

Opinion of the European Economic and Social Committee on the Review of the Single Market

(2007/C 93/06)

On 5 October 2006, Ms Margot Wallström, Vice-President of the European Commission, asked the European Economic and Social Committee to draw up an opinion on the: *Review of the Single Market*.

The EESC Bureau assigned preparation of the Committee's work on the subject to the Section for Single Market, Production and Consumption.

In view of the urgency of the work, the European Economic and Social Committee decided at its 432nd plenary session of 17 and 18 January 2007 (meeting of 17 January) to appoint Mr Cassidy as rapporteur-general, and adopted the following opinion by 136 votes to 42, with 9 abstentions:

1. Conclusions and Recommendations

1.1 The EESC would like to see the following measures as part of the Commission's Single Market priorities.

1.1.1 In order to overcome remaining obstacles, completion of the Single Market requires a balance to be struck between economic momentum, the social dimension and sustainable development. It will only be possible to complete the Single Market if all citizens — employers, employees, consumers, etc. — perceive it as being in their interest. There should be as many beneficiaries as possible from the Single Market, with compensatory measures for those who lose out. Public scepticism vis-à-vis Europe can only be overcome if policies address citizens' pressing concerns. Communication alone will not suffice.

1.1.2 To meet the challenges of globalisation — coping with global competition, ensuring growth and employment, creating the requisite infrastructure, overcoming climate change, achieving security of energy supplies, responding to the increasing influence of financial markets on the economy as a whole — and take advantage of the resulting opportunities, the full capacity of the Single Market must be used. Measures to promote liberalisation and competition must therefore be accompanied by flanking employment- and growth-oriented macroeconomic policies together with measures to build a knowledge-based society, whilst the overall objective of the European Union remains that of improving the living and working conditions of its peoples (an objective set out in the Preamble to the Treaty of Rome and in all the subsequent texts). This will significantly help to complete the Single Market.

1.1.3 Europe needs to invest more in education, training and research at national and European level. Investments in education, training and research are a necessity, not a luxury for Europe. Achieving the European Research Area and lifelong learning is thus a priority.

1.1.4 The credibility of the EU research policy has been more than dented by the repeated setbacks over the introduction of the Community patent. In view of the fact that it has not been possible to reach agreement within a reasonable timescale on the formulation of this instrument, which is of key importance

to the knowledge-based economy which the EU is doggedly pursuing, we should now seriously consider whether it would be advisable to apply this instrument initially to all the EU Member States if it continues to be impossible to reach unanimous agreement ⁽¹⁾.

1.1.5 In addition to the important issue of patents and the related matter of intellectual property, the EESC believes that the question of economic intelligence should also be addressed at EU level. In this context, the EESC wonders whether steps should not be taken to strengthen the role and raise the profile, amongst economic operators, of the European Network and Information Security Agency (ENISA) ⁽²⁾, in order to help maintain the competitiveness of EU enterprises and to prevent confidential data relating to their production processes and research and innovation processes from being 'tapped into' by competitors from outside the EU.

1.1.6 In the context of transatlantic relations, the Commission and the Council should be firmer in requiring the United States to comply with the principle of non-discrimination. Thus, they should call for the abolition of the Committee on Foreign Investments in the US (CFIUS), set up more than 30 years ago to look at and, if necessary, prohibit foreign shareholdings in American companies on the basis of the sole — and undefined — criterion of 'national security'. Similarly, commercial court cases between foreign companies and American ones are biased in favour of the latter.

1.1.6.1 If it proved impossible to ensure non-discrimination in mergers and acquisitions or commercial practices, the EU should look seriously at the possibility of bringing these matters before the WTO's dispute settlement system or setting up mechanisms similar to the CFIUS. These principles should also apply to relations with the EU's other partners.

1.1.7 The better regulation approach can simplify conditions for business as well as create greater transparency for citizens and consumers. However, creating fewer regulations does not necessarily produce a better regulatory framework. The EESC is also in favour of using legal instruments in important areas such as those covered by minimum health and safety legislation — where the establishment of national legislation is inadequate.

⁽¹⁾ Cf., for example, OJ C 185, 8.8.2006.

⁽²⁾ Further information available at www.enisa.europa.eu.

1.1.8 Collective agreements between social partners, which are a crucial part of political decision-making processes in many Member States, can also help to shape policies and secure acceptance of measures at European level. However, for this to happen, both parties to social dialogue must be willing.

1.1.9 The European Commission and Member States have promised to reduce the administrative burden for companies by 25 % by 2012. However, the EESC is concerned that this promise is too broad and needs to be refined. Unless a more considered approach is adopted, failure to deliver will only further undermine credibility.

1.1.10 The use of regulations would also where possible create a clearer legal environment and be a factor of coherence.

1.1.11 The Single Market is based on the mutual recognition of professional qualifications and diplomas such as that for midwives, lawyers, etc. who in spite of European directives have not been able to take advantage of them.

1.1.12 The EESC recalls that upward harmonisation even over 27 countries, difficult though it may be, is an important element of the Single Market.

1.1.13 The social partners should be consulted at all stages to ensure that the required degree of administrative simplification and better regulation are achieved within a reasonable time-frame. It is important that tangible results in this direction are achieved if the Union is not to further lose credibility with its citizens.

1.1.14 The EESC would like to see faster progress towards improving the single market in services. Otherwise, the internal market cannot be said to be complete. The Committee welcomes the European Parliament's amendments to the Services Directive, which are broadly in line with its proposals. Some points still need to be cleared up and improved, for example in the field of services of general interest. Now that the European Parliament has adopted the Services Directive enterprises expect to reap real benefits derived from freedom of establishment of enterprise and to provide cross-border services.

1.1.15 In the field of financial services ⁽³⁾, the EESC has called for dynamic consolidation while avoiding goldplating; however, it has also pointed out that this must happen in the spirit of the Lisbon strategy while taking the specific features of the European social model into account. This also applies to cross-border provision of such services (for example, share trading and the portability of supplementary pensions rights) and basic financial services such as providing universal access to a bank account. In view of the growing influence exercised by financial transactions on the economy and of dynamic and creative innovations in the field (such as hedge funds and private equity), regulation of the sector must take into account the resulting systemic risks and consequences for the real economy,

while putting in place conditions to prevent counter-productive effects. The EESC would urge the Commission to present, as soon as possible, its draft legislative provisions aimed at stepping up the information provided by institutional investors with regard to their policies in respect of investment and voting. Presentation of such draft legislation would be in line with the Commission's Action Plan on the Modernisation of Company Law and Corporate Governance.

1.1.16 Tax policy measures — to the extent that they may be adopted at European level — must further the completion of the single market, taking due account of the balance between economic momentum, the social dimension and sustainable development mentioned above. This also includes harmonising the tax basis for company taxation and the avoidance of double taxation. Double taxation has no place in a Single Market.

1.1.17 The EESC also asks the Commission to examine restrictions on the Single Market maintained by Member States, public bodies or professional groups. ⁽⁴⁾

1.1.18 The key issue is that product design of assurance products, for example, is heavily influenced by local legal and tax features. This is the case for compulsory insurance, but also for many other essential insurance products, for instance through divergent solutions to issues such as cover for natural catastrophes as part of household fire policies or the cover for acts of terror through common insurance product.

1.1.19 One of the hindrances to the completion of the Single Market is the maintenance of significant restrictions on free movement of workers. The EESC urges those Member States who do not permit free movement to remove their obstacles to worker mobility. The free movement of people is one of the fundamental elements of the single market, and mobility also has its attractions for workers.

1.1.20 SMEs do not seem to benefit from the Single Market as much as they might. The existence of significant barriers to services trade in the EU means that it accounts for only 20 % of all trade in Europe. The Services Directive should add significantly to business and employment opportunities especially through the proposed screening mechanism and the use of single contact points for foreign service providers.

1.1.21 Transparency and openness in public procurement is vital to the functioning of the internal market. As a follow-up to the procurement legislation package that was adopted in 2004, it is most important that the present review of the so called 'remedies' directives is pursued swiftly. The proposals for reform made by the Commission ought not to be allowed to be diluted, especially with regard to a sufficiently long standstill period between award decision and the signing of a contract, and with regard to the consequence of a contract becoming ineffective if certain publication criteria are not met.

⁽³⁾ Opinion on the White Paper on Financial Services, OJ C 309, 16.12.2006

⁽⁴⁾ Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualification OJ L 255, 30.9.2005.

1.1.22 Opening the market for public procurement is subject to intensive consultations among public and private stakeholders, with substantive differences of views over the approach to be taken. Opening the public contracting market has to take into account important dimensions such as employment and social and environmental considerations which are of equal significance in this process.

1.1.23 The SOLVIT dispute resolution network is working satisfactorily and could ideally help overcome legal barriers (often on the grounds of misapplication due in turn to either a lack of information, insufficient training of officials and protectionism) but definitely needs more resources and personnel in national capitals. A structured publicity campaign should be conducted to create the awareness among SMEs about the existence and facilities provided by this mechanism.

1.1.24 The EESC has produced a detailed catalogue of obstacles to the Single Market ⁽⁵⁾ to allow for a realistic understanding of the regulatory challenges which are still impeding the full realisation of a European Internal Market. These are not always governmental obstacles.

1.1.25 As a follow-up to the Interinstitutional Agreement of 2003, the EESC, in cooperation with the European Commission, is developing a database (PRISM II) to map EU co-regulation and self-regulation initiatives ⁽⁶⁾. The EESC and particularly the members of its Single Market Observatory (SMO) are a resource which the Commission and the Member States are welcomed to exploit. The SMO in particular conducts public hearings in different Member States each year with particular emphasis on employment issues in the new Member States.

1.1.26 In view of the expertise which it possesses and its representative nature, the EESC believes that it could play a role in the drawing-up of the impact assessments which the Commission intends to introduce on a systematic basis. It is vitally important that draft legislation reflects a plurality of views and is most scrupulously and objectively well-founded. Forwarding the impact assessments first of all to the EESC and giving it the opportunity to comment on these assessments before they are forwarded to the European Institutions would make it possible, in the spirit of the Partnership for European Renewal, to secure much greater approval of EU legislative initiatives ⁽⁷⁾.

1.1.27 Finally, promoting the benefits of the Single Market to consumers and encouraging them to take advantage of it should be seen as a priority to drive the completion of the Internal Market forward.

2. Introduction

2.1 This opinion follows on a request for an exploratory opinion from Commissioner Wallström, Vice-President of the European Commission, to the European Economic and Social Committee, dated 5 October 2006.

⁽⁵⁾ The Single Market Observatory (SMO) of the EESC has produced a detailed catalogue of obstacles which is available via the SMO website:

http://eesc.europa.eu/smo/news/index_en.asp.

⁽⁶⁾ This database will be available on the website of the Single Market Observatory in the first half of 2007 (http://eesc.europa.eu/smo/index_en.asp).

⁽⁷⁾ See, for example, OJ C 221, 8.9.2005.

2.2 The Committee was asked to reflect on the priorities set up by the European Commission with a view to contributing to the report due to be tabled at the 2007 Spring Council Summit and, ultimately, to the final report.

2.3 Given the tight timetable to which the Committee has had to work, it has decided to concentrate on a few key messages and identify a few key areas where further progress is, in the view of the Committee, desirable.

3. General comments

3.1 The original logic of the Single Market was to replace different sets of national regulations with one set of EU-wide regulations, and hence to create a level playing field which would enable the European economy to realise its full potential. In reality, EC regulations are too often perceived of as being additions to, rather than replacements for, national regulations.

3.2 A factor which has increased its importance is 'Globalisation' which is both a challenge and an opportunity. The challenge can only be met if the full potential of the Single Market is realised.

3.3 In this context, the EESC endorses the European Commission's intention of delivering a new policy agenda based on a new partnership, with the institutions working more effectively together. As part of this shared agenda, national, regional and local governments should also take responsibility for delivering results and bringing Europe closer to its citizens.

3.4 The view that somehow more legislation means 'more Europe' must be resisted. Are they the most effective means for achieving the desired end? The promotion of alternatives to legislation such as best practice in co- and self-regulatory initiatives, or Collective Agreements should be given importance and more widespread use of these practices should be encouraged, whilst not forgetting the pursuit of the social dialogue — which the Treaty calls upon the Commission to promote — with a view to reaching collective agreements.

3.5 However, the effective use and quality of impact assessments, evaluations and public consultations should be better guaranteed in the legislative and policy-making processes (did draft legislation deliver as intended? If not, why not?). In this connection, the Committee will also be issuing an exploratory opinion on 'Quality standards for the contents, procedures and methods of social impact assessments from the point of view of the social partners and other civil society players'.

3.6 The Single Market has been successful in certain areas affecting large numbers of consumers (e.g. product safety or sale guarantees) while in other areas progress has been slow to materialise or remains non-existent for the end-user (e.g. financial services or the Community patent).

3.7 Job creation and worker mobility are among the key objectives of the single market, and training and education programmes need to be directed more towards paving the way for the 'knowledge-based economy'. However, on its own, the setting-up of the single market will not resolve the problems on the European labour market: additional pro-active measures will also be required.

3.8 Legislative proposals should be drafted in such a way as to be easily understandable for the potential end-users, and not only for the legislative authorities. The same logic should apply to regulation.

3.9 A higher priority should be accorded to Better Regulation. The EESC has referred to this in a number of opinions ⁽⁸⁾. There is abundant evidence both from the Commission's own consultation and from Member States that directives are frequently made more onerous by national administrations when implementing them into national law (i.e. *gold plating*). This bears more heavily on SMEs than on large companies. SME owners frequently have to combine all of the tasks which large organisations can delegate to specialists.

3.10 Better implementation and enforcement is a prerequisite for a Single Market to exist in the first place. The EESC opinion on the '*EU and national administration practices and linkages*' ⁽⁹⁾ draws attention to the shortcomings at present:

- in some Member States there is little liaison between their officials negotiating in Brussels and those responsible for implementing at home,
- in other Member States, confusion arises because a number of different government departments are negotiating over different elements of a proposed directive and the governments concerned do not always have a coherent position as a result.

3.11 Better implementation and enforcement ensure against the fragmentation of the Single Market.

3.12 There is an obvious lack of coherence within national administrations while the effectiveness of the European Union is threatened by Member States not complying with their own decisions. In some Member States there is little communication and information policy on Single Market issues, including success stories, at national level. Governments, national Parliaments or the media do not feel morally compelled to play their part. The Social Partners and Civil Society should be more involved if the citizens of Europe are really to feel that they are an integral part of developments including the stalled Constitution. Attention should not, however, focus on communication problems alone. The first step in winning back the confidence of citizens in the EU must continue to be finding a solution to the urgent problems of the Union.

Brussels, 17 January 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁸⁾ Notably on *Better lawmaking*, OJ C 318, 23.12.2006, rapporteur Mr Retureau, *Better implementation of EU legislation*, CESE 1069/2005, rapporteur Mr van Iersel, OJ C 24, 31.1.2006, *Strategy for simplification*, OJ C 309, 16.12.2006, rapporteur Mr Cassidy, an Information Report on the *Current state of co-regulation and self-regulation in the Single Market* CESE 1182/2004 fin, rapporteur Mr Vever, and the Single Market Observatory publication on *What is the state of the enlarged Single Market*, October 2004, EESC-C-2004-07-EN. Annex I provides a list of more recent opinions adopted by the EESC.

⁽⁹⁾ OJ C 325, 30.12.2006, rapporteur Mr van Iersel.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following text of the Revised Draft Opinion was rejected in favour of an amendment adopted by the assembly but obtained at least one-quarter of the votes cast:

'1.1.11 The EESC recalls that in-depth harmonisation even over 27 countries, difficult though it may be, is an important element of the Single Market. This underlines the importance of mutual recognition.'

Outcome:

89 for amending the point,

72 against and

24 abstentions.

The following amendments, which received at least a quarter of the votes cast, were rejected in the course of the debate:

Delete point 1.1.16

~~'The EESC also asks the Commission, Member States (or public bodies) to examine restrictions on the Single Market maintained by professional groups. ⁽¹⁾'~~

Outcome:

67 for deleting the point,

93 against and

33 abstentions.

Delete point 1.1.17

~~'The key issue is that product design of assurance products, for example, is heavily influenced by local legal and tax features. This is the case for compulsory insurance, but also for many other essential insurance products, for instance through divergent solutions to issues such as cover for natural catastrophes as part of household fire policies or the cover for acts of terror through common insurance product.'~~

Outcome:

82 for deleting the point,

94 against and

20 abstentions.

Amend point 1.1.18 as follows

'One of the hindrances to the completion of the Single Market is the maintenance of significant restrictions on free movement of workers. The EESC urges those Member States who do not permit free movement to remove their obstacles to worker mobility. The free movement of people is one of the fundamental elements of the single market, and mobility also has its attractions for workers. However, as a result of differences in standards and rules between the Member States, a Single Market for workers is starting to emerge that fails in every respect to meet the requirements of a level playing field consistently called for in so many other single market fields. Cases such as Laval ⁽²⁾ — which was before the European Court of Justice on 9 January 2007 — or Viking Line clearly demonstrate the need for action on this front. Moreover, instead of asking people to go where the jobs are, it would be more effective and also more compatible with people's needs to create the jobs where people are. ⁽³⁾ This would necessitate an appropriate locational, regional and structural policy as an adjunct to the single market. Such a policy would also significantly enhance the public's acceptance of Europe.'

⁽¹⁾ Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualification OJ No L 255.

⁽²⁾ This is a dispute between a Latvian construction company and the Swedish trade unions about the working conditions of Latvian workers building a school in the Swedish town of Vaxholm. This case is crucial for the future of employer-worker relations and is the result of differing standards between Latvia and Sweden. Such differences also exist between other Member States as well.

⁽³⁾ OJ C 234, 30.9.2003

Outcome:

79 for amending the point,

99 against and

17 abstentions.

Delete last sentence of point 3.1

'The original logic of the Single Market was to replace different sets of national regulations with one set of EU-wide regulations, and hence to create a level playing field which would enable the European economy to realise its full potential. ~~In reality, EC regulations are too often perceived of as being additions to, rather than replacements for, national regulations.~~

Outcome:

85 for amending the point,

86 against and

23 abstentions.
