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The Secretary General

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Dear Mr. Wesselius,

Thank you for your open letter to President Barroso and Vice-President Kallas in which you raise a series of concerns over the transparency and membership of the Commission's expert groups. I also refer to your letters to Vice-President Verheugen, Commissioners Dimas, Potocnik, Vassiliou and Piebalgs on specific expert groups.

The President and the other Commissioners have asked me to answer on their behalf. I take this opportunity to clarify a number of issues related to the transparency exercise in relation to expert groups. Annexed to this letter you will find specific data on the groups to which you refer in your correspondence.

As you know, President Barroso and Vice-President Kallas have put transparency at the forefront of the Commission's strategic agenda through the European Transparency Initiative. The latest development is the launch of an on-line register on interest representation after wide-ranging consultations to which Alter-EU actively contributed. Another step forward in transparency was the creation of a register of on-line expert groups in 2005, providing access to all these groups, together with some basic information on each responsible DG and the mission, tasks, possible founding act, composition, etc. of the groups. At the same time, the Commission adopted a transparent set of horizontal rules (SEC(2005)1004) to be followed by all its services when creating an expert group, appointing its experts and organising its meetings. In 2006, President Barroso committed to further enhancing transparency by having the names of the members of these groups published on the register site.

So as to allay any misconception as to the role and membership of these groups, I take the opportunity of your open letters to clarify a number of important issues:

**1. Expert groups' primary function is to provide high-level technical expertise - not interest representation - to the Commission services.** This explains why individual experts are selected by the Commission first and foremost on the basis of their specialist knowledge in a given field, although they may also represent specific interests. As mentioned in the horizontal rules, the number of members in the groups should remain limited to guarantee their effective operation and the quality of expertise. The quality of

expertise prevails over interest representation and it is not uncommon to find that a particularly authoritative expert in a specialist field finds support from other group members of a very different background.

2. **Many expert groups represent a privileged channel for collaboration and partnership with the Member States.** This is why nearly half of the existing expert groups are exclusively composed of representatives of national administrations. In this case, the individual experts present in any particular meeting are normally selected by the national administrations themselves and usually vary from one meeting to another according to the issues to be discussed.

3. Most of the groups which are not exclusively composed by experts sent by national administrations **have a mixed composition.** They often include academics/scientists appointed in a personal capacity, together with public officials and representatives of NGOs and the business sector. When civil society organisations participate, the members of the group can either be the organisations themselves (it is then up to them to decide who will be sent to each meeting), or individual experts appointed by the Commission on basis of proposals by different stakeholder organisations.

4. **The overall composition of all expert groups, seen as a whole, appears fairly balanced:** NGOs and trade unions can be found in slightly more than 25% of all groups; the same figure applies to the business sector, while academics and scientists are members of 30% of all existing groups and public practitioners 70%. This breakdown is not static; it varies according to the removal of existing groups and the creation of new ones. In this respect, it is worth noting that the number of expert groups has decreased from 1,400 in 2006 to less than 1,200 today.

5. On the expert groups you mentioned in your letters to the five Commissioners responsible for different policy areas, you will find annexed the information provided by their services. **When looking at a specific expert group composition,** I would however urge you to take the following factors into consideration:

(i) **the composition depends on the particular objective/mandate of a group.** Some groups may have a wider composition in view of the subjects on which they are consulted and the spectrum of expertise needed;

(ii) **expert groups do not take decisions.** Groups are first and foremost fora of discussion and brainstorming. Thus, the level and quality of the individual experts presented in each meeting is often more important than the number of experts representing different interests;

(iii) **there could be several groups consulted for any single proposal** prepared by the Commission;

(iv) **expert groups are but one mode of collecting expertise or seeking the views from different stakeholders.** The Commission often uses many other complementary or alternative means of gathering expertise and/or interest representation, such as studies, European agencies, Green papers, hearings, etc.

6. I can confirm that the Commission is fully committed to publishing the names of members of its expert groups. The **type of information published depends on the**

**membership of the group, not on the presence of individuals in each meeting.** Therefore, individual names are published wherever members are appointed in a nominative way, whether on a personal capacity or in representing a given organisation/interest. If members are organisations, and the organisations decide who will attend each meeting on the basis of the agenda, it is the name of each organisation that is published in the register. Our aim and commitment is to reinforce transparency whilst avoiding creating a disproportionate administrative burden. As mentioned above, many groups have a mixed composition. This is, of course, reflected when providing information on the members.

7. This **process of collecting and publishing individual names takes time and, contrary to what was initially foreseen, cannot be completed by September.** According to the rules on data protection, the publication of names needs the prior consent of each member of all of the groups concerned. As opposed to newly established expert groups, for which names are – whenever relevant – systematically published on the register site upon creation, the Commission services have requested thousands of group members to give their consent. For each group, lists are being uploaded into the website as soon as this exercise is completed. At the time of writing, the names of the members of 120 expert groups have been published and by the end of this month, a significantly higher number should have been published. All DGs with expert groups are fully engaged in this process and committed to overcome any practical difficulties. I can therefore assure you that the process of publication of names, as described above, is well under way and should be finalised before the end of the year.

8. Finally, the Commission is currently conducting an evaluation of the horizontal rules governing its expert groups, notably from the transparency angle, to assess if any further improvements could be made. The outcome of this horizontal evaluation should be available in the first half of next year. We will also strive to **continue to enhance transparency** by introducing new functionalities to the expert group register, including an advance research tool which will enable search by type of member, origin, affiliated organisation etc.

As mentioned above, in response to your specific queries, I enclose the sectoral information provided by the relevant services under the authority of the Commissioners to whom you wrote.

I trust all these explanations will help clarify the issues you raised.

Yours sincerely,



Catherine Day

## **ANNEX I: Technical information concerning certain groups under the remit of DG Enterprise and Industry, DG Environment, DG Research, DG Transport and Energy, and DG Health and Consumers**

### **EXPERT GROUPS MANAGED BY DG ENTERPRISE AND INDUSTRY**

#### ***The Competitiveness in Biotechnology Advisory Group (CBAG)***

CBAG has been created in accordance with Action 10b of the Strategy (“Life sciences and biotechnology – A strategy for Europe”<sup>1</sup>). The Commission set up a group with representatives from academia and industry to assist in the identification of competitiveness issues. The group's task is not to address ethical, societal or safety issues. These issues are already dealt with by the corresponding legislation and in the respective regulatory committees. The unabridged reports from the CBAG as well the membership list are published on the Commission's web site<sup>2</sup>. The Commission's 2007 mid-term review of its Biotechnology Strategy and Action Plan was carried out on the basis of an open stakeholder consultation where all interested parties were invited to give their view on issues relating to European life sciences.

An expert group on combined products (medical devices and pharmaceuticals) was foreseen and registered in the Commission's database, but has never been convened. It will be removed from the register.

#### ***High Level Group on Competitiveness of the European Chemicals Industry***

This group was set up by the Commission in 2007 to analyze the competitiveness of the chemicals industry in Europe and formulate a set of sector-specific policy recommendations that can be put into action by the Community, Member States, or by industry itself. A full list of its members is published on the Europa website, where the official documents produced by the Group and all relevant working material can also be found.<sup>3</sup>

#### ***High Level Group on Textiles and Clothing***

The group has fulfilled its mandate and does not function anymore. It will be removed from the register.

The other expert groups referred to in the letter have received specific mandates and carry out their work accordingly. The names of the groups and their missions have been registered in the Commission's database and are thus publicly available.

### **EXPERT GROUPS MANAGED BY DG ENVIRONMENT**

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<sup>1</sup> [http://europa.eu.int/comm/biotechnology/pdf/com2002-27\\_en.pdf](http://europa.eu.int/comm/biotechnology/pdf/com2002-27_en.pdf)

<sup>2</sup> [http://ec.europa.eu/enterprise/phabiocom/comp\\_biotech\\_commit.htm](http://ec.europa.eu/enterprise/phabiocom/comp_biotech_commit.htm)

<sup>3</sup> [http://ec.europa.eu/enterprise/chemicals/hlg/hlg\\_members\\_final\\_list.pdf](http://ec.europa.eu/enterprise/chemicals/hlg/hlg_members_final_list.pdf)

***Supervisory group of the voluntary commitments of car manufacturers to reduce CO2 emissions from new passenger cars placed on the EU market)***

The group has fulfilled its mandate and does not function anymore. It has been removed from the register.

***Surveillance de la moyenne des émissions spécifiques de CO2 dues aux véhicules particuliers neufs***

Part of the previous policy on CO2 emissions from cars was a monitoring mechanism for assessing manufacturers' performance, as laid down in Decision 1753/2000/EC. The purpose of the corresponding expert group has been to ensure that the data collection and reporting works as intended. Thus it has the nature of a technical/statistical group, composed of experts nominated by Member States and participating organisations. The experts come from national authorities responsible for collecting and reporting the data, contractors who help in the data management and the industry associations whose CO2 emission levels are being monitored.

New legislation on the CO2 emissions from cars is proposed by the Commission, providing for assessing the compliance of individual manufacturers on the basis of monitoring data. This proposed new legislation will, in 2010, repeal Decision 1753/2000/EC and replace it with new, more detailed monitoring requirements. The Commission intends to maintain the existing expert group until the repeal of Decision 1753/2000/EC, keeping the membership unchanged. Once the new legislation is in force, a new expert group will be created and the Commission will then consider including a wider scope of stakeholders in that group.

**Transparency:** the exercise is ongoing and at present the privacy statements from the experts are being collected. The lists of members are expected to be uploaded by the end of October.

**EXPERT GROUPS MANAGED BY DG RESEARCH**

***Coal combustion, clean and efficient coal technologies, CO<sub>2</sub> capture***

This group is one of the 12 Technical Groups set up according to the legal basis of the Research Fund for Coal and Steel (RFCS)<sup>4</sup> programme. Their role is to "*advise the Commission on the monitoring of research and pilot or demonstration projects...*". The groups neither advise the Commission on the selection of projects, nor on policy in this area.

The legal basis of the RFCS explicitly states that *members of the Technical Groups shall be appointed by the Commission and shall come from the sectors related to the coal and steel industry, research organisations or user industries where they shall have responsibility for research strategy, management or production.*

The group both conforms to the requirements set by the legislator, and is fit for the purpose for which it was established.

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<sup>4</sup> Council Decision 2003/76/EC, 2003/77/EC, 2003/78/EC of 1 February 2003, published in the Official Journal of 5 February 2003 ref. OJ L 29/22, OJ L 29/25, OJ L 29/28. These have been replaced in the meantime by Council Decision 2008/376/EC of 29 April 2008, published in the Official Journal of 20 May 2008 ref. OJ L 130/7.

All relevant summary data of ongoing RFCS projects are publicly available on the RFCS website<sup>5</sup>. The list of members of the Technical Groups of the RFCS programme is regularly updated and published on the RFCS website<sup>6</sup> (there may sometimes be a delay in this information being copied over to the central on-line register).

Once the projects are completed, the final report on every research project is made public through the EU Bookshop.

**Transparency:** To this date the percentage of groups in the research domain where membership details are complete has risen from 17 % (as suggested in your letter) to 39 %. In the current Framework Programme for research, through the theme "Science in Society", DG Research supports the development of tools and techniques for the involving a wide range of actors, including civil society groups, in research activities. A new funding scheme specifically aimed at helping civil society groups define research agendas in areas related to public policy has also been instigated.

#### **EXPERT GROUPS MANAGED BY DG TRANSPORT AND ENERGY**

##### ***The alternative fuels group***

This group is dormant and has not met since 2003. It will be removed from the register.

##### ***The Euratom Supply Agency advisory committee***

This committee has a formal legal basis under chapter 3 of Council Decision 2008/114 ( OJ L41 of 15.02.2008). Members of the Committee are appointed by the member States within their allocation of seats and lists of members are published by the Council.

Information about the committee can be found on the ESA page on the Europa website.  
[http://ec.europa.eu/euratom/index\\_en.html](http://ec.europa.eu/euratom/index_en.html)

##### ***The European Energy and Transport Forum***

The legal basis for this group is Commission Decision 2001/546.

The above-mentioned Commission Decision sets out the allocation of Committee seats among different categories. The Forum membership is well balanced to represent all interested parties within the energy and transport sectors in accordance with this Commission Decision. Balance is also required by the decision in terms of gender and geographical representation. Membership is selected on the basis of an open call for applications published in the OJ, which provides an opportunity for all interested organisations and individuals to apply. Therefore the Forum fully respects the Commission's code of conduct on consultations and use of expertise.

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<sup>5</sup> [ftp://ftp.cordis.europa.eu/pub/coal-steel-rtd/docs/coal\\_steel\\_synopsis\\_2007\\_def\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/coal-steel-rtd/docs/coal_steel_synopsis_2007_def_en.pdf)

<sup>6</sup> [ftp://ftp.cordis.europa.eu/pub/coal-steel-rtd/docs/members\\_list\\_tgc\\_2008.pdf](ftp://ftp.cordis.europa.eu/pub/coal-steel-rtd/docs/members_list_tgc_2008.pdf)

The Forum has not met since March 2007 following the expiry of the current membership's mandate. However, the Commission is currently going through the procedure for the renewal of the Forum's membership.

**Transparency:** The membership and opinions of the Forum are published on the Europa website: [http://ec.europa.eu/dgs/energy\\_transport/forum/index\\_en.htm](http://ec.europa.eu/dgs/energy_transport/forum/index_en.htm)

## **EXPERT GROUPS FORMED BY DG HEALTH AND CONSUMERS**

### ***Advisory Group on the Food Chain and Animal and Plant Health and Expert Group on Flavourings***

In the case of both groups, depending on the subject discussed some interests in society are well represented by one organisation or a very small number of organisations whereas other interests have more fragmented representation and need thus several organisations to represent the whole spectrum of that particular interest. As a consequence the number of organisations is not considered as a benchmark for the balance of interests.

In the context of the Better Regulation Initiative DG SANCO tries to ensure that at least the main or the most important stakeholders, are part of its expert groups. In this context the DG launched in 2007 the "Stakeholder Dialogue Group" which is an initiative to identify and establish best /good practices in terms of stakeholder consultation including stakeholder representation and representativeness.

The members of the Advisory Group on the Food Chain and Animal and Plant Health are organisations and the experts do not sit in personal capacity. The list of members is available at the website of DG SANCO ([http://ec.europa.eu/food/committees/advisory/index\\_en.htm](http://ec.europa.eu/food/committees/advisory/index_en.htm)). The members were selected following publication in the Official Journal of a call for expressions of interest (ref.: OJ C 97/2 of 21/04/2005).

The Expert Group on Flavourings is a working group of the Standing Committee on the Food Chain and Animal Health, and as such its membership consists of representatives of national administrations. The actual representative is nominated by the Member State, and can vary according to the points on the agenda. In particular cases, representatives of other stakeholders can be invited for specific topics, but this is only on an ad hoc basis and relates more to a targeted stakeholder consultation. The representatives of the stakeholder associations are deemed to represent their full membership. They are not considered to be members of the expert group. This will be properly reflected in the register.