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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

463RD PLENARY SESSION HELD ON 26 AND 27 MAY 2010

Opinion of the European Economic and Social Committee on ‘The need to apply an integrated approach to urban regeneration’ (exploratory opinion)

(2011/C 21/01)

Rapporteur: **Mr GRASSO**

On 2 December 2009 the Spanish Housing Minister, acting under Article 304 of the Treaty on the Functioning of the European Union, asked, on behalf of the Spanish Presidency, the European Economic and Social Committee to draw up an opinion on

The need to apply an integrated approach to urban regeneration.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 87 votes to four with two abstentions.

1. Conclusions and recommendations

1.1 The city has now become an energy wasteful system, but is also one of the main causes of environmental change. As a result, coordinated EU action for the more decisive development of urban regeneration policies is an important means to fight harmful CO₂ emissions and climate change.

1.2 The EESC advocates a strategy of measures to be deployed on an urban or metropolitan scale for the architectural, urban planning, social and environmental regeneration of rundown neighbourhoods.

1.3 Unfortunately, conventional land-planning tools are still unsuited to this type of approach, partly because cities differ

among themselves in terms of location and urban services and, as a result, undifferentiated solutions cannot be used. The EESC therefore recommends that the EU should develop tools founded on systems of urban quality indicators, based on socio-urban and environmental hardship thresholds. It should also develop urban regeneration indexes to measure administrative efficiency, the measures' success rate, and the public satisfaction rate.

1.4 On this point, we reiterate a number of proposals made in earlier EESC opinions and hope that in order to broaden the European debate on sustainable cities the proposal to set up a High-Level Group on Sustainable Urban Development is taken up ⁽¹⁾.

⁽¹⁾ OJ C 77, 31.3.2009, p. 123.

1.5 In order to launch a 'new urban renaissance' that prioritises an integrated urban regeneration model and that focuses attention on demographic change, social cohesion, the review of the urban economic base, the re-assessment of the natural heritage, dematerialisation, energy-efficient cities and biodiversity, the EESC maintains that strong cooperation at all levels of government (Commission, national governments, regions and local authorities) is required, but through a more flexible, less rigid approach to the subsidiarity principle and not only through a hierarchical framework of powers. To this end, the EESC urges the promotion of thematic networks of cities to promote the implementation of sustainable urban regeneration.

1.6 Improving the energy efficiency of buildings and infrastructure has to be a strategic factor for the political commitment to urban renewal in the EU due to its benefits in terms of reduced energy demand and significant job creation in Europe. The EESC trusts that the EU will pursue these objectives through growing integration with sectoral programmes under preparation on EU Innovation Policy, EU Transport policy 2010-2020, and the SET Plan (Strategic Energy Technology Plan). It also urges increased investment by boosting, through the EIB, the financial instruments at its disposal (JESSICA, JASPERS, etc.) and promoting effective public-private partnerships.

1.7 The EESC trusts that the integration of sustainable transport and energy systems will form the foundations of urban regeneration policy. Furthermore, this integration policy should be backed by EU funding for sustainable transport networks and alternative energy policies essential to suburban regeneration.

1.8 It also trusts that Member States will adopt tax incentives to encourage citizens to contribute to the objective of turning every building into a power station.

1.9 The EESC calls for the promotion of cultural development and entrepreneurial actions, especially in the area of small and medium-sized enterprises with the ability to identify innovative solutions for regeneration and the creation of green jobs.

1.10 The EESC also believes that in order to promote more responsible citizen participation in the implementation of integrated urban regeneration programmes, there is a need to have dialogue and consultation with communities within urban centres, including women and young people and those most at risk from exclusion. A Europe-wide publicity campaign on practical savings derived from clean energy production should be launched in cooperation with networks representing citizens and sectors. The ongoing campaign is insufficiently targeted and resourced.

1.11 In order to be competitive with Asian megalopolises, the urban regeneration policies of European cities have to be able to combine the traditional refurbishment of physical spaces with dematerialisation, also represented in telecommunications technologies, thus conserving the environment and preventing cities from swallowing more green space.

1.12 Furthermore, the EESC considers it strategically important to put in motion a major process of shaping leaders, in order to increase their responsibility, creativity and quality. The aim is to improve their ability to make choices when steering urban generation and development policies that are consistent with the EU's sustainable growth objectives. At the same time, the EESC recalls the importance of cooperation with DG Regio and calls for this to be strengthened. But the Committee still sees a vital opportunity and need to build the capacity of DG Regio's operational urban policy team in order to speed up the processes involved in implementing the development programmes that the Commission intends to pursue.

2. Introduction

2.1 Over the last ten years, the Leipzig Charter on Sustainable European Cities (May 2007) has been one of the most important testimonies to the Member States' will to agree on common strategies and principles for urban development policy. The urban policy debate has been significantly intensified at the EU level. The Spanish Presidency is following this up by dedicating considerable attention to the issue and has asked the EESC and the Committee of the Regions for their analysis and contribution to the discussions of the informal meeting of EU ministers.

2.2 The analysis concerns a number of important issues to be solved in cities through urban regeneration policies in order to achieve, through an integrated approach, a level of urban sustainability that meets the need:

- to improve the energy efficiency of European building stock, whose age makes it a source of harmful emissions that seriously undermine the quality of urban life, by creating new jobs and encouraging innovation and technological development;
- to increase social cohesion through an integrated regeneration programme for rundown neighbourhoods, to achieve social integration, fight exclusion, training, etc.;

- to contribute to environmental sustainability, also through the urban regeneration of rundown neighbourhoods and the refurbishment of existing building stock to meet energy efficiency, habitability and accessibility objectives, with a view to avoiding the consumption of more green spaces.

3. Integrated urban planning

3.1 Protecting the environment, at different urban levels, and improving people's quality of life is one of the Member States' and the EU's major operational regional policy objectives.

3.2 Through this opinion, the EESC intends to confirm its agreement on the need to develop integrated urban regeneration policies as outlined in the EU 2020 programming strategy document and the programme of the Spanish presidency of the Council of the European Union ⁽²⁾.

3.2.1 The EESC endorses the EU 2020 document's contents and agrees with the operational approaches it sets out regarding the fact that regeneration policies need to take certain innovative concepts into account:

- the improvement of human resources, especially with respect to the needs of the elderly, the integration level of recent migrants, the eradication of poverty, especially child poverty, and solidarity between the generations;
- knowledge-based growth;
- the development of a participatory and creative society;
- the development of a competitive and interconnected economy that is mindful of the social and green market.

3.2.2 The EESC considers the Spanish presidency's programme to be in line with these concepts in that it aims to strengthen the objective of guaranteeing all citizen rights and protecting fundamental rights, in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

3.2.3 These objectives encourage a view of urban regeneration that includes strong interdependence between the quality of spaces and the quality of welcome, i.e. regeneration that is open to all citizens, irrespective of their mother tongue, origins or religion.

⁽²⁾ Commission Working Document *Consultation on the Future 'EU 2020' Strategy*, Brussels, 2009 and State Secretariat for the European Union of the Ministry for Foreign Affairs and Cooperation, Programme for the Spanish Presidency of the Council of the European Union 1 January - 30 June 2010: 'Innovating Europe', *Imprenta Nacional Boletín Oficial del Estado*, Madrid, 2010.

4. Some urban issues

4.1 In compliance with the principles set out in the above-mentioned documents, the concept of regeneration has to contend with a series of important changes in the shape and nature of cities ⁽³⁾:

- increasing urban sprawl, with its high consumption of land and its diseconomies of scale;
- the decline in the functional cohesiveness of cities, with the crisis in historical centres, rundown suburbs and manufacturing areas;
- the prevalence of substantially conservative responses to the crisis, showing little imagination or creativity, but above all, out of keeping with a globalised world;
- the replacement of a system of functions with a system of 'containers', which should be considered as complex and highly fragile places, in undifferentiated metropolitan areas;
- the loss of meaning of city limits, which continue to exist for administrative purposes but lose their geographic, symbolic and political meaning;
- the erosion of green belts around cities, with grave losses for biotic production;
- the increase in commuting times, with its negative impact on quality of life;
- urban areas, even traditional ones, are these days tending to develop into closed, specialised spaces: the 'residential' (and nothing else) area; theme parks dedicated to entertainment; education, limited to schools or campuses; culture in museums and theatres, etc. The closed space extols the supremacy of the private (both as a lifestyle and as a legal concept and practice) to the detriment of the need for community.

4.2 The logic of closed spaces needs to be countered by that of infinite space, represented by non-material relationships, for which the concept of time tends to replace that of physical distance.

⁽³⁾ A brilliant examination of the main problems of urban regeneration can be found in Massimo Cacciari, *La Città*, Pazzini Stampatore Editore, Villa Verucchio, 2004.

4.3 Regeneration of urban areas thus needs to combine the traditional refurbishment of physical spaces with dematerialisation, which finds its most obvious expression in telecommunications technologies. The problem that needs solving is ultimately the conflict between the mind, which now reasons in terms of ubiquity, and the body, which needs roots and cannot be continually on the move, but wants to be organised into quality places and spaces.

4.4 Regeneration will therefore be the outcome of synergising and integrating three aspects of the city:

- the Agora city: people-centric, with total harmony between urban settlements and spaces and between social cohesion and economic development,
- the glocal city (global/local): resulting from a better balance between globalisation and the ability to make the most of local resources and different specificities and attitudes,
- the sustainable city: should be able to resolve its problems internally, without passing them on to others or to future generations.

5. A holistic model for urban regeneration

5.1 The Committee is in favour of a **'new urban renaissance'** ⁽⁴⁾ characterised by

- greater social cohesion;
- cultural renewal;
- a review of the economy of the urban economic base to address the current deep recession; and
- enhancement of the natural heritage through dematerialisation and increased biodiversity.

5.2 A policy based on a 'new urban renaissance' broadens the meaning of the European Economic Recovery Plan in Regions & Cities (EERP) ⁽⁵⁾, by interpreting the local authorities'

important role in overcoming the crisis as a structural fact, destined to impact not only on the economic crisis but also on the re-evaluation of all our communities' resources.

5.3 An integrated urban regeneration model would therefore take shape, as a spatial expression of the **'green new deal'** ⁽⁶⁾, where the holistic system of measures concerning human, natural and physical resources should have, as an important benchmark, a renewed definition of wealth, based not only on accumulation but also on the sparing use of resources and an increase in public well-being ⁽⁷⁾.

This model implies an exercise in leadership from the local authorities to facilitate the active participation of citizens and the economy of their regions to speed up the development of markets and green technologies. The proposed High-Level Group on Sustainable Urban Development could facilitate the promotion and growth of thematic networks of cities, even medium-sized to small ones, to meet these objectives.

6. A holistic approach to urban regeneration implies:

6.1 Human resources

6.1.1 We also need to reconcile the Lisbon Strategy objective to build a more competitive knowledge-based and creative society with the EU 2020 objective that stresses the importance of promoting cohesion through support policies for the vulnerable segments of society, especially the elderly, better integration, particularly for recent migrants, poverty eradication, and greater solidarity between the generations.

6.1.2 The EU has given cultural and practical space:

- to the development of community building, in order to give access, in urban planning, to all types of stakeholders: technical-professional (urban planners, architects, engineers, etc.), entrepreneurial and housing organisations;

⁽⁴⁾ Richard Rogers, *Toward an Urban Renaissance*, Urban Task Force, London, 2005, downloadable from: www.urbantaskforce.org.

⁽⁵⁾ European Union – Committee of the Regions, *European Economic Recovery Plan in Regions & Cities* (EERP) ⁽⁵⁾, by interpreting the local authorities' from <http://portal.cor.europa.eu/europe2020/Pages/EERPSurvey.aspx>.

⁽⁶⁾ The documents in question are *A green new deal for Europe*, compiled by the Wuppertal Institute; *Rethinking the Economic Recovery: A Global Green New Deal*, the United Nations Environmental Programme; *A Green New Deal* by the UK's new economics foundation; *Toward a Transatlantic Green New Deal: Tackling the Climate and Economic Crises*, by the Worldwatch Institute for the Heinrich Böll Foundation.

⁽⁷⁾ This would constitute the full application, at the local level, of the recommendations set out in the Communication from the Commission to the Council and the European Parliament - *GDP and beyond: measuring progress in a changing world* COM(2009) 433 final, downloadable from: <http://www.beyond-gdp.eu/>. They are based on a report by Stiglitz, Sen, and Fitoussi, promoted by the EU, at the request of the French Government, which can be downloaded from: <http://www.stiglitz-sen-fitoussi.fr/en/index.htm>.

— to the development of new knowledge and the principle of creativity through the promotion of new forms of research and teaching involving universities, and generating forms of creative urban programming⁽⁸⁾. The best way to increase the efficiency of these openings is to promote public-private partnerships.

6.1.3 These policies need to be rethought in order to:

— promote 'good governance' practices for cities, including peri-urban and rural areas, in order to improve not only economic wellbeing, but also psychological, spiritual and social wellbeing; and

— create new jobs, especially for young people and immigrants, as well as retraining traditional blue-collar and white-collar workers swept away by the current crisis. To this end, the EESC advocates the promotion of a 'carbon army' linked to sustainable urban renewal.

6.1.4 Demographic forecasts indicate that by 2060 more than half the population will be over 48. If new migration flows persist, especially of young people towards cities, disadvantaged rural regions will continue to decline. In light of this scenario, the following actions need to be envisaged at local level:

— The development of a culture that generates synergies between public and private enterprise to promote SMEs and stimulate participatory and creative urban communities;

— the development of instruments to strengthen dialogue and consultation with urban communities, including women, young people and those most at risk from exclusion;

— the improvement of living standards through innovative solutions for sustainable social housing, health care and education.

6.1.5 The new jobs which would be created through the new green deal and emissions cuts call for training and dissemination policies. Efforts should be made to:

— facilitate access to EU information platforms (on the environment, energy efficiency, transport, the economy, etc.);

— link up with the Knowledge and Innovation Communities (KICs) programme of the EIT (European Institute of Technology) in order to ensure a rapid transfer of new technologies at the local level;

— develop a strong dissemination strategy for best practices in integrating green technologies in urban communities.

6.2 Natural resources

6.2.1 The supremacy of natural resources over physical ones makes studying **urban metabolism** pivotal to the establishment of renewal processes based on the economic use of raw materials and waste disposal.

6.2.2 **Awareness of urban metabolism** is an important tool for achieving the objectives of an improved urban environment set by international conventions aimed at conservation (Kyoto, biodiversity, water, etc.) and climate change mitigation⁽⁹⁾.

6.3 Physical resources

6.3.1 Urban regeneration in relation to the current processes of transformation needs to be **less and less about separate, defined, circumscribed measures**, and more and more focused on processes developing multi-purpose settings, characterised by quality and variety of spaces and the interaction of various aspects: elasticity, malleability, the ability to welcome.

6.3.2 The EESC believes that the increasing importance of environmental limits, processes of integration, or the growing role of interactivity cannot be bypassed when refurbishing buildings and infrastructure.

6.4 Immaterial resources

6.4.1 The European Council, through the e-Europe programme (1999), the Lisbon Convention (2000) and the i-2010 operational programmes, indicates that e-society is the main factor in the EU's development. Consequently, the EU Council intends to promote projects to accelerate the process of developing a society that is able to seize electronic and interactive opportunities. To this end, provisions are being devised to enable every European citizen to enter the digital age and have an internet connection, with the aim of creating an open, inclusive and cooperative society.

⁽⁸⁾ Jan Jacob Trip, *Creative city development in the Lisbon strategy*, TU Delft, 2009. Xavier Vives, Lluís Torrens, *The strategies of European metropolitan areas in the context of the European Union enlargement*, Pla Estratègica Metropolità de Barcelona, 2005.

⁽⁹⁾ Rudolf de Groot, *Function-analysis and valuation as a tool to assess land use conflicts in planning for sustainable, multi-functional landscapes*, Landscape and Urban Planning 75 (2006) 175–186.

6.4.2 It thus tasks cities with attracting knowledge, renewing the system of relations between public authorities and citizens, and encouraging the redeployment of the means of production ⁽¹⁰⁾.

6.4.3 There is no doubt that investments in urban technological innovation need to be fast and massive, given that the level of competition we are facing from the East is very high ⁽¹¹⁾.

7. Towards a 'green new deal' for cities

7.1 Urban regeneration is a complex issue but it must be framed within a strategy in order to be efficient.

7.2 The most urgent issue probably concerns the close link between the regeneration of cities, their environments and the economic crisis. The EESC believes that urban regeneration processes should be seen in the light of the principles of the green economy and as opportunities for a European green new deal ⁽¹²⁾, which could consist in integrating the different types of urban morphology: the biotic city, the material city and the city of bits, all geared to completing and strengthening the solidarity-based city.

In this regard, the role of the natural environment as a producer of goods and services that are essential to people has to be re-evaluated.

8. The biotic city

8.1 Developing the ecological network

8.1.1 The EESC believes that it is particularly important to study the city as an ecosystem and to map out the heritage value of natural infrastructure (as a source, for instance, of clean water and air, wind protection, soil fertility and pollination),

⁽¹⁰⁾ World economic forum, The Lisbon review 2002- 2006, downloadable from:

www.weforum.org/pdf/gcr/lisbonreview/report2006.pdf;
European Commission, *i2010 - A European Information Society for growth and employment*, downloadable from http://europa.eu/legislation_summaries/employment_and_social_policy/job_creation_measures/c11328_en.htm;
Fondazione Ugo Bordon, Dossier EU i 2010, downloadable from: <http://www.fub.it/osservatorio/dossieruei2010/liniziativai2010>.

⁽¹¹⁾ The u-city experiments are taking place at:
MIT: <http://web.mit.edu/cre/research/ncc/casestudies.html>;
Milla Digital: <http://www.milladigital.es/ingles>;
Tokyo: <http://www.tokyo-ubinavi.jp/en/about.html>;
Singapore: <http://www.itu.int/ubiquitous>;
Hong Kong: <http://www.info.gov.hk/digital21/eng/strategy/2008/Foreword.htm>;
Arabianranta (Helsinki) in: https://www.taik.fi/en/about_taik/arabianranta.html.

⁽¹²⁾ The title is drawn from the new economics foundation report 'A Green New Deal', London, 2009, which can be downloaded from: www.neweconomics.org/projects/green-new-deal.

which is not easily replaced with technological solutions, and only at exorbitant costs and at efficiency levels that cannot compare with the efficiency of biotic systems.

8.1.2 It is estimated that by 2050 a further 11 % of the natural areas remaining in Europe in 2000 could be lost ⁽¹³⁾. Public institutions should therefore focus specially on the consequences of this phenomenon and increase investment in protecting ecosystems, also giving attention to urban ecosystems.

8.2 Energy production from renewable sources

8.2.1 **The city is a strategic element in the development of renewable energies.** Indeed, technological improvements and innovations to heating and cooling plants, **which account for 40-50 % of global energy demand**, are at the heart of the EU 20-20-20 policy to improve energy services (cutting greenhouse gases and energy consumption and increasing the use of renewable energies by 20 %).

8.2.2 The increased production of energy from renewable sources under the SET Plan (Strategic Energy Technology Plan) is extremely important because of its implications for employment. Urban communities should therefore be the first to acquire new technologies. The Council and Parliament decisions to finance the SET Plan seem very well suited to achieving this purpose.

9. The material city

9.1 Improving the energy efficiency of buildings

9.1.1 **Improving the energy efficiency of buildings and infrastructure is a strategic factor for the EU's urban renewal.** Due to new technologies, there is considerable potential for energy efficiency gains. By 2050, primary energy demand could fall by about 300 exajoules, with an annual reduction of 20-25 gigatons of CO₂. The EU's current annual investment in technologies to improve energy efficiency is about EUR 60 billion per annum.

9.1.2 In 2005, a European Commission study estimated that the investment required to achieve energy savings of 20 % would create a million jobs (directly and indirectly). Savings will be concentrated in the areas of building lighting, office buildings, domestic appliances and cogeneration.

⁽¹³⁾ The European Commission report on *The Economics of Ecosystems and Biodiversity* (TEEB), downloadable from <http://ec.europa.eu/environment/nature/biodiversity/economics/>.

9.1.3 The EESC trusts that the objective is not just to save energy but to turn every building into a power station.

9.1.4 This will involve considerable investment in research in the coming years and is destined to transform the way cities are built in order to optimise their metabolism through the use of innovative materials and increasingly sophisticated building site logistics solutions.

9.1.5 Renewing the architectural heritage requires financial synergies and global policies of cooperation, since:

- a loss of competitiveness for the sector and its suppliers would have a negative impact on employment;
- it must compete against international systems, especially rapidly expanding Asian systems, **for which regeneration measures should be seen as a basis for exportation;**
- **European countries with lower incomes must be involved in the process;**
- **it should not be dissociated from social housing issues, which affect millions of Europeans.**

9.2 Integrated infrastructure system

9.2.1 EU documents on social cohesion stress the importance of integrating all types of infrastructure, a concept that goes beyond ensuring good links between regions. In Europe, funds set aside for the modernisation of networks until 2020 amount to EUR 600 million, including EUR 90 billion for intelligent infrastructure.

9.2.2 Integrated infrastructure should also be an important objective of urban regeneration and should include access to:

- services such as healthcare, education, and sustainable energy, which are becoming interactive due to telecommunications networks, for instance in the case of telemedicine and distance learning;
- transport systems, the sustainable integration of which involves improving rail links, inland waterways, access to airports, developing inter-modal transport chains and advanced traffic management systems, and improving cycle and footpaths. Integrated transport systems support urban policies aimed at avoiding urban sprawl in order to cut the energy and social costs of commuting and commercial transactions;

— a sustainable transport system and efficient energy system are fundamental to EU urban regeneration policy, which should prioritise the financing of sustainable transport and functional energy networks that extend to the suburbs that need regenerating;

— energy networks: growth in the electric powered transport sector (see the Renewable Energy Directive), telecommunications technologies and computers generates an exponential rise in energy consumption; an intelligent distribution network is therefore required to minimise loss, increase efficiency, adapt to needs and absorb excess solar energy production; Furthermore, a network of electricity and hydrogen refuelling stations, supplied from locally produced renewable sources, should be promoted;

— telematic networks, especially broadband internet, now essential to businesses and families.

10. The city of bits

10.1 Highly interactive urban platforms, currently being developed through new-generation communication technologies, are destined to speed up urban reconversion processes and introduce innovative factors that will contribute substantially towards:

— a shift away from the central role played by road infrastructure, in favour of synergies between roads, GPS, computers and creating a network that would allow the development of interactive logistics systems, linking up homes across the world, extending their role and transforming them, through connectivity, into places of work, leisure, healthcare, etc.;

— integrating the public and private supply of services; this would result in reconversion processes that would enable public administration platforms (planning permission, land registries, tax, etc.) to provide interactive access for businesses, homes, and citizens' personal digital devices;

— making radical progress in delivering health services at significantly reduced costs; new network technologies, miniaturisation and the portability of apparatuses enable the home-based monitoring of the most important vital functions and online healthcare procedures;

— reducing asymmetries in relations between citizens and knowledge holders (technicians, doctors, politicians, etc.) in order to transform traditional top-down structures into new collaborative structures;

— actively monitoring the entire urban life cycle in order to achieve substantial savings in urban resource management.

11. The solidarity-based city

11.1 The factors considered so far, albeit substantial, are instrumental to urban regeneration processes, which are ultimately aimed at increasing social cohesion in compliance with the EU's oft-reiterated fundamental principle.

11.2 Increasing social cohesion means renewing management systems at all levels ranging from the EU to the local authorities in order to tackle the complexity and diversity of the relations that characterise our society. This is changing the chain of relations with respect to the collaboration approach, the reduction of asymmetries, and the evolution of the concept of leadership.

11.3 The collaboration approach underpins sustainable management and aims to give all stakeholders access to choices. This approach began through the activation of civic forums and increased its potential through the development of interactive technological media. It is summarised in the US National Academy of Public Administration's slogan 'Ask not what your country can do for you, ask what we can do together' ⁽¹⁴⁾.

11.4 Reducing asymmetries: being able to access increasingly efficient knowledge systems and hold dialogue in real time shortens the distance between those who hold knowledge and those who used to be its passive users. It changes human relations but also the meaning of urban spaces, which become catalysts for new types of relations (e.g. out-patient/first aid facilities that are being relocated from hospitals to underground stations and hypermarkets, etc.)

11.5 The evolution of the concept of leadership: the deconstructing of systems of relations and growing opportunities for collaboration call for new roles for public representatives, who are required to demonstrate both leadership and facilitating skills.

11.6 The substantial change in the system of relations opens up opportunities for profound change in organisational models, especially for local authorities, as part of a trend that can be defined as a transition from actions, typical of strategic plans, to the activation of shared platforms, typical of management based on sustainability. The platform model, already tried by the EU in the organisation of the production and knowledge sectors, would be extended to develop a dense network of relations aimed at involving all stakeholders in the urban community and facilitating subsidiarity policies between weak and strong communities. Thus, we can speak of:

- a community building platform aimed at hosting the widest possible spectrum of stakeholders, and local community consortia;
- a knowledge platform aimed at developing innovative knowledge and research policies as well as promoting creative urban refurbishment;
- a technological platform aimed at providing a range of vital know-how and at activating and managing innovative processes;
- a resources platform for:
 - the development of innovative financial instruments through public-private cooperation modelled on JESSICA and JASPERS;
 - the implementation of financial policies that promote equality and benefit low-income earners by involving them in overarching urban renewal strategies;
 - the development of accounting policies to determine the economic value of goods and services that assess the cost of extracting natural resources and of waste disposal. The objective is to establish a tax policy geared to deterring the wasteful use of primary resources. The revenue thus derived should be channelled to supporting vulnerable social groups.

Brussels, 26 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽¹⁴⁾ Downloadable from <http://www.collaborationproject.org/display/home/Home>.

Opinion of the European Economic and Social Committee on ‘Collective civil society initiatives for sustainable development’ (own-initiative opinion)

(2011/C 21/02)

Rapporteur: **Mr HENCKS**

On 16 July 2009 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion entitled

Collective civil society initiatives for sustainable development.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 146 votes to 5 with 2 abstentions.

1. Conclusions and recommendations

1.1 The challenges facing us in terms of sustainable development, accentuated by the public finance crisis, are sufficiently worrying for civil society to commit to supporting the political decision-makers and the necessary economic and social changes, as well as the re-establishment of balanced public finances.

1.2 Beyond scientific considerations, the success of political decisions depends largely on their acceptability to civil society, which, in a spirit of greater transparency with regard to the ultimate choices and responsibilities involved, should be closely involved in every phase of implementing sustainable development policies.

1.3 Civil society's involvement in developing an ambitious sustainable development policy will need to be carefully structured in order to ensure that it is effective and does not descend into populism.

1.4 In view of the comments and suggestions set out below, the EESC calls for civic participation and the sharing of knowledge to be incorporated in the review of the sustainable development strategy in 2011. This integration must be achieved *inter alia* through an action plan, financial incentives and the publication of best practices in collective civil society initiatives.

1.5 The EESC also feels that sustainable development should have a prominent position in the EU 2020 strategy.

2. Subject of the own-initiative opinion

2.1 ‘We do not inherit the earth from our ancestors, we borrow it from our children’. This proverb from the indigenous Canadian Haida nation is a perfect illustration of the challenge facing the

current generation, namely to change our ways of life and find new routes for effective, socially fair and environmentally sustainable economic development that ensures the fair redistribution of wealth and gives all citizens access to a decent life.

2.2 Some of these changes will require top-down initiatives such as legislation, public and/or private investment programmes, etc., while others call for bottom-up initiatives by concerned citizens. They, in turn, have a personal contribution to make, for example by changing their behaviour and consumption patterns and supporting or getting involved in community initiatives and actions to promote sustainable development.

2.3 Governments and the EU must recognise that these bottom-up initiatives are necessary in order not only to create a more sustainable economy but also to achieve the aims that the political authorities have set themselves with regard to sustainable development. An EU-level initiative could certainly provide considerable added value, for example by publicising best practices in terms of public and community campaigns and initiatives to promote sustainable development.

2.4 The aim of this opinion is therefore to make recommendations on what Europe could do to increase the effectiveness and number of collective initiatives launched by institutional bodies, businesses, trade unions, NGOs, other associations or members of civil society to make more progress with regard to sustainable development.

2.5 In this opinion, the EESC sets out its thinking on ways of getting civil society as a whole to make a more active contribution to sustainable development, and on the type of framework that Europe should construct in order to support and maximise the effectiveness of initiatives in this connection.

3. The challenge for civil society: to become a driving force in promoting sustainable development

3.1 Climate change is currently a hot topic, and undoubtedly constitutes a threat with potentially catastrophic future consequences, but it is not the only phenomenon hampering the sustainable development of our societies: the loss of biodiversity, deforestation, soil degradation, toxic waste, heavy metals, organic pollutants, unchecked urbanisation, social inequalities and injustices, and so on, are all major problems for humanity.

3.2 In order to achieve an environmentally and socially sustainable lifestyle, we need to get away from an attitude of constantly seeking more unsustainable growth, and move from an era of over-consumption and waste to an era of well-being, focused on human and social development. As the French Economic, Social and Environmental Council put it, it is important to take account of *human beings as biological and social, natural and cultural beings, as people*.

3.3 However, poorly sustainable behaviour is not just a modern phenomenon: man's treatment of the environment has always been 'poorly sustainable'. What has changed is the scale and speed of the damage to ecosystems caused by production and consumption patterns.

3.4 What has also changed is that modern scientific knowledge (in relative terms) of how ecosystems function now allows us to demonstrate and understand the seriousness of the situation and to highlight the various aspects of our societies' behaviour that are not sustainable. The clear alarm signals are evidently not enough to make societies sufficiently aware of their actions and to make them adapt to more sustainable and socially responsible behaviour.

3.5 The concept of sustainable development originally dealt primarily with natural resources (exhausting fossil fuel reserves) and pollution (destruction of the ozone layer) by means of emissions standards for harmful substances or abstraction limits for resources, but it has since become more general, and now includes requirements relating to economic growth and social cohesion. Sustainable development thus combines a concern for the balanced development of societies – particularly for combating poverty – with a concern for bequeathing to future generations a healthy, rich and diverse environment.

3.6 The concept of sustainable development has thus become more widely accepted over the years: it was initially mainly the green movements across the western world that worried about ecosystems, but today all the political parties

have embraced the theme of environmental protection, which has expanded to become sustainable development.

3.7 It is worth pointing out that civil society has not remained passive: many citizens are already committing themselves, individually or in group actions, to a more sustainable lifestyle. For example:

- in workplaces, both employers and employees are making efforts to consume less energy, reduce waste and develop more sustainable production methods;
- in the wholesale and retail sectors, traders are working with customers to identify the best ways of promoting more sustainable products;
- at home, people are taking action to improve the energy performance of their homes, avoid waste, reduce water usage and promote recycling;
- in the national education systems of certain Member States, children are made aware of the need to respect the environment and sustainable development from a very early age.

3.8 Similarly, at regional level, associations, professional organisations or residents' panels have been set up to discuss sustainable development issues, issue opinions and launch actions.

3.9 Nonetheless, although it had a very high media profile during the recent UN climate change conference in Copenhagen, sustainable development is suffering a marked loss of interest. This can be explained in part by the fact that climate change, which is only one part – albeit a major one – of sustainable development, sometimes overshadows the other essential aspects. In addition to the disillusion felt by the public, who were expecting a formal commitment from the political authorities, there is a degree of scepticism towards the very real risk presented by climate change. This scepticism is promoted by certain scientists and political bodies who question the seriousness of the situation; this only exacerbates the loss of enthusiasm, along with the denial movement.

3.10 The EESC's resolution '*No turning back*' of 23 November 2009, addressed to the Copenhagen conference, now takes on a new importance, and is addressed to the whole of civil society: business, trade unions, and other civil society organisations. Everyone needs to make efforts both to mitigate and to adapt to climate change.

3.11 Indeed, the disappointing outcome of the Copenhagen conference and the resultant risk of indifference make it all the more important for civil society to rally round. As the EESC has suggested, civil society needs to emphasise that the European Union *must not be tempted to use the failure of Copenhagen to reduce its own ambitions or to lower its own commitment, but must redouble its efforts to establish a model of development based on low-carbon emissions and the preservation of natural resources and drawing its competitiveness from its capacity to coordinate innovation, productive investment and human capital.*

3.12 Indeed, it is undeniable that there are interactions between the environmental, economic, social and cultural spheres. This necessitates an interdisciplinary approach bringing together a group of stakeholders with very different skills and interests, who need to break down the walls separating institutions and sectors and combine their expert knowledge and common sense. It is important to ensure that the various sections of society do not cancel each other out and that the decision is not left to the best-organised elected representatives or interest groups.

3.13 Civil society initiatives in this field really can act as a driving force for political decision-making. Civil society has the ability to bring together stakeholders and political decision-makers, to heighten the awareness of all sections of society so that they rethink their lifestyles, consumption patterns and production methods and initiate ambitious initiatives and actions.

4. The public debate on sustainable development – history

4.1 It was in the wake of initiatives by organised civil society that the declaration of the United Nations Conference on Environment and Development (UNCED), held in Rio in 1992, first officially brought civil society into the discussions on sustainable development. The 27 principles of sustainable development established in the declaration include, among other things, the principle that the public must be involved in decision-making and that women, young people, local communities and minorities should have a larger role to play than is currently the case.

4.2 Chapter 28 of Agenda 21 (a sustainable development programme drawn up during the Rio Summit) encourages local authorities to integrate sustainable development in their action plans, via ‘a consultative process with their populations’.

4.3 This acknowledged the fact that it was important for civil society to be involved in analysing the consequences of public policy on people's ultimate choices and responsibilities

with regard to sustainable development. As a result, all the parties concerned, in whatever way (some of whom, such as future generations, are by definition not present), must be closely involved in planning and implementing these projects.

4.4 Since then, non-governmental organisations, followed by businesses, trade unions, local and regional authorities and other associations, have claimed their place in the debate, alongside the political and institutional players. They have initiated a large number of actions, initiatives and recommendations to promote sustainable behaviour.

5. The actions of civil society

5.1 The EESC, as the institutional representative of organised civil society at European Union level, has been taking an interest in sustainable development for many years. In 2006 it set up the Sustainable Development Observatory, which aims to boost civil society input in sustainable development policy that marries environmental, social and economic interests. In this connection, the EESC has drafted a number of opinions and recommendations on key sustainability issues, and will continue to propose practical solutions along the lines of the opinion on *Building a sustainable economy by changing our model of consumption* (INT/497).

5.2 It is nonetheless evident that institutional and political actors still carry considerably greater weight than civil society, and certain activities that appear to be aimed at promoting sustainable development are influenced by political, financial or ideological, rather than environmental, interests and by the whims of one group or another. This carries with it the risk that sustainable development will be appropriated and used by pressure groups to serve issues that sometimes have little to do with the initial matter.

5.3 Even so, it is not usually possible to get all parties involved: often, a section of civil society does not make its voice heard until resolving the problems has become a matter of urgency, with the field being left to pressure groups and protest groups outside urgent situations.

5.4 We therefore need to go beyond mere information campaigns, and find ways to achieve a participatory democracy in which consultation structures reach all parts of civil society and remain representative and active over the long term, whilst reconciling environmental, social and economic concerns in local and global actions. In this context, it is vital to promote local actions in parallel with global ones and to involve civil society closely: this approach is the best way of ensuring that everyone at whom the actions are ultimately targeted identifies with the steps taken.

6. A representative and active civil society over the long term

6.1 In a system of multilevel governance as applied in the European Union, it would be inappropriate to rely solely on democratically elected representative institutions to ensure that the public are involved in the discussions and the decision-making process.

6.2 The Aarhus Convention, which was negotiated within the framework of the United Nations Economic Commission for Europe (UNECE), sets out the principles for effective public participation in decision-making in environmental matters. It relates to rights concerning access to information, public participation in the decision-making process and access to justice, all in relation to the environment.

6.3 The Aarhus Convention specifies that all public-law bodies must make any environmental information they hold available to any person requesting it, without that person having to prove his identity or give reasons for the request. In its opinion on Directive 2003/4/EC, the EESC criticised the fact that certain elements of the transposition of this Convention into Community law did not comply with the provisions of the Convention, *inter alia* regarding the concept of 'qualified entities' authorised to access information. The EESC feels that the aforementioned directive needs to be revised. It also regrets the fact that there has been no EU-level evaluation of the application of this Convention, now that the states that have ratified it are required to produce a report on its application.

6.4 First of all, it will be necessary to define the target population who will be called on to participate in drafting and developing sustainable development policies; It would also be worthwhile, at this stage, to decide on the procedures for recruiting volunteers, and to establish concrete objectives, a methodology and procedures for assessing and publishing results.

6.5 As sustainable development directly affects all citizens, without exception, the group expressing their opinions can only be truly representative if it is based on a broad spectrum of socio-demographic characteristics and a wide variety of expertise and opinions.

6.6 It is therefore important to identify the problems clearly and to establish specific priority objectives to aim for over the short to medium term, taking account of the social and cultural dimensions of the problems, which should be close to people's real interests. This involves prioritising the problems and dealing with them according to their priority, the seriousness of the impact and damage they involve, and the cost of resolving them.

6.7 The public needs to be able to see participation in terms of empowerment: in other words, they need to be involved in initiatives at an early stage, when the strategy and the projects are being planned, and to play an active role in each stage of the process.

6.8 At each stage of discussions and of the process of achieving consensus on solutions, a person with experience in leading discussions and with no ties to any interest groups should be designated as a 'sustainable development mediator' at local, regional or national level; this person should be responsible for informing, encouraging and recruiting all interested individuals who wish to take part. He or she should coordinate all the activities centrally, ensuring that all views are heard and that all the participants have the opportunity to take part in the debate and preventing abuses.

6.9 This mediator should also act as a go-between and spokesperson in the public arena and to the media, in order to give sustainable development advocates a voice, to ensure that the information provided is accurate and to ensure that the press does not monopolise public attention with biased reporting; he or she should also cooperate closely with those responsible for schools to broaden awareness of sustainable development from a very young age.

6.10 In order to encourage as many people as possible to be actively involved in the decision-making process surrounding sustainable development, it will be necessary to analyse and combat the reasons why much of society is looking on hesitantly from the sidelines.

7. Removing the barriers to active participation by civil society

7.1 Lifestyle changes and measures to counter the damage done to ecosystems have become the subject of a long-term plan, rather than a short-term operational reality. The challenges are still too often perceived as if these environmental problems were only slowly growing to a catastrophic scale, negligible at the moment but ultimately disastrous. This is a utilitarian vision that limits environmental awareness to daily life and to visible effects and pollution, and disregards imperceptible, as yet unrealised, potential risks.

7.2 In order for the public to understand why it is important to change behaviour, they need to be given information and explanations in clear language that avoids specialised and overly sophisticated terminology, while nonetheless avoiding lapsing into sloganeering or replacing science with emotions.

7.3 Better communications, using a variety of media to send clear, comprehensible messages, would doubtless help the public to identify more with the problems facing them and with the action that needs to be taken.

7.4 The messages sent also need to be objective. Bombarding the public with crude figures, presented as irrefutable facts even though they are rather unconvincing – such as the former US vice-president's claim that the Arctic summer ice cap would have disappeared in five years – is counter-productive. Such declarations will ultimately result in people distrusting political decision-makers and being indifferent to the real problems.

7.5 The doom-mongers prophesying imminent, undeniable major disasters are creating a climate of chronic fear that leads to selfishness and acts as a pretext for NIMBY (not in my backyard) attitudes that damage social cohesion and sustainable development. Revealing examples of this inward-looking tendency include campaigns against the installation of wind turbines because they disfigure the countryside, and the uncontrolled burning of waste in order to avoid paying collection charges.

7.6 This indifference is a serious matter, because, although the consequences will probably not be as dramatic as some would have us believe, there are problems that call for rapid solutions. In line with the precautionary principle, it is better to respond to potentially dangerous situations without waiting for the danger to be confirmed scientifically.

7.7 It must be ensured that the results and successes of civic participation are documented and publicised outside the specialist community, bearing in mind that examples of best practice are an excellent way of sharing progress.

7.8 Steps must be taken to ensure that civil society remains committed over the long term, the proposals made by the public that have been implemented in practice (even if only in part) need to be highlighted and publicised.

7.9 More effort needs to be put into research into methods of changing people's behaviour; one very useful such method is certainly to integrate sustainable development education into national education systems, in order to make children aware of these issues from an early age. It is in this spirit that the EESC has launched a debate on the feasibility of a European network of national clean-energy education and training forums.

8. Evaluation of actions

8.1 The large number of stakeholders means that there is a great deal of diversity in the actions, in terms of both form and substance. It is therefore practically impossible to compare them, and it is rarely possible to find a common frame of reference, which is why it is vital to undertake a regular evaluation of the actions from the point of view of sustainable development.

8.2 Moreover, the instrumentalisation of sustainable development, on the one hand, and at times excessive regulation, on the other, necessitate ongoing evaluation based on project progress indicators.

9. Evaluation indicators

9.1 Under the action plan adopted in Rio in 1992, countries need to adopt a common system for monitoring and evaluating the progress made by sustainable development in general, and by local agendas in particular. They are also expected to develop generally agreed indicators in the economic, social and environmental fields to establish a useful foundation for decision making at all levels. There must be a consensus concerning these indicators, and they must provide a representative picture of the three dimensions of sustainable development.

9.2 The evaluation is based on a diagnosis, an analysis and recommendations, and the aim is to judge the value of a policy, programme or action. It should, however, be acknowledged that the environmental, human and social aspects are often hard to evaluate, but it is nonetheless worth making the effort to do so, because the dominance of GDP, which is, to date, the primary reference for well-being and quality of life, could encourage politicians to take decisions that damage social cohesion and the environment and to ignore the needs of future generations ⁽¹⁾.

9.3 The evaluation of sustainable development involves understanding the trends in two basic directions: firstly, evaluating the absorption capacity and, secondly, evaluating developments in the administration of human societies.

9.4 In a recent opinion (CESE 647/2010 '*Beyond GDP – Measuring progress in a changing world*'; rapporteur: Mr Josef Zbořil), the EESC welcomed the Commission's endeavours to extend national accounts to environmental and social issues. A legal framework for environmental accounting is due to be proposed in 2010. The social indicators in the national accounts are not yet being used to the full. The need to use these indicators can be expected to grow as a comprehensive and integrated approach to measuring and evaluating progress in a changing world is further refined.

⁽¹⁾ OJ C 100, 30.4.2009.

10. Evaluation method

10.1 The wide variety of programmes and actions implemented by national, regional and local authorities to encourage sustainable behaviours and lifestyles means that the evaluation needs to be multidimensional, bearing in mind that the acceptability of an evaluation varies considerably depending on the areas, methods and criteria used.

10.2 In addition, evaluation at Member State level has to be pluralistic, with the involvement of all stakeholders: the authorities in charge of planning and implementing actions; regulators; service providers; representatives of consumers; trade unions, civil society, etc. Although opinion polls are sometimes difficult to interpret, they form part of a policy of providing information, raising awareness and enabling participation by individuals and businesses, and enable them to communicate with the evaluating bodies and to pass on their complaints.

10.3 Apart from involving multiple parties, this evaluation will have to be independent and take the differing points of view into account given that not all stakeholders have the same interests, and that in some cases they may even clash and not have equivalent information and appraisals.

10.4 The environmental, economic and social effectiveness and performance of the various actions promoting sustainable development therefore cannot be assessed on the basis of a single criterion; a full range of criteria must be used.

10.5 Evaluation is only meaningful if it is connected with the designated objectives and tasks, which derive from the three pillars of the Lisbon strategy (economic growth, social cohesion and environmental protection). It therefore needs to be based on multiple criteria.

10.6 As the EESC proposed with regard to services of general interest ⁽²⁾, the evaluation system will have to be based on periodic reports drawn up at national or local levels by evaluating bodies set up by the Member States in line with the above principles.

10.7 At EU level the task will be to lay down the procedures for exchange, collation, comparison and coordination. It will therefore be up to the European Union to stimulate the process of independent evaluation, by defining a harmonised evaluation methodology at European level based on common indicators, through consultation with the representatives of stakeholders. It also needs to provide the means for this methodology to operate.

10.8 To ensure the relevance and usefulness of the evaluation, a Steering Committee should be set up representing the diverse interests of all stakeholders. The mission of this Steering Committee would fall perfectly within the remit of the European Environment Agency, in cooperation with the EESC's Sustainable Development Observatory.

10.9 This Steering Committee would be responsible for:

- defining appropriate indicators;
- evaluation methods;
- specifications for the requisite studies;
- commissioning such studies on the basis of multiple expert opinions, and comparing results obtained elsewhere;
- a critical review of reports;
- extrapolating best practice and innovative approaches;
- recommendations;
- disseminating findings.

10.10 Discussions with all stakeholders on assessment reports could take the form of an annual conference on the performance of actions to promote sustainable development, at which examples of best practice could be presented.

Brussels, 26 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽²⁾ OJ C 162, 25.6.2008, p. 42.

Opinion of the European Economic and Social Committee on 'International trade and climate change'

(2011/C 21/03)

Rapporteur: **Ms PICHENOT**

On 26 February 2009, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

International trade and climate change.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 154 votes to four with seven abstentions.

1. Recommendations

1.1 As an integral part of the Europe 2020 Strategy, any new trade policy must respond to environmental concerns, while avoiding the temptation of reverting to protectionism. It must help develop a more innovative, environmentally friendly marketplace and promote the social welfare of its people. To embody this aim, the EU can lead by example, adopting a different path for its growth and steering it towards a low-carbon model; in this way, it will be able to retain its leading role in efforts to combat climate change. The impact of economic growth, transport and the spread of technologies means that international trade represents one aspect of the debates on climate change and the transition to a green economy which cannot be ignored.

1.2 The Committee strongly hopes that any overall conclusion of the Doha round at the WTO will facilitate trade in environmental goods and services by a substantial reduction in tariff and non-tariff barriers. At the same time, the Committee also feels that the EU must lead by example by facilitating the transfer of 'green' technologies in its bilateral and regional trade agreements.

1.3 With a view to any future trade strategy, the EESC recommends that more research be carried out into the social and environmental impact on climate change, including the management of water issues. It calls on civil society in Europe and in non-member countries to take part in impact studies ahead of bilateral and regional trade negotiations, particularly in the area of sustainable development.

1.4 With regard to transport, the EESC supports the adoption of global UNFCCC objectives to cut air transport emissions by 10 % and maritime emissions by 20 %. The decision to share reduction efforts will also affect the transport sector, since air transport will be gradually included in the Emissions Trading System (ETS) from 2012. A European initiative to identify ambitious energy efficiency objectives in transport by sea would help in these efforts.

1.5 Given the uncertainty surrounding the climate change agreement and follow-up measures adopted in Copenhagen in December 2009, provision was made in the Climate and Energy Package that a report would be published in June 2010 using the co-decision procedure with the European Parliament and setting out 'appropriate measures' for sectors at risk of carbon leakage as a result of exposure to international competition and/or the additional costs imposed by the EU's CO₂ price. Although the problem is not yet in evidence, carbon leakage may well be an issue from 2013 on. This risk is likely to grow as the EU gradually increases the volume of auctioned quotas and as major non-EU emitting countries stall over the introduction of an emissions trading system or internal tax.

1.6 In the short-term, moves to curb the risk of carbon leakage must include, as a matter of priority, an increase in the number of emission quotas allocated free of charge, with actual figures contingent on the progress and outcome of the multilateral climate change negotiations. Free allocation – focusing on at-risk sectors and framed in line with best practice, taking due account both of the need for more open trade and of the additional cost of carbon – must be seen as a transitional solution, based on empirical reasoning, compliant with international trade rules and a low-carbon model.

1.7 It will not be possible to justify border adjustment at the WTO if the European Union continues to favour free allocation – the ETS may only be considered to be a tax (and therefore adjustable at borders) if all the quotas are auctioned. The best way forward would be to make use of adjustment mechanisms for a transitional period on a handful of tariff lines where there is a genuine risk of carbon leakage and where all recourse to free allocation has been exhausted. Any adjustments must be highly focused, duly warranted and designed solely to keep any temperature increase to less than 2 °C – which is after all the principal achievement of Copenhagen – if they are to hold water before the WTO's Dispute Settlement Body.

1.8 Considering the slow and uncertain progress of the plans to set up emissions trading schemes around the world, the EU Member States will, for a number of years to come, remain among the few countries to have set a price for CO₂. Given the future risk of carbon leakage in a number of European sectors subject to the ETS, the European Economic and Social Committee also recommends a significant increase in long-term investment levels designed to foster the decarbonisation of the economy, and the establishment of a stable and predictable incentive-based framework for the promotion of innovation, research and development in the field of as-yet unmarketable clean technologies.

1.9 If it is to develop a green economy and maintain its leading role in this area, Europe should, in its own interest and in the interest of the climate, retain its very ambitious goal of gradually cutting its emissions by 80 % by 2050 with, for example, an intermediary objective of 25 to 40 % between 2020 and 2030. The Committee suggests carrying out impact assessments (environment, employment and development) to plan for the transitions between 2020 and 2050.

1.10 The fight against climate change requires strong collective public action at both national and European level. In addition to market pressure (ETS), governments must quickly put in place targeted financial and tax incentives and boost R&D investment in clean technologies and services. Local and regional authorities can support the development of clean technologies through the public procurement process.

1.11 Consumers – along with producers who emit CO₂ – are also urged to play a role in combating greenhouse gas emissions directly through trade. The Committee calls for harmonisation and greater stability in the methodology used to measure the carbon impact of products, covering all stages of the production process, from conception to distribution. Accordingly, the Committee recommends improving life cycle analyses by boosting methodological research on ‘carbon accounting.’ If the introduction of carbon content standards and labelling is to remain a matter for the private sector and decentralised across the EU, it will be essential to put in place a joint framework for measurement and assessment under the responsibility of the Commission or a dedicated agency.

1.12 In anticipation of future case law at the WTO's Dispute Settlement Body, the EESC recommends clarifying the extent to which production methods and processes may justify a restriction in trade under the pretext of the environmental exemption⁽¹⁾. It recommends broadening the remit of the WTO's Trade and Environment Committee with a view to examining the legal consequences of the USA shrimp dispute.

⁽¹⁾ Article XX of the General Agreement on Tariffs and Trade (GATT) provides for the possibility of an exemption from free trade rules if such measures are justified for the protection of the environment.

2. Globalisation and climate

2.1 Recent decades have been marked by an unprecedented expansion of international trade (21 % of global GDP in 2007, excluding intra-European trade), albeit there was a 12 % fall in 2009 as a result of the crisis. The impact of economic growth, transport and the spread of technologies is making international trade an inescapable element of the climate change debate.

2.2 To date, no complete theory has yet been advanced to establish or detail all the ways in which climate and trade intersect and overlap⁽²⁾. Researchers use three interlinked variables to measure trade impacts on the climate and the environment in general: (i) the ‘scale’ effect: trade is instrumental in boosting economic activity and thus, assuming that technology remains constant, increases emissions; (ii) the ‘composition’ effect: as the production mix changes to reflect comparative advantages, higher or lower emissions may be expected depending on the ‘polluting impact’ – or otherwise – of the production sectors in which the countries concerned specialise in the wake of globalisation; (iii) the ‘technique’ effect: under pressure from civil society, with support from business and at government instigation, cleaner, emissions-reducing technologies emerge. European businesses subject to the ETS have helped ensure that the EU has achieved its reduction targets under the Kyoto Protocol.

2.3 Taken together, these three trade effects are detrimental in terms of CO₂ emissions, given the sheer volume of trade involved, which cannot yet be offset by the spread of clean technologies. The distance between the various production sites and the end user is not the sole or necessarily the most important factor to be taken into account in the carbon assessment.

2.4 However, one specific climate link is the impact of trade on transport⁽³⁾ and, ultimately, on emissions. Today, 95 % of the total energy used by transport across the world comes from oil – with the national and international transport sector contributing slightly less than 15 % of overall greenhouse gas emissions (GHG).

2.5 Most international trade is conducted using maritime transport (90 % by weight). It is still among the least polluting transport modes in terms of CO₂ emissions per kilometre and per tonne of transported goods. Nonetheless, the growth forecasts for the sector do have to be taken into account. According to the International Maritime Organisation (IMO), maritime transport emissions could triple between now and 2050, particularly as a result of the increase in South-South trade.

⁽²⁾ *Trade and climate change* (WTO and UNEP, June 2009).

⁽³⁾ CESE 461/2010, not yet published in the OJ.

2.6 The threat of a water crisis is another grave consequence of climate warming. If no preventive action is taken, by 2020 half of the world's population could face the risk of water shortage. Already over 1.5 billion people worldwide have no access to drinking water or sewage facilities. Furthermore, in some places, agriculture will also suffer from a shortage of water, making trade a strategic element in the pursuit of national interests in the field of energy, climate and food security. By helping ensure the efficient allocation of scarce resources, international trade could help limit global pressure on water resources.

3. The potential role of trade in disseminating of climate mitigation and adaptation technologies

3.1 The Intergovernmental Panel on Climate Change (IPCC) has recommended a series of mitigation and adaptation technologies to help resolve climate change issues. Many of these technologies are under discussion in the negotiations on environmental goods and services which are currently underway within the WTO, including wind and hydroelectric turbines, solar-powered boilers, solar cells or equipment required to operate facilities and technologies powered by renewable energy.

3.2 These negotiations on environmental goods and services held as part of the Doha round may help improve access to climate-friendly goods and technologies. However, in the immediate term, we can only expect limited climate gains from trade liberalisation. For a wide range of products – and renewable energies in particular – tariff barriers are either low or moderate (an average of 2 % in rich countries and 6 % in developing countries). Conversely, obstacles to investment and non-tariff barriers continue to seriously hamper the spread of such products (not least technical and industrial norms, administrative red tape, the requirement that service providers must have a commercial presence in the importing country and restrictions on the activity of foreign businesses).

3.3 With a view to any future trade strategy planned by the Commission for 2020, the EESC feels that this opinion already provides some background data on the declared objective of identifying 'trade opening initiatives for sectors of the future, such as "green" products and technologies, high-tech products and services, and on international standardisation in particular in growth areas.' In particular, the EESC recommends that more research be carried out into the social and environmental impact on climate change, including the management of water issues. It calls on civil society in Europe and in non-member countries to take part in impact studies ahead of bilateral and regional trade negotiations, particularly in the area of sustainable development.

3.4 International trade can play a role in technology transfer in relation to drinking water (seawater desalinisation facilities, wastewater reuse and water treatment techniques). This aspect should therefore be taken into account in any separate

negotiations on trade in environmental goods and services, as called for by the EESC.

3.5 With regard to transport, the EESC supports the adoption of global UNFCCC objectives to cut air transport emissions by 10 % and maritime emissions by 20 %. The decision to share reduction efforts will also have an impact on the transport sector, since air transport will be gradually included in the ETS from 2012. A European initiative to identify ambitious energy efficiency objectives in transport by sea would help in these efforts.

3.6 Greater protection for intellectual property rights is cited time and again as one of the stumbling blocks to the spread of clean technologies and related services. Studies have shown that there has been a substantial increase in intellectual property rights, especially patents, since the end of the 1990s. While it is true that patents in particular make it possible for holders to restrict the availability, deployment and development of technologies that can be used to combat climate change, these recent studies show that intellectual property rights are a key issue in long-term investments and in the development of as-yet unavailable technologies. Nonetheless, they do not, in the short term, appear to be the most significant obstacle to the spread of clean technologies. The current average cost of patents for marketable technologies remains, if anything, on the low side. It is more important to resolve issues such as weak enforcement of – and poor compliance with – intellectual property rights, which still act as a disincentive to exports to certain countries.

3.7 The fight against climate change requires strong collective public action at both national and European level. In addition to market pressure (ETS), governments must quickly put in place targeted financial and tax incentives and boost R&D investment in as-yet unmarketable technologies and services. Local and regional authorities can support the development of clean technologies through the public procurement process.

3.8 Given the link between open trade and growth, the issue of the responsibility which businesses and consumers in importing countries have for emissions remains open. Half of all exports from China go to Europe and the USA. Consideration must be given to 'carbon accounting' that is not restricted to primary emission sources and upstream sectors but covers every link in the chain, from conception to distribution.

3.9 The Committee notes that the geographic fragmentation and highly mobile nature of globalised sectors currently makes it difficult to secure any precise and credible measurement of a product's carbon content. This difficulty, which is perhaps inevitable when a large number of activities and tasks take place at the same time, does not make it easy to put in place trade policies that seek to inform and raise consumer awareness, including private labelling initiatives, environmental labelling and certification. Changes in individuals' behaviour and choice during times of crisis demonstrate that such mechanisms need to be encouraged, albeit, in the Committee's view, they cannot take the place of government regulation, including the taxation

of emissions at source. The Committee recommends improving life-cycle analyses and carrying out more research on complex methodological issues, including not only carbon accounting but also the financial aspects of putting in place a modulated system of carbon accounting system for all stakeholders involved throughout the process in the sector concerned.

3.10 Any effective environmental policy must be able to differentiate between products on the basis of the production methods and processes used. The transition towards a low-carbon economy will only become a reality if it is possible to determine which products are manufactured using methods producing low GHG emissions. Some techniques should therefore be favoured over others. Giving consumers scope to decide for themselves, on the basis of special labelling, whether to opt for one product or another depending on the environmental credentials (if any) of the production method used would alter the competitive playing field and make it possible to distinguish between two products on the basis of their how they were produced.

3.11 In a world where the price of CO₂ varies, the question of product similarity – a key concept for the WTO – cannot be ignored in debates on trade and climate. The EESC recommends clarifying, in anticipation of future case law at the WTO's Dispute Settlement Body, the extent to which production methods and processes may justify a restriction in trade under the pretext of the environmental exemption⁽⁴⁾. It recommends broadening the remit of the WTO's Trade and Environment Committee with a view to examining the legal consequences of the USA-shrimp dispute.

4. Links between competitiveness and climate

4.1 Trade and climate negotiations work on two different timescales: the former involves very long-term policies and measures, the while the latter is focused more on immediate action. It is the overlap between these timeframes that makes the relationship between trade and climate policy so complex. Climate measures may impact trade in the short time, whereas the effects of trade measures on the climate are only felt over a very substantial timeframe.

4.2 In an ideal world, there would be a single, fixed price for CO₂ that would propel the world's economies to higher growth with lower greenhouse gas emissions without discriminating or distorting competition between different countries. As the ongoing climate change debate demonstrates, that ideal world will not emerge overnight. There will be no fixed global price for CO₂ for many years to come, given that it currently varies from EUR 20 to EUR 30 per tonne (depending on the anticipated average across Europe) to zero in the vast majority of other countries or regions.

4.3 The EESC recognises that, in this imperfect world, the risks of losing the competitive edge and of carbon leakage (where GHG emitting industries relocate away from countries and regions where CO₂ is taxed most heavily) primarily affect that group of countries that are most committed to CO₂ emission taxation, i.e. Europe. Discussions about drawing up and implementing international sectoral agreements have been ongoing for over a decade now. Given the lack of consensus, this issue is still unresolved; however, it remains an avenue for energy intensive industries to explore further. The development of low cost renewable energy and smart networks would also help limit the risk of losing competitiveness.

4.4 The Committee endorses the Commission's proposal⁽⁵⁾ along the lines of its March 2010 declaration which argued that EU business must be able to operate on a level playing field with their foreign competitors. In the short-term, sectors exposed to risks of carbon leakage may receive an additional allocation of free quotas – potentially as much as 100 % at the start of the post-Kyoto period (2013-2014).

4.5 In the long run, during the phase when all quotas are auctioned, when their price may be considered to be a tax, border adjustment mechanisms could help redress problems with competitiveness loss caused by Europe's emission reduction efforts, which will be much greater than those of its trading partners. Whether in the form of an import tax or a carbon inclusion mechanism at the border, or a requirement that European importers purchase emission credits within the Community emissions trading system (ETS) – also known as the 'European carbon market' – these mechanisms would respond to the need to internalise the climate costs of the economic activities of sectors subject to the ETS.

4.6 Studies have shown that there was no great loss of competitiveness or carbon leakage during the first two stages of EU ETS implementation. Emission quota allocations between 2005 and 2012 are both generous and, in principle, free of charge⁽⁶⁾. Given the absence of a global carbon market – which would still be the ideal solution – the European Economic and

⁽⁴⁾ See footnote on page 16.

⁽⁵⁾ Directive 2009/29/EC, OJ L 140, 5.6.2009, p. 63.

⁽⁶⁾ The first phase of the ETS (2005-2007) was a pilot learning stage which made it possible to establish the price of carbon, the free-trading of emissions quotas across the whole EU and the infrastructure needed to monitor, report and verify the actual emissions levels of the businesses concerned. Phase 2 (2008-2012) coincided with the first commitment period of the Kyoto protocol – the five-year period during which the EU and its Member States must meet their emission targets, as set out in the protocol. An over-allocation of quotas during the first phase led to a collapse in CO₂ prices at the start of the second phase. Over-allocation has continued in a number of sectors during the second stage.

Social Committee supports the emergence of various cap-and-trading systems for emissions rights, based on the European system or other equally effective cap-and-trading systems. It recommends examining all the problems and solutions relating to harmonisation by drawing on regional moves towards integration and taking due account of changing exchange rates.

4.7 There will be a risk of loss of competitiveness and carbon leakage during the third ETS phase (2013-2020) which will see the gradual introduction of allocation by auction and an annual reduction in available emissions quotas in order to achieve the 2020 objective of a 20 % reduction in emissions compared with 1990 levels. Eventually, 100 % of quotas will be auctioned by 2025, with a minimum level of 70 % in 2020. Although the 30 % emission reduction rate has been maintained, we would do well to review the auctioning thresholds and adjust them in the light of outcomes in the other countries committed under the Copenhagen Accord.

5. Europe's response: the Climate and Energy Package and its impact on trade

5.1 In view of the risk of a loss of competitiveness and carbon 'leakage' arising from gradual moves towards quota auctioning and emissions capping in 2020, the Commission's Climate and Energy Package proposed a two-stage response. The first stage consists of identifying which sectors are at risk on the basis of two criteria: trade intensity (openness to trade from outside Europe) and the impact of the CO₂ price. A preliminary list of 'at risk' sectors was drawn up in December 2009 and will be reviewed every five years. Between 200 and 300 sectors⁽⁷⁾ were examined by the Commission. The European Economic and Social Committee recommends that only those sectors which meet both criteria – CO₂ price and trade intensity – should be eligible for a 100 % free CO₂ quota allocation from 2013 based on common performance-based indicators. Initial research has identified a handful of sectors where this would

apply. On that basis, the Committee notes that only 11 sectors⁽⁸⁾ have met the joint criteria of CO₂ price and trade intensity.

5.2 Non-binding and lacking in ambition, the Copenhagen Accord remains far short of the outcome hoped for by the EESC in its November 2009 declaration. Lacking the legal validity of a treaty and taking the form of a declaration, it also failed to resolve the issue of the future of the Kyoto protocol. However, it does have the advantage of providing a good initial basis for registering and comparing national mitigation efforts. In the appendix to the Copenhagen Accord, Europe reiterates its conditional offer to move to a 30 % reduction in GHG emissions 'provided that other developed countries commit themselves to comparable emission reductions'.

5.3 In the light of other industrialised countries' level of commitment, Europe could stick to its reduction target of 20 %. By so doing, it would opt to limit potential difficulties in terms of loss of competitiveness and carbon leakage for those European sectors subject to the EU ETS. However, this option would not completely eliminate the problem of carbon leakage, and this for two reasons:

- Firstly, the reduction targets and commitments for other countries are confined to the appendix to the Copenhagen Accord, without any clearly defined legal mechanism to compare emissions levels between countries.
- Secondly, in spite of the news that a number of carbon markets would be set up around the world (Canada in 2010, Australia in 2011, USA in 2012), there have been continued delays in their start-dates. The expected CO₂ price on these still very limited markets continues to be below the average EU price.

5.4 By making its pledge to cut emissions by 30 % in 2020 conditional on the efforts and commitments of other countries, Europe has made its moves to foster decarbonisation through increased investment in clean technologies contingent on the adoption of a hypothetical multilateral agreement to prompt a genuine shift in its development path towards a low-carbon model and thus reduce its emission levels by 75 % by 2050. Irrespective of any conditions or objectives of this type, USA and China consider the gradual decarbonisation of the economy to be a one-sided process of bottom-up investment and innovation. In one sense, the Copenhagen Accord is a gamble on technology. This is a gamble which Europe must also take on.

⁽⁷⁾ In accordance with Article 10a(15) of Directive 2003/87/EC, 'a sector or subsector shall be deemed to be exposed to a significant risk of carbon leakage if the sum of direct and indirect additional costs induced by the implementation of that Directive would lead to a substantial increase of production costs, calculated as a proportion of the gross value added, of at least 5 %; and the intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the Community (annual turn over plus total imports from third countries), is above 10 %.' These sectors are: the manufacture of starches and starch products, the manufacture of sugar, the manufacture of other non-distilled fermented beverages, the production of ethyl alcohol from fermented materials, the manufacture of paper and paperboard, the manufacture of refined petroleum products, the manufacture of flat glass, the manufacture of hollow glass, the manufacture of ceramic tiles and flags, the manufacture of cast iron tubes, and lead, zinc and tin production. If we add to these two criteria the criterion of an additional cost of 30 % or trade opening in excess of 30 %, the list will be extended to include 16 other sectors or a total of 27 sectors.

⁽⁸⁾ Commission Decision of 24.12.2009, notified under document C(2009) 10251 (1), OJ L 1, 5.1.2010, pp. 10-18.

5.5 If it is to develop a green economy and maintain its leading role in this area, Europe should, in its own interest and in the interest of the climate, retain its very ambitious goal of gradually cutting its emissions by 80 % by 2050, with, for example, an intermediary objective of 25 % to 40 % cuts between 2020 and 2030. The Committee suggests carrying out impact assessments (environment, employment and development) to plan for the transitions between 2020 and 2050.

5.6 Establishing this intermediary objective must be accompanied by regulatory and taxation measures which promote increased investment in research and development in clean technologies. As highlighted in the European Commission's *Europe 2020 Communication*⁽⁹⁾, R&D spending is less than 2 % in Europe, compared to 2,6 % in the USA and 3,4 % in Japan. This is primarily due to low levels of private investment. These low R&D expenditure levels are out of step with the EU's goals (3 %) and do not reflect the importance of climate issues. To give this objective practical shape, the Committee suggests carrying out impact assessments (environment, employment and development) to plan for the transition to the next stage in 2020 and subsequent stages (2030, 2040, 2050).

5.7 In both cases – the timid or the bold option – there is a risk that, for a number of years to come, EU Member States will be among the few countries to have set a price for CO₂ (at a sensible level) through an emissions trading system. Without abandoning its major multilateral ambitions for future meetings of the Conference of the Parties (COP) in Mexico (2010) and India (2011), Europe must not run the risk of neglecting 'bottom-up' research, innovation and investment policies. However, by pinning all its hopes on the impact of

the carbon market, the EU runs the risk of neglecting other policies that could be useful in promoting research, innovation and investment. Already, when compared with Asia and America, it is clear that the various recovery plans launched in Europe have failed in this regard.

5.8 The European Economic and Social Committee recommends adopting a circumspect and pragmatic approach to the way it tackles carbon leakage. Already widespread, free allocation should continue to be promoted in line with the EU's strategic choices. It will not be possible to justify border adjustment at the WTO if the European Union continues to promote free allocation – the Community emissions trading system (ETS) may only be considered to be a tax (and therefore adjustable at borders) if the quotas are fully auctioned. The best way forward would be to make use of adjustment mechanisms for a transitional period on a handful of tariff lines where there is a genuine risk of carbon leakage and where recourse to free allocation has already been exhausted. Any adjustments must be highly focused, duly warranted and designed solely to keep any temperature increase to less than 2 °C – which is after all the principal achievement of Copenhagen – if they are held water before the WTO's Dispute Settlement Body.

5.9 In the medium term, an approach of this kind will require the provision of consistent funding for a European mitigation policy. Such a policy is already underway via pilot projects on carbon capture and storage and including a committee designed to monitor investments and the sharing of intellectual property. Transitional adjustment measures will only be credible if they are backed up by innovation policies geared towards identifying sustainable development solutions.

Brussels, 26 May 2010.

*The President
of the European Economic and Social Committee*
Mario SEPI

⁽⁹⁾ COM(2010) 2020 *Europe 2020: A strategy for smart, sustainable and inclusive growth*.

Opinion of the European Economic and Social Committee on 'EU-ASEAN Relations'

(2011/C 21/04)

Rapporteur: **Claudio CAPPELLINI**

On 26 February 2009, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

EU-ASEAN Relations.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2010. The rapporteur was Claudio Cappellini.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 163 votes to with 5 abstentions.

1. Conclusions and recommendations

1.1 The EESC stresses the centrality and need for renewed and more incisive relations between EU institutions and ASEAN. To this end, this opinion follows up on earlier EESC opinions on the same issue⁽¹⁾ which more than ten years ago had already stressed how important it was for the EU to focus more on Southeast Asia. They also pointed out the fundamental contribution that the EU could have made to regional integration in Asia.

1.2 The EESC notes, however, that the hoped-for progress in EU-ASEAN dialogue has not progressed as expected. Despite financial and other efforts to promote structured EU-ASEAN dialogue, bilateral negotiations in various areas (political, cooperation, trade, etc.), concrete results are weak and dialogue with and between civil society is still operating below its potential. The intervening decade seems to have been more of a missed opportunity than a time for developing a partnership with a region that is considered strategic to EU interests in the world⁽²⁾. Trade negotiations are emblematic of the situation. While the EU and ASEAN agreed to suspend negotiations, ASEAN has concluded trade agreements with other key geo-economic entities (China, India, Australia, and negotiations are underway with the USA, South Korea and Japan).

1.3 Today, in a profoundly different international environment, where political and economic constraints are stronger than they were a decade ago but where new opportunities for integration and dialogue have emerged, this EESC opinion seeks to put forward a number of practical proposals for relaunching EU-ASEAN relations.

1.4 The Committee reiterates the fact that guarantees for decent work that respect human dignity and compliance with the eight ILO Conventions embodying core labour standards

remain absolute prerequisites for moving forward in regional partnership. In the case of Myanmar the issue of human rights protection is an insurmountable obstacle to entering into negotiations with this country, as effectively underlined by the European Parliament in January 2008. The EESC nevertheless welcomes the fact that EU-ASEAN trade negotiations are setting more ambitious targets than other trade agreements concluded with ASEAN, especially for labour and environmental standards, and social dialogue⁽³⁾. *In this light, the bilateral approach (see point 4.2.2) should be seen as a first step towards regional or multilateral trade agreements, and not their abandonment. In its Opinion on New Trade agreements negotiations (CESE 773/2008) in April 2008, the Committee made it clear that in these as well as other negotiations foreseen in its 'Global Europe' Communication, the Commission should make the 27 conventions listed by the GSP Plus system 'represent the minimum threshold for discussing the Sustainable development chapter in the negotiations with the Asian countries'. This included the negotiations with ASEAN. However, the Opinion recognised that this would need to 'be evaluated on a case by case basis'. This Opinion also made it clear that bilateral agreements (see point 1.2) 'must be seen as compatible with and indeed eventually strengthening multilateralism'.*

1.5 Experience has shown the advantages to both sides of cooperation and dialogue with international partners in various parts of the world. They permit better mutual understanding and a more effective approach to the challenges and problems to be resolved. For this reason, the EESC stresses the need for greater social partner and civil society involvement (at EU level as well as in third countries) in socio-economic sustainability impact assessments on free trade agreements with ASEAN countries. Their involvement is also required in assessing the vulnerability of the social groups most exposed to competition and the need to build the capacity of civil society and foster sustainable development in the EU-ASEAN structured dialogue. It is worth stressing that relations with the EU have been more effective in those ASEAN countries (such as Indonesia, Thailand and the Philippines) where civil society organisations are more deeply rooted. The current challenge is to find effective ways

⁽¹⁾ EXT/132 of 1996; EXT/153 of 1997.

⁽²⁾ See European Commission Communication on 'Global Europe: competing in the world', 2006.

⁽³⁾ Although it is clearly impossible to compare the two situations, Chapter 13 of the EU-South Korea free trade agreement could serve as a useful reference model.

of cooperating with the weaker civil society organisations in the other countries of the region.

1.6 The EESC hopes – and is ready – to work with other EU institutions in this area in order to foster and facilitate strengthened dialogue with civil society in ASEAN countries and contribute its expertise to that end, especially with regard to the most vulnerable groups. This could certainly be facilitated and bolstered if carried out in close cooperation and coordination with the new diplomatic service for EU external relations.

1.7 The Committee advocates the launch of an **integrated and inclusive platform of EU-ASEAN social organisations** to support key themes in the inter-regional integration process, as well as to support the capacity building of organisations that represent the needs of local civil society, especially in countries where such organisations are weaker. This new instrument for cooperation between EU-ASEAN civil society players would promote an integrated capacity building strategy through experience sharing on specific case studies and various aspects of the integration process, such as socio-cultural dialogue, cooperation in science and production, services of general interest and crisis management.

1.8 With this in mind, the Committee recommends assessing the feasibility of setting up a **European foundation** – possibly with the involvement of the ASEAN Foundation ⁽⁴⁾ and/or the Asia-Europe Foundation (ASEF) ⁽⁵⁾ – specifically geared to EU-ASEAN social, civil, professional and intercultural dialogue. A realistic annual activity programme could then allow useful monitoring to be carried out for interested EU institutions.

1.9 In the short term, the Committee also suggests introducing an **'annual report' on the state of play for participatory models and systems in ASEAN** in order to assess progress made, with specific areas of focus, such as food security, water and health. The report would enable the regular screening and monitoring of activities implemented on the ground in order to promote the socio-cultural dimension. It could also facilitate comparison between similar models and actions implemented by key international organisations,

especially the FAO, as well as other international players (e.g. the USA and Japan).

1.10 Finally, in order to promote dialogue and institutional cooperation between the social partners, the Committee suggests setting up a **permanent dialogue between ASEAN officials and delegates to the EESC** to generate opportunities for regular institutional discussions and cooperation, including in connection with the main events of the organisation and the key moments in EU-ASEAN and ASEM structured dialogue. For example, the Commission should promote permanent dialogue between ASEAN representatives at all levels and European (and interested national) organised civil society representatives on the basis of a shared and realistic action programme (e.g. discussion of EESC opinions on ASEAN member states). The results of such activities should provide for forms of qualitative assessment that are easy to understand in all EU and ASEAN languages. An EU-ASEAN forum in this field, promoted by the EESC, could be of interest to various institutions and public and private entities.

2. ASEAN: characteristics and history

2.1 Since its establishment, ASEAN has developed gradually and in stages to assume, over time, a different and more complex form. Although it was set up during the geopolitics of the Cold War for reasons of regional stability, to give legitimacy to newly independent nations, and to promote multilateralism, ASEAN has gradually extended its regional integration process, initially economic and commercial, to a more advanced form of institutional, economic, and socio-cultural integration, partly in reaction to the economic crisis of 1997.

2.2 Since the conclusion of the Rome treaties – but even more recently, following the introduction of the single currency and the enlargement to Eastern Europe –, the EU has been a 'natural source of inspiration' for ASEAN, and EU-ASEAN structured dialogue has certainly influenced the more recent developments in Southeast Asian integration. The ASEAN Charter of 15 December 2008 ⁽⁶⁾ gave the association legal personality. At the 14th ASEAN Summit of Heads of State and Government, in 2009, ASEAN outlined a roadmap for establishing a common market by 2015. The ASEAN Community has thus created a three-pillar structure for itself, namely the Economic Community (AEC), the Political-Security Community (APSC) and the Socio-Cultural Community (ASCC) ⁽⁷⁾.

⁽⁴⁾ The ASEAN Foundation was set up on 15 December 1997 in Kuala Lumpur during the Association's 30th Anniversary Commemorative Summit. It aims to promote the livelihoods and well-being of the peoples of South East Asia, as well as better awareness of the advantages of regional integration through people-to-people contact and collaboration with social and academic institutions.

⁽⁵⁾ The Asia-Europe Foundation (ASEF) was founded in February 1997 by ASEAN countries. It promotes dialogue and cooperation between Asian and European nations through intellectual, cultural and people-to-people exchanges involving civil society and communities.

⁽⁶⁾ See The ASEAN Charter, Singapore, 20 November 2007. This constitutional treaty, comprising a preamble, thirteen chapters and fifty-five articles, provides the association's architectural framework.

⁽⁷⁾ See the ASEAN Economic Community (AEC) Blueprint (Singapore, 20 November 2007), the ASEAN Political-Security Community Blueprint (Cha-Am, 1 March 2009) and the Blueprint for the ASEAN Socio-Cultural Community (Cha-Am, 1 March 2009).

2.3 The implementation of the Economic Community followed the liberalisation of trade under AFTA (ASEAN Free Trade Agreement) and of investment within the ASEAN area, under the AIA agreement (ASEAN Investment Area), with a 5-year derogation for CLMV countries ⁽⁸⁾. The Political-Security Community remains essentially a matter of intergovernmental dialogue. Socio-cultural cooperation mainly concerns cooperation in education, human resource development, ICT, public employment, welfare, poverty reduction, food security, prevention and monitoring infectious diseases, natural disaster management, the protection of the rights of children, women and the differently abled, and environmental protection.

2.4 ASEAN's institutional strengthening has been accompanied by a greater international role. On 1 January 2010, free trade agreements came into force with Australia and New Zealand, with China and with India. The ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) provides for free trade in goods (99 % of major products from Indonesia, Malaysia, the Philippines and Vietnam), services and investment.

2.5 The China-ASEAN Free Trade Area (CAFTA) abolishes customs duty for 7 000 product groups (about 90 % of customs headings), creating an integrated market for a population of about 1,9 billion, with a trade volume of about 4,5 billion dollars. A transition period ending in 2015 has been granted for CLMV countries.

2.6 The ASEAN-India Trade in Goods Agreement (TIG) provides for a gradual tariff liberalisation for over 90 % of traded goods, including 'special products' such as palm oil, coffee, tea and pepper. In this case, again, the agreement establishes a massive integrated market for a population of over 1,8 billion.

2.7 ASEAN also has privileged political and economic cooperation relations with South Korea, Japan and China (ASEAN+3) and the USA, which, as we know, has strategic interests in the Southeast Pacific and has already concluded a free trade agreement with Singapore. President Obama's proposal (negotiations have been ongoing since last March) to expand the Trans-Pacific Partnership (TPP) (currently comprising Brunei, Chile, New Zealand and Singapore) to the USA as well as Australia, Peru and Vietnam is of particular strategic interest.

3. EU-ASEAN relations: state of play

3.1 The importance of EU-ASEAN relations is amply demonstrated by trade and financial relations between the two geo-economic entities. The European Commission's Communication on 'Global Europe: competing in the world' (2006) identifies ASEAN as a priority market due to its significant growth potential. Between 2004 and 2008, EU-ASEAN trade in

goods and services grew by more than 25 %, reaching EUR 175 billion in the latter year (DG Trade data).

3.2 ASEAN is now the EU's third trading partner after the USA and China, accounting for about 7 % of its total imports. The EU's trade balance with ASEAN shows a significant deficit, amounting to about EUR 25 billion in 2008 (Eurostat data). The EU mainly imports machinery (EUR 29,2 billion in 2008) and agricultural products (EUR 12,4 billion in 2008). The service sector, however, shows a trade surplus (+EUR 2,6 billion in 2007, Eurostat data).

3.3 With regard to investment, during the 2005-2007 period, EU-ASEAN capital flows increased by 200 % in value (up to a total value of EUR 105,4 billion, Eurostat data). European investors contribute about 27 % of total FDI in ASEAN, the vast majority of which goes to Singapore (65 %), followed by Malaysia (9 %), Thailand, Indonesia, Brunei and Vietnam (5-7 % each), with only 1 % going to the other countries. Nevertheless, the same period also saw a significant increase in ASEAN-EU flows, from EUR 29,7 to EUR 43,6 billion in 2007 (Eurostat data). However, 85 % of outgoing flows from ASEAN come from only two countries, namely Singapore and Malaysia ⁽⁹⁾.

3.4 Despite growth in trading and financial relations, ASEAN markets maintain significant tariff and non-tariff barriers. The removal of such barriers through an EU-ASEAN free trade agreement would entail clear benefits for the EU, especially in the services sector. There would also be advantages for ASEAN, where – although the impact would vary from country to country – the general tendency is for greater benefits to come with a higher the level of integration (see TSIA, DG Trade) ⁽¹⁰⁾.

3.5 Trade negotiations launched in July 2007 between the EU and seven non-LDC ASEAN countries ⁽¹¹⁾ were nevertheless suspended by mutual agreement, in March 2009. The significant diversity of ASEAN partners from an economic point of view (they vary in terms of human development, life expectancy, poverty levels and public spending priorities) and the range of trading policies, but also profound political differences (suffice it to consider the military dictatorship and human rights issues in Burma/Myanmar) proved insurmountable obstacles even to trade negotiations. On this issue, the EESC holds the same position as the European Parliament, which, in January 2008, expressed the view that it was not advisable to conclude a trade agreement with Burma/Myanmar under the current military regime.

⁽⁸⁾ CLMV is the acronym for the organisation's most recent members (Cambodia, Laos, Myanmar and Vietnam).

⁽⁹⁾ Eleven of the eighteen ASEAN multinationals included among the top 100 at the international level are located in Singapore and Malaysia (UNCTAD data).

⁽¹⁰⁾ DG Trade, Trade Sustainability Impact Assessment (TSIA) of the FTA between the EU and ASEAN, June 2009, TRADE07/C1/C01 – Lot 2.

⁽¹¹⁾ Indonesia, Malaysia, Singapore, Brunei, Thailand, Philippines and Vietnam.

3.6 As moves towards closer economic and trading ties ran out of steam, EU-ASEAN relations on the political and institutional front – albeit exclusively intergovernmental – have recently begun to slowly pick up. Examples include the ASEAN-EU Programme for Regional Integration Support (phase I and phase II)⁽¹²⁾, the Trans-Regional EU-ASEAN Trade Initiative (TREATI)⁽¹³⁾ and the Regional EU-ASEAN Dialogue Instrument (READI)⁽¹⁴⁾.

3.7 In addition to these agreements, the two organisations have also concluded a joint declaration on combating terrorism (14th ASEAN-EU Ministerial Meeting in 2003)⁽¹⁵⁾, and at the 16th ASEAN-EU Ministerial Meeting in Nuremberg on 15 March 2007, they adopted a joint plan of action to implement an enhanced partnership (Nuremberg Plan of Action for 2007-2012).

3.8 The EU and ASEAN maintain political cooperation in the form of joint meetings between their foreign ministers and senior officials. The 17th EU-ASEAN Meeting of Foreign Ministers, held in Phnom Penh, Cambodia, on 27 and 28 May 2009, provided an opportunity to take stock of the first two years of the implementation of the Nuremberg Plan of Action, and to address emerging issues (such as the global recession and risks relating to an A/H1N1 pandemic). It culminated in the 'Phnom Penh Agenda', which sets priorities and objectives for 2009-2010.

3.9 Although not part of EU-ASEAN dialogue, it is worth noting the positive experiences of ASEM (Asia-Europe Meeting), which currently remains the principal channel for multilateral

relations between Europe and Asia⁽¹⁶⁾. In addition to holding biennial intergovernmental summits⁽¹⁷⁾, ASEM hosts the Asia-Europe People's Forum, the Asia-Europe Parliamentary Partnership and the Asia-Europe Business Forum, as well as an internet network of scientific cooperation for education and research communities, the Trans-Eurasia Information Network (TEIN)⁽¹⁸⁾.

4. Key themes of EU-ASEAN relations

4.1 Without any pretensions to being exhaustive, the EESC believes it would be useful to focus attention on a number of priority areas and critical issues considered strategic to the future development of EU-ASEAN relations in order to provide guidelines and options for concrete action.

4.2 As already pointed out, EU-ASEAN trade negotiations are currently suspended. In order to maintain its commitment to the region, the EU has launched bilateral trade agreements with some ASEAN member states (starting with Singapore and Vietnam).

4.2.1 It is undeniable that ASEAN countries are still very diverse from a political and institutional point of view (ASEAN includes democratic, moderately democratic, and authoritarian states, as well as outright military dictatorships such as Burma/Myanmar) as well as an economic point of view (e.g. there is a clear disparity for all socio-economic development indicators between the ASEAN-6 economies and the four new CLMV countries). Moreover, ASEAN institutions (secretariat and presidency) do not have a negotiation mandate. There is also caution regarding the social cost of deep economic integration for CLMV countries⁽¹⁹⁾.

4.2.2 Nevertheless, bilateral negotiations remain a classic 'second best' option and ASEAN countries themselves have severely criticised the exclusion of certain countries (Burma, Cambodia and Laos) from negotiations. In addition, the need to promote truly regional negotiations is essential to strengthen Europe's presence in the region and to facilitate greater dialogue with China, given the close ties between the region's economies. Viewed from this angle, the launch of bilateral negotiations with ASEAN countries should be seen solely as a first step towards broader regional partnership, partly in the light of Asia's centrality to international politico-economic balances and, indirectly, EU-China relations, and partly in the light of the aim

⁽¹²⁾ The ASEAN-EU Programme for Regional Integration Support (APRIS I), signed in Jakarta in September 2003, with a contribution of EUR 4,5 million towards the attainment of the Vientiane Action Programme's goals, the implementation of the ASEAN Single Window for harmonising customs procedures, the reduction of technical trade barriers, and the alignment of quality standards in the region and technical assistance to the ASEAN secretariat. The key objectives of APRIS II (see ASEAN-EU Programme for Regional integration Support (APRIS)-Phase II, Jakarta, November 2006), however, are: with respect to trade, to promote the alignment of ASEAN standards with international standards; with respect to investment, to promote the adoption of an action plan to speed up the abolition of barriers to the inflow and free movement of capital in the region; and at the institutional level, to promote the strengthening of the ASEAN Dispute Settlement Mechanism and provide assistance to the ASEAN secretariat to ensure its efficient functioning. APRIS II regulates the 2006-2009 period and its financial coverage is guaranteed by an initial EU commitment of EUR 8,4 million. In 2007, an additional commitment of EUR 7,2 million was made in support of APRIS II initiatives, with special emphasis on achieving common standards for countries in the region in the agri-food, electronic, cosmetic and timber product sectors.

⁽¹³⁾ A programme of technical assistance that the EU has committed to provide to Southeast Asian nations to facilitate the attainment of ASEAN integration targets for agro-food and industrial product standards and technical barriers to trade. See the Trans-Regional EU-ASEAN Trade Initiative, Luang Prabang, 4 April 2003.

⁽¹⁴⁾ READI covers all non-trade areas of cooperation and promotes political dialogue in sectors of common interest, such as the information society, climate change, civil aviation safety, employment and social affairs, and energy, science and technology.

⁽¹⁵⁾ See *Joint Declaration on Cooperation to Combat Terrorism*, Brussels, 27-28 January 2003.

⁽¹⁶⁾ ASEM's current 45 partners represent half of the world's GDP, almost 60 % of the world's population and 60 % of global trade (European Commission data).

⁽¹⁷⁾ The 8th Summit will take place in Brussels in October and will focus on 'Improving the Quality of Life'.

⁽¹⁸⁾ The TEIN3 project (<http://www.tein3.net/>) is a gateway that promotes scientific cooperation between 8 000 research centres and academic institutions in the Asia Pacific region and their participation in projects with their European counterparts. Telematic cooperation between European and Asian research is ensured via connectivity with the GÉANT network.

⁽¹⁹⁾ In compliance with the special and differential treatment provisions adopted by the WTO, the EU is prepared to take into consideration the different levels of development in partner countries. It should be borne in mind that exports from Laos and Cambodia already benefit from preferential access to the EU market under the Everything but Arms initiative.

of Southeast Asian nations to set up a common market by 2015, an objective that the EU supports technically and financially.

4.3 The EU is currently negotiating specific agreements for broader cooperation with ASEAN countries (Partnership and Cooperation Agreements – PCAs) and supports the Initiative for ASEAN Integration (IAI) and initiatives for sub-regional growth areas⁽²⁰⁾. Furthermore, cooperation has also been strengthened in the areas of education and vocational training with the key objectives of raising teaching standards and promoting language learning and the use of modern information and communication technologies⁽²¹⁾.

4.3.1 Since food security is a sensitive issue, the EU also intends to strengthen cooperation with FAO in the area. FAO has already cooperated with ASEAN in drawing up an ASEAN Integrated Food Security Framework (AIFS) and the corresponding Strategic Plan of Action for Food Security (SPA-FS) and is currently carrying out ten country studies on the impact of the crisis on food security in the region. FAO is also working on a Memorandum of Understanding with ASEAN to formalise reciprocal relations and facilitate technical assistance in the area of food security in the region.

4.3.2 In view of the region's socio-economic vulnerability to external shocks, and any likely additional effects that the conclusion of free trade agreements would undeniably have on the vulnerability of certain member states and social groups most exposed to competition, closer attention to certain aspects of economic cooperation is advisable, including with respect to knowledge sharing with other international institutions and research centres.

4.4 Political cooperation between the EU and ASEAN is still decidedly intergovernmental and is evolving through regular (biennial) meetings between foreign ministers and senior officials. These ministerial meetings have, however, helped the parties to find more common ground on foreign policy. The EU, for instance, has requested access to the ASEAN Treaty of Amity and Cooperation and ASEAN has, to this end, agreed to extend the treaty to supranational entities.

4.4.1 Socio-cultural cooperation for the 2009-2010 period is regulated by the Phnom Penh Agenda, which sets common objectives to be pursued in the sectors of health security, science and technology, vocational training, and the protection of the artistic and cultural heritage. However, even in the area of social cooperation, civil society involvement remains paradoxically modest. Indeed, at present there are not enough bodies to allow full expression of the social partners' and other citizens' needs and expectations vis-à-vis the current situation and future prospects for EU-ASEAN cooperation⁽²²⁾.

4.4.2 Finally, with regard to human rights protection, the recent establishment (with the ASEAN Charter's entry into force) of an ASEAN Intergovernmental Commission on Human Rights has to be welcomed. Although this body lacks powers of enforcement or sanction (at least for the moment) and is therefore tasked with promoting rather than safeguarding human rights, it is undoubtedly a first step towards more comprehensive human rights protection, which the organisation will be called upon to achieve in the coming years. The Committee nevertheless emphasises that due to the current human rights situation in Burma/Myanmar, it is not possible to take negotiations forward with the current military dictatorship in this country.

Brussels, 26 May 2010.

*The President
of the European Economic and Social Committee*
Mario SEPI

⁽²⁰⁾ Five joint projects are currently underway for a total budget of EUR 55,5 million.

⁽²¹⁾ Priority is to be given to projects on vocational training, transport, energy and sustainable development. See the Regional EU-ASEAN Dialogue Instrument, Kuala Lumpur, 2005.

⁽²²⁾ The only (partial) exception is the Brussels-based ASEAN-EU Business Network, set up in 2001 to promote trade relations between the parties.

Opinion of the European Economic and Social Committee on ‘The 28th regime — an alternative allowing less lawmaking at Community level’ (own-initiative opinion)

(2011/C 21/05)

Rapporteur: **Mr PEGADO LIZ**

On 16 July 2009, the European Economic and Social Committee, acting under Rule 29 (2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The 28th regime – an alternative allowing less lawmaking at Community level.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 March 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 27 May), the European Economic and Social Committee adopted the following opinion by 124 votes to 8 with 20 abstentions.

1. Observations and recommendations

1.1 In recent times, on many occasions and during numerous events, several voices from civil society have raised the question as to whether an optional regime could be adopted as an alternative to the traditional way of harmonising legislation in specific areas, thereby fully regulating certain kinds of legal relationships, namely civil contracts.

1.2 Also, references to the possible use of a so called 28th regime began to appear in various Commission and EP documents, mainly relating to important subjects where the desired full harmonisation was expected to be neither easy nor achievable.

1.3 The EESC has expressed its support in several opinions for an in-depth study of this mechanism and its possible application in specific domains.

1.4 Apart from the undertaking initiated with the EESC own-initiative opinion on ‘European Insurance Contract’⁽¹⁾ and carried out by the Project Group ‘Restatement of European Insurance Contract Law’ with the recent publication of the ‘Principles of the European Insurance Contract Law (PEICL)’ in the framework of the ‘Common Frame of Reference’ exercise, only on a few occasions has a similar approach been followed by the European legislator in the area of company law, intellectual property law and international law.

1.5 However, no in-depth discussion on the nature, object, legal framework, areas of application, advantages and difficulties of such an instrument and its possible contribution to the completion of the Single Market has occurred until now.

1.6 For this specific purpose, and in line with its opinion on the Proactive Law Approach⁽²⁾, the EESC has decided to take

forward this own-initiative opinion accompanied by a public hearing where representatives from stakeholders, academics, public officials from different Member States and the Commission have had the opportunity to express their views.

1.7 Taking into consideration most of the written material and opinions expressed in the last few years and in particular those voiced during the hearing, the EESC recognises that some fundamental parameters should be considered when defining and designing an optional regime which offers advantages in terms of ‘Better Lawmaking’ and of a simplified, understandable and user-friendly regulatory environment.

1.8 The optional regime should therefore:

- a) be conceived as a ‘2nd Regime’ in each Member State, thus providing parties with an option between two regimes of domestic contract law;
- b) be defined at EU level and enacted by EU regulations;
- c) facilitate interaction between parties in the drafting process;
- d) contain provisions of mandatory law ensuring a high level of protection for the weaker party, at least similar to those granted by the EU or national mandatory rules, applicable whenever necessary;
- e) limit the option of the parties to a choice of the entire instrument thus avoiding the possibility of ‘cherry-picking’.

1.9 The EESC has proposed some new paths for future discussion on the possible legal basis for the implementation of this lawmaking mechanism, having in mind that the choice of the legal basis may depend on the field of application.

⁽¹⁾ OJ C 157, 28.6.2005, p. 1.

⁽²⁾ OJ C 175, 28.7.2009, p. 26.

1.10 The EESC has elaborated on the many advantages of the use of this instrument, e.g.:

- a) It would allow parties to a contract to enter into transactions throughout the European Union on the basis of a single regime of contract law. Barriers to the Single Market, such as legal risks and costs created by the differences in national legal systems would automatically be overcome;
- b) It would leave the decision on its application to the market and would therefore only be chosen where interested parties considered it to be an advantage;
- c) The individual legal culture of each Member State would be left untouched, making it more acceptable in the political arena;
- d) Well-designed and implemented by EU regulations, it would allow parties to use it even in purely domestic situations;
- e) Courts could not treat it as a chosen 'foreign' law. Therefore, principles such as '*iura novit curia*' would apply and access to national Supreme Courts as well as the ECJ would be unrestricted, which is often not the case when foreign law or general principles are applied; equally, institutions offering out-of-court complaint and redress mechanisms could not refuse to hear a case using the argument that it would be submitted to foreign law.

1.11 The EESC is well aware of some difficulties in its implementation:

- a) the inter-relation between the optional instrument and European private international law, not least as far as rules expressing national public policy (*ordre public* – Article 21, Rome I Regulation 593/2008) are concerned;
- b) even an optional sectoral instrument requires a set of general principles of private law;
- c) an optional instrument covering only private law issues cannot cover problems of tax law;
- d) consumers must be adequately informed about the nature, advantages and disadvantages of an optional instrument;
- e) this '28th regime' should not apply to labour law or employment contract law in force in the Member States.

1.12 The EESC is thus convinced that this discussion should be pursued in greater depth at different levels – academic, stakeholders (professionals, consumers, etc.), research institutes and EU institutions, mainly in the framework of the 'Better Regulation' exercise – with a view to contributing to the completion of the Single Market.

1.13 The EESC thus asks the Commission to pursue the study of this subject at both the theoretical and practical levels, in order to define the conditions for its feasibility and usefulness.

1.14 The EESC also recommends that in their ex ante Impact Assessments either the Commission or the EP consider the 'option' of adopting a 28th Regime for each new legislative initiative; the same evaluation should apply to proposals already in preparation, starting with the on-going revision of the 'Package Travel' Directive. This kind of assessment should carefully scrutinise the potential impact that optional legislation could have on current mandatory rules in place in national laws. It must assess the risk of it being used to bypass national mandatory rules to the detriment of weaker parties.

2. Introduction - purpose of the opinion

2.1 Better lawmaking and, whenever possible, less regulation, is one of the aims of the Single Market. All the initiatives under the 'Better Regulation' exercise developed by the Commission and the European Parliament and fully supported by the EESC in several opinions were aimed at finding the best ways to make the legislative environment more user-friendly and understandable to business, workers and consumers.

2.2 A relatively new idea on a better and more consistent way of regulating important matters at EU level occurred for the first time in an EESC opinion on 'The European Insurance Contract' ⁽³⁾. This opinion proposed that legislation on European insurance contract should be based on an optional system which provided an alternative to harmonising different national laws.

2.3 In the framework of the CFR (Common Frame of Reference) the Project Group 'Restatement of European Insurance Contract Law' developed and presented to the Commission the only structured proposal for a model of an optional instrument in the EU so far.

2.4 In recent years, lawyers, academics and some civil society stakeholders have suggested during numerous events that this method could be a useful alternative to the traditional method of harmonisation in specific areas such as the pension system or financial services.

⁽³⁾ OJ C 157, 28.6.2005, p. 1.

2.5 The Commission has gradually begun referring to the possibility of using the '28th regime' method in various areas and the EESC has expressed support for this in a number of opinions ⁽⁴⁾.

2.6 However the concept, nature and the framework of its application have yet to be properly defined; it is particularly important to show that it is not only feasible but that it also offers advantages in terms of 'Better Lawmaking' and of a simplified, understandable and user-friendly regulatory environment. That is the aim of this own-initiative opinion.

3. The concept of the '28th Regime'

3.1 Nature and characteristics

3.1.1 The terms '28th Regime' and 'Optional Instrument', which are often used synonymously, try to give a graphic image of a European Contract or Private Law which would not override national law but would provide for an alternative by leaving its application to the discretion of the parties to the contract.

3.1.2 Although commonly used in several papers from EU institutions and in most of the articles published on the subject, the expression '28th Regime' may, however, be somewhat misleading because it may be considered to be a regime of 'foreign' law as opposed to the 27 'national' contract laws of the Member States, which may be considered as 'domestic' laws.

3.1.3 Therefore, it appears to be more appropriate to talk about a '2nd Regime' ⁽⁵⁾ of private law in all Member States. This term makes clear that a European Optional Instrument would penetrate the domestic laws of the Member States like any other source of European Law. In short: A '2nd Regime' would provide parties with an option between two regimes of domestic contract law, one enacted by the national legislator, the other by the European legislator.

3.1.4 This kind of a '2nd Regime' could be used by parties for doing business throughout the European Union. Therefore, parties to a contract would not have to deal with 27 national legal regimes in the Member States but could base their transactions on a common European private law regime. This would be helpful because neither of the parties to a contract would have to accept the application of a law it considered as foreign law.

3.1.5 A '2nd Regime' would be particularly helpful in areas where private international law (Rome I) forbids or restricts the free choice of law by the parties, as is the case with transport (Article 5 Rome I), consumer (Article 6 Rome I), insurance (Article 7 Rome I) and employment (Article 8 Rome I) contracts. The optional instrument could even apply to internationally mandatory rules (Article 9 Rome I) provided that it takes sufficient care of the general interest protected by such rules ⁽⁶⁾. However, this 2nd regime should not apply to labour law or employment contracts in force in the Member States of the European Union.

3.1.6 Therefore, a '2nd Regime' would allow business in the whole Community to be based on one and the same regime of contract law even in areas where private international law provides for the mandatory application of the rules protecting the weaker party.

3.1.7 An optional instrument of this kind has been mentioned in Recital 14 of Rome I which reads: '*Should the Community adopt, in an appropriate legal instrument, rules of substantive contract law, ..., such instrument may provide that the parties may choose to apply those rules.*'

3.1.8 Since an optional instrument would be a 2nd Regime of contract law within each Member State's law, the choice of the optional instrument should be granted even in 'purely domestic cases'. As a result, entrepreneurs could base all their transactions – domestic as well as international – on the 2nd Regime which would help to further reduce legal transaction costs.

3.1.9 Another characteristic of a '2nd Regime' would be the fact that the courts could not treat the optional instrument as a chosen 'foreign' law. Therefore, principles such as '*iura novit curia*' would apply and access to national Supreme Courts would be unrestricted, which is often not the case when foreign law or general principles are applied. Equally, institutions offering out-of-court complaint and redress mechanisms could not refuse to hear a case by using the argument that it would be submitted to foreign law. For instance, the German Insurance Ombudsman may refuse to deal with a complaint according to its Code of Procedure if the complaint is to be determined decisively according to foreign law ⁽⁷⁾. A European optional instrument, however, would be a '2nd Regime' of contract law in each Member State and, therefore, could not be considered as 'foreign' law by the German Insurance Ombudsman.

⁽⁴⁾ OJ C 157, 28.6.2005, p. 1, rapp. Pegado Liz.; OJ C 318, 23.12.2006, p. 200, rapp. Von Fürstenwerth; OJ C 65, 17.3.2006, p. 134, rapp. Ravoet; OJ C 309, 16.12.2006, p. 26, rapp. Iozia; OJ C 65, 17.3.2006, p. 13, rapp. Burani; OJ C 27, 3.2.2009, p. 18, rapp. Grasso; OJ C 151, 17.6.2008, p. 1, rapp. Iozia; OJ C 175, 28.7.2009, p. 26, rapp. Pegado Liz.

⁽⁵⁾ As to the perception of an Optional Instrument as a '2nd Regime' see Heiss, Introduction, in: Basedow/Birds/Clarke/Cousy/Heiss (eds.), Principles of European Insurance Contract Law (2009) I 45.

⁽⁶⁾ The French National Assembly has recently adopted an information report on consumer rights (rapporteur was Ms M. Karamanli) suggesting to test a 28th European legal regime within the framework of the Rome I regulation.

⁽⁷⁾ See Heiss, Introduction, in: Basedow/Birds/Clarke/Cousy/Heiss (eds.), Principles of European Insurance Contract Law (2009) I 47.

3.1.10 Last but not least, an optional instrument enacted by the European legislator would be subject to procedures for a preliminary ruling by the ECJ, which would safeguard a uniform application of the optional instrument by national courts within the EU ⁽⁸⁾.

3.2 *Optional Contract Law and Protection of the Weaker Party*

3.2.1 A '2nd Regime' as described above would offer a choice which would be unrestricted by mandatory rules of national law provided that it takes sufficient care of the general interest protected by such rules. This creates a demand to ensure that the protection of the weaker party, especially consumers, would not be softened ⁽⁹⁾, and that it would not be used to bypass mandatory provisions of national law.

3.2.2 This can be safeguarded by three means:

- a) First of all, the '2nd Regime' would have to provide for mandatory rules itself and to apply a high level of protection for the weaker party ⁽¹⁰⁾;
- b) Secondly, any exclusion of particular provisions of the '2nd Regime' by agreement must be prevented in order to forbid a 'mix' of national law and the '2nd Regime' by choosing the most relaxed standards from each source of law;
- c) Consumer should be informed about the optional instruments through general consumer information provided by consumer organisations as well as a pre-contractual duty of the entrepreneur to inform the consumer that the contract offered is subject to the optional instrument.

3.2.3 As a consequence, the eligibility of the '2nd Regime' would not create an incentive for the stronger party to propose a less protective law to its contractual partner. Instead, the incentive to choose the '2nd Regime' would be created by the possibility to use contract terms throughout the Community without any adaptations to national law but based on the '2nd Regime', which would itself provide for a higher level of protection of the weaker party than the average legislation of Members States.

⁽⁸⁾ Ibid.

⁽⁹⁾ According to Prof. M Hesselink of the University of Amsterdam, in terms of social justice, '(...) a 28th regime can be chosen by clicking on a blue button (...). If the draft CFR were to become an optional instrument in B2C contracts, this would not lead to social dumping. (...) A choice of law for the DCFR, if allowed by the European legislator, could create the win-win situation in B2C contracts'.

⁽¹⁰⁾ See Heiss/Downes, Non-Optional Elements in an Optional European Contract Law: Reflections from a Private International Law Perspective, ERPL 13 (2005) 693 (699).

3.2.4 An optional instrument introducing a high level of consumer protection will offer an advantage to the consumer insofar as products put on the European market on the basis of the optional instrument can more easily be compared. Thus, the optional instrument may actually enhance transparency.

3.3 *Legal basis and form of an optional instrument*

3.3.1 The competence of the EU as regards the adoption of this instrument remains a key issue when discussing its nature and characteristics. Some authors consider that Article 81 TFEU (ex Article 61 subparagraph c) and Article 65 TEC) could form the legal basis because what matters in their opinion is the level of conflict of laws and not substantive law. Thus the EU only needs a reliable basis to allow parties to choose the instrument as an applicable law and therefore only needs to focus on the compatibility of the national rules of private international law. An instrument based on Article 81 TFEU could, however, cover only 'civil matters having cross-border implications' and would not bind the United Kingdom, Ireland and Denmark.

3.3.2 Others think that Article 352 TFEU (ex Article 308 TEC) is the most appropriate legal basis to grant the EC authority to enact this kind of optional instrument for achieving one of the objectives set out in the Treaties on the grounds that they had allegedly not 'provided the necessary powers' ⁽¹¹⁾.

3.3.3 However, we should not exclude the possibility of using article 114 TFEU (ex Article 95 TEC) as this is about 'approximating laws' which 'directly affect the establishment or functioning of the Common Market' and are aimed at the 'achievement of the objectives set out in Article 26' (ex Article 14 TEC). Moreover, whenever the European legislator even has the power to approximate national contract laws based on Article 114 TFEU, it should have the possibility to enact an optional instrument which, after all, intrudes less on the national regimes, thereby making it the preferred choice according to the principle of subsidiarity.

3.3.4 New Article 118 TFEU provides for a special legal basis. It is, however, limited in scope to intellectual property rights.

⁽¹¹⁾ Hesselink/Rutgers/de Booys, The Legal Basis for an Optional Instrument on European Contract Law, Centre for the Study of European Contract Law Working Paper No. 2007/04.

3.3.5 In order to ensure maximum uniformity, such an instrument should be contained in a Regulation (Article 288 para. 2 TFEU). As such it would form part of the substantive law of each Member State and would therefore find application only if the law of a Member State was applicable to the contract in question according to the conflict rules of Rome I. It would have to provide for comprehensive regulation and not just set minimum standards.

3.3.6 In any case the compatibility of each new optional instrument with the subsidiary principle should be seriously assessed.

3.4 Contents

3.4.1 A future Optional Instrument should consist of a General Part regulating its optional application and a Specific Part providing substantive regulations for the areas of law which it would cover.

3.4.2 An Optional Instrument could be structured as follows:

Chapter One: General Provisions

Chapter One, which would consist of 4 or 5 articles only⁽¹²⁾, would determine the scope of application of the optional instrument and set out the parties' options. It would also specify those rules which are mandatory (especially rules protecting the weaker party). Finally, it should prohibit any recourse to national law and instead provide for filling the gaps by having recourse to general principles common to the laws of the Member States⁽¹³⁾.

Chapter Two: Specific Provisions

Chapter Two would provide the substantive rules of areas of law which are within the scope of application of the optional instrument.

3.5 Advantages and difficulties

3.5.1 An optional instrument would, first of all, allow parties to a contract to enter into transactions throughout the European Union on the basis of one contract law regime. Barriers to the Internal Market such as legal risks and costs created by the differences in national legal systems either for consumers or businesses would be overcome⁽¹⁴⁾.

⁽¹²⁾ Based on the model of the Principles of European Insurance Contract Law (PEICL) and subject to further discussions.

⁽¹³⁾ To avoid any confusion, it is advisable to establish what these general principles are or to have recourse to general rules applicable to all types of contracts contained in the 'Principles, definitions and model rules of European Private Law – Draft Common Frame of Reference' (DCFR, Book I-III, outline edition 2009), if and when recognised or enacted by a legal EU instrument.

⁽¹⁴⁾ See, for instance, Basedow, Ein optionales Europäisches Vertragsgesetz: Opt-in, opt-out, wozu überhaupt?, ZEuP 2004, 1.

3.5.2 An Optional Instrument would, furthermore, offer advantages when compared with unification or harmonisation of national law.

3.5.2.1 Firstly, an Optional Instrument leaves the decision on its application to the market. It makes sure that it will only be applied where parties to a contract consider it an advantage. It is to be expected that Optional Instruments will be used by international players in the market whereas local players will save transposition costs, especially the redrafting of their contract terms in order to adapt them to a new European Regime.

3.5.2.2 Secondly, the individual legal culture of each Member State would be left untouched. This would make an Optional Instrument more acceptable in the political arena. The same argument applies to the national lawyers in each Member State who will probably argue against replacing traditional rules of law with a European contract law. However, they would have no reason to oppose an Optional Instrument which would leave national law untouched.

3.5.3 Moreover, 2nd Regimes already exist at present (see 3.6.3). This clearly indicates that national constitutional laws do not present any concerns as regards Optional Instruments.

3.5.4 The creation of an Optional Instrument in contract law or other areas of private law may, however, create technical problems. Clearly it is not easy to create the choice and regulate the relationship of two sets of contract law existing one next to the other. However, as the outline of a possible future Optional Instrument has shown, the technical problems may be overcome.

3.6 Similar instruments

3.6.1 Optional Instruments already exist, at both global and European level.

3.6.2 At a global level, examples include the UN Convention on Contract for the International Sale of Goods (1980)⁽¹⁵⁾ the UNIDROIT Conventions on International Factoring⁽¹⁶⁾ and on International Financial Leasing⁽¹⁷⁾. These conventions follow an opt-out model⁽¹⁸⁾.

⁽¹⁵⁾ The text is available at www.uncitral.org.

⁽¹⁶⁾ Ibid.

⁽¹⁷⁾ Ibid.

⁽¹⁸⁾ See art 6 CISG; art 3 Convention on International Factoring; art 5 Convention on International Financial Leasing.

3.6.3 Several optional instruments exist at European level:

- Regulations establishing European companies such as the Regulations on the *societas europaea* ⁽¹⁹⁾, on the European Economic Interest Grouping ⁽²⁰⁾ or the European Cooperative Society ⁽²¹⁾;
- Regulations establishing European intellectual property rights, such as the Community Trade Mark ⁽²²⁾ and the Community Patent ⁽²³⁾;
- Regulations offering European civil procedures, such as the Regulations on European orders for payment ⁽²⁴⁾ and on European Small Claims Procedures ⁽²⁵⁾.

Further optional instruments are proposed, among them a European Certificate of Succession ⁽²⁶⁾. These Regulations or Proposals add European instruments to those offered by national law.

4. The 28th regime and Better Regulation

4.1 The completion of the Single Market

4.1.1 An optional instrument would strongly support the functioning of the Single Market, and represents the most perfect form of voluntary harmonisation in line with the principle of subsidiarity.

⁽¹⁹⁾ Council Regulation (EC) N° 2157/2001 of 8 October 2001 on the Statute for a European company (SE), OJ L 294, 10.11.2001, p. 1.

⁽²⁰⁾ Council Regulation (EEC) N° 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG), OJ L 199, 31.7.1985, p. 1.

⁽²¹⁾ Council Regulation (EC) N° 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), OJ L 207, 18.8.2003, p. 1.

⁽²²⁾ Council Regulation (EC) N° 207/2009 of February 2009 on the Community Trade Mark, OJ L 78, 24.3.2009, p. 1.

⁽²³⁾ The Regulation was adopted on 4th December 2009 but is not yet published in the OJ.

⁽²⁴⁾ See Recital 10 Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, OJ L 399, 30.12.2006, p. 1 as amended.

⁽²⁵⁾ See Recital 8 Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, OJ L 199, 31.7.2007, p. 1.

⁽²⁶⁾ See Chapter VI of Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession, COM(2009) 154 final.

4.1.2 Moreover, an optional instrument will facilitate the freedom of movement of consumers and will strengthen cross-border mobility and competition between businesses.

4.1.3 The entry into force of the Treaty of Lisbon does not change the situation with regard to the creation of an Optional Regime.

4.2 European contract law

4.2.1 The network on 'Common Principles of European Contract Law' (CoPECL-Network) has recently finished its Draft Common Frame of Reference ⁽²⁷⁾ and submitted it to the European Commission. Clearly, those rules provide the European legislator with a model which it could use when enacting an optional instrument as advocated by Commissioner Reding ⁽²⁸⁾. What is still needed is a rule on the optional application of the CFR/Common Principles in line with the already existing proposal of Article 1:102 PEICL ⁽²⁹⁾.

4.3 Future areas of application

4.3.1 There is a stronger need for an optional instrument in areas of contract law dominated by mandatory rules of national law which form a legal barrier to the functioning of the Single Market ⁽³⁰⁾. This has been pointed out already by the Commission as regards financial services including insurance ⁽³¹⁾. Therefore, financial services (banking and insurance law) may be a major area for the future application of an optional instrument while taking due consideration of consumer protection legislation under all circumstances (whereby the proposal relating to insurance law must comply with the Common Frame of Reference).

⁽²⁷⁾ See von Bar/Clive/Schulte-Nölke et al. (eds.), Principles, Definitions and Model Rules of European Private Law – Draft Common Frame of Reference (DCFR) Outline Edition (2009); the DCFR Insurance is contained in Basedow/Birds/Clarke/Cousy/Heiss (eds.), Principles of European Insurance Contract Law (2009).

⁽²⁸⁾ In the Hearing with Viviane REDING, Commissioner-designate for Justice, Fundamental Rights and Citizenship, European Parliament, 7.1.2010.

⁽²⁹⁾ Article 1:102 Principles of European Insurance Contract Law (PEICL), dealing with their optional application, reads in its relevant parts: 'The PEICL shall apply when the parties, notwithstanding any limitations of choice of law under private international law, have agreed that their contract shall be governed by them.' (BASEDOW, The Optional Application of the Principles of European Insurance Contract Law, in Fuchs (ed.), European Contract Law, - ERA Forum Special Issue 2008 vol 9, 111).

⁽³⁰⁾ See Heiss/Downes, Non-Optional Elements in an Optional European Contract Law, ERPL (2005) 693, 697 et seq.

⁽³¹⁾ See, for instance, Communication from the Commission to the European Parliament and the Council, 'A more coherent European contract law – An action plan' of 12 February 2003, COM(2003) 68 final, no 47, 48.

4.3.2 A '28th Regime' could also be envisaged for consumer sales (in particular internet sales). However, as far as consumer sales are concerned the relationship of an optional instrument to the Proposal for a Directive of the European Parliament and of the Council on Consumer Rights ⁽³²⁾ must be considered carefully.

4.3.3 Optional instruments may also be adopted for areas of private law other than contract law: Security rights in movable property or non-tangible goods are obvious candidates for submission to a '28th Regime'; the Commission's proposal for a European Certificate of Succession ⁽³³⁾ shows the possible application of optional instruments in the law of succession; the law of matrimonial property may be yet another subject for an optional instrument in the future.

4.3.4 The need for an optional instrument becomes less pressing in the area of general contract law. The DCFR, which covers general contract law, is in fact not drafted as an optional instrument. However, the editors of the DCFR highlight in their Introduction that it might be used as 'the basis for one or more optional instruments' ⁽³⁴⁾. This proposal could also be implemented in a restrictive manner by introducing the General Provisions of the DCFR into an optional instrument which applies only in specific areas of contract law. This would help to avoid regulatory gaps which would necessarily appear if only provisions specific to particular types of contracts were enacted.

5. Findings of the public hearing held by the Single Market Observatory on 6 January 2010

5.1 A number of variations on the theme of the 28th regime already exist or are proposed in European company law, intellectual procedural law and the law of succession. All go beyond national limitations, intrude less on national laws and open up new opportunities for market actors in cross-border trade. The 28th regime must however abide by strict consumer protection rules while at the same time being more rigorous than harmonisation. Pensions are a key issue of the 28th regime with some 18 million European pensioners living in another Member State. Ultimately, the 28th regime should focus on good information and trust-building (e.g. contracts) and lead to simpler services and products (especially financial services). In the retail financial services area, priority must be given to better consumer protection legislation: the crisis has shown the need for regulating all financial services offered to consumers and offering simplified financial services to all consumers who so wish. The political consensus to be achieved to allow for such an option as the 28th regime and its legal basis nevertheless remain on the agenda. The Commission's Impact Assessments should systematically sound out the possibility of an 'optional approach', i.e. of adopting a 28th regime, while it could only be a response to specific problems and not a generic alternative to contract law.

Brussels, 27 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽³²⁾ COM(2008) 614 final.

⁽³³⁾ See COM(2009) 154 final which is dealt with supra no. 3.6.3.

⁽³⁴⁾ von Bar/Beale/Clive/Schulte-Nölke in von Bar/Clive/Schulte-Nölke et al. (eds.), Principles, Definitions and Model Rules of European Private Law – Draft Common Frame of Reference (DCFR) Outline Edition (2009) Intr. 79.

Opinion of the European Economic and Social Committee on 'Socially responsible financial products' (own-initiative opinion)

(2011/C 21/06)

Rapporteur: **Mr TRÍAS PINTO**

On 1 October 2009, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

Socially responsible financial products.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 129 votes to three with two abstentions.

1. Conclusions and recommendations

1.1 The term 'Socially responsible financial products' could be interpreted to mean all the products and services available from the banking, insurance and investment management sectors. However this opinion, for the most part, deals with socially responsible investment (SRI) provided by collective investment funds available to both institutional investors and the general public. By definition, collective investment funds make investments. For the fund to qualify as socially responsible, it must carefully select its investments against appropriate criteria. Most funds invest in the shares of companies. The central issue for most funds is their ability to identify companies which meet the necessary ESG (Ethical, Social, Governance) criteria. In mature SRI environments there are a wide range of organisations which determine the extent to which individual companies meet ESG criteria.

1.2 Many advisory bodies exist, providing technical assistance to SRI. International stock indices such as the Dow Jones Sustainability DJSI Index or the FTSE4Good provide relevant information for SRI funds to be established and operated, on either a general or selective basis. For example, some funds may concentrate on well established companies meeting excellent ethical and governance standards. Others might have a green or ecological agenda. All of these variations are provided for.

1.3 In the post crisis environment, it is necessary to channel investment towards companies with social and ethical values in order to win back the public's confidence in the financial markets. We can definitely say that it will not be 'business as usual' after this crisis.

1.4 With the benefit of hindsight we can see that the performance of many financial institutions in recent years has fallen far short of the social and governance standards expected of such leading businesses. The EESC therefore calls for the

responsibility programmes of financial institutions to address Europe's social and governance expectations in the 21st century.

1.5 The results of Socially Responsible Investment (SRI) point to the positive link between the social and financial ratings of institutions offering socially responsible investment funds. Moreover, profitability is no lower with SRI than with traditional investment, nor is the risk any greater.

1.6 Collective investment undertakings and institutions for occupational retirement provision are an important channel for steering savings into productive investment. Nevertheless, more attention will have to be given to advice on investments, improving management methods and the human relations and social responsibility component that is apparent in communication.

1.7 The contribution of professionals working for financial institutions to Socially Responsible Investment must take account of the following aspects: long-term vision, consideration of the general interest, reliability and analytical rigour.

1.8 The EESC calls on the Commission and the Member States to encourage the development of SRI in order to facilitate the 'standardisation' and consolidation of the current management systems for these products promoting transparent information, comparability in the analysis of investors, technical training and the exchange of best practices. There is some evidence that financial markets react positively to the introduction of standardisation systems and the awarding of certification by official bodies.

1.9 One positive effect of SRI filtering, whether by regulation or by professional advisors, is the possibility of certain securities being excluded from investment portfolios, which will prompt companies to improve their ESG performance.

1.10 The EESC advocates launching specific finance-related promotional and educational initiatives: publications, training or setting up specialised websites and teaching financial subjects in schools and colleges.

1.11 One of the aims of financial education programmes is to encourage households to be responsible, prudent and long-term investors, in line with their risk profile, their assets and their personal objectives.

1.12 Socio-demographic developments call for changes in cultural and business approaches to long-term investment. The EESC feels that public bodies should put their weight behind moves to encourage investments in socially responsible funds through the creation of appropriate tax and financial regulations as well as public procurement itself.

1.13 Public administrations actually play an important role in encouraging both responsible investment demand (individual or institutional investors) and supply (management and marketing companies). Public administrations themselves can stimulate the market by managing investments by sovereign wealth or reserve funds. As well as serving as an example, their own behaviour is a major catalyst with a powerful influence in leading the way.

1.14 Issuers and companies, for their part, can mobilise the investment community by persuading them that their sustainability policies are indicative of their management quality when it comes to transparency and the inclusion of these criteria in their investment strategy.

2. The social responsibility of financial institutions

2.1 The so-called 'socially responsible company' in the management context creates opportunities for financial institutions that can respond to what society expects of them.

2.2 With the publication of the European Commission's Green Paper on Promoting a European Framework for Corporate Social Responsibility⁽¹⁾ and subsequently the OECD document on Corporate Social Responsibility⁽²⁾ the socio-economic model of a company assuming responsibility vis-à-vis the stakeholders has taken hold⁽³⁾.

2.3 In the realm of financial institutions, the founding principles of the savings banks⁽⁴⁾ confirm these bodies, along with credit cooperatives and social welfare mutual organisations, as

the forerunners of today's corporate social responsibility (CSR). Their social dimension as an identifying feature⁽⁵⁾ gives them specific objectives closely related to the philosophy of the Social Economy, a social and economic force gaining pace throughout the world⁽⁶⁾, one reflection of this commitment being the inclusion of the disabled.

2.4 The current financial crisis originated in the banking industry where the excessive risks taken by the bankers were compounded by the failure of banking supervision. From this there emerged financial products (secured loans for housing and consumer credit, derivatives and structured products) and moral hazards in the banks' marketing process. In this respect, the role played by credit rating agencies – marked by clear conflicts of interest – was crucial in intensifying the depth of the crisis, together with the recognised supervisory shortcomings.

2.5 The financial institutions' main responsibility is now to prudently and rigorously manage their business while granting funds for financing projects in the productive economy and household consumption.

2.6 In the current financial crisis, the banks must not break with their commitment to society. Moreover, the crisis itself has demonstrated a measure of corporate irresponsibility and has highlighted the need for more and better CSR. CSR is a question of identity, commitment and corporate strategy.

2.7 For all these reasons, the EESC is committed to defining strategic lines of action in the financial sector to drive the growth of SRI, promote appropriate fiscal measures, introduce systems for standardising products, enhance protection for investors, introduce good banking practices and strengthen the European market with responsible and relevant financial services.

3. Socially responsible financial products

3.1 Definition and scope of the opinion

3.1.1 This covers **savings products** (current accounts, high interest accounts, savings deposits, structured deposits), **investment products** (collective investment undertakings: mutual funds and unit trusts; pensions and insurance, pension funds and plans; retirement plans, financial or unit linked life assurance, thematic funds), **credit finance instruments and financial support mechanisms** (micro-credits, revolving funds, mutual guarantee funds and risk capital), which include built-in **environmental, social and good governance criteria** without, under any circumstances, overlooking the necessary goals of risk and financial profitability.

⁽¹⁾ COM(2001) 366 final. See also the Commission Communication on *Implementing the partnership for growth and jobs: Making Europe a pole of excellence on corporate social responsibility*, COM(2006) 136 final.

⁽²⁾ *Corporate Social Responsibility: Partners for Progress*, OECD, Paris 2001.

⁽³⁾ See the EESC Opinion on the *Ethical and social dimension of the European financial institutions*, OJ C 100, 30.4.2009, p. 84.

⁽⁴⁾ Included in document 143/90 of the European Savings Bank Group.

⁽⁵⁾ E. Castelló (2005): *El liderazgo social de las Cajas de Ahorro* (The social leadership of the Savings Banks), FUNCAS Ediciones.

⁽⁶⁾ García, J. L. (2009): *Las cuentas de la economía social: magnitudes y financiación del tercer sector en España, 2005* ('Accounts in the social economy: scale and financing of the tertiary sector in Spain, 2005'), Civitas Ediciones.

See the European Parliament Resolution of 19.2.2009 on the social economy, drawn up by the rapporteur, Patricia Toia.

3.1.2 This opinion focuses on **investment products**, either via the retail market or the institutional market. Broadly speaking, it involves investing in those organisations that behave better and encourage sustainable development. They therefore claim to be an effective instrument for helping with society's global development, encouraging companies to behave in a manner appropriate to investors' interests.

3.1.3 However, there should be no confusion between ethical investment funds and mutual investment funds. The latter simply give a percentage of their profits to social entities, but are not obliged to meet ethical criteria when selecting their investments. Nevertheless, mutual investment and ISR can be included in the same fund.

3.2 Background and developments

3.2.1 The origins of socially responsible investment (SRI) are linked to moral principles. This phenomenon has been gathering pace since the 1980s, driven on by globalisation, greater ecological and social awareness and the development of new information and communication technologies.

3.2.2 SRI emerged in the Anglo-Saxon world ⁽⁷⁾. In Europe ⁽⁸⁾, some markets display large volumes of growth such as the United Kingdom, the Netherlands, Norway, France, Sweden and Belgium and, to a lesser extent, Italy, Spain and Germany.

3.3 Conceptual details

3.3.1 SRI funds invest in companies. Traditional ethical investment had an essentially moral, ideological or social basis, whilst it now tries to include economic, environmental, social and governance aspects of company performance, in an integrated manner and with a long-term view.

3.3.2 Social responsibility criteria (filters) are applied to investments by excluding specific investments and choosing those that behave better. In this respect, the challenge for SRI is to influence future corporate strategy and match investors' values with those of the investment target.

3.3.3 Advisors use as many as sixty criteria. Some of the most frequently used criteria are listed in the following table ⁽⁹⁾.

⁽⁷⁾ Eurosif (2008). The volume of assets in the United States stood at EUR 1 917 billion in 2007.

⁽⁸⁾ Eurosif (2008). SRI assets in Europe totalled EUR 2 665 billion in 2007.

⁽⁹⁾ Muñoz *et al* (2004): *The social responsibility performance of ethical and solidarity funds: An approach to the case of Spain*. Business Ethics. A European Review. Vol 13, number 2/3 April, July.

Negative criteria	Positive criteria
Armaments	Equal opportunities
Experiments on animals	Recycling
Third World exploitation	Saving energy and natural resources
Pollution	Data transparency
Genetic manipulation	Support for training and education
Pornography, tobacco and alcohol	Commitment of solidarity with society
Damage to the environment	Regulation and standardisation of products

3.3.3.1 This list does not assume that the companies having negative attributes are actually irresponsible in their management. On the contrary, they may have the highest ethical standards in the way they do business, even though some investors may find a particular sector, e.g. armaments, morally reprehensible.

3.3.4 The sustainability criteria used in SRI must be understood in a dynamic sense, enabling new and important CSR aspects to be taken on board. In connection with equal opportunities, for example, value-based criteria concerning disabled people should be included, such as indicators on employment integration or the accessibility of workplaces, commercial premises, products and services.

3.3.5 In order to draw up comparative data on how SRI has developed throughout the world, the market segmentation strategy creates a distinction between the institutional market (essentially institutions for occupational retirement provision) and the retail market (which is still limited to investment funds).

3.4 New institutions

3.4.1 The institutions operating on the financial market have created mechanisms to include sustainability in their management practices. Both the so-called traditional banks and the ethical banking sector ⁽¹⁰⁾ talk with their stakeholders and this can be carried out in meetings or via exchanges on electronic platforms.

⁽¹⁰⁾ The term 'ethical' is a generally accepted name which does not exclude others such as 'civic', 'alternative' or 'social'. See INVERCO (Ethics Committee) (1999).

3.4.2 The development of SRI has led to the creation of new institutions or the adaptation of traditional institutions involved in drawing up and distributing international stock indices (for example, the Dow Jones Sustainability DJSI Index or the FTSE4Good), creating and marketing data bases, sustainability analysis and SRI advice agencies, etc.

3.4.3 Various factors have helped promote the development of the UN's 'Principles for Responsible Investment' (PRI) including the European Commission's active role, the setting up of the Social Investment Forum (SIF) in the United States, or the European Social Investment Forum (Eurosif) in Europe contribute to the dialogue with stakeholders⁽¹¹⁾.

3.5 Portfolio management

3.5.1 Socio-economic modelling combines social profitability measures with conventional financial models, replacing the profitability-risk combination. Thus socially responsible investment uses social, environmental and good governance criteria in addition to the strictly financial as a basis for its objectives when selecting investments.

3.5.2 In the last few years the need to build an ethical framework into the financial sector, resulting in the so-called sustainable or social finance, has been recognised. This trend ties in with developments in behavioural finance theory and broadens analysis of the economic and psychological behaviour of the players to include social and environmental attitudes⁽¹²⁾.

3.5.3 'Sustainability analysis agencies'⁽¹³⁾ have done the most to develop methods for assessing and rating companies on their socially responsible behaviour using a range of appraisal methods. In practice, the results from various studies in this area have shown that socially responsible investments do not mean investors lose out from an economic profitability point of view in the medium and long-term.

3.6 Regulation and standardisation of products

3.6.1 Introducing and establishing socially responsible products (for investment, savings or credit purposes) calls for a prior and absolutely clear definition of the requirements they need to fulfil, guaranteeing that the principles of social responsibility together with the rules governing monitoring, continual assessment and transparency can be applied.

3.6.2 The Spanish Association for Standardisation and Certification (AENOR)⁽¹⁴⁾ is revising a standard for socially responsible financial products (UNE 165001: 2002 EX, Ethical financial instruments), in order to set out the general requirements for guiding institutions wishing to create or market such products and to provide maximum transparency and information on these ethical criteria for users.

3.6.3 In recent years, self-regulation criteria⁽¹⁵⁾ have been developed for this sector in many EU countries, often at the instigation of government supervisory bodies, to allow registration of the increasing number of new investment funds classified as ethical. Auditors and professional advisors provide a further check and balance.

3.6.4 Attention is also drawn to the initiative to encourage transparency in the use of self-regulation criteria, which is being promoted by Eurosif and various SIFs of the Member States. This gives the consumer information on the criteria used and their application, without prejudging the merits or social responsibility of the products.

3.6.5 The initiative to promote comparability of SRI reports drawn up by financial institutions is intended to create a kind of standardised document model which meets the information needs of investors in different EU countries.

4. Consumer protection

4.1 The financial crisis has caused consumers to lose confidence in financial service providers. Because the sector's morality has been called into question, financial institutions have the opportunity to encourage measures for the establishment and consolidation of ethical financial products.

4.2 Improving customer information

4.2.1 One of the effects of the financial crisis has been the growing concern on the part of regulating bodies for savers and investors. This attitude has been strengthened through arbitration committees, information leaflets and manuals, surveillance of advertising⁽¹⁶⁾ (which has to be clear, impartial and not misleading) for all financial products; the introduction of 'complaints services' or of a customer watchdog (Ombudsman).

⁽¹¹⁾ See EESC opinion, on the *Impact of investment funds on industrial change*, OJ C 128, 18.5.2010, p.56).

⁽¹²⁾ The pioneering work of Amartya Sen is relevant in this respect (1970): *Collective choice and social welfare*, Holden-Day.

⁽¹³⁾ They offer investors a consultation option and act as a supervisory body.

⁽¹⁴⁾ AENOR (2008): *Ética. Sistema de gestión de la responsabilidad social de las empresas* (Ethics. Corporate social responsibility management system).

⁽¹⁵⁾ The committees supervising institutions for occupational retirement provision explain whether or not they are using social responsibility criteria in their investment decisions.

⁽¹⁶⁾ See EESC opinion on the *Proposal for a Directive of the European Parliament and of the Council amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market*, COM(2009) 491 final, CESE 257/2010.

4.2.2 In practice, however, banks do not always provide customers with sufficient information according to their needs. A recent European Commission study⁽¹⁷⁾ has criticised European banks in many countries for irregularities, such as a lack of transparency and high rates of bank account fees and the difficulty customers have in comparing bank offers and thus in choosing the most advantageous.

4.2.3 Transparency vis-à-vis clients calls for clear, precise, understandable and comparable information. In practical terms, socially responsible financial products must at least include the definition of the SRI applied, the practical criteria used (SRI filter), the membership of the SRI Committee⁽¹⁸⁾, the management and deposit fees etc, as well as the periodical publication of independent reports on compliance with the social responsibility philosophy of the product.

4.2.4 Securing information through the customer care service helps with the ongoing improvement (a key factor in the quality of service) and responsible provision of the 'after-sales services' covering the product's life-cycle, or until the customer severs his links with the product.

4.3 Promoting financial education

4.3.1 Financial education is one of the responsibilities that should be addressed by cooperation between the public and private sectors to meet the challenge that an ever more complicated financial environment presents. Nevertheless, this education should be undertaken free from the marketing interests of specific financial products.

4.3.2 A range of initiatives from the supervisory authorities and banks entitled 'Financial education plans' have been put forward to broaden people's knowledge of finance and specifically to prevent household over-indebtedness and help them to choose products appropriate to their risk profile and financial situation. The financial education policies undertaken are helping to create confidence in the financial system.

4.3.3 Its importance was recognised by the European Union in both the Commission Communication on Financial Education⁽¹⁹⁾ and the financial conclusions of the ECOFIN Council held on 14 May 2008⁽²⁰⁾.

⁽¹⁷⁾ Data collection for prices of current accounts provided to consumers, European Commission, 2009, http://ec.europa.eu/consumers/strategy/docs/prices_current_accounts_report_en.pdf

⁽¹⁸⁾ Collegiate body of experts that helps the financial or management entity or the supervisory body for the product to ensure that the ethical filter is properly applied and to check the information to be provided. Each financial product should have its own Committee, although this is not always the case.

⁽¹⁹⁾ COM(2007) 808 final.

⁽²⁰⁾ Council Press Release 8850/08 (presse 113), p. 14.

4.3.4 Encouraging SRI research and training market operators allows financial institutions to adopt 'best practices' in their sustainability policies. Educational material and codes of conduct are good tools for developing training.

4.4 Advice from the financial services

4.4.1 The European MIFI Directive⁽²¹⁾ requires financial institutions to step up investor protection and offer their customers products suited to their various investment profiles. Moreover, it calls for a clear demarcation between advice and marketing and for financial intermediaries to have a detailed knowledge of the products they are selling. Thus as part of the suitability assessment, the customer should be asked whether they agree with SRI policies when offering or allocating them (portfolio management) the most suitable SRI products.

4.4.2 In particular, socially responsible financial products must include internal supervisory mechanisms that identify investment risks and check for conflicts of interest, reporting as appropriate to the SRI Committee (which must be made up of a majority of external experts to guarantee the objectivity of their observations).

5. Prospects for socially responsible investments

5.1 Responsible investment can emerge strengthened from a crisis such as we are experiencing if investors can distinguish between companies opting for corporate social responsibility in the long term and those using it merely as a marketing tool.

5.2 Institutions for occupational retirement provision promise to offer the greatest scope for growth in responsible investment. According to Jáuregui⁽²²⁾, in Spain, the possible launching on the market of 10 % of the Social Security Reserve Fund with sustainable criteria⁽²³⁾ would encourage the development of a social responsibility culture.

5.3 An example of good practice to mobilise the business community and public authorities that is worth mentioning is the *Medal of Social Solidarity* organised by one of the largest Polish businessmen's organisations – the Business Centre Club. This is a special award honouring individuals and CEOs for promoting, inter alia, the idea of corporate social responsibility.

⁽²¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.

⁽²²⁾ Member of the European Parliament and member of the Alternativa Responsable ('Responsible Alternative') movement.

⁽²³⁾ A number of countries of the European Union have this fund.

Medals are awarded in the presence of hundreds of CEOs, ministers, members of the diplomatic corps, the Prime Minister and even the President of Poland, the President of the European Commission or the EESC President.

5.4 For socially responsible investment to reach maturity, the EESC urges the public institutions to give their backing in order to facilitate the creation of the appropriate legal frameworks, promote investment with sustainability criteria, help to highlight good practices and encourage investments in these kinds of financial products, for example, through suitable tax policies⁽²⁴⁾. One very effective way of stimulating the market is for public bodies to apply sustainability criteria in their own investments, whether yields are fixed or variable, through social security reserve funds or sovereign wealth funds, as happens in

France. In the field of regulation and from the transparency viewpoint, it is important to highlight the impact of introducing rules that encourage investment fund management companies or institutions for occupational retirement pensions to state whether or not they include social and environmental criteria in their choice of investments, as happens in the United Kingdom.

5.5 The EESC underlines the importance of companies' commitment and active management on the part of financial market intermediaries. Managers of institutions for occupational retirement provision, the SRI product committees, supervisory commissions and trade unions are all driving forces in the market for socially responsible funds.

Brussels, 26 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽²⁴⁾ Economistas sin Fronteras (Economists without Borders) (2007) *Cómo fomentar la inversión socialmente responsable en España* ('How to encourage socially responsible investment in Spain'), UNED.

Opinion of the European Economic and Social Committee on 'The professionalisation of domestic work' (additional opinion)

(2011/C 21/07)

Rapporteur: **Ms OUI**

On 16 February 2010, the European Economic and Social Committee, acting under Rule 29(a) of the Implementing Provisions of the Rules of Procedure, decided to draw up an additional opinion on

The professionalisation of domestic work.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 133 votes to 7, with 11 abstentions.

1. Recommendations

At its 301st session, held in March 2008, the ILO Governing Body decided to put 'Decent work for domestic workers' on the agenda of the 99th Session of the International Labour Conference (due to take place in June 2010) in order to have a double discussion on the phenomenon. The aim is to identify the best way of securing the rights and proper working conditions of this category of worker. The ILO has already opened discussions with the Member States and the social partners on the most appropriate instrument for this purpose. The EESC would also like to see an effective instrument adopted that reflects the specific features of this type of work. The Committee also calls on all European stakeholders, Member States and social partners to:

1.1 Carry out further research in order to obtain more precise data on the regulations, working, employment conditions and social protection of domestic workers and the application of these rights in EU Member States. Existing studies are limited in scope and do not allow for Europe-wide comparisons, whereas situations vary considerably.

1.2 Introduce legal solutions in the Member States including provisions in the areas of tax, social insurance, labour law and civil law, increasing the motivation of households to employ registered domestic workers, and potential domestic workers to take on work based on a legal contract.

1.3 Draw up advice and recommendations for private individuals who are employers and the domestic workers they employ and make them commonly available. Promote information/training on the obligations and rights of employers and workers, especially where schemes exist to provide subsidies or tax deductions for employers.

1.4 Further develop existing reference guides, describing the tasks and responsibilities, qualities and skills needed to perform

high-quality domestic and family work and draw comparisons between the situations in the different Member States. Encourage European sectoral dialogue on these activities.

1.5 Compare the different types of organisation (public services, businesses, associations, cooperatives, direct employment, etc.) in terms of workers' rights and the quality of the service provided.

1.6 Move towards a form of labour organisation that allows for replacements at the homes of employers or clients (without such arrangements, rights to leave, sick pay, maternity leave and training will remain a pipe-dream) and include payment for travelling time between two homes to be paid. There is also a need for all employees, both male and female, to be able to organise themselves to defend their rights, to come out of their isolation and to negotiate with their employers for rights equivalent to those enjoyed by employees of businesses and public authorities.

1.7 Provide for the certification of experience and lifelong learning to ensure that the value of this work is recognised and that employers or clients have guarantees of the professional abilities of all employees, both male and female.

1.8 Facilitate innovation in the way in which this sector is organised by supporting experimentation with new ideas and developing new forms of organisation and partnerships in order to make implementation more effective and more useful.

1.9 Identify, reduce and prevent work-related risks inherent to domestic work, guarantee conditions that are no less favourable than those enjoyed by other workers in terms of health and safety at work and social security benefits, including maternity leave and retirement pensions.

1.10 Combat the considerable amount of illegal work in this sector and protect migrant women who are in irregular circumstances and suffer abuse: eliminate the double penalty affecting women when, if they complain to the police that they have suffered violence and even sexual abuse or not been paid or, are sent back to their country of origin. International conventions should be applied and should afford them protection⁽¹⁾.

2. General comments

2.1 Observations

2.1.1 Cleaner, childminder, carer, home help – these are all jobs done only by women and are not yet considered to be real careers, one reason for which is that housewives do this work for free. At a time when the International Labour Organization is studying the issue of ‘Decent work for domestic workers’, the European Economic and Social Committee wished to further sound out the approaches referred to in the opinion adopted in October 2009 on the links between gender equality, economic growth and the employment rate⁽²⁾: this opinion highlighted the importance to equality between men and women and to economic growth of professionalising jobs providing services to individuals.

2.1.2 Europe’s Member States view services to individuals as a source of employment that cannot be relocated. Many offer tax breaks or subsidies aimed at legalising unofficial work and encouraging the creation of new jobs by helping beneficiaries to better reconcile work and family life.

2.1.3 According to the ILO report drawn up for the conference to be held in June 2010⁽³⁾, in industrialised countries, domestic work accounts for between 5 % and 9 % of all employment. The report’s introduction states that *‘paid domestic work remains virtually invisible as a form of employment in many countries. Domestic work does not take place in a factory or an office, but in the home. The employees are not male breadwinners, but overwhelmingly women. They do not work alongside other co-workers, but in isolation behind closed doors. Their work is not aimed at producing added value, but at providing care to millions of households. Domestic work typically entails the otherwise unpaid labour traditionally performed in the household by women. This explains why domestic work is undervalued in monetary terms and is often informal and undocumented. It tends to be perceived as something other than regular employment, as not fitting the general framework of existing labour laws despite the fact that its origins go back to the “master-servant” relationship. As a result, the domestic*

employment relationship is not specifically addressed in many legislative enactments, thus rendering domestic workers vulnerable to unequal, unfair and often abusive treatment’⁽⁴⁾.

2.1.4 It adds: *‘Reports of mistreatment and abuse, including sexual violence and even slavery, especially amongst migrant domestic workers living with their employer, appear often in the media’*. Although the number of people employed in this sector is constantly increasing, domestic work is still the most insecure, underpaid and least protected form of employment and is one of the most dangerous. Because this specific form of employment is not covered by international regulations, since 1948, the ILO has endeavoured to ensure that regulations are appropriate and up-to-date.

2.1.5 This opinion is concerned with paid domestic work carried out in private homes, including household tasks, childcare and other services to individuals. It does not address the issues of social services or private businesses, but rather the work situation of domestic workers employed by private individuals. Because this work concerns an increasing number of people, both those working in the field and those benefiting from it and because of its specific features, a legislative framework that reflects these features should be established.

2.1.6 In Europe, most domestic workers, both male and female, have a number of employers. Only a small number of women, often migrants, live with their employer. The work is very often informal. Domestic workers are often vulnerable women who are unaware of their rights, coming from the countryside, with few qualifications, or migrant women with a poor command of their host-country’s language.

2.1.7 Whatever the legislative situation, labour law was designed for businesses and in practice does not usually cover work carried out in a private home where inspections are limited, if not non-existent. Furthermore, the rules governing gainful, profit-generating activities do not apply either. Adam Smith⁽⁵⁾ described this work as ‘non-productive’. Its value is not recognised, although it is essential for society to be able to function.

2.1.8 ‘Because they often have no clear status under modern labour legislation, domestic workers tend to be excluded de facto from formal regulations and their enforcement⁽⁶⁾’. In the EU Member States, although the law does not exclude domestic workers from general labour law provisions, in practice these provisions are very rarely applied to them. Private employers are poorly informed as regards their obligations and responsibilities. Domestic workers operate in isolation and thus do not find it easy to organise collectively.

⁽¹⁾ See the European Convention on the Legal Status of Migrant Workers and the Council of Europe Convention on Action against Trafficking in Human Beings.

⁽²⁾ EESC opinion of 1.10.2009, (OJ C 318, 23.12.2009, p. 15).

⁽³⁾ See the ILO document *Decent work for domestic workers*, IV Report to the International Labour Conference, 99th session, 2010, at: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_104700.pdf.

⁽⁴⁾ Idem, p. 1.

⁽⁵⁾ ILO report on *‘Decent work for domestic workers’*, p. 11: <http://www.ilo.org>.

⁽⁶⁾ Idem.

2.2 Defining professionalisation

2.2.1 Tasks covered by the term 'domestic and family work' have for generations been passed on informally within the family. This learning process varies from one generation to the next. In Europe, spinning and feeding the animals have been replaced by washing machine cycles and the selection of food that is not out-of-date in the supermarket's fresh food aisle. This informal learning should be recognised and the content of the necessary knowledge and skills defined. Lifelong learning should also be introduced. Advantage should be taken of technological innovation in this sector as in others and new nutritional knowledge and new environmental protection requirements should be incorporated.

2.2.2 Better conditions for such work requires a detailed description of the tasks to be performed, the responsibilities that must be taken on and the requisite skills, together with formal training in the skills needed to perform these tasks correctly for any client or validation of prior experience. Studies and experience should be supported by a certificate of competence. It is in the interest of employers or clients to be able to rely on people with certified skills.

2.2.3 Professionalisation means enabling employees to have rights and protection that are equivalent to those held by employees working in offices or factories, including: a decent wage that also covers travelling time between employers' homes, set weekly hours, the right to paid leave, respect for health and safety rules, a decent pension, maternity protection⁽⁷⁾, paid sick leave, compensation in the event of invalidity, rules covering dismissal or termination of the employment contract, means of redress in the event of abuse and real access to vocational training and career development, as exist for other professions. Making contracts standard practice would help protect both employee and employer.

2.2.4 Professionalisation means turning such jobs into careers and combating the stereotypes that today suggest this is only women's work. Progress on professionalisation can be measured against progress on gender balance.

2.3 Defining domestic work

2.3.1 The main feature characterising domestic work is its invisibility. The tasks and especially the responsibilities taken on by domestic workers, both male and female, are rarely spelled out or listed. Employers entrust their home and children to

people whose abilities they cannot check⁽⁸⁾. Studies⁽⁹⁾ on the value of work carried out in homes to facilitate family life (time budget) emphasise that society cannot function unless this work is done. This value should be recognised.

2.3.2 Domestic and family work covers activity carried out by individuals employed by public social services, associations supported by public authorities, private businesses and by domestic workers via private arrangements, either declared or undeclared, if the employer is a private individual. Although in all cases, domestic work is performed almost solely by women, working and employment conditions are generally better in public social services and in businesses in which employees can organise themselves, the social partners negotiate collective agreements and official inspections are possible.

2.3.3 According to the ILO report⁽¹⁰⁾, 'The ILO's International Standard Classification of Occupations (ISCO) recognizes domestic work under two broad classification groupings (5 and 9) and identifies associated tasks and the corresponding skill levels. Classification 5 addresses commercial establishments, institutions and private households. It covers two key categories: housekeeping (minor group 512), which includes housekeepers and related workers and cooks; personal care and related workers, including childcare workers and home-based personal care workers (minor group 513). Housekeeping foreseen under 5121 emphasizes the supervisory work of the housekeeper. Classification 5131 defines childcare workers as those who "take care of employers' children and oversee their daily activities" and considers that the tasks include:

- assisting children to bath, dress and feed themselves;
- taking children to and from school or outdoors for recreation;
- playing games with children, or entertaining children by reading or storytelling;
- maintaining order in children's bedrooms and playrooms;
- taking care of schoolchildren at lunch or other school breaks;
- taking care of schoolchildren on excursions, museum visits and similar outings;
- performing related tasks;
- supervising other workers.

Similarly, home-based personal care workers under classification 5133 "attend to various personal needs and in general provide personal care for persons in need of such care at their own homes because of physical or mental illness or disability or because of impairment due to old age". Tasks of this category, an example of which is a "home nursing aid", include:

⁽⁸⁾ See the EESC opinion of 13.5.2009 (OJ C 277, 17 November 2009, p. 102).

⁽⁹⁾ *Housework: priceless or valueless?* by Marianne A. Ferber and Bonnie G. Birnbaum (1977) <http://www.roiweb.org/1980/387.pdf>; *Time Use in Child Care and Housework and the Total Cost of Children*, by Björn Gustafsson and Urban Kjulin © 1994 Springer <http://www.jstor.org/pss/20007438>.

⁽¹⁰⁾ See footnote 3, pp. 31 and 32.

⁽⁷⁾ The revision of the directive on maternity leave (Council Directive 92/85/EEC of 19 October 1992) gives domestic workers the right to this leave.

- assisting persons in getting into and out of bed and making the appropriate change in dress;
- changing bed linen and helping persons with their bath and toilet;
- serving food – prepared by them or others – and feeding persons needing help;
- giving or ensuring that persons take the necessary medicaments;
- watching for any sign of deterioration in the person's health and informing the relevant medical doctor or social services;
- performing related tasks;
- supervising other workers.

Classification 913 speaks specifically of “domestic and related helpers, cleaners and launderers”. It covers private households, hotels, offices, hospitals and other establishments, as well as a variety of vehicles to keep interiors and fixtures clean. The classification includes domestic helpers and cleaners, as well as hand-launderers and pressers. Under classification 9131, domestic helpers and cleaners “sweep, vacuum, clean, wash and polish, take care of household linen, purchase household supplies, prepare food, serve meals and perform various other domestic duties”.

2.3.4 Whilst domestic work does not cover the provision of medical care, a home help or childminder must be able to ensure that the individuals under their care take their medication and to react if a sudden event occurs threatening the life of individuals under their care. Such workers must be trained in performing such tasks.

2.3.5 Persons carrying out these tasks, in the absence of the employer or when the employer is in a state of dependence, must be independent and able to organise their time and must inspire confidence, as they are entrusted with house keys, babies, elderly parents, in short, what people hold most dear. They must also be responsible, show initiative, be discreet and when they have full responsibility for children or dependents, they must be able to multitask, be vigilant, attentive, persuasive, patient, even-tempered, be able to remain focused, listen, show authority, and know what to do in the event of an accident. They must demonstrate empathy and have some knowledge of psychology, nutrition and hygiene.

2.4 Characteristics of domestic work

Domestic work is insecure and poorly paid because its value is not recognised, given that it is also carried out free of charge by housewives; employers are private individuals who cannot or do not want to pay more; it is carried out by women working alone, usually in the homes of a number of different employers; unlike employees of businesses, they cannot organise themselves collectively, strike, or block production in support of their demands; stereotypes affecting the perception of these jobs

and the image of women and mothers hide the reality of the skills needed to perform them; the workplace is a private home that cannot be inspected and is often carried out by immigrants in an irregular situation and without rights.

2.4.1 Insecurity is inherent to these activities, and reflects with household needs; children grow older and become independent, elderly dependents die, and when household resources fall, as a result of unemployment, for example, employing someone in the home is no longer possible.

3. Specific comments

3.1 Aims of professionalisation

3.1.1 A better work-life balance

3.1.1.1 Paid work for women, which is a prerequisite for gender equality, has required services to be set up to replace the work that women used to do at home. It has also given families greater financial means, which enables some of them to use these services, which in turn creates jobs.

3.1.1.2 These services have developed because people need them in order to strike a balance between family life and working life. Men and women should be able to commit themselves to their professional life without harming their family and personal life, in which case they need to entrust some of the domestic and family tasks to other people.

3.1.1.3 To achieve balanced gender participation in the labour market and to take account of the new needs created by the ageing of the population, these services will have to develop further in the future and will thus involve more workers.

3.1.2 High-quality jobs and services

3.1.2.1 To develop these services, it is important to ensure their quality, expand current training, introduce lifelong learning to incorporate developments and extend opportunities for checking skills. Professionalising these jobs means improving their quality for both clients and beneficiaries and workers. This is the best way of recruiting people in the future keen to work in this field.

3.1.3 Alleviating poverty

3.1.3.1 It is well known that in Europe, more women than men are affected by poverty. The low wages, job insecurity and undeclared work that are typical of domestic work are factors for social exclusion. In Europe, more undeclared work takes place in the domestic work sector than in any other, including construction and catering ⁽¹⁾.

⁽¹⁾ See *Undeclared work in the European Union*, Special Eurobarometer 284, wave 67, 3 October 2007, p. 21.

3.1.4 Combating informal work and irregular immigration

3.1.4.1 The cases of slavery reported in Europe concern irregular domestic workers, whose employers do not pay them, promising that legal papers will be forthcoming. These workers are the most vulnerable of all: they dare not complain about their mistreatment, violence and sexual abuse for fear of being thrown out of the country. Domestic work should be covered by the selective immigration, which today targets people who are highly qualified. Europe's demographic situation means that immigration must be used to meet needs, in particular those of elderly dependents.

3.1.4.2 Informal work deprives workers of their social protection and society as a whole of taxes and social security contributions. It tarnishes the image and perception of domestic work, making it a second-class job, which encourages stereotypes and drags the entire profession down. It also increases the likelihood of poverty.

3.1.4.3 The increase in the phenomenon of informal domestic work calls for a range of measures integrated into the legal systems of individual Member States – especially provisions in the areas of tax, social insurance, labour law and civil law. There are usually economic reasons for the tendency to employ informal workers and to take on informal work, as this kind of work is more favourable than registered work for both sides. Action by the Member States must aim to reduce the difference in these benefits and must also be backed up by action tailored to local social and cultural conditions (media campaigns, examples set by public figures, information about the risks associated with informal work).

3.2 Employment conditions

3.2.1 Organised employers and unionised employees have negotiated collective agreements. These developments must be used to improve the lot of domestic workers. Studies could be carried out on the collective agreements currently governing domestic work in Europe and the best practices could be adopted in order to disseminate their use. A comparison should also be made of the different types of organisation (businesses, associations, cooperatives, direct employment) in terms of workers' rights and the quality of service provided.

3.2.2 In a number of European countries, both employers who are private individuals and domestic workers are poorly informed regarding their rights and obligations. Employers do not view cleaners or childminders as employees who have rights. Due to stereotypes, employers see them as helpers, whom they are doing a favour by offering them a few hours of work. Often, the two parties do not sign a written employment contract, which means that the conditions of employment, pay, leave, working hours, job description, termination of the contract and redundancy pay are not clearly defined. Each party's rights and obligations must be made clearer, which would also provide protection for employers, who should be more aware of the dangers of taking on someone to work in their home (theft or accidents) and their responsibilities.

3.2.3 Health and safety: domestic work is wrongly considered to be risk-free. Burns, cuts, intoxication by household products, falls and electrocution by household appliances are common accidents, especially if employers are not aware that they have to obey safety rules and if employees are not told of the dangers and trained to avoid them.

3.2.4 Healthcare, maternity protection, retirement: maternity leave often means dismissal, because employers who need someone to do domestic work will take on another employee and will not feel obliged to take back the employee who has left to take maternity leave. The lack of any organisation providing temporary replacements makes it harder for legislation to be implemented and this consequently remains a theory. Social security and pension schemes are often inappropriate for a few hours of work at a number of different employers.

3.2.5 Qualifications and training: the required skills have for a long time been passed on through informal learning. For a number of years, the knowledge passed on within families has been in decline. Young mothers are unprepared for the birth of their first child and young parents no longer know how to cook balanced meals, preferring ready-cooked food, which is one cause of child obesity. Listing the relevant tasks and skills and teaching them would also help ensure they are more commonly practised, also by men.

Brussels, 26 May 2010.

*The President
of the European Economic and Social Committee*
Mario SEPI

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

463RD PLENARY SESSION HELD ON 26 AND 27 MAY 2010

Opinion of the European Economic and Social Committee on the 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Options for animal welfare labelling and the establishment of a European network of reference centres for the protection and welfare of animals'

COM(2009) 584 final

(2011/C 21/08)

Rapporteur: **Mr Leif E. NIELSEN**

On 28 October 2009, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Options for animal welfare labelling and the establishment of a European network of reference centres for the protection and welfare of animals

COM(2009) 584 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 May 2010.

At its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 106 votes to 2 with 1 abstention.

1. Conclusions and recommendations

1.1 A labelling scheme is needed that gives consumers objective information to enable them to choose animal products that exceed EU minimum animal welfare requirements. The labelling should provide an identifiable guarantee based on reliable information that consumers can readily understand.

1.2 The purpose of the scheme is to assess and compare norms on a scientific basis. The scheme should be voluntary, harmonised and market-driven; it should be based on certification and be such that it can be used in conjunction with private labels and other quality labels, provided certain criteria

are met. The scheme must also comply with international commitments and apply under equivalent conditions to imports into the EU.

1.3 The Committee welcomes the detailed studies instigated by the Commission to assess the impact of the various options available for a labelling scheme and a European network of reference centres. These studies clearly indicate that the most realistic option is a labelling scheme of the kind outlined above; this is also consistent with the EESC's earlier recommendations on the subject ⁽¹⁾.

⁽¹⁾ The EESC's exploratory opinion on *Animal welfare – Labelling* of 15 March 2007 was drawn up at the request of the German Council presidency (OJ C 161, 13.7.2007, p. 54).

1.4 That said, the Commission does not assess what is required of a 'guarantee scheme' of this kind; nor does it list the options in any order of priority, but leaves the matter open – despite the fact that most of the proposals are unrealistic. It would have made more sense – and been more beneficial – for the Commission to put forward a concrete proposal as the basis for further discussion. This is particularly true given that, two years ago, the Council specifically asked the Commission to base its further deliberations on the EESC's recommendations.

1.5 It is important to avoid unnecessarily protracted discussions. This applies not least given the need to put the findings of the Welfare Quality (WQ) ⁽²⁾ project into practice, and to maintain and draw fully on the existing network of stakeholder institutions and the commitment of researchers in the field, without wasting too much time carrying on the discussion of theoretical options without any concrete proposals.

1.6 The WQ project has thus established a solid foundation for the development of scientific indicators that are based primarily on animal well-being and behaviour but also indirectly on the production systems and methods deployed, and that may, at a later stage, be used for classification purposes and the provision of transparent and reliable consumer information.

1.7 The EESC therefore backs the establishment of a European network to continue the work of the WQ project. Reiterating its earlier recommendations, the Committee feels that a combination of the labelling scheme and a centrally coordinated network is the most appropriate of the available options. At the same time, the stakeholders involved should have substantial input into how the scheme operates and into establishing the relevant norms.

1.8 The proposed system is planned as an adjunct to existing EU quality schemes, which use 'reserved terms' to describe organic products and production systems for eggs, and to the rules on geographical indications and traditional specialities, where the primary point of reference is production methods and origin, not animal welfare.

2. Background

2.1 Measurable indicators, higher animal welfare norms, labelling and the establishment of a European network are key elements of the Commission's animal welfare action plan ⁽³⁾. The aim is to better enable consumers to choose animal products that are produced in a welfare-friendly way

above EU minimum requirements. This may be done by improving information and raising awareness of animal welfare, by working out norms and developing and applying best practice via a European network for animal protection and animal welfare. As the representative of civil society – and given the diversity of its membership – it is clearly part of the EESC's remit to help put in place a flexible and efficient system.

2.2 The report is a response to the Council's request of May 2007 to assess options for welfare labelling. That was based on the EESC's exploratory opinion and the follow-up conference ⁽⁴⁾. The Council asked the Commission to assess the available options for animal welfare labelling, taking due account of the EESC's recommendations which considered the practicalities of introducing a labelling system based on welfare indicators in line with the findings of the WQ project. Like the EESC, the Council also recommended that an information campaign on animal welfare and labelling schemes should then be conducted at EU level.

2.3 The annexes to the report contain wide-ranging external studies of available options both for animal labelling and for the provision of information, and of certain aspects relating to the establishment of a European network. In line with the Council's request, the intention is to launch an interinstitutional debate on the report and the various studies as the basis for the Commission's ongoing deliberations.

2.4 The report and the appended summary of the studies provided by the Commission's services outline the available options, including a range of mandatory or voluntary labelling schemes, but they do not give priority to any particular one. Clearly, however, any future scheme must provide consumer-friendly information. It must be based on scientific criteria and draw on independent certification bodies. It must avoid distortions of competition and comply with international commitments.

2.5 The Commission feels that a European network of reference centres will have the potential to harmonise animal welfare standards and indicators, coordinate existing resources, help in the sharing of best practices, provide independent information and avoid overlap. The available options are: a continuation of the current situation, with no additional measures; a centralised approach; a decentralised approach; or a more task-specific strategy involving central and decentral elements.

⁽²⁾ Welfare Quality® was an EU-funded research programme conducted between 2004 and 2009. It involved some 250 researchers and brought together 39 institutes and universities from 13 European countries and key third countries. The project used a scientific basis to develop animal welfare standards and practical strategies for incorporating animal welfare into the entire chain – from farming and downstream production and distribution sectors to marketing and relevant consumer information.

⁽³⁾ COM(2006) 13, 23.1.2006.

⁽⁴⁾ The conference *Animal Welfare – Improving by Labelling?* was held on 28 March 2007 and organised by the European Economic and Social Committee, the European Commission and the German EU presidency. The Council conclusions clearly state 'that account should be taken of the recommendations made by the European Economic and Social Committee in its exploratory opinion.' (conclusions, 2797th Agriculture and Fisheries Council meeting, Brussels, 7 May 2007).

2.6 The Commission will thereby consider aspects such as administrative burdens, cost and the relationship between labelling schemes and product quality, for instance in organic farming. It will draw on the findings of the WQ project and consider any possible social, economic and environmental impacts. The Commission also intends to undertake further research to determine if consumer opinions stated in previous surveys have changed and, if so, why.

3. Some comments

3.1 The Committee continues to back the Commission's animal welfare action plan ⁽⁵⁾ and is pleased that the protocol on protection and welfare of animals has been given a higher profile in the Lisbon treaty, thus reflecting the growing interest in the issues involved ⁽⁶⁾.

3.2 The studies that have been carried out demonstrate the need for a more cohesive and coordinated approach to animal protection and animal welfare in the EU. The large number of voluntary labelling and quality schemes in the Member States may be misleading and risk making unwarranted and ill-conceived distinctions between products and creating an uneven playing field for stakeholder producers and distributors.

3.3 Consumers are able to prioritise animal welfare on the basis of ethical, quality-related or other considerations, but lack of documentation means they are distrustful of the validity and reliability of marketing statements. Objective and scientifically sound documentation is thus vital to promote the marketing of animal products that exceed EU minimum requirements. Obviously, labelling can only have the desired effect if the information provided is readily understandable and if consumers are sufficiently alert to what it means and are interested in receiving it.

3.4 An identifiable guarantee based on objective and reliable information is therefore needed and, in line with its 2007 opinion, the EESC fully supports moves in that direction. The EESC is grateful for the exhaustive work that has been done since then and understands that it has been time-consuming.

3.5 That said, it would have been more beneficial if the Commission had listed the available options in order of priority and homed in on one or more proposals as the point of departure for the ongoing political process, including one based on the EESC's recommendations. The wide-ranging studies that have been conducted clearly bear out the EESC's recommendations, i.e. that any labelling system must, realistically speaking, be voluntary, harmonised and market-driven if it is to establish a practical and viable framework for marketing animal products that exceed minimum animal welfare requirements.

3.6 The Commission should also draw on the extensive European-led work in this area; knowledge-based systems which inform both the provider and producer of goods and services and stimulate market-centred action and consumer response. Such examples include the Fairtrade mark, the Forest Stewardship Council, the Marine Stewardship Council and the Rainforest Alliance. The essential elements must address scheme governance, scope, goals and norm-setting; provide for independent review, impact assessment and cost-benefit analysis; and also monitor public claims and promotion ⁽⁷⁾.

3.7 Coordinating research would secure a more effective use of resources, and the EESC feels it is important in that regard to step up the interinstitutional debate. This is particularly true given the need to put the findings of the WQ project into practice as quickly as possible and to foster researchers' commitment and press ahead on the basis of findings reached to date, without wasting too much time carrying on the discussion of theoretical options without any concrete proposals. Networking with researchers in key non-EU countries is also vital for the further dissemination of research findings and a better understanding of EU policy. This is important for future trade relations.

The labelling system

3.8 Although the study fails to reach any clear conclusion as to the labelling scheme, it does indicate – albeit indirectly – that the most realistic option is a straightforward and flexible system which, on all major points, ties in with the EESC's recommendations and proposals, i.e. a system that is scientifically based, market-driven, voluntary and able to be used in conjunction with existing private labels and quality labels.

3.9 The EESC therefore still feels that the system should basically be underpinned by the following elements:

⁽⁵⁾ Cf. EESC opinion on a Community Action Plan on the Protection and Welfare of Animals 2006-2010, OJ C 324, 30.12.2006, p. 18.

⁽⁶⁾ Article 13 states that: '(...) the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.' This mandatory provision replaces the 'gentlemen's agreement' (i.e. protocol) formerly in place and, for instance, gives the European Court of Justice authority to settle disputes.

⁽⁷⁾ Such a scheme could also seek ISO65 accreditation - general requirements for bodies offering product certification systems.

- The proposed reference centre(s) should establish the requisite objective criteria and assess the entire life cycle of the animals; these should be translated into practical and realistic production conditions, so that there is the best possible interaction between research, development and the application of new technologies ⁽⁸⁾.
- The criteria must be translated into norms ⁽⁹⁾ to apply to the labelling system, not least to ensure proper measuring and checking by an independent body, with input from the relevant stakeholders.
- Producers and consumers will then be able, on a voluntary basis, to label animal products with a logo recognised by the EU guaranteeing that they comply with a higher norm than the EU's minimum requirements.
- The norms may, for instance, reflect three different levels above minimum requirements, depending on how relevant this is for the particular species or product concerned ⁽¹⁰⁾.
- Compliance with specific requirements and controls on how the label is used should be subject to self-policing and independent monitoring ⁽¹¹⁾.

3.10 Under this scheme, the relevant logo is deployed, checked and used under market conditions, independently of the public authorities. Through the voluntary addition of the logo on existing labels (in conjunction with a system of stars, colours or points), the proposal would also resolve the problem of too many labels providing information overload on the individual products. The information would reach interested and motivated consumers, and confidence in the system would be underpinned by a sound scientific basis and independent certification.

3.11 The timeframe involved in launching the scheme must reflect the requirements of the market, but producer organisations, businesses and the retail trade would be able to use the system for their own range of products, provided these

⁽⁸⁾ In line with the WQ project, assessments must be predicated primarily on animal behaviour ('welfare outcomes') rather than directly on production systems ('input and resources'). In practice, production systems are thus assessed in terms of impact on animal behaviour. The indicators should include all the essential data on the animal species concerned as regards rearing, space and accommodation, scope for natural behaviour, daily supervision, health and sickness aspects, weaning, surgical operations, transport to the slaughterhouse, stunning and slaughter. The system also encourages voluntary innovation and improvements carried out on an individual basis.

⁽⁹⁾ The term 'norms' is proposed to avoid confusion with 'standards' which are worked out by the European standardisation bodies using specific procedures.

⁽¹⁰⁾ This reflects the WQ project's three-level classification: excellent (highest level), enhanced (good welfare) and above minimal requirements.

⁽¹¹⁾ An institute or organisation or a special certification body working in accordance with the relevant European and international ISO standards in EN – ISO – 17000 or accredited as a certification body in accordance with EN – ISO – 45011.

products meet the higher requirements, and to market them as such. It is, for instance, important that the system be compatible with the growing trend towards 'branding' whereby the retail sector uses methods other than labelling to publicise a product's animal welfare credentials.

3.12 The system could also be applied under similar conditions to imported products, thereby obviating any difficulties in relation to WTO rules, as the WTO allows voluntary labelling systems provided they are appropriate and accessible to third-country producers under the same conditions.

3.13 A market-based approach of this kind presupposes, among other things, that the system is sufficiently attractive for consumers and retailers – and that producer costs are offset by improved market access and higher prices.

A European network and reference centres

3.14 Existing research bodies within the EU need to be involved if animal welfare provisions are to develop smoothly and on an objective footing. This why the EESC backs the establishment of a European network in this area, coordinated by one or more reference centres (ENRC), organised along similar lines to the existing animal health reference centres ⁽¹²⁾.

3.15 The European Food Safety Authority, the Joint Research Centre and the national reference laboratories do to some extent deal with animal welfare but are not qualified to coordinate this area across the EU. The network must supplement – not duplicate – the work of these EU bodies. Basically, it should cover all aspects of commercial animal use and must be independent of outside interests.

3.16 The network should have the following interconnected tasks:

- to establish and update indicators and other elements in order to assess animal welfare on a scientific basis with input from the various stakeholders involved;
- to assess the impact of animal welfare measures and improvements;

⁽¹²⁾ The Commission uses the term 'European network of reference centres' (ENRC) but what is involved here is a network of research units coordinated, as in the animal health sector, by one or more reference centres (possibly for each individual species) which, on the basis of indicators, propose animal welfare norms for adoption by an independent body. The opinion does not detail how these bodies are to be organised, other than the proposal that the relevant stakeholders be involved.

- to press ahead with research and further develop the scientific basis used to update norms;
- to provide information and conduct dialogue on the application of the norms and help secure a more pro-active animal welfare policy across the world.

3.17 The best way to approach such a venture might be to press ahead with the existing WQ network in conjunction with the larger network in key non-EU countries. The WQ project has thus provided a foundation for the development of a labelling scheme by working out animal-based indicators that can, at a later stage, be used in the classification process to underpin transparent and reliable consumer information.

3.18 The norms proposed by the network should be adopted by an independent body. Given that stakeholders must be actively involved if the system is to function properly, they must have the widest possible input into the decision-making process, not least in terms of working out strategy and drawing up a work programme.

Other issues

3.19 The EESC's animal welfare labelling proposal is based on the best currently available scientific knowledge and assessments. Harmonised requirements make it possible for consumers to make well-informed purchasing decisions, thereby also generating incentives for producers. For that to happen, however, steps need to be taken to raise awareness of animal welfare, norms and labelling through information campaigns and educational programmes. Despite the clear need for European coordination, this should be organised and implemented at regional and national level since experience has shown that centralised EU information campaigns fail to hit home in the Member States.

3.20 The proposals outlined above would not conflict with the existing EU organic farming scheme, which also covers many facets of animal welfare. It is safe to assume that animal welfare will be given due consideration in relation to organic products through the gradual application of the norms once they become available and will thus be a factor in the

monitoring arrangements for such products, without incurring any extra administrative costs. Consumers associate organic farming with higher animal welfare norms and they may be expected to recognise organic products labelled with the EU logo.

3.21 The proposed system is basically planned as an adjunct to existing EU quality schemes, which use 'reserved terms' in production systems for eggs, and to the rules on geographical indications and traditional specialities. These schemes also take as their point of reference production methods and origin, not animal welfare, although these aspects are to some extent understood as such. Consumers, however, are familiar with these schemes and they should be retained. Further mandatory or voluntary requirements for the use of 'reserved terms' based on production systems should, on the other hand, be avoided since specific production conditions are not suited to regulation under the EU's complex legislative procedures – something that is clearly apparent, for instance, when laying down EU minimum norms.

3.22 The Commission's communication on agricultural product quality policy contains a proposal to draw up guidelines for private and national food certification schemes⁽¹³⁾. The proposed guidelines will also help protect consumers from misleading information, while at the same time leaving it up to the market to respond to consumer concerns for animal welfare, and will introduce certification as a key element in EU food policy.

3.23 The proposed system has no bearing on any specific religious issues, since labelling is solely a guarantee of compliance with animal welfare requirements that specifically exceed EU minimum requirements.

3.24 The ENRC should play a key role in fostering the welfare of all vertebrates kept for commercial purposes, including, for instance, fish and fur animals which should be subject to the same criteria as other livestock. This also applies to laboratory animals, whereby the European Centre for the Validation of Alternative Methods (ECVAM) assesses alternatives to the use of animals for scientific purposes.

Brussels, 26 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽¹³⁾ COM(2009) 234, 28.5.2009.

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Investing in the Development of Low Carbon Technologies’

COM(2009) 519 final

(2011/C 21/09)

Rapporteur-general: **Gerd WOLF**

On 7 October 2009 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Investing in the Development of Low Carbon Technologies

COM(2009) 519 final.

On 3 November 2009, the Bureau of the European Economic and Social Committee instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work (Rule 59 of the Rules of Procedure), the European Economic and Social Committee appointed Mr Wolf as rapporteur-general at its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 27 May), and adopted the following opinion with 168 votes in favour and three abstentions.

1. Summary and recommendations

1.1 The SET Plan submitted by the Commission deals with the main current measures aimed at achieving the vital, linked objectives of climate protection and security of energy supply and at maintaining Europe's international competitiveness. The Committee fully supports the proposed investments and measures.

1.2 Only by means of extraordinary, joint efforts will it be possible to convert our entire energy system - supply, conversion and consumption - and gear it to these objectives.

1.3 This requires the development of low-carbon energy supply and use technologies and methods which are also internationally competitive with existing technologies.

1.4 The Committee is, however, extremely concerned that the expenditure this will require from the Commission, the Member States and private industry is still massively underestimated. The Committee therefore urgently recommends that an appropriate financing plan supported by the Commission, the Member States and industry and firmly based on the future EU budget be drawn up. Until then other sources of financing should be mobilised. In particular the Member States' entire revenue from CO₂ emissions certificates should be exclusively used for this purpose. The same should apply to revenue from a possible future CO₂ tax.

1.5 In view of the vital importance of the energy and climate problem and its impact on competitiveness, the Committee considers it senseless to skim off additional tax revenues from

the energy industry - intended to help protect the climate - for other purposes.

1.6 Investment in the development of low-carbon energy technologies offers opportunities for innovation, economic dynamism, sustainable growth and jobs. This is particularly true as usable and affordable energy is the lifeblood of our economy and way of life. Providing energy economically is a decisive factor in determining Europe's international competitiveness. This means that we need future-orientated ways of obtaining energy.

1.7 The Committee stresses in this context the particular importance of electrical energy. It recommends, however, that more attention also be paid to energy use outside the electricity sector and that innovative research approaches be sought in this area too, as this is where the lion's share of fossil energy is used at present.

1.8 In order to allow the Commission to perform its coordination function efficiently, appropriate R&D programme structures should be established by agreement with the relevant stakeholders. For its part, the Commission needs experienced, internationally recognised and committed experts who are active in their areas of specialism and who are fully committed to the success of the programme which they are coordinating.

2. The Commission Communication (content much simplified and abbreviated)

2.1 The SET Plan is intended to be the technology pillar of the EU's energy and climate policy.

2.2 The key element of the SET Plan is the EU roadmaps for the period 2010 to 2020 for the development of technologies with low emissions of CO₂ into the atmosphere (low-carbon technologies). They, together with a financing plan and the division between industry and government, are set out in a Commission staff working document ⁽¹⁾.

2.3 The Commission Communication covers, *inter alia*:

2.3.1 European Industrial Initiatives, namely:

- wind power
- solar energy
- electricity grid
- sustainable bio-energy
- CO₂ capture, transport and storage (CCS)
- sustainable nuclear fission
- fuel cells and hydrogen.

2.3.2 Energy-efficiency - Smart Cities initiative

2.3.3 The European Energy Research Alliance (EERA). This concerns joint programmes by research institutes and universities.

2.3.4 Other objectives include:

- other technologies, such as offshore technologies other than wind power for renewable energy, energy storage, extending the life of nuclear power plants and disposal of nuclear waste;
- fusion energy, in particular the ITER project;
- basic research, e.g. motor fuels direct from sunlight, solid-state (digital) light sources and high-storage-density batteries;
- activating poles of science and research. Cohesion Policy also provides significant investment;
- international cooperation.

2.3.5 Investment in the EU has to increase from the current EUR 3 bn per year to around EUR 8 bn per year to effectively move forward the SET Plan actions.

2.3.6 At least 50 % of auction proceeds from the new European Emissions Trading System is to be reinvested at national level in climate protection measures, with part being earmarked for the development of clean technologies.

2.3.7 The incentive and leverage effect of public financing is to be maximised with a spectrum of financing instruments.

2.4 The Commission is therefore calling on the Council and the European Parliament:

- to support the 2010-2020 technology plans,
- to allow SET Plan initiatives to be supported from existing Community programmes,
- it is calling on the Member States to step up their efforts to support the financing of low-carbon technologies,
- to support the proposed development of financial instruments as a contribution to the financing of the SET Plan,
- to approve the plans of the Commission and the EIB to this end,
- to approve the development of existing and new international technology-orientated initiatives.

3. General comments by the Committee

3.1 **Copenhagen Climate Conference.** The Committee acknowledges the efforts made by the EU and its Member States to bring the Copenhagen Climate Conference to a successful conclusion. It sees the 2 °C increase objective as a first step towards taking climate protection seriously. It is therefore all the more regrettable that no agreements going beyond statements of intent or binding commitments by the participants were achieved.

3.1.1 **Seriousness of the threat underestimated.** Despite the still growing world population with its energy hunger ⁽²⁾ and massive catch-up needs, the finite stocks of fossil primary energy sources ⁽³⁾ and Europe's growing import dependency, clearly the seriousness of the energy and climate problem and the necessary investments are still seriously underestimated by many politicians and other players. This may be because of the long-term nature of the phenomenon, the uncertainties inherent in the climate models, economic interests, the feared loss of quality of life, reluctance to make the necessary investment or because the impact on the regions in question is seen as less critical.

⁽²⁾ According to estimates by the International Energy Agency (IEA), worldwide energy consumption will grow by 50 % by 2050.

⁽³⁾ According to conservative estimates, half of the 'fossil' resources will have been used by 2050.

⁽¹⁾ SEC(2009) 1296 of 7.10.2009.

3.1.2 Economical use of resources. The development of competitive low-carbon energy technologies ⁽⁴⁾ will also help to slow down the rate at which finite stocks of fossil primary energy sources are used up; it will also influence their price and thus promote sustainability. Only in this way can fossil energy sources be made to last longer, making it possible to prepare more effectively for the time when they are gone. Whoever does not act now will be hit all the harder in the future.

3.1.3 Consequence: low-carbon technologies. It is therefore all the more urgent to step up efforts to develop new or existing technologies and methods for low-carbon energy extraction and use which are internationally competitive with existing technologies. Low-carbon energy use technologies are only used on a significant scale internationally if it is financially attractive to the relevant stakeholders.

3.1.4 Option of a 30 % reduction target. Things will become even more urgent if the option of a 30 % CO₂ reduction target ⁽⁵⁾, which the Committee supports, should be adopted (i.e. if the international conditions are met).

3.1.5 Possible further increase in consumption. The IEA reference scenario ⁽⁶⁾ forecasts steadily growing consumption of fossil primary energy sources, especially coal, in the coming decades. The IEA argues that strenuous efforts ⁽⁷⁾ will be needed to break this trend, so that globally the use of fossil energy resources reaches its height in 2020 and thereafter begins to decline gradually, increasingly being replaced by low-carbon technologies.

3.2 Research and development – the SET Plan. Research and development are therefore of outstanding importance, and the SET Plan submitted by the Commission plays an important part in this respect. It includes the share of financing from the Community budget earmarked for this purpose.

3.2.1 Research and development. International efforts and competition. The Copenhagen Climate Conference again demonstrated that even states like the USA and China, which did not support binding agreements, are nonetheless devoting significant funding to research and development related to the objectives listed in point 3.1.2. This also shows, however, that Europe will only be able to maintain its leadership if it devotes significantly more resources to R&D.

⁽⁴⁾ With the exception of CCS.

⁽⁵⁾ COM(2010) 2020 EUROPA 2020.

⁽⁶⁾ International Energy Agency – IEA – World Energy Outlook 2009 – Reference Scenario.

⁽⁷⁾ IEA – World Energy Outlook 2009 – the 450 Scenario.

3.2.2 Investment programme for innovation, dynamism and jobs. Investment in appropriate research and development offers outstanding opportunities for innovation, economic dynamism, sustainable growth and new jobs. This is particularly true as the availability of usable and affordable energy is the lifeblood of our economy and way of life. Without a sufficient supply of energy under economic conditions, our economy, our social system and our society in general are threatened with collapse. This is why we need future-orientated forms of energy supply.

3.3 Approval. The Committee therefore approves the Commission's initiative as well as the measures proposed in the Communication as an important and essential step. It calls on the Council, the Parliament, the Commission, the Member States, as well as industry and the social partners to do everything in their power to tackle the development and application of low-carbon energy technologies and to make the funding for the necessary R&D investment available.

3.3.1 Questionable scale and focus. The Committee does not consider it to be its task in the context of this opinion to check in detail whether the proposed framework set out in the Commission document ⁽⁸⁾ and its distribution among the proposed objectives are appropriate to the objectives. It therefore recommends checking again whether the priority assigned to the projects is correct and whether the total amount of funding is in line with the importance of the objectives. It should also be ensured, after an appropriate transitional period, that the measures are having an effect, if necessary revising and extending the financing plan accordingly.

3.3.2 The financing problem. The Committee stresses that the aim of converting our entire energy system - supply, conversion and consumption - and gearing it to the combined objectives of climate protection, security of supply and sustainability will only be achieved by dint of extraordinary efforts, and that the research and development effort needed to achieve this is significantly underestimated. Looking at the size of the USA's R&D spending in this area, the Committee doubts that the investment earmarked will be enough to ensure that such extensive developments can be achieved successfully on a broad front and with the necessary emphasis, or even to achieve market leadership.

3.3.3 Comprehensive financing plan. The Committee therefore urgently recommends that an appropriate financing plan supported by the Commission, the Member States and industry and firmly based on the future EU budget be drawn up.

⁽⁸⁾ SEC(2009) 1296 of 7.10.2009.

3.3.4 Tapping additional sources of finance - costs of energy consumption as a benchmark. Until then other sources of financing should be mobilised, both at Community level and particularly in the Member States. The Committee is pleased to note that the EIB has also indicated its willingness to participate. The costs of current energy use should be taken as a benchmark for the necessary investment: a significant percentage should be earmarked as insurance for the future! The Committee refers in this context to its opinion on the Action Plan for Energy Efficiency ⁽⁹⁾.

3.3.4.1 Revenue from CO₂ emissions trading and a possible CO₂ tax. In addition, the entire proceeds ⁽¹⁰⁾ of the Member States' CO₂ emissions trading should be exclusively ⁽¹¹⁾ used for the development of low-energy technologies. In view of the extent of the climate and energy problem, the Committee considers it senseless to skim off part of these revenues for other purposes. This recommendation also applies to revenue from a possible future CO₂ tax. The Committee calls on the Member States not to rule out this recommendation.

3.3.4.2 No diversion of financial resources. In view of the vital importance of the energy and climate problem and its impact on competitiveness, the Committee considers it senseless to skim off additional tax revenues from the energy industry intended to help protect the climate for other purposes.

3.3.4.3 Certificates reserve. The Committee welcomes the Commission's intention of using the 300 million EU Allowances set aside from the New Entrants Reserve of the Emissions Trading Scheme (ETS) to support carbon capture and storage and innovative renewables. These allowances will be made available via Member States to fund demonstration projects selected on the basis of criteria defined at Community level ⁽¹²⁾.

3.3.5 Create incentives for innovation. The Committee would also refer to its opinion on Community innovation policy ⁽¹³⁾, the recommendations of which apply particularly to the development of sustainable energy technologies.

3.3.6 Distinguishing between development and application. The Committee recommends making a clearer distinction between the necessary development of existing and

of new, cheap, low-carbon energy technologies and their broad application and market penetration.

3.4 Limited predictability. So far experience has shown that future developments and their effects in the longer term, also in the field of energy and climate policy, cannot be correctly predicted. It is therefore impossible today to narrow down the choice of the technologies which will be needed in 2050. Rather, all promising options should be followed up in order to achieve the objectives set for 2050 and beyond as efficiently as possible, taking account of the conflicting demands of security of supply, competitiveness and climate protection. The year 2020 will be a milestone in terms of establishing whether at least the objective so far set has actually been achieved.

3.4.1 Thematic breadth of development. The Committee therefore welcomes the thematic breadth proposed by the Commission in respect of technologies and measures at all stages up to application-readiness, in order to meet the conditions for a flexible approach to application based on experience and to avoid premature decisions.

3.4.2 Basic research. The Committee is pleased that the Commission again above all stresses the importance of, and need for, sufficient basic research. Only in this way can the foundation be laid for basic new discoveries and the resulting applications.

3.4.3 European Energy Research Alliance. The Committee also welcomes the proposal to establish a European Energy Research Alliance. The Commission should use the instrument of open coordination and especially co-financing by financiers in the Member States and industry, in accordance with the participation rules.

3.4.4 Leverage of the SET Plan. Accordingly, when examining the proposed financial framework, it should be ensured that the Community funds available under the SET Plan are also sufficient to exert the desired leverage effect on the necessary participation of the Member States and industry.

3.5 Setting of priorities for application. When putting the technologies and systems developed into effect, further important principles - beyond the climate protection objective - such as security of supply and economy (e.g. cost of CO₂ prevention) should be given greater emphasis, with due consideration for regional and global aspects (energy availability from solar, hydroelectric or wind power, distance, interests of the raw material suppliers etc). Accordingly, instruments for initial market support should not specify particular technologies or favour them through special support.

⁽⁹⁾ OJ C 10, 15.1.2008, p. 22.

⁽¹⁰⁾ e.g. auction proceeds in the 2013-2020 trading period.

⁽¹¹⁾ In the communication the Commission proposes that only 50 % be used, and not exclusively for R&D (see point 2.3.6).

⁽¹²⁾ Including geothermal energy.

⁽¹³⁾ INT/509. Not yet published in the Official Journal.

3.6 Importance of the electricity sector. A major proportion of the proposed technologies and measures concern systems for the provision or use of electrical energy. Although at present the electricity sector accounts for only about 19 %⁽¹⁴⁾ of the European energy market, the Committee considers that concentrating the proposed R&D measures on the electricity sector to some extent is justified, as electrical energy now plays an essential, key role in all areas of daily life, technology and the economy. The aspiration to electrify land-based transport as far as possible (electric cars, railfreight) and – in addition to combined heat and power – rely more on electrical technologies (pumps, compressors) for heating buildings using heat pumps and geothermal energy will further strengthen the role of electricity.

3.6.1 The decisive role of renewable energy sources. The Committee reiterates that renewable energy sources have a decisive role to play among the low-carbon energy technologies to be developed. The Committee is pleased to note that the share of renewable energy in overall electricity production has risen more than expected in recent years, in particular as a result of the massive development of wind energy.

3.6.2 European electricity grids. The Committee accordingly supports the development of appropriate electricity grids in Europe and the development of the necessary technologies (for example 'smart grids'), in order to balance the rising fluctuations in supply within Europe more effectively, and possibly be able to transport electrical energy from solar power stations in Africa to Europe.

3.6.3 Storage technologies, base load suppliers and buffer power plants. If the desired further development of renewable energy sources, which are subject to fluctuations related to the weather, the time of day and the season, comes to pass, capacity will probably not be sufficient to ensure guaranteed, demand-related electricity supply. Stationary storage technologies (e.g. air pressure, hydrogen) should therefore be further researched. And equally importantly, highly efficient and at the same time cheap peak load capacity should be developed. Whereas in the past peak load capacity was used exclusively to supplement base load supply and to handle fluctuating demand, especially consumption peaks, now it is used - and this trend will continue to increase in the future - to compensate for the fluctuating supply of mostly renewable energy sources by means of buffer power plants. Availability and development of this kind of capacity is therefore particularly important.

3.6.4 System solutions. In the light of the systems networking of energy technologies referred to above, further priorities should be research into systems problems, the

related issue of security of supply and the development of possible solutions.

3.6.5 Additional costs. When calculating total economic costs, account must therefore be taken of the costs of the network, regulatory, storage and buffer systems required for fluctuating energy sources, as advocated by the Committee in the context of the internalisation of external costs, e.g. in relation to nuclear energy and the various forms of use of fossil energy sources⁽¹⁵⁾.

3.6.6 Energy storage for mobile use. Additional basic research is important here in order - hopefully - to develop entirely new approaches to significantly higher storage densities, cycles and lifespan, and capacities. Under certain circumstances electric vehicle batteries could perhaps be used as storage for fluctuating energy sources.

3.6.7 Base load providers. Base load providers, the work-horses of the power generation industry, have a decisive role to play. It is therefore essential:

- to use coal in a climate-friendly way, especially through greater efficiency and/or carbon capture and storage (CCS),
- to further improve the usability of nuclear power (fission) through further developments in all sectors (safety, final storage, proliferation, use of resources, buffer capacity),
- to develop highly efficient gas-fired power stations,
- to push ahead with the development of fusion technology, which holds great long-term promise,
- to strive for the greatest possible capacity to regulate base load providers too, so that they can be integrated into networked regulatory systems.

3.7 Focus of energy use outside the sector. Clearly, however, the focus of energy use by final consumers lies outside the electricity sector. This applies to most industrial use (e.g. chemicals and steel), almost all transport and almost all heating of buildings. The Committee therefore recommends that considerably more attention be paid to the nub of the problem. It is therefore particularly important that new research approaches be developed which go beyond the concepts of 'energy efficiency', 'energy saving' and 'electrification'. Only if suitable solutions are found for this area can the climate objectives actually be achieved.

⁽¹⁴⁾ EUROSTAT – 2009 Report.

⁽¹⁵⁾ OJ C 175, 28.7.2009, p. 1; OJ C 120, 16.5.2008, p. 15.

3.7.1 Sea and air transport. In the areas of sea and air transport the Committee sees little chance of avoiding the use of fossil and chemical fuels, even in the longer term ⁽¹⁶⁾. Here it is above all a case of improving efficiency, filtering out toxic exhaust gases, obtaining chemical energy sources (e.g. hydrogen and its compounds) by means of electricity and solar energy, and possibly using CCS here as well (in shipping ⁽¹⁷⁾).

3.7.2 Industrial processes, chemicals and steel. The complete substitution of fossil fuels in industrial processes, particularly the chemical and steel industries ⁽¹⁸⁾, is likely to prove equally difficult. The Committee therefore recommends that research and development of innovative solutions be stepped up in this area too.

3.7.3 Biotechnology and biomass. The Committee points to the considerable potential of innovative developments in biotechnology and their relevance to the energy sector and the goals being discussed here. However, the use of biomass as a resource, which in the long term is in short supply and which competes with food and raw material production (in this context account should also be taken of the emissions of greenhouse gases ⁽¹⁹⁾ like NO₂ associated with the use of fertilisers!), should in particular be mainly reserved for applications where there is no alternative.

3.7.4 Insulation of buildings. Another important issue is energy savings in buildings. Here there is significant development (and application!) potential for reducing heat loss. More attention should be paid to this, when setting priorities for CO₂ prevention measures.

4. Specific comments by the Committee

4.1 Community tasks and subsidiarity. The SET Plan focuses on the Community tasks which are necessary for or conducive to the development of the technologies in question. They should therefore be supranational tasks, or tasks where supranational cooperation plays an important part and generates European added value.

4.2 Financing plan and priorities. The financing plan and related priorities should therefore be examined to establish whether they comply with the criteria set out above.

4.3 Development and application, again. Similarly, the financing plan should be checked to establish whether it actually focuses on the development of new technologies or systems. The SET Plan should on no account subsidise energy technologies in their broad application.

4.4 Networking with existing programmes. The Committee also recommends networking the climate-relevant research and development proposed in the SET Plan with existing programmes and projects under the 7th Framework Programme, such as the flagship projects of the Future and Emerging Technology (FET) programme. This applies in particular to those areas of the SET Plan which cannot be expected to yield results within the next ten years.

4.5 International cooperation. In order to achieve an optimum impact with the resources used, the Committee recommends ⁽²⁰⁾ that, particularly in the case of the necessary major projects (e.g. ITER), international cooperation with strategic partners be sought, so as to share the financial and human resources burden, and also to have access to a broader base of knowledge and greater potential for innovation.

4.6 Role of the Commission. In order to allow the Commission to perform its coordination function efficiently, the appropriate R&D programme structures should be established by agreement with the relevant stakeholders. For its part, the Commission needs experienced, internationally recognised and committed experts as project officers who are active in their areas of specialism and who are fully committed to the success of the programme which they are coordinating.

4.7 Public understanding, involvement and acceptance – information and transparency. It is a precondition for the success of all the measures listed above that the public, particularly people potentially affected by the planned measures, should be fully and openly informed and appropriately involved in the decision-making processes, together with the world of politics, industry and other players. The best way to achieve understanding and acceptance is through comprehensive information, involvement and transparency.

4.8 Previous Committee opinions. The Committee points out that it has already adopted opinions on many of the subjects discussed in this opinion, which deal in detail with some of the issues referred to briefly here. Reference is made in particular to:

- INT/146 Research needs for a safe and sustainable energy supply ⁽²¹⁾
- TEN/299 Energy efficiency of buildings – the contribution of end users ⁽²²⁾
- TEN/311 The possible positive or negative impact of increased environmental and energy requirements (policies) on the competitiveness of EU industry ⁽²³⁾

⁽¹⁶⁾ Except for special military uses.

⁽¹⁷⁾ If nuclear propulsion is not allowed.

⁽¹⁸⁾ Insofar as fossil energy sources are still being used, CCS could be used here too as a way of reducing pressure on the atmosphere.

⁽¹⁹⁾ Atmos. Chem. Phys. Discuss. 7, 11191-11205, 2007.

⁽²⁰⁾ Opinion of the European Economic and Social Committee on A strategic European framework for international science and technology cooperation, OJ C 306, 16.12.2009, p. 13.

⁽²¹⁾ OJ C 241, 7.10.2002, p. 13.

⁽²²⁾ OJ C 162, 25.6.2008, p. 62.

⁽²³⁾ OJ C 162, 25.6.2008, p. 72.

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| — TEN/332 A European Strategic Energy Technology Plan ⁽²⁴⁾ | — TEN/404 Enhancing the effectiveness of Community energy policy in favour of SMEs ⁽²⁷⁾ |
| — TEN/398 Eco-efficient economy / paving the way for a new energy era ⁽²⁵⁾ | — NAT/391 Climate Change International Negotiations ⁽²⁸⁾ |
| — TEN/340 Sustainable power generation from fossil fuels ⁽²⁶⁾ | — No Turning Back – Resolution of the European Economic and Social Committee on Climate Change, Copenhagen, 7-18 December 2009. |

Brussels, 27 May 2010.

*The President
of the European Economic and Social Committee*
Mario SEPI

⁽²⁴⁾ OJ C 27, 3.2.2009, p. 53.

⁽²⁵⁾ Not yet published in the Official Journal.

⁽²⁶⁾ OJ C 77, 31.3.2009, p. 49.

⁽²⁷⁾ Not yet published in the Official Journal.

⁽²⁸⁾ OJ C 77, 31.3.2009, p. 73.

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Action Plan on Urban Mobility’

COM(2009) 490 final

(2011/C 21/10)

Rapporteur: **Mr HENCKS**

On 30 September 2009, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Action Plan on Urban Mobility

COM(2009) 490 final.

On 3 November 2009, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work (Rule 59(1) of the Rules of Procedure), the European Economic and Social Committee decided to appoint Mr Hencks as rapporteur-general at its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 27 May), and adopted the following opinion by 175 votes to 1, with 1 abstention.

1. Conclusions and recommendations

1.1 Urban areas are home to more than 60 % of Europe's population. Almost all such areas face the same problems caused by road traffic: congestion, adverse environmental effects, air and noise pollution, road accidents, health problems, bottlenecks in distribution chains, etc.

1.2 The EESC therefore warmly welcomes the European Commission's proposal, in the form of an urban mobility plan, offering local, regional and national authorities ways of providing the best possible, most sustainable quality of life in urban areas.

1.3 The Committee firmly believes that in a number of areas relating to urban mobility, concerted action by the Community can provide clear added value and it thus calls for the EU's powers and responsibilities to be more clearly defined, in line with the principles of subsidiarity and proportionality.

1.4 It should be noted, however, that the Commission's proposals in this action plan fall far short of the recommendations made by the EESC in previous opinions on urban mobility.

1.5 Furthermore, most of the measures advocated by the Commission represent nothing more than well-intentioned – albeit certainly quite praiseworthy – advice, and are far from being binding or revolutionary.

1.6 Furthermore, the fact that this communication covers many of the issues and proposals already set out in the 1998

communication entitled ‘Developing the citizens’ network’ gives the impression that the situation has barely improved since then. Against this backdrop, the EESC is disappointed that no assessment has been made of the initiatives provided for in that earlier communication.

1.7 The action plan under consideration should at least, on this occasion, be accompanied by measurable quantitative targets based on a set of indicators which cities and peri-urban areas should endeavour to achieve by means of sustainable mobility plans they have chosen themselves.

1.8 In the EESC's view, the action plan needs to be complemented by another plan focusing more specifically on crime on public transport, non-motorised mobility and motorcycles, amongst other things.

1.9 The EESC welcomes the Spanish Presidency's intention of creating a pan-European scheme/programme to promote the accessibility of European cities and towns, especially for people with reduced mobility, and would express interest in being closely involved in such an initiative, given its relevance to civil society.

1.10 Lastly, the EESC recommends more effectively targeting the EU's structural and cohesion funds, in particular by establishing a specific financial instrument to promote urban mobility. It proposes making the allocation of funds conditional on the implementation of urban mobility plans and compliance with criteria on accessibility for people with reduced mobility.

2. Background to the Action Plan

2.1 On 30 September 2009, the European Commission adopted an Action Plan on Urban Mobility which, although this is not made explicit in the title, should be sustainable.

2.2 The Commission is publishing this action plan in response to requests made by a number of players, above all the European Parliament, but also the EESC which has been calling for an initiative of this nature in its exploratory opinion entitled *Transport in urban and metropolitan areas* ⁽¹⁾ and other opinions ⁽²⁾. In the EESC's view, this type of plan should be accompanied by quantitative targets for improving quality of life, environmental protection and energy efficiency in towns and cities.

2.3 On 25 September 2007, the Commission launched public consultation in the form of its Green Paper entitled *'Towards a new culture for urban mobility'*. The outcome of this consultation broadly confirmed that the European Union has a key role to play in promoting sustainable urban mobility.

2.4 The publication of an action plan, however, (provided for in the European Commission's 2008 legislative work programme) had been announced and then postponed a number of times in the face of opposition from some parties, who considered that any initiative in this area by the Commission would breach the principle of subsidiarity and the principle of the administrative freedom of local and regional authorities.

2.5 Because, for the reasons given above, the Commission was unable to publish its action plan before the end of 2008 as planned, the European Parliament, which was afraid that the initiative would be abandoned altogether, addressed the issue and voted in favour of a *resolution on an Action Plan on Urban Mobility* ⁽³⁾ in order to support the Commission, which was asked to translate a number of the ideas expressed in the Green Paper into a guide for regional authorities.

3. The EU's role in urban mobility

3.1 Whilst there is no shortage of declarations of intent by politicians to achieve sustainable urban transport, a closer link must be established with practical solutions and the most appropriate bodies for implementing them.

3.2 Urban transport schemes form part of the European transport system and are based on the common transport policy. The informal meeting of EU transport ministers held on 16 February 2010 accepted the need to establish urban mobility plans in legislation coordinated between local,

regional, national and EU authorities in order to promote more effective integration of transport infrastructure and services in regional, urban and rural strategies.

3.3 Numerous directives, regulations, communications and programmes for EU action have already had a considerable impact on urban transport, in terms of climate change, health and environmental protection, sustainable energy, road safety and even investment in public transport and the management thereof.

3.4 In order to adhere strictly to the subsidiarity principle, the Commission is confining its comments to encouraging towns and cities to implement measures to combat climate change and establish efficient, sustainable transport schemes, based on entirely voluntary commitments.

3.5 The EESC wishes to point out in this regard that whilst cities and peri-urban areas differ considerably, they nevertheless face common sustainable development problems that do not stop at city limits and which can only be solved by adopting a consistent approach and a range of measures at the European level, along the same lines as Community provisions on ambient air quality and environmental noise management ⁽⁴⁾.

3.6 Furthermore, in its Communication entitled *A sustainable future for transport: Towards an integrated, technology-led and user friendly system*, ⁽⁵⁾ the Commission states the following, where transport policy is concerned: *'More limited, however, have been the results with respect to the goals of the EU SDS: as indicated in the progress report of 2007, the European transport system is still not on a sustainable path on several aspects'*.

3.7 In a recent exploratory opinion looking at the starting points for a post-2010 European transport policy ⁽⁶⁾, the EESC pointed out that, whilst transport provides access to many of our freedoms (freedom to work and live in different parts of the world, to enjoy different products and services, to trade and to establish personal contacts), a clear framework – even boundaries – must be set for the 'freedoms' in question, where they may affect, or even threaten, other freedoms or needs: for example, human health, the environment and/or the climate.

3.8 Although urban transport policies put in place by some towns and cities that are in the vanguard of sustainable transport measures do prove that committed decision-makers can – if they have the will – reverse damaging trends, the over-arching need to limit CO₂ emissions globally makes a collective European commitment entirely necessary.

⁽¹⁾ OJ C 168, 20.7.2007, p. 77.

⁽²⁾ OJ C 224, 30.8.2008, p. 39.; OJ C 317, 23.12.2009, p. 1.

⁽³⁾ (2008/2217 (INI)), rapporteur: Mr Savary.

⁽⁴⁾ Directive 2008/50/EC on ambient air quality and cleaner air for Europe and Directive 2002/49/EC relating to the assessment and management of environmental noise.

⁽⁵⁾ COM(2009) 279 final.

⁽⁶⁾ OJ C 255, 27.9.2010, p. 110.

3.9 Urban traffic, in particular motor vehicle journeys, account for 40 % of CO₂ emissions and 70 % of emissions of other pollutants from road transport. The EU will only be able to reach its own climate change targets by modifying its urban transport policies. Challenges cannot be met in a sustainable manner through isolated ad hoc measures adopted at only local or regional level, however praiseworthy and essential these might be.

3.10 There is, therefore, a need to harness all of the EU's resources to support local and regional measures to ensure that the goals of the European Union's global strategy for combating climate change - improving energy efficiency, developing renewable energies and strengthening social cohesion - are all achieved.

4. The Action Plan

4.1 The action plan proposed by the Commission concerns both passenger and freight transport in urban and peri-urban areas and is broadly based on the results of public consultation launched on 25 September 2007.

4.2 The aim of the plan is to help local, regional and national authorities promote a culture of sustainable urban mobility, in particular by reducing traffic and congestion in towns and cities and consequently road accidents, air pollution and energy consumption, without however imposing ready-made solutions on these authorities.

4.3 The Commission's action plan thus in no way seeks to replace local, regional and national authorities in choosing solutions for addressing problems relating to urban mobility. The plan is intended to act as an incentive and proposes pooling, documenting and sharing experiences to promote good practice, help take advantage of EU funding or co-financing opportunities, support research projects and prepare guidance papers, in particular on freight and on intelligent transport systems.

4.4 The global action plan identifies 20 practical measures arranged into six main themes, summarised below, to be implemented according to a timetable set by 2012.

4.4.1 Promoting integrated policies

The aim is to develop an integrated approach that takes account of the interdependence between transport modes, space restrictions, and the role of urban systems in order to promote the interconnection of all modes of transport, specifically as part of urban mobility plans.

4.4.2 Focusing on the public

Attention should be drawn to

- levers - such as pricing, quality, accessibility for people with reduced mobility, travel information, passenger rights, green zones, etc. - to encourage people to become regular users of public transport or non-motorised forms of transport;
- education, information and awareness-raising campaigns to promote sustainable mobility behaviour; and
- energy-efficient driving for private and professional drivers.

4.4.3 Greening Urban Transport

The action plan aims to support research and development for lower- and zero-emission vehicles and 'soft' modes of transport. The Commission will update its Internet-based guide on clean vehicles and will help set up an exchange of information on urban pricing schemes. It also plans to study the efficiency of tolls and the internalisation of external costs.

4.4.4 Boosting funding

The Commission wishes to work on optimising existing European funding sources and study future needs. It will publish a guidance paper on sustainable urban mobility and social cohesion policy and study a variety of pricing formulas for urban transport. Its aim is to provide better information on current EU funding opportunities and to optimise existing funding by ensuring that instruments such as the Structural Funds and research funds work together more successfully in order to explore innovative public-private partnership schemes and examine the need for sustainable urban mobility to be self-financing.

4.4.5 Sharing experience and knowledge

Stakeholders should be able to capitalise on experience gained by others. To this end, the Commission will create a database containing information on the wide range of tried and tested solutions already in place. This database will also provide an overview of all European legislation and useful funding instruments, specifically through an urban mobility observatory in the form of a virtual platform.

4.4.6 Optimising urban mobility

To facilitate a modal shift towards more environmentally friendly modes of transport and more efficient logistics, the Commission proposes speeding up sustainable urban mobility plans in cities and regions. To achieve this, it will produce guidance papers on the key aspects of these plans, such as goods distribution in urban areas and intelligent transport systems.

4.5 In 2012, the Commission will review the implementation of the global plan and assess the need for further action.

5. General comments

5.1 Public transport is a matter of general interest and must therefore meet criteria for universality, accessibility, continuity, quality and affordability. To this end, the EESC welcomes all of the measures set out in the communication in hand, each of which represents a step in the right direction.

5.2 Nevertheless, while the Committee is pleased to note that the Commission document refers to the EESC opinion on the Green Paper on Urban Mobility in the references underpinning its communication, it feels that it should make it clear that the Commission's proposals fall far short of the recommendations made by the EESC in that and other opinions on the matter ⁽⁷⁾.

5.3 Whilst not questioning the principle of subsidiarity and the EU's limited powers in this field, the EESC regrets the fact that the recommendations to strengthen the EU's role, set out in its exploratory opinion ⁽⁸⁾ entitled *Integrating Transport and Land-use Policies for More Sustainable City Transport*, have not been taken on board.

5.4 Keen not to challenge the subsidiarity principle, the Commission is assigning itself the role of facilitator or assistant rather than regulator or service provider. Most of the measures put forward by the Commission represent nothing more than well-intentioned – and certainly quite praiseworthy – advice, but are far from being binding or revolutionary.

5.5 Furthermore, any reader of the communication under consideration is bound to conclude that it is actually a copy, if not word for word, at least in terms of content, of the communication entitled 'Developing the citizens' network' COM(1998) 431 final.

5.6 Eleven years after the 1998 communication, known by its 'push and pull' slogan (pushing people to leave private cars at home and pulling them on to public transport), the same issues remain relevant today, in particular, stimulating information exchange, benchmarking service performance, creating the right political climate and using the European Union's financial instruments effectively.

5.7 The EESC is disappointed that no assessment has been made of the initiatives envisaged in the 1998 communication, such as: a European Local Transport Information Service (ELTIS); the agreement concluded with the network of cities and regions (POLIS); steps to link up national cycle route networks; the development of a self-assessment system for performance quality; the pilot project for benchmarking the performance of local passenger transport systems; the handbook on mobility management and barrier analysis; electronic ticketing; training for professional drivers; the communication on mobility management planned for 2000; and the numerous research projects that were announced.

5.8 The EESC would have at least preferred the action plan to be accompanied on this occasion by measurable quantitative targets based on a set of indicators (see opinion 1196/2009) which cities and peri-urban areas should endeavour to achieve by means of sustainable mobility plans they have chosen themselves.

5.9 This is all the more unfortunate because in its communication entitled *A sustainable future for transport: towards an integrated, technology-led and user-friendly system*, COM(2009) 279 final, the Commission expresses regret at the fact that the targets set for transport sustainability are far from being reached and that fundamental changes of direction are required.

5.10 Social issues, environmental pressures exerted by the consumer society, non-motorised mobility, motorcycles and measures to avoid motorised journeys from the outset have largely been ignored. The same goes for cross-border cooperation and land-use planning-, town planning- and urban sprawl-related problems, all of which increase transport infrastructure needs.

5.11 The EESC therefore considers that this action plan needs to be complemented by another plan that addresses the issues of non-motorised mobility and motorcycles in greater detail.

5.12 The action plan's main concern is to 'optimise' and manage individual motorised mobility rather than to prevent it. Restrictive management of the demand for car use, either through positive approaches such as the promotion of car-pooling schemes or dissuasive measures such as deterrent parking policies, tolls and fines, is confined to the announcement of a study on regulations governing access to the different types of green zones.

5.13 The studies provided for in the action plan, specifically on public acceptance of urban tolls, the introduction of energy-efficient driving, internalisation of external costs and the availability of technologies and the means of recovering these costs will certainly provide added value, although the practical measures that will then be needed must not be sacrificed for the sake of a discussion on the subsidiarity principle.

5.14 Lastly, the action plan fails to address how civil society could be more closely involved in measures to promote sustainable mobility, despite the fact that civil society is able to bring stakeholders and policymakers together and raise the awareness of everyone in society in such a way that they reconsider and change the way they usually travel.

6. Specific comments

Building on the general comments made above, the EESC wishes to offer a number of observations on some of the 20 specific actions.

⁽⁷⁾ OJ C 255, 27.9.2010, p. 10; OJ C 224, 30.8.2008, p. 39; OJ C 168, 20.7.2007, p. 77; OJ C 317, 23.12.2009, p. 1.

⁽⁸⁾ TEN/366 CESE 1196/2009, rapporteur: Mr Osborn.

Action 1 - Accelerating the take-up of sustainable urban mobility plans

Action 6 - Improving travel information

6.1 The EESC welcomes the Commission's proposal to provide local authorities in the future with logistical support for implementing sustainable urban mobility plans for freight and passenger transport.

6.2 The action plan states that in the longer term the Commission could take further steps, for example through incentives and recommendations.

6.3 The EESC wishes to reiterate its proposal to make any financial aid to local authorities from EU funds dependent on mobility plans being drawn up, it being understood that cities should remain free to adapt these plans to specific local conditions.

6.4 These plans should, however, include a binding target of shifting towards environmentally friendly means of transport in line with EU minimum requirements, in order to:

- ensure that everyone in the local population, including visitors and professionals, benefits from sustainable modes of transport and eliminate social disparities in relation to mobility;
- reduce CO₂ emissions, environmental pollution, noise pollution and energy consumption;
- improve passenger and freight transport efficiency by taking external costs into account.

6.5 The special 'urban mobility' label recommended by the Commission, which the EESC urges should be implemented without delay, should only be granted if the above criteria are met.

Action 4 - Platform on passenger rights

6.6 The EESC is disappointed that the Commission has not taken on board its proposal to bring public transport passengers' rights together in one 'charter of rights'.

6.7 The Committee does, however, welcome the Commission's announcement that the regulatory approach will be complemented by common quality indicators to protect the rights of passengers and people with reduced mobility, as well as jointly agreed complaints procedures and reporting mechanisms.

6.8 The EESC regrets that the communication fails to address one of the main barriers to the use of public transport, namely

the lack of security, especially on less frequently used lines and for evening or night-time travel, given that well-trained staff in sufficient numbers and video surveillance are effective for preventing crime on public transport.

6.9 The plethora of stakeholders, which gives rise to considerable differences in the form and substance of the measures adopted, makes it essential for the latter to be assessed regularly so as to determine whether a measure or policy meets users' needs, with a view - where necessary - to adapting, changing or abandoning it. The Commission's action plan, however, is silent on this point.

Action 5 - Improving accessibility for persons with reduced mobility

6.10 The EESC estimates that the number of Europeans with reduced mobility (including the elderly, people with disabilities or handicaps, and also women who are pregnant or persons pushing a pram) is well over 100 million.

6.11 Some towns and cities have indeed adopted excellent measures for people with reduced mobility, but these are isolated initiatives. All too often, such individuals face insurmountable barriers when travelling by public transport (due to problems with accessibility, vehicle design, etc.) or by foot (complex road junctions, narrow pavements, café and restaurant terraces on pavements, etc.). Another factor is other people's lack of civic-mindedness (some people park wherever they want, fail to respect parking places reserved for the disabled, etc.). The EESC welcomes the Spanish Presidency's intention of creating a pan-European scheme/programme to promote the accessibility of European cities and towns and expresses its interest in being closely involved in such an initiative, given its relevance to civil society.

6.12 Technical support is not sufficiently developed to meet people's real needs, due to the limited size of the market, which hampers investment and innovation.

6.13 The EESC therefore fully agrees that accessibility for people with reduced mobility is a matter which should be included in the EU Disability Strategy 2010-2020 and that appropriate quality indicators and reporting mechanisms should be established.

6.14 To back up these measures, the appropriate financial resources should be made available at national, regional and local levels, but primarily at the EU level, through Community funds.

Action 8 - Campaigns on sustainable mobility behaviour

6.15 The Commission intends to consider a special award to encourage the adoption of sustainable urban mobility plans.

6.16 The EESC can but welcome the introduction of an award of this nature, and refers the reader to its opinion (CES 324/99) on the Green Paper on a citizens' network which already put forward the idea that providing awards for quality and/or price would provide a real stimulus for quality-based competition.

Action 12 - Study on urban aspects of the internalisation of external costs

Action 13 - Information exchange on urban pricing schemes

6.17 'Affordable' public transport undeniably pays off in social terms, but it is also clear that, financially speaking, it runs up considerable losses. User-generated revenues cannot cover all operating costs and even less so, investments, which means that public subsidies remain essential.

6.18 Against this background, the EESC agrees that a methodological study of the urban aspects of the internalisation of external costs, as announced by the Commission, will make the process of calculating costs in the sector more transparent in future. The Committee wishes to point out that the issue of external costs was in fact already addressed in the 1998 communication, as was the possibility of reinvesting revenue from road pricing locally, especially in public transport and provisions for pedestrians and cyclists. No action has yet been taken on these two issues.

Action 15 - Analysing needs for future funding

6.19 Only 9 % of Structural Fund appropriations for transport are allocated to urban transport, whilst practically all cities and regions lack (to highly varying degrees) the funds needed for sufficient investment in urban mobility.

6.20 Although in its roadmap the Commission plans to study future financing needs after 2010, whilst continuing to give financial support to the CIVITAS programme⁽⁹⁾, the EESC would have preferred a more formal commitment to the allocation of additional funding, without, however, overlooking the possibilities of funding urban mobility, at least in part, through funds generated by urban road toll schemes or parking charges. The EESC proposes that a specific financial instrument be set up to promote urban mobility.

6.21 In its 1998 communication on developing citizens' networks, the Commission announced its intention to prioritise support for sustainable local and regional transport schemes and expressed the wish to look into ways of ensuring that the parties promoting such schemes took account of accessibility requirements. The EESC would be extremely interested to see the findings of this research.

6.22 In the EESC's view, rather than setting priorities, the future regulation on Community funds, when reviewed as planned in 2013, should make the allocation of Community financial resources for urban public transport conditional on the implementation of urban mobility plans and strict compliance with criteria on accessibility for people with reduced mobility.

Action 17 - Establishment of an urban mobility observatory

6.23 The EESC welcomes the proposal to set up an urban mobility observatory in the form of a virtual platform, because exchange of good practice should cover all aspects of urban mobility, including accessibility for people with reduced mobility.

Brussels, 27 May 2010.

*The President
of the European Economic and Social Committee*
Mario SEPI

⁽⁹⁾ CIVITAS: (City VITALity Sustainability) Community programme for research and innovation in the field of urban transport.

Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council on investigation and prevention of accidents and incidents in civil aviation'

COM(2009) 611 final — 2009/0170 (COD)

(2011/C 21/11)

Rapporteur-General: **Mr KRAWCZYK**

On 20 November 2009, the Council decided to consult the European Economic and Social Committee, under Article 80, paragraph 2 of the Treaty establishing the European Community, on the

Proposal for a regulation of the European Parliament and of the Council on investigation and prevention of accidents and incidents in civil aviation

COM(2009) 611 final – 2009/0170 (COD).

On 15 December 2009, the Bureau of the European Economic and Social Committee instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work (Art. 59(1) of the Rules of Procedure), the European Economic and Social Committee appointed **Mr Krawczyk** as rapporteur-general at its 463rd plenary session, (meeting of 27 May 2010), and adopted the following opinion by 157 votes with 2 abstentions.

1. Conclusions and recommendations

1.1 The current Community system for civil aviation accident investigation and occurrence reporting functions below optimum efficiency. It does not take into account the significant progress towards creating a single aviation market, in particular through the creation of the European Aviation Safety Agency.

1.2 The EESC welcomes the European Commission's proposal as a step in the right direction to overcome the shortcomings related to current fragmented accident investigation in the EU.

1.3 The Commission's proposal sets out the promotion of voluntary cooperation through a European Network of Civil Aviation Safety Investigation Authorities. The EESC agrees with the Commission's assessment that the establishment of a European Agency for civil aviation accident investigation would be premature.

1.4 The EESC would like to emphasise that the sole objective of accident and incident investigation shall be to prevent accidents and incidents and not to apportion blame and shame. The EESC therefore finds it essential to further improve the wording of Article 15 in order to ensure that it is fully in line with the provisions of the ICAO's Annex 13.

1.5 The EESC stresses the utmost importance for aviation safety of a truly independent accident investigation process free from interference from the affected parties as well as from the public, politics, media and judicial Authorities.

1.6 The EESC would like to stress the importance of a 'safety culture' and for all EU Member States to ensure the implementation of a 'just culture' within their national penal systems. More action is required at the EU level to ensure that all Member States amend their national legal penal system ensuring a just culture.

1.7 In particular the EESC stresses the importance to develop together with other relevant stakeholders an EU Charter on Just Culture.

1.8 The EESC underlines the importance to guarantee full independence of the accident investigation process from all affected parties including the European Aviation Safety Agency. It is therefore important to include more safeguards into the legislation to ensure that the accident investigation bodies remain in the lead.

1.9 The EESC underlines, that timely availability of the passenger list is very important for the families of the victims. However, the EESC feels that it is equally important that the colist available is the correct one.

2. Introduction

2.1 Flying is one of the safest forms of transportation. The statistics show that - despite a massive growth in air traffic since the creation of the single aviation market in 1992 - the European Union has succeeded in increasing the level of aviation safety resulting in the EU airlines being amongst the safest worldwide.

2.2 However safety can never be taken for granted and constant efforts are needed to improve the level of aviation safety. No matter how safe the EU aviation sector is, accidents or serious incidents can never be excluded. Independent investigations of those accidents or incidents are thus essential. Analysis of the accident's circumstances leads to recommendations being made to prevent these accidents from re-occurring in the future.

2.3 The obligation to investigate accidents in civil aviation is enshrined in the Convention on International Civil Aviation to which all Member States are Parties. Detailed standards and recommended practices are found in the Annex 13 to the ICAO Chicago Convention.

2.4 Recognising the importance of accident and incident investigation, the European Community already in 1980 adopted a Directive 80/1266/EEC on cooperation and mutual assistance between the Member States in the field of air accident investigation ⁽¹⁾. The 1980 Directive was subsequently replaced by Directive 94/56/EC ⁽²⁾. In addition Directive 2003/42/EC ⁽³⁾ on occurrence reporting in civil aviation was adopted in 2003.

2.5 The Community system for civil aviation accident investigation and occurrence reporting as currently established, functions below optimum efficiency as result of its fragmentation. It does not adequately take into account the significant progress towards creating a single aviation market which has increased the EU's power in the field of aviation safety, in particular through the creation of the European Aviation Safety Agency. As a consequence the Commission adopted on 29 October 2009 a proposal for a Regulation of the European Parliament and the Council on the investigation and prevention of accidents and incidents in civil aviation, which would repeal the existing legislation in those fields.

3. Commission's proposal

3.1 The Commission's proposal sets out the promotion of voluntary cooperation i.e. under the proposed Regulation, the existing informal cooperation will be transformed into a European Network of Civil Aviation Safety Investigation Authorities (the network). The network will have no legal personality identity and its mandate will be limited to advisory and coordination tasks.

3.2 In addition the proposal complements the voluntary cooperation by a number of obligations enshrined in law such as:

- implementation into the Community law of the international standards and recommended practices related to protection of evidence and sensitive safety information, in accordance with the ICAO's Annex 13;

- establishing common requirements in terms of organisation of national Safety Investigation Authorities and strengthening the independent status of safety investigations;
- better coordination of various inquiries into the causes of accidents and incidents;
- clarifying the mutual rights and obligations of the European Aviation Safety Agency (EASA) and national Safety Investigation Authorities without compromising the independence of safety investigations;
- specifying the criteria on the basis of which Safety Investigation Authorities would appoint accredited representatives for the State of Design;
- cater for Just Culture by drawing the lines for the non-punitive reporting system;
- establishing common requirements for Community airlines regarding passenger lists and the protection of data contained therein (i.e. art 23 of the proposed Regulation);
- strengthening the rights of the victims of air accidents and of their families;
- better protection of anonymity of persons involved in accidents;
- establishing a common repository for the safety recommendations and the status of their follow up.

4. Specific comments

4.1 The EESC welcomes the European Commission's proposal as a step in the right direction to overcome the shortcomings related to current fragmented accident investigation in the EU. The EESC nevertheless stresses the importance to monitor the effectiveness of the proposal taking into account the fact that some smaller Member States lack expertise and/or resources in the field of accident investigation. The EESC therefore encourages the Commission to define criteria on the minimum required level of technical competencies of Accident Investigation Bodies as well as for investigators - and encourage Member States in their commitment hereto.

4.2 The EESC in particular welcomes the Commission's pragmatic approach based on subsidiarity and proportionality. The EESC agrees with the Commission's assessment that the establishment of a European Agency for civil aviation accident investigation would be premature although it should not be excluded in the longer term. The EESC also stresses the importance to ensure that the network is open to those non-EU countries at the boundaries of the EU and who are closely cooperating with the EU in particular those States who are member of the European Civil Aviation Conference (ECAC).

⁽¹⁾ OJ L 375, 31. 12. 1980, p. 32.

⁽²⁾ OJ L 319, 12. 12. 1994, p. 14.

⁽³⁾ OJ L 167, 4. 7. 2003, p. 23.

4.3 The EESC stresses the utmost importance for aviation safety of a truly independent accident investigation process free from interference from the affected parties as well as from the public, politics, media and judicial Authorities.

4.4 The EESC would like to emphasise the fact that the sole objective of accident and incident investigation shall be to prevent accidents and incidents and not to apportion blame and shame. The EESC therefore finds it essential to further improve the wording of Article 15 in order to ensure that it is fully in line with the provisions of the ICAO's Annex 13. In particular the suggestion to give more rights to judicial authorities and public interest for other purposes than accident investigation would be counter-productive and would hamper voluntary reporting of occurrences or incidents. The EESC feels it essential to keep the accident investigation process strictly separated from any judicial procedures. As such it would have a potential adverse impact on collection of safety information and could therefore potentially lead to worsening of aviation safety within the EU. The EESC stresses that this will not affect the right of victims to get compensation through independent proceedings separated from the accident investigation processes. The EESC stresses the importance of the protection of sensitive safety data as well as the protection of employees reporting safety events.

4.4.1 The EESC acknowledges the importance of the Declaration of the Organisations in the Air Transport Sector on EU Air Accident Investigation Regulation from 26 April 2010, which raises serious concern on the proposal of the Commission (supported by the Transport Council on 11th March 2010), with regards to what they define as primacy of judicial investigation over the safety investigation. According to the signatory Organisations this would seriously jeopardise the ability of accident investigators to obtain in confidence the information necessary to find the factors which contribute to accidents and therefore will prevent them from making well-informed safety recommendations needed to improve aviation safety and avoid future accidents, thus would not be in the interest of Europe's flying public.

4.5 The EESC would like to stress the importance of a 'safety culture' and for all EU Member States to ensure the implementation of a 'just culture' within their national penal systems. In interest of aviation safety, it is essential that results of accident investigations are used to prevent future accidents rather than to punish unintentional mistakes which would hamper a proper accident investigation. The EESC feels that the regulation should provide a framework in which all parties involved in accidents can share information and speak freely and in confidence. Legal certainty, i.e. a strong set of legal rules that define unambiguously when safety information can or cannot be used outside the accident investigation is necessary to ensure open communication in confidence. Without such certainty the persons involved would be afraid to contribute to the investi-

gation. The EESC stresses that more action is required at the EU level to ensure that all Member States amend their national legal penal system ensuring a just culture. In particular the EESC stresses the importance to develop an EU Charter on Just Culture. EESC welcomes 'Charter for just culture' agreed by the European civil aviation social partners on 31 March 2009.

4.6 According to the EESC the timely availability of the passenger list is important for the families of the victims. However, the EESC feels that it is equally important that the correct list is available. The EESC therefore feels that a 1h deadline for submitting the passenger list could be maintained provided a few exceptions are granted where it would not be technical feasible, in particular for long-haul flights departing from third countries. An airline could easily pull out an unverified list within 1 hour but a verified list is essential, in particular for long-haul flights departing from non-EU destinations. The EESC also stresses the importance of privacy and data protection and therefore feels that the passenger lists that airlines are able to provide from check-in and booking systems should be sufficient for this purpose.

4.7 The EESC underlines the importance to guarantee full independence of the accident investigation process from all affected parties including the European Aviation Safety Agency. It is therefore important to include more safeguards into the legislation to ensure that the accident investigation bodies remain in the lead. Instead EASA could become a party (advisor) to investigation along other affected parties (airline, manufacturer etc.) but should not be allowed to influence the course or the outcome of the investigation. The EESC in particular would like to point out the fact that EASA should not be allowed to act as accredited accident investigator since this would lead to conflict of interest with EASA's role as safety regulator and would as such not be in line with the spirit of the ICAO Annex 13. Nevertheless, the EESC also would like to stress the importance of investigation recommendations being sent to EASA, where appropriate and needed for EASA to act on immediate safety concerns.

4.8 The EESC welcomes the proposal to create a central database of accident investigation recommendations including the status of their follow up. Nevertheless – mirroring the US system of FAA review of recommendations coming from the US National Transport Safety Board (NTSB) - the EESC finds it essential for the European Aviation Safety Agency (EASA) to have a careful evaluation of the added safety benefit and regulatory impact of any safety recommendations before proceeding with any rulemaking.

4.8.1 The EESC encourages further EU action to ensure a proper in-depth analysis of incident reports and to improve a European wide pooling of resources in this context.

4.9 The EESC stresses the importance, in the interest of safety, for all EU (and non-EU) Member States to understand clearly the content of the accident investigation report (Article 19). It often happens that National Civil Investigation Authorities are only producing reports in their national language, even if foreign parties are involved. The EESC recommends that at least an English translation is provided for each accident investigation report.

4.10 The EESC notes that safety will always have priority on other requirements such as protection of intellectual property.

On the other hand it is important to provide more safeguards to protect intellectual property (Article 15). Commercial sensitive information should only be shared with the Authorities but should be protected from being released to competitors. Original Equipment Manufacturers (OEMs) should not get all information on Supplemental Type Certificates (STCs) or other changes or repairs and vice versa (since those may contain commercially relevant intellectual property of the design organisation (DOA) that has nothing to do with a given accident/incident).

Brussels, 27 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Decision on guidelines for the employment policies of the Member States — Part II of the Europe 2020 Integrated Guidelines’

COM(2010) 193 final

(2011/C 21/12)

Rapporteur-general: **Wolfgang GREIF**

On 5 May 2010 the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council Decision on guidelines for the employment policies of the Member States – Part II of the Europe 2020 Integrated Guidelines

COM(2010) 193 final.

On 27 April 2010 the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Wolfgang Greif as rapporteur-general at its 463rd plenary session, held on 26 and 27 May 2010 (meeting of 27 May), and adopted the following opinion by 134 votes to nine with twelve abstentions.

1. Conclusions

The EESC:

- regrets the fact that the Council and Commission have set such a tight deadline for adopting the guidelines that it will be virtually impossible to have a proper debate with organised civil society and national parliaments;
 - considers that the guidelines do not adequately demonstrate that combating unemployment should be a key policy of the EU and the Member States against the background of the economic crisis;
 - welcomes the focus on fewer guidelines, but thinks that these are too general and too unambitious to be an effective impetus to action, which undermines European efforts;
 - believes that the policy recommendations for the job market (improving employability) place far too much emphasis on supply, and calls for more consideration to be given to developing an intelligent demand policy that promotes future growth and innovation and helps to create more jobs;
 - is concerned that the goal of full employment (a key point in the old guidelines) is no longer in evidence;
 - is surprised that the guidelines contain no specific statements about quality of work and proposes that
- Guidelines 8 and 9 should be combined, and a separate guideline introduced on promoting the job quality;
 - welcomes the emphasis in the new guidelines on the knowledge triangle and up-skilling, but would have liked to see more ambitious provisions for combating youth unemployment and promoting education and training for disabled people;
 - laments the insufficient reference generally to gender equality policy (e.g. promotion of women);
 - emphatically welcomes the goal of ‘promoting social inclusion and combating poverty’ as a separate guideline, although reducing the risk of poverty for children and young people should be emphasised more;
 - believes that reducing the risk of poverty requires a series of stable and reliable indicators to measure and monitor progress, which would also determine for example the ratio of income to purchasing power as well as concentration of income (Gini coefficient), and that the ‘at risk of poverty rate’ should be therefore confirmed undisputedly as the standard measure of relative poverty;
 - would have recommended clearer statements on the integration of groups that are disproportionately at risk of poverty (e.g. single mothers, women, people from a migrant background, elderly people with low pension entitlements, the disabled).

2. Context: criticism of the Commission and Council's tight timetable

2.1 On 27 April 2010 the European Commission proposed a new set of guidelines for employment policy in the Member States. Together with the broad economic policy guidelines, these form the integrated guidelines for implementation of the EU 2020 strategy for smart, sustainable and inclusive growth. On 25 and 26 March 2010, the European Council reached an agreement on the new strategy, which is due to be formally adopted in June.

2.2 The EESC has endorsed the integrated, multi-annual approach to a future EU strategy on several occasions and consistently pointed out that full involvement of national parliaments, the social partners and civil society at European and national level is a key condition for successful policy coordination and must be ensured at every stage⁽¹⁾.

2.3 In its opinion on the EU strategy post-2010, the EESC therefore also called for the removal of structural barriers to the effective inclusion of national parliaments and genuine dialogue with social partners and civil society organisations in moves to effect changes to the strategy⁽²⁾. One reason for this was that, for many years, such consultation when drawing up and reviewing the guidelines had been unsatisfactory.

2.3.1 The EESC has expressed regret about this in several opinions on the guidelines, and strongly urged the Commission and the Council to change the timetable, especially in those years when strategic objectives are set through the coordination process. It is necessary to ensure effective involvement in the process of political consensus-building of all relevant social and political players at national and EU level.

2.4 Therefore the EESC particularly regrets the fact that this year too, when the new ten-year priorities of the growth and jobs agenda must be decided on under the EU 2020 strategy, the Council and the Commission have set such tight deadlines for adopting the guidelines. This permits virtually no proper debate with civil society organisations and national parliaments.

2.5 In this situation, the Committee believes that it is not possible, in view of the extremely short time between publishing the proposal for a Council decision and the deadline for adopting the decision, to have a consultation in

the usual way between stakeholders represented in the Committee. Rather, the EESC finds itself compelled to take a position in a kind of fast-track procedure.

2.6 The Committee therefore sympathises with all those who are calling for the decision on adopting the integrated guidelines to be postponed, especially in a situation where the EU is in the process of drawing up its overarching development strategy for the next ten years.

2.6.1 If adoption of the decision should be postponed by a few months, which the Committee would explicitly welcome, it reserves the right - notwithstanding the comments and recommendations contained in this opinion - to take a well-grounded position on the proposed guidelines in an own-initiative opinion based on sufficiently broad consultation.

3. General comments on the proposed guidelines

3.1 In the wake of the economic and financial market crisis, Europe will be faced with an extremely strained employment situation. Current studies assume that it may take a whole decade to recover the more than 10 million jobs that have been lost during these years of crisis⁽³⁾. Combating unemployment must therefore be a top policy priority in the EU and the Member States. The EESC believes that this should be reflected much more in the guidelines.

3.1.1 The number of the proposed employment guidelines has so far been reduced from eight to four, and, according to Commission plans, they will remain unchanged until 2014. The EESC in principle welcomes this focus and the multi-annual cycle, but notes that the text is couched in very general terms and is imprecise in many places. It fears that this would mean the guidelines would have only limited influence on action by the Member States. It is at any rate clear to the EESC that, with fewer guidelines, it is all the more necessary to have clear and reliable indicators so that progress can be measured and monitored. This applies to measures targeted at particular groups, and also and in particular moves to combating poverty.

3.2 In addition, the employment guidelines presented contain virtually no quantitative targets, other than referring to the following three key objectives of the EU, which are to serve the Member States as a basis for setting their own national goals:

- increasing to 75 % the total employment rate for women and men aged 20 to 64,
- reducing the school drop-out rate to 10 % and increasing the share of the population aged 30-34 with a tertiary degree or equivalent education to at least 40 %,

⁽¹⁾ EESC opinions of 31.5.2005 on 'The proposal for a Council decision on guidelines for the employment policies of the Member States' (under Article 128 of the EC Treaty), COM(2005) 141 final - 2005/0057 (CNS), rapporteur: Mr Malosse (OJ C 286, 17.11.2005) and of 13.2.2008 on 'The proposal for a Council decision on guidelines for the employment policies of the Member States' (under Article 128 of the EC Treaty), COM(2007) 803 final/2, Part V - 2007/0300 (CNS), rapporteur: Mr Greif (OJ C 162/92, 25.6.2008)

⁽²⁾ OJ C 128, 18.5.2010, p. 3.

⁽³⁾ 'Skills supply and demand in Europe: medium-term forecast up to 2020' (Cedefop, 2010), p. 35 ff.

— reducing the number of Europeans living below national poverty lines by 25 %, lifting 20 million people out of poverty.

3.2.1 The EESC sees this as a considerable slackening in European efforts and doubts whether almost exclusively shifting responsibility for framing concrete employment initiatives to the Member States in this way will strengthen commitment in meeting joint targets.

3.3 The EESC cannot really understand the reluctance to frame European targets; following the debates on a post-2010 strategy, it called for the joint targets of the ongoing strategy not to be abandoned, and also - taking situations in the individual EU Member States into account - for more ambitious goals than those to be formulated ⁽⁴⁾.

3.3.1 The EESC has also made relevant proposals in a large number of opinions, recommending that measurable targets be increased under the employment guidelines, to include goals for gender equality, youth employment, dealing with jobs that do not provide adequate social protection, combating poverty (also among the working poor) and employment of the disabled ⁽⁵⁾.

3.4 Clear goals, such as getting the long-term unemployed back into the labour market, offering young people jobs or training within a short time, creating adequate childcare facilities so that job and family commitments can be reconciled, reducing gender-specific income differentials, etc. have hitherto formed the central plank of European employment strategy and in the EESC's view they should be retained and, where necessary, strengthened.

3.5 The EESC regrets the lack of reference in the proposed employment guidelines to gender equality policy or the advancement of women. Any body that wants to seriously reduce the risk of poverty in Europe must also introduce committed goals and initiatives to abolish existing discrimination in the workplace and the structural causes of gender-specific income differentials, and to remove obstacles that

exclude women from certain careers and constrain female entrepreneurship ⁽⁶⁾. The guidelines presented do not do much in this respect.

4. Specific comments and proposals for additions to the four employment guidelines

4.1 **Guideline 7:** *Increasing labour market participation and reducing structural unemployment*

4.1.1 The EESC in principle endorses the EU target of increasing the employment rate for men and women aged 20 to 64 to 75 % by the year 2020. This is an extremely ambitious goal, since it entails not just an increase in the overall target rate but also exclusion of the age range 15 to 19 (which was included in the previous target). The EESC wonders why young workers are to be excluded from the calculation of the total employment rate.

4.1.2 The EESC also notes here that, with the current record levels of almost 24 million unemployed, the labour market problem is not one of insufficient labour supply generally but rather the lack of skilled workers in some Member States and the huge shortage in available employment. Smart measures and employment models designed to improve the distribution of work should therefore also be considered as a way of increasing labour market participation and creating more jobs.

4.1.3 In view of the very high unemployment levels in the EU in particular, policy should not be limited to improving the 'employability' of workers. The focus in the future should rather be on forward-looking investment in R&D, education, infrastructure, health and social services in order to create jobs and effectively mobilise employment potential.

4.1.4 The EESC is also concerned here that the goal of full employment (a key point in the old guidelines) is no longer in evidence in the new guidelines, which refer only to eliminating structural unemployment and reducing 'inactivity'. The EESC believes that this guideline should in any case be revised so as to restore the focus on full employment.

4.1.5 In order, if possible, to avoid a further increase in the number of job-seekers, particularly in a situation of economic crisis, and to prevent employment from becoming structurally embedded, all the new integrated guidelines must provide for a balanced macroeconomic mix of approaches that combines supply-oriented and demand-oriented economic policies.

⁽⁴⁾ OJ C 128, 18.5.2010, p. 3.

⁽⁵⁾ EESC opinions of:
30.9.2009 on 'Work and poverty: towards the necessary holistic approach', rapporteur: Ms Prud'homme (OJ C 318/52, 23.12.2009);
1.10.2009 on 'Links between gender equality, economic growth and employment rates', rapporteur: Ms Ouin (OJ C 318/15, 23.12.2009);
1.10.2009 on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on an EU Strategy for Youth - Investing and empowering a renewed open method of coordination to address youth challenges and opportunities', COM(2009) 200 final, rapporteur: Mr Sibian (OJ C 318/113, 23.12.2009).

⁽⁶⁾ EESC opinions of 29.9.2005 on 'Poverty among women in Europe', rapporteur: Ms King (OJ C 24, 31.1.2006) and of 12.7.2007 on the 'Employment of priority categories (Lisbon Strategy)', rapporteur: Mr Greif (OJ C 256, 27.10.2007); see also Equality report, COM(2009) 694.

4.1.5.1 In the EESC's view, the guidelines as a whole - and this one in particular - do not provide for such a mix. As far as the policy recommendations for the job market are concerned, there is a definite overemphasis on supply (improving employability). This must be offset by giving more consideration to developing an intelligent supply policy that promotes growth and innovation and helps to create more jobs.

4.1.6 There is also no reference to the fact that a return to growth to stabilise the labour market above all requires a strengthening of internal demand (private and public investment). Nor is it specified that measures to support the economy and investment in securing jobs should not be withdrawn too soon, in order to prevent a further rise in unemployment. In this context, the EESC believes that an 'exit strategy', or financial consolidation plans - as set out in the economic policy guidelines - can only be approved subject to certain economic or employment conditions.

4.1.7 As regards the recommendation to Member States to incorporate the flexicurity principles of the Council into their employment market policies, it should be noted that the guideline contains no reference to the fact that the quality of jobs should be given just as much weight as the flexicurity principle, as the EESC has called for on several occasions ⁽⁷⁾.

4.1.8 In addition, the EESC would like it to be made clear that 'activating' people to seek work should be achieved chiefly by providing an efficient service through job centres and less by supposed 'incentives' via unemployment benefits. The Committee therefore proposes that the phrase 'accompanied by clear rights and responsibilities for the unemployed to actively seek work' be deleted. Under the shadow of the crisis especially, the EESC thinks there is no need for any recommendations on tightening the rules for unemployment insurance.

4.2 **Guideline 8:** *Developing a skilled workforce responding to labour market needs, promoting job quality and lifelong learning*

4.2.1 Although the EESC very much welcomes the mention of job quality, at least in the title of the guideline, it is surprised to find no relevant details (e.g. on health promotion in the workplace, a living wage, organisation of working time and preventing excessively long working hours, and reconciling work and family life). The Committee would have expected promotion of job quality to be given more priority in connection with the flexicurity strategy, thus emphasising the importance of both internal and external flexicurity; it is

precisely flexible internal job markets after all that have weathered the crisis very well.

4.2.2 Since the content of this guideline overlaps substantially with that of Guideline 9, the possibility of merging the two should be seriously considered so as to avoid duplication. On the other hand, a separate guideline should be added on promoting job quality.

4.2.2.1 The EESC has pointed out many times that precisely when a quantitative target is set for improving employment rates, particular attention should be paid to the qualitative dimension of new jobs, because employment at any price (precarious employment conditions, the working poor, etc.) is not the solution.

4.2.3 The Committee repeats its call here for restoring the qualitative employment targets that were largely lost in the revision of the Lisbon strategy over the past few years (Laeken indicators for measuring the quality of employment) ⁽⁸⁾.

4.2.4 The EESC also suggests in this regard that new jobs should be systematically monitored on the basis of quality criteria and recommends that reference be made to the key challenges for European labour markets identified jointly by the European social partners ⁽⁹⁾. These include, for instance, mentioning that employment law should promote stable contracts and that no employed person, regardless of what type of contract they have, should be excluded from adequate protection and job security.

4.3 **Guideline 9:** *Improving the performance of education and training systems at all levels and increasing participation in tertiary education*

4.3.1 In the EESC's view, a policy to create 'good work' that includes ambitious targets for general and professional education and training, and for lifelong learning, contributes substantially to growth and increased productivity. The EESC therefore welcomes the priority given to this policy.

4.3.2 As in the previous guideline, there are also pointers to the need for an indicator for young people, who are at risk of exclusion from the job market. With a view to reducing the number of young people not in employment, education, or training, Member States should take all necessary steps to prevent early school leaving. The EESC believes that this key issue should be given greater emphasis, for instance by retaining more ambitious targets, such as:

⁽⁷⁾ EESC opinion of 22.4.2008 on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Towards Common Principles of Flexicurity: More and better jobs through flexibility and security', COM(2007) 359 final, rapporteur: Mr Janson, co-rapporteur: Mr Ardhe (OJ C 211, 19.8.2008); and EESC opinion of 4.11.2009 on 'The post-2010 Lisbon Strategy', rapporteur-general: Mr Greif, CESE 1722/2009, point 3.4.3.

⁽⁸⁾ OJ C 128, 18.5.2010, p. 3.

⁽⁹⁾ Key challenges facing European labour markets: Joint analysis of European Social Partners (2007), p. 61 ff.

- reducing youth unemployment by at least 50 %, and
- setting a maximum limit of four months for 'activation' of young people seeking employment or apprenticeships.

4.3.3 The EESC points out that achieving the EU 2020 goal of a 75 % employment rate also calls for adequate employment policy measures for the disabled, who represent 16 % of the working age population. The Committee therefore welcomes the explicit inclusion of this population group in guidelines 7 and 10. It would also like to see inclusive education and training for people with disabilities mentioned in guideline 9.

4.4 **Guideline 10:** *Promoting social inclusion and combating poverty*

4.4.1 The EESC explicitly welcomes 'Promoting social inclusion and combating poverty' as a guideline. This vindicates the point it has often made that growing social inequality in Europe calls for joint measures to combat poverty and social exclusion. A whole package of targeted measures is required here. The EESC would like to see more specific emphasis placed in the guideline on reducing the risk of poverty among children and young people, with actual targets being set.

4.4.2 A series of stable and reliable indicators are also needed for reducing the risk of poverty, so that progress can be measured and monitored. The EESC therefore advocates establishing the 'at risk of poverty rate' as the standard poverty indicator. In the EESC's view, it would make sense to develop other, additional indicators which would also determine for example the ratio of income to purchasing power as well as concentration of income (Gini coefficient). On no account should this result in dilution of the key target.

4.4.3 The EESC welcomes the recommendation to the Member States to focus efforts on full participation in society and economic life, as well as extending employment opportunities, as a way of reducing poverty.

4.4.3.1 The EESC agrees with the conclusions of a recent Commission study that measures to help the working poor must be prioritised in efforts to combat poverty and social exclusion⁽¹⁰⁾. It proposes a guarantee of a living wage so as to avert the development of a low-wage sector, which includes:

- minimising precarious employment conditions in favour of permanent jobs with social protection;
- providing social protection during transitions between training and work;
- promoting efficient approaches under active labour market policy for training and job creation, especially for those who are excluded from the labour market owing to lack of training;
- prioritising measures to combat youth unemployment and promote integration of people excluded from the labour market.

4.4.3.2 All of these points should be included or given greater emphasis in this guideline. The EESC also repeats its recent proposal that targets be introduced for minimum wage and replacement income systems.

4.4.4 Combating poverty also requires in particular employment and education policy measures for groups that are disproportionately at risk (e.g. single mothers, people from a migrant background, elderly people with low pension entitlements, people with disabilities, etc.). The guideline could also be more specific and include targets with respect to the integration of these people into society and the labour market.

4.4.5 On a positive note, the EESC observes that the valuable role of the social economy in creating and safeguarding employment, and in combating poverty, is mentioned and that the Member States are explicitly called on to actively promote it. This satisfies the EESC's call for the potential of the social economy, in particular with respect to creating jobs in the sphere of social services, to be fully utilised.

Brussels, 27 May 2010.

The President
of the European Economic and Social Committee
Mario SEPI

⁽¹⁰⁾ 'Working poor in Europe', Eurofound study, 2010.

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendment, which received at least a quarter of the votes cast, was rejected during the discussions:

Point 4.2.2

Amend as follows:

'Since the content of this guideline overlaps substantially with that of Guideline 9, the possibility of merging the two should be seriously considered so as to avoid duplication. On the other hand, a separate guideline should be ~~added~~ created on flexicurity, which also includes ~~promoting~~ job quality.'

Reason

Self-explanatory.

Outcome of the vote:

For:	58
Against:	73
Abstentions:	2

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