Brussels, 30 March 2007

Subject:  Green Paper Modernising Labour Law to Meet the Challenges of the 21st Century: Position of the Banking Committee for European Social Affairs

Dear Sir,

We are pleased to send you the position of the Banking Committee for European Social Affairs on the European Commission Green Paper on Labour Law.

Whilst it is very supportive of the position of BUSINESSEUROPE, the Banking Committee for European Social Affairs would like to focus on some points specific to the European banking sector in a global market.

We are convinced that the EU labour market framework would be substantially improved if these proposals were given due consideration.

Yours sincerely,

Guido RAVOET
Secretary General

Giancarlo DURANTE
Chairman of the Banking Committee for European Social Affairs

Enclosure: 1
GREEN PAPER MODERNISING LABOUR LAW
TO MEET THE CHALLENGES OF THE 21ST CENTURY:
POSITION OF THE BANKING COMMITTEE FOR EUROPEAN SOCIAL AFFAIRS

The European Commission issued a Green Paper on the Modernisation of Labour Law («the Green Paper») inviting the stakeholders to give their position by the 31st March 2007 on the measures to be taken:

- at national and European level to make the labour market more flexible to face the challenge of adapting to change and seizing the opportunities that globalisation offers and
- to protect workers that are precariously and informally employed.

The Banking Committee for European Social Affairs (BCESA) is the body in charge of the industrial relations linked to the EU treaty and related to European commercial banks.

Whilst it generally supports BUSINESSEUROPE position on the Green Paper on Labour Law, the Banking Committee for European Social Affairs would like to focus on some specific points since European banks in particular are confronted with a more and more complex environment in a global market, characterized by more and more demands from key stakeholders.

In addition, the number of bank employees across Europe has strongly increased in the last few years: the number of bank employees in European commercial banks rose from 1,914,000 in 19981 to 2,744,000 in 2005; in this new context, higher competitiveness and productivity are therefore required.

In this context, the BCESA is keen to have the possibility to express its views on a document aiming at eliminating old rigidities still persisting in many European countries and to help and build a more inclusive society.

- Roles and responsibilities

The BCESA believes that growth and employment are both created in companies in cooperation between management and employees. We therefore think that the activity of the European Commission at this level on the issue of the modernisation of labour law should not interfere with national labour systems. We also reckon that there is a contradiction between the increasing legislative production on social issues coming from the European Commission and the need for a more flexible labour market at national level.

We generally welcome EU initiatives as soon as they respect the particularities of (old and new) Member States. Whilst one should recognise that there might be a problem of application of the modernisation of labour at Member States’ level (including especially new Member States that may encounter difficulties of integration/harmonisation), we are convinced that the European Commission should only focus its priorities and activities on an exchange of experiences and data and on a monitoring of mutual inspiration.

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1 Source: EBF.

The data of the following countries could be taken into account: Belgium, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, The Netherlands, Austria, Finland, Portugal, Denmark, Sweden, Switzerland and the United Kingdom.
Flexicurity

The BCESA is not of the opinion that the notion of flexibility is simply composed of two elements: flexibility and security drawing in two different directions.

We believe that when considering flexicurity, security of employment is about “a job” which may or may not be with the same employer and not “the job” that an individual happens to be undertaking at a point in time. Developing skills and capabilities of the workforce linked with the introduction of more flexible forms of employment will create the right environment in which security of employment can be enhanced. Companies and workers efforts to adapt to market changes should therefore be supported.

Finally, we are convinced of the necessity not to transfer the flexibility model of one country to another: every EU initiative to remove barriers to flexicurity should be welcome but a single national model should not be exported as a best practice.

Insiders and outsiders on the labour market

The Green Paper introduces a concept of “insiders” (those who are permanently employed on a full-time basis) and “outsiders”. This kind of distinction between insiders and outsiders made is not correct in our view.

All those legally employed, whether under a full-time indefinite duration contracts, working part-time, under a fixed-term contract, or doing temporary agency work are to be considered as “insiders”.

The BCESA believes that all forms of employment are legitimate in order to create a more inclusive labour market.

Development of labour law

The general picture of labour law is the picture of a decentralisation and recentralisation:

The decentralisation of labour law is connected to the decentralisation of the companies and new forms of production. Outsourcing is increasing as well as the use of subcontractors. In many places the labour law is developing towards a decentralised direction and often through negotiations between the social parties.

At the same time a focus on the basic protection is taking place about employee protection whilst the other parts of labour law are becoming more flexible. Therefore topics such as human rights, protection of personal data, protections of health and safety, prevention of discrimination and equal treatment will have an increasing importance.

Common minimum standards on health and safety are reasonable whereas the regulation on issues such as working time at European level is adding unnecessary and counterproductive elements of rigidity to the labour market.

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Finally, we would like to stress that on the occasion of the different debates held in the framework of our social dialogue, it turned out that the issues of flexibility and employability of the workers represented the key elements for the future.

For instance, the following initiatives have already been undertaken by the European social partners of the banking sector: a joint declaration on life long learning\(^2\), a study on IT employability, several round tables and bilateral meetings on industrial relations in the banking sector in new EU Member States, and a joint declaration on the social aspects of CSR. This illustrates a structured social dialogue based on information exchanges and analyses of topical files.