



**To: Mr. Barroso, President of the European Commission
Mr. Kallas, Vice-President of the European Commission**

**Re: Open Letter to President Barroso and Vice-President Kallas on
Expert Groups Transparency and the Issue of Privileged Access
for Business Interests**

Brussels, 8 August 2008

Dear President Barroso and Vice-President Kallas,

Last year you announced the Commission's intention to publish the names of all the individuals and organisations involved in the European Commission's Expert Groups in 2008. Following the publication of ALTER-EU's report 'Secrecy and Corporate Dominance – a study on the composition of European Commission Expert Groups' in March this year, Mr Kallas' spokesperson, Mrs Valérie Rampi told the media that the Commission would publish the names of Expert Group members and who they represent by the summer.¹

The Expert Group process has been described as the most common form of consultation used by the Commission.² Through Expert Groups, the Commission seeks the views of civil society groups and other interested parties both because of the expertise they possess and the constituencies they represent.³ As such, both the 'Principles and Guidelines on the collection and use of expertise' and the 'Minimum standards for consultation'⁴ should be applied to their membership. Both the Commission's Minimum standards document, and these Guidelines recognise the importance of transparency, indicating that it must be clear who is consulted and why.⁵ ALTER-EU would therefore like to ask if the Commission still intends to publish the membership lists before September and whether this will be in the existing Expert Groups register?

ALTER-EU raised the issue of privileged access and the over-representation of specific interest groups on certain Expert Groups in both our published report and in a meeting with Vice-President Kallas in May 2008. Mr Kallas said that the responsibility of ensuring a balanced composition belongs to the Commissioners charged with the political guidance of the different Directorate Generals.

We find the Vice-President's approach to be at odds with the spirit of the 'Minimum Standards for Consultation,' which clearly states that '*the Commission will ensure that there is consistency and transparency in the way its departments operate their consultation processes*'.⁶

Moreover, according to the 'Minimum Standards for Consultation,' a consistent approach across the Commission departments, should '*reduce the risk of the policymakers just listening to one side of the argument or of particular groups getting privileged access*' and '*improve the representativity of civil society organisations*'.⁷ '*The overall rationale of*' the 'minimum standards of consultation' '*is to ensure that all relevant parties are properly*

consulted'. The document also stresses that: *'the challenge of ensuring an adequate and equitable treatment of participants in consultation processes should not be underestimated'* and that *'all relevant interests in society should have an opportunity to express their views'*. The *Guidelines on the collection and use of expertise* suggest that the Commission should aim to *'minimise the risk of vested interests distorting the advice'* and collect *'a diversity of viewpoints'* resulted *'from differences in scientific approach, different types of expertise, different institutional affiliations'*.

ALTER-EU is deeply concerned about the lack of progress so far on the issue of over-representation, and is writing to those Commission members who are responsible for specific Expert Groups where the recommended good practice is clearly ignored. In these cases, business representatives form an absolute majority over all the other non-governmental actors consulted, which means there is clearly not *'equitable treatment of participants'* and that *'all relevant [for the respective issue] interests in society'* do not have the same *'opportunity to express their views'*. Indeed *'particular groups'*, in this case business groups, are getting *'privileged access'* and key principles such as plurality and proportionality, outlined in the guidelines, are violated.⁸

In line with Mr Kallas' suggestion that responsibility for having unbiased Expert Groups currently belongs to individual Commissioners, we are asking these Commissioners what measures they intend to take vis-à-vis these specific cases.

ALTER-EU believes that privileged access for certain specific interests can only be avoided by establishing consistent membership selection criteria for all the Commission's departments. The *'Minimum standards for consultation'* and the *Guidelines* state that the criteria used for selecting should be clearly defined, providing greater transparency.⁹ However, there is currently no apparent use of sound selection criteria or public information about the selection process for Expert Groups. In order to achieve the *'consistency'* in the Commission's consultation approach promoted by the *'minimum standards for consultation'* document, we believe these selection and representation criteria should be common for all Commission services.

In January 2008, the European Parliament called on the Commission to carry out a thorough review of Expert Groups due to concerns over privileged access. It also suggested *"that the Commission must before the end of 2008 develop an open, transparent and inclusive process for selecting the membership of new Expert Groups and to inform Parliament no later than February 2009 of the new selection criteria"*.¹⁰ Through such new common criteria the Commission should give a clear definition of what an equal, proportional and participative representation of all relevant and affected groups in society means. The College of the Commissioners should address this issue and start a process of developing such criteria. We would expect the Commission to implement the principles included in the Commission's non-binding codes of conduct and the European Parliament's suggestions.

Summarizing, we would appreciate an answer to the following questions:

- Does the Commission still intend to publish the Expert Groups membership lists before September and will this be in the existing Expert Groups register?

- When will the Commission establish balanced and consistent membership criteria for all Expert Groups of the Commission?
- When will the Commission establish guidelines for an open and transparent process for the selection of members of such Expert Groups?
- When and how will the Commission address the questions posed by the European Parliament?
- What action will the Commission take vis-à-vis specific Expert Groups where recommendations on good practice are clearly ignored?

We believe clarifying the position on these important questions is a necessary step towards ensuring transparency and confidence in policy making. We look forward to receiving your reply.

Yours sincerely,

On behalf of the Steering Committee of ALTER-EU



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Notes

- ¹ 'The process of collecting and publishing the names of members of the different groups shall be completed by the summer', said Mrs Rampi to FT Europe (25/3). On the same date Associated Press and the International Herald Tribune wrote: 'EU Commission spokeswoman Valerie Rampi told reporters the EU's executive office was going to make public online the names of expert group members and who they represent by the summer'.
- ² [Who Consults? The use of Expert Groups in the European Union](#), Ase Gornitzka and Ulf Svedrup, ARENA, University of Oslo, [draft was presented and discussed at the ARENA seminar May 8, 2007], p. 11 'Expert Groups are by far the mode of consultation most frequently used by the European Commission' See: http://www.arena.uio.no/events/seminarpapers/2007/Sverdrup_Gornitzka_08.05.pdf.
- ³ 'Sometimes experts and representatives of interested parties are brought together in single groups'. Communication From The Commission On The Collection And Use Of Expertise By The Commission: Principles And Guidelines "Improving The Knowledge base for better policies", COM(2002) 713 final – <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0713:FIN:EN:PDF>.
- ⁴ 'Consultations' means those processes through which the Commission wishes to trigger input from outside interested parties. Expert Groups are not mentioned in the fields that are excluded from the scope of the general principles and minimum standards. 'General principles and minimum standards for consultation of interested parties by the Commission' COM(2002)704 – <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF>.
- ⁵ According to the minimum standards on consultation document 'consultation processes run by the Commission must be transparent, both to those who are directly involved and to the general public' and 'it must be clear' amongst other 'who is being consulted and why'. In the Annex of the guidelines on the collection and use of expertise there is 'a checklist of documents to make directly available' including the names of experts.
- ⁶ In the introduction of the 'minimum standards for consultation' it is noted: '*Until now, there has not been a Commission-wide approach on how to undertake [...] consultation. Each of the departments has had its own mechanisms and methods for consulting its respective sectoral interest groups. While this has undoubtedly created many examples of good relationships between the Commission and interest groups, there is a general view, shared by many within the Commission and those whom it consults, that the process should be more consistent.*'
- ⁷ European Governance, A White Paper, Latest version: 25.07.2001 – http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf. Also referred in the 'General principles and minimum standards for consultation of interested parties by the Commission' COM(2002)704 – <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF>
- ⁸ COM(2002) 713 final, idem.
- ⁹ The 'minimum standards for consultation' note: '*First, best practice requires that the target group should be clearly defined prior to the launch of a consultation process. In other words, the Commission should actively seek input from relevant interested parties, so these will have to be targeted on the basis of sound criteria. Second, clear selection criteria are also necessary where access to consultation is limited for practical reasons. This is especially the case for the participation of interested parties in advisory bodies or at hearings.*' The 'guidelines on the collection and use of expertise' suggest that '*a scoping exercise should determine the profile of expertise required*' and that '*the nature of the issue in question should determine the optimum mix*'. It says that '*transparency is required in relation to the way [...] experts are selected*'.
- ¹⁰ (2007/2141(INI)) Committee on Budgetary Control, Rapporteur: José Javier Pomés Ruiz A6-0010/2008 - <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0010+0+DOC+PDF+V0//EN>.