

# Alternative Methods and EU Policy-Making: What Does "Co-Regulation" Really Mean?<sup>1</sup>



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The Better Regulation agenda includes consideration of alternatives to regulation where EU legislation is neither specifically required nor uniquely suitable. These take different forms. A basic distinction can be made between two approaches involving measures which are not legally binding. Policy coordination is a non-negotiable alternative to legislation laid down in the treaty. Self-regulation and "co-regulation" in principle provide for a choice in particular cases, and often a dynamic interplay between the threat of legislation and the credibility of private commitments. It has not been clear, however, what "co-regulation" actually means in the EU context. There are in fact two models. In the first, private EU-wide measures are seen as alternatives, notably to Commission acts, for the implementation of EU legislation. In the second, self-regulation is understood as an alternative to the EU legislation itself. In reality the first model, which came to dominate the discourse of Better Lawmaking, has not materialized and is unlikely to do so. Moreover, the second model in practice only consists of a choice between self-regulation and legislation. Attempts at intermediate forms have so far failed to convince. There are successful examples of self-regulation. It would be easier to understand and to exploit such possibilities if political discourse were brought into line with policy practice.

## Introduction

Since the late 1980s, the European Union has been exploring methods of common action which do not reflect the supranational legislative approach by which the Community was constructed, and on which the heart of the system still rests. That approach has essentially been characterised by an acceptance of hierarchy (the primacy of Community law) as the primary mode of governance, and by the "Community method" of decision-making: the Commission has the exclusive right of legislative initiative and decisions are taken by the Council (preferably by majority vote) in interaction with the Parliament, all under the supranational control of the Court. Private actors are consulted.

Some of these new methods have taken the form of intergovernmental cooperation. Others have emerged as different approaches to certain aspects of economic and social affairs within the Community. These have taken distinct forms and have been pursued for a variety of reasons. They have, however, tended to be lumped together as "alternative" instruments in the Better Regulation arsenal, supposedly offering different options for achieving policy goals which may be preferable to classic prescriptive regulation.

This contribution sets out to clarify the parameters and

possibilities of this "alternative" agenda – and indeed the different usages of the term "alternative" – and, in this perspective, offers a cautious evaluation of the viability of some of those methods which are generally included under the most elusive concept, that of "co-regulation".

The first section proposes a simple categorisation for these non-traditional approaches based on two dimensions: the underlying mode of governance and the nature of the interaction between public and private actors. Market-based instruments offer alternative instruments within the hierarchical mode of governance. Beyond this, a basic distinction is proposed between a) non-binding coordination of national policies as compared to EU legislation and b) self- and co-regulation as "alternatives" to traditional regulation by (EU) public authorities. The second section summarises the different understandings of "co-regulation" which are currently used in the context of EU policy-making. In each case it reviews briefly the state of play in terms of the practical results achieved.

The conclusion is that some elements in the first phase of co-regulatory experimentation have been unsuccessful or even misconceived. In the end, what both public and private actors most need are arrangements which guarantee a "level playing field" where competitive conditions are concerned, as well as pursuit of legitimate public interests (such as health and safety, or protection of the environment)

with the greatest simplicity and the lowest cost possible. This may in some cases be better achieved through self-regulation. In others, well-made public regulation will be preferred by everyone. Messy compromises in the middle will, it increasingly seems, in the end satisfy no-one.

## Alternative Methods

### The changing political context

The emergence of new methods has been significantly shaped by a changing political context in the EU. At this general level, indeed, non-legislative approaches can properly be considered together as a set of alternatives to legislation, following what has sometimes been termed "horizontal subsidiarity". This debate goes back at least to 1992.

The Treaty of Rome establishing the European Economic Community (EEC) originally stated that "Each institution shall act within the limits of the powers conferred upon it by this Treaty." (Article 4(1) TEEC 1957 emphasis added). The main issue, in other words, was the balance between the European institutions when dealing with matters delegated to the European level, rather than the delineation of competences between levels of government. The Maastricht Treaty on European Union (TEU) modified this to read that "The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein." (Article 3b TEC 1992, emphasis added).<sup>2</sup> In response to broad concerns about the limits on Community competences, as the internal market was legislatively completed by 1992, the primary issue in the treaty was now one of "vertical" subsidiarity. Except where "exclusive competences" are concerned, the Community should only act "in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community".

In the context of the efforts made to provide further reassurances as to the limits of Community impingement, following the negative result of the Danish referendum in June 1992, the Edinburgh European Council in December 1992 also developed what has been termed "horizontal subsidiarity".

"The Community should legislate only to the extent necessary. Other things being equal, directives should be preferred to regulations and framework directives to detailed measures. Non-binding measures such as recommendations should be preferred where appropriate. Consideration should be given where appropriate to the use of voluntary codes of conduct."<sup>3</sup>

The assumption was, in other words, that different policy instruments should in principle be considered, with a certain preferential option for the non-legislative and with the burden of proof placed on those proposing legislation.

### Different groups of "alternative" methods

In 2001, responding to the various challenges to the classic "Community method" which had emerged over the 1990s, the European Commission presented a White Paper on Governance in which these two dimensions were reflected. The Commission stressed that "proposals must be prepared on the basis of an effective analysis of whether it is appropriate to intervene at EU level and whether regulatory intervention is needed. If so, the analysis must also assess

the potential economic, social and environmental impact, as well as the costs and benefits of that particular approach" (CEC 2001, 20). If regulatory intervention were not considered necessary, however, alternatives should be considered.

The Commission's 2005 Impact Assessment Guidelines thus indicate that there are "normally a number of different policy instruments available to reach (operational) objectives". Commission services should consider different options from a set ranging from prescriptive regulatory actions at one extreme, through framework directives, co-regulation, financial interventions, market-based instruments, information and guidelines, the open method of coordination, to monitored self-regulation at the other.<sup>4</sup>

This way of presenting alternative instruments partly reflects the Commission's own institutional perspective and interest in retaining as far as possible its agenda-setting role (although others too tend to lump everything together). These different instruments do not in fact constitute a single continuum of options ranging from "hardest" to "softest" options. For present purposes, one can distinguish groups, in terms of a) the underlying mode of governance/steering (conceived as a continuum ranging from hierarchy and sanctions at one extreme, through incentives and bargaining as in intergovernmental agreements, to persuasion and learning at the other); b) the nature of the interaction between public and private actors; and c) in what sense, if at all, there is actually any choice between methods.

### Market-based instruments

The first group consists of market-based instruments, mainly taxation or systems for the trading of permits (OECD 2002, 2006).

#### Underlying mode of governance

The underlying principle remains hierarchy, inasmuch as these instruments are usually legally binding and adopted by public authorities.

#### Public-private interaction

These instruments rely not on the threat of legal action but on market signals (that is, prices) to provide incentives for business and citizens to act in a way which will achieve the public policy objective.

#### Choice

Although these instruments tend to be complementary rather than alternative with regard to regulation, they do in principle offer a choice for policy-makers.

### Non-binding policy coordination

The second group consists of forms of cooperation between Member States which take place within the Community (as opposed to the intergovernmental pillars of the Union) but are not legally binding. The various forms of non-binding policy coordination which are now generically referred to as the "open method of coordination" (OMC) emerged as alternative forms of cooperation where some kind of common action needed to (be seen to) be pursued, but no legislative competence was given to the Community. Instead, the Member States agreed to tailor their national policies around common goals and guidelines – and to compare them on the basis of common indicators and benchmarks – in order to promote convergence and improvements in policy performance. This started with the Broad Economic

Policy Guidelines (BEPG) established by the Maastricht Treaty; was followed by the Employment Guidelines introduced by the Amsterdam Treaty; and then spread, with lower levels of ambition in terms of recommendations which could be issued to individual Member States, to social protection, social inclusion, research, enterprise and innovation, education and other domains of the Lisbon Strategy.

#### *Underlying mode of governance*

The basic mode of governance involved is non-hierarchical coordination through competition, with the goals of persuasion and learning. Governments are expected to follow the guidelines, and then respond to specific Council Recommendations, peer pressure through benchmarking, and the demands of their own national stakeholders and publics. The objectives include convergence and the achievement of common targets – with more or less precision according to the case – but the fundamental goal is improved national policy performance in the spirit of mutual learning.

#### *Public-private interaction*

The role of private actors is essential for achieving the basic goals at stake and their participation in shaping national plans is a fundamental part of the process. However, this kind of policy coordination is primarily a matter of different degrees of commitment and exchange between countries.

#### *Choice of methods*

It is mainly at the level of treaty reform that one can see OMC and legislation as policy options: that is, when the basic rules of the game are being decided. Whereas it is conceivable for the Commission to propose some form of policy coordination in particular cases even where the EU does have legislative competence, there is no prospect of moving to binding measures if the results of OMC were to be considered inadequate if it does not have that competence.

#### **Co-regulation**

The third group is the hardest to pin down in conceptual terms and has proved to be the most elusive to put into practice.

#### *Underlying mode of governance*

The basic issue in this case is not the mode of governance, which may vary, but the relationship between public and private actors. Indeed, one can (slightly stretching the point) see the same continuum of governance modes in the ways that non-state actors organize themselves at European level. At one extreme, national football associations accept the hierarchical authority of UEFA and even the legitimacy of sanctions which may be imposed on them. In between, there are a significant number of professional and industrial Codes of Conduct at European level, which are voluntarily entered into in response to perceived incentives. Finally, at the other extreme, one finds cases in which European social partners have adopted "frameworks of action" in areas such as gender equality and lifelong learning, in a sort of OMC between private actors.

#### *Public-private interaction*

As described in more detail below, quite different models of public-private interaction are encompassed here. The

different sub-groups may be classified in the first instance in terms of two fundamental dimensions. On the "vertical" dimension of the co-regulatory universe, specified private actors are seen as having a particular role and responsibility in the implementation of rules adopted by the EU legislator. On the "horizontal" dimension, the interaction is a dynamic relationship: a sliding scale determined by the interplay between the threat of regulatory intervention ("the shadow of the law") and the credibility of self-regulatory mechanisms as means to respond to public-interest concerns.

#### *Choice*

In this case, therefore, the issue is not only that there may in some cases (at least in theory) be a degree of choice as to the modalities of putting into practice general EU rules in specific cases. In many cases there may be a dynamic interplay between the possibility of public regulation and the credibility of self-regulation which will determine what kind of action at EU level should be pursued.

The following section briefly presents the different models of "co-regulation" which have been explored, indicating the underlying logic of the public-private interaction involved, as well as a cautious assessment of their results and perspectives.

#### **Co-Regulation**

Two basic models of "co-regulation" may be discerned in current discourse: a "vertical" model in which agreements with private actors offer alternatives to comitology for the purpose of implementing European legislation; and a "horizontal" model which consists of a dynamic interplay between the possibility of legislation and the credibility of private commitments as alternative ways of dealing with issues of public interest. Although the two models do overlap, they are conceptually different.

#### **Co-regulation I: EU legislation and private implementing measures**

This "vertical" concept has been the dominant model in EU co-regulatory discourse. The Inter-Institutional Agreement on Better Lawmaking of 2003 thus defines co-regulation as "the mechanism whereby a Community legislative act entrusts the attainment of objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, NGOs or associations)".<sup>5</sup>

It originated in the EU context in the form of the "New Approach", which is generally considered to be the first version of co-regulation in the Community. Formulated in a 1985 Council Resolution as part of steps to break the impasse in completing the internal market, this recognized that this harmonization could in many cases be limited to the definition of "essential requirements" (usually of health and safety). Conformity with these requirements could be shown either by conforming to harmonized standards drawn up by standardization bodies or by other means. The Commission has argued that:

"...the 'New Approach' has proven to be a specific model of legislation by which both the public interest (i.e. protecting public health and safety, consumer and environmental protection) and the interest of private business to produce standards according to the relevant "state of the art", could be merged in an adequate way. It allows for more flexible and less stringent forms of

legislation in areas where, otherwise, any detail would have to be determined by the legislative act itself." (CEC 2004b)

The Commission – and notably Commissioner Verheugen – has explicitly presented this kind of "co-regulation through standardization" as a model which could be adopted in other sectors, including energy-using products, environmental protection and transport.<sup>6</sup>

This approach had indeed also been shaped by developments in environmental policy. Encouraged by positive experiences with negotiated agreements in some Member States (such as the system of "covenants" between government and industry in the Netherlands) as well as by global trends in the policy debate, the Commission began in the early 1990s to promote such alternative methods. Yet from early on the underlying modes and structures were not clear. A 1996 Communication stated that "Legislation will remain the necessary backbone of Community environmental policy, but it needs to be supplemented by market-based instruments and voluntary approaches. In that respect, Environmental Agreements are an implementation tool rather than a means of deregulation." Yet the Commission also argued that that the Community could only use non-binding agreements rather than entering into contractual arrangements with private parties by which certain functions could be conditionally delegated. The arrangements reached in the late 1990s with car manufacturers therefore took the form of non-binding Recommendations by which the Commission would simply monitor voluntary commitments. In the face of concerns about effectiveness, and under pressure from the European Parliament to provide a clearer institutional and/or legislative framework, the Commission pushed ahead. This resulted in a 2002 Communication on Environmental Agreements at European Level – explicitly adopted within the framework of the Better Regulation action plan – very much in the spirit of the Inter-Institutional Agreement cited above.

"Under coregulation arrangements, the European Parliament and the Council would adopt, upon a Proposal from the Commission, a Directive. This legal act would stipulate that a precise, well-defined environmental objective must be reached on a given target date. It would also set the conditions for monitoring compliance and introduce enforcement and appeal mechanisms. It need not contain detailed provisions on how to reach the objective. The legislator determines to what extent defining and implementing the measures can be left to the parties concerned because of the experience they are acknowledged to have gained in the field. These provisions must be compatible with European competition law." (CEC 2002)

Not one environmental agreement of the kind proposed in the 2002 Communication has been adopted. One apparently promising avenue has been provided by the 2005 Eco-design Directive, which lays down generic eco-design requirements for energy-using products which are sold in large volumes. The Commission should adopt an implementing measure laying down specific requirements, after the draft is approved by a "comitology" committee. As an alternative, however, "voluntary agreements or other self-regulation measures" should be encouraged "where such action is likely to deliver the policy objectives faster or in a less costly manner than mandatory requirements".

These are to be assessed by a Consultation Forum representing "a balanced participation of Member States' representatives and all interested parties concerned" against a set of indicative criteria, including the need for an industrial association to represent "a large majority" of the sector.<sup>7</sup> There has so far been no proposal to take advantage of this provision.

This "top-down" model of co-regulation, then, seems to have failed to materialise, and there are some identifiable obstacles to its doing so in the future. Notably, there is an underlying tension, even contradiction, concerning competition policy. In general, such arrangements can only be effective if the sector concerned is more or less completely covered by a small number of identifiable actors who can represent the sector vis-à-vis the authorities and ensure implementation of the agreements. Moreover, it is only in the interest of the industries concerned to participate in such arrangements (which require considerable coordination efforts on their part) if there is no significant risk of cheating by non-participants at their expense. However, complete coverage of a sector by a few actors could be seen as abuse of dominant position. In other words, the more a sector is structured in ways that would make such co-regulation work, the more likely it is that there will be concerns in terms of competition policy.

### **Co-regulation II: legislation and self-regulation as alternative approaches**

In this more general sense "co-regulation" means a dynamic interaction between public and private options for dealing with areas in which a European public interest is at stake, and which are not by their nature reserved for legislation. In these cases, the possible assumption by private actors of responsibilities is seen as inherently positive, whether in terms of effectiveness (incentives to go beyond minimum requirements, flexibility, rapidity, cost-effectiveness) or legitimacy (stakeholder participation and good governance). The authorities are nonetheless expected to monitor these arrangements to ensure that public interests are attained. If not, there may have to be recourse to law.

The first phase of exploring this dynamic in the 1990s proved to be disappointing, partly because of the underlying tension, or dilemma, which was involved. On the one hand, self-regulation will not be effective, and probably will not even be attempted, unless there is a credible threat of regulatory intervention. On the other hand, self-regulation may be encouraged by the Commission largely because legislation is being blocked – in which case the "shadow of the law" may be rather pale.

### **European Social Dialogue**

This has been particularly clear in the case of the European Social Dialogue – another of the classic cases of "co-regulation" which are usually cited. The procedure agreed at Maastricht (now Articles 138 and 139 of the EC Treaty) provided that the Commission should consult European social partners<sup>8</sup> before submitting proposals. The social partners could then choose to negotiate between themselves. If the negotiations resulted in an agreement, two options would be available for implementation: by the procedures and practices specific to management and labour and the Member States, or by a Council decision on a proposal from the Commission. The latter course would make the terms of the agreement legally binding for all citizens.

The first phase was largely driven by the dynamic of pre-

emption of regulation. The 1990s saw a number of legislative acts adopted by the Council on the basis of cross-industry agreements reached between the social partners on parental leave, part-time work, fixed-term work. These were largely shaped by institutional interest and the prospect of legislation or treaty reform (as had been the case in the initial acceptance by the employers of the whole arrangement in 1991). A few sectoral agreements were also transformed into Community law.

By 1999 both sides of the European social partnership were clearly dissatisfied. The results of the cross-industry agreements had been few and were considered pretty meagre by many in the trade unions. Negotiations over temporary agency work broke down in May 2001. The joint contribution by the social partners to the Laeken European Council in December 2001 stated their "wish to develop a work programme for a more autonomous social dialogue". Since 2002 there have been various manifestations of this tendency to come out from under the "shadow of the law". In some respects, the lead seemed to be taken over by the social partners. In November 2002, the social partners adopted a work programme for 2003-2005 in which they indicated a series of autonomous initiatives for the coming years. A second work programme for 2006-2008 was signed in March 2006. In this context, moreover, the social partners started to implement cross-sectoral framework agreements by the non-legislative route: this has been the case for telework, stress, and harassment and violence at work.

While generally supporting these developments as a new phase which strengthens the involvement of national and/or private actors in European governance, the Commission has insisted on the need to evaluate implementation and to leave open the possibility of legislative action (CEC 2004a). Moreover, there will continue to be particular cases in which Community law may be used for implementation. In July 2008 the relevant social partners reached an agreement on maritime labour standards and proposed that this should be implemented through Council Directive, as was natural given the preceding agreement in this sphere and the fact that the aim of the exercise was to implement in the EU the 2006 Maritime Labour convention of the International Labour Organization. However, the original co-regulatory dynamics underlying the social dialogue – whether the threat of "you negotiate or we legislate" or the hope that "you negotiate because we can't legislate" – have been superseded by rather different processes.

### **Environmental policy**

The first explorations of co-regulatory interaction in the environmental field have also proved to be disappointing, as may be illustrated by two cases.

#### *CO<sub>2</sub> emissions from passenger vehicles*

Even though emissions had been the subject of harmonised standards since the 1970s, the Commission in 1995 started by proposing a negotiated agreement with manufacturers rather than a directive when it came to carbon dioxide.<sup>9</sup> The Council supported this position despite objections from Parliament, although not without reservations on the part of some Member States. In the course of the negotiations over the next two years, the Council in fact offered to bolster the Commission's negotiating position by openly requesting it "if no satisfactory

result was obtained to submit to it a proposal for a Directive containing binding restrictions". In October 1998, however, the Council approved the "environmental agreement" with the European Automobile Manufacturers' Association (ACEA) even though the industry's substantive undertakings still fell short of what the Council itself had demanded in 1996. It was technically only a unilateral commitment made by the representative association. The individual manufacturing companies were not actually party to the agreements but merely "agreed to make every endeavour to contribute to the achievement of ACEA's commitments".

As for the threat of legislation, the Council did in October 1998 invite the Commission "to present immediately proposals, including legislative proposals, for consideration, should it become clear, on the basis of monitoring and after consultation with ACEA, that ACEA would not honour its commitments". However, the Commission quickly made it clear that it would only exercise this right in 2008 or, no earlier than in 2003, if sufficient progress were not made and if this was due to factors beyond ACEA's control. In the end, this has been a classic example of how a weakly-based attempt at co-regulation (meaning that the original agreement for a monitored self-regulation was not established on the basis of a strong position of the potential legislator) has had to be replaced by legislation. Following confirmation that several key manufacturers would not meet the agreed targets, a legislative proposal was eventually submitted by the Commission in December 2007. It now remains to be seen what the final result will be in terms of the commitments to be established by legislation.

#### *Energy efficiency*

Energy efficiency has been one of the areas in which non-legislative methods have seemed to show greatest potential. Four agreements on household appliances were endorsed by the Commission in the late 1990s in the form of negative clearances/exemptions under competition policy. These were renewed and seemed to receive an informal blessing from the Commission. In March 2007, however, the European Committee of Domestic Equipment Manufacturers (CECED) announced that the association would "discontinue" its voluntary energy efficiency agreements for large appliances, calling for "legislative measures to ensure future energy performance standards as an alternative to continued updating of the voluntary agreements". Too many governments were failing to stop "careless or unscrupulous" operators from claiming that their products had better energy efficiency than they really delivered.<sup>10</sup> Without proper market surveillance and enforcement, manufacturers which had made the effort to improve products were not receiving their fair rewards in terms of consumer choice. With targets now needing to become even more ambitious, the stakes were even higher: "To go the extra mile now manufacturers need to be very sure that they will have a return on their investment."<sup>11</sup>

What does this seem to show? First, it draws attention to the fact that self-regulatory arrangements depend also on continuing incentives for the industrial actors involved, including effective public actions in assuring adequate framework conditions – for example, universal enforcement of regulations, or guaranteeing fair competition. Second, choices made by industry with regard to regulatory alternatives are inevitably shaped by commercial considerations. In this case, the manufacturers' position

must be seen in the context of increased competition from cheaper products imported from outside the EU, notably from Asia, as much as the problem of improper labelling (which has to some extent been exacerbated also by enlargement). In exceptional conditions – as seem to have existed for a decade or so with regard to European household appliances – it may both satisfy co-regulatory pursuits and make commercial sense to support voluntary commitments which distinguish certain manufacturers from others. It has been remarkably easy, however, for these conditions to disappear and for a move to legislation then to be promoted by the industrial interests concerned.

## Conclusions

The universe of "alternative methods" in EU policy-making in fact consists of several groups of approaches to European common action which are quite different in their nature. Some primarily refer to different kinds of cooperation between countries, while others concern different forms of interaction between public and private actors. Some represent, at least in principle, different options for achieving similar goals, while others are primarily complementary measures within overall policy packages. Some of these new approaches have been formalized in the treaties themselves precisely as non-legislative methods, and there is no sign that this may be changed in the foreseeable future. Others – and this concerns much of the world of "co-regulation" – represent continuing experiments which may or may not be consolidated in their initial forms.

The formal definition of co-regulation as the conditional delegation to non-state actors of responsibilities for the detailed implementation of rules defined in EU legislation, inspired by the New Approach for the internal market, has in fact not been put into practice and is unlikely to be adopted.

The first phases of exploration of co-regulatory dynamics in the second sense proposed – a more "horizontal" interplay between the possibility of regulatory intervention and the credibility of private commitments – have largely been unsuccessful.

Since then there have been cases in which unilateral commitments have successfully pre-empted possible legislative action at European level, in the sense of making legislation unnecessary due to the effectiveness of self-regulation. One good example is the European Declaration on Paper Recovery adopted first in November 2000 and in a new version in 2006.<sup>12</sup> Another is the European Code of Conduct for Clearing and Settlement adopted in November 2006.<sup>13</sup>

There is in reality only a choice between self-regulation on the one hand, and public regulation on the other. The main issue is how self-regulation is monitored (or even compelled) by public authorities, and how possible switches to regulation may be triggered and reviewed. Messy compromises in the middle seem to satisfy no-one.

In order to make it easier to understand and to take advantage of the possibilities which do exist for self-regulation to play a role in European policy-making, finally, it would be helpful to rethink and rewrite the ways in which co-regulation is presented in European political and policy debate. Current discourse is outdated and even misleading.

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## NOTES

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- <sup>1</sup> Some parts of this contribution are based on E. Best, "Widening, Deepening ... and Diversifying: Has Enlargement Shaped New Forms of EU Governance?" in E. Best, T. Christiansen and P. Settembri, *The Institutions of the Enlarged European Union: Continuity and Change* (Edward Elgar, 2008).
- <sup>2</sup> Following the Maastricht Treaty, the European Economic Community became the European Community,
- <sup>3</sup> Conclusions of the Presidency, Edinburgh, 12 December 1992, Overall approach to the application by the Council of the subsidiarity principle and Article 3b of the Treaty on European Union, II. Guidelines, third paragraph (v).
- <sup>4</sup> [http://ec.europa.eu/governance/impact/docs/key\\_docs/sec\\_2005\\_0791\\_anx\\_en.pdf](http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_anx_en.pdf).
- <sup>5</sup> OJ C 321 of 31 December 2003.
- <sup>6</sup> Speech on World Standards Day, Brussels, 16 October 2006.
- <sup>7</sup> Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC. OJ L 114 of 27 April 2006.
- <sup>8</sup> The bodies which are recognised as having "cross-industrial" or "inter-professional" representativeness for the purposes of European Social Dialogue are the Union of Industrial and Employers' Confederations of Europe (UNICE) – renamed BUSINESSEUROPE in January 2007 – which has a cooperation agreement for these purposes with the European Association of Craft, Small and Medium-sized Enterprises (UEAPME); the European Centre of Enterprises with Public Participation (CEEP); and the European Trade Union Confederation (ETUC). Other bodies are recognised as being representative in particular sectors.
- <sup>9</sup> The following account draws largely on Pallemmaerts 1999.
- <sup>10</sup> CECED Press release, 21 March 2007, "Top Executives Discontinue Voluntary Energy Efficient Agreements for Large Appliances".
- <sup>11</sup> CECED, Position Paper, "CECED Vision on Energy Efficiency", GS-07-76. Brussels, 1 July 2007.
- <sup>12</sup> See <http://www.paperrecovery.org>.
- <sup>13</sup> See [http://ec.europa.eu/internal\\_market/financial-markets/docs/code/code\\_en.pdf](http://ec.europa.eu/internal_market/financial-markets/docs/code/code_en.pdf).

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