

4.9 A scheme covering intra-EU flights will affect EU operators in different ways. Firstly, differences in price elasticity will result in significant variations in the effect on demand. In addition, the effect could depend on the percentage of an operator's overall output represented by intra-EU services. Concerns have been expressed that operators with small percentage coverage could engage in cross subsidising between fare types or with their longer haul services to the detriment of those carriers with a large (or total) percentage of operations covered by the scheme. These aspects require further consideration as part of the impact assessment.

4.10 There are still many aspects of air transport in an EU ETS which the EESC feels require study, for example in the proposed and already active Working Group of Experts, before a definitive position can be taken on methods and timing:

— lessons learned from the evaluation of emissions trading for fixed sources, before aviation measures can be implemented;

- problems arising from the introduction of aviation into the EU ETS after the commencement of the second trading period;
- future trading prices and their impact on the growth of aviation;
- the overhead costs of emissions trading for aviation in relation to the planned targets;
- feasibility and manageability of emissions trading for aviation;
- possibilities of aviation emissions trading into a worldwide system via the ICAO and, if not feasible, the benefits and losses of potentially purely regional implementation;
- further research into interference between slot allocation and emissions trading in aviation;
- further research into the effects of possible trade-offs between CO₂ and NO_x emissions (a greenhouse gas, but also a 'local issue' in the vicinity of airports in urban areas in the EU).

Brussels, 21 April 2006.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on The institutional framework for inland waterway transport in Europe

(2006/C 185/18)

On 14 July 2005, the European Economic and Social Committee, acting under Rule 29 (2) of its Rules of Procedure, decided to draw up an opinion on: *The institutional framework for inland waterway transport in Europe*

The Section for Transport, Energy, Infrastructure and Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 March 2006. The rapporteur was Mr Simons.

At its 426th plenary session, held on 20 and 21 April 2006 (meeting of 21 April) the European Economic and Social Committee adopted the following opinion by 57 votes with one abstention:

1. Recommendations

1.1 In its opinions of 16 January 2002 and 24 September 2003, the EESC called upon all stakeholders to continue to work towards the goals of harmonising and integrating inland waterway transport in Europe. Whilst they have lost none of their validity, these opinions can be fleshed out in respect of the issue of the institutional framework, in the light of developments which have occurred since its publication.

1.2 The further direct expansion and intensification of cooperation between the key players, i.e. the European Commission,

the CCNR and the Danube Commission, is a highly relevant factor in this context. A permanent form of cooperation must be set up and operate at a fundamental, structural level, as well as at an early stage in the process, in the various inland waterway transport fields, and where appropriate involving the social partners fully, so as to make policy-preparation as robust, uniform and comprehensive as possible.

1.3 If we are ultimately to bring about a uniform system of law governing pan-European inland waterway transport, account must be taken of a number of aspects.

1.3.1 First, there is the issue of the geographical scope of such provisions; unlike the situation with regard to, for example, other modes of transport such as air transport and road transport, inland waterway transport does not directly involve all EU Member States.

1.3.2 Secondly, states which are not members of the EU are still key players for the inland waterway sector and therefore also for Europe.

1.3.3 Thirdly, only joint political action can bring about the requisite infrastructure adjustments to and in respect of inland waterways, tasks which fall within the remit of the national authorities of all states.

1.3.4 Fourthly, it is clear that not all rules need to be applied in full and with the same rigour in the case of all European rivers, in view of the variety of natural conditions and differences in infrastructure and the volume of inland waterway transport.

1.3.5 The abovementioned factors demonstrate that consideration of how pan-European inland navigation is to be structured has, above all, to be seen as a task which is unique and specific.

1.4 Political pressure is being exerted with a view to achieving a pan-European system of law governing this field, as highlighted by the pronouncements made at ministerial conferences but, up to now, no specific and forceful pressure has been brought to bear in this regard. The ministerial conference to be held in Romania in 2006 will have to indicate the extent to which action can now indeed also be taken in the political field.

1.5 The introduction of a uniform, integrated system of law must not jeopardise the high level of protection, safety and uniform application of the law which exists, particularly in respect of the Rhine. It is likely that the CCNR Member States will want to maintain the so-called Rhine system should a new system of law be introduced. The high level of standards and 'acquired rights' which have been achieved also include close and direct relations with inland waterway transport enterprises.

1.6 Social policy, which has been largely neglected in the existing inland navigation regulatory regimes in Europe, must be given special attention in this new system. The social partners must be fully involved in the development.

1.7 All things considered, the EESC endorses the ultimate aim of establishing an *independent organisation*, enshrined in a *treaty*, which can embrace at least both the international organisations, such as the EU itself, EU Member States involved in waterway transport and also non-EU states, such as Switzerland and the non-EU Danube riparian states. Within an organisation, comprising various parties, covered by such a treaty, political decisions, enforceable in law, can be taken by a meeting of ministers, which can also monitor national controls. All the knowledge and expertise currently available in the various existing bodies could also be brought together in the proposed organisation. Care should also be taken to ensure that the existing level of protection and safety is at least maintained and that sectoral social dialogue continues.

1.8 The EESC again calls upon all the parties involved to continue to work towards the achievement of the abovementioned objectives, particularly the goals of closer cooperation and setting up an independent organisation as indicated above. As already evident from the Committee's active participation in various forums relating to inland waterway transport, the EESC will also continue to work towards the introduction, as soon as possible, of all these measures. Accordingly, the EESC plans to take part this year in the relevant hearings of the European Parliament and if possible also in the Ministerial Conference on Pan-European Inland Waterway Transport at the end of 2006 in Romania.

2. Introduction

2.1 In its opinions of 16 January 2002 on *The future of the trans-European inland waterway network* and of 24 September 2003 entitled *Towards a pan-European system of inland waterway transport*, the European Economic and Social Committee assessed the situation of inland waterway transport in Europe ⁽¹⁾. The second of these opinions examined the bottlenecks in inland waterway transport and addressed the need to harmonise rules in this field, in respect of both the public-law and private-law aspects involved. This opinion also tackled issues such as the environment, safety, the labour-market situation and social aspects. The latter issue is being further expanded upon in the own-initiative opinion of September 2005 entitled *Social policy within a pan-European system for regulating inland waterway transport*.

2.2 In the second of the abovementioned opinions, the EESC calls upon all inland waterway stakeholders to step up their efforts to achieve integrated legal provisions and uniform law governing inland waterway transport. With a view to promoting inland waterway transport on a pan-European level, it is regarded as essential to bring about the harmonisation of existing treaties, conventions and bilateral agreements applicable to national and international waterways.

2.3 All these opinions also point out that the Committee itself will continue to press for the establishment, as soon as possible, of integrated legal provisions covering all European inland waterways.

2.4 The EESC's intention in this regard is underpinned by the conviction that inland waterway transport, which is the cleanest and most environmentally friendly mode of transport and one which has adequate potential for growth, will in future be able to make a key contribution towards ensuring the sustainability of the inevitable growth in transport.

2.5 One of the causes of bottlenecks in inland waterway transport is the fact that three differing systems of law apply in this sector in Europe; these systems do, however, overlap geographically to some extent.

2.6 In view of the fact that a number of relevant developments with regard to this specific aspect have taken place recently, it is, in the EESC's view, both useful and necessary, at this juncture, to draw up a more detailed own-initiative opinion on this issue.

⁽¹⁾ See OJ C 80 of 3 April 2002 and OJ C 10 of 14 January 2004.

3. Existing institutional framework

3.1 In its opinion of 24 September 2003, the EESC examines the three existing systems of law governing inland waterway transport in Europe, namely the Revised Mannheim Act of 1868 on Navigation of the Rhine, the 1948 Belgrade Act governing navigation of the Danube and the area of application of Community treaties and the existing body of EU law.

3.2 There are currently five signatory states of the **Revised Mannheim Act**, namely four EU Member States (Belgium, Germany, France and the Netherlands) and one non-EU state (Switzerland). The establishment of freedom of navigation on the Rhine and the introduction of a uniform, harmonised body of legal provisions governing navigation of the Rhine and its tributaries gave rise in the 19th century to the creation of an 'internal market before the term existed'; this internal market has been and continues to be of major importance to the economic development of Europe.

3.3 Contrary to what might be assumed in view of its age, the Central Commission for Navigation of the Rhine (CCNR) is an extremely modern organisation which has its own small secretariat, backed up by a large network of (national) experts, and it has close ties with those working in the inland waterway sector. The CCNR is in a position to respond quickly to developments, with a view to ensuring that the legal provisions governing navigation of the Rhine continue to be optimal, up-to-date provisions.

3.4 The CCNR has regulatory powers and takes its decisions by a unanimous vote. The signatory states are obliged to transpose the decisions of the CCNR into national law, where required. The powers of the CCNR embrace matters such as technical standards, crews, safety aspects, the environment and freedom of navigation. The Mannheim Act stipulates that the signatory states are to promote inland waterway navigation. The CCNR has jurisdiction in disputes falling within the scope of the Act.

3.5 The **Belgrade Act** sets out legal provisions governing navigation of the Danube. The Danube riparian states which are signatories to the Act have seats on the Danube Commission which, unlike its Rhine counterpart, possesses only advisory powers. Furthermore, the sole intention of the Belgrade Act is to regulate inter-state inland waterway transport. The issue of cabotage (which, in the case of the Rhine, is indeed covered by the Mannheim Act) does not fall within the scope of the Belgrade Act. There is thus no question of a clear-cut single legal regime for the Danube. The Danube Commission comprises EU Member States, Balkan candidate countries and other states such as Serbia and Montenegro, Moldova, Ukraine and Russia.

3.6 Following the signing of the **Treaty of Rome** in 1957, the internal market in the EU came into being gradually and was extended to take in inland waterway transport. In the course of this process, tasks have been assigned to the European Commission in various fields, such as technical standards, crews, the environment and safety.

3.7 In practice cooperation is taking place, happily to an increasing extent, between the CCNR, the Danube Commission and the European Commission; in this context the technical

expertise and experience of the CCNR, in particular, is having a major influence. Cooperation between the CCNR and the European Commission was given fresh stimulus by the conclusion of a cooperation agreement on 3 March 2003. Cooperation with the Danube Commission is, at present, of a more secondary nature.

4. Recent developments

4.1 In October 2004 a group of leading, independent figures from both eastern and western Europe drew up a report which analysed the current institutional framework of inland waterway transport at European level and put forward recommendations with a view to consolidating this framework. This project was initiated by the Netherlands and received the support of Germany, Belgium, France and Switzerland. The group involved, which was chaired by the former Netherlands Minister for Economic Affairs and Deputy Prime Minister, Jan Terlouw, assumed the title of the **European Framework for Inland Navigation (EFIN) Group** and issued a report entitled **A new institutional framework for European inland navigation**. In addition to Mr Jan Terlouw, the Group had a further seven members, representing Belgium, Germany, France, Hungary, Austria, Romania and Switzerland.

4.2 In its report, the Group pointed out that inland waterway transport had considerable potential, the value of which was not adequately appreciated. Inland waterway transport was in a position to make a key contribution towards improving the goods transport system in Europe. The Group took the view that the institutional framework for inland navigation did not make a full contribution towards ensuring the optimal use of this mode of transport in Europe. The Group also considered that the existing institutional framework was too weak to secure the political attention required to further develop this sector.

4.3 As already recommended by the EESC in its opinions of 16 January 2002 and 24 September 2003, the EFIN report sees the need for closer harmonisation of technical requirements, qualifications, certification procedures and market-access conditions for all European inland waterways. The Group also considered it desirable that a body be created to provide support for the achievement of the following objectives: to improve the infrastructure of inland waterway transport; to develop on-board technical equipment; to stimulate innovation and to promote professional qualifications. Active institutional support was essential in order to enable the obstacles preventing the development of inland waterway transport to be removed. There was a need to establish a new structure in order to achieve that goal.

4.4 The Group looked at a series of options with a view to creating such a new structure, bearing in mind the need for a new pan-European dimension. Whilst advocating increased cooperation between the existing bodies, particularly the CCNR, the Danube Commission and the European Commission (but also the European Conference of Ministers of Transport (ECMT) and the United Nations Economic Commission for Europe (UNECE)), the Group took the view that that such cooperation was not in itself sufficient to bring about the creation of the proposed new structure.

4.5 The Group therefore called for the establishment of a **European Organisation for Inland Navigation** which should be given an extensive remit to enable it to cover all aspects of inland navigation. The proposed organisation would not need to be enshrined in a new treaty. The existing treaties and systems of law should thus remain in tact and not be amended. The proposed new organisation should be an 'evolutionary' body, i.e. a body capable of being adapted to take account of changing requirements; it should also comprise various modular bodies, which would also be able to operate independently of each other.

4.6 The proposed organisation should therefore comprise three component bodies, namely: a political assembly, taking the form of a Conference of European Ministers with responsibility for Inland Navigation; an administrative body, namely the European Bureau for Inland Navigation; and a financial instrument, namely the European Intervention Fund for Inland Navigation. Persons requiring further details are asked to consult the report drawn up by the Group.

4.7 The European Framework for Inland Navigation Group also examined, as one of the options, the possibility of establishing a Community agency for inland navigation. The Group wondered whether there was sufficient political will to establish such an agency. It was also considered that, by its very nature, such an agency would have no regulatory powers but would rather be given responsibilities in respect of implementation, supervision and the gathering of information. Bearing in mind that many waterways were not covered by EU law, such an agency would thus have limited geographical scope. All things considered, the Group decided to reject the option of setting up such an agency.

4.8 On 14 July 2005, the **European Commission** published a consultation paper entitled **An Integrated European Action Program for Inland Waterway Transport**. In its document the Commission identifies a number of areas in which it wishes to improve inland waterway transport on EU waterways. The stakeholders involved were asked to put forward their comments on the consultation paper, based on which the European Commission published its 'NAIADES' Communication of 17 January 2006 on promoting inland waterway transport, *An integrated European action programme for inland waterway transport* ⁽²⁾.

4.9 As well as providing for a raft of measures in five strategic areas, the Commission also looks at ways of modernising and adapting legislation to meet future challenges. This is to be achieved by updating and improving the organisational structure, which is currently fragmented, resulting in a lack of efficiency and political impact. These changes in existing instruments must take account of existing obligations under international agreements, i.e. respect what has already been achieved.

4.10 The Commission states that this process has already begun, referring to the Recommendation of 1 August 2003 from the Commission to the Council to negotiate membership of the two River Commissions, and to the EFIN report. Four options are currently under discussion: (a) further increasing cooperation between the River Commissions and the European Commission, (b) EU accession to both River Commissions, (c) creation of a Pan-European Inland Navigation Organisation, and (d) tasking the Community with the strategic development

of inland waterways, taking third country interests into account.

5. Pan-European inland navigation

5.1 The idea of introducing a pan-European system of law for inland navigation and thereby stimulating inland waterway transport throughout the continent of Europe, is not a new idea but one which has wide support. Similar views were already expressed in 1991 at a ministerial conference held in Budapest. On 5-6 September 2001, the *Pan-European Conference on Inland Waterway Transport*, held in Rotterdam, issued a declaration drawing attention to the need to speed up pan-European cooperation with a view to achieving a strong, free inland waterway transport sector. The declaration identified a number of preconditions, objectives and actions. One of the prerequisites is that harmonisation must not be achieved at the expense of the existing level of safety and quality standards and that favourable social conditions — at any rate those already existing — have to be safeguarded. In its declaration, the Pan-European Conference called for the creation of 'a transparent and integrated Pan-European inland waterway transport market based on the principals of reciprocity, freedom of navigation, fair competition and equal treatment of the users of inland waterways'.

5.2 In addition to efforts in areas such as infrastructure — which, as is well known, remains a national responsibility in the EU, too — the Pan-European Conference called, in its declaration, for the consolidation of cooperation between the European Commission, the UNECE and the two River Commissions in the field of pan-European harmonisation of technical, safety and crewing requirements and collaboration on the improvement of vocational education and training with a view to promoting these requirements. The Pan-European Conference also requested UNECE, the European Commission, the two River Commissions and the ECMT to cooperate closely with a view to identifying, by the end of 2002, the legal obstacles standing in the way of the establishment of a harmonised and competitive pan-European inland waterway transport market and to considering how this problem could be resolved.

5.3 It may be said that, since the abovementioned Pan-European Conference was held in Rotterdam in 2001, the process of reflection on the institutional framework for inland navigation is now well under way. In this context, attention may also be drawn to the workshop organised by the ECMT, the UNECE and the River Commissions in Paris in September 2005 under the highly expressive title of *On the Move*.

5.4 In the wake of the Pan-European Conference in Rotterdam in 2001, a follow-up ministerial conference is to be held in Romania in 2006.

6. Comments

6.1 The EESC considers the EFIN report a valuable contribution to the discussion about the institutional issue. The report's analyses are particularly useful and we agree with them. However, we feel that the logical conclusion has not been fully drawn from the analysis insofar as the solution proposed does not make decisions sufficiently binding. In addition, the EFIN report, like existing agreements and systems, ignores aspects of social policy.

⁽²⁾ COM(2006) 6 final.

6.2 We welcome the fact that the Commission is now keeping the discussion about institutional reform completely open, which was not previously the case. The fact that it separates the issue from the five strategic areas clearly helps in this respect. As regards the options presented, the EESC notes that increased cooperation is certainly required in the short term, as recommended in Option 1. Community accession to the CCNR, on which a decision by the Council has been pending for two years, could also be a phase of this. But in order to achieve the degree of efficiency desired, and to increase political interest in inland waterway transport, more steps will have to be taken in this direction.

6.3 As regards the other two options, a Pan-European Inland Navigation Organisation and a Community solution, which are intended for the final phase of reform, the Commission keeps the discussion open by weighing advantages and disadvantages, but without making a choice.

6.4 The EESC wants to contribute to the discussion, after considering the arguments presented, by making a choice. We note that the Community solution proposed by the Commission would not cover the whole territory of the Union. The Rhine and (to a lesser extent) Danube system would continue to exist, creating an extra administrative layer and maintaining the need for coordination. This option also requires that agreements be concluded with third countries, which could lead to discrepancies. In practice, cooperation with the River Commissions would mean that the Rhine and Danube Commissions would have to provide knowledge and skills. The Community expertise to be developed would effectively duplicate that of the River Commissions, which is precisely something the Commission says it wants to avoid.

6.5 On the other hand, the EESC absolutely agrees with the Commission's arguments in favour of the option of a Pan-European Inland Navigation Organisation, in which all the European countries and organisations concerned, including the European Union, would cooperate within a single framework. Such an organisation would raise the political profile of inland waterway transport so that it can be strategically developed, and it would promote legislative harmonisation. We support

the Commission's neither positive nor negative argument that this organisation must be co-financed by all the parties involved, precisely because with this option non-EU states would also contribute to the development of inland waterway transport.

6.6 As regards the Commission's arguments against this option, it is true that it would take time to draw up and ratify a convention, but this process has effectively begun already and could be completed within a few years with the necessary political motivation. The success of the ministerial conferences on inland waterway transport held in 1991 and 2001 and the holding of another conference later this year in Romania indicate that the will exists. The objection that such an organisation would operate outside the Community framework would not be valid if the Community link were ensured by the EU taking part in the organisation. The actual implementation of decisions taken by the organisation can also be guaranteed by a convention, along the lines of the Mannheim Act for the Rhine.

6.6.1 At the recent industry congress at the Inland Navigation Summit (held in Vienna on 13-15 February), the European Commission put forward an additional argument against the convention option, namely that inland waterway transport falls fully under the remit of the EU and responsibility for it cannot be devolved by another intergovernmental convention. It should be noted here that inland waterway transport in Europe is now characterised by the fact that under the Revised Mannheim Act certain powers, especially regarding Rhine navigation, are reserved to the Rhine riparian states. It is also a fact that non-EU countries wish to be involved in a European legal regime, for which of course the Community does not competence.

6.6.2 The convention option would therefore mean that even non-EU states could be covered by the same legal regime. Furthermore 'river chambers' could be set up with varying powers. On EU waters, EU inland waterway law would continue to apply in full. The major advantage of such an option would be that pan-European matters could be tackled and resolved, and in addition new powers — e.g. in the field of infrastructure — could be laid down in conventions.

Brussels, 21 April 2006

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND
