



HOUSE OF LORDS

European Union Committee

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7th Report of Session 2006–07

# **The Commission's 2007 Legislative and Work Programme**

Report with Evidence

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## CONTENTS

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	<i>Paragraph</i>	<i>Page</i>
<b>FOREWORD—What this Report is about</b>	1	5
<b>Chapter 1: Scrutinising the Commission’s Annual Legislative and Work programme</b>	1	5
The Work Programme	1	5
Timetable and scrutiny process	3	5
Recommendation	8	6
<b>Chapter 2: Views of witnesses on the Work Programme</b>	9	7
Introduction	9	7
Overall direction of the Work Programme	11	7
Better Regulation	18	8
Economic and financial affairs, and international trade	24	9
Internal Market issues including energy	30	9
Foreign affairs and development policy	36	10
Environment and agriculture	40	11
Law and institutions	51	12
Home affairs	52	12
Social and consumer affairs	56	13
<b>Chapter 3: The Committee’s views on the 2007 Work Programme</b>	61	15
Issues highlighted in particular policy areas	61	15
Conclusions	69	16
<b>Appendix 1: List of Witnesses</b>		18
<b>Appendix 2: Recent reports from the Select Committee</b>		19

### Written Evidence

British Chambers of Commerce (BCC)	1
Centre for European Policy Studies (CEPS)	3
City of London Corporation	6
Commission for Racial Equality (CRE)	8
European Parliamentary Labour Party (EPLP)	10
Federation of Small Businesses (FSB)	18
Hellenic Parliament	20
Local Government Association (LGA)	20
National Farmers’ Union (NFU)	24
Royal Society for the Protection of Birds (RSPB)	26
Royal Society for the Prevention of Cruelty to Animals (RSPCA)	27
Trades Union Congress (TUC)	28

NOTE: References in the text of the report are as follows:

(Q) refers to a question in oral evidence

(p) refers to a page of written evidence

## **FOREWORD—What this Report is about**

This is the latest in the series of reports scrutinising the Commission's Annual Legislative and Work Programmes. On this occasion the Committee has taken written evidence on the 2007 Programme and has held deliberations both in the Committee itself and in our policy-based Sub-Committees. This report summarises the evidence received and outlines the main matters arising in deliberation.

The Committee notes that careful attention will always need to be paid to the balance between subsidiarity concerns and the possible advantages of EU action, and will continue to monitor issues of subsidiarity and proportionality carefully. At this stage subsidiarity concerns can only be tentative, as examination of subsidiarity can only be undertaken when the full, published text is available for scrutiny.

The Committee notes that the section of the Programme relating to Better Regulation was encouraging.

The Committee makes this report to the House for information. A Government response will be sought in the usual way. In particular we urge the Government to take account of the views presented as evidence to the Committee and summarised in this report.

The Committee will scrutinise the 2008 Annual Policy Strategy when it is published.

# The Commission's 2007 Legislative and Work Programme

## CHAPTER 1: SCRUTINISING THE COMMISSION'S ANNUAL LEGISLATIVE AND WORK PROGRAMME

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### *The Work Programme*

1. The Annual Legislative and Work Programme (“The Work Programme”) is one of the Commission’s two principal strategic planning documents.<sup>1</sup> The Work Programme for 2007 was adopted in the autumn of 2006, following consultation on the Annual Policy Strategy (APS) published in spring 2006.
2. The 2007 Work Programme is comprised of a Communication from the Commission and a series of ‘roadmaps’ detailing 21 ‘strategic initiatives’, 60 ‘priority initiatives’, and 57 simplification initiatives and proposals for withdrawal of legislation. The Communication identifies the Work Programme’s priorities as: modernising the European economy; addressing the challenges of European society; the better management of migration flows; secure, competitive and sustainable energy; making Europe a better place to live; and the further development of Europe as a world partner.

### *Timetable and scrutiny process*

3. The consultation period following the publication of the APS, which is in effect the ‘white paper’ for the Work Programme, offers the more significant opportunity for influencing the Commission’s planning. However, the Commission has said that it will listen to any comments on the Work Programme submitted by national parliaments, and on this basis, the Select Committee decided to undertake an inquiry into the 2007 Work Programme.<sup>2</sup> A detailed examination of the Work Programme is also useful in helping the Committee and its Sub-Committees plan their work over the year, and will lead into an enhanced system of scrutiny for the Annual Policy Strategy 2008.
4. The 2007 Legislative and Work Programme was examined by the Select Committee and each of our seven subject-based Sub-Committees. Each Sub-Committee discussed the Work Programme from the particular perspective of its own policy expertise, and contributed to a roundtable discussion hosted by the Select Committee. In parallel, the Select Committee issued a call for written evidence, and received 12 formal evidence submissions. This report is based on the evidence received and the discussions of the Committee and Sub-Committees.

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<sup>1</sup> The Work Programme and Annual Policy Strategy can be found on the Commission’s website, at [http://ec.europa.eu/atwork/programmes/index\\_en.htm](http://ec.europa.eu/atwork/programmes/index_en.htm). The Work Programme is Council Doc 14919/06 (or COM(2006)629), which was sifted to the Select Committee, and is cleared from scrutiny by the publication of this Report. The House of Commons European Scrutiny Committee has reported on the Work Programme: 7th Report, Session 2005–06 (HC41-vii)

<sup>2</sup> House of Lords European Union Committee: EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords. Report with Evidence. 32nd Report of Session 2005–06, HL Paper 179, p.26. <http://www.publications.parliament.uk/pa/ld200506/ldselect/lducom/179/179.pdf>

5. It is important to bear in mind, when examining the Work Programme, that it is not a comprehensive list of all the legislative proposals and policies that will be brought forward in 2007. Legislative proposals and policies and other measures included in the Work Programme may not emerge as indicated by the Commission, and others may be put forward. The Work Programme also needs to be understood in the context of other documents and strategies, including the priorities of the Presidencies of the European Council, national priorities, and multi-annual plans such as the Hague Programme and the Lisbon Agenda.
6. Furthermore, the nature of the Work Programme means that the policies brought forward in 2007 will not exactly reflect the balance between policy areas evident in the document. Measures in areas such as foreign affairs and justice and home affairs may be proposed as events unfold, and such areas are thus under-represented in the Work Programme.
7. Most significantly, it is important to note that the Work Programme is a statement of broad policy objectives, rather than detailed and specific proposals; these proposals will be dealt with individually as they are brought forward, through the Committee's normal scrutiny process.

#### **Recommendation**

8. **The Committee makes this report to the House for information. A Government response will be sought in the usual way. In particular we urge the Government to take account of the views presented as evidence to the Committee and summarised in this report.**

## CHAPTER 2: VIEWS OF WITNESSES ON THE WORK PROGRAMME

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### *Introduction*

9. In this Chapter the views of witnesses on the Work Programme are summarised. The written evidence received is published in full with this report.
10. This Chapter first looks at some general issues and cross-cutting themes. Views on specific policy proposals are then considered, grouped under the broad general headings of the policy areas for which our individual Sub-Committees are responsible. This does not mean, however, that those particular Sub-Committees will in fact scrutinise the formal Commission documents and proposals when they are presented to parliament. The allocation of work to individual Sub-Committees will be a matter for our normal sift process in due course.<sup>3</sup>

### *Overall direction of the Work Programme*

11. The British Chambers of Commerce (BCC) supported the general direction of the 2007 Work Programme, particularly the emphasis placed on the challenges posed by globalisation. However, the BCC was concerned that the Work Programme lacked substance, and while important issues were highlighted, how these would be addressed remained unclear. Transparency with regard to the criteria applied to items selected for inclusion in the Work Programme, and with regard to the distinction between strategic and priority initiatives, could have been improved (p 1).
12. The Trades Union Congress (TUC) argued that the EU would benefit from having just one work programme, rather than the two potentially competing agendas of the Commission and the Council Presidencies. There was a need for greater coherence between the Commission's Work Programme and national priorities, although the Commission's decision to inform national parliaments directly of its proposals was welcome particularly if leading to debates and greater coherence (p 28).
13. The Federation of Small Businesses (FSB) welcomed the Work Programme, and the Commission's commitment to producing an improved and more focused programme for 2007 (p 18), while, from Greece, the Committee for European Affairs of the Hellenic Parliament suggested that the Work Programme should contain a report on the state of play of previous Commission initiatives (p 20).
14. The European Parliamentary Labour Party (EPLP) considered the Work Programme successful against the two key criteria of equipping the EU to face current challenges, and addressing the routine business of the Commission. It would, however, like to see more emphasis on the effective implementation of legislation already agreed (p 10).
15. The Commission for Racial Equality (CRE) welcomed the general focus in the Work Programme on social, employment and equality policies, and

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<sup>3</sup> A full account of the Committee's scrutiny procedures can be found in the Annual Report 2006, 46th Report of Session 2005–06, HL Paper 261.

particularly on migration and integration policies but was concerned at the lack of new policy initiatives in these areas. The Work Programme should be clearer in highlighting the inter-connected nature of many of its policies (p 8).

16. The Royal Society for the Protection of Birds (RSPB) welcomed many aspects of the Work Programme, especially proposals on emissions trading and reducing CO2 emissions from vehicles (p 26).
17. Some organisations chose to comment on proposals that they felt should have been included in the Work Programme, and some indicated that more explanation would be welcome about why some proposals outstanding from the 2006 Work Programme were not included in that for 2007, while significant proposals known to be in the pipeline were likewise excluded (pp 1, 19, 27–28).

### *Better Regulation*

18. The inclusion of simplification proposals in the Work Programme was welcomed by the EPLP, along with the Work Programme's commitment to the use of impact assessments (p 10).
19. The FSB also welcomed the prominence given in the Work Programme to Better Regulation, although remaining concerned that without an independent audit of impact assessments (of legislative proposals) it would be difficult to maintain their quality. The Commission's proposal for a 25% cut in the burden of regulation by 2012 was supported, and it was suggested that all unresolved legal proposals should be annulled at the end of each European Parliamentary term, in addition to deadlines being set on Parliament and Council for simplifying existing regulations. The Commission would not be able to deliver the benefits of Better Regulation without the co-operation of both the Council and the European Parliament (pp 18–19).
20. The City of London Corporation welcomed the fact that the Better Regulation agenda was beginning to move from rhetoric to practice with the identification of simplification initiatives and the withdrawal of pending legislation: the policy battle had been won but needed to be delivered. The City also warned that ex-post evaluations of regulatory impact assessments could have the undesired consequence of opening up avenues for EU institutions to revise legislation and demand further, more detailed rules—for example, the review of the Investment Services Directive led to the Markets in Financial Instruments Directive (p 6).
21. The BCC was disappointed that the Work Programme did not go further with its list of proposals for simplification. Research conducted by the BCC indicated that 75% of regulatory costs to business since 1998—some £37,814bn—was EU-sourced regulation. The BCC therefore considered that a much more ambitious roadmap was needed for better regulation (p 1).
22. The TUC, on the other hand, saw no serious evidence that the UK economy was experiencing any difficulties as a result of EU legislation. The reduction of costs for business often implied the shift of those costs to society in general and to citizens and employees. The Better Regulation agenda was therefore supported as long as a distinction was drawn between regulation that required particular procedures to be followed and regulation underpinning policy objectives (p 29).



23. The Local Government Association (LGA) was supportive of the ongoing work on governance, including securing commitments to better consultation and reducing red tape (p 24). The National Farmers' Union of England and Wales (NFU) also supported the Better Regulation agenda, considering it essential in order to maximise the competitiveness of the EU in general and the agricultural sector in particular (p 25). However, the Royal Society for the Prevention of Cruelty to Animals (RSPCA) criticised the Commission for bringing forward a new batch of proposals whilst certain legislation was still pending in the legislative process (i.e. the broiler chickens proposal adopted in May 2005) (p 28).

*Economic and financial affairs, and international trade*

24. The City of London Corporation broadly welcomed the Commission's White Paper on Enhancing the Single Market Framework for Investment Funds and its attempts to encourage the opening up of the cross-border funds market. The City also noted the Commission's intention to review the capital requirements for the insurance industry (p 7).
25. The City also expressed interest in the reviews the Commission would undertake of the Markets in Financial Instruments Directive (following implementation in 2007). By 2008 the Commission would be deciding on a number of important issues, notably whether or not to extend the directive's provisions on transparency covering the equity markets to the bond, derivatives and commodities markets (p 7).
26. The LGA highlighted proposals concerning regional and state aids, the Green Paper on urban transport and the EU ports strategy as potentially important to local authorities (p 22).
27. The FSB expressed its concern that the Commission's Proposal for a Regulation on Enhancing Supply Chain Security, which had not featured in previous Commission work programmes, did not feature in the Commission's programme for 2007 either (p 19).
28. The NFU recognised the intertwining of the trade and development agenda, and the need for the EU trade agenda to continue to reflect the EU's commitment to development via the granting of special and preferential treatment to developing countries (e.g. negotiations on the Economic Partnership Agreements with the ACP countries) (p 26).
29. The NFU also considered that the preferential trade agreements with countries in the European neighbourhood should reflect the commitment to stability in the region. In preferential trade agreements, EU policies should recognise the distinctive characteristics of the agricultural sector and the complex relation between the multilateral and bilateral/regional trade agenda (p 26).

*Internal Market issues including energy*

30. The BCC noted that any review of the Single Market would have to look in detail at how the Single Market could address the challenges and opportunities presented by an enlarged EU, by globalisation and by technological innovation. The BCC wanted to see how benefits of the Single Market were delivered at the citizen level: this could not be achieved through additional directives, but instead should be achieved by creating the

conditions in which business and particularly small and medium enterprises (SMEs) could thrive (pp 1–2).

31. The FSB argued that the benefits of the Single Market project had not filtered through to the small business community. The FSB would like to see the Commission's Communication deal with the issue of gold-plating, and argued that the Commission should promote the use of "correlation tables"<sup>4</sup> to make the implementation of the EU rules by Member States transparent. The Commission needed to rationalise the bodies and agencies that assisted business to access the Single Market. The Commission's mid-term review of both industrial and modern SME policy should place SMEs at the centre of its initiative to generate employment (pp 18–19).
32. The LGA noted that local authorities were affected by the Single Market, both positively in terms of achieving lower prices and promoting certain safeguards, but potentially negatively if greater red tape ensued (p 21).
33. In a paper submitted informally for the Committee's information, Small Business Europe identified the Communication on the Single Market Review as a potentially significant element of the Work Programme.
34. The BCC supported the Commission's energy policy objectives (sustainability, competitiveness and security of supply) but international co-operation on energy was crucial if those objectives were to be achieved (p 2). The LGA welcomed the EU's focus on energy efficiency, including the proposed energy savings target of a 20% reduction on 2005 levels by 2020. But a longer term approach, well-resourced at the local level, needed to be urgently adopted (p 22).
35. The TUC regretted the new phase that the Lisbon strategy had entered: the 2005 re-launch of Lisbon had prioritised the pillar of competitiveness over the pillar of social cohesion. According to the TUC, European-level policy was narrowed down to policies that triggered competition and made Member States compete against each other for investment and jobs (pp 28–29). For the LGA, local government was central to the success of the Lisbon strategy because local authorities were so closely involved in many of the areas covered (p 23).

#### *Foreign affairs and development policy*

36. In the view of the BCC, a strong international voice for the EU and greater international cooperation on energy was important (p 2). For the EPLP, much had been done by the EU in the field of development cooperation and humanitarian aid in recent years. However, no mention was made in the Work Programme of humanitarian aid, and development cooperation was only considered as an instrument of the Union's external action, as opposed to a policy in its own right. For the EU to succeed in 'connecting' with citizens, international development would have to be given particular attention (pp 13–17).
37. The EPLP also noted that external priorities were defined exclusively in relation to EU interests: this approach did not take into account the scope of an enlightened approach to, for example, poverty reduction and the

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<sup>4</sup> The term "correlation tables" refers to the form in which Member States present to the European Commission an account of how the text of national provisions transposing a Directive relate to the text of the Directive itself.

attainment of the MDGs (Millennium Development Goals): development was a central goal in itself (pp 14–15).

38. The EPLP criticised the Commission's apparent intention to downgrade its leading role in international development negotiations, including in the Doha round of trade negotiations, where the only reference to EPAs (Economic Partnership Agreements) was "vague and non-substantive". The EPLP believed that the Work Programme ignored the major divisions between the ACP negotiators and the EC on how to give "tangible expression to the concept of development in an EPA" (p 15).
39. The EPLP also believed that negotiations on adoption of the Development Cooperation Instrument (DCI) should lead to a proposal from the Commission for a new set of Communications, each focusing on a geographical area (i.e. as additions to the Work Programme). The 2006 Communications on thematic priorities should be examined to bring them into line with the DCI, citing environmental protection as a key weakness. In addition, a broader and more focused approach was needed to humanitarian aid, in line with the principles of Good Humanitarian Donorship (GHD) (pp 15–16).

#### *Environment and agriculture*

40. The EPLP suggested that preparations for the 2008 CAP Health Check and the 2009 budgetary review should take place in 2007 (p 18).
41. The NFU welcomed the drive for administrative simplification by moving towards a single Common Market Organisation (merging the 21 different CMOs into one) but this should not be at the expense of consideration of specific issues arising for the different agricultural sectors (p 25).
42. The NFU also noted that one of the roles of the Commission in 2007 would be the launch of new rural development programmes. The delay resulting from the dissent between the European Parliament and the Commission on the implementation of (voluntary) national modulation was profoundly regretted (p 26).
43. As far as proposals for green public procurement were concerned, the BCC considered that UK small businesses were already striving to improve their green credentials and would therefore prefer not to see targets set by the Commission. Rather, the Commission should look to increase its advisory role in this area (p 2). Small Business Europe also considered this proposal potentially significant.
44. The City was very interested in the issue of climate change and emissions trading. The City had published a report in September 2006 looking at the business opportunities offered by emissions trading (p 7). The EPLP emphasises that review of the emissions trading scheme is a key tool in tackling climate change (p 11).
45. In the view of the LGA, EU climate change policy had, in the past, focused too much on mitigation of climate change, with little effort to assess the impacts and adapt to them: the LGA believe that the Commission's work in 2007 on adaptation would have to deliver on this and bring local government into the process (p 22).

46. The NFU believes that any effective strategy against climate change needs to recognise the positive contribution that EU agriculture can make in the fight against climate change and its consequences (p 25).
47. The FSB considered that proposals for the implementation and enforcement of EC environmental legislation could have a significant impact upon its members (p 19). The LGA also considered the dossier to be of great importance: 2007 would see the implementation of several crucial pieces of legislation, including the Waste Electrical and Electronic Equipment Directive, batteries recycling directive and environmental liability directive. Implementation should be carried out in consultation with local government and no additional financial burdens should be placed on local authorities (p 22). Small Business Europe also considered this dossier potentially significant.
48. The RSPB expressed regret that the Work Programme did not include a permanent ban on the importation of wild birds into the EU for conservation, welfare and health grounds (p 27). (However, since their evidence was submitted, a Regulation has been adopted that will put such a ban in place from 1 July 2007, although with some exemptions.)
49. The RSPB also regretted that the Work Programme does not include a Community Plan of Action to reduce incidental mortality of seabirds in long-line fisheries, despite several promises to propose such a plan in the past (p 27).
50. The NFU noted the need to reconcile environmental objectives with the competitiveness agenda when adopting environmental legislation such as the IPPC (Integration Pollution Prevention Control) directive and the review of the NEC (National Emissions Ceiling) directive (p 26).

#### *Law and institutions*

51. The Centre for European Policy Studies (CEPS) called for the extension of the 'Community method' (i.e. co-decision and qualified majority voting) to the Justice, Freedom and Security area. The CEPS reflected on the Hague Programme and concluded that it contained more coercive measures than freedom- or justice-based measures. The CEPS also referred to the need for Commission enforcement of Third Pillar legislation (pp 3–5).

#### *Home affairs*

52. The CEPS warned against an excessively complex EU regulation of economic migration, as this could foster the irregularity of immigrants' status. EU regulation should address the need to offer a secure legal status to all immigrant workers, not only to the highly skilled, in order to avoid exploitation and discrimination in the area of labour immigration in the EU. On the same line, proposed legislation on penalties for employers of irregular immigrants should be premised on clear legal rules on legality of residence and employment of third country nationals in the EU. The CEPS provides strong support, on the other hand, for EU framework legislation on the rights of immigrants who were legal residents and in legal employment (pp 4–5).
53. The Commission for Racial Equality (CRE) welcomed fair and clear rules for labour migrants in the EU, but the emphasis should be on their rights in order to redress their exploitation and lack of integration. There was a significant gap in the programme in the lack of attention being paid to

internal labour migration of EU nationals, particularly the impact of restricted labour market access for the new EU nationals on policies that sought to challenge exploitation and achieve social cohesion (p 9).

54. According to the CEPS, before proposing measures to further develop the common asylum system, the Commission needed to address the shortcomings of the first-phase instruments adopted, particularly with a view to amending those provisions which were believed to fall below accepted international standards (p 5).
55. The United Nations High Commissioner for Refugees (Representation in the UK), in a comprehensive paper addressed to the German Presidency and sent to the Committee for information<sup>5</sup>, also called for an assessment of the adequacy and gaps in the instruments adopted, and to be included as an expert body in the evaluation process. A protective-sensitive border management was needed as part of the EU's response to migration challenges, particularly in cooperation and partnership arrangements with third countries of transit and origin.

### *Social and consumer affairs*

56. The CRE strongly welcomed the comprehensive stocktaking of European society. It was to be hoped that the final result would act as a catalyst for a fresh approach to how social policy was developed in the EU. The Commission should urge Member States to collect data more rigorously, to follow up the stocktaking with a 'state of the EU' report, and to focus on immigration and migration in the EU. The CRE also expressed concern that the success of the stocktaking could be impaired by an apparent lack of legislative initiatives (pp 8–9).
57. The BCC wanted to see a "wider" debate on the concept of flexicurity. In the BCC's view, flexibility was key to business success and the flexibility currently enjoyed by UK business should be maintained. Any additional regulation to ensure social protection should be "proportionate" (p 2)). Small Business Europe considered this Communication potentially significant. The LGA noted that the Communication would cover the implications of labour market law on economic development and social inclusion, issues which local authorities were key to delivering (p 21). On the other hand, the TUC had concerns that the Communication would not be used to reform and strengthen Europe's social dimension, but to weaken it (p 29).
58. Turning to the follow-up to the Green Paper on labour law, the BCC had concerns relating to the flexicurity debate, EU-wide definitions of employment and self-employment and the concept of a "floor of rights" for all workers irrespective of their employment status (p 2). The FSB shared the BCC's concerns regarding definitions of self-employment and regarding the reference to a "floor of rights". The Green Paper asked some very pertinent questions regarding the extent to which existing regulations hindered enterprises and productivity, and the FSB welcomed potential changes to make working time rules more flexible for both employers and employees (p 19). The LGA emphasised that the sub-regional level was the best level for labour market intervention: thus any new labour market rules must reflect

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<sup>5</sup> This paper is not printed with this report but will be available for inspection in the Parliamentary Archive.

a desire to devolve decisions to local partnerships led by Councils (p 21). Small Business Europe considered this proposal potentially significant.

59. As for the “Health in Europe” strategy, the LGA believed that Councils were the only agencies that could really join up all the services involved to improve health at the local level (p 23). The NFU was particularly interested in the White Paper on nutrition and believed that clearer labelling would be welcome and should focus not only on the nutritional context but also on traceability issues (p 26).
60. In the field of education, the EPLP appeared to be sceptical about the Erasmus Mundus II proposal, insisting that in terms of development work with third countries on education, special priority should be given to basic (and secondary) education (p 14).



### CHAPTER 3: THE COMMITTEE'S VIEWS ON THE 2007 WORK PROGRAMME

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#### *Issues highlighted in particular policy areas*

61. The Select Committee hosted a roundtable discussion with the EU Sub-Committees on the subject of the Work Programme on 23 January 2007. The Committee noted that the quality of the Commission's Annual Legislative and Work Programmes was improving and that good work had been done in tightening up the Work Programme, partly influenced by the Committee's discussions. The deliberations that followed and the conclusions drawn by the Committee, on the basis of the analysis provided by the Sub-Committees and the written evidence received, are set out below.
62. The Sub-Committee on Economic and Financial Affairs and International Trade will be conducting inquiries into the progress of the Euro, and into world trade and the Doha round, both of which are issues that are discussed in the Work Programme. The Sub-Committee will also be taking a keen interest in the proposed Directive on the solvency of insurance companies ('Solvency II').
63. The Strategic Review of the Energy Policy for Europe is a proposal arising from the Green Paper "A European Strategy for Sustainable, Competitive and Secure Energy", on which the Internal Market Sub-Committee prepared a report in 2006.<sup>6</sup> The Sub-Committee felt clarification of the review might be necessary, and will be taking an interest in this issue. The Sub-Committee also highlighted as significant the legislation on completion of the internal market in electricity and gas, and the legislative proposals for a Directive on transfers of defence products. The Sub-Committee will also be interested in examining the Markets in Financial Instruments Directive.
64. Our Sub-Committee on Foreign Affairs, Defence and Development Policy noted that the Common Foreign and Security Policy was not determined by the Commission, and that on a number of issues such as migration and energy, the Sub-Committee's remit overlapped with that of other Sub-Committees. The Sub-Committee did, however, wish to question whether sufficient attention was being given by the Commission to transatlantic relations with the United States and Canada, as well as to the Strategic Partnerships with Africa and Russia. The Sub-Committee had previously prepared a report covering among other matters the proposal on actions to strengthen Diplomatic and Consular Protection.<sup>7</sup> Clarification of the proposal, and of whether any subsidiarity issues might arise, would be sought when the proposal was deposited for scrutiny.
65. Our Sub-Committee on Environment and Agriculture will keep a close watch on the review of the emissions trading scheme: all Member States would need to operate and comply on an equal basis. The Sub-Committee considered the European Climate Change Adaptation Programme important, and will monitor it carefully, particularly with regard to issues of

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<sup>6</sup> House of Lords European Union Committee: The Commission's Green Paper, "A European Strategy for Sustainable, Competitive and Secure Energy". 41st Report of Session 2005–06, HL Paper 224. <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/224/224.pdf>

<sup>7</sup> House of Lords European Union Committee: Europe in the World. 48th Report of Session 2005–06, HL Paper 268. <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldcom/268/268.pdf>

subsidiarity. The Sub-Committee will be taking an interest in the Action Plan for Sustainable Consumption and Production, voluntary EU targets for green public procurement, and the implementation and enforcement of EC environmental legislation. In addition, the Sub-Committee singled out the CAP health check and the proposals on illegal fishing and the EU wine sector as significant.

66. Our Sub-Committee on Law and Institutions noted that some measures appeared to propose introducing criminal sanctions in a Community instrument for breaches of Community law, following a ruling of the European Court of Justice in September 2005. Examples include the proposed Directive on cross-border enforcement of sanctions in the field of road safety, and the proposed Directive on minimum sanctions for employers of illegally resident third-country nationals. The extent of the criminal law competence of the EC is currently disputed, so such proposals will be of interest to the Sub-Committee.
67. The Home Affairs Sub-Committee noted that the proposal for a general Framework Directive addressing labour immigration was very much in line with the Committee's recommendation in our Economic Migration report.<sup>8</sup> The proposal for a Directive on the conditions of entry and residence of highly skilled workers is also related to that report, and the Sub-Committee considered that the proposal will require careful scrutiny on subsidiarity grounds. The proposal for a Directive on minimum sanctions for employers of illegally resident third-country nationals might also raise concerns of subsidiarity and legal base. The Sub-Committee welcomed consultation on the second phase of the Common European Asylum system. Finally, the Sub-Committee noted that the Work Programme included a proposal for the revision of the 2002 Framework Decision on Combating Terrorism. When a proposal is put forward, it could be the subject of an inquiry.
68. Our Sub-Committee on Social Policy and Consumer Affairs welcomed the Work Programme in general, but felt that there were a number of seemingly superfluous initiatives, particularly in the field of employment and social affairs. The Sub-Committee accordingly highlighted three initiatives that might require further clarification with regard to subsidiarity: the Communication on a European Strategy for Social Services of General Interest, the proposed legislation establishing a Community Framework for safe and efficient health services, and the Health in Europe Strategy. The Sub-Committee might embark on inquiries into the latter two initiatives. The Sub-Committee welcomed the initiatives on organ donation and transplantation; on labour law and flexicurity; the White Paper on Diet, Physical Activity and Health; and the proposal for Erasmus Mundus II.

### Conclusions

69. **Proposals flagged up as possibly requiring attention may raise substantive issues, or potential subsidiarity concerns. The Committee notes that careful attention will always need to be paid to the balance between subsidiarity concerns and possible advantages of EU action, and will continue to monitor issues of subsidiarity and proportionality carefully. At this stage, possible subsidiarity concerns can only be**

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<sup>8</sup> House of Lords European Union Committee: Economic Migration to the EU. 14th Report of Session 2005–06, HL Paper 58. <http://www.publications.parliament.uk/pa/ld200506/ldselect/lducom/58/58.pdf>



**tentative, as examination of subsidiarity can only be undertaken when the full, published text is available for scrutiny.**

70. **The Committee notes that the section of proposals relating to Better Regulation was encouraging. The Select Committee will continue to take a strong interest in this agenda, following the publication of its report on Ensuring Effective Regulation in the EU.<sup>9</sup>**

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<sup>9</sup> House of Lords European Union Committee: Ensuring Effective Regulation in the EU: Follow-up Report. 31st Report of Session 2005–06, HL Paper 157. <http://www.publications.parliament.uk/pa/ld200506/ldselect/lducom/157/157.pdf>

## **APPENDIX 1: LIST OF WITNESSES**

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The following witnesses gave written evidence:

British Chambers of Commerce (BCC)

Centre for European Policy Studies (CEPS)

City of London Corporation

Commission for Racial Equality (CRE)

European Parliamentary Labour Party (EPLP)

Federation of Small Businesses (FSB)

Hellenic Parliament

Local Government Association (LGA)

National Farmers' Union (NFU)

Royal Society for the Protection of Birds (RSPB)

Royal Society for the Prevention of Cruelty to Animals (RSPCA)

Trades Union Congress (TUC)

## **APPENDIX 2: RECENT REPORTS FROM THE SELECT COMMITTEE**

### *Session 2005–06*

Evidence by Commissioner Franco Frattini, Commissioner for Justice, Freedom and Security on Justice and Home Affairs Matters (1st Report, Session 2005–06, HL Paper 5)

Correspondence with Ministers: June 2004–February 2005 (4th Report, Session 2005–06, HL Paper 16)

Ensuring Effective Regulation in the EU (9th Report, Session 2005–06, HL Paper 33)

Evidence from the Minister for Europe—the European Council and the UK Presidency (10th Report, Session 2005–06, HL Paper 34)

Scrutiny of Subsidiarity: Follow-up Report (15th Report, Session 2005–06, HL Paper 66)

The Work of the European Ombudsman (22nd Report, Session 2005–06, HL Paper 117)

Annual Report 2005 (25th Report, Session 2005–06, HL Paper 123)

Ensuring Effective Regulation in the EU: Follow-up Report (31st Report, Session 2005–06, HL Paper 157)

EU Legislation—Public Awareness of the Scrutiny Role of the House of Lords (32nd bis Report, Session 2005–06, HL Paper 179)

The Brussels European Union Council and the Priorities of the Finnish Presidency (44th Report, Session 2005–06, HL Paper 229)

Annual Report 2006 (46th Report, Session 2005–06, HL Paper 261)

The Further Enlargement of the EU: threat or opportunity? (53rd Report, Session 2005–06, HL Paper 273)

### *Session 2006–07*

Evidence from the Minister for Europe on the Outcome of the December European Council (4th Report, Session 2006–07, HL Paper 31)

Government Responses: Session 2004–05 (6th Report, Session 2006–07, HL Paper 38)

# Written Evidence

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## Memorandum by the British Chambers of Commerce (BCC)

### INTRODUCTION

The British Chambers of Commerce (BCC) comprises a national network of quality accredited Chambers of Commerce, all uniquely positioned at the heart of every business community. Currently over 100,000 businesses benefit from membership of 61 chambers in our accredited network from growth orientated start-ups to local and regional subsidiaries of multinational companies in all commercial and industrial sectors and from all over the UK.

This response is split into two sections corresponding to the terms of reference supplied by the Lords European Union Select Committee. These are set in bold at the beginning of each section.

The BCC would be prepared to provide oral evidence if required.

*Comments of a general nature, covering all or large parts of the Work Programme, including questions of the overall priorities of the Commission's programming, the volume and types of legislation and initiatives proposed, and the general direction of the Work Programme*

1. The BCC is pleased with the general direction of the 2007 Work Programme (WP), particularly the emphasis on the challenges posed by globalisation and the Commission's response to it. The 2007 priorities are wide ranging and outward facing. As the EU is a global competitor it is important that EU policy making takes account of the significant challenges posed by a rapidly changing world.
2. However, while the framework is correct we are concerned that the WP lacks substance. Big issues on energy, migration and reform of the European economy have been highlighted how these will be addressed is unclear.
3. We are disappointed that the 2007 WP has not gone further with its list of proposals for simplification (60 proposals) and withdrawal (11 proposals). Research conducted by the BCC has found that 75 per cent of regulatory costs to business since 1998, some £37,814 billion, is EU sourced regulation.<sup>1</sup> With such a large regulatory burden originating in the Commission we would expect a more ambitious roadmap for better regulation. This programme does little to allay fears that the better regulation agenda is not being taken seriously within European institutions. We do not see within this list a clear means for the Commission to deliver on its better regulation targets.
4. The WP lacks transparency. It would be useful to explain what criteria are applied to items included in the work programme and why items are included in "the catalogue" and not in the WP. A better approach would be for the Commission to include all items to be worked on during the course of the year in one document and for this to be divided into three sections: "new", "simplification" and "withdrawal".
5. The WP fails to make a clear distinction between "strategic" and "priority". There is no explanation of how the two sets of objectives interact.

*Comments of a specific nature, relating to individual proposals. In this respect the Committee would be interested to know, for example, which specific proposals raise concerns in terms of their scope, content, or with regards to the principles of subsidiarity and proportionality, and how these concerns could be addressed.*

### 6. Communication on the Single Market Review

The BCC notes that the WP is responding to the significant challenges presented to the Single Market by an enlarged EU, globalisation and technological innovation. The WP also makes reference to opportunities presented by these changes. The BCC agrees with the WP's approach, any review should look in detail at how the Single Market can address both. We would expect the full review to clarify what it understands the "challenges" and "opportunities" to be rather than simply alluding to them. The BCC notes the emphasis on

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<sup>1</sup> BCC Burdens Barometer 2006.

ensuring that the Single Market continues to benefit the EU at the “citizen level”. We understand the requirement for the inclusion of this as a priority for 2007, however we would like to see a more explicit explanation of how benefits at the “citizen level” are delivered. An obvious means of delivery would be the creation of conditions in which business and in particular SMEs can thrive and develop. Delivery of these benefits may not therefore be achieved through additional directives. We would like the Commission to pay due regard to the principles of subsidiarity and proportionality—it is hard to see from the list of communications, directives and legislative proposals contained within the WP the extent to which this is a consideration.

#### 7. Communication on combining labour market flexibility and security

The BCC believes that flexibility of labour markets is crucial to business prosperity and that if the EU is to successfully implement the Lisbon Agenda then arriving at common principles on this is important. We would like to see a wider debate on the concept of “flexicurity”. The BCC urges the Commission to increase flexibility. A balance must be struck between ensuring that workers are protected and facing up to the realities of global competition. Flexibility is key to business success and we would want to see the flexibility currently enjoyed by UK business maintained. Any additional regulation, to ensure social protection should be proportionate.

#### 8. Follow-up on the green paper consultation on labour law launched on 22 November

We are pleased that the Commission has set a sensible timetable for the follow-up to the draft green paper. Clearly the nature of this work will depend on the results of the consultation currently underway. The BCC has a number of concerns around “flexicurity”; EU-wide definitions of employment and self-employment and the concept of a “floor of rights” for all workers irrespective of their employment status. The BCC will be submitting a response to the green paper which will address these points.

#### 9. Package on energy

The BCC supports the Commission’s energy policy objectives: sustainability, competitiveness and security of supply. Over and above other policy areas, international co-operation on energy is crucial if these objectives are to be achieved; establishing a strong European Voice on the issue is likely to hasten progress.

#### 10. Communication on implementation of National Strategies for Green public procurement

Although the communication is non-legislative it does propose EU-wide targets on green public procurement. Our research indicates that UK small businesses are already striving to improve their green credentials.<sup>2</sup> Key findings include:

- 52.7 per cent of businesses considered themselves energy efficient whilst 31.1 per cent were considering becoming so.
- 81.8 per cent of businesses said that lower energy bills were the prime motivation to becoming more energy efficient.
- Reflecting the belief that the business community has a role to play in tackling climate change, 66.6 per cent listed environmental concerns whilst 48 per cent said social responsibility of becoming energy efficient.
- The biggest benefit of becoming more environmentally efficient is lower energy bills, with 76.6 per cent listing this.
- Of those businesses that have not introduced or promoted energy efficiency, 29.8 per cent said it was not a priority whilst 19 per cent said it was too costly.

In this context we would prefer the Commission to look to increase its advisory role in this area rather than seeking to monitor and set targets.

*January 2007*

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<sup>2</sup> BCC Energy Efficiency Survey: The Challenge for Government and Small Businesses October 2006.

### Memorandum by the Centre for European Policy Studies (CEPS)

It is both an honour and a pleasure to submit comments to this inquiry into the Commission's Communication on the legislative and work programme 2007. It is vital that the work of the Commission is subject to oversight by the European Parliament and national parliaments in order to ensure proper democratic participation in the priorities and legislative programme of the Commission. In our view, the inquiries carried out by the House of Lords Committee on these issues are of fundamental importance to the operation of the EU. We would encourage other national parliaments to take the same active interest in carrying out scrutiny of activity by the Commission and other EU level actors to ensure that democratic voices from across the Union are heard.

In these submissions we will address six areas of the Work Programme 2007 which are related to our work in the area of freedom, security and justice (1) the "big agendas", (2) strategic objectives regarding security, (3) the EU's voice in the world, (4) managing migration flows, (5) managing the acquis, (6) connecting Europe to its citizens. We will not comment on proposals in field beyond this sphere except to the extent that they have consequences for the AFSJ.

#### THE BIG AGENDAS: GLOBALIZATION AND THE CITIZEN'S AGENDA

1. There are two important strategic policy agendas set out in the Commission's Legislative and Work Programme: the EU's response and participation in globalization and the citizen's agenda. We would take this opportunity to make some preliminary comments on how action in the AFSJ should complement and not hinder these two objectives. First, regarding globalization, if we take this term to mean the integration of economies at the international level in pursuit of prosperity and development, regard should be had to how the EU has successfully managed the integration of economies. Concerning the Area of Freedom, Security and Justice (AFSJ), key to the success of the EU's internal market has been the steadfast commitment to free movement of goods, persons, services and capital. The engagement of people in the success of economic development and market integration was recognized from the start of the European integration project and the principle of free movement of persons was maintained, not without resistance from some interior ministries, as a core objective until it has become a reality. It is not realistic to seek the benefits of globalization if people are excluded from the overall European project. If people cannot travel to find new markets for their goods or challenging job opportunities, provide services or source their product needs, globalization cannot and will not fully benefit the society. People make globalization happen whether they are entrepreneurs, employees, students, tourists or family members. Without contact between people, economic activities will not grow across borders. Thus in order to participate in and benefit from globalization, the EU must pursue policies and regulations regarding border management, economic migration and access to the EU for third country nationals which enhance rather than hinder movement of persons. Closed EU borders for persons sit uneasily with globalization objective seeking to maximize the benefits of movement of goods, services and capital. If the citizen's agenda is aimed at providing employment and stability within the Union through participation in globalization creating new markets for goods and services, citizens must be able to move freely to third countries to seek markets and not be hindered by reciprocal restrictions in third countries which governments often impose because the EU regulatory framework excludes from or create substantial obstacles for their nationals to have access to the EU territory.

2. For the effective delivery of "a citizen's agenda" "more Europe" through the expansion of "the Community method" to all the AFSJ areas is highly desirable. Without a substantial change in the current institutional mechanisms characterizing European cooperation within the context of an AFSJ and the abolition of the current pillar structure, the AFSJ is not going to succeed in the eye of the people. The European project in this dimension needs to move from the deficiencies inherent to the intergovernmental method of European cooperation, inside or outside the legal structures provided by the Third Pillar (Treaty on European Union) to a rooted Community method. This will be the only way to duly offer a solid democratic framing of an European Space where the Liberty, Security and Justice of the individual are fully guaranteed).<sup>3</sup>

#### STRATEGIC OBJECTIVES AS REGARDS SECURITY

3. Based on the foundations provided by the Amsterdam Treaty, the Tampere European Council of October 1999 gave political direction for the gradual development of an "Area of Freedom, Security and Justice" (AFSJ).<sup>4</sup> "The Tampere Programme" identified the creation of an AFSJ as a fundamental priority for the future of the European Union (EU) and set out the objectives for its first five years ending in 2004. "The Hague

<sup>3</sup> S Carrera and E Guild, The Hague Programme and the EU's Agenda on Freedom, Security and Justice: Delivering Results for Europe's Citizens?? CEPS Commentary, 10 July 2006, retrievable from [www.ceps.be](http://www.ceps.be).

<sup>4</sup> Presidency Conclusions of the Tampere European Council, 15 – 16 October 1999, SN 200/99, Brussels.

Programme” agreed by the Council on November 2004 adopted a new five year policy agenda in these areas.<sup>5</sup> So far, the level of policy convergence<sup>6</sup> reached in these dimensions of “Freedom, Security and Justice”.<sup>7</sup> In general terms, the expected level of harmonization, or Europeanization, in some fields has not been successfully reached. Further, an in-depth examination of the provisions included in the EU’s legislative instruments reveals surprisingly low minimum standards which may endanger international and European human rights commitments. They also offer a wide discretion for Member States to apply national law and substantial exceptions to the common rules which both permit wide practical divergence and dispersion in the national arena.<sup>8</sup>

4. A major deficit of the Hague Programme is the way in which “freedom” and “security” are presented as antithetical values, and therefore requiring a balanced approach between the two. This “balance metaphor” mainly consists of the need to find the right equilibrium between freedom and security in the EU. In fact, its predecessor, the Tampere Programme, rejected this understanding of the relationship between freedom and security by advocating a “shared commitment to freedom based on human rights, democratic institutions and the rule of law” as the starting paradigm.<sup>9</sup> Securing the rule of law needs to reside at the heart of the European integration project. The Hague Programme appears to marginalize the protection of fundamental rights and freedoms (liberty), the principle of equality and of democratic accountability and judicial control. The overall priority which guides the Programme remains clear: strengthening security understood as coercion.<sup>10</sup> The direct result is that the EU policy and regulatory framework do not offer the necessary mechanisms and venues for the creation of an AFSJ based on the liberty and equality.

#### THE EU’S VOICE IN THE WORLD

5. One of the key objectives of the Work Programme is to promote the voice of the EU in the world to match its economic weight. This is a very laudable objective, but again we would note that policies which have been adopted in the AFSJ field are already having a negative impact on the ability of the world to hear the EU’s voice. The occasions are innumerable when, over the past twelve months, we have spoken with colleagues organizing conferences on economic and other relevant policy issues both at the level of experts, decision makers, academics and researchers who have expressed extreme frustration at the refusal of various EU consulates to issue visas to experts, academics, policy makers, representatives of NGOs and others so that they could come to the EU to participate in discussions. Among the most irritating of results is when an EU consulate appears, deliberately, to delay issuing the visa until the conference or other event has already taken place thus rendering impossible the arrival of the guest to participate while at the same time resisting the accusation of having refused the visa. The EU’s voice cannot be heard under such circumstances except by EU citizens and nationals of countries on the EU visa white list. But most of the new markets for the EU and the potential new sources of energy are in countries on the black visa list. If their nationals are negatively treated by the current visa processing system of some EU Member States and effectively prevented (in practice because of delayed visas rather than in law by refused visas) from coming to the EU to participate in discussions the EU’s voice will not be heard, or if it is then by people who are already ill-disposed to the EU. A radical shake up of the EU visa black list would be the most desirable development to remove countries from this list. Alternatively or additionally, a massive extension of visa exemption schemes for researchers, academics, policy makers and NGO representatives irrespective of their country of nationality would be most desirable and highly efficient. The extension of the visa facilitation agreements already in place with Russia and Moldova are also a weaker but still desirable option.

#### MANAGING MIGRATION FLOWS

6. One of the objectives of the work programme is better to manage migration flows. It proposes the development of schemes for economic immigrants with particular focus on highly skilled migrants. These are laudable aims, but it will be critical to ensure that, in their pursuit, other policy objectives are not frustrated.

<sup>5</sup> European Council, The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, 2005/C53/01, OJ C53/1, 3.3.2005.

<sup>6</sup> By policy convergence we mean not only the degree of harmonisation or level of “Europeanisation” based on the number of legal instruments that have been adopted at the EU level, but also to the discretion left to member states in the application of a wide range of provisions incorporated in the EU laws examined.

<sup>7</sup> T Balzacq and S. Carrera (2006), *Security versus Freedom? A Challenge for Europe’s Future*, Ashgate: Hampshire, 2006.

<sup>8</sup> T Balzacq and S Carrera (2005), *Migration, Borders and Asylum: Trends and Vulnerabilities in the EU*, Centre for European Policy Studies: CEPS, Brussels, 2005.

<sup>9</sup> CHALLENGE, A Response to the Hague Programme: Protecting the Rule of Law and Fundamental Rights in the Next Five Years of an EU Area of Freedom, Security and Justice, retrievable from [www.libertysecurity.org](http://www.libertysecurity.org).

<sup>10</sup> D Bigo, *Liberty, Whose Liberty? The Hague Programme and the Concept of Freedom*, in T Balzacq and S Carrera, *Security versus Freedom: A Challenge for Europe’s Future?*, Ashgate: Hampshire, 2006.

The first fact to be recognised is that the more complex economic migration laws become (and there has been a tendency in many Member States to adopt new rules on economic migration with a bewildering frequency) the more people will pass from regularity to irregularity. The more documents which must be provided, the more quickly the rules are changed, the fewer people will be able to provide everything required or to react within the limited time scales and so their status on the territory passes from legal to illegal without any substantive change in their activities or lives. Among the more pernicious of policies which have the effect of transforming a person lawfully present into an "illegal immigrant" is the prohibition on switching from one immigration category to another without leaving the country, going back to the country of origin and obtaining a visa for the new purpose in the country of origin. So, for instance, where a foreign student marries an EU permanent resident directive 86/2003 requires that the student return to the country of origin and wait, what may be years, to obtain a visa to return as a spouse. If the student just continues to remain in the state as a student, he or she may later have obstacles placed in the way of changing status because of the delay in applying. These kinds of rules foster irregularity and impede regularity. Any new rules at the EU level in this area must avoid such pitfalls. Further, a "secure legal status" needs to be granted not only to those immigrant workers labeled by the national law at hand as "highly skilled" or "talented". The establishment of an European legal framework offering juridical protection to those third country nationals falling within the category of high-skilled economic immigrants involves the emergence of discrimination towards all "the Others" not falling within this privileged status. Legal security must be offered also to all the rest of immigrant workers in order to avoid exploitation, discrimination and insecurity in the dimension of labour immigration in the EU. In addition, the Commission proposes legislation on penalties for employers of person irregularly on the territory. In light of the above comments, it may not be sensible to introduce penalties in this field before there is clarity for employers on legality of residence and employment of third country nationals in the EU.

7. As highlighted by the Policy Plan on Legal Migration COM(2005)669 of December 2005, The Commission needs to promote the establishment of a European framework providing a transnational European protection of immigrants' rights who are in legal employment and who already have been admitted to the EU territory. Additionally, the rights and liberties contained in the Charter of Fundamental Rights and Freedoms need to be applied fully to all persons legally residing inside the EU's territory. Residence, and not nationality, is the linking factor for having access to the EU's set of freedoms.

8. We have noted with increasing unease the lack of support which the UNHCR have given to EU measures on asylum. Clearly there is something wrong with the Common European Asylum System (CEAS) if the international institution created to be the guardian of the Refugee Convention finds EU measures inadequate to fulfil the minimum obligations of the Member States to the protection of refugees. In our opinion the EU institutions: Commission, Council and the European Parliament should defer to UNHCR regarding the correct interpretation of the Geneva Convention and ensure that all legislation adopted at the EU level complies with the internationally accepted interpretation of Member States obligations to those fleeing persecution. It is a very bad example to the rest of the world that 27 of the world's richest and most powerful countries refuse to comply with the internationally negotiated and accepted standards of refugee protection (in the negotiation of which they, themselves have been highly present and vocal). The second phase of the CEAS should provide an opportunity to correct this error.<sup>11</sup>

#### MANAGING THE EU ACQUIS

9. The Commission states that it is preparing an announcement on better regulation to ensure the correct application of EC law in the Member States. We would take this opportunity to note that while the application of EC law is of great importance, there is an even more pressing problem about application of EU measures adopted in the Third Pillar. The European Arrest Warrant provides only one particularly stark example where one Member State is now completely outside the system (Poland as a result of the decision of its constitutional court at the beginning of the year and the failure of the government to take the measures proposed to resolve the problem) and highly problematic implementation in a number of other Member States which deficiencies have been charted by the Commission. The Commission's lack of power to ensure correct implementation of Third Pillar measures needs to be resolved quickly before the whole field falls into disrepute as an area of non-approximation in which any practices preferred at the national level, irrespective of how problematic for the coherence of the EU measure adopted, are tolerated.

<sup>11</sup> See M Garlick, *Asylum Legislation in the European Community and the 1951 Convention: Key Concerns regarding Asylum Instruments Adopted in the "First Phase" of Harmonization*, in T Balzacq and S Carrera, *Security versus Freedom: A Challenge for Europe's Future?*, Ashgate: Hampshire, 2006.



## CONNECTING EUROPE TO ITS CITIZENS

10. The Commission states that one of its fundamental objectives is to make EU policies understandable and relevant to the citizens. In particular it wants to foster dialogue and debate with citizens, particularly including women and young people. Communication is one of the strategic objectives. We consider this to be a most laudable objective—communication with citizens is central to the legitimacy of the EU project. We are concerned however, about the impact of some developments in the AFSJ on fostering this communication. A battery of measures have been announced in the First and Third Pillars, both related to the Schengen Information System and otherwise, which are aimed at a substantial increase in surveillance of the citizen, his or her movements, statements, actions and activities. At the same time, the protection of the citizen from wrongful use of his or her personal data has lagged very substantially behind—for instance the continuing blockage of the Third Pillar Framework Decision on data protection. Without confidence regarding how data and communication will be used, it is useless to ask the citizen to engage in dialogue with the EU. Too often in the recent history of many Member States, criticism of state policies or actions has been passed to security services and resulted in the blighting of the lives of citizens. If the Commission wants to communicate with the citizen and for the citizen honestly to engage with EU law and policy, it must convince the citizen that his or her data, opinions, activities and positions are protected against improper use. A reassessment of all EU policies on creation, maintenance, access, distribution, correction and deletion of personal data is urgently needed with priority given to the pressing need to foster confidence among citizen that their data are well and fully protected and are not being stored and passed to intelligence services and the like for subsequent use against the citizens on the basis of the expression of their opinions and views.

*Prof Elspeth Guild*

Senior Associate Research Fellow, CEPS

Professor of European Migration Law (Centre for Migration Law, Radboud University Nijmegen)

5 January 2007

**Memorandum by the City of London Corporation**

1. The City of London Corporation welcomes the opportunity to comment on the European Commission's annual Legislative and Work Programme for 2007. The City has for some time been seeking to highlight the importance of thorough and detailed scrutiny of EU financial services legislation by Parliament, in addition to trying to ensure that directives which emanate from the EU are both principles-based and proportionate. The City supports the Government's desire to bring about a fully functioning single market in wholesale financial services, recognising that such harmonisation would be beneficial to economic growth in the UK and EU.
2. The City is broadly satisfied with the content of the Work Programme in that it demonstrates the Commission's intention to press ahead with the Better Regulation agenda. The strategic review of the Commission's Better Regulation activities is welcome as is the fact that the agenda is beginning to move from rhetoric to practice with the identification of simplification initiatives and the withdrawal of pending legislation. The feeling is that the Better Regulation argument at a policy level has been won, but there is more still to be done and delivery is now needed. The UK has led the charge in Brussels and the Commission has responded. There are positive signs from the Commission and upcoming Presidencies but some Member States are less keen.
3. The City of London Corporation has recently commissioned a research report from the European Policy Forum which looks at the ex-post evaluation and audit of European legislation and puts forward a number of suggestions for initiatives such as evidentiary hearings to evaluate the success of individual pieces of legislation. There are some concerns, however, that despite the best intentions the process of evaluation, codification and simplification might actually result in the creation of further new detailed rules. Some in the City are saying that the UK should be wary about promoting the idea of ex-post evaluation of Regulatory Impact Assessments (RIAs) and should be cautious about going too far along this route if the spirit of Better Regulation is not properly embedded first. Evaluation might open up avenues for the EU institutions to revise legislation and demand further, more detailed rules which could lead, in effect, to the creation of an FSAP II. The experience with the review of the Investment Services Directive which led to the Markets in Financial Instruments Directive (MiFID) is a prime example. It has also been stressed that proper market failure analysis should be carried out by the European Commission ahead of any RIA and decision on legislative action. Market failure analysis was introduced by the Financial Services Authority two years ago.
4. A broader linked issue not formally part of the EC Work Programme is the planned Commission evaluation of the FSAP. An external consultant will work on this during 2007 with publication planned for 2008. While the City welcomes such initiatives in principle, there are concerns as noted above as to whether

this can be achieved, mainly because the original set of measures were not supported by any substantial market analysis. Consequently this means that it is hard to benchmark the final result. It is intended that the City of London's annual research report, "The Importance of Wholesale Financial Services to the EU Economy", will include a benchmarking analysis of the impact of the FSAP measures but that will be more forward focused.

5. In terms of Commission political initiatives for 2007, the two main priorities for the City are in the areas of asset management and insurance, both of which have been the subject of extensive recent consultation.

6. On asset management, the City broadly welcomes the European Commission's White Paper on Enhancing the Single Market Framework for Investment Funds, published in November 2006, and its attempts to encourage the opening up of the cross-border funds market. The proposals closely follow the position of the Investment Management Association and the Commission is to be congratulated on listening to industry. The White Paper does not call for a re-write of UCITS (Directive on Undertakings for Collective Investments in Transferable Securities) but instead proposes targeted and incremental changes. UCITS is a global brand and the industry does not want this to be jeopardised. The UCITS discussions are closely aligned with the demographic challenge and the retirement debate across the EU. Difficult decisions still need to be made on fund mergers, pooling and the management company passport.

7. With regard to insurance, the Commission has indicated its intention to review the capital requirements for the insurance industry. The "Solvency II" package of measures has been the subject of major technical preparatory work by the Commission and Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) for over a year.

8. The City of London is also very interested in the issue of climate change and emissions trading, and will follow closely the work of the European Commission in extending the EU Emissions Trading Scheme for 2008–12. As part of its research programme, the City of London published a report in September 2006 from research undertaken by Consilience Energy Advisory Group which looks at the business opportunities offered by emissions trading, ascertains how the market has developed and identifies the next generation of trading opportunities for the City of London. It also investigates how emissions trading could be utilised by local authorities and proposes ideas for introducing energy efficiency measures in new buildings and local transport networks.

9. In the medium-term, another issue of potential concern for the City will be the reviews the Commission undertakes of the Markets in Financial Instruments Directive (MiFID) following implementation in 2007. By 2008, the Commission will be deciding on a number of important issues, notably whether or not to extend the directive's provisions on transparency covering the equity markets to the bond, derivatives and commodities markets. These are likely to be critical areas for London's wholesale markets and are being consulted on by the EC at the moment.

10. The City of London is very positive about the potential of the new emerging economies of China and India in particular, and it is hoped that practitioners in those markets will draw on established expertise of UK financial services to assist them in their enterprises. The City of London has long recognised the critical importance of China and India, both to the global economy at large, and more specifically to the international financial services industry. It is widely recognised that China and India will present significant possibilities for business and the City must do everything it can to capitalise on these opportunities. Equally, both India and China have much to gain through a closer relationship with the City community, not least as a source of capital and expertise for their businesses as they seek to expand beyond the domestic scene and enter the global market place. The City is actively campaigning on this front.

11. While the Commission as initiator of legislation at EU level is the main source of new legislative initiatives, there are other emerging proposals of which the Committee may wish to be aware. These are mainly originating from the European Central Bank (ECB) and include activities in the area of securities settlement and hedge funds (with the German Presidency of the EU also likely to focus on this latter issue in 2007).

12. The issue of clearing and settlement of securities has been a major issue for the EU institutions for some time. The Commission announced in the summer that it was opting for a self-regulatory solution to the problem of significantly higher costs for the cross-border trading of securities, widely acknowledged to be linked to problems in the clearing and settlement side. Shortly afterwards, however, the ECB announced that it was looking at creating a single settlement system for the Eurozone. This is a particularly important issue for the City and the City Corporation has brought practitioners together in a "taskforce" to ensure an ongoing input to the dialogue with the ECB. This will remain a major issue during the course of 2007, with the key areas of concern being scope, cost and governance.

13. Hedge funds and private equity are increasingly featuring on the agenda of European politicians. While Commissioner McCreevy has repeatedly signalled his intention not to regulate hedge funds, there is an increasing body of opinion in the EU in favour of further investigation at the very least. The ECB has signalled

it will look again at the potential systemic risk issues raised by hedge funds, and recently proposed the creation of a centralised register of hedge fund activity. This might conceivably be addressed at G8 level, where Germany has already signalled it wishes to address issues around hedge fund transparency during its Presidencies of both the EU and G8 in 2007. Any initiatives in this area will clearly be of considerable interest to the City of London.

*January 2007*

### **Memorandum by the Commission for Racial Equality (CRE)**

The Commission For Racial Equality (CRE) welcomes the opportunity to feed into the inquiry being carried out by the European Union Committee on the European Commission's Annual legislative Work Programme for 2007 (LWP 2007). For the purposes of this inquiry, the CRE will aim to address the policy areas in the LWP 2007 that are most relevant to its work, namely: working towards the elimination of racial discrimination, promoting equality of opportunity and promoting good relations between persons of different racial groups.

1. In this submission the CRE will aim to make comments of a general nature on the overall aims and ambitions of the LWP 2007, and then comment in more detail on the strategic and priority initiatives contained in the annex of the LWP 2007.

2. The CRE welcomes the reference in the LWP 2007 to several critical issues facing the EU-27, including: unemployment, demographic ageing, migration and sustaining the environment. The CRE welcomes the general focus in the LWP 2007 on social, employment and equality policies on the one hand, and the particular focus on migration and integration policies on the other hand.

3. The CRE is, however, concerned that despite reference in the narrative of the LWP 2007 to the social, environmental and employment challenges facing the EU, the 24 pages of policy proposals contained in the annex to the LWP 2007 contain few new policy initiatives on these areas.

4. The CRE considers that the LWP 2007 should be clearer in making the link between the inter-connected nature of many of the policies it outlines in the narrative of the LWP 2007. For example, it would be more compelling to consider simultaneously the issues that have a knock-on effect on each other to ensure policy consistency between the EU's different fields of competence. Immigration, environmental change, demographic ageing and equal access to employment and anti-discrimination must be addressed as part of a picture of the issues face by the EU-27.

5. The CRE is concerned that the section "Addressing challenges of European Society", only looks at structural barriers to the labour market for younger people. The CRE considers that the narrative of the LWP 2007 needs to consider the considerable barriers in access to the labour market faced by other groups and individuals, such as European ethnic minorities. The Commission has already recognised this in its 2006 Communication for Consultation on Action at EU level to promote the inclusion of the people furthest from the labour market. Attention must not be diverted from the persistent elevated rates of unemployment of European ethnic minorities and the over representation of these groups in some sectors of the labour market. The CRE looks forward to the report due on 2007 of the EU high level groups of experts that was convened in 2006 to consider labour market inclusion, and urges the European Commission to feed the report's conclusions into the proposed social stock taking exercise.

#### **COMPREHENSIVE STOCKTAKING OF EUROPEAN SOCIETY**

6. The CRE welcomes strongly the proposal by the European Commission in the LWP 2007 to undertake a "comprehensive stocktaking of European society", with the aim of creating a basis for a new agenda for solidarity, access to the labour market and equality of opportunity. The CRE hopes that the final result will act as a catalyst for a fresh approach to how social policy is developed in the EU, based on a picture of the social situation in the EU that is more comprehensive than ever.

7. The CRE considers that a "social stocktaking" has the potential to be one of the most progressive aspects of the LWP 2007 and the CRE will reiterate the points made below in the European Commission Consultation on the stocktaking exercise foreseen for late January 2007.

The CRE has the following comments to make about the proposed comprehensive stocktaking of European society:

- (a) The aim of the exercise is to analyse major trends in societal change and assist in identifying appropriate policy responses. The CRE would like to underline that data collection in several EU member states is often lacking entirely, scant in places or even prohibited by law (in the case of data

collection on race and ethnicity). This poses a barrier to identifying societal change in some EU member states and therefore in its endeavour to take stock of the social situation of the EU, the European Commission needs simultaneously to urge member states to collect data more rigorously on all grounds of inequality in order that the exercise obtains results that are more truly reflective of European society.

- (b) The CRE urges the European Commission to follow up on this first stocktaking exercise with an annual "state of the EU" report, which should generate a normative debate with member state governments and with European citizens and led by the EU, on what should be the EU's role in addressing issues of poverty and inequality in the EU.
- (c) The CRE considers that the social stocktaking exercise needs to have at the forefront of its thinking the issue of migration and immigration in the EU. Legal "third country migrants" (otherwise known as economic migrants), constitute a significant part of the EU's population and knowledge about the numbers coming into the EU and leaving the EU, on what is the social situation of economic migrants and the challenges they face to integrating into European countries is at best scant, and generally non-existent.
- (d) The CRE urges the European Commission in its social stocktaking exercise to give more than snapshot description of the social situation in the EU and ask in addition more probing, normative questions about what are the main drivers behind the social transformations in European societies and how should the EU address these. The EU also consult widely on and consider why some Member States have been so much better than others at achieving equality of outcomes for some groups, and in particular ethnic minorities. Some member states have, for example, been more successful in integrating migrants and their offspring, enabling them to achieve more in the education system. This is an opportunity to exchange best policy practice and for the EU to address difficult issues and potentially act where member states are failing on their own to tackle persistent challenges to equality and integration.
- (e) The EU social stocktaking exercise is unprecedented, and the results could potentially create a European consensus to take a fresh look at what social model the EU needs to deliver for the 21st Century. However, the CRE is concerned that the success of the stocktaking initiative could be impaired by an apparent lack of legislative initiatives. The CRE considers that vague support for equality of opportunity is almost meaningless unless it is accompanied by policies and where fitting, legislation. The CRE considers it to be crucial to include more policy proposals and potential legislation in the exercise, drawing on examples of best policy practice from the EU-27.

#### IMMIGRATION, MIGRATION AND INTEGRATION

8. The CRE is pleased that the European Commission is taking up migration policy in the LWP 2007, starting with the positive assertion that "The pressures of demography have added to the need for the European labour market to attract economic migrants". There are some promising concrete proposals to bring forward more legislation on migration, including:

- (a) A legislative proposal for a general framework directive addressing labour immigration. The objective of this is to promote better integration of economic immigrants into the labour market, with fair and clear rules and rights for them. The CRE considers that such a directive is overdue, but that the focus needs to be on the rights (as opposed to the rules) side of the equation; elevated rates of exploitation of economic migrants need to be redressed at the level of the EU, as does the issue of integrating economic migrants into European society.
- (b) On the general issue of migration and integration, the CRE considers that the issue of intra-EU migration is missing from the LWP 2007 and should be included in future work programmes. Notwithstanding that there is no concrete legal basis in the treaty to address the issue of integration of EU nationals (as is the case with Article 63 of the EC Treaty for third country migrants), the UK, as one of only three member states to open its labour market fully to A8 migrants in May 2004, is grappling with a number of challenges linked with this migration from within the EU, including exploitation of migrant EU workers, social cohesion issues in poorer areas of cities (especially London) and in rural areas. There is also a widely-reported pressure on some public services owing to mass internal migration from the EU. The CRE therefore considers that intra-EU migration deserves attention from national and EU policy makers as part of the wider debate on the social situation in the EU.

## Memorandum by European Parliamentary Labour Party (EPLP)

### COMMENTS ON THE WORK PROGRAMME OF A GENERAL NATURE

The Commission Work Programme has to be judged by two criteria. Firstly will it better equip the EU to face the challenges of today—global warming, energy, fighting crime and terrorism, managing migration. Secondly it should be judged by how well it addresses the routine business that the Commission has to focus on, *inter alia*, making the single market work better, improving the quality of legislation, ensuring the proper application of competition law, working towards the successful conclusion of the Doha round.

In general the Commission Work Programme 2007 does success in satisfying both criteria and avoids the temptation to produce an overlong shopping list. Nevertheless we would like to see more emphasis on the effective implementation of legislation already agreed. Indeed implementation should be the key watch word, as without effective implementation the Commission Work Programme can only be a wish list.

*Gary Titley MEP*  
EPLP Leader

All comments are compiled by policy topic in the order they appear in the Commission Communication (COM (2006) 629).

*Comments on the Work Programme of a specific nature*

### STRATEGIC INITIATIVES

#### *On Better Regulation*

The priority for the Legal Affairs Committee in 2007 will be the Better Regulation and simplification agenda, with 47 simplification initiatives set out in the programme. This is a priority for the German Presidency and the UK government is keen to see progress in this area, in particular in reducing administrative burdens for SMEs, public authorities, and the voluntary sector. For the first time these simplification initiatives are included in the main work programme, which shows progress on mainstreaming this agenda. The work programme also gives a welcome commitment to the use of impact assessments. This should equally apply to the simplification elements in the work programme.

This agenda also puts a responsibility on the Parliament and the Council to give the necessary priority to these work areas, and to use impact assessment more systematically for major amendments to Commission proposals.

#### *On energy*

There will be a package of legislative/non-legislative measures which were called for in the Commission Green paper on energy including:

Non-legislative text on a Strategic review of the Energy policy for Europe.

Proposed directive on Measures to ensure the completion of the internal market of electricity and gas.

Non-legislative communication on a strategic energy technology plan to encourage new energy technologies and bringing these technologies to market.

In addition to these and not mentioned in the work programme there will be:

A roadmap on renewables and achieving renewables targets in the EU.

A directive on the use of renewable energy for heating and cooling.

#### *On migration*

There will be several legislative proposals which will address issues such as: a clear legal status for economic migrants—increasing integration and reducing exploitation, a directive on highly skilled workers in streamline and fast track procedures so MS can plug gaps in their labour markets and a directive on minimum sanctions for employers found employing illegal third country migrants. These directives can, in general, be considered

as in keeping with the UK's position on migration and the aim of successful integration of economic migrants in the UK. The directives are complementary and seek to protect both economic migrants as well as indigenous businesses through sanctions for unscrupulous employers.

#### *On the single market review*

This will be the main issue for the Internal Market and Consumer Protection Committee in the Parliament over the coming year and in the Spring Economic Council.

The content as yet remains unclear but expectations are that it will focus on adapting the Single Market (SM) to the 21st century and globalisation. There are initiatives and proposals in the work programme which are likely to be directly linked to this single market review such as a Communication on the SM review, a social reality stock take—taking stock on the social reality in the EU with particular attention paid to access and opportunity. EU communication policy—this policy aims to ensure that consumers and business understand all the benefits the single market has brought. And also the White paper on Damages Actions for breach of EC competition rules—likely to aim for a more pro-active competition policy and will feature as part of the SM review.

Energy is identified as a key area of work to complete the single market and is also a high profile issue linked to security of supply and rising costs. Health Services were removed from the Services Directive and will be considered as part of the SM review. It will be important to ensure right balance between maintaining adequate standards of patient protection and ensuring free movement of services and people.

#### *On combating terrorism*

There will be further co-operation in the field of fighting crime and terrorism with a communication on cyber crime (*see Priority Initiatives*) and a revision of the Framework Decision on combating terrorism.

#### *On Emission Trading scheme*

A proposal for amending the directive on the EU Emissions trading scheme will be part of the review of EU climate change legislation. So this is a key tool at our disposal for tackling climate change by reducing CO<sub>2</sub> in a cost effective manner. The Commission will be publishing a review in October of the current rules with the aim of improving how the Emission Trading scheme works and extending its scope to cover more sectors and green house gases.

A proposal on aviation emissions was adopted by the Commission on 20 December 2006. This work has carried over into 2007 and is a key issue for the year ahead. The Commission proposed the incorporation of aviation into the existing ETS and the proposal focuses on how that would be best achieved. Key issues are scope, ie whether to cover all in-coming and out-going flights, and timing, ie whether a new system could be in place before 2012.

The Commission must ensure that the aviation industry is included in the scheme as soon as possible. The scheme must be workable and must not put European Airlines at a competitive disadvantage to third-country airlines. Noting public pressure and predicted sector growth rates, as aviation currently produces 3 per cent of CO<sub>2</sub> emissions, the industry must not be penalised against other industries which are far bigger polluters.

#### *On safe and efficient health services*

This dossier is expected in June 2007 and follows on from the exclusion of health in the context of the recently adopted services directive. The Commission's proposals will seek to determine how the EU can add value to the organisation of health services at Member State level and will address legal clarity issues related to the cross border provision of health care services and patient mobility in view of recent ECJ judgements.

*On diplomatic and consular protections*

This communication strengthens diplomatic and consular protection so citizens are aware of their rights in this field when outside the EU.

*On health strategy*

This white paper is expected in June 2007 and will seek to ensure that EU health policy is coherent and addressed in a cross sectoral manner by the Commission's services. In particular, the strategy document will seek to identify ways to bridge health inequalities across the EU, facilitate access to health services and mainstream health into all EU policies.

*On renewed market access strategy*

The renewed market access strategy is welcome in as far as it will look to further dismantle tariff and non-tariff barriers, especially "behind the border" regulatory restrictions, and will call for more effective implementation of current WTO provisions which shall enable EU businesses to more easily trade in third countries. Encompassed within the latter, a strategy for more effective enforcement of intellectual property rights is to be welcome.

It is important within this strategy that while bi-lateral deals should form part of the strategy for market opening it must be made clear that they are as a complement to, rather than a replacement for, multilateral negotiations at the WTO.

It is important that the sense of urgency to make the EU more competitive should not lead to the market access strategy pursuing one pillar of EU trade policy, EU competitiveness, at the expense of the other pillar, sustainable development. In order to ensure this, the Commission must make sure that market opening is not pursued at a speed which may be of detriment to the development of a country. Similarly, pursuing liberalisation within certain sectors, such as within government procurement in essential public services, such as water provision, should not be pursued where it is not appropriate for local sustainable development.

*On future maritime policy*

A positive strategy concerning future maritime policy is very welcome and full consultation with industry, employees and all stakeholders is of the utmost importance. It is also encouraging that the Commission have taken time to reflect on European Ports Policy after the double rejection of the Ports Services Directive. A Communication of possible ways forward after adequate consultation with stakeholders is a constructive initiative.

The Green paper on a future maritime policy for the Union launched a debate on an integrated Maritime Policy which will release untapped potential in terms of growth and jobs while strengthening the protection of the marine environment.

The document has now been allocated to the Transport Committee with enhanced co-operation although the Fisheries Committee attempted to claim it, and along with several other EP committees, will submit an opinion.

*On urban transport*

The proposed green paper on urban transport is to be welcomed, This will play a major role in assessing the impact of a European energy policy on urban transport. All too often in European debates on energy the impact of the transport sector is overlooked despite playing a major role in a future common EU energy policy. It should not be forgotten that urban areas are responsible for 75 per cent of greenhouse gas emissions, therefore addressing transport related issues in this area is essential.

*On climate change 2012*

The Commission will produce two strategy documents that will shape EU climate change policy post 2012. The Commission will launch a public consultation on climate change in April 2007 seeking the views of stakeholders on the way forward. The results of this consultation will be taken up in a white paper in November 2007.

In addition, new proposals related to climate change expected in 2007 will seek to reduce emissions of CO<sub>2</sub> from heavy duty vehicles (ie trucks, buses used in road transport etc), encourage more environmentally friendly passenger cars by setting mandatory emission reduction targets and ensure that the promising new carbon capture and storage technology for tackling climate change is safe, effective and available across the EU.

With regard to air quality a legislative proposal is foreseen to reduce atmospheric pollution by setting national emissions caps. The aim of the proposal will be to achieve ambitious reductions by 2020 with an emissions trading scheme under consideration for accomplishing this. The Commission is also planning an important review of existing rules on industrial emissions and notably the Integrated Pollution Prevention and Control Directive (IPPC). The IPPC Directive is one of the key pieces of legislation governing industrial emissions and the review will aim to improve its functioning and find ways of encouraging industry to go beyond regulatory compliance.

#### *On communication policy*

The Commission's emphasis on connecting Europe to its citizens through, amongst other programmes, "the Plan D" and the white paper on communication should dovetail with the on-going work of the petitions committee which provides a direct interface with citizens.

The white paper on communication will look at ways of improving links between the institutions and the citizens and will promote greater co-operation between the Commission, the petitions committee and the European Ombudsman in the fields of communicating Europe, providing redress and informing citizens of their rights through EU membership.

To succeed in "connecting" with citizens, international development must be given particular attention.

### PRIORITY INITIATIVES

#### *On European climate change adaptation programme*

See notes on climate change.

#### *On implementation and enforcement of environmental law*

An overall review of environmental policy is foreseen at the end of 2007 providing an opportunity to assess the implementation and effectiveness of EU environmental policy to date.

#### *On nutrition*

This white paper will build upon the current green paper on diet and nutrition. Some of the key issues to date include the need for effective monitoring and assessment of industry's voluntary commitments, more product reformulation, restrictions on TV adverts aimed at children of foods high in fat, salt and sugar, the development of an EU sign posting scheme and better labelling requirements.

#### *On the fight against cyber crime*

Linked to the work on combating terrorism (*see Strategic Initiatives*).

#### *On animal health*

Legislative initiatives related to animal health but which have implications for food safety will aim to review existing rules to ensure that they are working properly. Proposals will be made to clarify, simply and/or update rules where necessary in order to achieve better regulation at European level.

Initiatives on animal health will also involve establishing a clear policy framework for the period 2007–13 taking into account the needs of industry, consumers and our international obligations.



*On organ donation and transplantation*

In March 2007 the Commission will explore ways of ensuring the safety and quality of human organs for transplant as well as addressing issues of organ donor shortage and organ trafficking. Future legislative initiative in this area is not excluded as a policy option as there is a basis for this in Article 152(4) of the Treaty.

*On safety of toys*

This is a worthy initiative that aims to simplify the current legislation, clarifying essential safety requirements, and improving implementation.

*On Erasmus Mundus II*

Whilst recognising the importance of co-operation in the field of higher education, it remains the case that the three institutions agreed—in the context of the DCI negotiations—that special priority should be given to basic (and secondary) education in the EU's development co-operation. This should be reflected in the work programme.

*On NAIADES*

It is interesting to see the Commission initiating concrete plans for the NAIADES programme for revitalising Europe's inland waterways. This is a good opportunity for promoting environmentally friendly alternatives for freight transport and good intentions must be backed up by the appropriate funding.

*On road safety*

The proposal on cross border enforcement of sanctions in the field of road safety will have to be monitored particularly closely. This will play a major role in improving enforcement of existing road safety legislation. Effective enforcement in the field of road safety has long been a stumbling block in the pursuit of halving EU road deaths by 2010. The scope of this proposal must be monitored so that there is no room for one Member State to issue criminal sanctions in another.

*On development aid and co-operation*

The European Union takes pride in the fact that, together with its 25 Member States, it is by far the biggest provider of ODA in the world. This position should give the Union not only moral clout in the field of development co-operation, but also a special responsibility to take the lead in establishing examples of best practice in this field.

2005 was the "Year of development co-operation"—we saw the UN World Summit, the Paris High-Level Forum, G8 (Gleneagles) and the WTO Hong Kong Ministerial. In 2005, the EU institutions agreed on a new Development Policy Statement, the "European Consensus on Development" and on an EU Strategy for Africa (which was presented as the first practical application of the European Consensus).

In addition in 2006, the three EU institutions agreed on a new financing instrument for Development Co-operation (DCI). This instrument sets down the guiding principles and priorities of the European Commission's development co-operation with all non-ACP developing countries for the next financial perspectives (2007–13).

Also the EU recognises the need to respond to the increasing number of natural disasters and is therefore ensuring that ECHO has a new long-term strategy for the speedy and effective delivery of humanitarian aid.

In the Commission's 2007 work programme, however, these recent and positive developments are conspicuously absent. Humanitarian aid, for instance, is not mentioned at all, and in the few instances when it is mentioned, development co-operation is considered as an instrument of the Union's external actions, at the service of EU interests, and for promoting the EU's internal values and priorities outside the Union's borders.

In addition in the subchapter "Europe as a world partner" (p 7 of the Commission Communication), external priorities are defined exclusively in relation to EU interests (enlargement, market access, trade, European Security Strategy, diplomatic and consular protection).

This is indicated in the following statement:

“This Commission sets out its strategic objectives at the start of its mandate: putting Europe back on the track of prosperity, re-enforcing our commitment towards solidarity; strengthening citizens’ security and, finally, projecting and promoting these priorities outside our borders with a stronger voice in the world.”

This contrasts strongly with the 2005 “European Consensus on Development” which states that “The primary and overarching objective of EU development co-operation is the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs) and in which the institutions “reaffirm that development is a central goal by itself”.

The Commission has apparently downscaled their commitment to play a central role in International Development. On page 10 of the Commission Communication, subchapter “International scene”, the Commission claims for itself a “lead role in ongoing international negotiations” in the following fields: environment (notably climate change and biodiversity), agriculture, fisheries, trade and intellectual property). There is no mention of development or humanitarian aid.

In the “European Consensus for Development”, the signatories “reaffirm their commitment to promoting policy coherence for development, based upon ensuring that the EU takes account of the objectives of development co-operation in all policies that it implements which are likely to affect developing countries, and that these policies support development objectives”.

In the 2007 Work Programme, however, the only mention of trade policy—and its links with development objectives—contradicts this subscription to coherence: “Over the coming year, a key goal of the Commission will be to overcome the obstacles to an agreement in the Doha Development Round. This remains central to the health of the global economy. At the same time, the EU should pursue its Global Europe Communication to promote a dynamic policy of external competitiveness and co-operation to improve trade relations with key partners and to ensure the external dimension contributes to growth in Europe”. The only reference to Economic Partnership Agreements (EPAs) is vague and non-substantive: “Negotiations on Economic Partnership Agreements, which represent a cornerstone for the regional integration of the ACP countries and for their development, will be concluded by the end of 2007”. This ignores the major divisions between ACP negotiators and the European Commission on how to give tangible expression to the concept of development in an EPA. Europe is negotiating EPAs with an ACP group that includes some of the most vulnerable economies in the world, with the largest collection of least developed countries, small islands, small economies, and landlocked states. The ACP have serious concerns, especially about supply-side constraints and institutional shortcomings and assert that adjustments require substantial additional funding. They also raise as facets of their development priorities the need for an asymmetrical approach to trade liberalisation, special and differential treatment, and a simplification of complex rules of origin. ACP negotiators have stated clearly that they will not be terrorised by deadlines and that the expiry of the WTO waiver should not be used to argue for the need to sign up to an agreement that is perceived as detrimental to ACP development interests.

The DCI and its consequences for the future work of the Commission (starting in 2007) are not mentioned explicitly. There is one reference to a new set of instruments for external actions on page 8 of the communication. Once again, poverty alleviation and the sustainable human development of the partner countries are not stated as goals of the new instruments: “A new set of external policy instruments will be introduced to promote development and co-operation and to deliver external assistance in over 150 countries around the world, to respond to trans-regional security threats or to promote human rights and democracy.”

The negotiations on the DCI should lead to a proposal from the Commission for a new set of Communications setting out priorities for the different geographical regions considered by the DCI (Latin America, Asia, Central Asia and Middle East)—following the example of the 2005–06 series of communications on the different geographical regions covered by the EDF.

Another natural consequence of the DCI should have been a revision of the series of seven Communications on thematic priorities (issued by the Commission at the beginning of 2006) to bring them into line with the newly agreed thematic priorities under the DCI. This, again, is not considered in the work programme.

The Commission identifies environmental protection as one of its priority areas. However, serious proposals focusing on climate change and its impact on developing countries, who contribute less to climate change, but who—according to all projections—will suffer most from it, are absent from the Work Programme.

There is a welcome and positive reference to: “Communication on complementarity, division of labour and scaling up of development aid”.

In view of the increasing number of humanitarian disasters, both natural and manmade—in Darfur, Iraq, Afghanistan, Lebanon, Palestine—a broader and more focused approach is needed. There are clearly a lack of financial and human resources to efficiently respond to these humanitarian needs. The Union must continue to play a leading role in humanitarian action and to be active in taking forward the reform process of the global humanitarian system according to the principles of “Good Humanitarian Donorship”.

#### *On a common asylum system*

A key paper will be the Commission's Green paper on the establishment of the second phase of the Common European Asylum System (CEAS). The aim is to have this established by 2010 and this objective stems from the Hague Programme. This will be a contentious dossier for Council and could see a clash between Council and EP.

#### *On trade defence*

The European Community's Trade defence instruments undoubtedly need updating. Currently the Commission's responses to calls for anti-dumping measures are too often in favour of those who petition the Commission to take action. Often anti-dumping measures are not in the broader Community interest in terms of how they affect the entirety of EU businesses and consumers.

In order for this to change there needs to be greater consideration given to the broader community interest when deciding to implement anti-dumping measures, rather than just those of the producers who are competing against more competitive imports. Hence a voice and greater consideration needs to be given to importers, the retail sector, small- and medium-sized enterprises and consumer groups.

It is also important that European companies who choose to locate themselves in third countries are not then penalised through the use of trade defence instruments, therefore consideration needs to be given to their interests prior to any trade defence measures being put in place.

There also needs to be in place a more thorough, objective, transparent and accurate methodology of investigation when the Commission looks into anti-dumping allegations. The role of so called “analogue countries” which are not fully relevant to the country under investigation, such as when Brazil was used as a comparison to discover whether Chinese shoes were being exported at less than cost price, needs to be re-examined.

#### *On generalised tariff preferences*

It is vital that the Commission monitors those countries that have committed themselves to implementing International Labour Organisation conventions under the GSP and ensures their implementation. The recent suspension of Belarus' GSP preferences was welcome, however the Commission needs to go further to guarantee that other GSP partners deliver on their ILO commitments under the GSP.

#### *On EU-Africa relations*

The Commission should acknowledge that a lot remains to be done to achieve the MDGs in Africa. Although the EU-Africa Strategy has proved a very useful basis for further dialogue with the AU, it has not yet led to a Joint AU-EU Africa Strategy neither has it produced any more clarity on how the Strategy should engage all institutions in the EU, and not just the Commission. The long-term thinking and commitment to undertaking an assessment of progress of EU-Africa relations is welcomed.

#### *On global agreements with ASEAN countries*

It is important that the EU engages with ASEAN and other East Asian countries on a bi-lateral basis, however it must be made clear that these bi-lateral deals are no substitute for a successful completion of the Doha round of WTO negotiations.

The provisions contained in any bi-lateral trade deals must not be at the expense of sustainable development, and the speed and nature of liberalisation must be sensitive to local development and sustainability needs. The news that the ratification of core ILO conventions is to be linked to these bi-lateral agreements is positive, though there is a need to have in place the appropriate mechanisms in order to ensure compliance with these commitments.

The legislative proposal for global agreements with ASEAN countries in the DCI still requires clarification. Should these agreements be concluded under Article 181 of the EC treaty as proposed or should they be concluded under Article 179? And how will the development focus be ensured?

*On public access to documents*

This is a key part of the communications strategy. However, exceptions in this regulation are being used, in Europe and in developing countries, to refuse to make CSPs available to citizens and parliamentarians. Any review of this regulation should guarantee that draft CSPs will be made available to parliamentarians and citizens, whenever they require it.

## SIMPLIFICATION INITIATIVES

*On novel foods*

The purpose of this revision is to adapt the existing rules following the removal of GMs from the scope of this directive. The Commission is also seeking to ensure more legal certainty for an innovative food industry by ensuring that the rules take account of new technologies (such as nanotechnology and animal cloning) and that the authorisation procedure for novel foods is streamlined.

*On food and nutritional labelling*

The Commission's objective is to update the current rules so that they strike the right balance between meeting consumer needs and ensuring an appropriate level of market flexibility. This is a consumer friendly front of pack sign posting scheme and mandatory back of pack nutritional labelling.

*On the timeshare directive*

This is a long overdue revision as the original directive is clearly not functioning as it should with too many loopholes. It aims to enhance legal certainty for consumers and apply these rules/extend the scope of long-term holiday products and similar products which have avoided falling under this directive in the past.

*On rules of origin*

This initiative needs careful follow-up by the Development Committee. The Commission states that it "intends to simplify the rules of origin by proposing new rules which will determine the position in negotiations on GSP, as well as in the context of the new Economic Partnership Agreements with the ACP countries."

*On road haulage*

There are two proposals which aim to strengthen EU standards in the field of road haulage. The proposals will clarify criteria such as good repute, financial standing and professional competence by which operators can gain admission to the occupation and set up business. This is to be welcomed in improving standards of foreign hauliers on British roads, something which has recently been open to criticism.

*On computerised reservation systems*

The revision of the code of conduct is welcome in part. In some areas deregulation will certainly be positive; however there is concern that total abolition of the Code of Conduct will not be moving in the right direction considering the continuing existence of parent carriers in the industry. Some well thought-out rules of fair play are vital to effectively restrain parent carriers discriminating against independent CRS's. The Commission must ensure that competitive advantages are not given to CRS systems owned by airlines.

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OTHER COMMENTS NOT DIRECTLY LINKED TO THE COMMISSION COMMUNICATION ON LEGISLATIVE AND WORK PROGRAMME 2007

*2008 budget review and CAP reform*

When agreeing the Financial Perspectives at the end of 2005, Member States agreed to carry out a comprehensive review of the EU budget. If this is to be effective then preparations for the review should take place in 2007.

*January 2007*

**Memorandum by Federation of Small Businesses (FSB)**

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to this call for evidence. The FSB is the UK's leading non-party political lobbying group for UK small businesses existing to promote and protect the interests of all who own and/or manage their own businesses. With over 200,000 members, the FSB is also the largest organisation representing small and medium sized businesses in the UK.

SUMMARY OF KEY AREAS OF INTEREST TO FSB MEMBERS

- European Commission Communication on Future Single Market Policy.
- European Commission Communication on the implementation and enforcement of EC environmental legislation.
- European Commission mid-term review of both industrial policy and the modern SME policy.
- Follow-up to the European Commission Green Paper on the Evolution of Labour Law.
- European Commission's Better Regulation measures.
- European Commission Proposal for a Regulation on Enhancing Supply Chain Security (not included in Commission's 2007 Work Programme).

COMMENTS OF A GENERAL NATURE

1. The FSB welcomes the European Commission's Annual Legislative and Work Programme for 2007. In particular, we appreciate the Commission's commitment to producing an improved and more focused programme for 2007. We hope that this will facilitate greater inter-institutional cooperation, particularly in the area of Better Regulation.
2. The FSB is encouraged by the decrease in legislative proposals and is pleased that the European Commission is heeding the advice of business organisations that Better Regulation ultimately means less regulation. The FSB's response to specific Better Regulation proposals is outlined below.
3. However, the FSB questions the Commission's commitment to become more accountable, transparent and effective as stated in the 2007 Work Programme. Whilst this might be the overall intention of the European Commission, the FSB has found from past experience that previous work programmes have failed to mention highly controversial proposals for legislation. More details of this are given below.

COMMENTS OF A SPECIFIC NATURE

4. The FSB contributed to the European Commission's Public Consultation and Hearing on Future Single Market Policy and we look forward to the Commission's forthcoming Communication. It is the FSB's belief that the benefits of the Single Market project have not yet filtered through to the small business community. The FSB campaigned actively for the adoption of the Services Directive and now sits on the UK government committee overseeing the transposition of this Directive in the UK. However, we believe that more can be done to extend the benefits of the Single Market to small businesses.
5. Therefore, we would like to see the Commission's Communication deal with the issue of gold-plating, which can generate disparities and unfair competition across the EU. The Commission should promote the use of "correlation tables" to make the implementation of EU rules by member states transparent.
6. Secondly, the Commission needs to make serious efforts to rationalise the bodies and agencies that assist businesses to access the Single Market, and where necessary report unfair practices that contravene Single Market rules. Greater emphasis must be put on coordinating SOLVIT, Innovation Relay Centres, Euro Info Centres and other agencies as well as promoting their existence to the small business community.

7. The FSB believes that the Commission's Communication on the implementation and enforcement of EC environmental legislation could have a significant impact on its members.
8. The FSB waits with interest to see what will result from the Commission's mid-term review of both industrial policy and the modern SME policy. We hope that the Commission's greater emphasis on policies that generate employment will be reflected by an increased commitment to place SMEs and the centre of this initiative. It is a widely accepted fact that if every small business in the EU created one more job, unemployment would be eradicated. However, this has not always been reflected in concrete actions to make it easier for SMEs to set-up, survive and prosper.
9. The FSB has cautiously welcomed the European Commission's Green Paper on the Evolution of Labour Law and it looks forward to contributing to the public consultation that will culminate in a Commission Communication.
10. The FSB believes that the Commission's Green Paper asks some very pertinent questions regarding the extent to which existing regulations hinder enterprises and productivity. We are also pleased that consideration is to be given to reforming the organization of working time to provide greater flexibility for both employers and employees.
11. These questions are central to solving Europe's unemployment crisis, as well as boosting innovation. Economies in the 21st Century are driven by SMEs, which today represent Europe's main job creators and innovators. The FSB will seek to put the interests of SMEs and their employees at the heart of the debate about the evolution of labour law.
12. However, the FSB is concerned that the Commission's Green Paper may result in a reassessment of the concept of self-employment. Attempts to re-define and regulate self-employment could lead to a disincentive to entrepreneurs and ultimately result in fewer business start-ups.
13. The FSB is also concerned by the reference in the Green Paper to a "floor of rights" for the working conditions of all workers regardless of the form of their work contract. Whilst this sound relatively innocuous, experience shows that this could result in a raft of unnecessary social legislation that ultimately prevents small businesses from employing more staff and growing their businesses.
14. Finally, the FSB welcomes the prominence that the Commission's Work Programme gives to the issue of Better Regulation. Furthermore, we welcome acknowledgement elsewhere by the Commission that EU legislation costs the business community €600 billion every year.
15. The Commission has set itself a massive task in simplifying, codifying and screening legislation and legislative proposals. Furthermore, its ongoing commitment to conducting impact assessments is to be welcomed. However, the FSB is concerned that without an independent audit of impact assessments it will be difficult to maintain their quality.
16. It is clear that Better Regulation underpins that Commission's 2007 Work Programme. Unfortunately, the Commission cannot deliver the intended benefits of Better Regulation without the cooperation of Council and Parliament.
17. For this reason, the FSB is calling on the European Council to adopt the Commission's proposal to set a target to cut the burden of regulation for businesses at EU and national level by 25 per cent by 2012. Furthermore, we would like to see all unresolved legal proposals annulled at the end of each European Parliamentary term, in addition to deadlines being set on Parliament and Council for simplifying existing regulations.

#### PROPOSALS NOT INCLUDED IN THE EUROPEAN COMMISSION'S WORK PROGRAMME

18. Whilst the FSB welcomes the direction and much of the content of the Commission's 2007 Work Programme, we remain very concerned that it does not include all important legislative proposals. In particular, the European Commission's Proposal for a Regulation on Enhancing Supply Chain Security (27/02/2006 COM (2006), 79), which has not featured in previous Commission work programmes and does not feature in the Commission's programme for 2007.
19. This Proposal could potentially affect any business operating in a supply chain and could, according to the European Commission, cost an average medium sized business an extra €131,000 per annum in running costs. For a proposal of this magnitude to be omitted from the Commission's work programme leads the FSB to question the Commission's commitment to Better Regulation.

**Letter from Helen Daskalaki, Direction for European Relations, Hellenic Parliament**

Further to your inquiry on the Commission's 2007 work programme, we would like to hereby let you know of the following.

The Committee for European Affairs of the Hellenic Parliament debated on the aforementioned Programme on 23 November, as well as on 29 November 2006, at the presence of the Deputy Minister of Foreign Affairs, Mr Valinakis.

The debate did not result to specific comments or proposals, but rather to the identification and selection of future Commission's initiatives that are considered most important (such as those concerning immigration, energy, health services, fight against terrorism, enlargement, maritime policy, environmental issues and financial services, as well as certain actions concerning Common Agriculture Policy and Fisheries) and which should further be examined in the frame of joint meetings of the Committee for European Affairs and the competent Standing Committees.

One of the rapporteurs, as well as many of the present Committee members, expressed comments of a more general nature. Specifically, they suggested that the programme, should be annexed by an account ( or a report on the state of play) of the previous Commission's initiatives, in order to achieve its better elaboration and effective assessment.

*15 December 2006*

**Memorandum by Local Government Association (LGA)****1. CONTEXT**

1.1 Local authorities closely follow EU legislative and policy developments. Over half of all legislation impacting on councils has its origins in Europe. Whilst there are demonstrable benefits from having EU-wide actions in certain policy areas by virtue of the scale of the issue or its cross-border nature, EU legislation has the potential to impose significant financial and administrative burdens on local authorities. For example, it is estimated that the cost to UK local authorities of implementing the WEEE Directive in the last two years is in the order of £140 million; extrapolating that across all EU legislation indicates the potential burden on council resources.

1.2 It is for this reason that we have welcomed EU initiatives towards better lawmaking, and to try to ensure that local government is recognised as an integral part of European governance with full consultative rights. Councils have an interest in EU law and policy in their roles as community leaders, exemplars of good practice, educators, employers, regulators, and major purchasers of goods and services.

1.3 The Local Government Association seeks to represent the interests of our member authorities on European and international matters, including through our representatives in the EU Committee of the Regions (CoR) and in collaboration with our partner national associations of local government across the EU and through the Council of European Municipalities and Regions (CEMR).

1.4 In this context, the Local Government Association welcomes this opportunity to submit evidence to the Committee. In the areas identified below as our priorities, we would be happy and indeed keen to discuss in more detail.

**2. EUROPEAN UNION PRIORITIES OF THE LGA**

2.1 This submission highlights the key priorities for Local Government from the European Commission 2007 work programme. They are a mixture of priorities from the 2007 work programme, and uncompleted work from earlier work programmes.

2.2 In 2006 the LGA published "closer to people and places" (enc.), setting out our vision for the communities we represent. In developing this vision three objectives drive our thinking:

- to secure more fundamental improvements in public services, and make better use of public money;
- to improve the quality of life and the economic performance of cities, towns and villages; and
- and to give people greater power and influence over their lives, and the future of the places where they live.

2.3 Establishing our EU priorities entails taking two fundamental questions into account:

- can the domestic objectives of Local Government be affected, positively or negatively, by new EU initiatives?

- are there initiatives in the EU work programme that could impact on local authorities as employers, service providers, purchasers or community leaders, which although not part of the LGA's current priorities, could because of their potential impact become priorities when they are transposed into UK law in the future?

2.4 Our priorities are presented here in the context of the ambitions that the LGA and local government have to deliver for the people and places we represent.

### 3. "A THRIVING AND SUSTAINABLE LOCAL ECONOMY"

3.1 EU regional policy and the Lisbon strategy are important factors in galvanising national, regional and local action to develop urban, rural and coastal communities. Strong, locally managed public services are essential to the delivery of these objectives.

#### *Priorities carried over from 2006*

3.2 Implementation in the UK of the EU Services Directive. LGA view:

- The LGA is pleased to have been successful in our campaign to ensure that certain sectors, such as social services, be excluded from the Directive. We will be carefully scrutinising how the Directive is implemented in the UK to ensure that no unintended burdens are passed on to local councils.

3.3 EU review procedures in the award of public contracts. LGA view:

- The LGA will be lobbying hard to ensure that the new rules will not unduly limit the procurement activities of councils in the UK.

#### *New priorities for 2007*

3.4 Implementation of EU regional, social and rural funding programmes and setting the agenda for future EU regional policy and funding programmes (4th report on economic and social cohesion); assessment on how regional policy programmes support the jobs and growth strategy. LGA view:

- It is important that the full range of economic, social, and environmental thematic priorities are available to local authorities to allow the diverse development needs of different areas to be tackled effectively.
- UK central government has recently assigned this responsibility to Regional Development Agencies (RDAs). The LGA (and European Commission) believe that there should be better involvement of local authorities in the design, management and delivery of operational actions.

3.5 Review and completion of the Single Market strategy. LGA view:

- Local authorities are affected by the Single Market, both positively in terms of achieving lower prices and promoting certain safeguards, but potentially negatively if it leads to greater red tape.

3.6 Creating legal certainty in the award of public concessions. LGA view:

- Local councils are heavily involved in the award of concessions and more clarity from the EU is welcome on this issue.
- The opportunity should not be missed to ensure that the new rules affecting Public Private Partnerships (PPPs) enhance rather than hinder local authorities' PPP activities.
- EU policies in this field should allow for local flexibility.

3.7 Green Paper consultation on employment law and Communication on flexicurity. LGA view:

- Local authorities are major employers and could potentially be affected by changes to labour law arising from this debate.
- We want to see a greater role for councils in promoting economic development. A vital part of this is greater local ability to take decisions that will promote skills and tackle worklessness.
- The sub-regional level is the best level for labour market intervention. So new rules must reflect a desire to devolve decisions to local partnerships led by councils.
- The flexicurity Communication will cover wider issues which local authorities are key to delivering at a local level, such as the implications of labour market law on economic development and social inclusion.



3.8 Other items in the 2007 EU work programme with potential importance to local government:

- revised laws concerning regional and state aids;
- revised law on compliance in the CAP direct support schemes;
- Green paper on urban transport;
- actions towards a comprehensive EU maritime strategy;
- EU ports strategy;
- a new higher education programme; and
- development of the European Research Area.

4. "CLEAN, GREEN NEIGHBOURHOODS"

4.1 *How will new EU policy and law on sustainable development, environment, waste, climate change and energy policy contribute to this goal and what obligations will they place on local authorities?*

*Priorities carried over from 2006*

4.2 Green Paper on adaptation to climate change. LGA view:

- Local authorities are already having to adapt to climate change, but their role in doing so is rarely recognised or adequately funded.
- Climate change impacts on many services that local authorities provide, including transport, highways and many areas of service provision and policies will have to be "climate proofed".
- EU policy has focused too much on mitigation of climate change, with little effort to assess the impacts and adapt to them—the Green Paper must do this and bring local government into the process.

4.3 Actions to promote energy efficiency. LGA view:

- Local authorities are major users of energy in municipal and public buildings and play a major role in guiding the energy efficiency of a community through policies such as planning and transport.
- The LGA welcomes the EU's focus on energy efficiency, including the proposed energy savings target of a 20 per cent reduction on 2005 levels by 2020. Local authorities are supportive of clear targets, timetables and policy frameworks, however a longer-term approach which is well-resourced at the local level needs to be urgently adopted.

4.4 EU waste and recycling strategy and the revision of the Waste Framework Directive. LGA view:

- Councils have waste collection, waste disposal and waste planning responsibilities. They play a vital role in the development of recycling capacity and in promoting better management of natural resources and waste in the community and economy.
- Waste must no longer be perceived on its own but as part of wider resource management.
- Waste prevention must have a clear emphasis at the top of the resource management hierarchy.
- Costs and burdens for waste management should not fall disproportionately on local authorities. Producer responsibility and the polluter pays principle must be firmly incorporated in legislation.

*New priorities for 2007*

4.5 Implementation and enforcement of EC environmental law. LGA view:

- EU environment law has a massive impact on councils and the way in which it is interpreted and enforced by the UK government is key.
- 2007 will see the implementation of several crucial pieces of legislation, including the WEEE, batteries and environmental liability directives. It is vital that the implementation is carried out in consultation with local government and that no additional financial burdens are imposed on local authorities.

4.6 Other items in the 2007 EU work programme with potential importance to local government:

- EU Action Plan on sustainable production and consumption;
- national target setting for nation green procurement;
- new laws on vehicle emissions.

## 5. "SAFE, STRONG AND INCLUSIVE COMMUNITIES"

5.1 This is also a pillar of the Lisbon strategy. EU initiatives and new law in the field of social and equalities policies impact on local authorities as service providers and employers.

### *Priorities carried over from 2006*

#### 5.2 Implementing the Lisbon strategy for jobs and growth: LGA view

- Local government is central to the success of the Lisbon strategy because councils are so closely involved in many of the areas it covers.
- Local authorities are major employers and deliver economic and lifelong learning strategies, for example, as well as social inclusion and environmental sustainability.

#### 5.3 Items in the 2007 EU work programme with potential importance to local government:

- consideration of future law in the field of social services;
- new laws on labour migration;
- conditions of entry and residence for highly skilled workers, sanctions against employers of illegally resident migrants;
- evolution of the European Asylum System;
- European e-inclusion strategy;
- "Social stocktaking" (report on the social challenges facing people in Europe deriving from globalisation, ageing population, multiculturalism, poverty and exclusion, etc;) and mid-term review of the Social agenda;
- European Year of Equal Opportunities for All 2007; and
- preparations for European Year of Intercultural Dialogue 2008.

## 6. "SECURITY AND INDEPENDENCE FOR ALL IN OLDER AGE"

6.1 Local government has a role to play in dealing with demographic change and it is vital that the EU takes into account the position of local government in any future debate and developments.

### *Priorities carried over from 2006*

#### 6.2 Debate on the demographic future of Europe. LGA view:

- The LGA is pleased to have been successful in our campaign to ensure that the Commission did not propose any legislative initiatives in the recent demographic change communication.
- The LGA is co-ordinating a joint project with the Dutch, Danish and German LGAs to provide councils in the UK with best practice on how local authorities can rise to the challenges presented by demographic change.

## 7. "BETTER PUBLIC HEALTH"

7.1 EU policies and debate on public health can help identify good practice in other countries.

### *New priorities for 2007*

#### 7.2 White Paper on public health. LGA view:

- Councils have a key role to play in promoting healthier lifestyles and the general wellbeing of their communities. Councils are the only agency that can really join up all the services involved to improve health at the local level.
- Local Government wants to see health services redesigned to focus on preventative health measures and reducing health inequalities. Councils are already leading the way, championing innovative initiatives to promote wellbeing.

### 7.3 Other items in the 2007 EU work programme with potential importance to local government:

- efforts to improve the efficiency, effectiveness and accessibility of health services throughout the EU;
- White Paper on nutrition; animal health strategy 2007–13;
- revision and better enforcement of laws on safety of toys; and
- revision of food labelling laws.

## 8. OTHER LOCAL GOVERNMENT PRIORITIES

8.1 Ongoing work on governance, including securing commitments to better consultation and reducing EU red tape, and the promotion of the principle of local self-governance, is also a continuing priority.

8.2 The LGA, through its new European and International Unit, will also work to promote exchange of experience, capacity-building and international partnerships with local authorities within the EU, in non-EU European countries and globally. In this context, it has an interest in the work proposed by the Commission in relation to the European Neighbourhood Policy and in bilateral relations with developing countries where the Unit has ongoing project work.

### *LGA European and International Unit*

The Local Government Association has a new European and International Unit, which will be responsible for all the work previously carried out by the Local Government International Bureau (LGIB).

The integration will strengthen lobbying work, bring international issues closer to local government and help the LGA to operate more effectively in Westminster, Brussels and worldwide.

### *The new European and International Unit will:*

- lobby the EU and international institutions to get the best deal for councils;
- keep councils informed about EU work that affects them;
- develop international partnerships and co-operation;
- support locally elected members in European and international institutions; and
- promote the development of local democracy around the world.

[www.lga.gov.uk/international](http://www.lga.gov.uk/international)

5 January 2007

### **Memorandum by the National Farmers' Union (NFU)**

1. The National Farmers' Union of England and Wales represents some 60,000 farmers and growers in England and Wales. Through its initiatives, priorities and policies, including the Common Agricultural Policy (CAP), the European Union (EU) defines to a large extent the environment within which our members operate. As such, the European Commission's annual legislative and work programme for 2007 is of the uppermost interest for our organisation.

2. The NFU would like to thank the Committee for the opportunity to present this submission. Given the very wide range of topics covered by the Commission work programme, this submission does not attempt to provide a comprehensive analysis of the programme but would instead focus on some of the individual proposals of specific interest for the agricultural sector as well as providing general comments on the general direction and some of the overall priorities of the programme.

3. The Commission work programme highlights a number of overall priorities, including the intent to undertake a comprehensive institutional review, an issue of crucial importance given the impact of institutions on the capacity of an enlarged EU to successfully reform its policies in a successful and effective manner. Of special interest for the NFU is to ensure that any institutional reform facilitates the adoption of policies and/or reforms (without resorting to the granting of exceptions and special deals to certain member states that have, in the past, undermined the commonality of policies, most notably in the context of the 2003 CAP reforms and of the budget deal in December 2005).

4. The Commission work programme draws attention to the importance of communication and, more specifically, of communicating Europe (and its policies, objectives and realities) to its citizens. The NFU fully agrees with this overarching objective and firmly believes that, in this context, it is essential to communicate

the importance of the agricultural sector and to inform the public about the objectives and workings of the CAP (most notably on the rectification of the misconceptions on agricultural trade, see paragraphs 13 and 14 below). We also agree with the Commission that this is an objective that is better achieved through close cooperation between the different stakeholders involved, including national governments. Our support for this objective and engagement in its delivery is clearly demonstrated through our "Farming Matters Campaign" and our support for the work currently being undertaken to mark 2007 as the Year of Food and Farming.

5. The overall drive for better regulation and administrative efficiency is to be welcome as is its prioritisation as one of the overarching priorities for 2007. The NFU considers such a drive essential in order to maximise the competitiveness of the EU in general and the agricultural sector in particular. Given the high number of regulations affecting the agricultural sector, the NFU awaits with interest the Better Regulation Strategic Review planned for adoption in November and, in the meanwhile, has already started to contribute to the specific simplification initiatives concerning agricultural legislation (see paragraph 8 below).

6. One of the central tasks of the Commission has always been (and will continue to be) to ensure the adequate implementation of EU policies and to ensure that they fulfil their objectives. Simultaneously, simplification and the creation of a better regulatory regime appear as one of the overarching objectives of the Commission for 2007 (see paragraph 5 above). Both overarching goals are combined in the specific objectives of reviewing the cross-compliance regime and to ensure that the 2003 CAP reform is working properly.

7. The NFU has significant concerns about the future development of the cross-compliance instrument in the years ahead. There are already wide differences between the Member States in the way that the cross-compliance measures are defined, their number and scope and their monitoring. In addition, cross compliance has grown from an instrument that seeks to assure good agricultural practice to one that increasingly prescribes agricultural activities and precludes flexible land use by impacting on even the simplest agricultural operation or land transaction. Another concern arises in relation to potential calls for the addition of further statutory management standards that would be better serviced through site specific solutions rather than European or national defined verifiable standards. The NFU believes that, in order to address these issues, the review of the cross compliance regime should focus on a rationalisation exercise aimed at eliminating unnecessary complexities and the potential for competitive distortions.

8. The proper functioning of the CAP will be the focus of much debate in 2007 at the EU level. In the first instance, work will focus on the issue of administrative simplification, including the proposal to merge the 21 Common Market Organisations (CMOs) into a single CMO. The drive for administrative simplification is to be welcome but should not result in any case in lack of consideration for the specificities of different agricultural sectors. Discussions will also progress on the 2008 Health Check of the CAP. The NFU believes that work should focus on addressing the distortions created by the concessions made in 2003 in order to reach agreement and not on budgetary issues and/or on mapping further radical reform of the CAP.

9. The NFU welcomes the plans to reform the wine and fruit and vegetables regimes and the opportunity it provides to bring these sectors in line with other (recent) agricultural reforms by, among other measures, the elimination of restrictions on the planting of fruit, vegetables and potatoes on Single Farm Payment (SFP) eligible land in member states or regions operating an area payments system. We believe that the reforms should aim at the establishment of clear and simple rules that prioritise market signals, increasing the competitiveness of the industry and the reinforcement of the environmental, social and economic fabric of rural areas.

10. The NFU also welcomes the overarching emphasis on initiatives and policies aimed at winning the battle against global climate change, such as the White Paper "Towards a European Climate Change Adaptation Programme", the work on the European Strategic Energy Review and the Communication on Water Scarcity and Droughts. This work is of special interest for the NFU, given the complex and multi-faceted interdependence between the environment and the agricultural sector. We believe that any effective strategy against climate change needs to recognise the positive contribution that EU agriculture can make in the fight against climate change and its consequences, while ensuring that the productive capacity of the agricultural sector (an increasingly crucial issue, given the expected impact of climate change on global food supplies and the negative impact of transferring production to overseas countries with lower environmental standards) is not curtailed.

11. The European Strategic Energy Review appears as one of the specific policy proposals for the year to come. The NFU would like this much needed review to recognise the essential role to be played by the agricultural sector as a source of bioenergy and to set more ambitious objectives for the share of bioenergy in overall EU energy consumption. We believe that, in doing so, the EU would be fulfilling several of the overarching objectives highlighted in the Commission work programme such as the aim to increase energy

security, helping tackle climate change (see paragraph 9 above), contributing to the competitiveness agenda and modernising the (rural) economy.

12. A further Commission work priority for 2007 is the definition and launch of the new generation of rural development programmes. Given the importance of rural development programmes for the farming community, the NFU views with profound regret the current delay resulting from the dissent between the Commission and the European Parliament on the implementation on (voluntary) national modulation.

13. As a sector operating within global markets, British farmers take special interest in the EU trade agenda and the whole range of initiatives included in it. On the multilateral front, the NFU would like to see a successful outcome to the Doha round of trade negotiations, but one that does not come at the expense of EU agriculture. We believe that trade negotiators need to take into consideration the complex dynamics of agricultural trade and the importance of the multifunctional nature of agriculture as well as the fact that the recent and ongoing CAP reforms have put the EU well ahead of other developed countries in the liberalisation process.

14. The NFU recognises the intertwining of the trade and development agenda and the need for the EU trade agenda to continue reflecting the EU commitment to development via the granting of special and preferential treatment to developing countries (such as the ongoing negotiations on Economic Partnership Agreements with the ACP countries and the review of the application of the Generalised System of Preferences). Similarly, the preferential trade agreements with countries in the European neighbourhood should reflect the commitment to stability in the region. In its preferential trade agreements, EU policies should recognise the distinctive characteristics of the agricultural sector and the complex relation between the multilateral and bilateral/regional trade agenda.

15. The EU environmental agenda is expected to progress through, among other initiatives, the review of the group of Industrial Emissions Directives, including the Integration Pollution Prevention Control (IPPC) directive, and the revision of the National Emissions Ceiling Directive. Given the small and medium size of agricultural businesses, the application of the proportionality principle of crucial in order to reconcile these environmental objectives with the competitiveness agenda. Any regulatory proposals should taken into account the competitiveness impact of regulation, especially in the face of increased non-EU import competition and of the imbalances in the food supply chain that prevent agricultural producers from passing on the additional costs resulting from the regulation.

16. The NFU recognises the importance of high standards in animal health and welfare as one of the defining characteristics of the European agricultural model and will be contributing to the ongoing work on the Animal Health and Welfare Action Plan. The Plan should set clear objectives for animal health and welfare that are coherent and consistent with other policies (most notably with the minimisation of the regulatory burden that appears as an overall EU objective, see paragraph 6 above). It is also essential that the necessary budget is made available by the EU in order to effectively deliver these objectives.

17. As representatives of primary food producers, the NFU is particularly interested in the White Paper on Health Strategy and the White Paper on Nutrition and the related initiatives to amend food and nutritional labelling legislation. Given the importance of nutrition, clearer labelling is to be welcome and should focus not only on the nutritional context but also on traceability issues. We believe that this approach, based on improved information, is always preferable to the "choice editing" that has been postulated in certain arenas.

#### **Memorandum by the Royal Society for the Protection of Birds (RSPB)**

The RSPB is the largest wildlife conservation organisation in Europe with over one million members. Wildlife and the environment face many threats. The RSPB focuses its work on the species and habitats that are in greatest danger. At EU level, we work with our BirdLife International Partners to influence policies that have the biggest impact (negative and positive) on wildlife, particularly the Common Agricultural Policy, the Common Fisheries Policy, the Cohesion Policy, the Birds and Habitats Directives, climate change measures and the Sustainable Development Strategy.

We welcome many aspects of the Commission's work programme for 2007, most notably the proposal to amend Directive 2003/87/EEC on the greenhouse gas emission allowance trading and the legislative initiative to reduce CO<sub>2</sub> emissions from light duty vehicles. However, we believe that two further initiatives should be included in the Commission's work programme for 2007.

## 1. PERMANENT BAN ON IMPORTATION OF WILD BIRDS INTO THE EU

1.1 The EU is the last large-scale importer of wild birds in the world, importing an estimated 1-2 million birds each year, 90 per cent of the international registered market. Yet information on wild populations of these birds is almost entirely lacking. EU laws supposedly regulate the trade in the most threatened species but, even for these, there is a genuine paucity of information. The failings of these rules can be seen in that species that are regularly traded under EU permit have to be regularly upgraded to those that consequently require a full import ban due to critical conservation impacts.

1.2 The trade also raises serious concerns about animal welfare and potential threats to both animal and human health. Following the publication of a European Food Safety Authority (EFSA) report that outlined appalling mortality and welfare issues associated with this trade, the UK Government has adopted a policy of seeking a ban on the importation of wild birds into the EU for conservation, animal welfare and health reasons. (The Government acknowledges the need for possible exceptions for strict conservation reasons.) A letter from the Prime Minister (dated 30 November 2006) assured interested parties that "the UK intends to press other member states and the European Commission to extend indefinitely the ban on the commercial importation of wild birds".

1.3 A spokesperson for the EU Environment Commissioner has been quoted (European Voice, 16 November 2006) as acknowledging that the Commissioner would support a total ban on EU wild bird trade. Yet the Commission has made no formal proposals for 2007 to ban the trade on the basis of conservation (or welfare). If a permanent ban does emerge on health grounds, it is quite possible that this will be overturned in the medium term if health fears surrounding Avian Flu decline, leaving the trade to re-start.

1.4 The RSPB believes that a lasting EU ban must be imposed on conservation, welfare and health grounds if this unnecessary trade is to end.

## 2. EUROPEAN COMMUNITY PLAN OF ACTION ON SEABIRDS

2.1 BirdLife International estimates that every year 300,000 birds, including 100,000 albatrosses, are killed by longline fishing. In 1999, the United Nations Food and Agriculture Organisation (FAO) developed an International Plan of Action (IPOA) to tackle seabird by-catch. This voluntary initiative provides practical guidelines for reducing seabird mortality on longlines. The FAO is encouraging member countries to assess their own seabird by-catch problem and to develop and implement a National Plan of Action, based on the recommendations listed in the IPOA. Several global fishing nations have produced and implemented National Plans of Action but progress is slow and several key countries are still in a state of denial that they have a by-catch problem or that they need a formal plan.

2.2 In line with its commitments under the IPOA-SEABIRDS, the European Commission produced a "preliminary draft" proposal for a Community Plan of Action for reducing seabird by-catch in time to report to the 24th (2001) session of the FAO's Committee on Fisheries (COFI). However, there has never been any elaboration of this draft, despite the fact that the Commission set a target to propose legislation on this Community Action Plan before the end of 2003 (see COM(2002)186 final). At the Malahide meeting on "Biodiversity in the EU" during the Irish Presidency, the Commission was part of a stakeholder group which set a new target of establishing a Seabird Plan of Action by 2006. However, the Commission has not met this target, shows no political will to take this forward, and the plan does not feature in their work programme for 2007.

2.3 The RSPB believes that it is essential that the Commission presents a Community Plan of Action to reduce incidental mortality of seabirds in longline fisheries in 2007. This should include consideration of EC distant water fleets (external fisheries) as well as fisheries within Community waters. BirdLife International is currently compiling the evidence that a Community Plan is needed and has offered to assist the Commission in drawing up their proposals.

*December 2006*

### **Memorandum by Royal Society for the Prevention of Cruelty to Animals (RSPCA)**

1. The RSPCA welcomes this opportunity to comment on the European Commission work programme for 2007. The Commission, and the European Union as a whole, has done a lot to improve the welfare of animals used in research or on farms a great deal over recent years, and should be commended on that.

2. There are, though, few items in the proposed 2007 work programme that relate to issues around animal welfare, and those that do are reviews of existing Directives, eg on Directive 86/609 which sets out the rules and regulations for using animals in experiments.

3. One of the reasons for this is that in March 2006, the Commission published the first ever Animal Welfare Action Plan. This is a significant development for animal welfare, as for the first time a strategy has been established for the whole of the Commission to follow, rather than individual sections working in isolation from others. It ensures animal welfare is something taken into account by all departments and that a strategic approach is taken.
4. We strongly welcome this plan, which will cover the next four years, and hope it will continue beyond that.
5. Given that, the contents of the work programme is less of an issue for the RSPCA, as the Society will be wanting to see the Commission apply the Animal Welfare Action Plan across all it does.
6. The Commission, though, mentions in the programme about reducing the amount of legislation it brings forward and sensible regulation. Yet, it is now proposing a wide range of further legislation, while legislation previously put forward has yet to be seen through into law.
7. As an example, proposals for a Directive to improve the welfare of chickens reared for meat—broiler chickens—were published in May 2005, after three years of work beforehand. As of the beginning of 2007, this Directive is nowhere close to becoming law. The Society recognises that this is because of intense negotiations in the Council of Ministers, but nonetheless, the RSPCA is concerned that a new batch of proposals are to be put forward while many others from 2006, 2005 and earlier are yet to be implemented into law.
8. Thank you for the opportunity to comment on the issues.

*4 January 2007*

#### **Memorandum by Trades Union Congress (TUC)**

1. The Trades Union Congress is the voice of Britain at work. Representing nearly 6.5 million workers in over 60 unions, the TUC seeks to raise the quality of working life and promote equality for all. Our members work in manufacturing and services, and in the public, private and voluntary sectors.
2. The TUC welcomes the European Union Committee's initiative to inquire into the Commission's 2007 legislative and work programme. The TUC will not attempt to comment on all parts of what is a very wide-ranging programme but will instead seek to make some key points.
3. First, the TUC welcomes the idea of a detailed public work programme resulting from extensive consultations. However, there would be overall benefit if the EU had just one work programme, rather than two potentially competing ones—that of the Commission and those of the successive Council presidencies. The decision taken in the context of the now stalled Constitutional Treaty to abolish the six-monthly rotating Council presidencies, though no longer operational, might indicate that there would be support for a system whereby the Commission proposed and the Council and Parliament adopted a single, EU, work programme. This should be tried.
4. Secondly, there is a need for greater coherence between the Commission's—or ideally the EU's—work programme and national priorities. A December 2006 European Economic and Social Committee opinion ("EU and national administration practice and linkages") records that in the overall EU decision-making process the role of national implementation has been neglected—by both the political and academic worlds. The TUC has the impression however that in a number of countries governmental priorities and strategies make little if any reference to European ones. The Commission says that member states (and other European institutions) were consulted on the predecessor document to the work programme (the March 2007 communication entitled Annual Policy Strategy for 2007), but the TUC is not aware of what positions the British government took. The TUC welcomes the decision of the Commission to inform national parliaments directly of its proposals, rather than just member state governments; hopefully this will lead to debates on key issues and/or to more inquiries like the present one. That should contribute to greater coherence.
5. Thirdly, the TUC agrees, regretfully, with the Commission that the Lisbon strategy has entered a new phase. The original strategy in 2000 was about raising Europe's ability to respond to challenges such as globalisation and technological change through productivity and innovation policy. Social Europe was an essential part of the solution: a broad and effective knowledge-based society could only be built on a basis of high social cohesion and strong workers' rights. However, the 2005 re-launch of Lisbon fundamentally changed all that. The new agenda prioritised the pillar of competitiveness over the pillar of social cohesion. Jobs, irrespective of their quality, were seen as the best social policy, and workers' rights, such as the right to job protection and the right to a regular work contract, were treated as a "rigidity" protecting the "insiders" at the expense of "outsiders". In this view, the role of European policy was no longer seen as to provide a social level playing field for competition on the European labour market. Instead, European level policy was

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narrowed down to policies that trigger competition and make member states compete against each other for investments and jobs through wage competition, longer working hours and precarious working conditions.

6. For the TUC it is wrong to set economic and social progress against each other: they are friends, not enemies—and this way of thinking has traditionally been at the heart of the European model. All EU member states might not have identical social or industrial relations systems—though they do share a number of common or similar features—but the key point is that all systems are at risk of being undermined if Europe does not establish and enforce common basic minimum standards.

7. There have been some indications recently that the Commission might be re-thinking its position, and certainly in the programme solidarity is made a strategic objective and the importance of the “social core at the heart of how Europe works” is highlighted. However, the programme does not envisage progress on any of the key social dossiers: the revision of the directives on European Works Councils and on Working Time, the adoption of a directive on Temporary Agency Work, or the presentation of a framework directive ensuring that public services (or Services of General Interest in the EU jargon) can be run according to public interest considerations and not just those of the market. That being the case, a certain suspicion of the policy proposals that are made—such as on “flexicurity” and on the social reality stocktaking—is inevitable. Will those exercises be used to reform and strengthen Europe’s social dimension, or to weaken it ?

8. Jacques Delors’ quip that you can’t fall in love with the Single Market needs to be taken to heart, especially as the situation has deteriorated since his day. Now, for many European citizens the Single Market is associated with the liberalisation of public services and with de-localisation or off-shoring—and thus with unemployment and threats to living standards. The European social model and social dimension are an essential way of bringing Europe closer to the citizen again.

9. Fourthly, “better regulation”, which is an important part of the programme, is a concept that can easily be filled with different, even contradictory, contents, and the results for citizens are not always obvious. It is claimed by organisations representing SMEs in the UK that they are struggling to cope with running their businesses because of excessive and complex regulations, many of which emanate from EU Directives. However, there is no serious evidence that the UK economy is experiencing any difficulties as a result of EU legislation, and the recent Davidson Report on transposition of directives in the UK concluded that there was very little evidence of “gold plating” employment directives when they were transposed. Moreover, the reduction of costs for business often implies the shift of these costs to society in general and to citizens and employees.

10. The TUC accepts that there is an issue in the UK about the transposition of employment and safety directives, as our legal and industrial relations structures are very different from those in many other member states. There is for example very little legally enforceable national or sectoral level collective bargaining in the UK. If there were to be, that would provide a non-regulatory means of implementation. The TUC believes that a distinction needs to be drawn between regulation that requires particular procedures to be followed and regulation that underpins policy objectives. Clearly the former should be devised in such a way as to ensure achievement of the latter, but should not become elevated into policy status. As long as that distinction is retained, efforts to improve, and where possible without affecting policy objectives, reduce regulation can be supported.

*January 2007*

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