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**Accompanying the Document
Communication of the Commission**

Social Business Initiative

**Setting-up a favourable ecosystem to promote social businesses
in the social economy and innovation**

This document highlights the actions already undertaken by the European Union with regard to social entrepreneurship (part 1) and outlines the actions (part 2) of third countries and international organisations (ILO, OECD, ITC).

1. ACTION BY THE EUROPEAN UNION IN FAVOR OF SOCIAL BUSINESS

1.1. Regulations on State aid

The general block exemption Regulation¹ gives automatic authorisation to a series of aid measures allowing Member States to grant aid without giving prior notification to the European Commission. In particular, it authorises aid for the recruitment of disadvantaged and disabled workers, which is especially relevant to social enterprises. This Regulation also authorises aid in favour of SMEs, research, innovation, regional development, training, employment and capital-investment. Environmental protection aid, aid measures promoting entrepreneurship, e.g. aid for young innovative businesses, aid for newly created small businesses in assisted regions, and measures tackling the problems faced by female entrepreneurs, such as access to financing, are also authorised. The Regulation greatly reduces the administrative burden on public authorities, beneficiaries and the European Commission. It should be noted that the 26 categories of aid covered by the Regulation apply to SMEs and, consequently, to the great majority of social entrepreneurship enterprises.

Pursuant to the Regulation on *de minimis* aid², aid not exceeding a ceiling of EUR 200 000 over a period of three fiscal years is not considered State aid and therefore need not be notified to the European Commission.

Some social enterprises that provide social services or are entrusted with the operation of services of general economic interest may, under certain conditions, benefit from the provisions of Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation³, and of Community guidelines for State aid in the form of public service compensation⁴.

Pursuant to the Decision and the guidelines, State aid in the form of public service compensation is considered compatible with the internal market if certain conditions are met. In particular, the public service obligations with which the enterprise is entrusted and the parameters for calculating the compensation must be specified. Furthermore, compensation must not exceed the amount necessary to cover the costs arising from the public service obligations.

The Commission has issued a guide to the application of rules on State aid to services of general economic interest, and in particular to social services of general interest, which could prove very useful to social enterprises that provide social services (or are entrusted with the operation of services of general economic interest). This guide also deals with the European Union rules on public procurement and the internal market.

¹ Regulation (EC) No 800/2008 of 6 August 2008, OJ L 214, 9.8.2008, p. 3.

² Commission Regulation (EC) No 1998/2006 of 15 December 2006 (OJ L 379, 28.12.2006, p. 5).

³ OJ L 312, 29.11.2005, p.67

⁴ OJ C 297, 29.11.2005, p. 4.

1.2. Public procurement rules

Recourse to the social clauses in public contracts can have a positive impact on social enterprises' access and can allow them to increase their societal added value. Social considerations may be included in each stage of public procurement (technical specifications, selection criteria, award criteria, performance clauses), although they must always be related to the subject matter and execution of the contract, and must uphold the fundamental principles of European Union law (equal treatment, transparency, etc.). In order to improve use of legal instruments, the Commission has produced an explanatory document: *A Guide to Taking Account of Social Considerations in Public Procurement*⁵.

The Green Paper on the modernisation of EU public procurement policy, published in January 2011, poses a number of questions on social aspects in both public contracts and social service contracts. It proposes a loosening of the link with the subject matter, the recognition of quality requirements when public purchasers wish to outsource social services via a public contract, and the relaxing of rules concerning certain aspects of public procurement of social services.

1.3. Taxation

As regards taxation, potential domestic support measures relevant to this area can consist either of tax advantages granted to social enterprises or of tax advantages to investors in social businesses. Under the current state of EU law, direct taxation falls essentially within the competence of Member States. Thus, Member States enjoy broad freedom in designing the tax treatment applicable to social businesses, including by granting tax incentives to the businesses themselves or for investment into such businesses.

Currently most Member States provide beneficial tax treatment for foundations/non-profitable organisations. If a social enterprise falls within such a definition, and is registered as such, it will also obtain this beneficial tax treatment. If a social enterprise chooses other objectives which do not fit in with the above definition, albeit still social objectives, it may not obtain this tax relief although the investors in this case may obtain other tax relief on their investment. With respect to tax advantages for investment in social enterprises, some Member States grant such benefits e.g. the Community Investment Tax Relief (CITR) in the UK⁶.

In any event, tax provisions adopted in this area should comply with EU State aid rules and the EU Treaty. The EU Court of Justice has explicitly ruled that a Member State cannot discriminate in respect of tax benefits between domestic and foreign foundations and between domestic and cross-border donations, provided that the foreign foundation in question meet the conditions laid down in that Member State for the grant of tax advantages⁷. It seems that this well-established case-law would apply by analogy to social businesses, if comparable domestic social businesses enjoy such beneficial tax treatment. Development of research in the social innovation sector

⁵ Buying Social. *A Guide to Taking Account of Social Considerations in Public Procurement*. 2011. <http://ec.europa.eu/social/BlobServlet?docId=6457&langId=en>

⁶ The CITR scheme gives tax relief for individuals and companies who invest in accredited intermediary organisations, which in turn invest in enterprises that operate within or for disadvantaged communities.

⁷ Case C-386/04 of 14 September 2006, *Centro di Musicologia Walter Stauffer v Finanzamt München für Körperschaften*. Case C-318/07 of 27 January 2009, *Hein Persche v. Finanzamt Lüdenscheid*

1.4. Development of research in the social innovation sector

For several years, the Commission has been financing a number of studies and projects aimed at acquiring a better understanding social entrepreneurship, and more generally, social innovation. Notable examples include:

- the WISE⁸ (Work Integration Social Enterprises) study financed by PROGRESS (the European Community Programme for Employment and Social Solidarity), involving the following countries: Austria, Belgium, Finland, Italy, Malta, Poland, Romania and Spain;
- a range of research projects supported by successive European R&D Framework Programmes, including in particular the SELUSI⁹ project (Social Entrepreneurs as Lead Users for Service Innovation), currently underway, financed by the Seventh Framework Programme, involving the following countries: Hungary, Romania, Spain, Sweden and the United Kingdom;
- research on the establishment of satellite accounts in the social economy sector¹⁰ following the work carried out by CIRIEC (International Centre of Research and Information on the Public and Cooperative Economy) on this subject¹¹
- the Social Innovation Initiative for Europe¹² concerning a feasibility study on the financing of social innovation via a 'European fund for social innovation', a report on the best practises and benchmarking in the field of social innovation, and a report proposing plans for a policy to promote social innovation in Europe, due in 2012.

1.5. Instruments used to train and develop the expertise of social entrepreneurs

In 2007, the Commission adopted a European reference framework of key competences for lifelong learning¹³. This provides support for the Member States regarding, in particular, the development of 'social and civic competences' and a 'sense of initiative and entrepreneurship'. The Commission finances educational projects at all levels via the 2007-2013 Lifelong Learning Programme¹⁴ and the 2007-2013 Youth in Action Programme¹⁵. -{-}

In this context, the ERASMUS Programme supports social entrepreneurship by favouring multilateral projects which develop social responsibility, and by supporting placements in social enterprises. ERASMUS also supports university structures which include social entrepreneurship in their programmes.

⁸ www.wiseproject.eu

⁹ www.selusi.eu

¹⁰ Call for Proposals ENT/CIP/09/B/N10S00

¹¹ Manual for Drawing Up the Satellite Accounts of Companies in the Social Economy: Co-Operatives and Mutual Societies. http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=3837

¹² Call for Tenders 40/PP/ENT/CIP/10/E/N02C011, http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=6117

¹³ http://ec.europa.eu/dgs/education_culture/publ/pdf/l1-learning/keycomp_en.pdf

¹⁴ http://ec.europa.eu/education/lifelong-learning-programme/doc78_en.htm

¹⁵ http://ec.europa.eu/youth/youth-in-action-programme/overview_en.htm

Exemple n°1. Trans-European Executive Programme in Corporate Social Responsibility¹⁶

The aim of this project is to develop the first training course in social and environmental responsibility, in conjunction with six European universities and with the participation of private partners.

Finally, within the framework of the Youth in Action Programme, the European Voluntary Service offers interesting opportunities for social entrepreneurs. A number of social enterprises have thus welcomed into their fold young European volunteers who bring with them the knowledge and skills acquired in business school or university. These voluntary placements enable young people to achieve a general interest objective while gaining practical experience and developing new skills.

1.6. Raising public and private sector funds for social business structures

Since February 2011, the European Progress Microfinance Facility¹⁷ (Progress Microfinance) has received funds from the Commission and the European Investment Bank.

It aims to 'increase access to, and availability of, microfinance for (...) micro-enterprises, especially in the social economy'¹⁸ and makes it possible to mitigate the effects of market failures for people who wish to launch or develop their business but are unable to find a bank willing to offer them such a loan¹⁹. Social enterprises are included in the target groups which receive EUR 100 million in guarantees and instruments. Added to this are other funding mechanisms, such as JEREMIE for structural funds and JASMINE for technical assistance.

In accordance with the Community Strategic Guidelines 2007-2013, European structural funds, particularly the European Social Fund, make it possible to support a number of initiatives central to the activities of social enterprises. Small and medium-sized enterprises, including social enterprises, may receive support in the form of equity, loans or guarantees. They may also benefit from the JEREMIE²⁰ initiative, which promotes access to finance for SMEs via Structural Fund interventions.

Since 2010, the JASMINE²¹ initiative has helped non-bank microcredit providers in Europe, many of which are social enterprises, to increase the quality of their procedures by combining technical assistance and financing measures.

Furthermore, insufficient recourse is still being made to the European Social Fund to benefit social enterprises, even though it allows aid to be allocated to this sector, with a particular focus on advice and professionalisation.

¹⁶ <http://www.csr-tempo.eu/>

¹⁷ Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion

¹⁸ PROGRESS has an initial budget of EUR 200 million The intermediary funding bodies selected by the European Investment Fund will give loans to micro-entrepreneurs. The first European micro-credit project began on 11 February. This initiative will allocate various types of funds to the Dutch Microfinance Institution Qredits to facilitate loans of over EUR 20 million to small businesses and persons who have lost their jobs and wish to set up their own company

¹⁹ The WISE Project (www.wiseproject.eu) has produced a report on work integration social enterprises and has prepared a set of guidelines. PROGRESS has also co-financed the operating costs of several organisations working for social enterprises. CECOP (the European Confederation of Workers' Cooperatives) until December 2010 and ENSIE (the European Network of Social Integration Enterprises) since January 2011.

²⁰ Joint European Resources for Micro to Medium Enterprises, http://ec.europa.eu/regional_policy/the_funds/instruments/jeremie_en.cfm

²¹ Joint Action to Support Micro-finance Institutions in Europe

Finally, the EQUAL community initiative has invested more than EUR 300 million in 420 partnerships, focusing on improving the regulatory environment of social enterprises, supporting the creation of new social enterprises, and improving access to financing and local development²².

The Competitiveness and Innovation Framework Programme (CIP²³) has several schemes and a budget of over EUR 1 billion to facilitate access to loans and equity finance for SMEs where market gaps have been identified. The CIP financial instruments are implemented for the Commission by the European Investment Fund (EIF) on a trust basis. They cover different needs depending on the stage of development and the nature of the small business, including social businesses.

There is a feeling in some quarters that the fiduciary duties of pension fund managers would prohibit them from considering the non-financial aspects when making decisions, this preventing them from investing in social enterprises. The Commission does not share this view and feels that the principle that 'the assets shall be invested in the best interests of members and beneficiaries'²⁴ authorises investment in social enterprises, provided that this derives from the investment policy of the institutions and the preferences of the beneficiaries.

1.7. Support for social economy structures

Many social enterprises take the legal form of social economy enterprises, such as production cooperatives, worker cooperatives or certain cooperative banks.

In addition to the research on the setting-up of satellite accounts in the social economy sector, a number of projects are underway. For example, a transnational network financed by the European Social Fund involving seven ESF managing authorities is performing analyses and comparisons in order to develop common approaches and instruments²⁵. Furthermore, at the request of the European Parliament, the Commission is engaged in all-inclusive cooperation between public authorities, companies and social enterprises in order to promote social inclusion and integration into the labour market²⁶.

In order to promote the development of cooperatives beyond national borders, in 2003 the European Union adopted the Statute for a European Cooperative Society²⁷. A study published in October 2010 on the implementation of the Statute for a European Cooperative Society²⁸ showed how little this has been used, owing to, in particular, the numerous references to national law.

In order to promote the compilation of comparable statistics on the non-profit organisations sector, which includes a large number of social enterprises, the Commission organised a

22 http://ec.europa.eu/employment_social/equal_consolidated/data/document/etg2-se-rd2analysis.pdf

23 <http://ec.europa.eu/cip/>

24 Article 18(1)(a) of Directive 2003/41/EC (of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision

25 <http://www.socialeconomy.pl/>

26 Call for Proposals VP/2010/014 <http://ec.europa.eu/social/main.jsp?catId=631&langId=en&callId=297>

27 Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)

28 Study on the implementation of the Regulation 1435/2003 on the Statute for European Cooperative Society (SCE), 5 October 2010, http://ec.europa.eu/enterprise/policies/sme/files/sce_final_study_part_i.pdf

major conference in April 2004, to which the majority of associations and foundations were invited. The aim of this conference was to encourage the Member States to use the Handbook on Non-profit Institutions in the System of National Accounts, approved by the United Nations. Very few Member States (FR, IT, BE, SW) have used it up to now. Furthermore, in order to compile comparable statistics for cooperatives and mutual societies, which are often used by social enterprises, the Commission has financed five national projects, finalised in June 2011, which aim to draw up statistics for these enterprises in Belgium, Bulgaria, the former Yugoslav Republic of Macedonia, Serbia and Spain, based on a satellite accounts manual, the creation and preparation of which were also financed by the Commission. Some of the projects deal among other things with the social role of cooperatives and mutual societies, with particular regard to the employment of women (Bulgaria, Spain) and persons with disabilities (Bulgaria). Additional information is also guaranteed for some categories of social entrepreneurship, such as societies with a social purpose (Belgium) and societies of workers (Spain).

2. WHAT APPROACHES DO OTHERS TAKE?

2.1. Third countries

Research carried out at international level²⁹ has brought to light numerous examples of private initiatives and public policies in the field of social entrepreneurship.

Exemple n°2. OneWorld Health, United States³⁰

The aim of this American organisation is to develop pharmaceutical research in order to make medical treatments available to the poorest populations, particularly in the developing world.

Exemple n°3. Bank Palmas, Brazil³¹

This solidarity-based microfinance institution grants microcredit in the form of production loans (for the creation or development of an enterprise, particularly a social enterprise) and consumer loans (by way of a local exchange system).

Countries such as Canada - Quebec in particular – are leading the way in terms of lending institutional support to social entrepreneurship. The solidarity-based cooperatives are an important factor because they link users, workers and co-financers and essentially provide services to society and to individuals.

The United States supports social entrepreneurship in particular through the Social Innovation Fund (SIF³²), which was created by a 2009 law and has a budget of USD 50 million for 2010. The SIF identifies and finances innovative society-based solutions that may be passed on and expanded in order to aid development in the poorest territories or areas. This is supplemented by private funds (foundations and gifts) and prioritises intermediaries that will guarantee the

²⁹ See, for example, the report entitled *SMEs, Entrepreneurship and Innovation*, OECD 2010

³⁰ www.oneworldhealth.org, mentioned in the report *SMEs, Entrepreneurship and Innovation*, OECD 2010

³¹ <http://www.banquepalmas.fr>, mentioned in the report *SMEs, Entrepreneurship and Innovation*, OECD 2010

³² <http://www.nationalservice.gov/about/programs/innovation.asp>

highest leverage possible. The programmes that receive financing are aimed, in particular, at training unemployed young people, providing support for people living with HIV and combating illiteracy...

2.2. International organisations

International organisations also have an important role to play.

The International Labour Organisation (ILO) promotes an economy based on social justice³³. It has also been active in the social economy sector since 1922 supporting, in particular, the development of cooperatives. The ILO implements a number of programmes aimed at supporting social entrepreneurship in developing countries, particularly with its Decent Work Agenda, which focuses among other things on job-creation, the struggle against rural desertification, the integration of people with disabilities, and microfinance.

In the 1990s, the Organisation for Economic Cooperation and Development (OECD) addressed a recommendation to the United States by way of the Local Employment and Economic Development (LEED) programme regarding the social economy and social enterprises³⁴. The OECD was the first to give a definition of a social enterprise³⁵, which led several countries to establish legislative frameworks.

The OECD also looked at the impact of social enterprises on a number of countries in terms of job-creation, social cohesion and social capital. It is currently working on the contribution of social enterprises to the creation of wealth and social added value. It provides a forum for the exchange of good practices for all member countries.

The UN and the WTO, for their part, offer a portal, via the International Trade Centre³⁶, called the Standards Map³⁷. This is an on-line tool developed by the Trade for Sustainable Development (T4SD) programme, and supported by, among others, the European Commission. This interactive tool provides access to a very detailed database on private standards regarding sustainability, and highlights the various methods of sustainable production and trade. It allows producers, exporters and buyers to recognise more easily and make better use of sustainable production and trade opportunities.

³³ The Constitution of the ILO, and in particular, the Declaration on the Aims and Purposes of the ILO

³⁴ www.oecd.org/cfe/leed

³⁵ The OECD defines social enterprise as “any private activity conducted in the public interest, organised with an entrepreneurial strategy but whose main purpose is not the maximisation of profit but the attainment of certain economic and social goals, and which has a capacity of bringing innovative solutions to the problems of social exclusion and unemployment’.

³⁶ <http://www.intracen.org/>

³⁷ <http://www.standardmap.org/>