

TERMS OF REFERENCE: Doc EXP 001 Rev. 1 (30th January 2009)

Expert Panel for the Review of the European Standardisation System (EXPRESS)¹

I. BACKGROUND

Standardisation in the EU is a voluntary cooperation amongst industry, users, public authorities and other interested parties managed by independent organisations with the support and involvement of standardisation stakeholders.

Over the last two decades European standardisation has successfully contributed to the implementation of European policies and legislation. This refers in particular to the Internal Market legislation following the "New Approach" concept in major industrial sectors as well as to an increasingly large collection of other EU legal acts. The role of European standardisation in support of EU legislation has been recently confirmed in the legislative package providing for a common framework for marketing products². Furthermore, the Commission has reiterated in its recent Communication on standardisation and innovation³ as well as in a number of other policy initiatives⁴ the substantial contribution that standardisation is expected to make to European competitiveness, innovation and other policies.

The Competitiveness Council has endorsed and enlarged the Commission's proposals in its Conclusions of 25.9.2008⁵

The legal foundation for European standardisation has been laid down in Directive 98/34/EC which recognises the 3 European standardisation organisations (ESOs) CEN, CENELEC and ETSI and enables the Commission to request them to undertake standardisation work. Directive 98/34/EC provides the key features for the current European standardisation system. Standardisation in the ICT sector has been framed by Council Decision 87/95/EEC.

This legal framework has not been reviewed since its adoption. It has, however, contributed to the successful establishment of European standardisation, enabling the development of the European standards needed by all economic actors for the European market and supporting the ever increasing needs of European legislation and policies.

¹ After discussions in its first meeting on 21/01/2009, the EXPRESS Panel endorsed these Terms of Reference, noting that the sub-points in section V are indicative, that the ToR do not prescribe the structure of the future EXPRESS report and that the ToR should also take into account the key issues identified by the Panel during its first meeting. The Panel noted furthermore that the impact of the current economic crisis on European standardisation is not covered by the ToR and that this should be considered as appropriate.

² Decision 7681/2008/EC, OJ L218, 13.08.2008, p. 82

³ Communication (2008)133 of 11.03.2008 "Towards an increased contribution from standardisation to innovation in Europe

⁴ Communication (2007) 860 "A lead market initiative for Europe"; COM(2008) 394 final "Think small First", A "Small Business Act" for Europe

⁵ Council Conclusions on Standardisation and Innovation of 25.09.2008

II. CHALLENGES FOR EUROPEAN STANDARDISATION

Since the setting up of the current European standardisation system, the general framework conditions influencing the impact of standards and their development and use have changed significantly. European standardisation has to cope with a number of important changes and new challenges in order to remain successful:

- * the current need for standards in Europe is in essence being determined by the European and the world market and by European or international policy. On the other hand, the structures of the present system are based, for CEN and CENELEC, on the membership of national standards bodies;
- * stakeholders of national and European standardisation have identified an increasing need for the use of dynamic standardisation as an important enabler of innovation;
- * there is a growing need for international standards to be developed with the initiative or earliest possible involvement of European stakeholders;
- * emerging economic powers are increasingly involved in the setting of standards for the global market;
- * formal standardisation is being confronted with an increasing scarcity of knowledge, expertise and available resources. At the same time, industry relies on informal fora and consortia with a global or regional reach to set up new standards needed due to technological change. In the ICT area the overwhelming majority of current standards is being developed by informal standardisers;
- * technological change, shorter product cycles, the convergence of technologies and the trans-sectoral uptake of ICT require more expedient standards-setting close to the development and marketing of new products and services;
- * European Standardisation could play a more prominent role in fostering the transfer of knowledge resulting from research and thus facilitate innovation;
- * the issue of standards involving patented technology comes ever more to the fore. In practice, it is difficult to avoid including technology-specific elements in standards, and those elements may then be covered by IPRs. Are standards in reality not performance-based to the extent that could be wished?;
- * whilst SMEs form the backbone of the European economy, their involvement in standardisation does not correlate to their economic importance;
- * formal standards are considered a public good. Therefore standards responding to societal needs must be developed with all relevant stakeholders involved. The question of accountability of standardisation is being raised.

In the light of these new framework conditions for standardisation, it has become necessary to review the current European standardisation system and to reform it in order to adapt it to the needs of the forthcoming decade; the European standards bodies themselves have already begun reform initiatives, which are welcomed. Standardisation policy in the area of ICT is subject to an ongoing review. The entire European standardisation system, its functioning, coherence, financing and legal framework should be reviewed and reformed where necessary.

This reform should be built on what has been successful so far and focus on those aspects which require a change.

III. SETTING UP OF AN EXPERT PANEL

In its recent Communication on standardisation and innovation⁶, the Commission has committed to develop, in close co-operation with private and public stakeholders strategic recommendations for the coming decade. The Council in its Conclusions on standardisation and innovation of 25 September has supported this proposal⁷.

Therefore the Commission envisages setting up, after discussion with the Senior Officials' Group on Standardisation and Conformity Assessment Policy (SOGS), such an independent Expert Panel.

The Commission will keep SOGS, and the European industries' federations that are most concerned, periodically informed of the discussions and exchanges of the Panel.

IV. OBJECTIVE AND ROLE OF THE PANEL

The primary objective of the Panel is to deliver a report on '2020: outlook for European standardisation', as noted in section VI.3 below. The report should contain strategic deliverable recommendations which move towards a more integrated European system allowing European standardisation to capitalise on its strengths and values in the global standardisation context.

The discussions of the Panel should not duplicate the work carried out by the ICT standardisation policy Steering Committee, and its report should take full account of the proposals for a revised EU ICT standardisation policy to be made in the forthcoming White Paper on ICT standardisation policy.

The recommendations should refer to measures to be taken by the Commission, Member States, standardisation bodies and stakeholders in relation to the European standardisation system and its functioning.

The Panel should address its mandate as outlined in these terms of reference.

⁶ See footnote 2

⁷ See footnote 4

The membership of the Panel shall follow VI.1 below.

The Commission will take utmost account of the Panel's recommendations and of the advice on policy matters provided by SOGS in view of forthcoming policy-making and any potential legislative proposals, currently foreseen to be presented by the Commission in 2010, following the main principles and tools of the Better Regulation policy.

V. ISSUES TO BE ADDRESSED BY THE PANEL

1. EFFICIENT AND EFFECTIVE STANDARDS-SETTING AND IMPACT OF STANDARDS

Which reform measures of the current European standardisation system should be undertaken to make sure that Europe has at its disposal an active, efficient and effective standards-setting capability able to satisfy the standardisation needs of the European and global markets and to support European policies and legislation?

- 1.1 How can market needs for standards-setting best be addressed bearing in mind the involvement of stakeholders at national and European level? How can the standardisation process take into account the interests of all the stakeholders (SMEs, societal interests as consumers, environment, employees, etc)
- 1.2 How can the scarcity of resources, knowledge and expertise be improved, bearing in mind the complementarity between formal and informal standardisation?
- 1.3 What should be the role of standards of fora and consortia in the context of European policies?
- 1.4 To what extent are the reform steps identified for ICT standardisation also relevant to other fields, given the increasing trend of convergence of technologies and the integration of ICT into products, processes and services?
- 1.5 How can the impact of existing standards and their use be further improved?
- 1.6 Could a voluntary compliance marking to European standards contribute to increase the impact of such standards? Which steps need to be undertaken to improve the current situation (e.g. in relation to the key marking system)?
- 1.7 Could the efficiency and timing of the formal process of the development of mandated standards (from the preparation of the mandate to the publication of the references of the standard in the Official Journal) be improved?

2. ACCESS TO STANDARDISATION AND TAKE-UP FOR INNOVATION

Which recommendations can be made to improve the access of stakeholders to standardisation?

- 2.1 Which recommendations refer to the standardisation process, decision-making, transparency of participation and balanced representation?
- 2.2 How can action at European and national level improve access to standardisation for groups of stakeholders facing particular difficulties in this respect of access be addressed (e.g. innovative and high growth companies for incorporation into innovative solutions; societal NGOs)?
- 2.3 How can the access to standardisation for, and use of standards by, SMEs be improved?
- 2.4 Which recommendations can be made aiming at facilitating the access to standardisation deliverables (e.g. reduction of the costs of the purchase of standards, review of the current business models, availability of abstracts, documents, search tools)?
- 2.5 Which actions need to be taken in order to improve the transfer of knowledge and know-how resulting from research to standardisation?
- 2.6 Which recommendations can be made on how the take-up of standardisation deliverables by innovative and high growth companies that are not part of the standardisation process can be facilitated?
- 2.7 How can IPR and standards be used together (“proprietary vs. non-proprietary standards”) in a way that promotes innovation, while respecting competition rules? Could approaches such as timely disclosure of IPRs, and *ex ante* declarations of maximum royalty rates be generally recommended?

3. GLOBAL CHALLENGES

How can European influence on the setting and use of international standards be maintained and further strengthened?

- 3.1 How can the external visibility and identity of European standardisation be more effectively strengthened, bearing in mind the currently ongoing visibility activities at both national and European level?
- 3.2 What should be the role of European and national standards bodies and the Commission/Member States with regard to the setting up of information exchange and early warning procedures relating to standardisation activities vis-à-vis third countries (e.g. EU-China information platform)?
- 3.3 Which actions need to be taken in order to increase the timely involvement and influence of European stakeholders in international standardisation and to strengthen the use of international standards?
- 3.4 Taking account of the existence of a significant number of standards-setting organisations with claims to an international reach, how can the role of the international standards bodies ISO, IEC and ITU be strengthened?

4. FINANCING OF EUROPEAN STANDARDISATION

Which recommendations can be given in order to ensure sustainability and viability of financing the European standardisation system?

- 4.1 Which functions and activities should be best financed by whom?
- 4.2 Which standardisation functions and activities require or justify a financial contribution from the public authorities (Commission, EFTA and Member States) and to which extent?
- 4.3 Which recommendations can be given relating to the funding of standardisation based on the delivery of services by standardisation bodies?
- 4.4 Which recommendations can be given to the private and public stakeholders with respect to accelerating the procedures for the financing of the European standardisation system?

5. LEGAL FRAMEWORK FOR EUROPEAN STANDARDISATION AND RESULTING ORGANISATIONAL OUTPUT

Taking account of the recommendations in relation to the previous sections, which recommendations can be made regarding the review of the current legal framework for European standardisation?

- 5.1 Is there a need to review the current list of recognised European standards bodies?
- 5.2 Should the instrument of issuing standardisation mandates be reviewed (e.g. relating to the addressees of mandates, procedures)?
- 5.3 Should the standardisation principles (transparency, openness, impartiality, consensus, effectiveness, relevance, coherence) be incorporated into the legal framework, if at all?
- 5.4 Are there issues surrounding the accountability of standardisation bodies at European and national level?
- 5.5 How can the overall coherence of the European standardisation system and the legal framework be ensured?
- 5.6 Is there a need to revise Decision No. 1673/2006/EC relating to the financing of European standardisation?

VI. COMPOSITION AND FUNCTIONING OF THE PANEL

1. COMPOSITION

The Panel will consist of around 30 members nominated ad personam by DG Enterprise and Industry. Panel members will not represent any organisation or institution to which they belong. They will be selected due to their capacity and experience in connection with strategic aspects of European standardisation and shall be senior experts who can share their strategic views on European standardisation.

They should belong or have belonged to one of the following groups: European and national standardisation bodies, industry, SMEs, NGOs representing civil society, academia or public authorities from Member States.

The membership of the Panel should be based on a balanced representation. The panel will also be attended by Commission officials.

2. CHAIRPERSON

The meetings of the Panel will be chaired by DG Enterprise and Industry.

3. DELIVERABLES AND MEETINGS OF THE PANEL

The Panel should present by the end of 2009 a final report containing strategic recommendations on "2020: outlook for European standardisation". The panel will start its work in mid-January and meet in 7 one-day meetings: 2-3 of them (except the first and last) could take place at "Sherpa" level. In addition to the plenary Panel meetings there might be a number of working group meetings focussing on one or several of the subjects of the mandate. To these working group meetings the Panel can co-opt a limited number of experts.

In mid-October 2009, the Commission will organise an open Conference where the Panel can present to all interested stakeholders the provisional findings and recommendations (see attached draft roadmap).

During 2009 the Commission will periodically inform the Member States through SOGS and the 98/34 Committee.

4. MANAGEMENT OF THE PROCESS AND SECRETARIAT

Whilst the report of the Expert Panel will contain independent recommendations to the Commission and other stakeholders, DG ENTR will manage the administrative process in support of the Expert Panel. This will include providing as necessary input papers to the Panel and working groups and minutes or other appropriate records of meetings.

The Commission will also be in charge of the organisation of meetings and provide secretarial assistance.

The Panel report will be prepared by an independent rapporteur, who will work on its behalf. This report can incorporate individual positions by those Panel members who would not agree with all or parts of the Panel report.

The working language of the Panel will be English.

VII. REFERENCE DOCUMENTS (in chronological order)

1. Study report on ICT standardisation of July 2007
2. Commission Communication COM(2008) 133 of 11 March 2008 : "Towards an increased contribution from standardisation to innovation in Europe"
3. COM(2008) 394 final "Think Small First", A "Small Business Act" for Europe
4. Council Conclusions on standardisation and innovation of 25 September 2008
5. White paper on ICT Standardisation, available in February-March 2009
6. DG ENTR Study on access to standardisation, available in March 2009
7. ESOs' report on SMEs' access to standardisation; foreseen for March 2009
8. Common objectives of CEN, CENELEC, ETSI, Document 776 of 57th JPG meeting