

ECON 12 April 2010:
**Consideration of draft report on cross-border crisis
management**

Intervention by EPP shadow rapporteur Danuta Hübner

Before I start, I would like to congratulate Elisa Ferreira on having written such a strong and ambitious report. I support most of Elisa's recommendations to the Commission. There are, however, three remarks that I would like to make about issues that either have not been incorporated in the report as recommendations or which I think can be instrumental to the success of a mechanism to be deployed in cross-border crises.

First of all, I would like to emphasise that I believe there is a need for a further and deeper reflection on intra-group asset transfers. Currently, when in bad times the headquarters of a banking group order asset transfers, the transfer is a one-way operation from more liquid subsidiaries to the headquarters. In case of insolvency, the subsidiary's funds are not available any more to reimburse creditors and depositors of the subsidiaries (above the DGS limit for the latter). Creditors are therefore better protected at the headquarter than in the subsidiaries, which distorts competition in the internal market and is contrary to report's recommendation 1 point 1 (4th bullet point) to "optimize position of depositors and guarantee their equal treatment across countries".

It is therefore doubtful whether the interests of the host Member States are properly taken into account under the current proposal, where the need for establishing a fair burden sharing mechanism for the allocation of costs inflicted by the bankruptcy of some group members is not addressed. There is the risk that under the current proposal the liquidity will be provided mainly to the parent institutions and the potential costs of a crisis will be directed to the host Member States.

Regarding cross-border banks in the context of resolution and insolvency, it is key to set up an integrated framework at EU level for resolution and insolvency. This can be done either through harmonization, which is the view expressed in the report, or through a single EU-level regime where the group is considered as a single entity, i.e. all creditors of the group are treated equally on a pan-European level.

Secondly, I would like to comment on the distinction that the report is proposing to make between systemic and non-systemic cross-border banks. I think that such a distinction is likely to create more problems than it solves. Even using quantitative criteria to determine which banks are systemic and which are not will in the end be a more or less arbitrary process. Furthermore, as the most recent crisis has taught us, banks considered non-systemic have ended up being systemic and needed rescue nevertheless. On the other hand, giving a (limited) number of banks the label “systemic” will give the impression that they are so important to the financial system that whatever happens, the authorities or the resolution fund will save them. They would have a considerable competitive

advantage to all other banks. If this is the case, it would mean that we might not escape from the too-big-to-fail syndrome or moral hazard challenge. It would therefore make more sense to apply the same regime to all cross-border banking groups active either via subsidiaries or via branches.

The crisis has confirmed the natural tendency to privilege national parts of a bank to subsidiaries in other Member States. This runs counter to the fundamental principle of equal treatment of all creditors and depositors independent of the Member State they live in or are based. The college of supervisors must then be actively involved in the crisis management in all cross-border groups and in order to avoid all these problems, I would like to reiterate that we should treat all cross-border banks, whether systemic or not, in the same way.

As a third point, it might also be useful to reflect on how banks used to work before they started the opaque practices that ultimately led to the financial crisis. It is actually the OECD that proposed a return to this system - basically, the idea is to move from the universal banking model to a holding company-like model with built-in 'fire walls' between different parts of the bank. The advantages to regulators and consumers are obvious, but this system provides advantages even for the banks themselves. In such a model, all banking transactions are still permitted, but each business area within the bank is capitalised individually and directed independently of the others. In addition to that, this would imply that each of the separate business areas of the bank should have to draft a living will which can be implemented independently

from the others in the event of a crisis. I understand that any living will would need to be very detailed, but I believe that it would not be the only ambitious project to be incorporated in this system. As a result, problems in one business area of a bank would not spread to other parts, thus reducing the risk of contagion. I am not yet sure how we could incorporate this into the report that we are discussing, but I certainly think it is an avenue worth exploring.

Let me just once more say that it was a pleasure working with Elisa and I trust that we see the challenge the same way. It is to put in place a system to cope with crisis management without affecting negatively the behaviour of banks in good times.