of providing technical expression of the essential requirements by harmonised standards following the New Approach is adequate.

	SLIM Recommendation	Commission's Position
	<p><u>Safeguarding the public interest (Protection of radio communications and telecommunications networks and Protection of electrical equipment and installations)</u></p>	
R 10	<p>The required "High level of protection" should be achieved by mandatory emission requirements as the first line of defence of the limited electromagnetic spectrum. Those emission requirements should take into account radiated and conducted emissions.</p>	<p>Accepted. The Commission will carefully consider it.</p>
R 11	<p>The protection requirements should define certain classes of EMC environment and conditions for the intended use of products within those classified environments.</p> <p><u>Large Machines and Installations</u></p>	<p>The Commission is prepared to further consider this, bearing in mind that :</p> <ul style="list-style-type: none"> ▪ this implies a deep technical analysis, ▪ any forthcoming approach should take due account of the already existing classification concepts, within the EMC harmonised standards.
R 12	<p>Suitable definitions of "large machines" and "installations" should be included in the directive; large machines should be treated as installations. For clarification, the definitions of "small installations", "large machines" and "networks" should be added.</p>	<p>The Commission agrees that there is a need to clarify the application of the EMC Directive to installations in order to ensure legal consistency regarding coverage of apparatus and fixed installations. Within this context, networks and the demarcation between large and small machines must be also taken into account.</p>
R 13	<p>In the absence of complaints, installations and large machines should not be subject to assessment tests. If assessment is necessary, a possible way may be to monitor emissions from the installation at a reasonable distance from the perimeter of the installation (radiation) or at the utility supply connection point (conduction).</p>	<p>The Commission endorses this recommendation. There is a need for additional consideration regarding the impact of this recommendation on the definition of responsibilities for the « installer » (responsible person for the installation) and for the market surveillance authorities.</p>

	SLIM Recommendation	Commission's Position
R 14	<p>The Directive should be amended in a way that compliance of a fixed installation with the essential requirements of the Directive should be ensured by following the EMC assembly instructions given by the manufacturer of the constituent parts and using a method of installation which is in accordance with good engineering practice within the context of the installation , as well as installation rules (national, regional or local). For fixed installations there should be no need for CE marking, an EC declaration of conformity or involvement of a competent body.</p>	<p>Accepted. According to the practical experience on the EMC Directive this would be the appropriate way to address the chapter related to installations. This recommendation requires the establishment of a set of special rules to define the European dimension of the protection requirements under the EMC Directive for installations.</p>
R 15	<p>The Directive should allow installations to be constituted by either CE market apparatus (CE + CE = CE) or apparatus with CE marking and parts without, not CE marked parts at all.</p> <p>In case of a challenge appropriate measures have to be performed either on component or on installation level (compensation measures) to bring the installation in compliance with the protection requirements of the directive.</p>	<p>See comments regarding Recommendation 13</p>

	SLIM Recommendation	Commission's Position
	<u>Standards</u>	
R 16	<p>The Commission should request from European standardisation bodies the setting up of a strategic review panel of the EMC standards within the framework of the EMC Directive. Such a panel should consist of a representative of the Commission, standardisation experts from Member States, Industry, CENELEC and ETSI. The task of the panel should be to take a critical look at all EMC standards, their relevance and their applicability. Regarding preparation of future standards the panel should further discuss the necessity of a new mandate from the Commission to CENELEC and ETSI in order to produce fewer and more usable standards.</p>	<p>The Commission will request the establishment of such a panel.</p>
	<u>Dealing with the EMC requirements of other directives</u>	
R 17	<p>The Commission should not propose any new vertical EMC legislation unless it is related to safety or it is clearly demonstrated that the particular issue cannot be dealt with adequately under the EMC Directive</p>	<p>The Commission can, in principle, endorse this recommendation.</p>
R 18	<p>The Commission should consider whether there is any need for EMC provisions in existing vertical directives given that relevant technical standards can be produced under the EMC Directive.</p>	<p>The Commission can agree that the EMC Directive must be considered as a horizontal Directive covering the relevant EMC aspects. The SLIM panel report raises the issue of vertical directives, however, there is insufficient evidence to justify a review of such precisely identified sectorial directives.</p>

	SLIM Recommendation	Commission's Position
R 19	<p data-bbox="168 106 697 211"><u>Impact of the EMC Commission guidelines on the application of the EMC directive</u></p> <p data-bbox="168 255 697 359">The Directive should be reviewed with a view to revision taking due account of the Guidelines, in order to incorporate:</p> <p data-bbox="168 401 697 506">(i) definitions specific to the EMC Directive (components, autonomous function, EMC passive equipment, etc.)</p> <p data-bbox="168 548 550 576">(ii) the EMC analysis process;</p> <p data-bbox="168 618 697 723">(iii) the procedure for application of the Directive to installations, apparatus and systems with various configurations;</p> <p data-bbox="168 765 697 833">(iiii) Any other areas which could be usefully transferred.</p>	<p data-bbox="721 255 1255 611">Accepted. The EMC Guidelines is a document prepared by the competent services of the Commission in collaboration with a group of government experts of Member States, representatives of European Industry, European standardisation bodies and bodies entrusted with the technical tasks related to third-party intervention in the conformity assessment procedures.</p> <p data-bbox="721 653 1255 1052">All explanations, definitions and clarifications have been reached by consensus of all the parties mentioned above who have carefully considered the real practical experience in the EMC field. Therefore, the Commission considers that the incorporation of the key principles of the guidelines in the Directive, as far as this is appropriate and necessary, will further simplify its application and enhance legal security.</p>
R 20	<p data-bbox="168 1058 697 1344">The Team underlines that several individual recommendations made above relating mainly, but not exclusively, to the Commission Guidelines should result in the Directive being reviewed and amended. The Team therefore recommends that a review of the Directive be initiated by the Commission.</p>	<p data-bbox="721 1058 1255 1127">The Commission endorses this recommendation.</p>

Insurance

SLIM Recommendation	Commission's Position
<p><u>General</u></p> <p>Codification of :</p> <p>(i) life assurance and non- life assurance Directives.</p> <p>(ii) Directives on compulsory third party insurance for motor vehicles, once the Forth Motor Insurance Directive has been adopted.</p>	<p>The Commission supports this recommendation. It intends to present specific proposals for Directives on the recasting of the Life and Non-Life Directives, which in addition to the codification of the existing legislation, will clarify some inconsistencies.</p> <p>As regards the codification of compulsory third party motor insurance, the Commission welcomes the suggestion and it will consider the need for codification, once all the motor Directives have been adopted and the exercise of codification of Life and non-Life Directives have been finalised.</p>

SLIM Recommendation	Commission's Position
<p data-bbox="125 123 471 156"><u>Life and non-life Directives</u></p> <p data-bbox="125 199 681 338"><u>Notification procedure under the freedom to provide services laid down in the insurance directives (Article 34-36 of Directives 92/49/EEC and 92/96/EEC)</u></p> <p data-bbox="125 382 681 634">The group considers that the notification procedure should be retained since it is aimed at providing mutual information enabling Member States, operators and insured, to be aware of insurers operating in their territory by way of freedom to provide services.</p> <p data-bbox="125 677 681 929">Most members also take the view that the existing procedure should be adapted so as to enable all Community insurers to respond quickly to requests for insurance cover by way of freedom to provide services without side-stepping the notification requirement.</p> <p data-bbox="125 972 681 1186">Some members therefore suggest that, where the insurer has not given prior notification, the notification procedure could be carried out at the same time as the first insurance contract is signed by way of freedom to provide services.</p> <p data-bbox="125 1229 681 1515">Some members feel that changes should also be made as regards some of the elements required in the existing procedure, and whose usefulness is not apparent, and in particular by an harmonisation of the information requested by the competent authorities when constituting or notifying the dossier.</p>	<p data-bbox="698 382 1208 891">The Commission supports the recommendation of adapting the existing procedure in order to enable all Community insurers to react quickly to requests for insurance cover under freedom to provide services, as well as to analyse which elements of the existing procedure are no longer useful. The Commission will undertake work in order to come forward with appropriate proposals for adapting the existing procedure in order to permit insurers to take full advantage of the freedom to provide services.</p>

SLIM Recommendation	Commission's Position
<p><u>Notification procedure for establishing a branch (Article 32 of third-generation Directives 92/49/EEC and 92/96/EEC)</u></p> <p>Maintenance of notification procedure while shortening the two-month period allowed to the host Member State under Article 32.</p> <p>Alignment of the wording used in connection with the procedures for establishing a branch and for operating by way of freedom to provide services to indicate the type of business which the insurer wishes to carry on in the host Member State.</p>	<p>The Commission supports this recommendation and it will undertake work in order to present appropriate proposals aiming both to shorten the two-month period provided for in article 32 and to align the wording used in the procedures for opening a branch and operating under the free provision of services.</p>
<p><u>Criteria for determining where a risk is situated in the case of non-life insurance (Article 2(d) of Directive 88/357/EEC)</u></p> <p>Most members of the group do not consider it necessary at this stage to simplify the rules of the Second Directive.</p>	<p>The Commission takes note of this suggestion. However, the Commission does not exclude the need for reconsidering this issue, in the context of the evolution of financial services, and, in particular, with regard to the development of electronic commerce.</p>

SLIM Recommendation	Commission's Position
<p><u>Arrangements for determining the law applicable to non-life insurance contracts. (Second Directive 88/357/EEC, Article 7)</u></p> <p>Some members consider that the system should be made more flexible in order to limit the differences between Member States when it comes to determining the law applicable to non-life insurance contracts. In this respect, consideration should be given to substituting the concept of "consumer" for that of "mass risks" and applying the rules of the Rome Convention to insurance.</p> <p>The possibility should be available to parties to an insurance contract, and policyholders in particular, to draw up the contract in the language of their choice.</p>	<p>The Commission welcomes this recommendation and it will explore different possibilities for making the existing regime simpler to determine the law applicable. In particular, the Commission takes note of the suggestions of the group.</p> <p>The Commission also considers that it is essential for policyholders to understand the terms of the insurance contract and that the contract is written in a language that policyholders are able to understand. The Commission has already addressed this issue in its Draft Interpretative Communication on the freedom to provide services and the general good in the insurance sector.</p>
<p><u>Provisions concerning statistical information contained in the third-generation Directives (Article 44 of Directive 92/49/EEC and Article 43 of Directive 92/96/EEC) and differences with respect to the provisions of the "accounts" Directive (91/674/EEC)</u></p> <p>Maintain Article 44 of Directive 92/49/EEC and Article 43 of Directive 92/96/EEC.</p> <p>Adaptation of existing provisions of the various insurance directives regarding the collection and breakdown by group of classes or business of data on the activities of insurance undertakings in order to eliminate the differences between them.</p>	<p>The Commission supports these suggestions. It will do its best to take account of them in future legislative proposals.</p>

SLIM Recommendation	Commission's Position
<p><u>Arrangements laid down by the member States for the collection of indirect taxes on insurance premiums</u></p> <p>Certain Member States should simplify their laws or arrangements in order to facilitate the operation of the internal market.</p> <p>Appointment of tax representative should take place only upon actual commencement of activities.</p>	<p>The Commission shares the view that the arrangements existing in some Member States concerning the tax representative of an insurance company wishing to operate by way of freedom to provide services, often dissuade such companies from exercising the freedom to provide services.</p> <p>It is also of the opinion that the appointment of the tax representative should take place only upon actual commencement of activities by way of freedom to provide services and not at the time of fulfilling the notification procedure laid down by the Third Directives to operate under freedom to provide services.</p> <p>The Commission will analyse this issue and it will take, if necessary, appropriate measures so that the free provision services for insurance is guaranteed.</p>
<p><u>Portfolio transfer : analysis of the present arrangements</u></p> <p>Procedure for the transfer of portfolios should be changed so as to increase the role of the competent authority in the Member State of the accepting office and to take into account aspects other than the solvency margin of the accepting insurer.</p> <p>The procedure should be simplified as far as possible, having due regard to the need to protect policyholders</p>	<p>The Commission supports the recommendation. It will study the adaptation of the current regime on transfer of portfolio along the lines suggested by the group. The Commission will present, if necessary, appropriate proposals to amend the existing Directives.</p>

SLIM Recommendation	Commission's Position
<p><u>Simplification of the rules on investments by insurance companies</u></p> <p>Due to the highly technical nature of the subject, discussion on simplification should be carried out by an ad hoc group of experts.</p>	<p>The Commission considers that this issue must be discussed in advance by an ad hoc working group, taking account of the evolution of the financial markets and any eventual need for adapting prudential regulation of financial undertakings.</p>
<p><u>Directive 87/343/EEC on credit insurance</u></p> <p>The group does not consider it expedient to review, with a view to simplification, the Directive.</p>	<p>The Commission takes note of this conclusion.</p>
<p><u>Directive 84/641/EEC on assistance</u></p> <p>The Directive should be brought into line with the arrangements for supervising insurance activities laid down in Council Directive 92/49/EEC.</p>	<p>The Commission endorses this recommendation and it will undertake the appropriate work to amend the provisions of the Directive 84/641/EEC in due time.</p>
<p><u>Directive 73/240/EEC</u></p> <p>The provisions of Directive 73/240/EEC could be repealed.</p>	<p>The Commission agrees with this recommendation and will consider how to implement it.</p>
<p><u>Directive 64/225/EEC on reinsurance</u></p> <p>The Directive should serve as a basis for removing altogether obstacles resulting from the requirements and conditions laid down by the Member States for the conduct of reinsurance business through a branch or by way of freedom to provide services.</p>	<p>The Commission takes note of this recommendation.</p>

SLIM Recommendation	Commission's Position
<p><u>Analysis of Directive 77/92/EEC on insurance intermediaries</u></p> <p>No recommendation at this stage, was made on the simplification of Directive 77/92/EEC, because of the current work been undertaking by the Commission.</p>	<p>As indicated in the Communication on Financial Services –Enhancing consumer confidence¹⁴- the Commission is currently undertaking an in depth review of the regulatory framework applicable to insurance intermediaries. Once this review is completed, the Commission will present appropriate proposals.</p>
<p><u>Directive 78/473/EEC on Community co-insurance</u></p> <p>Provisions should be made for an adjustment of the Directive in order to take account of the system of supervision by the home Member State.</p> <p>Certain co-insurance operations should be included by the Directive and it should cover group life insurance and group accident insurance.</p>	<p>The Commission will analyse how to implement this recommendation in order to bring the provisions of Directive 78/473/EEC into line with the supervisory regime laid down in the Third generation Directive.</p> <p>As regard the second recommendation, the Commission takes note and at a later stage will consider the need of expanding the scope of Directive 78/473/EEC.</p>
<p><u>Questions concerning freedom to provide services in the field of motor insurance</u></p> <p>No recommendation was made position At this stage</p>	

¹⁴ COM(97) 309 Final, 26.6.1997

OTHER COMMENTS

General good notion

The Commission is aware of the fact that diverging interpretation of the general good notion by Member States affects the proper functioning of Internal Market in insurance and it may result in obstacles to cross-border activities.

In the Framework for Action in the field of financial services the Commission has undertaken to come forward with interpretative communications to give guidance to Member States and operators on the scope of rules applicable to internal market. As regards insurance, the Commission has decided to issue an Interpretative Communication which will lay down the interpretation which the Commission gives to the notions of freedom to provide services and the general good as applied to the insurance sector. The Interpretative Communication will contribute to greater legal certainty and therefore it should contribute to improving the functioning of Internal Market. The final version of the Communication will be presented by the Commission in the first half of 1999.

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