

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament and the Council — Strategy for the sustainable competitiveness of the construction sector and its enterprises'

COM(2012) 433 final

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On 7 September 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Communication from the Commission to the European Parliament and the Council - Strategy for the sustainable competitiveness of the construction sector and its enterprises

COM(2012) 433 final.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 March 2013.

At its 489th plenary session, held on 17 and 18 April 2013 (meeting of 17 April), the European Economic and Social Committee adopted the following opinion by 128 votes to 2 with 7 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Commission's Action Plan on the sustainable competitiveness of the construction sector released in July 2012.

1.2 The EESC recognises the strategic importance of the construction sector in the European economy in terms of the sector's contribution to GDP, in terms of the role of construction in employment and also as a vector of economic growth.

1.3 The EESC considers the construction sector to be a vital player in bringing down the EU's demand for energy, reducing mankind's ecological footprint and helping to mitigate and adapt to the effects of climate change. The EESC expects that the Action Plan will facilitate the sector in taking on these important challenges for society.

1.4 The construction sector, representing almost 10% of EU GDP, is the key to the health of the economy as a whole. In pursuing growth, national policymakers must engage with the construction sector as the Commission has done through this communication and see that the sector, given the right financial and regulatory conditions, can deliver the growth, jobs and environmental protection that the EU's citizens so rightly deserve.

The EESC is of the view that the construction sector does not need direct financial support such as subsidies, but that the Action Plan should seek to create a policy and regulatory framework that will enable the sector to optimally perform its role as a contributor to economic growth, social well-being and

environmental stewardship, this includes ensuring the adequate flow of public investment and private financing to sustain viable projects; with Member States' economies being financed primarily through bank loans, immediate and effective measures are needed to improve SMEs' access to credit, inter alia by developing specific guarantee and counter-guarantee mechanisms.

1.5 Simplicity, stability and coherence of the EU regulatory and standardisation framework is also a crucial factor in both the internal and external competitiveness of the construction sector in Europe.

1.6 The EESC is acutely aware that whilst austerity is rebalancing structural gaps, it is not leading to renewed growth; rather, it is exacerbating the economic crisis in many countries. Investment in sustainable buildings and infrastructure is necessary in order to secure Europe's future growth and job prospects.

1.7 Organised civil society invites the Commission, the European Parliament, the Council and the governments of the Member States to see investment in sustainable buildings and vital infrastructure as a strategic contributor to future economic growth and jobs and not simply as another form of public spending. Furthermore, the EESC recommends that such investment should not be used in the calculation of a country's performance with relation to the Stability and Growth Pact.

1.8 There is a huge potential to reduce demand for energy through renovating the EU's ageing building stock in order to meet the EU's objectives to reduce greenhouse gas emissions by 20 % and reduce energy demand by 20 %. Such action would also reduce imports of fossil energy and help ensure that more

of the EU's wealth stays within Europe thus helping to maintain and create jobs through the ongoing financial and economic crisis. In order to realise this potential, countries have to ensure that adequate financial and fiscal incentives are in place to drive the market towards greater energy savings and to ensure that the skills gap is reduced.

1.9 There is a further huge challenge of upgrading Europe's transport, energy and broadband infrastructure to meet the needs of future generations and ensure Europe's international competitiveness and attractiveness as a destination for Foreign Direct Investment (FDI). If governments fail to see the importance of this kind of investment, Europe risks falling behind other parts of the world both economically and in terms of social well-being.

1.10 Demographic change poses new challenges for the built environment that the sector will need to address. These include the effects of an ageing population on access to the built environment. The EESC takes note of ongoing work within the European Committee for Standardisation (CEN), under mandate from the European Commission, to adapt relevant standards to "Design for All" principles. Moreover, the construction sector is faced with the challenge of an ageing labour force. In this connection, the EESC recalls the Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth⁽¹⁾ and the challenge for the economy as a whole.

1.11 In addition to the construction sector's contribution to climate change mitigation, adaptation to the effects of climate change poses new challenges for the built environment that the sector will have to address. These include the effects of extreme weather events which require more resilient built environment, as well as adequate protective structures. The EESC stresses the need to take this also into account under existing standardised technical methodologies such as Eurocodes.

1.12 Construction has a vital role to play in these challenges provided that the required investment is made available and, while project bonds are a way of leveraging additional private financing for projects, they cannot replace the role of public investment.

1.13 Many companies in the construction sector, especially SMEs, are feeling intense pressure due to late payments by public and private sector clients. Directive 2011/7/EU on combating late payment in commercial transactions must be properly enforced to ensure the survival of companies. In order to fully implement the provisions of Directive 2011/7/EU and achieve its objectives, the EESC would stress in particular the need to reduce payment/receipt terms in public procurement contracts to a maximum of 30 days and

to ensure that those terms are respected and the invoices paid, with the adoption of appropriate budgetary and administrative measures (including bank loans for the payment of arrears). The EESC believes that the problem of arrears registered before the transposition of Directive 2011/7/EU should be resolved as a matter of priority; very significant delays in payment of invoices for public procurement contracts seriously affect the competitiveness, profitability and viability of companies. Those countries that have hitherto had shorter payment periods should not use the directive's derogations to increase these periods. In this framework, the EESC recommends that a 30 day payment period should be the maximum permitted for invoice payments (including acceptance and verification).

1.14 In order not to jeopardise or significantly reduce the chances of economic recovery, the EESC would stress the need to restore and increase bank loans for investors and the real economy. It recommends preventing the exercise of excessive prudence in the granting of credit and the prioritising of investments in securities, to the detriment of loans to companies which have survived the crisis. Bridging loans are vital for the day to day survival of many companies, especially SMEs. Consequently, current restricted bank lending poses a real threat to the viability of such enterprises. In order not to aggravate already squeezed lending, financial prudential rules such as those put forward under the Basel III agreement should not lead to a further curb in lending by banks to the real economy. For this to be achieved, borrowing cheap money from the ECB should be conditioned by the obligation that an important part has to benefit the real economy.

1.15 A vital part of creating a sustainable and competitive construction sector is securing good working conditions in the sector. The Atkins report back in 1993⁽²⁾ concluded that a construction sector that is dependent on precarious employment forms such as false self-employment creates disincentives for productivity. Thus, the Action Plan should also include strategies to stabilise employment and fight unlawful practices such as false self-employment in the sector.

1.16 Independently of the form of employment, incentives need to be put into place for up-skilling the workforce and offering life-long learning possibilities.

1.17 Circumventing the rules and social obligations distorts the construction market. A level playing field for competition must therefore be secured, based on compliance with the existing regulations and social conditions in force in the host country. To achieve this, proper enforcement mechanisms to secure host country conditions must be applied.

⁽¹⁾ Communication from the Commission COM(2010) 2020, dated 3 March 2010. Europe 2020: A Strategy for smart, sustainable and inclusive growth.

⁽²⁾ Sector, Strategic Study on the Construction Sector: Final Report: Strategies for the Construction Sector, WS Atkins International (1993).

1.18 The EESC calls on the European institutions and the Members States to strengthen policies and take concrete actions against the influence of corruption and criminal organisations on public tenders mainly on large infrastructure projects, which create an unacceptable and unfair competition through the use of threats and violence reducing freedom and democracy.

1.19 The EESC stresses that Member States should be allowed to apply current and additional control measures or administrative formalities which are deemed to be effective and necessary. This includes the obligation to ensure that such checks, monitoring and enforcement mechanisms, as well as effective and adequate inspections are actually undertaken, in order to ensure compliance with national law and the "posting directive" (96/71/EC).

1.20 Migrant workers should be entitled to minimum social conditions and/or equal treatment based on host country conditions and regulations. Proper enforcement mechanisms to combat social dumping and unequal treatment in respect of the law of migrant workers should be put in place.

1.21 There is a need to upgrade the share of R&D in the construction sector as a tool to enhance productivity. A policy in favour of continuous innovation, of raised productivity based on the competence of the workforce, of smart new products and work organisation as well as quality jobs is needed. In this respect, environmental technology can be one of the drivers for new development.

1.22 The EESC supports fair and balanced contract conditions, which should be in place in all EU Member States and should include non-EU companies active on the EU construction market. The promotion of the Most Economically Advantageous Tender (instead of the "lowest price"), as well as a consistent approach to rejecting abnormally low tenders are essential pillars of efficient and fair competition.

1.23 In order for construction to better deliver sustainable development, the EESC recommends that assets should be assessed and costed on the basis of their entire life cycle. Where appropriate, such assessments should be based on standards produced or adopted by the European Committee for Standardisation (CEN).

1.24 The EESC welcomes the creation of the EU high level forum on construction and is keen to take part in it in order to increase the coherence of the EU policies relevant to the construction sector.

2. The context

2.1 The EU-27 construction sector has been seriously impacted by the 2008 started financial crisis and subsequent economic downturn in construction activity. A return to growth has been delayed by the onset of the Eurozone sovereign debt crisis and the imposition of austerity programmes in many Member States.

2.2 Nevertheless, in 2011 the construction sector achieved a turnover of EUR 1 208 billion, which represents 9.6 % of EU-27 GDP and 51.5 % of gross fixed capital formation ⁽³⁾.

2.3 In terms of enterprises, the construction sector counts 3.1 million companies of which 95 % are SMEs with fewer than 20 employees and 93 % have fewer than 10 operatives.

2.4 The construction sector is the biggest industrial employer in Europe with 14.6 million operatives in 2011, representing 7 % of total employment and 30.7 % of industrial employment. Since 2008, employment has decreased continuously.

2.5 Taking into consideration the multiplier effect (one person in this sector generates two further persons working in another sector) there are 43.8 million workers in the EU who depend directly or indirectly on the construction sector.

2.6 In the various Member States the construction sector has been impacted by the same kind of economic factors, which are in essence:

- the lasting effects of the credit crunch which has restricted lending;
- the withdrawal of the remaining recovery measures;
- the start of the sovereign-debt crisis in summer 2010;
- and the subsequent implementation of austerity measures all over Europe.

2.7 National efforts have been undermined by budget and fiscal consolidation measures, as well as major cuts in investment, in order to solve the sovereign-debt crisis.

2.8 This situation has further weakened still fragile business and consumer confidence.

2.9 Total construction output is forecast to decrease by more than 2% in 2012 as a result of decreases in all construction segments.

2.10 A World Bank analysis included construction among sectors where corruption and organised crime shows in:

- Assigning projects by political interest - not by tender;
- The ways of accreditation for the certification procedure in constructions.

The EU Member States identify corruption phenomena showing in:

⁽³⁾ FIEC Statistical Report R54.

- financial engineering practices and failure to pay in time the works carried out by construction companies;
- maintaining technical, administrative or regulatory barriers distorting the tendering process.

3. Commission proposal

3.1 The objectives of the proposed strategy are:

- to address the main challenges facing the construction sector in terms of investment, human capital, energy and environmental requirements, regulation and market access by 2020;
- to propose a short- and medium-term action plan addressing these challenges.

3.2 The scope of this proposal is:

- stimulating demand for a sustainable built environment, in particular for building renovation;
- improving the performance of the supply/value chain and of the internal market for construction products and services;
- widening the market prospects for EU construction enterprises at international level.

3.3 The proposed Action Plan focuses on the following 5 objectives:

3.3.1 Stimulating favourable investment conditions

3.3.2 Improving the human-capital basis

3.3.3 Improving resource efficiency, environmental performance and business opportunities

3.3.4 Strengthening the internal market for construction

3.3.5 Fostering the global competitive position of EU construction enterprises

3.4 In terms of governance, a tripartite (Commission, Member States, stakeholders) strategic forum is proposed to monitor progress with the implementation of the strategy.

4. Current state of the construction sector – SWOT analysis

4.1 Strengths

4.1.1 Mitigating and adapting to the effects of climate change and reducing humanity's ecological footprint.

Construction activity is a local business and highly labour intensive. Production therefore cannot be transferred off-shore, ensuring that employment remains within the EU.

43.8 million workers in the EU-27 still depend directly or indirectly on the construction sector.

The high number of micro-enterprises and SMEs involved in construction means that the sector is an activity deeply rooted in local communities, reflecting the diversity of local traditions and cultures.

In many Member States, the construction sector, together with vocational education institutions, plays a central role in providing apprenticeships for young workers, thus ensuring social mobility.

4.2 Weaknesses

4.2.1 In many countries, the construction sector, has to contend with rules that hinder mechanisms for cooperation between businesses (such as rules on liability) with a complex value chain and high potential for conflict and inefficiency. This stands in the way of increased competitiveness.

4.2.2 Despite recent improvements such as the Manifesto entitled "Building Prosperity for the Future of Europe" – originally published in November 2010 by the informal platform the European Construction Forum and re-published in January 2013 specifically for the Commission communication – the sector is composed of so many different stakeholders that it is difficult to coordinate all differing views and speak with one voice at national or European level.

4.2.3 In some instances, the sector is prone to speculative property booms such as that experienced in a number of Member States in the first decade of the 21st century, driven by the availability of low-interest credit for real estate development.

4.2.4 Policy measures aimed at promoting specific forms of construction – such as fiscal incentives for energy efficient renovation or retrofitting activities or feed-in tariffs to support micro-renewables – are often unpredictable, short term and curtailed before their benefits have been properly felt.

4.2.5 Public procurement is traditionally driven on the basis of the lowest price. Such pressure to reduce bid prices prevents companies from innovating their processes and investing in new and innovative materials. Moreover, public tenders do not often allow for variants to be put forward. The absence of the ability to propose variants, alongside restrictive insurance regimes, are further barriers to increased innovation.

4.2.6 Investment in R&D is low in the construction sector compared to other industries, this is due to the fragmented nature of the sector, the highly regulated and prescribed nature of construction works and the traditionally tight profit margins in construction. Nevertheless the EESC takes note of the Public Private Partnership for energy efficiency (EeB) that combines R&D support from the European Union with match funding by the private sector.

4.2.7 Despite the great strides taken in recent years, the construction sector still suffers from an image problem and improving its track record on health and safety continues to be a priority. More generally, and despite the downturn, the industry still fails to attract a sufficient number of skilled engineers from universities. With demographic changes, this problem will intensify. The sector itself must address this image problem and succeed in attracting young qualified workers.

4.3 Opportunities

4.3.1 The energy performance of the building stock is an immense opportunity for the sector to increase activity with existing technologies. Nevertheless national governments have to recognise the potential and provide the necessary financial support and fiscal incentives.

4.3.2 Member States and the European Union should coordinate large-scale investment programmes in key infrastructure and buildings reaching beyond the amounts proposed by the Connecting Europe Facility in the next Multi-Annual Financial Framework.

4.3.3 In the medium to long term, the sector has the potential to deliver a sustainable, low carbon economy with the necessary regulatory and financial incentives in place.

4.3.4 The construction sector will be in the front line in responding to the challenges of climate change mitigation and adaptation.

4.3.5 The development of new technologies based on IT such as Building Information Modelling (BIM) is helping to drive innovation and improved efficiency in the sector.

4.4 Threats

4.4.1 The main threat facing the construction sector is the lack of public and private investment that has already caused the bankruptcy of viable businesses and has caused a huge decrease in employment since 2008. A sustained recession in the construction sector will lead to a permanent loss of architects, designers, engineers and craftsmen.

4.4.2 Linked to the above, another threat posed to the sector is the ageing workforce and the lack of skilled young workers to take their place. Figures from Germany suggest that, in 2011, 44 % of the workforce was over the age of 45.

4.4.3 The arrival on the EU procurement market of third-country contractors is a further threat. These companies, often state owned, have used their home country's financing to undercut fair competition in cases such as the A2 motorway case in Poland in 2009 involving a Chinese state-owned firm. Such unfair competition drives down quality in construction as well as undermining the salaries of local workers in construction.

4.4.4 The pressure from authorities to save money in public tenders is leading to the frequent occurrence of abnormally low tenders (ALTs). Such tenders reduce the quality of the built environment, threaten the social welfare of workers and increase costs in the long run.

4.4.5 The construction sector is already a highly regulated activity and for good reason, but legislation adopted at EU level addressing the construction sector risks being counter-productive if not coordinated.

4.4.6 The highly mobile nature of employment is one of the key characteristics of the construction sector in the EU. The use of labour from other countries and especially self-employed workers and those on temporary postings should not be used as a form of social dumping, to avoid paying social security contributions and evade social obligations in force in the host country.

4.4.7 For the construction materials industry, future access to raw materials as well as resource efficiency is a huge challenge.

5. The economic, social and organised civil society views

5.1 The views expressed at the hearing organised by the CCMI on 19 December 2012 emphasised the following main aspects:

5.1.1 The publication of the Commission's communication is timely, and includes many of the elements expected by the construction industry.

5.1.2 The proposed strategy does not cover tactics for tackling the impact of climate change on the industry.

5.1.3 Project financing and the trend towards late payments remain important topics on the construction industry agenda.

5.1.4 There is an acute ageing of the construction workforce which needs to be tackled by attracting young skilled workers.

5.1.5 An enhanced approach is needed in order to solve the main threats and weaknesses and to ensure that the EU 2020 and TEN objectives are reached.

5.1.6 Without high quality in design and execution, we will not achieve sustainable construction or sustainable competitiveness for the construction sector. High-quality design and execution cannot be obtained by tenders based only on the "lowest price criterion" and ignoring long term costs.

5.1.7 Public procurement for construction services traditionally driven on the basis of the lowest cost prevents companies from innovating in their processes and investing in new and innovative materials. Innovation is further hindered by insurance regimes which penalise companies who wish to vary their work practices or use innovative materials.

5.1.8 There are inequalities in competition between companies in OECD and BRICS countries, which requires specific solutions.

5.1.9 Reduced VAT for affordable housing could once again be looked into as a possible stimulus.

5.1.10 Social partnership in the construction industry which generated several paritarian NGOs should also be further developed and enhanced in the Member States together with the social dialogue in order to tackle the very specific challenges facing this industry (health and safety, training, holiday payments etc.).

5.1.11 A code of ethics is also necessary and appropriate in order to reduce the impact of corruption.

5.1.12 There is a need for enhanced communication on investment policies in order to improve companies' strategies, which are for the time being mostly based on short-term survival.

5.1.13 The high level forum on construction created by the Commission, which starts work in January 2013, is much needed and the EESC should be part of it.

6. General comments

6.1 The forecast development of the construction sector is characterised by:

- the energy performance of buildings, resource efficiency in manufacturing, transport, the use of products for buildings and construction in infrastructure;
- the low-carbon economy as a huge impact on the building and construction sector;
- global challenges, consisting of:
 - globalised unbalanced competition;
 - energy efficiency;
 - sustainable buildings;

- disaster resilience;
- indoor climate;
- recovery, recycling and re-use of buildings and materials;
- design to fit the future customers' demand;
- ageing of the labour force;
- public procurement procedures;
- PPP;
- health and safety specific issues;
- business ethics.

6.2 There needs to be a "trophic chain" in the construction sector between the actors involved: the construction companies, planners, architects, designers, developers etc. should be involved in areas of knowledge such as financing, insurance, procurement, marketing and education.

6.3 In order to combat corruption and organised crime phenomena, construction companies are setting forth a complex range of actions and structural reforms, including:

- Removing current technical, administrative and regulatory barriers distorting the tender procedures in infrastructure, construction and assembling works, by simplifying specific regulatory framework and setting up firm liabilities to the actors involved.
- Reviewing ongoing contracts and payments mechanisms involving EU funds participation, by improving the document flow, by increasing the responsibility of monitoring and control entities and making use of the Escrow Account, per each project. Auditing and joint and cross-checking control both with the beneficiary and the construction company, over payments due and works benefiting by joint STATE-EU financing, under projects implemented with European funding.

Brussels, 17 April 2013.

*The President
of the European Economic and Social Committee*
Henri MALOSSE
