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From: BERNIER ABAD Nicolas (MARKT)
Sent: Tuesday 28 August 2012 16:52
To: MILLEROT Didier (MARKT)
Cc: BASSI Ugo (MARKT); HOOIJER Johannes Jeroen (MARKT); MELOT Anne-Francoise (MARKT); BOTEANU Paula-Alexandra (MARKT); SIKORA-WITTNEBEL Joanna (MARKT); ANCIAUX-RABAUD Marie-Ghilaine (MARKT); SIMEONOFF Kallina (MARKT)
Subject: RE: Mission to Berlin

Dear all,

I met in Berlin on 27 August with representatives of the Ministry of Labour and Social Affairs (Mr Trautner and Ms Brehmer), the Ministry of Justice (Mr Knoll-Biermann), and the Ministry for the Economy and the Technology (Mr Schmitz) to review informally the state-of-play of the measure on disclosure of non-financial information. The meeting was very constructive and well-received by the German authorities. It was a unique opportunity to talk in the same room with representatives of the three German ministries with competences one way or another on environmental and social reporting by companies. All of them, and in particular Ministry of Justice, showed very good knowledge of the 4th accounting directive, and of recent national legislation in other MS, in particular France and Denmark. I underlined the informal nature of the meeting, and the fact that the Commissioner has made no final decision yet.

The German authorities are holding a national meeting with stakeholders later this week. Germany is not planning any new national legislation on reporting. The German Council for Sustainable Development (an advisory body to the federal government) issued in December 2011 the voluntary German Sustainability Code, which is a pragmatic mix of GRI and EFFAS rules. Fewer than 30 German companies have made plans by now to adopt this reporting framework. German authorities are optimistic, and consider that more time is needed to assess properly this framework.

I explained our line on the draft measure. I noted that new disclosures on diversity, human rights and corruption/bribery issues should be added. I explained that we will propose that the requirements apply to both listed and non-listed companies.

I mentioned that we would raise the threshold for the reporting requirement to 500 employees (from 250), and there would be no disclosure requirements for smaller companies. The German representatives supported this approach, and the idea that the employment criterion would carry more weight than the turnover and size of the balance-sheet criteria. I said that the figure of 500 employees is already very significant and that it largely reduces by half the number of targeted EU companies (which was confirmed by statistics on German companies –see attachment-). I also noted that in some MS the number of large companies with more than 500 employees is very limited.

Concerning auditing aspects, the German authorities supported the view that assurance for consistency with financial information would be the only audit requirement. They were interested as well on any possible sanction regime. I explained that there would be no specific sanctions, but that the general regime of the 4th accounting directive would apply.

As regards timing, I explained our plans and the possibility that the current political priorities (banking union, etc.) and the developments around the adoption of the undergoing amendment of the 4th Accounting Directive may lead to some delay.

German representatives were very interested in the exemptions granted to SMEs and consolidated groups, but nevertheless made reference to the well-known argument that large companies may possibly ask smaller suppliers to do some reporting for them. I explained that SMEs would have no legal requirement to make their own reports, but that the 4th accounting directive does not intend to regulate business relations between customers and suppliers.

German representatives were also interested in supply chain-related reporting. I explained that the reporting unit would be the consolidated group, and would not include suppliers. However, I mentioned the importance of the materiality principle for some very specific cases relating to strategic suppliers.

The meeting was very open and friendly, and I think that the DE representatives appreciated the contact. I felt that DE authorities are generally very exposed to the views of business associations in comparison to the ones of investors, NGO's and other stakeholders.

Best regards,

Nicolas



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