



**COUNCIL OF
THE EUROPEAN UNION**



Conclusions on "Think Small First – A Small Business Act for Europe"

*2891st COMPETITIVENESS
(INTERNAL MARKET, INDUSTRY and RESEARCH) Council meeting
Brussels, 1 and 2 December 2008*

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION,

RECALLING:

- (1) The conclusions of the European Council of 15 and 16 October 2008 in which the Heads of State and Government welcome the European Investment bank's decision to mobilise EUR 30 billion to support European SMEs and call on the EIB Group to assume a greater share of risk in the financing of SMEs;
- (2) The conclusions of the Spring European Council of 13 and 14 March 2008 in which the Heads of State and Government requested the Council to examine a Small Business Act (hereafter referred to as SBA) "setting out an integrated approach across the SMEs' life cycle in line with Better Regulation and Think Small First principles and intended to further strengthen SMEs' growth and competitiveness";
- (3) The integrated conclusions of the Competitiveness Council of 22 November 2007¹;
- (4) The conclusions of the Spring European Council of 23 and 24 March 2006²;

¹ 15683/07.
² 7775/1/06.

P R E S S

- (5) The conclusions of the Competitiveness Council of 13 March 2006³;
- (6) The European Charter for Small Enterprises⁴, approved by the Feira European Council of 19 and 20 June 2000, which represents an important commitment to act, drawing inspiration from lines for action that duly take account of the needs of small enterprises;
- (7) The reports of the European Parliament and notably the report of 9 December 2005 on implementing the European Charter for Small Enterprises⁵, the report of 27 October 2006 on Time to Move up a Gear – Creating a Europe of Entrepreneurship and Growth⁶ and the report of 24 April 2008 on the Mid-term Review of Industrial Policy – contribution to the Lisbon Strategy for Growth and Jobs⁷;

WELCOMES WITH SATISFACTION the communication from the Commission entitled ""Think Small First" – A Small Business Act for Europe"⁸, adopted on 25 June 2008 and setting out ten principles and 92 associated measures, together with the presentation of five legislative proposals that are already adopted or forthcoming;

UNDERLINES in particular the importance of the proposals and integrated set of measures in the SBA aimed at improving access to finance, enhancing market access, and ensuring a regulatory environment in support of SME's needs, which have been identified as priorities in the context of the orientations addressed by the Competitiveness Council on 25 September 2008 in the light of economic downturn;

STRESSES:

- (1) The fundamental role of SMEs in contributing to economic growth and job creation in Europe and the need to fully exploit the potential of SMEs which in general lag behind their counterparts in other countries, the United States in particular, in terms of productivity and innovation;
- (2) The slow growth registered by SMEs, including the resulting lack of medium-sized enterprises that are better able to withstand international competition, while recognising that this situation varies from one Member State to another;
- (3) The need to apply the Think Small First principle, placing SMEs at the heart of European policy-making and enabling them to develop and adapt to the demands of globalisation, to operate fully in the internal market, to participate in the knowledge triangle, (i.e. research and development (R&D), innovation and education) and to turn environmental challenges into opportunities;

3 7286/06.
4 9263/00.
5 A6-0405/2005.
6 A6-0384/2006.
7 A6-0167/2008.
8 11262/08.

- (4) The crucial importance of improving the legal and policy framework in order to enhance legal certainty and to create a more consistent and clear regulatory environment, on the basis of better regulation principles, allowing SMEs to take full advantage of the opportunities of the internal market, so that they can grow and operate across borders as they do in their domestic market;
- (5) The need to take account of the diversity of SMEs, both in size and form and the conditions in which they operate, in formulating and implementing EU policies;
- (6) The particular importance that should be accorded to enabling SMEs to exploit their innovative potential, in all its forms, including innovative high-growth SMEs, both in high value-added areas and in traditional sectors;
- (7) The importance, in light of the current financial crisis, of focusing on priority initiatives to enable SMEs to play a key role in facing the challenges resulting from the economic downturn;

CONSIDERS:

- (8) that the Small Business Act constitutes an integrated policy programme of (a) ten principles that the Member States and the Commission will sign up to and use to guide the conception and development of policies and designing of rules, according to the needs of SMEs, and (b) an appropriate set of accompanying policy actions, that the Commission and the Member States, having regard to the subsidiarity principle and Member States different starting points, will start to implement with immediate effect and in close cooperation;

THEREFORE calls upon Member States and the Commission to:

- (9) promote the SBA at the highest political level, ensure its efficient implementation at all relevant levels and report on progress made in the framework of the new 2008-2010 cycle of the re-launched Lisbon strategy for growth and jobs, in the definition and execution of national reform programmes where Member States are concerned, and in the definition and execution of the Community Lisbon Programme where the Commission, the Council and the Parliament are concerned;
- (10) ensure an effective and coherent application of the guiding principle of the SBA, i.e. "Think Small First", which implies that all new measures, legislative or otherwise, should be designed in such a way that they can be easily understood and applied by all SMEs, while ensuring proportionality. They should aim at removing or avoiding unnecessary burdens. They should enhance their growth potential. They should facilitate market access for SMEs, in particular in case they generate compliance costs;

AND EMPHASISES the following actions in the three identified priority areas:

I - IMPROVING THE ACCESS TO FINANCE

- (11) STRESSES the need for an urgent response from the Commission, Member States and the European Investment Fund and European Investment Bank (EIB Group) to the market failures undermining SMEs' access to finance, as well as to structural weaknesses in private sector provisions, which are intensified by the current financial crisis;
- (12) NOTES that access to finance is a problem faced by European SMEs, and in particular the most innovative ones that can potentially generate high returns on investment but are also highly risky during their start-up years;
- (13) RECALLS the need for Member States and the Commission to reduce the present fragmentation of the venture-capital market by facilitating cross-border investments⁹, and RECOMMENDS facilitating the further integration of the European market by examining options for a Community private placement regime based on the findings of the Commission's preliminary impact assessment¹⁰;
- (14) EMPHASISES the role of the EIB Group, as a source of funding for SME lending in financial markets, in particular to improve financing terms available to SMEs; UNDERLINES the great interest of an increase in the volume of EIB Group loans available for the period 2008-2011 to lending institutions for meeting SMEs' borrowing needs at a level of EUR 30 billions and the initiatives regarding the modernisation and streamlining of EIB Group products, i.e. the initiative concerning microcredit, the creation of an instrument for mezzanine financing, notably for fast growing, innovative SMEs, and, in relation to the EIB Group loans for SMEs, the introduction of financial risk-sharing mechanisms with the commercial banks and other financial intermediaries for their outstanding amounts for SMEs; Calls on the EIB Group to promote these funds and make them available as a matter of urgency; and INVITES the EIB Group in addition to promote awareness of the aforementioned schemes and to pursue the implementation of the risk-sharing finance facility (RSFF) introduced under the Seventh Framework Programme for Research and Development¹¹ so that the RSFF should be beneficial to SMEs;

⁹ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Removing obstacles to cross-border investments by venture capital funds (5120/08).

¹⁰ Commission preliminary impact assessment report on private placement (July 2008)
http://ec.europa.eu/internal_market/investment/legal_texts/index_en.htm#nonlegis

¹¹ **Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006).**

- (15) INVITES the Commission to streamline and to shorten in time its administrative procedures for SMEs to enable them to benefit more from its financing programmes and NOTES THAT the use of JEREMIE¹² could support SMEs as a further means;
- (16) EMPHASISES that the reduction of payment times is one of the keys to solve SMEs' financing problems and that this would significantly reduce the number of insolvencies; therefore WELCOMES the Commission's announcement to amend the late-payment Directive (2000/35/CE) so as to achieve significant improvements in this area for SMEs, for all commercial transactions; recognising that public administrations handle a considerable volume of payments to business, CALLS on Member States to encourage them to take an exemplary approach to late payments; INVITES the Commission to give full support to projects in Member States aimed at the use of information technology in implementing the new European order for payment procedure as an efficient instrument to speed up late cross-border payments ; in addition, INVITES the Member States and the Commission to continue their efforts to put in place solutions to allow SMEs electronic access to services in other Member States, including consideration of cross-border interoperable electronic signatures and electronic identification;
- (17) HIGHLIGHTS the importance of entrepreneurs and SME owners understanding how to finance their businesses and market their propositions to potential investors and therefore WELCOMES with interest the Commission's commitment to help Member States developing high-quality investment readiness programmes.

II - ENHANCING MARKET ACCESS

II (a) Deepening the internal market

- (18) EXPRESSES ITS SATISFACTION at the SBA initiatives aimed at promoting a better functioning of the internal market by, amongst others, a greater use of market and sector monitoring, tackling the remaining barriers within the internal market, inter alia by improving the coherence of consumer protection rules and ensuring for all SMEs access to the SOLVIT network while reinforcing it, STRESSES that many barriers remain and that further efforts are required to allow SMEs to take full advantage of the internal market;
- (19) UNDERLINES the importance of an SME-friendly internal market, based on transparent, simple and consistent rules in order to enhance confidence in the internal market and its potential for increased cross-border trade for SMEs;

12 Joint European Resources for Micro to Medium Enterprises.

- (20) WELCOMES with great interest the announcement by the Commission of measures to facilitate access by SMEs to public procurement, including the sharing of best practices both to reduce formal administrative procedures and to improve transparency and information through the electronic publication of invitations to tender;
- (21) RECOMMENDS that Member States give wide publicity to the code of best practice for public procurement by framing "strategies", "programmes" and "action plans" to facilitate access by small businesses to public procurement; EMPHASISES in that respect the value of, where appropriate, dividing public contracts into lots, and the value of determination by Member States of transparency requirements for contracts below Community thresholds;
- (22) WILL TAKE ALL POSSIBLE MEASURES to bring about as soon as possible the adoption of the thoroughly prepared European Private Company (EPC) statute with a view to facilitating the everyday management of small businesses, conferring a European label on them, cutting the cost of setting up subsidiaries and reducing the need for them to deal with national legislations when seeking to establish themselves in more than one Member State;

II (b) Internationalisation and access to third-country markets

- (23) CALLS on the Commission and Member States to strengthen their policies in support of the international development of SMEs and, to that end, to take measures to help them gaining access to third-country markets;
- (24) WELCOMES the Commission's initiatives aimed at opening up public procurement in third-countries which should lead to reciprocal benefits;
- (25) EMPHASISES the importance of impact assessments in also evaluating the effects of new legislation on the external competitiveness of SMEs;
- (26) SUPPORTS the initiative to create European Business Centres in high-growth markets, provided the Commission can show that it adds value without duplicating the work of Member States in this area and will cooperate with all relevant partners including the Enterprise Europe Network;

III - A REGULATORY ENVIRONMENT IN SUPPORT OF SMEs' NEEDS

- (27) UNDERLINES the imperative need to continue cutting red tape and better adapting administrative rules to the needs of SMEs, in order to enable them to save time and money and devote the resulting resources to their development and improving their competitiveness;

- (28) RECALLS therefore the importance of cutting administrative costs imposed on business arising from EU legislation by 25 % by 2012 and of national measures of comparable ambition by Member States, NOTES with interest the work of the High Level Group of independent stakeholders on administrative burdens; LOOKS FORWARD to further ambitious proposals to reach the target for administrative burdens reduction; EMPHASISES the fundamental importance of thoroughly evaluating the impact of future legislative and administrative initiatives on SMEs by rigorously using the "SME test" within the Commission's Impact Assessment process; AND STRESSES the importance of sufficient consultation periods;
- (29) WELCOMES with satisfaction the Commission's proposal to introduce common commencement dates for regulations and decisions affecting businesses, as well as, for small businesses, derogations, transition periods and exemptions, where appropriate, and NOTES THAT Member States may do likewise in their own legislation;
- (30) NOTES WITH INTEREST the Commission's intention to allow Member States to adopt less burdensome accounting and auditing requirements for micro-firms, and LOOKS FORWARD to a Commission proposal in early 2009, based on a specific impact assessment;
- (31) RECALLS, in order to make the internal market work, the need (a) to continue implementing one-stop shops or arrangements with equivalent effect for setting up a company in a quick and simple way, (b) to ensure a full and timely implementation of the service directive¹³ in particular by the introduction of points of single contact for service providers; (c) as well as other mechanisms to facilitate SMEs' access to information and services supplied by public bodies, and the need for these services to be easily accessible by electronic means, while ensuring the possibility for direct contact and sufficient proximity to SMEs in order to provide assistance that is appropriate to their needs;
- (32) and INVITES Member States and the Commission to make their administrations more attentive to the interests of SMEs (i) by minimising burdens imposed on them, (ii) by modernising their procedures (e.g. through the implementation of e-procurement procedures, in particular as regards information and the access to public procurement contracts), (iii) by setting maximum deadlines for the licensing procedure, (iv) by refraining from repeated requests for the same statistical or administrative information from a small business within a three year period, where feasible, (v) by ensuring that information requested is strictly proportional to public interest requirements, (vi) by integrating, wherever relevant, representative SME organisations into their advisory expert committees, high level working groups and other appropriate fora;

¹³ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, (OJ L 376, 12.12.2006).

Also calls upon Member States and the Commission to consider the following actions in other important areas :

IV - SUPPORTING THE GROWTH AND COMPETITIVENESS OF SMEs

- (33) EMPHASISES that the growth of small businesses needs to be bolstered also by encouraging entrepreneurship, appropriate skills and innovation in all its forms, and by enabling SMEs to adapt to environmental challenges by turning them into opportunities;

IV (a) Encouraging entrepreneurship

- (34) WELCOMES the specific measures contained in the SBA Communication, including the European SME Week and the "Erasmus for Young Entrepreneurs" initiative, with evaluation of the latter to ensure that it is suited to the needs and constraints of the target groups;
- (35) ENCOURAGES Member States to consider how best to facilitate the transfer of businesses, in particular by providing adequate financial and economic conditions, by organising transparent markets for business transfers and by other appropriate measures;
ACKNOWLEDGES these amongst useful means to assist in the transfer of businesses;
- (36) RECOGNISES that women's entrepreneurial potential is still insufficiently exploited within the European Union; SUPPORTS the creation of the European network of female entrepreneur ambassadors; and CALLS on Member States to create a favourable environment to unlock the potential of female entrepreneurs;
- (37) CONSIDERS the progress achieved in terms of fostering entrepreneurial spirit, business start-ups and buy-outs, including following a failed initial attempt. These may be complemented by measures such as:
- a. adapting all levels of education to develop entrepreneurial talent among pupils and students, through programmes, teaching materials and teacher training, involving the nearby society and students as well as businesses in the process;
 - b. the continued and regular implementation of appropriate public communication campaigns, making use of the media and information and communication technologies;
 - c. The creation of a favourable environment for entrepreneurs who have experienced a non fraudulent business failure, enabling a second chance and by simplifying insolvency procedures with a view of completing them as far as possible within one year;

IV (b) Skills and qualifications adapted to the needs of SMEs

- (38) IS AWARE of the need to develop vocational work-study training, increasing the involvement of entrepreneurship and businesses in all sectors and of all sizes in national educational systems, including in higher education to improve the competitiveness of businesses, and of SMEs especially;
- (39) SUPPORTS the promotion of European mobility for apprentices, insofar as this enhances their vocational skills; and RECOMMENDS simplifying, as from 2009, the "Leonardo da Vinci" procedures, setting a medium-term objective for mobility among young people undergoing initial vocational work-study training that is as ambitious as those set for students benefiting from the Erasmus Programme;
- (40) INVITES the Commission and Member States to report annually to the Council on the implementation of the European Credit System for Vocational Education and Training (ECVET)¹⁴ which is essential to the development, in all professional sectors, of European mobility for young people undergoing initial vocational work-study training;

IV (c) Promoting all kinds of innovation

- (41) CALLS on Member States and the Commission to institute better framework conditions aimed at promoting innovation by SMEs, and in particular:
- By informing SMEs about the value of intellectual property and how they can protect it, both nationally and internationally, and to better fight against infringement of intellectual property rights such as counterfeiting in the whole of the EU's territory;
 - By intensifying the efforts to create a Community patent and an integrated jurisdictional system for these patents and existing European patents;
 - By encouraging SMEs' participation in clusters comprising large corporations and public or private research and training institutes;
 - By supporting SMEs to promote their interests in standardisation proceedings;
 - By improving the involvement of SMEs in existing national and Community research, development and innovation programmes and by creating appropriate incentive mechanisms in accordance with the General Block Exemption Regulation¹⁵ and the Community Framework for State Aid for Research, Development and Innovation¹⁶;

¹⁴ 8288/08.

¹⁵ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) - (OJ L 214, 9.8.2008).

¹⁶ Communication from the Commission of 22 November 2006- Community framework for State aid for research and development (OJ C 323/1, 30.12.2006).

- (42) EMPHASISES the value of public procurement to satisfy the needs of contracting authorities and to take advantage of the innovative potential of SMEs which, as suppliers, can enhance their standing and enjoy decisive growth; EMPHASISES the value of mobilising all concerned parties in order to facilitate SMEs' access to public procurement;

IV (d) Adapting SMEs to environmental challenges

- (43) EMPHASISES that SMEs are moreover affected by the problems of the volatility of prices of raw materials and of energy, as well as the effects of climate change, owing to increasing consumption of natural resources and the international competition for a sustainable access to raw materials; CONSIDERS that the adaptation to these environmental challenges is not only an economic necessity but also an opportunity if their offer corresponds to the growing global demand for energy efficient products, environmental services and safe and sustainable low-carbon technologies;

- (44) CALLS ON Member States and the COMMISSION to help SMEs to transform environmental challenges into opportunities in line with the European action plan on sustainable consumption, sustainable production and sustainable industry policy by:

- (a) providing better information on environment-related legislation and risks (publication of the operational guidelines announced by the Commission that are meant to guide SMEs in minimising damage they may cause to the environment, and establishing expert networks at regional level);
- (b) encouraging SMEs to make use of the Community Eco-Management and Audit Scheme (EMAS)¹⁷ while recognising the value of international management systems such as ISO 14001;
- (c) encouraging SMEs to benefit from the potential of green public procurement;
- (d) supporting their efforts to make their products and services more energy and environmentally efficient and to manufacture and market eco-innovative products, by creating a framework conducive to innovation and by means of economic incentives and grants, including those available under the cohesion policy, the new Regulation concerning LIFE+¹⁸, and the Competitiveness and Innovation Framework Programme (CIP)¹⁹;

¹⁷ Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 114, 24.04.2001, pp. 1-29).

¹⁸ Regulation (EC) No 614/2007 of the European Parliament and of the Council of 23 May 2007 concerning the Financial Instrument for the Environment (LIFE+) (OJ L 149, 9.06.2007, pp. 1-16).

¹⁹ Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, pp. 15-40).

- (e) encourage SMEs, business organisations and public-sector bodies to discuss on how policies could assist eco-efficiency and business development for SMEs in eco-industries as well as other sectors.
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**THE COUNCIL'S ACTION PLAN FOR
A SMALL BUSINESS ACT FOR EUROPE****"TRANSLATING INTENTIONS INTO ACTIONS"**

Small and medium-sized enterprises (SMEs), which form the backbone of Europe's economy, are increasingly hit by the current economic and financial crisis as demand falls off, investment diminishes and liquidity dries up with, as a consequence, of less credits being granted to SMEs.

In light of the broad commitment to implementing the SBA and while endorsing its ten principles, the Council, having arrived at conclusions on the above subject, stresses the need to respond to the situation with short and medium term measures, as part of an strengthened policy in support of SMEs. With due respect to the principle of subsidiarity, at this stage the Council gives particular attention to the following three priorities:

I. IMPROVING SME ACCESS TO FINANCE

- Encourage credit institutions and banks not to restrict the availability of credit to SMEs with viable propositions and also to participate in the coming efforts to re-launch the economy.
- Where the market is unable to fully meet the needs of SMEs **CALLS ON** Member States to consider how best to support them, including in the form of access to credit, guarantees, equity and mezzanine financing, in compliance with the rules, and making full use of the flexibilities permitted by the existing EU State Aid rules.
- Monitor effective rollout of the measures announced by the EIB group for the 2008-2011 period, particularly the following:
 - A raise in the volume of lending to SME's to a total of €30 bn by 2011, of which €15bn will be made available for the period 2008-2009 (an increase of 50 %).
- Modernisation and simplification of procedures to access EIB lending for SMEs.
 - A better coverage of the financial needs of SME's, in particular for the financing of intangible investments.
 - Introduction of a mechanism for sharing risk with commercial banks (specifically via mezzanine loans).

- Enhance the efficiency of rules on late payment between businesses and between public administrations and businesses in order to improve the financial situation of SMEs by initiating negotiations on an amended version of the Late Payment Directive during the first half of 2009.
- Examine options for a Community-wide private placement regime by the end of 2009 to facilitate cross-border investment in order to strengthen Europe's venture capital market.
- Simplify administrative and technical procedures for access to Community funding.
- Support the Commission's efforts to help Member States develop investment readiness programmes for SMEs.

II. A REGULATORY ENVIRONMENT SUPPORTIVE OF SMEs' NEEDS

- Apply consistently and efficiently the "Think Small First" principle in formulating and implementing Community and Member State policies and initiatives.
- Proceed accordingly to gauge the impact of all prospective laws and other measures likely to affect SME's by rigorously including an "SME test" in all impact studies conducted by the Commission and where appropriate by the Member States as of 2009.
- Consider special measures for small and micro-enterprises such as transition periods and exemptions in relation to regulatory compliance, without compromising, inter alia, on safety standards for goods and services marketed.
- Allow Member States to adopt less burdensome accounting requirements for small businesses operating below specific thresholds.
- Encourage the application of the "Only once" principle, both to avoid having administrations request information from SMEs that is already available to them and to strive to endeavour, where feasible, that no micro-enterprise is called on to take part more than once every three years in statistical surveys conducted by national, regional or local statistics offices, if possible as of 2009.
- Increase efforts to achieve a 25-percent reduction in administrative burdens on businesses by 2012 through rapid adoption of the relevant proposals at Community level and Member State commitment to make comparable efforts at the national level.
- Set common commencement dates for Community and, where appropriate, national legislation and other measures with repercussions on businesses to come into force.

- Achieve the goal of progressively bringing company set-up time down to three working days in most cases, and make sure that the corresponding preliminary expenses are limited to the minimum cost.
- Consider how best to facilitate the transfer of businesses, in particular by providing adequate financial and economic conditions, by organising transparent markets for business transfers and by other appropriate measures.
- Promote second chances for entrepreneurs for example by ensuring that all legal procedures to wind up a non-fraudulent business can be completed within one year as far as possible.

III. ENHANCE MARKET ACCESS FOR SMEs

- Promote a better functioning of the internal market by, amongst others, a greater use of market and sector monitoring, and by tackling the remaining barriers within the internal market, inter alia by improving the coherence of consumer protection rules and ensuring for all SMEs access to the SOLVIT network while reinforcing it.
- Ensure a timely implementation of the Services Directive.
- Develop, in the two years to come, solutions for SMEs to access electronic services in other Member States, including through cross border interoperable electronic signature and authentication applications as well as facilitate the use of electronic procedures for tendering in public procurement contracts.
- Promote the implementation of the European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts, for example by encouraging public contracting authorities to subdivide contracts into lots where appropriate.
- Continue existing efforts to help Europe's SMEs gain effective access to public procurement contracts outside the EU and strengthen policies in support of the international development of SMEs.
- Intensify efforts to create a Community patent and an integrated jurisdictional system for these patents and existing European patents ; better take the interests of SMEs into account when setting standards and facilitate SMEs access to intellectual property rights.
- Adopt and implement the thoroughly prepared European Private Company statute, as soon as possible, in order to simplify the procedures for establishing and operating companies and thereby to encourage SME's to venture beyond their national borders.
- Create European business centres in high-growth countries, provided that the result brings added value without duplicating what the Member States already have to offer."