EU Communication

INTEGRATED INDUSTRIAL POLICY

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MAIN ISSUES

Objective of the Communication: The Commission presents ideas and measures for a European industrial policy.

Parties affected: All industrial enterprises and providers of industry-related services.

Pros: The Commission forgoes to a large extent any "major spending programmes". Instead, the aim is more to establish efficient framework conditions for the industry.

Cons: (1) Sector-specific measures threaten to distort competition.

(2) The extension of the Ecodesign Directive to new products unnecessarily increases the costs for climate protection and does not lead to any cuts in CO_2 emissions.

CONTENT

Title

Communication COM(2010) 614 of 28 October 2010: **Flagship Initiative of the Europe 2020 Strategy –** An **Integrated Industrial** Policy for the Globalisation Era

Brief Summary

► **Background and objective of the flagship initiative "industrial policy"**

– According to the Commission, the European industry finds itself faced with two major challenges:
  - There is increasing competition for European companies from companies in emerging markets such as China, Brazil and India, not only in the raw material and energy markets but also in foreign markets.
  - To combat climate change successfully there needs to be a shift to a low-carbon, resource-efficient economy.

– Therefore, the Commission presents measures with which to create "a thriving world-class industrial base in the EU" (p. 3) and the transition to a "more sustainable, inclusive and resource-efficient economy" (p. 4) (see CEP Overview, in German only).

– Due to cost-cutting measures in many Member States, industrial policy measures "cannot be built on major spending programmes" (p. 30). Instead, the Commission propagates in particular:
  - improving the framework conditions for industry;
  - boosting the industry's innovative activities and
  - establishing sector-specific measures.

  Besides it calls for:
  - the integration of global aspects into industrial policy and
  - sector-specific measures.

► **Improving framework conditions for industry**

– **"Smart regulation"**

There is still "significant scope" (p. 5) for better regulation at the European and national level. A "smart regulation" is to cover not only existing but also future legislation [see also Communication COM(2010) 543 on "smart regulation" in the EU]:
  - Ex post evaluation: The Commission wishes to reduce red tape and to subject existing legislation to "more comprehensive" policy evaluations ("fitness checks"), which should not evaluate single legislative acts – as has been the case to date – but rather take into account the "cumulative impact of legislation" on competitiveness. (p. 6)
  - Ex ante evaluation: The Commission will continue its existing practice of drawing up impact assessments prior to important policy projects and submitting them to an impact assessment committee for assessment. In future, impact assessments are also to include a detailed description of impacts on industrial competitiveness.

– **Improving access to finance for business**
  - In the wake of the financial and economic crisis, access to finance for business has became more difficult. Credit availability is "still not back to normal". (p. 7)
  - The Commission will examine whether EU financing programmes, e.g. in regional policy fields, can be "refocused" in cases of market "failures" in financing business. (p. 8)
  - As the budget situation is tense in many Member States, "new and innovative" financing options must be found. Therefore, the Commission is promoting functional capital markets. It wishes in particular to improve the framework conditions for venture capital markets.

- Public investment funds from third countries can contribute substantially to financing industry. However, they must be in line with the transparency requirements of the International Monetary Funds (IMF) or the Organisation for Economic Cooperation and Development (OECD) [see also Communication COM(2008) 115 on how to deal with public funds; see CEP Policy Brief, in German only].

– **Strengthening the internal market**
  - Intellectual property rights constitute a major precondition for capital-intensive research, development and innovations. To this end, the European Parliament and the Council should approve the Commission's EU patent proposal regarding language rules and harmonised dispute settlement procedures [COM(2010) 412 and 350 as well as Council Document 7928/09; see CEP Policy Brief and CEP Monitor, in German only].
  - Many enterprises in Europe have fallen victim to counterfeiting and piracy, both at home and abroad. Therefore, the Commission wishes to "strengthen" the European Observatory on Counterfeiting and Piracy (p. 9) established in 2010 and to improve the enforcement of intellectual property rights.
  - Standards can help reduce production costs and disseminate innovative products. The Commission favours a competitive standard-setting process in which various technology providers compete on merits (see also CEP Policy Brief on the Commission's public consultation regarding European standard-setting processes).

– **Improving infrastructure**
  - The energy [COM(2010) 677; see CEP Policy Brief], transport and communication infrastructures must be upgraded and modernised. The costs are to be borne in particular by the European Regional Development Funds (ERDF), the Cohesion Fund, "project bonds" and private-public partnerships. (p. 10)
  - Member States should remove cross-border bottlenecks in infrastructures.

► **Increasing industrial innovation**
- Europe is not "good enough" (p. 12) at turning innovative ideas into marketable goods and services. To change this, the Commission has presented the "Innovation Union" flagship initiative [COM(2010) 546; see CEP Policy Brief], outlining its ideas for a European innovation model.
- The Commission emphasises its strategy to identify and promote so-called "key enabling technologies" [COM(2009) 512; s. CEP-Analyse], which it intends to continue addressing in future.

► **Modernising industry in the context of climate change and financial crisis**
- In order to combat climate change, Europe must "speed up" its "transition" to a low-carbon and energy-efficient economy (p. 19).
  - The Commission will examine the possible extension of the Ecodesign Directive on environmentally friendly product design (2009/125/EC; see CEP Policy Brief, in German only) to "new products".
  - In stipulating new environmental rules, the Commission would like to explicitly take into account the costs and burdens for industry through "smart regulation": a possible transfer of CO_2 emissions to countries outside the EU ("carbon leakage") and competitive disadvantages for EU industry are to be avoided.
  - As a result of EU emission trading, energy costs will increase. Therefore, the Commission wishes to provide "appropriate compensation" (p.30) to "energy-intensive industries" (p. 29) through state aid. To this end, it would like to modify state aid rules.
- Globalisation and the financial and economic crisis lead to industrial restructuring.
  - The Commission will revise the Rescue and Restructuring Guidelines (2004/C244/02 and 2009/C156/02).
  - Amongst other things, the Commission will support the measure that monies from the European Globalisation Adjustment Fund [Regulation (EC) No. 1927/2006] will be provided for retraining and other unspecified, active labour market measures (p. 22).

► **Global aspects in industrial policy**
- Emerging nations sometimes rely on protectionist measures in order to create growth. This includes, for instance, hidden subsidies, discriminatory public procurement and "poor" enforcement of social and environmental protection rules. Therefore, the Commission will continue "to monitor" such tendencies and, where necessary, apply undefined "trade defence instruments" (p. 17).
- A "secure, affordable, reliable and undistorted access" (p. 18) to raw materials is essential; this should be secured through international agreements with, for example, African countries. Moreover, the search for alternative energy sources and the reinforced use of domestic primary raw materials (e.g. natural gas) reduces Europe' s dependence on non-EU countries.

► **Sector-specific measures**

Although "all sectors are important", the Commission announces specific initiatives for "certain types" of sectors (p. 23).
This applies in particular to the following sectors:
- The textile, clothing and leather industry: the Commission wishes "to promote new business concepts and related manufacturing technologies" (p. 29).

– The chemicals industry: together with the "High Level Group on the competitiveness of the chemicals industry" the Commission wishes to explore this sector can contribute to overcoming the "critical societal challenges through the Innovation Union" [COM(2010) 546; see CEP Policy Brief].
– Agro-food industry: although this sector is "highly" competitive (p. 28), the Commission will continue to commit itself to food supply chain efficiency [COM(2009) 591; see CEP Policy Brief]. It criticises, amongst other things, imbalances in bargaining powers between agro-food manufacturers and retailers.

Statement on Subsidiarity by the Commission

In order to cope successfully with the challenges to the European industry, "uncoordinated national policy responses must give way to coordinated, European policy responses". (P. 31)

Policy Context

The "integrated industrial policy" is one of seven flagship initiatives within the framework of the strategy "Europe 2020". The "Europe 2020" strategy – a successor of the failed Lisbon strategy – is to "turn the EU into a smart, sustainable and inclusive economy" [COM(2010) 2020, p. 3; see CEP Policy Brief].
Since 2003, the Commission has been drawing up publicly accessible so-called impact assessments prior to essential legislative proposals, and since 2006 it has been submitting them to internal advisory bodies (so-called Impact Assessment Board). Since the end of 2007, an external High Level Group for cutting red tape has been advising the Commission as to how to reduce costs incurred through existing EU legislation.
The Council has failed to agree on language rules regarding an EU patent (see CEP Monitor, in German only). So far 12 Member States have as a result agreed to reinforced cooperation (Art. 20 TEC in conjunction with Art. 326–334 TFEU): in those countries patents can be registered either in German French or English.

Options for Influencing the Political Process

Leading Directorate General: DG Industry

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

By waiving "major spending programmes" and focussing on the establishment of efficient framwork conditions, the Commission is mainly **taking the reasonable ordoliberal approach** and leaving it – and rightly so – up to companies to act autonomously within the framework.
The framework conditions, however, should be the same for all companies, irrespective of the sector concerned. There is no justification for the **sector-specific measures announced by the Commission for individual sectors,** for these **carry with them the risk of market distortion**. The same applies to the promotion of so-called "key enabling technologies".
Fostering "new business concepts and related manufacturing technologies", for instance, in the textile, clothing and leather industry should therefore be firmly rejected. It is the task of the enterprises of this sector to ensure economic survival by developing competitive products.
In addition to this general criticism, the single industrial policy projects are assessed as follows:
The proposed taking into account of "cumulative impact of legislation" contributes to the cutting of red tape in a more efficient manner than does an isolated consideration of single legal provisions.
The High Level Group for cutting red tape not only has considerable experience in this but has also – as the Commission says itself - (see MEMO/10/654) – been very successful. It is all the more surprising that the Commission does not mention this High Level Group at all.
Impact assessments on major policy projects help to improve the basis on which the Commission makes decisions and to limit regulation in advance to the necessary minimum.
To date, the Commission has controlled itself through the internal Impact Assessment Board. Even if the Board's criticism leads to improvements in single impact assessments, the Commission does not always address all issues concerned. Moreover, the Commission can direct the results of the impact assessments in any political direction it wishes. Therefore, an independent examination of the impact assessments is indispensable. This would force the Commission to present convincing impact assessments at all times and thus improve the decision basis for legislative proposals.
Whether the current practice of granting credits to companies is "normal" or "abnormal" cannot be assessed under objective criteria. The simple comparison that the Commission appears to be making between the current practice of credit granting and that of before the outbreak of the financial and economic crisis is extremely problematic. After all, it was high-volume credit-granting that led to the outbreak of the crisis. Consequently, the Commission should not speak too hastily of "market failure" or propose state aid when discussing finance for business; rather, general financing conditions should be improved. Hence, the Commission's announcement to improve the efficiency of venture capital markets and its call for foreign state funds operating transparently is to be welcomed.

An EU patent reduces the costs for granting patents by limiting translation requirements to the necessary minimum. The "reinforced co-operation" agreed between 12 Member States is an appropriate solution to the deadlocked negotiations in the Council. Further Member States should join.

The announced **fight against counterfeiting and piracy at home and abroad** improves the enforcement of intellectual property rights. Thus it **increases the incentives to develop innovative products**.

Standards prescribed at EU level can distort competition to the benefit of individual companies. Therefore, standards should always result from competitive processes. Only in such a form is the Commission's commitment to a "competitive standard-setting process" to be welcomed.

Impact on Efficiency and Individual Freedom of Choice

The extension of the Ecodesign Directive to new products is to be firmly rejected in the context of European emissions trading (EU ETS) with politically prescribed CO_2 caps: though **expensive ecodesign requirements** can help reduce the energy consumption of individual products, they **do not lead to any savings in CO_2 emissions**. For the saved emissions certificates are being sold to companies from other sectors. As a result they subsequently emit more CO_2 (see CEP Policy Brief of the Ecodesign Directive).

On the one hand, the efficiency of EU ETS is reduced where Member States grant State aid for an "appropriate compensation" for the higher energy costs resulting from EU ETS. After all, EU ETS is meant to lead to this increase in energy costs to set incentives for energy savings. State aid would be contradictory to that and it would no longer be guaranteed that CO_2 reduction is achieved economically where it is cheapest. On the other hand, in certain energy-intensive sectors, there is in fact a risk of ("carbon leakage" due to the EU ETS-related increase in energy costs: global levels of CO_2 emissions remain the same but EU employment levels are lower. In such a case, state aid can become inevitable. This dilemma in EU climate protection will prevail as long as emissions trading does not become global and "carbon leakage" remains a realistic risk (see CEP Analysis on EU climate protection, p. 15, in German only).

Impact on Efficiency and Employment

An unnecessarily expensive adjustment to the climate protection target is hostile to growth and employment.

Impact on Europe as a Business Location

Improved framework conditions in the form of an appropriate regulation, efficient (venture) capital markets and a better protection of intellectual property rights increase the quality of Europe as a business location.

Legal Assessment

Legislative Competence

Unproblematic. Together with the Member States the EU should "ensure" the necessary preconditions for the industry's competitiveness. To this end, the EU may adopt measures supporting the Member States. Such measures must be oriented towards a system of "open and competitive markets". (Art. 173 TFEU)

Subsidiarity

Currently not evaluable.

Proportionality

Currently not evaluable.

Compatibility with EU Law

In order to avoid "carbon leakage", Member States may take "financial measures" to compensate for the increase in energy costs caused by the EU emissions trading, provided they are in line with the rules for state aid (Art. 10a (6) of Directive 2003/87/EC on EU ETS). The Commission has not yet adjusted its guidelines on environmental State aid (2008/C 82/02) to this regulation. The granting of State aid for the compensation of increased energy costs caused by EU emissions trading is therefore subject to legal uncertainty.

Compatibility with German Law

Currently not foreseeable.

Conclusion

Forgoing "major spending programmes" and focussing on the establishment of efficient framework conditions is reasonable from an ordoliberal standpoint. However, they should apply equally to all companies. Therefore, the Commission should forgo sector-specific measures; they bear the potential for competitive distortion. Combatting counterfeiting and privacy at home and abroad increases incentives to develop innovative products. The extension of the Ecodesign Directive to new products increases the costs of climate protection unnecessarily and does not lead to any CO_2 emissions savings.