

Consultation document on a “Small Business Act” for Europe

The importance of Small and Medium-sized Enterprises (SMEs) for the EU economy is now well recognized and a comprehensive EU SME policy was put in place in 2005 as an integral part of the Lisbon Partnership for Growth and Jobs (Commission’s Communication on a Modern SME Policy for Growth and Jobs).

An assessment of the SME policy results during the 2005-2007 period has shown that substantial progress has been made both at EU and national level with the implementation of the "think small first" principle¹. The Commission has made real efforts to cut red tape for SMEs and has significantly increased the SME focus within major EU spending programmes for the period 2007-2013. Member States have also substantially improved the SMEs’ environment and progressed in their implementation of the 2006 Spring European Council conclusions, e.g. by introducing one-stop shops for company registration and reducing the time and costs required to do so.

Despite these significant improvements, in its Communication to the October 2007 Meeting of Heads of State and Government: "The European Interest: Succeeding in the age of globalisation" the Commission underlined the need to fully unlock the growth and jobs potential of SMEs and make full use of their innovative capacities. This was reflected in the strategic report on the renewed Lisbon strategy for growth and jobs adopted on 11 December 2007, which substantially increases the emphasis on SMEs in the context of the next Lisbon cycle 2008-2010. As a major contribution to this objective, the Commission proposed in the Community Lisbon Programme the preparation of a Small Business Act for Europe whose main aim will be to set principles and concrete measures to improve the framework conditions for European SMEs, while taking full account of their diversity. This initiative was welcomed by the December 2007 European Council, and the Commission’s objective is to come up with a proposal by June.

While the Commission already identified a number of problems which prevent SMEs from fully unlocking their potential, when launching its Modern SME Policy, the aim of this paper is to launch a broad consultation with all stakeholders and to stimulate an open debate on developing the “Small Business Act” for Europe in order to ensure that all remaining obstacles to EU SMEs’ prosperity, and solutions to tackle them, are identified. A public hearing with the main stakeholders is taking place in Brussels on 6 February, while at the same time an internet consultation allows all interested parties to give their opinion on the issues highlighted in this paper. The results of this consultation will provide a major contribution to the Commission's own reflections leading up to the development of the “Small Business Act”.

- What are the most important problems that European SMEs are facing and which prevent their growth? How to tackle them?

EBC ANSWER There is a need to simplify as much as possible the conditions in which craft-enterprises and SMEs of the construction sector are operating in order to facilitate their activity and consequently foster job creation and declared work. In this regard our sector has a strong potential as it is highly labour intensive. Simplification is required, not only as far as European regulations or standards are concerned but also in each individual Member State wherever the “think small first

¹ see Mid-term Review on the Implementation of the Modern SME Policy, COM(2007) 592 final, 4.10.2007

principle” has to be applied throughout. Participation of Craft and SMEs in the national and European social dialogue in the construction sector should be better ensured. SMEs employ 80% of the construction workforce. Small enterprises (less than 50 employees) alone account for 65% of the total construction workforce in the EU. In many Member States, especially in the newer ones, wages and working conditions are negotiated without SME representatives. This issue needs to be addressed in order to better take into account the difficulties of small enterprises.

The following list of policy areas has been developed to get more specific feedback on a number of specific issues. However, it does not prejudge the structure of the future “Small Business Act” for Europe, nor is it exhaustive.

1. BETTER REGULATION FOR THE BENEFIT OF SMES

The Commission has an ambitious strategy for better regulation and has set the target of reducing administrative burdens arising from EU legislation by 25% by 2012. However, SMEs still bear a disproportionate regulatory and administrative burden in comparison to larger businesses.

In this context:

- 1.1 Is the current EU SME definition an obstacle to targeting support for SME growth in the right way? If so why?

EBC REPLY

No.

The widening of the definition of SMEs, ie increasing the actual thresholds is unacceptable and would lead to an emptying of any SME policy. 250 is already a quite big enterprise in Europe.

- 1.2 In addition to the systematic application of the subsidiarity and proportionality principles in legislation (see question 6.2), could differentiation regarding the way legislation is elaborated and applied according to the size of the company be useful (e.g. lower fees, fewer reporting requirements, thresholds or longer transition periods)?

EBC REPLY

Yes, very useful.

There is a need for simplified procedures for small businesses, in particular in the field of European standardisation.

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- 1.3 a Do you consider that directly applicable EU-level legislation in certain areas creates a disproportionate and un-necessary administrative burden on SMEs? If yes, in which areas?

EBC REPLY

No.

It is not because EU legislation is directly applicable, that it is burdensome. All depends on the content of the legislation, being it direct applicable or not. Nevertheless, direct applicable legislation avoids the danger of gold-plating and does not create additional barriers for cross border activities caused by different rules.

- 1.3 b Would excluding SMEs from such direct application of EU legislation be a solution?

EBC REPLY

No.

EBC insists on the fact that SMEs are not the exception but the rule and legislation has to be made for the majority. Legislation has to be adapted to the characteristics of SMEs. What is necessary is the application of the “think small first principle”. Exemptions for SMEs could give the (false) impression to consumers, employees and society as a whole that they are less protected, getting less quality in SMEs.

- 1.4 Would the introduction of common commencement dates for all SME-relevant legislation coming into force and/or publication of an annual legislation statement be useful for SMEs?

EBC REPLY

Not very useful

The principle to be adopted should be that the commencement date has to be agreed on with the different stakeholders, especially the representative SME organisations. This allows the SMEs to be informed and to get prepared.

- 1.5 Do you think additional focused measures to alleviate the administrative burden on SMEs would be useful? If yes, in which specific areas or topics?

EBC REPLY

Yes

- single contact point for all administrative procedures, social contributions, taxation, etc.
- access to public procurements
- European standardisation and CE marking
- Occupational Health and Safety
- Environment, Waste management

- 1.6 Would you suggest any other obstacles or additional issues to address?

EBC REPLY

European legislations should replace national regulations and not come in addition to them.

Member States should list those existing regulations that SMEs have to comply with and work together with SMEs organisations in order to simplify and reduce regulatory requirements.

EBC had strongly supported the European Commission initiative to send its employees for an internship into SMEs. It is advisable to regularly renew the experience and to encourage Member States to launch similar initiatives. Such internships provide an opportunity to the legislator to get exposed to the daily reality in small enterprises and avoid that inapplicable regulation is imposed on them.

2. PUTTING SMEs AT THE FOREFRONT OF SOCIETY

Ensuring full recognition by society of the role of entrepreneurs

An important remaining obstacle to more competitiveness and growth in Europe has been identified in the lack of entrepreneurship and in particular in the ability of small businesses to grow. EU SMEs' role in society as a major source of employment, of economic growth and innovation needs to be better understood and recognised. Surveys which show that 45 % of Europeans would like to become their own boss compared with 61 % in the US prove that more needs to be done to promote entrepreneurship as a career choice.

In this context:

- 2.1 Do you see a need for additional measures in the Member States or at EU level to stimulate entrepreneurship through education?

EBC REPLY

Yes

- 2.2 Is entrepreneurship sufficiently reflected in school curricula and if not, how could the situation be improved?

EBC REPLY

No

Organising for scholars visits to enterprises and meeting with entrepreneurs;
Inviting managers of SMEs to give lectures;
Introduction of a European programme to support cooperation between SME-owners / SME organisations and schools.

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- 2.3 Do you see a need for the media to take a stronger role in fighting negative stereotypes towards entrepreneurship?

EBC REPLY

Strong need

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- 2.4 Would you suggest any other obstacles or additional issues to address?

More practically, despite recent improvements, including the implementation of the Services Directive by the end of 2009 which obliges Member States to simplify and streamline their procedures and formalities, setting up a new business or transferring an existing one may still be too complicated. EU SMEs need in particular the knowledge and core competencies that are essential for the successful transfer of business ownership. It is also important to tackle the problem of bankruptcy and the stigma that it generates and to give a second chance to entrepreneurs who fail non-fraudulently.

In this context:

- 2.5 Would it make a significant difference to further reduce the time and costs for registering a company?

EBC REPLY

Yes

- 2.6 Do you think it would be useful to propose additional measures to facilitate business transfer and tackle bankruptcy?

EBC REPLY

Very useful.

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- 2.7 Would you suggest any other obstacles or additional issues to address?

EBC REPLY

The situation of spouses / partners should be improved.
In the construction sector, they usually work without legal status and, consequently, without any welfare rights, pension rights, etc.
In addition, their patrimony is often requested by banks as a guarantee of the loans granted to the company.

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Helping SMEs acquire the skills they need

Skills and competencies are key for SMEs and in particular for the craft sector. However SMEs are often negatively affected by shortages of skilled labour and do not benefit from the possibilities offered by cross-border mobility to enhance their skills potential. They suffer in particular from limited exploitation of information and communication technologies (ICT): they lack the necessary skills to use the new technologies and have difficulties coping with a plethora of business processes and ICT systems.

In this context:

<ul style="list-style-type: none">○ 2.8 Do EU education systems deliver the necessary basic skills needed by entrepreneurs?
<u>EBC REPLY</u> Don't know
<ul style="list-style-type: none">○○ 2.9 How adequate are the existing measures for recognising qualifications at EU level?
<u>EBC REPLY</u> They are adequate but there is a need for more information towards SMEs.
<ul style="list-style-type: none">○ 2.10 Do you see the need for cross-border mobility programmes for entrepreneurs and apprentices?
<u>EBC REPLY</u> Strong need
<ul style="list-style-type: none">○○ 2.11 Would the development of a programme to foster the e-skills of entrepreneurs at EU level be useful?
<u>EBC REPLY</u> Yes, useful
<ul style="list-style-type: none">○○ 2.12 Would you suggest any other obstacles or additional issues to address?
<u>EBC REPLY</u> The lack of skilled workforce in the construction sector is an important and common issue in the Member States.
<ul style="list-style-type: none">○

3. FACILITATING SMEs' ACCESS TO MARKETS

Supporting SMEs to go beyond their local markets and better use the Single Market

The Single Market guarantees access for enterprises to a wide common market operating according to a common set of rules. However, it is clear that SMEs do not use the potential that the Single Market offers. Only 8% of them report export activities. To tackle this issue, the European Commission will propose a "European Private Company" statute. But SMEs also lack information on business opportunities and applicable rules in another Member State. They also face difficulties when complying with taxation rules and when participating in, and benefiting from, European standardisation which helps to allow them to do business abroad and to innovate.

In this context:

<ul style="list-style-type: none">○ 3.1 What are the areas where standards are not yet widely applicable and where SMEs would benefit from them?
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- 3.2 Do you see a need to increase the participation of SMEs and their representative organisations in standardisation and improve the dissemination of standards?

EBC REPLY

Strong need

- 3.3 Do you see a need for improving the situation of SMEs in the area of direct and indirect taxation; if yes, which measures would be the most significant? In particular, should VAT rules be further reviewed?

EBC REPLY

Yes, EBC strongly supports the permanent adoption of reduced VAT rates (currently authorisation is given to MS until 2010) on maintenance and renovation works in housing. EBC welcomed with satisfaction the results of the study carried out for the Commission in 2007 confirming that the targeted application to certain sectors of local services allows reducing undeclared work and do-it-yourself and increases demand in the formal economy.

- 3.4 Which additional measures would you suggest to help SMEs to better use the potential of the Single Market including the EEA and Candidate Countries?

Facilitating SMEs' access to public procurement

The public procurement market in the EU is estimated to be worth around 16% of EU GDP, which represents a huge market. Some 42% of the value of public procurement contracts above the thresholds of the EU Directives already goes to SMEs. The Commission is convinced that while reserving procurement quotas for SMEs is not necessary, practical difficulties should be addressed to further improve SMEs' performance in public procurement.

In this context:

- 3.5 Do you see a need to improve SMES' access to public procurement and if so how?

EBC REPLY

Yes

EBC considers that a system of quotas or reserved markets for SMEs in construction public procurement would be inappropriate.

Or the quota should be of 80% corresponding at the share of SMEs in the construction industry turnover.

EBC demands that the European Commission carefully take into consideration the below-mentioned proposals:

- **Clearly confine PPP** (Public-Private Partnerships) to especially complex contracts from a technical and financial point of view, as those pertaining to the competitive dialogue procedure, foreseen in the Directive 2004/18/CE.

- **Encourage MS to divide the calls for tender into separate lots.** The public authorities must be invited to separate the various technical parts of a project and attribute them separately.

- **Encourage MS to facilitate the formation of groups of enterprises.** For example, the financial and professional capabilities of the candidate must be taken into consideration at the collective level, without the obligation by each single member to guarantee the whole of the resources. This measure would indeed help SME access to public procurement.

- Launch an initiative in order to improve the conditions for subcontracting. The subcontracting SMEs encounter important difficulties, including in the new MS: no negotiation power, systematically lowered prices, impossible work schedules and chain-subcontracting which raises issues, such as lack of transparency and the difficulty to attribute responsibility. Some MS set up regulations or practices improving subcontracting conditions. It is advisable and useful for the Commission to launch a consultation process and open the debate on this issue.

- Launch a project on best practices. The Commission should analyse the current situation in all 27 MS, identify best practices and give recommendations to prompt a better access for SMEs to public procurement.

- 3.6 Would increased transparency of EU procurement opportunities below the thresholds make a difference (e.g. through a voluntary database disseminating procurement opportunities, central databases in the Member States or a broader use of electronic platforms)?

EBC REPLY

Yes

- 3.7 Would you suggest any other obstacles or additional issues to address?

Encouraging SMEs to tap opportunities outside the Single Market

Fast-growing markets both in the EU neighbourhood and beyond also present an untapped potential for many European SMEs. But they are not easy to access for SMEs. Complex regulatory and legal environments, linguistic and cultural barriers, lack of knowledge of potential market and difficulties in identifying the right partners need to be overcome.

In this context:

- 3.8 In general, how can SMEs be helped to go global? Which countries/areas should be given priority?
- 3.9 Is there a need to establish European Business Centres in some fast-growing countries and, if yes, in which ones?
- 3.10 Do you see the need for new programmes supporting SMEs entering these markets, following the example of *Gateway to Japan* and the *Executive Training Programme*?

4. SUPPORTING SMEs' ACCESS TO FINANCE AND INNOVATION

Improving SMEs' access to finance at EU and national level

Getting a company off the ground or expanding it requires money and raising the right kind of finance can be a major difficulty for Europe's SMEs. On the one hand, risk aversion makes investors and banks shy away from financing start-up SMEs. On the other hand, SMEs would benefit from a better understanding of finance, and need effective support when accessing outside finance. The EU already provides support to SMEs which is available in different forms such as grants, loans and, in some cases, guarantees. Support is available either through the Competitiveness and Innovation framework Programme (CIP), or the Structural Funds (including the JEREMIE initiative). In addition to the many State aid instruments already available to support SMEs, the Commission is currently working on new State Aid rules to increase the possibilities to support SMEs and to simplify procedures (Block Exemption Regulation).

In this context:

- 4.1 How could public policies and instruments to facilitate SMEs' access to finance be improved (e.g. awareness, procedures, cost, or better adequacy of products)?

EBC REPLY

Directive on late payments has to be improved. Too many construction SMEs suffer from late payments, in private and public procurement contracts (in Spain, some construction contracts are paid with a 250-day delay). The Commission should undertake an initiative on sub-contracting (late payments are mostly affecting sub-contracting SMEs of the construction sector).

- 4.2 What are the main problems SMEs face in accessing various EU support programmes such as the 7th Framework Programme for Research and Development, the Competitiveness and Innovation Framework Programme (CIP) or the Structural Funds (including the JEREMIE initiative)?

EBC REPLY

It is difficult for SMEs to be directly involved in European Programmes (time-consuming, complexity).

EU support programmes should better focus SMEs associations. The impact on SMEs is higher (multiplication effect).

- 4.3 What are the main obstacles for SMEs in accessing micro-credit (less than 25000 euros)?
- 4.4 Would you suggest any other obstacles or additional issues to address?

EBC REPLY

Similar problems exist regarding access to financing and access to professional insurance schemes.

Generally banks are wary of giving loans to new entrepreneurs or entrepreneurs that take over a company. When such loans are accepted they come at a premium rate or the banks demand personal guarantees such as the entrepreneurs private estate or even that of the entrepreneur's spouse.

A solution to the problem of access to bank loans has been implemented with the help of the European Investment Fund (EIF), which provides a capped portfolio guarantee to banks. Based on the same idea as what is already in existence for bank loans, the EIF could provide a similar portfolio guarantee for insurers.

There is no intention that the craft-enterprise should benefit directly from the European funds, but rather to facilitate the companies access to insurance. The insurers then could minimise their risk by such a guarantee system set up by the EIF.

Encouraging a knowledge-based economy

SMEs need to become more competitive through strengthening their innovation potential when developing new products and services or to find more efficient ways to deliver existing ones. New ideas need to be properly protected if their originator is not to lose out, and SMEs need to be aware of how to do so.

In this context:

- 4.5 Is there a need to help SMEs deal with IPR protection, to improve awareness and provide support services for SMEs to protect their innovation?
- 4.6 What are the most significant problems SMEs face in the use of patents?

- 4.7 Would you suggest any other obstacles or additional issues to address to further enhance the innovation capacity of SMEs?

5. TURNING THE ENVIRONMENTAL CHALLENGE INTO OPPORTUNITIES FOR SMEs

Climate change, scarcity of energy supplies and sustainable development are examples of key challenges for SMEs which have to adopt more sustainable production and business models just as larger companies do. But the demand for environmentally friendly products and services also opens the way for new business opportunities. However, lack of information, insufficient expertise and scarcity of financial and human resources create a specific challenge for SMEs in complying with environmental legislation and fully exploiting the opportunities for new “green” markets and increased energy efficiency.

In this context:

- 5.1 How could SMEs best benefit from policy measures on a sustainable industrial policy such as voluntary standards for particularly environmentally friendly products?
- 5.2 Would Community support for energy audits in SMEs be useful?
- 5.3 Do you see the need for facilitated access to the European Environmental Management and Audit system (EMAS)?
- 5.4 Would you suggest any other obstacles or additional issues to address?

6. ENHANCING THE IMPLEMENTATION OF EU SME POLICY PRINCIPLES

The European Charter for small enterprises, the Modern SME policy and various Council conclusions established a number of principles that constitute the basis for SME policies both at European and national level which are now fully anchored in the Lisbon Strategy for Growth and Jobs. These principles, such as following a ‘Think Small First’ approach when elaborating and applying legislation, consulting systematically SME representatives, evaluating the impact of forthcoming legislation on SMEs or providing appropriate business support to SMEs, need to become irreversible and systematically applied both at Community and national policy level in line with the Growth and Jobs Strategy.

In this context:

- 6.1 What is the right way to agree on principles of SME policy across the EU and to ensure their implementation at EU and Member States level? Is there still an untapped potential within the SME Charter Process?

EBC REPLY

The European Charter for Small Enterprises has raised awareness about SMEs among European and national decision-makers. However, a legally binding instrument is now needed to make the ‘THINK SMALL FIRST’ principle a reality of public policies.

- 6.2 Would a systematic application of the subsidiarity and proportionality principles at EU level help to further strengthen the application of the ‘think small first’ principle?
- 6.3 Would you suggest any other obstacles or additional issues to address?