

Brussels, 13/11/2009
C/2009/8955

Dear Mr Durkan,

Thank you for your opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Annual Policy Strategy for 2010 {COM(2009)73}.

In line with the Commission's decision to encourage national Parliaments to react to its proposals to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's response and hope you will find this a valuable contribution to your own deliberations.

I look forward to developing our policy dialogue further in the future.

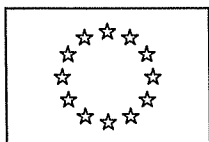
Yours sincerely



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EUROPEAN COMMISSION

Brussels, October 2009

COMMENTS OF THE COMMISSION ON AN OPINION FROM THE HOUSES OF THE OIREACHTAS

COM (2009)73 FINAL – ANNUAL POLICY STRATEGY FOR 2010

The European Commission thanks the Oireachtas Joint Committee on European Affairs for having examined the Annual Policy Strategy (APS) for 2010 and for having provided an opinion on the policy priorities to be taken forward in 2010. This opinion is a helpful and constructive input to the preparation of the Commission's Legislative and Work Programme for 2010. The Commission's comments on specific points raised are presented below.

The Commission shares the overall view expressed by the Joint Committee, namely that two major priorities addressed in the comments - economic and social recovery and a sustainable Europe/the fight against and adaptation to climate change - are mutually reinforcing and must be approached as such.

Economic and Social Recovery

Implementation of the European Economic Recovery Programme must continue with vigour, keeping interest rates low, and using our state aid rules to support governments in their efforts to revitalise the economy without adverse effects in other Member States. It is too early to withdraw the stimulus and support measures to the economy and the financial sector, but an exit strategy must be prepared. The room for further stimulus to demand in the EU is very limited, as a further, generalised fiscal expansion could meet with adverse reactions from the financial markets. At the same time, there must be no contradiction between the short term measures taken today and the long-term sustainability and competitiveness of the European economy. The ongoing efforts of the Commission to coordinate at the European as well as the global level on these issues will continue, including in the context of the G20.

The Commission thanks the Joint Committee for the support to prioritise the implementation of the De Larosière report on **financial regulation and supervision**. As announced in the 4 March 2009 Communication 'Driving European Recovery', the Commission is engaged in an ambitious programme of reforms to reinforce the regulation and supervision of financial services in Europe.¹ On 23 September the Commission tabled proposals to create a European Systemic Risk Board (ESRB) which will monitor and assess potential threats to financial stability and recommend remedial actions and a European System of Financial Supervisors (ESFS) with three new European Supervisory Authorities, for banking, securities and insurance and pensions. The ESFS will be aimed at upgrading the quality and consistency of

¹ COM(2009) 114 final

supervision of individual financial institutions across Europe. The new arrangements should be up and running in 2010.

As concerns the regulatory reforms, one essential issue is the strengthening of the **prudential requirements for banks**. The Commission's proposal of 13 July aims to reinforce capital requirements for banks' "trading books" (i.e. assets held by banks for short term resale). It upgrades capital requirements for "complex re-securitizations", which played a role in the aggravation of the crisis. Furthermore, it sets out specific rules on **remuneration** policies, giving effect to the Commission recommendations on remuneration in the financial sector adopted in April and giving supervisors the right to check and sanction banks which do not have appropriate incentives packages that encourage long-term sensible risk management.

To fill in an important gap in the EU regulation, the Commission has presented a proposal for a Directive on **Alternative Investment Fund Managers (AIFM)**. All fund managers in the EU will be authorised and subject to ongoing supervision. The proposal covers the managers of hedge funds, private equity and other types of institutional fund. Initial discussions on the AIFM in the Council Working Group revealed broad support for the principle of a new Directive in this area but also highlighted some of the topics that will be particularly contentious and on which work will continue constructively under the Swedish Presidency.

As regards the **Single Market**, the Commission has in November 2007 set out a package of initiatives - the Single Market Review (SMR) - to modernise the European Single Market and to bring more benefits to Europeans, building on past successes. The Single Market Review put citizens, consumers and SMEs at the centre of policy-making and set out a new approach to the Single Market policy. For companies, and particularly SMEs, Single Market policy has now prioritised lower costs and administrative burdens, simpler company rules and better access to markets in other Member States. The Commission has also tabled a proposal for a simple, single company statute. The President's Political Guidelines for the next Commission announce an important initiative to rebuild momentum in the internal market and ensure it is fit to continue to be the powerhouse of the European economy in years to come. At the heart of this exercise will be a major analysis of the "missing links" where the potential of the Single Market can be further realised.

Concerning VAT rules, the Joint Committee recommends that new VAT rules for cross-border business should be introduced to shift the place of VAT taxation to where services are consumed, to replace the existing rules based on the location of supplier. In this respect, the Commission wishes to point to the following. Two Directives, one on the place of supply of services, the other on VAT refunds, were adopted by the EU Council of Ministers on 12 February 2008.² These will ensure that VAT on services will accrue to the country of consumption, and will establish a new procedure for claiming VAT refunds to ensure quicker processing. These new rules will enter into force as from 1 January 2010 and will generally ensure, as the Joint Committee recommends, taxation at the place where services are consumed. These new rules, combined with the simplified reimbursement procedure of VAT to non established EU business, will further facilitate intracommunity transactions and insure a better functioning of the Internal Market.

² COUNCIL DIRECTIVE 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services. COUNCIL DIRECTIVE 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State. For more information see also the press release (IP/08/208).

The Commission welcomes the interest of the Irish Parliament in the issue of best practice in business banking. It is important to point out that it is a matter for banks to decide on their particular lending practices towards SMEs, as long as they adhere to the regulations in force. The Commission's role in the field is to facilitate the exchange of good practices between banks and follow-up the development of SME lending markets. The Commission thus is not in a position to generate good practices, as business models are a matter for individual banks.

The use of collateral has become even more relevant for banks in the wake of the financial and economic crises. Indeed, banks have tightened up their collateral and other non-financial lending requirements towards enterprises. Member States in turn have introduced guarantees and other support measures to ensure the continued flow of credit to SMEs. The Commission has been following these developments and maintains a regular dialogue with representatives of SMEs about banks' lending practices to SMEs and their use of collateral

As regards Electronic market-alert system for business of EU decisions, the Commission agrees with the Irish Parliament that keeping businesses informed about all kinds of EU initiatives is indeed a major driver to market goods and to provide or access services in the single market. For this purpose, the Commission deployed the Enterprise Europe Network consisting of 569 partners providing services to European SMEs in 44 countries in the EU, EEA and other major economic areas. One of the major objectives is to provide tailored business support services to companies, helping to set up business and technological partnerships, informing companies on EU legislation, programmes and possibilities to participate in research programmes. About the latter, the Executive Agency for Competitiveness and Innovation (EACI) is publishing a weekly Bulletin which is disseminated primarily to Network partners. A weekly "EU Services Bulletin" is prepared by the EACI with an overview of new EU initiatives, decisions changes affecting SMEs, Network partners compile this information within their communication towards their clients directly reaching about 2.5 million SMEs. Finally, the Network gives Europe's SMEs an opportunity to make their voices heard and turn the Network into the Commission's "eyes and ears" in the SME community. The Network operates mechanisms to listen to SMEs and test the impact of EU legislation and programmes – either with specific SME panels and online consultation panels (EBTP)³, or via the SME feedback mechanism. SME's were for example consulted on the detergents and phosphates directive, effectiveness of innovation support and the economical crises in the tourism sector.

Concerning public procurement, the Commission shares the expectation expressed by the Joint Committee that a general move to electronic based communication and procedures offers great potential for promoting transparency and competition both at national level and across the EU. It can reduce transaction costs and delays associated with public tendering and facilitate competition for public contracts by a wider range of bidders. For example, every day, public procurement business opportunities worth almost € 1 billion are added to the Commission's TED-Tenders Electronic Daily database (<http://ted.europa.eu>), where all calls for tender in the EU are published. However, the benefits of e-procurement are not confined to the notification and qualification phases of the tender procedure – phases where electronic communication is now already extensively used. The objective should be to ensure the possibility for authorities and tenderers to complete all phases of the tender procedure on-line – from competition advertisement via the submission of tenders to final invoicing and payment, including across borders. Technical solutions to permit the electronic completion of

³ EBTP European Business Test Panel <http://ec.europa.eu/yourvoice/ebtp>

procedures are coming on-stream, and some of them are being tested in a cross-border context (cf. the cross-border PEPPOL project whose pilot phase will be completed by end-2009).

In the APS 2010, the uniform application of the Community customs law appears as first item under the heading "implementation of the acquis". In this context, the Commission pays special attention to customs classification. During 2010, one of the steps which will be taken to that effect is the strengthening of the provisions on Binding Tariff Information on the occasion of the adoption of the implementing provisions of the Modernised Customs Code. Binding Tariff Information is issued on request to economic operators by the customs authorities of the Member States and valid throughout the Community, regardless of the Member State which issued it. The main benefit to the holder is legal certainty with regard to tariff classification.

In the area of retail, the Commission has been working on a retail monitoring exercise as an integral part of the post 2010 Lisbon strategy which stems from the Single Market Review. The objective of the work on monitoring of retail services is to identify market malfunctioning on the basis of empirical evidence both from consumers' and suppliers' perspectives. The aim is to identify barriers including regulatory ones that might need to be addressed (by national or European actions) to allow the sector to achieve its Internal Market potential. The exercise is also examining the key role of these services in terms of creating employment opportunities in the current recession as well as in identifying those consumer markets where suppliers should invest. In particular, the Commission is looking at the role that retail services can play in the "greening" and "sustainable" development of the Internal Market through their investment and promotion of independently certified/audited ethical sourced products. The outcome of the market monitoring exercise is expected to be presented in early 2010.

The Commission will pursue the initiatives set out in the Communication on a "Small Business Act for Europe" (SBA), to support SMEs which play a key role in creating jobs and growth in Europe and should seek new ways of giving new dynamism to small and medium size enterprises, by pursuing issues such as late payments, a private company statute and the implementation of public procurement rules inside the EU, and by supporting the efforts of SMEs to internationalise in major growth markets round the world. In the context of the SBA, the Commission has published on 25 June 2008 a European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts. This Code of Best Practices is expected to help in two ways, first, in showing how to make an SME friendly use of the provisions of the EC Public Procurement Directives; second, in highlighting a number of SME-friendly rules and practices at national level, gathered through consultations with Member States and other stakeholders. The Code has been well received by stakeholders and has been endorsed by the Competitiveness Council which called on Member States to adopt strategies at national level to give effect to the Code.

The Commission fully agrees with the Joint Committee on the importance of pursuing the objectives in the **Lisbon Strategy** for growth and jobs in order for Europe to be in a strong position to exploit fully the opportunities that will emerge as the world economy begins to recover. The current Lisbon strategy needs to be revised to fit the post 2010 period. The Commission has launched a reflection on such a review of the Lisbon strategy, working with Member States' National Lisbon Coordinators over the last 18 months. This work will be pursued.

Later this year, the Commission will also launch a wide-range consultation in order to collect views from all interested parties and institutions on how to better align the direction of the future Lisbon strategy to the current and future challenges, as well as on ways improving the effective implementation of measures to achieve the agreed objectives (notably by looking at the "governance" arrangements). Strong involvement of all interested parties and institutions at EU and national level, as well as that of national parliaments, social partners, regional and local authorities, stakeholders, the academic world and last but not least from the citizens of Europe will be essential in ensuring a better delivery of the future Strategy. The results of this consultation will then be taken duly into account when drawing up the Commission proposals which the next Commission should present in time for adoption by the 2010 Spring European Council.

The European Commission widely subscribes to the views of the Joint Committee on the challenges to be addressed as part of the reflection on the future Lisbon strategy, building on the substantial efforts conducted over the last few years notably in the area of education and skills, R&D and innovation. Faced with an unprecedented economic crisis and with the need to remain competitive in a globalised world, Europe's best way to success is indeed to innovate more, move up the value chain and tap new sources of growth, in particular "green" growth. Examples of excellence have been put into place to help us become a knowledge-based society, like the European Research Council and the European Institute of Innovation and Technology (EIT). The share of the EU budget that is spent on research and innovation has been increased and we are working with Member States to raise the share of national and private funding in these areas. We need to stretch ourselves to find new ways of combining our resources to make a reality of the European Research Area. The Commission agrees with the Joint Committee on the central role that R&D plays in meeting the Lisbon objectives.

Climate change and sustainable Europe

Climate change and sustainability constitute major challenges for the international community, and the Commission fully agrees with the Joint Committee on the need for the EU to take lead in the search for solutions. In this vein, the Commission likewise concurs on the importance of urgently adopting all necessary secondary instruments in follow-up to the climate change package and fully supports the Swedish Presidency to this end.

At the same time, the Commission fully shares the view of the Joint Committee that climate change and sustainability offer immense opportunities for future growth and job creation in the enterprise sector. It considers that as far as Community funding and co-financing of projects is concerned, the recent amendment of the Structural Fund Regulation, which increases the availability of regional funds for the purposes of energy efficiency, have prepared the ground. In its up-coming revised Energy efficiency action plan, the Commission will make further proposals.

With regards to energy infrastructure, the Commission intends to propose in 2010 a new Funding mechanism, which will build upon the trans-European Networks for Energy. The Commission will also further develop its policies for the promotion of Carbon Capture and Storage, as well as Renewable Energy Technologies.

Finally, with regards to R&D, the Commission has adopted the Green Cars initiative as a first step for Electric vehicles and Plug-in Electric Hybrid Vehicle development and commercialisation. It will continue work on this subject.

Other topics

The Commission agrees with the Joint Committee that the **fight against organised crime** will be a priority in the coming years, which will require concerted action at European and national level. Reference is made to the Commission's communication issued on 10 June 2009 entitled "An area of freedom, security and justice serving the citizen".⁴

As regards **enlargement**, the Commission is of the view that the enlargement process must continue to be based on the own merits principle. This means that the pace of the countries moving towards accession must be based on their own political and economic reforms as well as their capacity to assume the rights and obligations of membership in accordance with the Copenhagen criteria. This will also be the guiding principle of the Commission when assessing new applications. At the same time, regional cooperation is an essential element of the Stabilisation and Association Process, the EU's enlargement policy for the Western Balkans. Concerning the **Middle East Peace Process**, the Commission takes note of the convergence of views with the Joint Committee as regards the EU's role in the region.

In September 2007, the Commission presented its general approach towards the **Budget Review** in its consultations paper entitled "Reforming the budget, Changing Europe". This paper has been subject to a broad based public consultation, the results of which are contributing to the preparation of the Budget Review, which the Commission is due to present by the end of 2009.

Finally, the Commission takes note of the particular interest expressed by the Joint Committee in the re-launching of multilateral trade negotiations as well as future reforms of the Common Fisheries Policy.

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⁴ COM(2009)262