

 **EU Advisory Group to the Department for Business**
EU Economic Policy 2009 - 2014
June 2009



EU ADVISORY GROUP TO THE DEPARTMENT FOR BUSINESS EU Economic Policy - 2009 to 2014

Context

This paper is the first major communication from the new EU Advisory Group to the UK Government's Department for Business, Enterprise and Regulatory Reform (BERR). The paper sets out the Group's recommendations in areas which it believes are vital for future economic policy in the European Union over the duration of the new European Commission and new European Parliament. It therefore supplements the more immediate actions being taken to help business through the downturn by seeking to identify the key medium and longer term actions that will be required to keep European business competitive.

This Paper

This paper has been submitted to BERR to inform its preparation of papers and speeches on UK priorities for EU economic policy. It is divided into three sections which were drafted and agreed by three subgroups and then adopted by the Group as a whole.

Group Recommendations

This paper contains a range of recommendations across the themes addressed by the Group. The Group will endeavour to promote the ideas in the paper among stakeholders and decision-makers in the European Union through national and European representative bodies and through their own contacts.

The recommendations cover, among others, the following issues:

- **Europe should establish a new action plan for jobs and growth addressing a range of issues from enterprise, to the low carbon economy, and ageing;**
- **Skills and employment should be central to the action plan, promoting re-skilling, work-place training, labour mobility and workplace participation**
- **Innovation should also play a central part with greater access to programmes for small firms and increased focus on bringing innovative products and services to market**
- **A framework for cutting emissions should be established, e.g. through stronger incentives, removing obstacles to energy efficiency, and national action plans for achieving energy efficiencies;**
- **Europe must avoid undermining the carbon market, and address carbon leakage;**
- **Carbon capture and storage (CCS) and electrification of transport could contribute significantly to developing a low-carbon economy;**
- **The Single Market must work for all, including SMEs, e.g. through encouraging the provision of cross-border services and ensuring access to public procurement markets;**
- **Europe should ensure that infrastructure investments which are key for growth and the functioning of the Single Market continue;**
- **Europe must reject protectionism; and**
- **Europe must renew and strengthen its regulatory framework in ways that work for businesses, employees and consumers through deflecting and correcting market failures where they exist and providing protections,**

while keeping markets open, minimising burdens and providing predictability.

The Group

The EU Business Advisory Group was set up in 2008 with the aim of advising the UK Government's Department for Business, Enterprise and Regulatory Reform (BERR) on key, horizontal economic issues affecting the European Union, with a special focus on informing the Department's policy strategy for the lifetime of the next European Commission.

The Group is chaired by **Gareth Thomas MP, Minister for Trade, Development and Consumer Affairs**, and is made up of representatives from British businesses and business organisations, the Trades Unions Congress, British academics specialising in EU affairs and the main UK consumer organisation. Participation in the Group and the subgroups used to prepare this paper is voluntary. Involvement in the Group should not be taken to suggest agreement with every detail of the recommendations contained in this paper or that the recommendations reflect the official lines of the organisations involved.

The subgroups that drafted the attached paper were:

- Jobs and Growth, chaired by Dr Peter Holmes
- Low Carbon Economy, chaired by Michael Gibbons
- Single Market/Regulatory Framework, chaired by Oliver Bretz

Some members of the Group nominated colleagues to cover the work of the subgroups. Membership of the main EU Business Advisory Group is as follows:

Oliver Bretz, Clifford Chance
John Cridland, CBI
Daniel Doll-Steinberg, Tribeka
Phil Dryden, Corus
Michael Gibbons, Powerfuel Power Ltd.
Ian Goldsmith, Corus
Peter Holmes, Sussex University
Matthew Kirk, Vodafone

Barry Neville, Centrica
Lucy Neville Rolfe, Tesco
Eve Salomon, Salomon Whittle Ltd
Alistair Tebbit, IoD
Owen Tudor, TUC
Helen Wallace, LSE
Lord Whitty, Consumer Focus

1. Jobs and Growth Recommendations

This first section summarises the views of the Jobs and Growth Subgroup in respect of the UK's policy priorities for the next Commission, due to take office later in 2009. The current economic conditions will shape the Jobs and Growth Agenda and much of what is presented in this paper is dependent on a wider programme of economic reform. The following recommendations are aimed at encouraging the necessary action at European level to enhance growth and sustainable jobs in Europe.

1.1 A new, ambitious EU Action Plan for Jobs and Growth should be debated at the December 2009 European Council and adopted at the Spring European Council in 2010. It should be supported by benchmark indicators, with a view to galvanising progress at all levels, and by active participation of stakeholders – employers, employees, consumers, educators, etc.

1.2 The new Action Plan should contain commitments to support growth and sustainable jobs, some in the form of quantifiable targets and some requiring coordinated work programmes. Priority areas should include:

- a. Innovation: maintaining the EU's position as a leading knowledge-based economy and becoming a leader in technology development and commercialisation; providing a competitive, open market and a framework in which employment can grow, and companies and other employers can grow or, where necessary, can contract and change direction easily.**
- b. Skills and Employment: promotion of re-skilling and work-place training, mutual recognition of qualifications, labour mobility, increasing participation in the labour market and investment in intellectual infrastructure**
- c. Enterprise: better regulation, an accessible Single Market, technology neutrality and financing**
- d. The Low Carbon economy: making the transition both an environmental and a business success**
- e. An ageing population: the health of the European economy with a new demographic**

1.1 A new, ambitious EU Action Plan for Jobs and Growth should be debated at the December 2009 European Council and adopted at the Spring European Council in 2010. It should be supported by benchmark indicators, with a view to galvanising progress at all levels.

The Lisbon Agenda runs to 2010 and is the main mechanism for promoting jobs and growth in the EU. The Group recommends a new EU-wide Action Plan for Jobs and Growth be prioritised at forthcoming European Councils with a new programme fully agreed by the Spring Council in 2010.

The Group suggests that the principles underlying the current agenda should not be significantly changed in response to the economic crisis and that consideration of a successor should be brought forward. For this reason, it is important that the programme, as its predecessor, is very much at the macro-economic and horizontal level, rather than directed at preserving jobs in any specific sectors, but that the programme creates an environment that is favourable for those sectors that offer the greatest potential for growth, without inhibiting sectors that are not considered as likely to grow. Horizontal and macro-economic areas that would usefully be covered include the business environment, research and innovation, employment, and energy and sustainability. It should focus on delivering a demand-led recovery and promoting employment, especially high quality jobs and increased participation in the labour

market. It should focus on increasing demand and ensuring the benefits of recovery measures are widespread – this will help quell protectionist sentiments.

An ambitious, high-profile goal supported by appropriate, transparent benchmarking for each area contributing towards achievement of this goal, and commitment to the principles of open markets and competition would help the future strategy to be taken seriously across the EU and help focus EU-level programmes on Europe's priorities. A consultative approach to the programme based on continuous engagement of stakeholders would help identify what is genuinely effective, and regular but proportionate reporting to the Council and European Parliament would prioritise the agenda across Europe.

1.2 The new Action Plan should contain commitments to support growth and sustainable jobs, some in the form of quantifiable targets and some requiring coordinated work programmes. Priority areas should include:

- a. Innovation: maintaining the EU's position as a leading knowledge-based economy and becoming a leader in technology development and commercialisation; providing a competitive, open market and a framework in which employment can grow, and companies and other employers can grow or, where necessary, can contract and change direction easily.**

Innovation and technology development help raise productivity, help foster competitive businesses, and help meet the challenges of globalisation; they can help the EU live within its environmental and demographic limits and can provide products and services fit for export. Innovation is often the result of successive improvements and failures and a determined effort over a long period of time. The EU should seek ways to encourage and support individuals and companies and not stifle innovation.

The current economic climate may endanger the risk-taking, entrepreneurial spirit that leads to innovation. This would be detrimental to Europe's long-term economic prospects. In the current conditions, being an early adopter of innovative products and processes becomes less appealing and so significant, new disruptive technologies¹ will find it even harder to gain traction and achieve the critical mass needed to ensure widespread uptake. This is an issue that should be considered in the context of national R&D tax credit schemes and EU innovation programmes, the support of companies willing to test innovative products and services, and the widespread adoption of technology.

7th Framework Programme

Currently, innovation in the EU is primarily supported through the EU's 7th framework programme (FP7). This programme runs from 2007-2013. Its aim is to keep EU businesses at the forefront of technological innovation in critical areas such as energy efficiency, the low carbon economy and high-value manufacturing.

FP7, in its final years, and subsequent programmes should be as un-bureaucratic as possible to ensure they are fully accessible. They should focus on:

- Encouraging and accelerating disruptive technologies;

¹ The term "disruptive technology" as defined by Clayton M. Christensen in *The Innovator's Dilemma* (Harvard Business School Press, 1997) is a new technological innovation, product, or service that replaces the existing dominant technology in the market, despite being radically different from the leading technology. It may start by either filling a role in a new market that the older technology does not fill or by successively moving up-market through performance improvements until finally displacing the incumbents. Examples are the car for horses; digital photography for chemical and instant photography; and the PC for the typewriter

- Innovation in the service sector and especially removing the risks associated with investing in such innovation;
- Promoting demand-side actions such as encouraging private companies to adopt innovative solutions from innovative companies;
- Innovative management strategies that may raise productivity;
- Developing and installing/maintaining new technologies that help reduce environmental impacts and addressing the need to train people in the installation and maintenance of such technologies;
- Improving the intellectual property regime across the EU; and
- Turning research results into eventually commercially viable technologies.

In addition, logistics and retail should be added to the list of technologically critical areas under FP7 since they have the potential to increase efficiency substantially and therefore also to reduce carbon emissions

Innovative SMEs and public procurement

It is vital that innovative SMEs are able to benefit from a competitive and open market, for example in public procurement. This should include market-driven standardisation and pricing and respect for intellectual property. Governments and EU institutions might consider tendering unbound, “petit projets”, and unbound large scale projects, as these are more likely to appeal to SMEs and are more likely to encourage the development of smaller, but scalable, iterative innovations.

There are benefits for public administrations to be gained from improved understanding of how supply bases work and adjusting procurement processes accordingly. This might be an area where increased best-practice sharing between procurement agencies would be beneficial.

Intellectual Property Rights

While the contribution of different IPR regimes to business success and entrepreneurship is debated, it is clearly vital that businesses should be able to generate a profit from their innovations if we are to engender an entrepreneurial spirit in Europe. Innovators need clear and consistent rules on intellectual property in Europe in order to encourage holders to retain their IP and attract innovators from third countries. This is critical since secure IP is crucial to the willingness of venture capital firms to invest in innovative projects and for companies to license their products, which they will tend to do from IP-secure territories. The Group believes that technology innovation may benefit from a widening of the protection available to include a shorter, lesser protection alongside patents, where appropriate, but the EU should not mandate either form. The EU should therefore have this debate and consider the options available.

It should be noted that clearer and more consistent rules on IP are not always synonymous with stronger protection but neither should IP protection, as a whole, be weakened and efforts must be made to ensure it is respected and acquired. The EU should make it easier to protect IP across all Member States.

b. Skills and Employment: promotion of re-skilling and work-place training, mutual recognition of qualifications, labour mobility, increasing participation in the labour market and investment in intellectual infrastructure

The current economic crisis should act as a catalyst for people to be re-skilled; this should be a priority for any successor to the Lisbon Agenda. Member States should seek opportunities for re-skilling within the framework of active labour market policies in order to minimise the impact of unemployment and help people back into the labour

market. Europe should also address more widely the issue of increasing participation in the labour market especially among those currently under-represented, e.g. women, the disabled or older people (see also section on an ageing population), of course, giving careful consideration of the impacts this might have, especially on small firms. Mutual recognition of qualifications has a key role to play here.

The EU should seek a multidisciplinary approach to skills. This involves resisting any impulse to limit skills development to specific technologies. Rather, policy should seek to encourage the cross-fertilisation of skills by supporting an open and flexible framework for skills development and training. To achieve this, the EU should prioritise workplace training and apprenticeships. In this context, upholding the right of the individual to free movement within the EU is important, i.e. through mutual recognition of qualifications.

Europe must also help those people who cannot easily adapt directly to the knowledge-based economy and those who will have difficulties in re-skilling. The EU must incentivise those people who are able to work to try to enter the job market, for them not to be left behind and add value to the economy.

Europe needs to increase investment in education. As a percentage of GDP, many countries in Europe spend considerably less on education than the likes of the USA or Korea.² As well as investing in physical infrastructure – construction, roads and railways to maintain economic activity – the EU must look closely at the intellectual infrastructure: our universities and innovative SME apprenticeships.

c. Enterprise: better regulation, an accessible Single Market, technology neutrality and financing

The economic crisis should be used as a catalyst for promoting open markets, rejecting protectionism and taking bold steps to reduce unnecessary regulatory burdens placed on non-financial businesses, particularly SMEs, so that the right environment for entrepreneurship and business success exists across the EU.

The Commission's commitment to the better regulation agenda has been welcomed and needs to continue to strengthen over its next term, with a particular attention to the rules that are most burdensome for Europe's SMEs, and the administrative burden reduction programme needs to be prioritised by the Council and European Parliament. The EU should make every effort to reduce unnecessary paperwork and to make sure that existing regulation is fit for purpose and cost-effective.

The Commission needs to ensure that its proposals for new regulation or changes to existing regulation are based on robust cost-benefit analysis and so justified when taking into consideration all the factors. In particular it is important to be genuinely sensitive to impacts on SMEs so as not to add significantly to their operating costs. While impacts on all sectors of the economy and society need to be carefully analysed when regulation is being considered, SMEs warrant special attention as they are often disproportionately affected by regulation. Moreover, SMEs are important to the wider economy: increasing burdens on SMEs may lead to fewer jobs and less competition in the market place.

Many small firms rely on larger businesses as clients and the link between the two should be encouraged. EU policy should avoid an approach that favours small firms by imposing asymmetric burdens on larger, well-established businesses.

It is clearly vital that all players – businesses, employees and consumers – have confidence in Europe's regulatory framework. Achieving this will mean that businesses are not overloaded with paperwork and not deterred from growing and taking on new

² OECD 2007 <http://www.oecd.org/dataoecd/20/27/39297945.pdf?contentId=39297946>

staff, the necessary protections for employees and consumers are provided, consumer confidence can grow, and market failures are corrected. Business organisations in the UK, though not the trade unions, see it as essential that any new Commission proposal to revise the Working Time Directive maintains the principle that individuals are allowed to opt out from the 48 hour working week.

Any successor to Lisbon should look at the free movement of services with a view to supporting innovation. One potentially fruitful area is innovation in the retail and logistics space. This could have a powerful impact in waste management and the environment.

Making the Single Market work for businesses, employees and consumers, mainly by better enforcement and implementation of existing legislation, is essential, as is resisting any temptation to move towards any form of protectionism. The new jobs and growth agenda could usefully include initiatives to help firms, especially smaller SMEs to access markets, for example: identifying and addressing particular barriers to SMEs seeking to access the Single Market; more transparent State Aid procedures and improving the Single Market in business services.

An open framework and technology neutrality is needed to encourage competition and further innovation. Policy-makers should resist the urge to try to channel SMEs towards the use of particular technologies. For example, the Government should not mandate the technology for its own projects, especially where SME participation is welcomed. Such specification is likely to limit the potential for smaller, innovative companies to bid for and win these projects as technology pre-selection is likely to have more impact on such companies, which often have more concentrated and less flexible skill sets.

Well targeted expertise and advice can greatly improve the success rates for SMEs. The EU could look at policies to encourage successful entrepreneurs and businesses to establish in Europe, for instance by maintaining favourable tax rules, so they can provide real experience and expertise beyond venture capital funding.

The EU should encourage support funding as early-stage venture capital is extremely scarce in Europe – as a percentage of GDP it is only a third of that in the USA. The financial crisis threatens this further and the EU should scale up the successful schemes for public/private partnership in seed and growth financing that have been pioneered across Europe. An example is Britain's University Challenge Scheme of 1999, which provided matching funds for private investment in university spin-out companies.

Loans, even supported by Loan Guarantees, are not very effective for innovative SMEs as the costs of R&D in the start-up years are far greater than the loans available based on turnover and cashflows. This is evident in the small uptake of Loan Guarantees. Venture style and equity type funding is more appropriate and the EU should be concentrating efforts on supporting and encouraging this.

Local decision-making should be encouraged, especially in financial services, to ensure that businesses are assessed holistically, not just on the basis of business plans. The aim should be to re-establish trust and build confidence between the suppliers and users of finance.

The EU should consider steps to change the entrepreneurial culture by making failure and bankruptcy less of a stigma and enabling those who fail to try again. While protections for consumers and employees are essential, it is plausible that firms which have struggled during the economic downturn may have been successful under different economic conditions and entrepreneurs may learn valuable lessons from failure which lead to highly successful subsequent ventures. Opportunities to try again should be available to such entrepreneurs.

A significant benefit of the Single Market is the potential of rapid export of innovations to other Member States. This could be encouraged by providing assistance to SMEs and innovative companies exporting their products and services across the EU and internationally. In recent times, the USA has seen several innovations grow very quickly and successfully – Facebook, eBay and Google – proof that the US market is conducive to supporting disruptive technologies. For Europe to create some of the next generation of world leading companies, SMEs need to reach a broad customer base to achieve critical mass quickly and effectively.

d. The Low Carbon economy: making the transition both an environmental and a business success

It is essential that full account is taken of the cost to enterprises of policies to reduce carbon emissions, and the impact of that cost on their competitiveness within the EU and beyond. Europe could encourage businesses to invest in green technologies through financial incentives. This would help the growth of firms in this market and establish the EU as the world leader in helping to deliver a low carbon economy. However, the need to focus on low carbon solutions should not be allowed to divert R&D funding from other promising areas of innovation.

There is also potentially a greater role for the Single Market in boosting the uptake of green technologies, since these have diffused very unevenly across the EU.

e. An ageing population: the health of the European economy with a new demographic

On present trends, the changing age-structure in Europe poses several challenges. With fewer people in work, and pension and health systems under increasing pressure, the challenges are significant and some of the potential solutions likely to be unpopular, e.g. weakening incentives to leave the workforce before the official retirement age and raising the official retirement age.

This paper has already stated that the new jobs and growth agenda should address how to increase participation in the labour market, especially of under-represented groups. One group whose participation could be actively encouraged is older people. A benefit of increased participation from any part of society is that this could contribute to a solution to the costs associated with an ageing population. When older people remain active in the labour market, two problems associated with an ageing population are addressed at the same time as this can reduce reliance on the state and increase financial contributions to the state.

Of course, the development of policies to increase workforce participation among older people needs to be based on robust impact assessment with special attention to the potential impact on small firms and labour market distortion. Increased participation of one group should not be at the expense of another or of SMEs' ability to grow or to innovate.

These are difficult issues that need to be taken seriously in the macro-economic debate in Europe over the coming years. Some of the assumptions on which current thinking on the ageing population is based are worth challenging, as is already happening in some quarters.³

³ For example, see Nomura, November 2008
<http://www.llewellyn.co.nz/TheBusinessofAgeing1MB.pdf>

2. Low Carbon Economy Recommendations

This second section summarises the views of the Low Carbon Subgroup in respect of the UK's policy priorities for the next Commission, due to take office later in 2009.

2.1 Greater ambition is required at all levels to create a framework to cut emissions and release enterprise, with consideration of stronger financial incentives and of removing cultural and social obstacles to energy efficiency.

The new Commission specifically should commit:

- **to always being clear about which market imperfections new initiatives aim to resolve,**
- **to minimising administrative costs and burdens,**
- **to long term predictability in regulation, and**
- **to using the economic situation not as a reason to delay investment but as a reason to kick-start investment.**

2.2 Realising open markets supported by a strong regulatory framework is key to achieving a low carbon economy that is good for the European economy. This would also help mitigate and energy security risks.

2.3 In view of the importance of a bankable carbon price and the need for predictability, the EU institutions and Member State governments should avoid any actions that might undermine the effectiveness of the carbon market. The Commission must also address the issue of carbon leakage as it presents risks to some industries.

2.4 The EU target for energy efficiency needs to be realised through specific EU and national action plans and targets. Public sector investment, sharing best practice and early identification of sectors that could operate more efficiently would be beneficial here.

2.5 Carbon capture and storage technologies and electrification of the transport sector are two examples of areas that warrant greater attention as ways of achieving a low carbon economy.

2.1 Over the coming period, greater ambition is required at all levels to create a framework to cut emissions and release enterprise, with consideration of stronger financial incentives and of removing cultural and social obstacles to energy efficiency. The new Commission should commit

- **to always being clear about which market imperfections new initiatives aim to resolve,**
- **to minimising administrative costs and burdens,**
- **to long term predictability in regulation, and**
- **not to using the economic situation as a reason to delay investment but as a reason to introduce kick-start investments.**

The Group believes that greater ambition is needed to create a framework to cut emissions and release enterprise. Existing financial incentives are too weak to encourage a wide uptake of emission reducing products and services. In addition, there appear to be cultural and social obstacles to the uptake of energy efficiency products, where significant gains could be achieved at relatively little cost.⁴ The

⁴ See McKinsey Report: "Pathways to a Low Carbon Economy: Version 2 of the global greenhouse gas abatement cost curve", Copyright 2009 McKinsey & Co, http://mckinsey.com/client-service/ccsi/pathways_low_carbon_economy.asp

economic benefits of stronger, more urgent action are widely recognised as a result of the Stern Report.

The Better Regulation Commission (BRC) advised the UK Government and the EU institutions to adopt a more strategic approach to climate policy, central to which is the need to establish the cost per tonne of carbon saved for all policy measures, and to test policy against a carbon price benchmark which should be consistently applied across Government. The BRC emphasised that knee-jerk regulatory responses and announcements of measures in a piecemeal fashion should be avoided. New initiatives should make clear which market imperfections they are seeking to resolve and it should be clear how they fit with existing mechanisms, avoiding double counting. Administrative costs and burdens must be assessed and minimised.

Business needs to be convinced that the current policy emphasis on reducing carbon emissions will be backed up by predictable regulation over the long term, e.g. over at least 15 years ahead.

While there has been commendable evidence in EU and UK policy making of holding to energy policies which continue to strive for greater energy efficiency and low carbon outcomes, as the recession bites there is now a risk that reductions in energy demand may become a pretext for delaying new investment, especially in low carbon electricity generation. The Group considers that it is especially in recessionary circumstances that kick start investments are required. Moreover lower demand in the short term may help to mitigate security of supply issues and provide a window of opportunity to address them.

2.2 A commitment to open markets supported by a strong regulatory framework is key to achieving a low carbon economy that is good for the European economy. This would also help mitigate and energy security risks.

The need for more liberalised (i.e. open and competitive) energy markets throughout the EU has already been emphasised as being good in principle for the EU and the UK. However there have been problems, including those attributable to the fact that several Member States continue to resist opening up their energy markets, particularly for gas. This has been a particularly longstanding problem, and it is appropriate to ask whether recent events in Russia/Ukraine provide a further opportunity to emphasise the need for diversity of fuels, diversity of suppliers and regulated open access to infrastructure. Until now, politicians and monopoly institutions have failed to handle the problems; healthy markets should be advanced as a more urgent requirement and one that is particularly relevant for Germany, and the Eastern European Member States. The Russia/Ukraine dispute is also perceived as a failure for the EU institutions to intervene and influence the outcome. Open markets help to mitigate energy security risks and enable such risks to be shared between Member States and market participants.

This once again raises the issue of the most effective way for the EU to manage and regulate its energy markets. The creation of a European Energy Agency has been agreed as part of the Third Energy Liberalisation Package, with the aim of promoting an environmentally sustainable internal market. However, the EU needs to ensure it is not diminished by the inefficiency and mismanagement that has affected so many other European agencies. The Group recognises that a strong regulatory framework is needed. In this context it welcomes the establishment of a new directorate general in the Commission to focus on energy issues and hopes that it will work closely with the DG responsible for climate change policies.

The Group wishes to emphasise that open EU energy markets are required to operate the EU ETS markets, and thus to manage the costs of making the transition to a low carbon economy. However, this needs to be supported by having the right infrastructure in place, in particular greater interconnectivity and the elimination of

major bottlenecks. It is also important to distinguish between wholesale markets and retail markets, recognising that there will continue to be a relatively small number of players in the market and that ongoing oversight will be needed to prevent local monopolies emerging.

Open markets will tend to encourage new entrants into the market. It is considered important that new producers of low carbon electricity have good access to the energy grids.

2.3 In view of the importance of a bankable carbon price and the need for predictability, the EU institutions and Member State governments should avoid any actions that might undermine the effectiveness of the carbon market. The Commission must also address the issue of carbon leakage as it presents risks to some industries.

The Group should reaffirm the outstanding importance of a bankable carbon price, driven by the EU Emissions Trading Scheme (ETS), in achieving a low carbon future across the EU, and indeed internationally. Businesses require predictability over a minimum of 15 years ahead i.e. the ETS should follow a long-term pathway.⁵ Policymakers should avoid actions which would undermine the effectiveness of the market. Phase IV of the ETS needs to be signalled and even more stringent, including possibly a floor price for carbon.

The discussion above of coherent European energy policy management is well illustrated in relation to the EU ETS, which it is generally agreed needs tight overall EU control (i.e. in line with the levels agreed post 2013), particularly since the ETS is the prime mechanism for delivering a low carbon electricity future.

The Group welcomes the introduction of auctioning of EU Emissions Allowances (EUAs) and emphasises that this will create an increasing fund for reinvestment in low carbon generation. The Group urges some degree of hypothecation or other means of targeting such investments. The political statement on the voluntary use of the auction reserves is welcome, and needs to be followed through.

EU policies on climate change will need to be linked to the global developments, e.g. at the Copenhagen summit. The Group is concerned that the EU policy promise of a 30% target for emissions reductions in the light of international agreement will need to be examined in practice because its delivery will raise a series of difficult decisions. The ETS must be seen to be implemented effectively to increase our advocacy of carbon trading at Copenhagen.

The issue of carbon leakage needs to be addressed, since this presents a substantial threat to some UK industries. Carbon leakage will remain a risk unless there is an international agreement, which should be pursued as a priority. Some members of the Group believe that if too many tranches of industry have full free allocations it could undermine the ETS.

2.4 The EU target for energy efficiency needs to be realised through specific EU and national action plans and targets. Public sector investment, sharing best practice and early identification of sectors that could operate more efficiently would be beneficial here.

The Group emphasises that energy efficiency is key to meeting the UK's carbon reduction commitments and should remain high on the political agenda. Energy efficiency initiatives often have the potential to provide new jobs in the economic

⁵ The ETS cap declines at 1.74% per year from 2013. This will continue indefinitely unless there is a change in the law.

downturn. The Group hopes that the New Heat and Energy Saving Strategy when finalised will be an important basis for action.

While the EU has a headline target for boosting energy efficiency, this needs to be translated to a specific action plan and clear targets in the UK including clear delivery mechanisms. The Group looks to the new EU Energy Efficiency Action Plan to provide a solid basis for action.

Sectors can be identified which could operate more efficiently, but which are not so far within the scope of the ETS – e.g. the services sector.⁶ This is an area where it might be helpful to share best practice with other Member States which have succeeded in boosting efficiency in particular areas. Greater public sector investment in energy efficiency should also be considered.

Energy efficiency is, however, not just an issue for businesses; consumers and domestic households need to be much more engaged. One possible policy opportunity would be to consider reduced VAT rates for energy efficient and green products (though the difficulties of definition in the latter case are recognised).

2.5 Carbon capture and storage technologies and electrification of the transport sector are two examples of areas that warrant greater attention as ways of achieving a low carbon economy.

Carbon capture and storage (CCS)

The Group reaffirms the need to plan for an urgent decarbonisation of electricity production in the EU. Carbon capture and storage is important and a priority for many of the Group, not least because so much of the world and many EU Member States are heavily dependent on coal. While initiatives to increase renewable generation and increase energy efficiency have already been taken, and the UK Government has clearly signalled its intent concerning investment in nuclear power, there remains a very urgent need to deliver the EU plan agreed in March 2007 to have a dozen CCS demonstrations by 2015 (and have more than one project in the UK). The rather limited availability at EU level of free allowances for such projects will need to be supplemented by Member States. The Group urges much more ambition at EU and UK level for CCS.

The Group believes it is important to avoid picking any particular technology, i.e. either pre or post combustion technologies. UK policy in this respect has discouraged or delayed the credible commercial development of other technologies which arguably have a more commercial opportunity for development. It is also essential to keep the overarching objective of such projects as being to achieve large scale, repeatable, capture of CO₂.

Recognising that there are regions of the EU – and the UK – where investment in a cluster of CCS projects linked by a common CO₂ pipeline network will significantly reduce cost and facilitate more capture, the EU should be encouraged to endorse and offer regional funding for CCS pipeline investment in appropriate locations.

In developing projects there is a need to recognise that CCS has the potential to be extended further than the energy generation sector, e.g. in steel and other heavy industry.

⁶ In the UK, this sector will be covered by the new Carbon Reduction Commitment cap and trade scheme covering the commercial and public sectors.

The transport sector

There are no clear targets for greenhouse gas reductions from transport, still less a coherent strategy to deliver them. European car manufacturers need to be sent clear, challenging regulatory signals to which they can respond. It is clear that the electrification of automobiles and public transport is the key to a low carbon future.

Further investment is needed to develop technologies that will lead to the electrification and decarbonisation of road transport, including hybrid vehicles, and those powered by fuel cells. Consideration should also be given to the infrastructure needed to enable such vehicles. If public support is to be made available to the car industry perhaps it should be aligned with such investments.

Once again more stakeholder engagement is required and a real change in consumer behaviour is necessary.

If the necessary decarbonisation of electricity generation is successful, the implication is that rail transport should be developed. The Group suggests more should be done to develop high speed rail. More emphasis is also needed on local transport. Light rail or other electricity based mass transit systems are the norm in many cities around the world and investment in such systems will make a major contribution to further reductions in both CO₂ emissions and particulates.

The aviation sector needs further consideration. Some members of the Group thought a tax on aviation fuel might ultimately be desirable, while seemingly politically unachievable at present.

3. EU Single Market and Regulatory Framework Recommendations

This paper summarises the views of the Single Market/Regulatory Framework Subgroup in respect of the UK's policy priorities for the next European Commission due to take office towards the end of 2009.

The following recommendations are aimed at encouraging the necessary action at European level to respond effectively to the current economic situation and the challenges that will be faced by business - from small and medium-sized enterprises upwards - over the coming years, and to foster a positive economic climate as both the UK and other European economies emerge from recession.

3.1 The Commission must adopt a targeted approach when determining its priorities for action, focussing on (i) ensuring that the necessary key infrastructure investments for future economic growth and the functioning of the Single Market continue to be made; and (ii) those strategic sectors of the economy expected to be early beneficiaries from economic recovery (including the potential benefits of investing in developing new technologies).

3.2 The Commission should evaluate how the ability of SMEs to benefit from the Single Market can be improved, by engaging in a review of barriers that SMEs encounter in the cross-border context.

3.3 In order to open the Single Market to greater cross-border services provision, the EU public procurement system should be reformed to simplify the system, and with an aim to increasing the participation of SMEs in tendering for contracts of the type for which they ought to be tendering.

3.4 State measures, and in particular the increased involvement of Member States in their financial sectors, should not be used as the basis for an increase in protectionism, either between Member States, or between Member States and third countries.

3.5 Appropriate regulation assists in ensuring markets function well, but the current economic climate must not be used as a smokescreen for the introduction of restrictive (protectionist) regulatory frameworks, either at the national or European level. Where a need for regulation is identified, a principles-based regulatory route should be followed.

3.6 Protectionism must be avoided both within the EU and in dealing with third countries, and the goal of mutual opening of markets with third countries pursued. The same objectives of better regulation must also apply in the context of international trade and development.

3.1 The Commission must adopt a targeted approach when determining its priorities for action, focussing on (i) ensuring that the necessary key infrastructure investments for future economic growth and the functioning of the Single Market continue to be made; and (ii) those strategic sectors of the economy expected to be early beneficiaries from economic recovery (including the potential benefits of investing in developing new technologies).

The UK must continue to encourage the Commission to identify those steps that can be usefully taken at the European level with the aim of promoting recovery as well as the delivery of maximum benefits once recovery commences.

Firstly, the public and private sector investments necessary to encourage and support recovery must continue to be encouraged. For example, utility operators and infrastructure providers are currently unable to secure external (i.e. debt-based) funding and are therefore reliant on their own free cash-flow to fund their investment activities. A failure to secure necessary investment levels will amplify and extend the effects of the current recession. The Commission must therefore have due regard to the potentially negative effects that regulatory measures can have on cash flow, as these may exacerbate the difficulties in accessing funds experienced by enterprises seeking to invest in innovation, and R&D generally. In addition, the Group would encourage the Commission to consider what measures or programmes - particularly in the context of regulated sectors - are necessary to ensure strategic infrastructure projects essential to long-term economic success (e.g. transport, energy – including carbon capture and storage - and telecommunications) are delivered, as such infrastructure investments are essential in order to allow all levels of the European economy - from SMEs to multi-national businesses - to benefit from the Single Market.

Secondly, the Commission must identify sectors of the economy that are expected to recover more quickly and therefore expected to stimulate demand for additional services and goods. Targeting support efforts at such economically "strategic" companies and SMEs would be expected to allow for better realisation of the benefits of eventual economic recovery. In conducting this review, the Commission should also consider how business could benefit from the expected future demand for key new technologies e.g. green energy sources and other technologies connected with realising a low-carbon economy.

3.2 The Commission should evaluate how the ability of SMEs to benefit from the Single Market can be improved, by engaging in a review of barriers that SMEs encounter in the cross-border context.

In the current economic climate, the UK must resist strongly any attempts to downgrade the importance of the Single Market, either symbolically or otherwise. Indeed, the Commission must be encouraged to improve access to the Single Market, and in particular consider how it can benefit SMEs. The UK should support the Commission on Single Market action and initiatives.

The Services Directive⁷ has put in place an improved framework allowing cross-border economic operators to more easily challenge measures restricting their freedom to provide services. However, the Commission must now address whether there is a future need for sector-specific rules for those activities with a derogation from or lying outside the scope of the Services Directive, as well as for using the framework established by the Services Directive to monitor (and if necessary, take action to address) indistinctly applicable - yet discriminatory - measures that businesses continue to face. Crucially for SMEs, the Commission should consider the impact of smaller, less obvious barriers. Even seemingly minor factors can, when taken cumulatively, exert a negative effect on inter-Member State trade, with the burden likely to be disproportionately borne by SMEs.

The Group considers that, even post-Services Directive, there remains a need to address consumer perception issues i.e. how consumers can be persuaded to procure services from providers that may be unknown to them.⁸ The Commission may wish to explore the role that quality assurance schemes can play in engendering consumer confidence,⁹ although the UK must seek to ensure any such scheme serves to *complement* (and not undermine) existing freedom of movement. In addition, EU

⁷ Directive 2006/123/EC on services in the internal market [2006] OJ L376/36

⁸ These issues are not confined to services, and also extend (for example) to regulated professions.

⁹ Examples include the UK Kitemark scheme (for goods and services) and ISO standards.

standards for services could be expanded to provide a framework for cross-border service provision.

All businesses, and in particular SMEs, should benefit from the ongoing review of existing "red tape" by the Commission. The new Commission should be urged to continue this work as there is much that still needs to be done; it has helped that an independent group of stakeholders has reinforced the Commission's commitment to reduce administrative burdens, and the new Commission should continue to have such an independent challenge. The Group has discussed looking at the documentation burdens imposed through-out the EU, with consideration given either to standardisation of documentation, or alternatively an enhanced understanding between Member States regarding documentation issued by state or quasi-state bodies¹⁰ of other Member States.¹¹ This could be furthered by encouraging "soft measures", such as the sharing of best practices between sister organisations e.g. between Companies House and its commercial register equivalent(s) in other Member States.

Commercial operators also place significant value on legislative clarity and consistency, as well as transparency and predictability in the way that organs of the state apply legislation and other domestic measures. The Commission should encourage Member States to conduct legislative reviews with such objectives in mind and to encourage the propagation of administrative best practices within their bureaucracies. Such steps have the added attraction of benefiting both domestic and cross-border businesses.

Where an unjustified restrictive measure is identified, the issue of effective and timely remedies is particularly relevant to SMEs¹², as they lack the "deep pockets" of larger enterprises, discouraging them from challenging discriminatory measures, yet they are apt to feel the impact of restrictive measures just as keenly. The Commission should consider how to establish more effective resolution mechanisms, given the current expense and protraction of challenging a national measure via the European institutional framework (which is a far from ideal means of resolution for SMEs¹³). The Group would welcome a green paper from the Commission on how the particular barriers faced by SMEs in the cross-border context can be addressed. This should consider: (a) the difficulties experienced by businesses attempting to access the Single Market; (b) the experiences of businesses seeking to procure such services (i.e. barriers in the domestic context which have kept out cross-border providers where demand otherwise exists); and (c) the particular experiences of enterprises based in one Member State attempting to enter another (e.g. do UK businesses experience particular difficulties in accessing certain Member States?). A systematic programme whereby SMEs as well as their representative bodies (such as the UK's Federation of Small Business) can bring forward issues of potential concern could provide an effective means of addressing the shortcomings of current enforcement proceedings.

Alongside such a scheme, co-operation fora such as the SOLVIT scheme¹⁴, which subject to certain limitations, serve as a useful starting point, and have clear benefits in

¹⁰ E.g. professional associations, regulatory bodies or recognised trade associations.

¹¹ E.g. there is no UK equivalent of the "certificate of good standing" confirming an entity has paid all taxes owed in its state of incorporation. Procuring a satisfactory equivalent (if possible) can be time-consuming and difficult.

¹² Proceedings before the European Court of Justice took an average of 19.3 months in 2007 (Source: Court of Justice Annual Report 2007).

¹³ SMEs will evaluate the likelihood of being able to mount a successful challenge within a meaningful timeframe. The prospect of possible success within a timeframe of two to three years is unlikely to encourage management to enter a new market where significant barriers to free movement are likely to be encountered.

¹⁴ SOLVIT is an informal dispute resolution mechanism for resolving disagreements between EU businesses/citizens and Member State national authorities (available at: http://ec.europa.eu/solvit/site/index_en.htm).

terms of cost and timing. The UK should advocate greater use of such "rapid response" frameworks, potentially with a focus on strategic sectors identified as being the source of particular difficulties.

3.3 In order to open the Single Market to greater cross-border services provision, the EU public procurement system should be reformed to simplify the system, and with an aim to increasing the participation of SMEs in tendering for contracts of the type for which they ought to be tendering.

The Group recognises a fundamental underlying principle of the EU public procurement system to be the ability for public sector leverage to drive improvement in the provision of services by the private and voluntary sectors. A key part of this should be that enterprises tendering for contracts are able to demonstrate in an appropriate manner compliant employment practices, in addition to factors such as business efficiency, capability and value for money.

However, the Group observes that the promised benefits of the EU public procurement system are failing to materialise for SMEs. While moves are ongoing to reform the procurement system (raising and harmonising thresholds, e-enabling the documentation and relaxing requirements for tenderers and streamlining of the overall process), the UK should push the Commission to consider measures that would further open the European procurement market to SMEs. Smaller businesses can be deterred by the tender cost and procedure and are often unsuccessful when they participate in tenders. While the Commission should consider how overall levels of SME participation can be encouraged (e.g. by way of consortium bids), the success of the EU public procurement system must also be judged by the extent to which SMEs are able to successfully tender for contracts in circumstances where SMEs should be well-placed to win such tenders. A key part of such a programme should include reviewing the administrative burdens and common difficulties experienced by SMEs when they do attempt to participate.¹⁵

3.4 State measures, and in particular the increased involvement of Member States in their financial sectors, should not be used as the basis for an increase in protectionism, either as between Member States, or between Member States and third countries.

The UK should encourage co-ordinated action at the European level to respond to the current recession. This is essential to prevent the exclusion of UK businesses from providing services into other Member States, as well as to ensure that measures adopted in the UK to support domestic enterprises are compatible with the objectives of the Single Market. Where one or more Member States believe a sector or industry is vulnerable and in need of assistance (of whatever form), the Commission must be on the one hand open to finding a solution that is compatible with the principles of EU law, while monitoring the conduct of Member States for breaches of those same principles. It is also critical that the Commission ensures Member States do not disregard their Single Market obligations in the furtherance of their regulatory functions. For example, there may be a temptation to opt for severe and restrictive measures on the grounds of consumer protection in respect of financial services - yet this can lead to a stifling of innovation, a restriction on competition and ultimately reduced consumer choice. The Commission must ensure that where any Member State body is executing a regulatory function, a prohibition or any equally draconian option is only considered once the

¹⁵ Difficulties will arise, in part, due to a lack of familiarity with the procurement system; however, it is common for additional factors to increase the challenge faced e.g. the need to prepare documents in local language via "approved" (rather than qualified) translators, or substantial documentation requirements which impose a heavier compliance obligation on non-domestic entities.

necessary analysis (as required by the case law of the European Court of Justice¹⁶) has been conducted. This issue is even more pressing in the present economic climate, as domestic concerns can lead to such restrictive steps being taken which, even if eventually subjected to a successful challenge, constitute a real and significant barrier to free movement for the duration of the measure's purported validity.

A key element of ensuring Member States' compliance with their Single Market obligations is full and effective application of the EU state aid and competition rules. The Commission's review of state aid in the banking sector demonstrated an ability to deal with issues in a timely and responsive manner, which the Group considers to demonstrate that any calls for rules on state aids to be suspended are unwarranted. In addition, EU and national competition laws should, to the greatest extent possible, continue to be applied normally and in full.¹⁷ The UK and the Commission must be particularly vigilant that these rules (particularly national competition and merger rules) are not applied selectively or in a manner which gives rise to protectionism.

The UK must consider how to address issues of staff mobility against the background of the economic crisis, given that this is often at the front end of any protectionist inclinations, and the ability to move personnel is vital to the provision of services. Distinct from general immigration policy concerns, the Group considers there are a number of strategic issues which the UK should encourage the Commission to give consideration to, namely: ensuring the maintenance of responsible employment practices, allowing business the necessary opportunities to recruit personnel corresponding to specific requirements from outside the EU, and seeking to resolve pressures within the EU (e.g. those flowing from the Posted Workers Directive).¹⁸ For instance, an enterprise seeking to create high-end skilled positions to serve customers in a given Member State can find that local rules are a strong disincentive to establishing a presence in that region. Often, where skilled staff are brought in from third countries to the UK on a short-term basis, there may be no desire on the part of the employer or the posted employee to remain on a permanent basis in the UK, but rather an intention to gain experience of the business culture and client base of the employer before moving home. The Group has also received anecdotal evidence that the time required to get approval for a non-EU national to work in the UK on a temporary basis has increased since the introduction of the UK points system. The Group considers this to be a concerning development and calls on BERR to monitor the situation and on the UK to take effective measures to accelerate the process.

The Group notes positive developments are taking place in this regard (such as the implementation by EU Member States of the "Van Der Elst" visa, allowing the holder of a work permit for one Member State to work lawfully in another), but considers that there is still considerable scope for bureaucracy around the movement of employees to give rise to considerable logistical difficulties, especially in relation to complex, high-value/high-skill projects.

The Group is also aware of a proposed Directive on Intra-Company Transferees, to be proposed by the European Commission. This will harmonise the rules for secondments

¹⁶ Namely, the prohibition must seek to protect a legitimate public (or other recognised) interest, it must apply without discrimination, it must be proportionate and it must respect fundamental rights. The issue of proportionality is one where many prohibitions are likely to fall down, given the high value placed by the European Court of Justice on the provision of adequate consumer information as an alternative to prohibition.

¹⁷ The Group notes that the inclusion of a new public interest consideration for non-referral of a qualifying merger to the Competition Commission ("maintaining stability of the UK financial system") was done within the framework currently envisaged by the Enterprise Act 2002 (see Enterprise Act 2002 (Specification of Additional Section 58 Consideration) Order 2008 (SI 2008/2645)). Moreover, the UK competition regime provides regulators with a broad regulatory toolkit to deal with issues in those sectors.

¹⁸ In this regard, the Group also invites the UK to distinguish between immigration issues and questions of temporary presence that are unrelated to immigration policy.

of non-EU staff into the EU and allow the free movement of those workers inside the EU. The Group strongly urges the UK to opt into this Directive when it becomes law.

3.5 Appropriate regulation assists in ensuring markets function well, but the current economic climate must not be used as a smokescreen for the introduction of restrictive (protectionist) regulatory frameworks, either at the national or European levels. Where a need for regulation is identified, a principles-based regulatory route should be followed.

The Group believes the UK should resist attempts to introduce or increase regulation unless there is a demonstrable benefit to such regulation, having regard to the interests of *all* stakeholders. Introducing potentially restrictive regulation to further short-term objectives can have unintended consequences in the long term, such as inhibiting recovery or growth in a particular sector of the economy. However, just as a rigorous cost/benefit analysis must be applied when seeking to introduce new regulatory proposals, the Group also encourages the UK and the Commission to give adequate thought to the impact of the removal of existing measures. It would be a mistake to proceed on the simple assumption that less regulation (in quantitative terms) is, by definition, better regulation. In some instances there may be a risk that benefits to consumers, employees and businesses are lost if measures are removed.

The Group acknowledges that recent events in financial markets have led the UK and other EU Governments to revisit the question of regulation of those markets. However, the failure of certain features of the current regulatory frameworks for the financial sector does not necessarily have implications for other regulated areas of the economy. The fundamental principles of good governance - proportionality, accountability, consistency, transparency and targeted - remain relevant in seeking to create the foundations of any effective regulatory framework. The recent turbulence in financial markets and the consequent impact on the rest of the economy has led to a clear consensus that the financial sector requires more effective regulation. The Group believes, however, that "effective" regulation should not necessarily entail *more* regulation in quantitative terms, but rather that regulatory action should be properly targeted and supported with proper monitoring processes and enforcement provisions, and in doing so there must be a consistency of approach across the EU. On this issue, the Group recommends that the UK should not support the establishment of any new European agencies or centralised regulators as a reaction to the current economic crisis. It would be preferable for the UK to promote broad, EU-wide reviews of relevant sectors together with improved co-ordination between national regulators i.e. through promoting consistency across the EU in terms of compliance and enforcement, including the promotion of best practices between networks of sectoral regulators. The Group welcomes recent comments in this regard from the Chancellor regarding European oversight of financial regulation, in which he advocated a body that would "serve as a forum in which the effectiveness of national supervisors can be reviewed."¹⁹

Such measures are not limited to the financial sector (e.g. there has been past EU success in the environmental, telecommunication and broadcasting sectors, and within the European Competition Network of national competition authorities). However, designing such networks must take account of the specific needs of the sector under scrutiny rather than imposing a "one size fits all" approach to co-operation. The Group notes that there are sectors where increasing the scope of pan European regulatory activity (setting up a "one stop shop") can significantly reduce the total regulatory burden to the extent that it may avoid the need for repeated national processes, e.g. pharmaceuticals, and there are areas, e.g. the Emissions Trading System where pan European supervision is particularly important. The challenge remains for European agencies to improve their cost effectiveness, and in some cases governance arrangements.

¹⁹ See Financial Times, 3 March 2009.

The temptation to legislate by way of detailed rules can be superficially attractive, but must be resisted. Indeed, it is essential that any regulation be principles-based. Promulgating detailed rules can encourage mere compliance with those rules, leading to regulators and enterprises overlooking the need to comply with the over-arching spirit of the regulatory regime. The UK should therefore encourage regulatory authorities throughout the EU to both apply principles-based regulatory regimes, and where appropriate to enforce against breaches of such underlying principles.

However, in circumstances where the need for more detailed rules is felt to be prudent, the UK should consider the role that can be played by non-binding guidelines at the European level as part of a flexible regulatory toolkit to respond to extraordinary economic challenges currently facing the EU. Recognising the restrictive effect that rigid rules can have on enterprises active in multiple Member States, the Group suggests that the UK explores the use of the "comply or explain" concept in appropriate circumstances. In this way, the UK should encourage a dialogue between regulators and economic entities, to allow an organic development process to take place, and ensure that regulatory regimes function as intended (and enterprises are not saddled with an inflexible regulatory system in the face of unpredictable and unprecedented economic difficulties).

While regulation should be resisted in circumstances where the case for such regulation has not been persuasively made, the UK must be a clear advocate for collective action in those sectors where action is deemed desirable. The Group also considers it to be critical that any new measures are not based on short-term considerations which could result in fragmentation of the Single Market, thus multiplying the impact of the current economic situation. The UK and the Commission must ensure any such regulation is also meeting its purported function - serving the aggregate interests of business, employees, consumers and other stakeholders. In conducting an assessment of whether alterations to the regulatory environment are desirable, the Group encourages the UK and the Commission to carry out a rigorous cost/benefit analysis which takes into account the interests of all stakeholders, particularly consumers, employees and businesses. A co-ordinated response to cross-border issues is essential, and can only be achieved effectively at the European level.²⁰ Such an approach will allow for problems to be dealt with seriously, while maintaining the functioning of the Single Market and minimising distortions of competition caused by the individual pursuit of conflicting objectives. The UK's approach to regulation - that it should be done only where appropriate, and it should be reviewed to ensure it is achieving the stated objective - holds true in difficult economic times, and indeed, such an approach is essential to ensure that regulation is effective and flexible, rather than itself becoming a burden to businesses seeking to survive the recession.

In view of the EU as a suitable forum to agree measures to tackle cross-border issues, the Group specifically encourages the UK and the Commission to offer support to the economies of central and eastern Europe (both EU and non-EU members). The UK championed the accession of new EU Member States in recent years, and providing support to these countries in the current economic crisis must form part of a strategy to ensure that co-ordinated European action benefits *all* of the EU's Member States.

Finally, effective regulation requires a proper assessment of its impact. While the Commission carries out an impact assessment when proposing legislation, the European legislative processes (in particular, the nature of compromises negotiated in Council) have a propensity to produce final legislation that is often of an appreciably different nature to that first proposed. The overall efficacy of action at the European

²⁰ The negative impact of pursuing a "go it alone" strategy was seen following unilateral Irish action to protect deposits in its banks, leading to a flow of capital towards Irish institutions and away from foreign banks.

level could be enhanced by formalising the post-legislative review process²¹, for example, involving representatives of the Commission, Parliament and Council in assessing the functioning and impact of measures (on both a measure-by-measure and a sectoral basis) and thereby to better gauge the impact of such acts - and the benefits provided to all relevant stakeholders - within the Single Market.

3.6 Protectionism must be avoided both within the EU and in dealing with third countries, and the goal of mutual opening of markets with third countries pursued. The same objectives of better regulation must also apply in the context of international trade and development.

The negative effects of protectionism (which commonly results in mutually damaging retaliatory action) must be prevented both within the EU and between the EU and third countries.

Regarding relations with third countries, the Group recommends that the UK maintain its support for free trade, specifically the attainment of the objectives agreed in the Doha Round. The presence of a new United States Trade Representative and (in the near future) a new EU Trade Commissioner provide fresh impetus to seek a resolution on existing trade disputes and pre-empt the creation of new ones. Analysis by BERR suggests that, to date, there has been no significant increase in the number of EU tariff investigations over the past year, indicating that the agreement by the G20 and other major economies in December 2008 not to raise new barriers to trade and investment has been adhered to. While this is welcome, the Group considers the Commission must remain vigilant and not succumb to internal pressure to impose countervailing tariff barriers to protect domestic EU industries. For example, the prospect of "back door tariffs" arises in the context of reviewing *existing* defensive measures as they approach expiry (so-called "sunset" reviews), and ensuring these are not maintained in force longer than is necessary.²²

In light of the provisions of the General Agreement on Trade in Services, the UK must consider how the role of domestic regulators and professional/trade bodies in negotiating with non-EU states as regards the provision of services in relation to regulated sectors/professions should be defined (specifically, should attempts to agree on the mutual opening of markets be handled on a bilateral basis, or is there scope and the requisite will for the Commission to take a greater lead on this issue?). Clarity on how such matters are to be pursued in the future would be welcome, as would consideration of how such arrangements are to be funded if they are to be pursued on a bilateral basis between EU members and third countries.

In the trade and development context, the Group invites the UK to press the Commission to encourage better regulation principles not only in the EU, but also in respect of its dealings with third countries and as part of its development activities. The negative impact of inappropriate regulation is equally relevant in this regard, and the Commission should be wary of encouraging the imposition of unduly burdensome regulatory regimes in third countries as part of its development programme. Such schemes, if poorly structured, can limit the economic opportunities of domestic industries in such third countries, as well as the ability of EU-based enterprises to trade in such markets.

²¹ Amendments to the actual legislative process to insert additional consultation obligations would increase the time for legislation to be passed and would require amendments to the EC Treaty.

²² BERR research suggests that 70-80% of such reviews lead to an extension of the tariff barriers under consideration.