

# Small Business Act for Europe

## Report on the results of the open consultation

22/04/2008

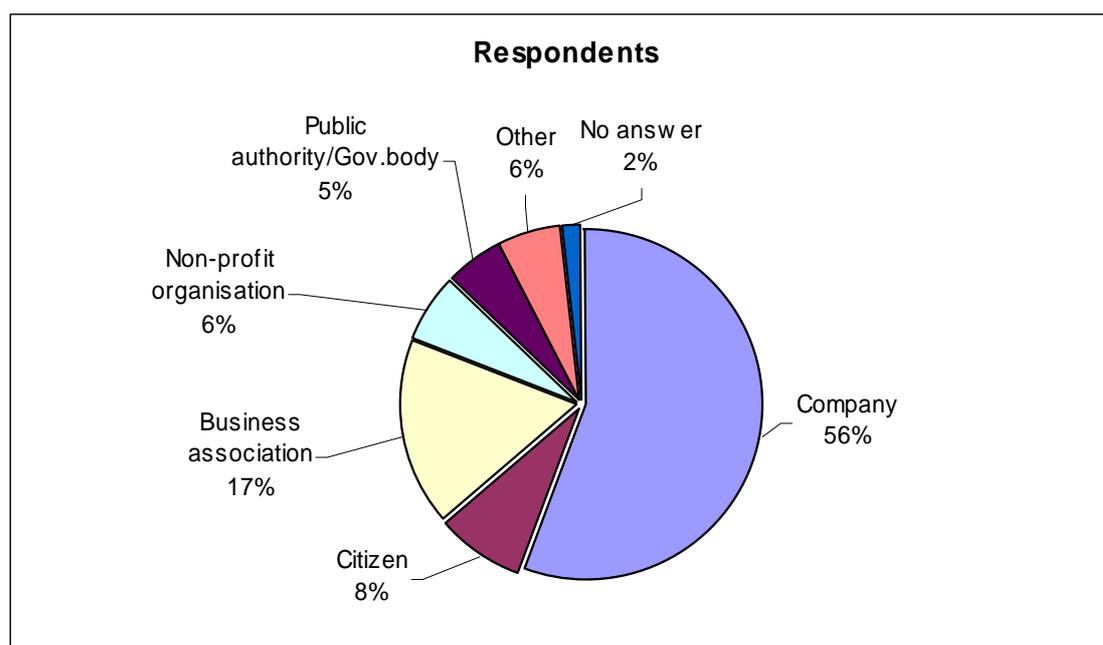
### INTRODUCTION

Over the past few years, the European Commission has implemented a specific policy in favour of SMEs and has committed itself to improving the business environment in which they operate by applying the “Think Small First” principle<sup>1</sup>. This policy has already produced significant improvements in creating a more SME-friendly business environment.

However, the need to fully unlock SMEs potential for growth, innovation and job creation remains. As a major contribution to this objective, the Commission has proposed the preparation of a Small Business Act for Europe whose main aim will be to set out principles and concrete measures to improve the framework conditions for European SMEs, while taking full account of their diversity.

Consequently, an open on-line consultation was launched to allow all interested parties to give their opinion.

### Profile of respondents



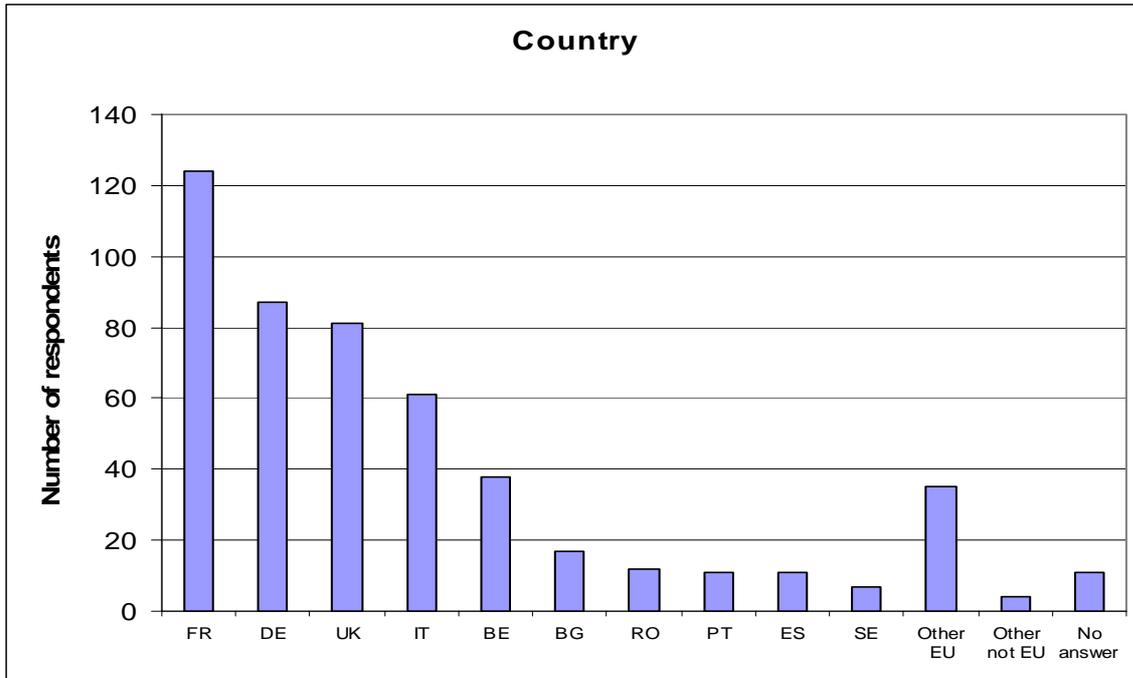
More than 500 contributions were received (499 via the IPM tool<sup>2</sup>) as well as a number of position papers from SME stakeholders and regional and national administrations. This report focuses on the replies received via IPM but all the contributions received will be taken into account in the preparation of the SBA.

The majority of the respondents are companies and in particular micro- and small enterprises. The respondents are based in 25 of the EU Member States with a large participation from France, Germany, UK and Italy.

A significant number of comments/suggestions were provided in answer to the open questions.

<sup>1</sup>See Communications on Modern SME Policy and on Mid-term review of Modern SME Policy ([http://ec.europa.eu/enterprise/entrepreneurship/sme\\_policy.htm](http://ec.europa.eu/enterprise/entrepreneurship/sme_policy.htm)).

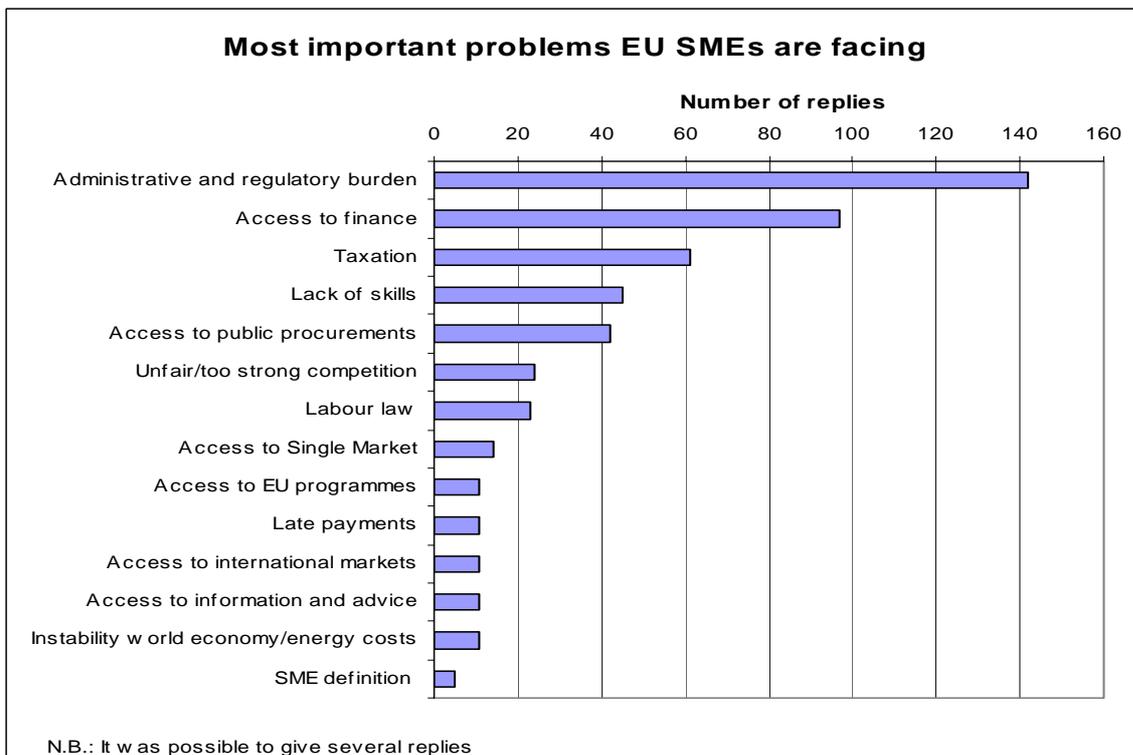
<sup>2</sup> A statistical overview of the IPM replies is also available.



### Main problems that European SMEs are facing

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

The administrative burden, overregulation and bureaucracy are by far the main general concerns, followed by access to finance, taxation, lack of skills, access to public procurement, unfair competition and labour law. Excessive payment delays are also described by many respondents as an important problem for SMEs.



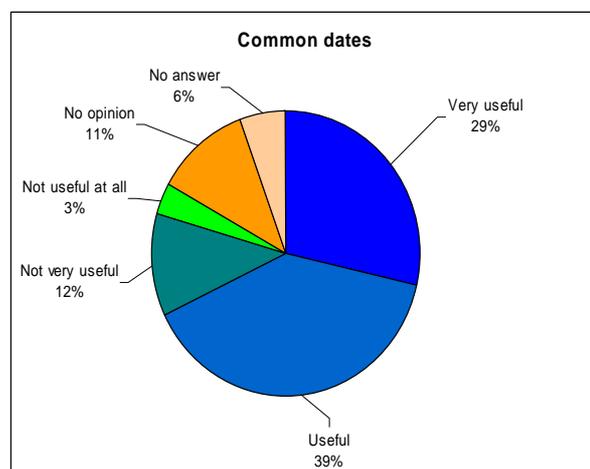
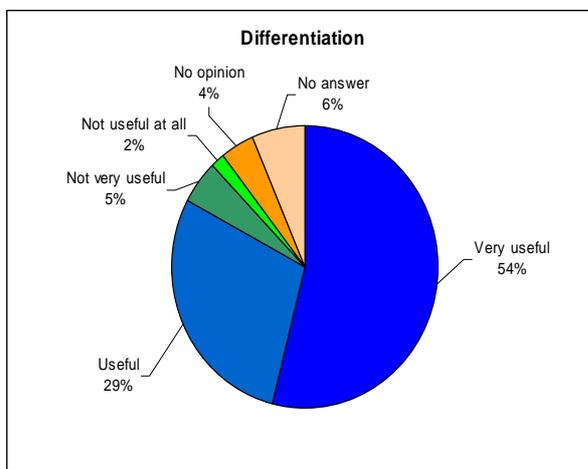
# 1. BETTER REGULATION FOR THE BENEFIT OF SMES

## Questions

- 1.1 Is the current EU SME definition an obstacle to targeting support for SME growth in the right way? If so why?
- 1.2 In addition to the systematic application of the subsidiarity and proportionality principles in legislation (see question 6.2), could differentiation regarding the way legislation is elaborated and applied according to the size of the company be useful (e.g. lower fees, fewer reporting requirements, thresholds or longer transition periods)?
- 1.3 Do you consider that directly applicable EU-level legislation in certain areas creates a disproportionate and un-necessary administrative burden on SMEs? If yes, in which areas? Would excluding SMEs from such direct application of EU legislation be a solution?
- 1.4 Would the introduction of common commencement dates for all SME-relevant legislation coming into force and/or publication of an annual legislation statement be useful for SMEs?
- 1.5 Do you think additional focused measures to alleviate the administrative burden on SMEs would be useful? If yes, in which specific areas or topics?
- 1.6 Would you suggest any other obstacles or additional issues to address?

The majority of respondents (around 60%) think that EU legislation creates an unnecessary burden on SMEs. Concerning the solutions, there is a mixed picture about the possibility to fully exclude SMEs from the direct application of EU legislation as half of those who have an opinion are in favour and half are against. There is, however, a large consensus (more than 80%) on the fact that focused measures to alleviate the administrative burden would be helpful.

About two thirds of respondents do not think that the SME definition represent an obstacle to SME growth and should be modified. However, differentiation regarding the way legislation is elaborated and applied according to the size of the company (including differentiation between micro, small and medium-sized enterprises) is largely advocated by all types of stakeholders. More than eighty percent consider it useful/very useful. However, some opinions warn about the danger of adding to the complexity of the legislative landscape. The support for common commencement dates reaches 68%, although there are arguments that the initiative should be implemented only at national level and not at EU level.



The areas of employment and social affairs, health and safety including hygiene and labelling rules, public procurement, environment, and VAT and tax issues are most commonly quoted as sources of disproportionate burden on SMEs. CE marking, consumer protection, statistical requirements, accounting rules and standardisation add to the list. Participation in R&D projects and EU programmes is also often quoted as being difficult and bureaucratic. Access to IPR and in particular the cost of patents is also problematic. Furthermore, some respondents consider that measures should be taken against competition from third country enterprises which are not subject to the stringent EU rules.

Some participants preferred to remain general and advocate an overall reduction of red tape and the administrative burden. These include the argument that many of the concerns and complaints about red tape emanating from business relate to national administrative practices such as licensing and authorisations, and should be tackled at national level. Others have forwarded concrete proposals such as an increase of the turnover level required for VAT registration, the simplification of cross-border VAT rules, simplification of the Directive on qualifications, the obligation to apply payment terms of a maximum of 30 days, longer implementation periods for labelling, prohibiting public authorities in the case of public tenders from demanding documents that are already in possession of the State (e.g. tax or social contribution certificates) and greater use of electronic services. Exemptions from legislation from SMEs and mitigating measures facilitating the implementation of legislation by SMEs are also advocated. Implementation of the Services Directive and the establishment of portals, via which all applicable regulations are visible to businesses, are other measures deemed important to alleviate the burden on SMEs. Finally, financial and other support for entrepreneurs and SMEs is advised.

Overall there is strong support for the “Think Small First” principle based on reinforced consultation of SME representatives, ex ante and ex post impact assessment of legislation on SMEs and a stronger role of the SME Envoy especially in screening legislation. The implementation of the proportionality principle, the safeguard principle (withdrawal of the proposal if cost/benefit-ratio is inappropriate) and the ‘only once’ principle (avoid the situation where the same information or administrative requirements are asked several times by public authorities) have been strongly mentioned and supported.

A particular emphasis is put on the problem of gold-plating and there are suggestions that the Commission should regularly analyse the level of gold-plating in each Member State when EU legislation is implemented.

## **2. PUTTING SMEs AT THE FOREFRONT OF SOCIETY**

### **Ensuring full recognition by society of the role of entrepreneurs**

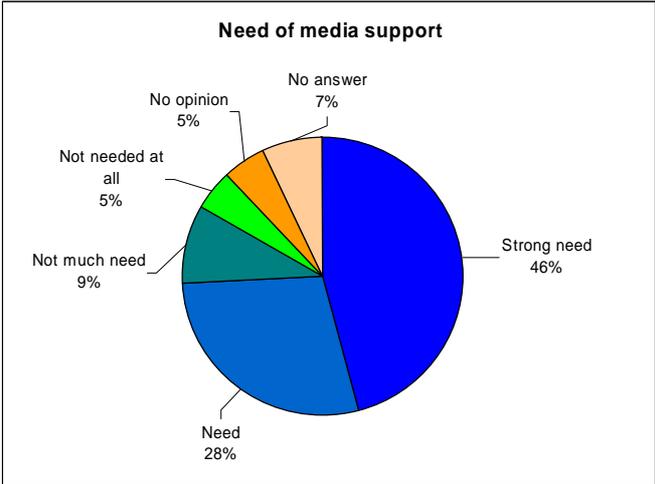
#### **Questions**

- 2.1 Do you see a need for additional measures in the Member States or at EU level to stimulate entrepreneurship through education?
- 2.2 Is entrepreneurship sufficiently reflected in school curricula and if not, how could the situation be improved?
- 2.3 Do you see a need for the media to take a stronger role in fighting negative stereotypes towards entrepreneurship?
- 2.4 Would you suggest any other obstacles or additional issues to address?

Different concrete issues discouraging young people from becoming entrepreneurs are mentioned. They range from burdensome administrative procedures to a lack of appropriate training and financing. However there is a common acknowledgement that the main problem is the cultural attitude, and in particular the bad image of entrepreneurs as well as a generally risk-averse culture.

A large majority of respondents (84%) think that the education system, and in particular the school curricula does not focus enough on entrepreneurship. They therefore consider it important to intervene in the education system with more systematic measures. Generally speaking, curricula are considered to be important but the crucial element for encouraging an entrepreneurial mindset is a closer link between the SME community (including all types of companies and SME stakeholders) and schools. Firstly, it is essential to change teachers' negative attitudes about entrepreneurship by bringing them closer to the real world of SMEs. Practical training/seminars for pupils should be organised at every educational level, starting at an early stage with the involvement of all types of local SMEs. Basic economic principles with a special focus on difficulties and constraints linked to creating and running an enterprise should be included in school curricula and not limited to specific studies. Mini and virtual companies are also mentioned as useful tools for developing entrepreneurial attitudes especially among younger pupils (i.e. in primary schools).

The media, for their part, do not recognise the important role played by entrepreneurs and when they do they focus on large enterprises mostly ignoring SMEs. SME success stories are not sufficiently highlighted, while the risks related to creating and running an enterprise are emphasized too much.



**Setting up or transferring a business and second chance**

**Questions**

- 2.5 Would it make a significant difference to further reduce the time and costs for registering a company?
- 2.6 Do you think it would be useful to propose additional measures to facilitate business transfer and tackle bankruptcy?
- 2.7 Would you suggest any other obstacles or additional issues to address?

Around 60% of replies indicated that there is still a need to reduce the time and costs to set-up a business. Some respondents pointed out that significant differences exist within Member States in this regard. The lack of information and the lack of appropriate support for newly created enterprises are identified as additional problems.

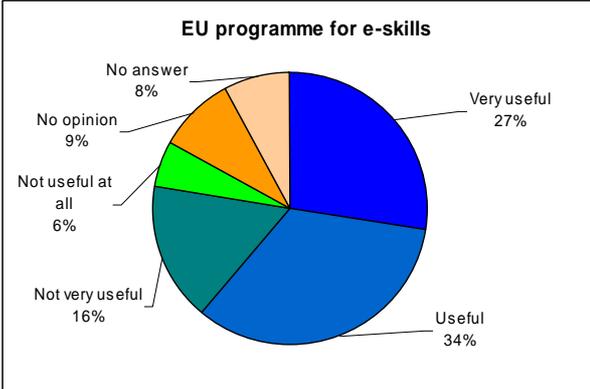
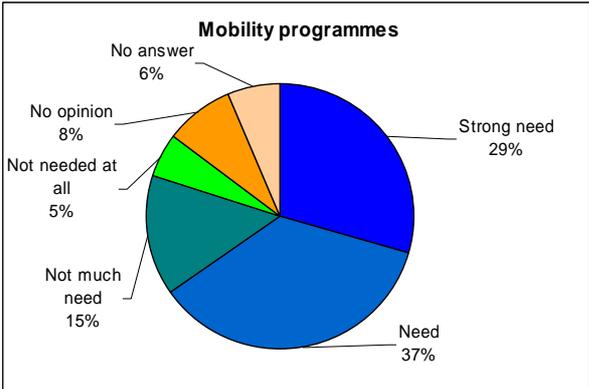
In general, new measures for facilitating business transfer and tackling bankruptcy are considered useful (around 80% of replies) and should be taken up at Member State level. Fiscal incentives, specific training, financial/technical support and promotion of different transfer models (succession, cooperatives of employees etc.) are mentioned as possible supporting initiatives for facilitating the transfer of companies. Respondents think that a second chance should be given, as failure is a "normal" event in the life of an enterprise. However there is a clear orientation towards the need to distinguish "honest" failures from fraudulent ones and to clearly avoid encouraging the latter.

**Helping SMEs acquire the skills they need**

- Questions**
- 2.8 Do EU education systems deliver the necessary basic skills needed by entrepreneurs?
  - 2.9 How adequate are the existing measures for recognising qualifications at EU level?
  - 2.10 Do you see the need for cross-border mobility programmes for entrepreneurs and apprentices?
  - 2.11 Would the development of a programme to foster the e-skills of entrepreneurs at EU level be useful?
  - 2.12 Would you suggest any other obstacles or additional issues to address?

There is a recognised need to improve the way in which skills are acquired. EU schools do not provide the technical competences needed for more than 60% of companies responding. There is a more mixed picture on the evaluation of existing measures, which are considered to be inadequate by about 45% of respondents.

Recognition of informal training, training courses better tailored to SMEs’ needs and taking into account the different types of company, more practical education and the improvement of technical skills are among the suggestions made. There is in particular a lack of ICT skills which are considered essential to better exploit the opportunities offered by new technologies (and also for training itself, considering that small entrepreneurs often cannot follow traditional courses). Some ask for uniform requirements for qualification within EU countries and mobility programmes for entrepreneurs/apprentices. In this context, EU programmes for cross-border mobility and e-skills would be useful/very useful for the majority of respondents (66% and 61% respectively). Finally, the necessity of bringing together all the relevant actors (SME stakeholders, schools and administrations at EU, national and regional/local level) is underlined.



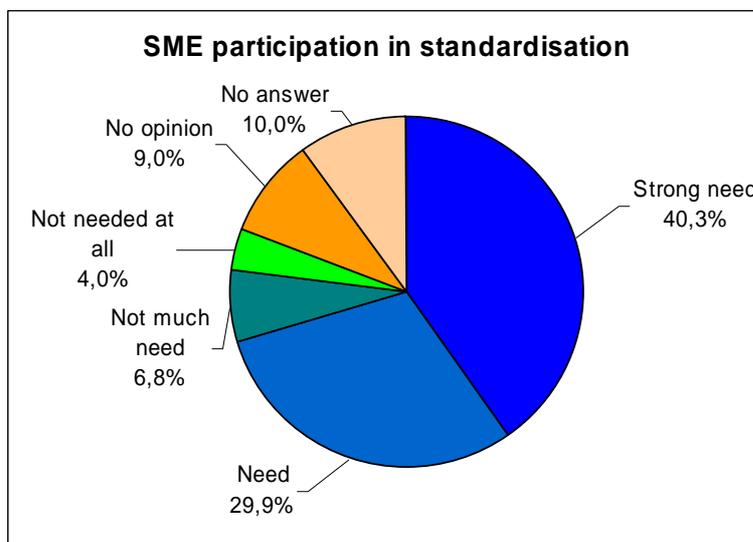
### 3. FACILITATING SMEs' ACCESS TO MARKETS

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

##### Questions

- 3.1 What are the areas where standards are not yet widely applicable and where SMEs would benefit from them?
- 3.2 Do you see a need to increase the participation of SMEs and their representative organisations in standardisation and improve the dissemination of standards?
- 3.3 Do you see a need for improving the situation of SMEs in the area of direct and indirect taxation; if yes, which measures would be the most significant? In particular, should VAT rules be further reviewed?
- 3.4 Which additional measures would you suggest to help SMEs to better use the potential of the Single Market including the EEA and Candidate Countries?

Common standards are in general considered important for the good functioning of the Single Market and only a few think that there are enough or even too many. However, the replies suggest that standards should be developed according to the needs of each specific sector and should not be too costly or too complicated to understand and use (e.g. provide free guidance). A total exemption from all costs was not explicitly mentioned. There is general agreement on the fact that SMEs and their representatives need to be better involved in the standardisation process. In particular, there is a lack of information and dissemination of standards and SMEs are not represented enough in the standardisation bodies.



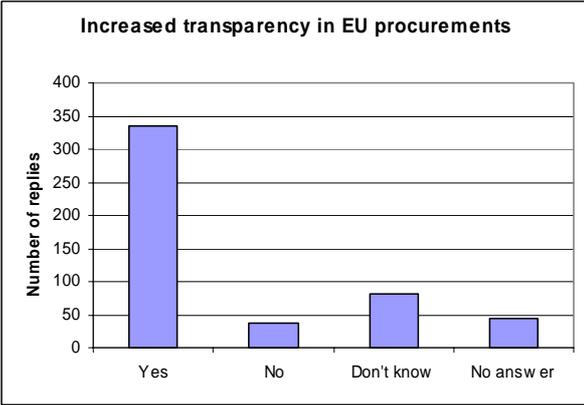
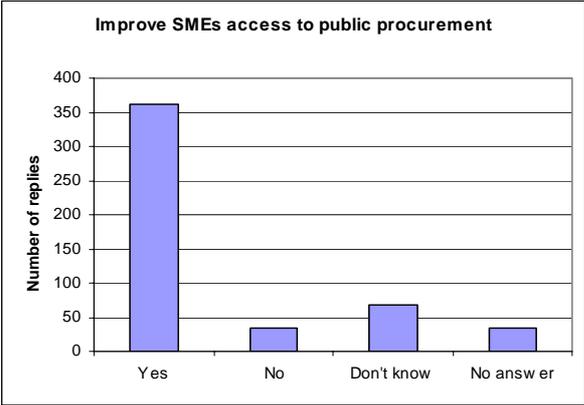
Concerning taxation, there is a clear need to improve the situation through reduction, simplification and harmonisation, especially for VAT. Refund procedures and VAT rules in general are considered too complicated for small companies, especially when related to cross-border activities. Dedicated one-stop-shops could be a useful tool for some of the respondents. Reduced VAT is asked for certain sectors and especially for local and labour intensive services, while specific tax measures are requested for R&D activities. A number of different proposals for taking better advantage of the Single Market are suggested. They include the European Private Company Statute, full and effective implementation of the Single Market, specific training actions to help SMEs going abroad (including foreign languages), improved information systems/networks, transnational cooperation between SMEs, etc. Some of the

suggestions focus on issues already raised in other questions (late payments, standards, simplification, improved access to public procurement).

**Facilitating SMEs’ access to public procurement**

- Questions**
- 3.5 Do you see a need to improve SMES’ access to public procurement and if so how?
  - 3.6 Would increased transparency of EU procurement opportunities below the thresholds make a difference (e.g. through a voluntary database disseminating procurement opportunities, central databases in the Member States or a broader use of electronic platforms)?
  - 3.7 Would you suggest any other obstacles or additional issues to address?

More than 70% of the companies and of all the responding stakeholders in general see a need to improve SMEs’ access to public procurement and consider it very useful to increase transparency in EU procurement procedures. It is also worth mentioning that SMEs’ access to public procurement appears as an issue in the answers of various other questions throughout the consultation paper.



The idea of having special quotas in the field of public procurement, whether this is for SMEs, only for micro- or for young enterprises, is mentioned by some. Proposals going in the same direction suggest giving bonus points to offers involving SMEs.

An overwhelming majority of those responding propose, however, other solutions to facilitating SMEs’ access to public procurement. First, it is necessary to improve information on public tenders including on tender opportunities below the thresholds of the EU Directives. Concrete proposals suggest ensuring that web portals publishing public procurement opportunities are free of charge, the introduction of centralised tendering platforms for each Member State, a review of the EU publication system (OJ), consistent publishing of prior information notices, systematically publishing the winner and the amount of the tender and giving feedback to unsuccessful enterprises, setting up tools to facilitate the search for complementary partners in view of collaborating for bids for larger contracts. Secondly, a major administrative simplification is required, which would imply less paperwork, more use of e-procurement and electronic signatures, and increased time for responding to tenders. Simplification and improvements are also required as far as technical specifications are concerned. Dividing markets per type of activity and dividing tenders into lots, better application of the proportionality principle as far as previous references and financial and insurance requirements are concerned, especially in view of improving the participation of young enterprises, leaving more scope for innovation in the technical specifications, prohibiting the restrictive condition of minimal turnover or obliging tendering authorities to

justify this condition, allowing for better cooperation between SMEs. In addition, organisations of cooperatives consider that special attention should be given to tenders that include social or environmental clauses.

Further training for SMEs on how to prepare tenders, increased dialogue between large organisations and SMEs to discuss how best they can work together, and encouraging the expansion of preferred supplier arrangements are advocated as well.

Special attention needs to be paid to the activities of municipalities which might in some cases be biased when buying goods and services. Furthermore, the issue of subcontracting has also been pointed out and particularly the need to improve the conditions of subcontracting, for instance through direct payments to subcontractors or by imposing minimum standards or standard contracts. Finally, too long payment periods are an obstacle to SMEs' access to public procurement.

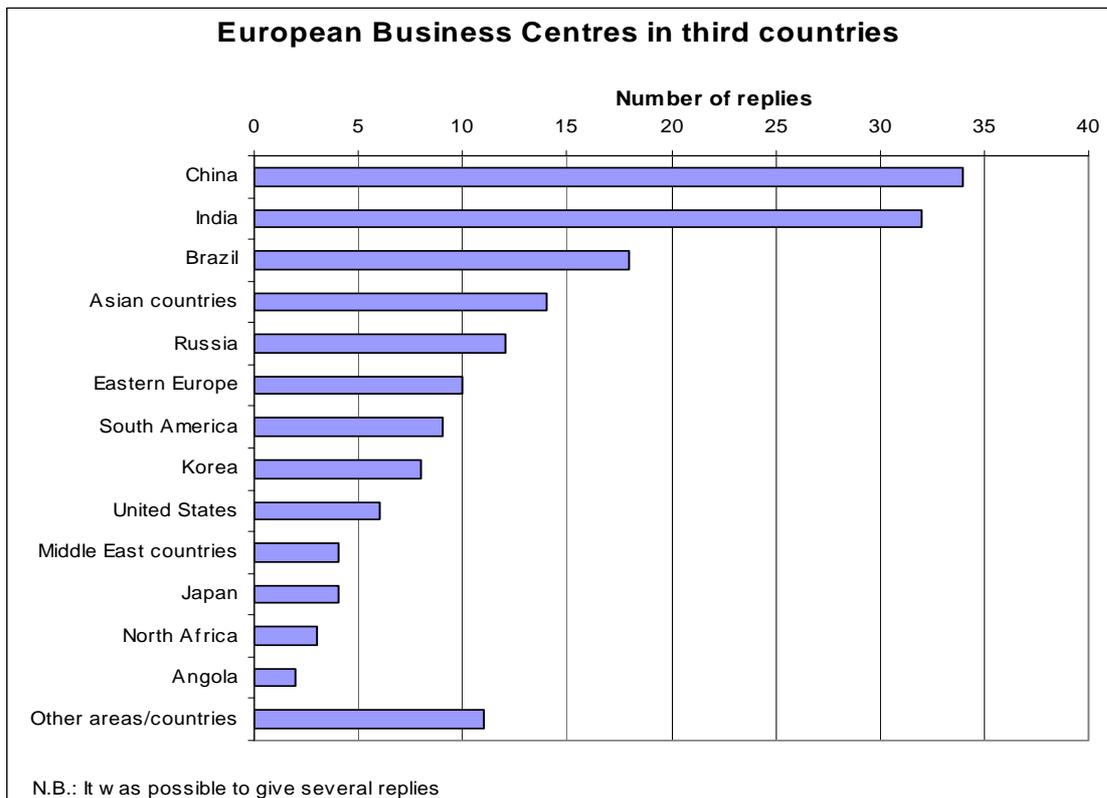
### **Encouraging SMEs to tap opportunities outside the Single Market**

#### **Questions**

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

Concerning access to markets outside the EU, the identified areas for action range from the provision of information and practical support (including the exchange of good practices), to linguistic and technical training better tailored to SMEs. The respondents think that the EU has an important role to play in multilateral and bilateral negotiations in order to reduce trade barriers. Some replies ask for more reciprocity with third countries and propose that trade defence instruments should be better adapted to SMEs. Networks among SMEs and among SMEs and large companies and financing for going abroad are among the specific suggestions for helping SMEs to go global. The neighbour countries (Mediterranean, Eastern Europe), Asia and South America are considered the most interesting markets followed by Africa and the US. In particular, the so-called BRIC countries (Brazil, Russia, India and China) are mentioned most frequently.

More than half of the respondents are favourable to establishing EU centres in the fast-growing countries. The places mentioned most frequently for these centres are - by far - China and India, and in general the Asian countries followed by South America (Brazil) and Russia. Coordination and synergies with all the actors involved (Member States, business organisations, chambers) and existing centres/networks is considered a key element for the success of the EU centres (and crucial to avoid duplications with market based service providers).



#### 4. SUPPORTING SMEs' ACCESS TO FINANCE AND INNOVATION

##### Improving SMEs' access to finance at EU and national level

###### Questions

- 4.1 How could public policies and instruments to facilitate SMEs' access to finance be improved (e.g. awareness, procedures, cost, or better adequacy of products)?
- 4.2 What are the main problems SMEs face in accessing various EU support programmes such as the 7th Framework Programme for Research and Development, the Competitiveness and Innovation Framework Programme (CIP) or the Structural Funds (including the JEREMIE initiative)?
- 4.3 What are the main obstacles for SMEs in accessing micro-credit (less than 25000 euros)?
- 4.4 Would you suggest any other obstacles or additional issues to address?

Respondents agreed on the necessity of improving current policies and instruments. Important points were making it possible to deal with a bank in another EU country (e.g. to get a loan) and developing pan-European venture capital markets. It is also proposed to extend the use of the Small Firms Loan Guarantee Scheme, to create a specific EU instrument for the financing of start-ups, to promote mezzanine finance and to improve the distribution of EU instruments by the banking sector. As for the CIP Financial instruments, it is suggested that they should include pilot-type instruments to finance specific operations such as business transfers or innovation.

The main problems identified regarding SMEs' access to EU programmes were the lack of awareness of these programmes, the difficulty created by the need to have a consortium and, finally, the administrative burden together with the long timescale associated with any application, in particular in the context of the 7<sup>th</sup> Framework Programme for R&D and the JEREMIE initiative.

To overcome these difficulties, the creation of single contact points at national level, both to better inform SMEs about EU schemes but also to facilitate the supply of financial instruments was suggested in several replies. Some mention the key role of business intermediaries not only to inform SMEs about these programmes but also to provide guidance and practical support. E-solutions in the context of support schemes should also be encouraged.

Several obstacles to access to micro-credit were identified and several respondents regretted that banks usually wanted to lend against property, request collateral and are in general risk-averse. As a solution, it was proposed to promote mutual guarantee schemes for SMEs and to establish an EU fund to support micro-credit schemes at national level. For some, banks should communicate better on their credit decision criteria and rating systems, while for some others it would be important to allow non-banks to provide micro-loans.

### **Encouraging a knowledge-based economy**

#### **Questions**

- 4.5 Is there a need to help SMEs deal with IPR protection, to improve awareness and provide support services for SMEs to protect their innovation?
- 4.6 What are the most significant problems SMEs face in the use of patents?
- 4.7 Would you suggest any other obstacles or additional issues to address to further enhance the innovation capacity of SMEs?

In the field of innovation, several replies insist on the need to better consider non-technological innovation. The importance of knowledge transfer for SMEs and of better cooperation between SMEs, universities and research centres is also pointed out. The link between innovation and finance is often made, and the availability of strong equity is mentioned as a key factor for innovation. Moreover, for several respondents a key action would be to support cluster management and to favour cross-border cooperation between clusters.

In the field of Intellectual Property Rights, the main obstacles identified widely in responses are the high level of patent fees and the fact that SMEs have difficulties in defending their rights because of their lack of legal knowledge and because this usually implies complex and costly procedures, especially if the violation of the IP rights occurs outside the European Union. In addition, many replies also mention the need for harmonisation of IPR legislation and insist on the need to have a Community patent adopted soon. Several respondents propose to improve patent litigation system to help especially SMEs, a simplified linguistic regime and a significant reduction of patent fees, in particular for the first patent submission of by SME. Finally, the detrimental effect of counterfeiting is described as a worry for many European SMEs and it is suggested that an EU-wide alert system and confiscation procedure for counterfeited goods should be introduced.

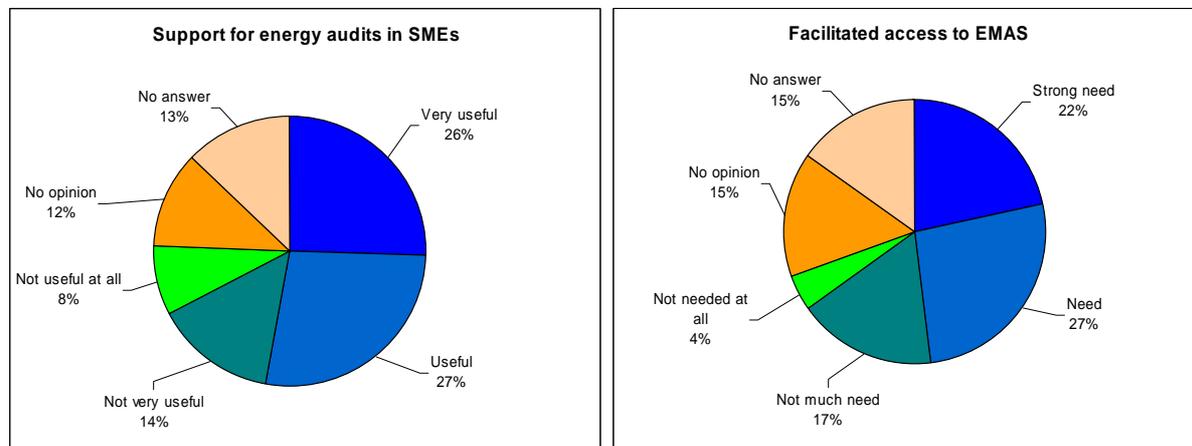
From a general point of view a large majority of stakeholders (more than 70%) think that SMEs need support in the area of IPR protection.

## 5. TURNING THE ENVIRONMENTAL CHALLENGE INTO OPPORTUNITIES FOR SMEs

### Questions

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

Half of the respondents found potentially useful both Community support for energy audits and facilitated access to European Environmental Management and Audit system. Simplified implementation and proof of compliance through self-certification without third party intervention would help in that respect. It was also suggested that EMAS should be better explained to entrepreneurs.



While some suggest that 'standards' are inherently not SME friendly or that voluntary standards could confuse and divide markets, others consider them useful to tackle the lack of clarity and legislative divergence of environmental legislation, provided they do not involve excessive costs and bureaucracy and that they create a competitive advantage. Hence, financial support or (tax) incentive schemes to help SMEs to adopt these standards are part of the proposals. In the same spirit, free education/information on voluntary standards addressing how to increase a product's environmental performance are considered useful.

In general it is stated that SMEs tend to be very innovative and can adapt to new needs for products and production methods. However, incentives (such as reduced interest rates for investment in green technology, tax reduction, VAT reduced rates etc.) for SMEs are needed since investments in energy saving and environmental protection have lower or zero return on investment compared to other investments.

Some see green public procurement as the ultimate solution and in particular the idea of local SMEs providing local products and services thus minimising GHG (greenhouse gas) emissions.

Furthermore, it is argued that labels should be practical and not administratively burdensome. The need for awareness raising activities and more and better communication is also stressed. Finally, understanding the functioning of SMEs and the necessity of including them – and their representative organisations - in policy debates and consultation on environmental problems have been highlighted as key elements since environment legislation is increasingly affecting SMEs' activities.

In general there is widespread support for rapid implementation of the Environmental Compliance Assistance Programme for SMEs.

## 6. ENHANCING THE IMPLEMENTATION OF EU SME POLICY PRINCIPLES

### Questions

- 6.1 What is the right way to agree on principles of SME policy across the EU and to ensure their implementation at EU and Member States level? Is there still an untapped potential within the SME Charter Process?
- 6.2 Would a systematic application of the subsidiarity and proportionality principles at EU level help to further strengthen the application of the ‘think small first’ principle?
- 6.3 Would you suggest any other obstacles or additional issues to address?

The systematic application of the subsidiarity and proportionality principles (question 6.2) is considered helpful by 70% of the respondents.

A relatively limited number of contributions on the two other questions were received from individual companies or citizens, as most opinions come from organisations. There is an apparent clash between a number of opinions arguing for less EU-level action and those favouring more EU intervention and universality in the field of SME policy. However, the latter view seems to prevail as an overwhelming majority of business organisations argue for a legally binding SBA. The *raison d’être* of the SBA is considered to be primarily making the “think small first” principle effective at Community level and making Member States more proactive in the SME policy field.

Many consider that the adoption of the SBA would render the Charter process unnecessary, while others believe that the Charter could continue.

As in the part on Better Regulation, the importance of consultation with SME representatives is given special emphasis. Suggestions were made to have permanent consultations with national and European SME representatives (both private and public) on an annual basis followed by dissemination of the results and conclusions across EU States. Others argued for longer and sector-specific consultations. One interesting contribution suggests making consultation documents available through business organisations at one time every year. This way, SMEs would come to know that their input is required at a certain time each year. Direct consultations of SMEs on concrete legislative proposals are also mentioned as a good solution. Finally, the Enterprise Experience programme for EU officials is strongly encouraged (also for other DGs).

Overall there is strong support for the re-launch of the activities of the SME Observatory as a basis for developing SME policy. In addition, there are arguments that the implementation of the “think small first” principle needs to be monitored through a series of indicators and that the implementation of SME Policy should be based on annual priorities and improved reporting (e.g. via Lisbon or Competitiveness Council).