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II

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

406TH PLENARY SESSION, 25 AND 26 FEBRUARY

2004 **Opinion of the European Economic and Social****Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles'***(COM(2003) 510 final - 2003/0198 (COD))**(2004/C 110/01)*

On 16 September 2003, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Economic Community, on the above-mentioned proposal.

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 2 February 2004. The rapporteur was Mr Barros Vale.

At its 406th plenary session (meeting of 25 February 2004) the European Economic and Social Committee unanimously adopted the following opinion:

1. Introduction

1.1 The Schengen Convention, which is designed to permit the free movement of people and goods, was signed in 1995. The first signatories were Germany, France, Belgium, Luxembourg and the Netherlands, followed later by other EU countries, with the exception of Ireland and the United Kingdom; Norway and Iceland have also signed up to the agreement.

1.2 Although they have not signed the Schengen Convention on free movement, Ireland and the United Kingdom do also take part in EU security cooperation measures, especially in view of the reduction in security which may result from the free movement of people and goods.

1.3 The Schengen Convention stipulates which authorities have access to the Schengen Information System (SIS), as well as the purposes for which the data concerned may be used. The current text of the Convention does not allow vehicle registration authorities to access the SIS.

1.4 The Commission is intending to amend the Convention implementing the Schengen Agreement in order to include mechanisms in the legislation giving access rights to SIS data on stolen vehicles and trailers, and on stolen blank official

documents and issued identity papers (passports, identity cards, driving licences). The aim is to make it possible to check whether vehicles presented for a second registration have been stolen, misappropriated or lost and also whether people applying for a registration certificate are using stolen identity or vehicle registration documents for this purpose.

1.5 This issue is all the more important given that around nine thousand vehicles stolen every day (approximately one every ten seconds); the number of requests submitted every day for vehicle registration totals around fifteen million, six to seven million of which involve second registration ⁽¹⁾.

1.6 The Commission proposal has to be seen from a variety of viewpoints, particularly justice, moves to counter fraud, steps to strengthen the single market and transport policy.

2. General comments

2.1 The European Economic and Social Committee (EESC) agrees with the Commission's view that, given the scale of fraud and organised crime targeting such goods and equipment and the documents involved, access to the SIS should be broadened to include national authorities responsible for issuing and checking the above-mentioned documents.

⁽¹⁾ Statistics available from: http://europa.eu.int/comm/energy_transport/etif/transport_means_road/...

2.2 The Committee feels that the Commission's aims in amending the Schengen Agreement, as proposed here, are relevant in that they enhance security and speed up justice procedures, since data protection is guaranteed by the system.

2.3 The EESC would draw attention to the need to ensure that the proposal under review is compatible with Member States' domestic rules and regulations.

2.4 The SIS is clearly Community-oriented and can only be used within the EEA (European Economic Area), as stipulated in the Schengen Convention itself; the EESC feels that this should continue to apply. It is a matter of concern to the EESC that cooperation arrangements with non-Member States in this sphere are poor, given that a large part of the traffic in stolen and misappropriated vehicles in the European Union takes place outside the Union's borders.

2.5 The EESC thinks that one of the ways of achieving this might be through cooperation with INTERPOL (involving 181 countries), using the Automated Search Facility (ASF) and EUROPOL; for these purposes, it would be enough to enter the information into the SIS and the other two systems at the same time. It is essential to enter this information swiftly, especially into the SIS, since the vehicles concerned are moved out of the EU's jurisdiction very quickly.

2.6 The Committee believes that Member States which are not signatories to the Schengen Convention should be given access to SIS data for this purpose, given that this is a security issue.

2.7 According to the Commission, the new Member States will only have access to SIS II data (in the new generation of the Information System) at the end of 2006. The Committee believes that these countries should be granted full access to the SIS as quickly as possible; this entails clear advantages for achieving the objectives pursued in applying the system.

2.8 The EESC is pleased that the proposal under review considers the fact that various Member States have private services responsible for vehicle registration; these private services may obtain the information necessary to carry out their work properly, indirectly through one of the public authorities with access to the SIS, guaranteeing data protection.

2.9 The Committee deems it to be especially important to secure mechanisms for restricting access to other information in the system to the administrative authorities possessing SIS access; out of a concern to safeguard the public's general rights, such information must be reserved for the authorities specified in Article 1 of the Schengen Convention.

2.10 The EESC welcomes the Commission's guarantee that the solution found will have no financial impact on the EU's budget, since the costs will be borne by the Member States.

2.11 The Committee also believes that statistical data on this type of crime should be compiled, processed and publicised so as to better organize the approach to tackling it.

3. Other comments

3.1 The Committee believes that the very existence of this system and the easy access thereto granted to the authorities of various Member States will constitute an incentive to allow more free movement of vehicles within the Union, and will place a responsibility on national authorities to abolish certain kinds of domestic rules and regulations which make it difficult for their own nationals to use vehicles registered in another Member State.

3.2 Now that greater capacity is being introduced for monitoring and combating vehicle fraud and theft, the Commission must provide Member States with incentives to dismantle rules and regulations which make the use and movement of vehicles registered in another Member State difficult; the reasons for this are often purely tax-related and run counter to the provisions of the single market.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament — researchers in the European Research Area: one profession, multiple careers'

(COM(2003) 436 final)

(2004/C 110/02)

On 18 July 2003 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 2 February 2004. The rapporteur was Mr Wolf.

At its 406th plenary session of 25/26 February 2004 (meeting of 25 February) the European Economic and Social Committee adopted the following opinion with 103 votes in favour and one abstention.

1. Summary

1.1 The Committee has pointed out in the past that human capital is the most sensitive and valuable resource for research and development and that it supports the Commission's efforts to maintain and develop human resources.

1.2 The Committee therefore welcomes the Commission's communication on problems facing career researchers in the EU as well as the proposals and initiatives it sets out. It wholeheartedly supports the Commission in its efforts to bring about substantial improvements to the current situation and calls on the Member States to contribute to this goal. There is an urgent need for action.

1.3 The Committee agrees with the Commission that improvements are needed both in relation to researchers' contracts and to the adaptation/portability of all aspects of social security and retirement provision, which are so important for all types of mobility.

1.4 As long as these requirements are not being met, as a result either of an incomplete European internal market or of inadequate arrangements in individual Member States, the Commission should, for example in the framework of its mobility programme, compensate as far as possible for the remaining shortcomings and create more far-reaching incentives. Family cohesion and related issues are particularly important here.

1.5 The Committee also points out, however, that the following incentives are needed if people are to embark on a career in research: attractive contracts for individual researchers reflecting the importance of research and development, and planning certainty for the funding of research institutes and industrial research laboratories, involving a long-term commitment. Research policy must not be a prey to short-term budgetary planning or policy experiments. Rather, it should set out appropriately to promote the potential and capacity of researchers on the basis of self-reliance and to the benefit of the community.

1.6 The greatest discoveries are not the result of specific goals but rather of attempts to reveal the laws of nature. Being able to do this with adequate resources and free of political interference is not only part of the fundamental freedom of research, but also — in an appropriate balance with targeted research and development — a precondition for future progress and prosperity.

1.7 The Committee is very concerned that in many Member States these conditions are not being met to a sufficient degree, if at all. Apart from the well known and serious economic consequences of this, this failure is also the source of a worrying brain drain, with the best young researchers leaving, usually for the USA.

1.8 The Committee therefore appeals to the Council, the Parliament and the Commission, but particularly to the Member States and European industry, to honour their repeatedly stated commitment to increase investment in research and technological development to 3 % of GDP by 2010. Investment in research and development which bears comparison with competing economies is a basic precondition for achieving the Lisbon objectives.

1.9 The Committee also supports the individual measures proposed by the Commission, such as the European Researcher's Charter and the Code of conduct for the recruitment of researchers. Both texts could be very helpful in many cases, with the strong reservation, however, that the application of these texts (as proposed by the Commission) must be voluntary and must on no account lead to over-regulation (excessive bureaucracy) in an area which is in any case in some respects already over-regulated.

1.10 The guiding principle of research policy must remain the Lisbon objectives. Thus, competition between research systems and institutions for the best structure, facilities and personnel policy must be allowed and supported and not hampered by over-regulation. The conduct of the majority will be guided by the example of the successful. The successful must be recognised, supported and allowed a free hand within ethical and legal limits.

1.11 Incentives and selection procedures for research careers, which should begin in schools, should be structured and achievements acknowledged in such a way that a sufficient number of the brightest and best will opt for an (academic) scientific training, with the pick of the bunch taking on a leading role.

1.12 As well as the researchers themselves, society also invests in the acquisition by researchers of the necessary broad and demanding basic and advanced specialised knowledge. Policy-makers, on behalf of society, thereby take on responsibility for ensuring that this investment is put to the best possible use. This must include providing researchers with appropriate career paths with attractive opportunities for branching out, without the danger of finding themselves at a dead end. The Committee supports the Commission in its efforts to carry out this task.

1.13 A very important aim, which is also stressed by the Commission, is improving career mobility between academia and industry and stepping up exchanges of staff. Despite progress in some areas much remains to be done. The significant increase in industry's commitment to research and development which is called for could contribute to this.

1.14 In order to protect researchers from an excessive burden of administrative tasks and problems, including related active and passive assessment procedures, a situation should be avoided where too many separate vertical as well as horizontal (parallel) approval and guidance bodies are involved, as this will not only unnecessarily reduce efficiency and place the most able under unnecessary work pressure but also lead to unclear and in some cases mutually contradictory requirements and decisions.

1.15 Society and policy-workers must ensure that the conditions for the emergence and continuation of excellence and top-level performance exist or where necessary, are created.

1.16 For its numerous specific comments and detailed recommendations the Committee would refer to the chapters of this opinion set out below.

2. Introduction

2.1 In January 2000, the Commission adopted a Communication proposing the creation of a European Research Area (ERA) ⁽¹⁾. The Committee adopted a comprehensive and supportive opinion ⁽²⁾ on the subject in which it addressed problems of mobility and those aspects connected with a career in science and suggested appropriate measures to deal with

these problems. The Committee has since discussed the subject in opinions ⁽³⁾ on other Commission documents and suggested appropriate measures.

2.2 In this communication the Commission — in the context of the Lisbon objectives and the decisive role of research and development in achieving these — addresses the important question of professional and career opportunities for researchers in the European research area.

2.3 The Commission writes that 'the Communication reveals structural weaknesses as well as marked differences concerning each of these elements, according to the sectors in which researchers operate or the geographical, legal, administrative and cultural environments in which they work. These differences and the lack of openness of researchers' careers in Europe, prevent the development of proper career perspectives at European level as well as the emergence of a real employment market for researchers in Europe, whether considered from a geographical, sectoral, or gender perspective. These differences also have significant repercussions on the attractiveness of young people for careers in RD, as well as on the overall public recognition of researchers'.

3. Content of the Commission Communication

3.1 The communication aims to analyse the different elements which characterise the profession and defines the various factors which condition the development of researchers' careers at European level, namely: the role and nature of research training, the differences in recruitment methods, the contractual and budgetary dimension, and, finally, the evaluation mechanisms and the progress perspectives within the career. The communication is therefore very broad and comprehensive in its scope, making it extremely difficult to give a brief summary of its content - where this is not specifically discussed below.

3.2 The communication deals, inter alia, with the following main themes:

political background; definition of a researcher; career prospects; workforce needs; public recognition of careers in R&D; pathways between academia and industry; European dimension; gender differences; factors shaping careers in R&D; research training; environment; doctoral programmes; recruitment methods; employment and working conditions; deregulation in the academic career system; remuneration as career incentives; need for alternative tenure opportunities; evaluation systems; proposed actions and initiatives.

⁽¹⁾ COM(2000) 6 final, 18.1.2000

⁽²⁾ OJ C 204, 18.7.2000

⁽³⁾ OJ C 221, 7.8.2001 and OJ C 95, 23.4.2003

3.3 As part of the proposed measures and initiatives the Commission will, *inter alia*:

- set up a High Level Group in order to identify more examples of good practice related to different employment opportunities, such as intersectoral mobility or new tenure track models, and disseminate them widely to the research community;
- launch the development of the 'European Researcher's Charter', a framework for the career management for human resources in R&D, based on voluntary regulation;
- outline a 'Code of conduct for the recruitment of researchers' based on best practice, to improve recruitment methods.

4. General comments

4.1 The ESC is extremely pleased that in its communication the Commission addresses the important and in the past neglected issue of research careers. The Committee entirely agrees with the Commission that 'human resources are to a large extent the key of research efforts, excellence and performances', and it supports the Commission in its objective of tackling this problem in a Community context. The Committee pointed out in an earlier opinion ⁽⁴⁾ that human capital is the most sensitive and the most valuable resource for research and development and that it therefore supports the Commission's efforts to enhance human resources. The Committee sees a need for clear improvements here and is glad that the Commission intends to act.

4.2 As well as the researchers themselves, society also invests in the acquisition by researchers of the necessary broad and demanding basic and advanced specialised knowledge. Policy-makers, on behalf of society, thereby take on responsibility for ensuring that this investment is put to the best possible use. This must include providing researchers with appropriate career paths with attractive opportunities for branching out, without the danger of finding themselves at a dead end. The Committee supports the Commission in its efforts to carry out this task.

4.3 But the Committee also points out that successful research and development requires appropriate, competitive, and unfortunately also often expensive equipment (large

apparatus) and infrastructure. It also entails a demanding phase, extending over a period of years, of building the teams involved and getting them up to speed, while also requiring the necessary budgets for the scientific exploitation of these resources.

4.4 Political and business decisions are needed to conduct research on a broad and long-term basis, to provide sufficient resources to this end and to guarantee planning certainty. The latter factor in particular plays a decisive part in motivating young people to seek a career in research, i.e. in obtaining, retaining and making optimum use of human resources.

4.5 The Committee is therefore very concerned that these conditions are currently not being adequately met, if at all, in many Member States. Apart from the well known and serious economic consequences of this, this failure is also the source of a worrying brain drain ⁽⁵⁾, with the best young researchers leaving, usually for the USA.

4.6 The Committee therefore urgently appeals to the Council, the Parliament and the Commission, but particularly to the Member States, to honour their commitments, e.g. those entered into at the Barcelona European Council, and increase investment in research and technological development (RTD) to 3 % of GDP by 2010 and at the same time ensure planning certainty and research freedom — particularly with a view to sufficient fundamental research ⁽⁶⁾. Investment in research and development which bears comparison with competing economies ⁽⁷⁾ is the basic precondition for achieving the Lisbon objectives, i.e. making the European Union the most competitive and dynamic knowledge-based economy in the world by 2010.

4.7 The Committee would draw attention to its earlier recommendation ⁽⁸⁾ that increasing Community R&D investment by 50 % be made a medium-term policy objective for the period after the sixth R&D framework programme.

4.8 This must obviously be complemented by effective measures designed (i) to acquaint young people with science and research and (ii) to give greater weight to the teaching of science, technology and mathematics in school curricula and to present these subjects in an attractive way. Research and development are the foundation of our current way of life and they sow the seeds of future innovation, prosperity and peace ⁽⁹⁾.

⁽⁵⁾ A two-way movement of scientists between Europe and, for example, the USA is of course extremely useful and sensible from the point of view of exchange of experience and networking of knowledge and methods. This should not, however, be a one-sided brain drain of the best young scientists, of the kind encouraged by the present situation. In this way economic value is not added in the EU, where the heavy investment in training was made; instead it benefits a competing economy

⁽⁶⁾ See also point 4.1.1.3.

⁽⁷⁾ 'Dual purpose' R&D investment in general scientific and technological research part-funded from the defence budget (e.g. USA) is an important component of this kind of comparison.

⁽⁸⁾ OJ C 260, 17.9.2001

⁽⁹⁾ OJ C 221, 7.8.2001, points 3.2.3 and 3.2.4

⁽⁴⁾ OJ C 204, 18.7.2000

4.9 There is, however, insufficient public awareness of the importance of, preconditions for, and scope of this issue. Its importance is also insufficiently reflected in school curricula and teaching.

4.10 As the Commission rightly points out, the motivation of talented young people to opt for an academic training leading to a career in research, and the subsequent career decisions of trained scientists as to the institution or country where they wish to work also depend on social attitudes and the importance which society attaches to these activities.

4.11 The value attached to research is reflected not only in public opinion but also in the continuity, reliability and firmness of political and business decisions. This is true both at Community level and especially in the Member States. Human resources, material resources and work opportunities offering the necessary scope for career development and their financing are closely interconnected factors ⁽¹⁰⁾.

4.12 If the will is there, if the necessary material conditions are met and the decision is taken to promote research and development at Community level and in the Member States ⁽¹¹⁾, to reward researchers appropriately and to make a special effort in those Member States in which catching-up is needed, it will be easier to solve the other problems highlighted in the Commission's communication: 'These differences and the lack of openness of researchers' careers in Europe, prevent the development of proper career perspectives at European level as well as the emergence of a real employment market for researchers in Europe, whether considered from a geographical, sectoral, or gender perspective'.

4.13 Careers in research in the European Research Area necessarily require mobility and flexibility. This should not, however, be at the expense of personal and family living conditions and social benefits. The Committee therefore supports the Commission in its objective of working towards a solution for the associated problems, and calling for/guaranteeing an appropriate and internationally competitive contractual status for researchers.

4.14 The Committee on the whole supports the measures and initiatives proposed and planned by the Commission. It doubts, however, whether they will be sufficient to enable the

objectives set out in the communication to be met. The Committee considers the development of analytical studies, referred to several times in the communication, to be potentially helpful in individual cases but by no means sufficient.

4.15 Rather, the right political steps are needed, particularly on the part of the Member States. The communication contains no specific proposals to this end, however, or any discussion of the legal basis.

4.16 Calling for specific measures does not, however, imply over-regulation and resulting restrictions on the freedom to shape individual approaches or allow competition between alternative approaches.

4.17 The Committee therefore also recommends that the experience already accumulated in the implementation of thematic actions under the R&D and EURATOM framework programmes, the Socrates and Marie Curie programmes and the mobility programme ⁽¹²⁾ be exploited more than hitherto, and that in particular the experiences and problems of scientists with a 'European' career already behind them be taken into account. Possible legal obstacles ⁽¹³⁾ should be tackled at an early stage and appropriate solutions identified.

5. Specific comments

5.1 Chapter 2: Definition of a researcher

5.1.1 The Committee concurs with and endorses most of the content of Chapter 2 of the Commission communication.

5.1.1.1 The Committee understands why the Commission has used the OECD's definition of research from the 2002 Frascati Handbook: 'Research and experimental development (R&D) comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications.'

5.1.1.2 The Committee nonetheless proposes that the Commission revise the definition particularly in view of the Lisbon objectives — to include key concepts such as science/nature and technology.

⁽¹⁰⁾ See, for example, Jürgen Enders (Ed.): *Academic Staff in Europe. Changing Contexts and Conditions* (2001), Westport, CT: Greenwood Press, 2001

⁽¹¹⁾ See also Committee Opinion OJ C95, 23.4.2003 on the Commission Communication — More Research for Europe — Towards 3 % of GDP.

⁽¹²⁾ The experience of institutions in the Member States, such as the Humboldt Foundation, should also be exploited.

⁽¹³⁾ European Court Reports 1996, p. II-02041; IA-00553, II-01471

5.1.1.3 The decisive importance of sufficient non-commercial primary fundamental research⁽¹⁴⁾ should be spelled out. The greatest discoveries are not the result of specific goals but rather of attempts to reveal the laws of nature. Being able to do this with adequate resources and free of political interference is not only an important part of the fundamental freedom of research, but also — in an appropriate balance with targeted research and development — a precondition for future progress and prosperity.

5.1.1.4 In this connection the Committee would refer to its earlier recommendation⁽¹⁵⁾ supporting all measures which help to reduce the polarisation between the humanities, social sciences and economics on the one hand and sciences/technology on the other, and bring them closer together. This also includes two-way dialogue on issues such as methodology, conceptualisation, and the evaluation and verification of results.

5.1.1.5 Moreover, knowledge should not only be broadened but also deepened. The Committee recommends that these comments be taken into consideration when revising the definition.

5.1.1.6 The Committee also notes that the Commission's proposed definition of a researcher makes no mention of the high degree of proven knowledge, ability and independence required in order to qualify for the description 'researcher'.

5.1.1.7 The Committee suggests the following slightly amended definition of researchers: 'Experts engaged in the conception or creation of new knowledge, products, processes, methods and systems, and in the management of the projects concerned, for which they are qualified by virtue of their training and experience'.

5.1.1.8 Where not otherwise specified, references to researchers should be taken to mean scientists or engineers with the requisite qualifications.

5.1.2 The Committee would refer to the description of research and development which it formulated in an earlier opinion⁽¹⁶⁾. In line with this description, the Committee also supports the Commission's intention of not restricting too greatly the possible career variants and paths in the R&D area.

5.1.3 Nevertheless, the Committee cannot in general concur with the statement that 'any of those careers will have to be treated and valued on equal footing'. Rather, the important thing is to identify and recruit particularly inventive and creative (potential) researchers — in order to achieve the expected knowledge gain and economic added value for Europe — and to retain them. To do this exceptional opportunities and incentives will have to be created.

⁽¹⁴⁾ Here too very expensive large equipment, the construction of which itself requires pioneering technological achievements, is often needed.

⁽¹⁵⁾ OJ C 221, 7.8.2001, point 3.9.1

⁽¹⁶⁾ See OJ C 221, 7.8.2001, point 4.7: 'Research is a step into the unknown and the approaches adopted by the individual or by the group vary and complement each other according to need, talent and temperament. Researchers are managers, engineers, collectors, hair-splitters or artists. Research is groping in the mist, hunches, surveying an unknown landscape, collecting and collating data, finding new signs, tracing underlying connections and patterns, recognising new correlations, developing mathematical models, developing the necessary concepts and symbols, developing and building new equipment, searching for simple solutions and harmony. But it is also confirming, making sure, expanding, generalising and reproducing.'

5.1.4 But these outstanding abilities and pioneering achievements are particularly difficult to pinpoint using conventional assessment models, which are moreover open to abuse.

5.1.4.1 One source of difficulties is the behaviour of certain authors who tend to quote each other in publications, forming a 'citation cartel' and thus procuring advantages for themselves in any schematic assessment.

5.1.4.2 Moreover, in some cases major discoveries have been published, recognised and quoted in the literature only after a certain delay.

5.1.4.3 Personality cannot be accurately assessed in a formal, schematic way. Rather, we must call on the experience and knowledge of the leading representatives of each branch of the scientific community in which achievements are being made or are expected (although even then mistakes, sometimes of historic proportions, are made).

5.1.5 In this context, with regard to the 'code of conduct for the recruitment of researchers' proposed by the Commission (see point 5.2.5), the Committee recommends that it be ensured that its — admittedly voluntary — application does not lead to over-regulation and thus rigidity.

5.1.5.1 The Committee does not deny, indeed it stresses, that transparency and equality of opportunity must be ensured for all applicants within the EU and above all the proportion of women applicants increased. In this context it acknowledges the potential usefulness of a code of this kind in achieving this important objective.

5.1.5.2 In view of the very varied requirements for their respective tasks and the different cultures of leading research organisations⁽¹⁷⁾, however, the Committee recommends that the experience and knowledge of the relevant scientific community be exploited to complement formal, generalised assessment methods and recruitment procedures. Ultimately, it has to be ensured that European research institutions are attractive enough and that they have the will and the opportunity, as well as the scientific and administrative tools, to compete successfully against global competition for the world's best brains.

5.1.5.3 The Committee therefore recommends that individual instances where the wrong approach has been adopted or where mistakes have been made be dealt with on a case-by-case basis, and that general (over-)regulation be used only as a last resort.

⁽¹⁷⁾ Thus for example, at the Max Planck Institute scientists are not usually sought and recruited by way of vacancy notices. The aim, rather, is to recruit the most suitable candidate for the task in question from among those scientists well known in the worldwide community for their achievements.

5.1.6 The concept of 'equality of opportunity' is therefore also difficult to interpret in view of differences within the Member States and within the research fields, and a more flexible approach is therefore required.

5.1.7 With regard to the categories of research addressed, such as fundamental research, strategic research etc., and the definition of these, the Committee would refer to the recommendation made in earlier opinions⁽¹⁸⁾, particularly with regard to the internationally accepted concept of 'applied research' which ought to be used⁽¹⁹⁾, and it recommends that this question be re-examined at the appropriate time by a group of experts.

5.1.8 Other aspects of research careers

5.1.8.1 Actual research activity, i.e. work on scientific and technological problems, involves related planning, entrepreneurial, administrative and assessment tasks, which to a large extent can only be performed by scientists.

5.1.8.2 These include programme proposals, application procedures, reporting, publications, personnel decisions and related (active and passive) assessment procedures.

5.1.8.3 If, however, these tasks are required in an uncoordinated way of too many institutions and sponsors participating in the programme, in different formats and degrees of detail and with different timetables, the work involved will take up more of researchers' time than their actual research work.

5.1.8.4 In view of the proliferation of application, assessment and monitoring procedures, the Committee recommends that the Commission look into this question and work out coordinated procedures which strike a sensible balance and prevent a welter of paper-generating but unproductive activity⁽²⁰⁾. Any over-bureaucratisation of research must at all costs be reduced.

5.1.8.5 Here the Committee would recommend that the Commission also take a fresh look at its own application and award procedures and the criteria associated with these. The scientific community is often critical of these, and it is often asked whether such applications in view of the substantial amount of work involved and the very low success rate are still worth making. Also, procedures and criteria (e.g. for the award of grants) should not be changed too often.

5.1.8.6 It is also important to prevent the emergence of too many separate vertical (as well as horizontal/parallel) approval and guidance bodies (and procedures), as this will not only

reduce efficiency but usually also lead to over-detailed, unclear and in some cases mutually contradictory requirements and decisions.

5.2 Chapter 3: Prospects for careers

5.2.1 Prospective workforce needs in R&D: the Committee shares the Commission's concern about the clear and worrying discrepancy between macroeconomic analyses and forecasts ('job opportunities for thousands of researchers') on the one hand and less favourable actual labour market opportunities or lack of opportunities on the other. Most universities and research institutions are at present actually experiencing reductions in private and public-sector budgets and are therefore unwilling to recruit new staff, and even less willing to offer long-term employment contracts.

5.2.1.1 Even industry, e.g. the very research-intensive pharmaceuticals industry, has difficulty in keeping young researchers in Europe⁽²¹⁾.

5.2.1.2 Moreover, publicly funded universities and research institutions are required by their funding bodies to employ a significant proportion of their scientists on a series of temporary contracts, so as to be able to react more quickly to budget cuts or imposed programme changes.

5.2.2 In this connection, the Committee would highlight another important aspect: scientists working in academia or publicly funded research institutions are usually paid in accordance with public-sector pay scales.

5.2.2.1 These rates of pay are generally significantly lower than in the private sector. The Committee endorses the Commission's statement that: 'Salaries constitute one of the most visible issues of career recognition. Salaries of researchers seem to have fallen behind, for example in comparison with those who are engaged in management positions'.

5.2.2.2 Lower public-sector pay scales are normally justified by the generally greater security of public-sector careers (civil servant, teacher, judge etc.).

5.2.3 Many scientists are, however, deliberately denied this higher level of job security on grounds of greater flexibility in the planning of research, budgeting and personnel policy.

5.2.3.1 This disadvantage is, however, by no means counter-balanced by other advantages or guarantees. A further problem is that salary ranges are not sufficiently wide to take proper account of performance and commitment.

⁽¹⁸⁾ INT 197, CESE 1588/2003 of 10.12.2003, points 4.5.3 and 4.5.5

⁽¹⁹⁾ OJ C 204, 18.7.2000. See points 7.1 and 7.1.1: 'Research and development basically form a system embracing different research categories and thus also stages of scientific development of potential new technologies: basic research, application-oriented research, 'encyclopaedic' research (e.g. to complete our knowledge about substance properties, new substances, active substances, etc.), technological development and product and process development (...) The distinction between these research categories is sometimes an artificial one, and innovation results from interaction and cross-fertilisation between them.'

⁽²⁰⁾ See also OJ C 95, 23.4.2003, Appendix, points 8 et seq.

⁽²¹⁾ Interview with Dr. D. Vasella, chairman of Novartis (Austria) – Standard 26.1.2004, p. 3

5.2.3.2 It would, however, be wrong to seek to impose temporary contracts, with all their consequences, in order to achieve the flexibility and mobility which is genuinely needed in the research field, while pay also remains inadequate.

5.2.3.3 What is therefore actually needed is more appropriate rates of pay, with the range substantially extended at the upper (and only the upper) end and greater flexibility for adaptation to individual cases. This would make it possible to achieve the objectives referred to above by incentive. Universities and research institutions therefore need more post-doctoral openings with reliable tenure track conditions. The current lack of appropriate opportunities and career prospects, together with the risk of unemployment, are the main reason why the best researchers are currently seeking to build their future in the USA ⁽²²⁾ and are hardly likely to return.

5.2.3.4 The problem has hitherto been compounded in the case of scientific researchers who have to undergo a long period of training (doctorate, qualification as university lecturer). Here change is urgently needed if research is to be made attractive as a career.

5.2.3.5 A typically ⁽²³⁾ discouraging feature of the 'career' of young research scientists is the fact that initially

and again after every change of job or 'career move' they are often given temporary contracts ⁽²⁴⁾ (e.g. for a total of up to 12 years).

5.2.3.6 Once these contracts end, which in most cases has nothing to do with unsatisfactory performance but is, rather, dictated by administrative rules or rules on staff rotation and particularly by budget cuts, researchers consequently risk having to abandon their research careers, or in many cases even becoming unemployed.

5.2.3.7 Researchers with this kind of contract therefore run the risk of reaching a career dead end at an age (e.g. around 40) where changing direction and making a new start on the labour market is already extremely difficult, in part because of industry recruitment policies which favour recent graduates.

5.2.3.8 It should also be pointed out that these same research scientists have often passed a strict, multi-stage selection procedure, as only the best are offered the opportunity to undertake doctoral research after graduation and only the best

of the best are later offered a research post or junior lectureship.

5.2.3.9 In order to achieve competence and efficiency, let alone a leading position in a particular area of science, individuals and groups must first undertake demanding further training and work experience, usually over a period of years.

5.2.3.10 Furthermore, it is often necessary to develop and set up costly equipment and to establish a stimulating research climate, with all the associated organisational structures. This heavy investment in human capital and the necessary research infrastructure is another result of research which, in addition to the actual research findings, would be available for further exploitation.

5.2.4 Unemployment among well trained research scientists is therefore not only a social problem but also a loss to the economy of financial and human resources.

5.2.4.1 It is not only demotivating for the researchers affected or liable to be affected, but also a disincentive to students, when considering their field of study and future career, to opt for a difficult and demanding discipline. A further demotivating factor is the gap between enticingly upbeat public pronouncements and the off-putting — and in some Member States almost disastrous — reality of the labour market and career prospects.

5.2.4.2 In this sense, the fact that many scientists, particularly young scientists, at present seek and find job opportunities suited to their abilities outside the EU, above all in the USA, is in fact to be welcomed, at least for as long as European institutions are unable to offer them appropriate openings. The fact that this is enormously damaging to the EU and highly advantageous to the host country should be made clearer in policy-making circles and to the general public.

5.2.4.3 The lack of economic attractiveness and considerable social risks of a career in research may be one of the reasons why, even at secondary school stage, so few children are interested in science and mathematics.

5.2.4.4 It is therefore hardly surprising, at times when research scientists are in demand, that there is a sudden perceived lack of human capital (see basic underlying premise of the Commission communication).

⁽²²⁾ Even among scientists from Russia, India or China, for example, working in EU research institutions, there is a tendency for the successful ones to accept job offers from the USA after a few years.

⁽²³⁾ The career profile outlined here may not apply in all Member States.

⁽²⁴⁾ In some cases this is complicated still further by employment protection rules.

5.2.5 As the Commission points out, it is therefore essential in the interests of the career prospects of researchers and for the achievement of the 3 % target ⁽²⁵⁾, to reduce the apparent divergence between economic needs in the EU on the one hand and microeconomic and fiscal behaviour (e.g. government), and the resulting personnel policies, on the other.

5.2.5.1 Research should therefore not be regarded in a proprietorial way. It should not be a prey to short-term policy experiments or budget constraints. Good and successful research must be long-term and should not be started, ended or redirected on a whim, e.g. as a result of economic cycles, budget crises or current political or planning trends; rather, it requires continuity, freedom and certainty. Only then will it be possible to eliminate the problems outlined above and prevent them occurring in the future.

5.2.5.2 As the Commission states, there is moreover an urgent need for suitable curricula and opportunities for branching out in order to avoid this kind of career dead-end, and instead to offer young people facing a career choice attractive and secure prospects.

5.2.5.3 It would also be helpful to promote greater mobility towards industry (see point 5.4) and teaching (e.g. making it possible to employ researchers for whom no stable employment is available at universities or publicly funded research institutions as teachers with research experience in higher educational institutions, particularly in view of the frequent lack of suitably trained staff with research experience).

5.2.6 The Committee therefore particularly welcomes the measures set out in the Commission's communication:

- Set up a High Level Group in order to identify more examples of good practice related to different employment opportunities, such as intersectoral mobility or new tenure track models, and disseminate them widely to the research community.
- Launch the development of the 'European Researcher's Charter', a framework for the career management for human resources in R&D, based on voluntary regulation.
- Launch impact studies to assess and benchmark the multiple career paths of researchers.
- Outline a 'Code of conduct for the recruitment of researchers' based on best practise, to improve recruitment methods.

However, the Committee recommends that its comments on these issues be taken into account.

5.2.6.1 The Committee recommends that the initiatives launched in some Member States ⁽²⁶⁾ in higher education be extended to non-university research organisations, and that care be taken to check whether the measures ⁽²⁷⁾ actually lead to the hoped-for improvements.

5.3 Chapter 3.2: The public recognition of careers in R&D

5.3.1 Public recognition of research is an extraordinarily important factor. The Committee wholeheartedly endorses the Commission's statement that 'The issue of public support for researchers is clearly linked to the ways science is perceived as a means to contribute to the development of society'.

5.3.2 The Committee also endorses the other points made in Chapter 3.2 of the communication. It would also point out, however, that the problems and difficulties of a career in European research, which the Commission communication sets out to overcome, are connected with the still unrealised completion of the internal market and are not sufficiently understood by the public, or in many cases even by politicians. There is therefore a particular need for politicians to be properly informed.

5.3.3 It would, however, be an oversimplification to seek the nub of the problem in a lack of public understanding and recognition of the importance of research and development.

5.3.4 Although it is true that the public are in general not sufficiently aware of the extent to which their prosperity is based on past research and development achievements, the majority of people do nonetheless have a degree of respect for researchers and their abilities.

5.3.5 The real problem is ensuring that politicians make consistent efforts to improve the personal and professional situation of researchers and to eliminate the disadvantages referred to above. The problems referred to above may also contribute to the lack of appreciation of researchers.

5.3.6 Ensuring that the necessary political will is there is unfortunately made more difficult by the fact that the promotion of research and development, and thus of careers in research, does not generally enjoy the kind of media coverage and hence public awareness which is needed in political terms; another problem is that researchers are too few in number to defend their professional and social interests in a sufficiently forceful and organised way.

5.3.7 Another related problem is the fact that the time lag between investment in research and development and tangible economic and cultural benefits is rather long and usually exceeds society's political attention span; also that the importance and potential of new discoveries usually filter only gradually into the public awareness rather than emerging suddenly and dramatically.

⁽²⁶⁾ e.g. the Lichtenberg programme of the Volkswagen Foundation

⁽²⁷⁾ e.g. Juniorprofessur in Germany (Translator's note: 'junior professorship' – a new class of university teaching/research post introduced under the reform of Germany's Hochschulrahmengesetz (higher education framework law) open to newly qualified PhDs and leading eventually to full tenure. It replaces the existing system of post-doctoral lectureships.)

5.3.8 The Committee therefore fully supports the Commission's statement that: 'In order to raise the political significance of research as crucial to the development of society, the link between the content of research and the net benefit to society must be clearly highlighted. Likewise, society should be better placed to recognise the role of research, the relevance of doing research and the value of careers in R&D.' Society should also be aware of the necessary operational conditions for excellent research.

5.4 Chapter 3.3 Pathways between academia industry

5.4.1 On this subject the Commission states that: 'Collaborative partnerships between academia and industry or private and public funded research organisations have emerged as a critical imperative necessary to sustain transfer of knowledge and innovation but it is still unclear how to structure such relationships, let alone how to exchange personnel or to promote common training programmes.' The Committee endorses this statement to a great extent, although it no longer regards the situation quite so critically.

5.4.2 However, the Committee also recognises the need for further improvements and for a better mutual understanding of working methods and career criteria.

5.4.2.1 An important question in relation to the desired curricula is why industry, when recruiting scientists and engineers, generally prefers recent graduates rather than experts with years of additional research experience, although their superior knowledge would accelerate the knowledge transfer of the most up-to-date methods and procedures.

5.4.2.2 The Committee here reiterates its previous recommendation⁽²⁸⁾ that the existing mobility programme ('industry host fellowships') be modified and stepped up, to provide those willing to consider this option with definite incentives for the required mobility, making sufficiently long exchange periods possible, and long-term exchange attractive for both sides. This could also create an incentive for industry to recruit older, experienced scientists.

5.4.3 In individual cases there has been progress. The obstacles described in the communication are, for example, less significant in relations between industry and technically orientated higher educational or research institutions.

5.4.4 But here too there is a need to ensure both national and European compatibility and portability/recognition of the various components of social security (such as sickness insurance, invalidity insurance, retirement provision, qualifying periods of work conferring pension rights, recognition of previous periods of pensionable service etc.).

5.4.5 Finally, it should be recognised that there are different kinds of gift and ability, some of which are particularly useful to industry where they can develop to the full, and others which are more suitable to a scientific university environment.

5.5 The European dimension of careers in R&D (Chapter 3.4)

This chapter contains a detailed analysis of the opportunities, tasks and problems inherent in this aspect of research careers.

5.5.1 The opportunities are to be found in a significantly enlarged employment market, which is particularly important for highly specialised experts, as well as being personally and economically important. Moreover, the importance of more European research careers should be stressed in achieving the Commission's objective⁽²⁹⁾, which the Committee supports, of 'a stock of material resources and facilities at the European level'.

5.5.2 The risk is whether professional experience accumulated in another Member State will be appreciated and recognised on the 'home market', with consequent career advantages, as well as in the lack of compatibility/portability/recognition of the various aspects of social security (such as sickness insurance, invalidity insurance, retirement provision, qualifying periods of work conferring pension rights, recognition of previous periods of pensionable service etc.).

5.5.3 This requires appropriate measures ensuring that changes of employer and place/Member State of employment, and movements between publicly funded research institutions in various Member States and industry etc., which are a typical and desirable feature of the career of a 'European' researcher, should not, as has often been the case in the past, be disadvantageous in relation to the requirements outlined above.

5.5.4 Specific solutions need to be identified and implemented if the objectives set in the Commission's communication are to be achieved.

⁽²⁸⁾ OJ C 204, 18.7.2000, point 8.2.2

⁽²⁹⁾ OJ C 204, 18.7.2000, point 9.6

5.5.5 Apart from implementing the relevant research programmes, it is therefore also necessary to make allowance for the personal circumstances typical of a career in European research, inter alia in relation to: pension arrangements, sickness insurance(!), the cost of removals, estate agents' fees, house purchase and renovation costs, children's education, family cohesion(!), unemployment and invalidity insurance, retirement provision, as well as tax-related⁽³⁰⁾ questions. Many existing laws, e.g. taxes on land purchase, are unfavourable to mobility.

5.5.5.1 A pan-European system of retirement pensions should, in particular, be established or, where already adopted, actually applied, so that pension rights can be retained in full or transferred on changing employer or Member State, without any overall financial loss to the researcher.

5.5.5.2 Another general problem is the researcher's spouse's or partner's job. In order not to jeopardise family cohesion, efforts should be made to identify or create suitable employment opportunities for partners. An official strategy⁽³¹⁾ should be drawn up in this area.

5.5.6 This view is shared to a great extent by the Commission, which writes in its communication: 'Finally, the promotion of the European dimension in R&D careers needs to be embedded in a structured and co-ordinated legal framework at European level which should guarantee researchers and their families a high level of social security thus minimising the risk (Committee's comment: the risk should be eliminated!) of losing already acquired social security rights. Within this context researchers should be able to benefit from the ongoing work at EU level aiming to modernise and simplify the co-ordination of the social security systems ... In this framework the specific needs of researchers and their families should be taken fully into account.'

5.5.7 The Committee nonetheless recommends that, as long as these objectives have not been achieved or until the proposed arrangements have entered into force, the relevant mobility programmes and their provisions be developed in such a way that they not only compensate for existing disadvantages but actually create additional, further-reaching incentives. Incentives of this kind are necessary both in order to make a European research career attractive even for top scientists and in order perhaps to attract such scientists (back) from the USA after all, for example.

⁽³⁰⁾ In some Member States researchers even have to pay tax on the reimbursement of mobility expenses!

⁽³¹⁾ In recognition of the problem, a joint event is, for example, being held by the Deutsche Forschungsgemeinschaft and the Stifterverband für die deutsche Wissenschaft on the subject of dual careers. See also www.kowi.de and www.dfg.de/wissenschaftliche_karriere/focus/doppelkarriere_paare/index.html

5.5.8 In order to make the expansion of the limited employment market (for scientists/researchers) arising from the realisation of the European Research Area even more effective, the Committee recommends that the Commission systematically develop and improve its existing Internet platform⁽³²⁾ — so as to ensure that all relevant job offers in the EU by research institutions, projects and universities as well as firms are listed in an organised way and with sufficient detail. (This should also be stipulated in the 'Charter'.) The Committee proposes that contact be made with institutions performing this task in the Member States.

5.6 Doctoral research, doctoral degrees

The Commission addresses the issue of doctoral researchers. The Committee considers that there are a number of questions involved here, namely (i) the role and situation of doctoral researchers and (ii) the need for doctoral-level scientists/engineers/researchers.

5.6.1 In order to be offered the opportunity to undertake a doctoral research programme, a candidate usually needs a first-class degree.

5.6.2 Accordingly, obtaining a doctorate can be regarded on the one hand as a further stage of academic training, and on the other above all as a passport to an independent research career.

5.6.3 Doctoral theses also entail the acquisition of other important general skills, such as the ability to carry out in-depth research, the ability to present particularly complex issues clearly in writing and orally, and, in the field of science and technology, and particularly in an international environment, use of the English language.

5.6.4 Doctoral researchers, as the 'rank and file'⁽³³⁾ of academic research, make an essential and significant contribution to research activity and thus to the objective of universities and similar research institutions.

5.6.5 Doctoral researchers therefore have a strong but usually unfulfilled claim to have their work⁽³⁴⁾ recognised as a fully-fledged professional activity (pay, social benefits).

⁽³²⁾ http://europa.eu.int/eracareers/index_en.cfm

⁽³³⁾ The term is graphic but not always accurate. Doctoral theses may contain outstanding pioneering work. In individual cases they have in the past contained Nobel Prize-winning discoveries (e.g. Mössbauer, Nobel Prize 1961, R.A. Hulse, Nobel Prize 1993).

⁽³⁴⁾ As long as it is the main, rather than a subsidiary, professional activity.

5.6.6 An inescapable feature of doctoral research is a degree of dependence on a supervisor, who is largely responsible for the assessment of the thesis.

5.6.6.1 The task and methods of supervisors should not, however, go so far that they remove the incentive, or even the need, for independent action on the part of the researcher, which is after all a qualification for the job.

5.6.6.2 Although in most cases the function and task performed by the supervisor are extremely helpful, in individual cases these may be abused. This may, for example, be a result of the inadequate remuneration of the doctoral researchers, leading to inappropriately heavy demands, essentially serving the scientific interests of the supervisor, and resulting in an excessively long period of research.

5.6.7 The Committee therefore recommends that the Commission consider a code of conduct on the role and treatment of doctoral researchers, that it initiate discussions on the subject and that the results be incorporated into the Charter.

5.6.8 In its communication the Commission also states that: 'industry seems eager to employ researchers without doctoral degrees, considering that those with a doctoral degree are too specialised ⁽³⁵⁾'.

5.6.9 Although it is a regrettable reality, and an obstacle to mobility between academia and industry, that industry prefers to recruit young recent graduates, the Committee cannot concur with this statement in its sweeping generality. In the chemical industry in some Member States and other scientifically and technically orientated sectors a doctorate, and a good one at that, if not an actual precondition for employment, is generally at least an important requirement for a successful career. (This does not generally apply to engineers.)

5.6.10 A doctorate is at all events a precondition for an academic career, including a career in publicly funded research institutions. (This does not generally apply to engineers.)

5.7 *Scientific attractiveness and excellence*

5.7.1 When young people opt for a career in research and decide where they would eventually like to work, one impor-

tant criterion is whether that country has attractive institutions of excellence in their field, where they can work alongside the most successful scientists, who serve as role models and set standards.

5.7.2 Society and politicians must therefore ensure that the conditions are in place, or are created, to nurture excellence and top-level performance.

5.7.3 However, excellence and the creation of elites are the result of a complex, laborious and lengthy process of development and selection which follows its own rules and depends on the conjunction of many important and interlinked factors.

5.7.4 Decisive among these are the outstanding examples set by particularly successful researchers, the attractiveness of facilities, management which fosters creativity and a wealth of ideas, the feeling of being involved in discovery or development and the reasonable expectation of all concerned to be able to develop their own potential and to contribute their own ideas, thereby gaining recognition.

5.7.5 All this can only develop and thrive on the basis of solid, broad and high-calibre university education combined with a varied research environment including a sufficient amount of pure research.

5.8 *A European Year of the Researcher*

5.8.1 The Committee welcomes and endorses the Commission's intention to organise a European Year of the Researcher in the near future.

5.8.2 The Committee sees this as a good opportunity to promote the research profession and its importance for society and the Lisbon objectives, as well as to strive for deeper mutual understanding between civil society and the scientific community.

5.8.3 The Committee recommends involving the relevant organisations in the Member States and scientific organisations operating at European level in this task and declares its willingness to play its own part in so doing.

Brussels, 25 February 2004

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

⁽³⁵⁾ This statement relates to the question of industry's recruitment practices, discussed above. The practices referred to should be studied in depth and where possible improved.

Opinion of the European Economic and Social Committee on the 'proposal for a Decision of the European Parliament and of the Council concerning the activities of certain third countries in the field of cargo shipping (codified version)'

(COM(2003) 732 final – 2003/0285 COD)

(2004/C 110/03)

On 9 December 2003 the Council decided to consult the European Economic and Social Committee, under Article 71 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 February 2004. The rapporteur was Mr Retureau.

At its 406th plenary session (meeting of 25 February 2004), the European Economic and Social Committee adopted the following opinion by 102 votes to one with four abstentions:

1. Commission proposal, legal basis

1.1 The proposal for a European Parliament and Council decision codifies Council Decision 78/774/EEC of 19 September 1978 ⁽¹⁾ concerning the activities of certain third countries in the field of cargo shipping, as heavily amended in particular by Council Decision 89/242/EEC of 5 April 1989 ⁽²⁾ on the same subject.

1.2 The legal basis for the codified text is provided by an internal decision of the Commission of 1 April 1987 ⁽³⁾, as reaffirmed in the conclusions of the Presidency of the Edinburgh European Council of December 1992 (part A, annex 3). The codification exercise is commensurate with the Communication from the Commission to the European Parliament and the Council on the codification of the *acquis communautaire* ⁽⁴⁾, i.e. it does not change the law while being subject to the procedure for the adoption of legislation in force at the moment of codification.

1.3 The procedure for adopting codified legislation in this case (cargo shipping) is laid down by Articles 80 and 251 TEC.

2. Comments and conclusions of the EESC

2.1 The EESC has already expressed its views in various past opinions ⁽⁵⁾ on the substance of the matter dealt with in the codified text, which incorporates — without making any substantive changes — earlier texts designed to identify

possible dumping practices introduced by certain third countries in the field of cargo shipping that harm the interests of Community operators, with a view to taking appropriate countermeasures, if need be. There is therefore no point in referring again to the substance of the matter.

2.2 The codification exercise — which concerns in particular provisions amended in the course of time and scattered between the original act and subsequent amending acts — seeks to improve the clarity and transparency of Community law; it will therefore provide additional legal certainty at the time of codification for the persons to whom Community legislation is addressed and who use Community legislation.

2.3 The Committee approves and encourages the work to simplify the *acquis communautaire*, and especially the procedures for consolidating and codifying existing legislation. This work contributes to good democratic governance by making it easier to understand the *acquis communautaire* and apply it properly.

2.4 In the present case, the codification proposal is based on a preliminary consolidation exercise carried out by the Office for Official Publications of the European Communities. An appended table indicates the correlation between the old and new numbers of the Decision's articles.

⁽¹⁾ OJ L 258 of 21.9.1978, pp.35-36

⁽²⁾ OJ L 097 of 11.4.1989, p.47

⁽³⁾ COM(1987) 868 PV

⁽⁴⁾ COM(2001) 645 final

⁽⁵⁾ Own-initiative opinion on transport problems in relations with Eastern Bloc countries (OJ C 59 of 8.3.1978, pp.10-13), opinion on the proposal for decision 78/744 (OJ C 269 of 13.11.1978, p. 56), opinion on the proposal for amending decision 78/744 (OJ C 105 of 16.4.1979, pp. 20-21), opinion on the proposal for amending decision 78/774/1978 (OJ C 71 of 20.3.1989, p. 25)

2.5 The proposed legal basis and legislative procedure are fully in accordance with Community law.

2.6 The Committee approves and therefore supports the codification proposal on which it has been consulted, and recommends its adoption.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'proposal for a Directive of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air'

(COM(2003) 423 final – 2003/0164(COD))

(2004/C 110/04)

On 29 August 2003, the Council decided to consult the European Economic and Social Committee, under Articles 95 and 251 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 5 February 2004. The rapporteur was Mr McDonogh.

At its 406th plenary session of 25 and 26 February 2004 (meeting of 25 February 2004), the European Economic and Social Committee adopted the following opinion by 101 votes with two abstentions:

1. Introduction

1.1 Council Directive 96/62/EC on ambient air quality assessment and management (the Air Quality Framework Directive) provides a framework for future EC legislation on air quality.

1.2 Annex 1 of Directive 96/62/EC contains a provision for regulating ambient air quality of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons (PAH) by setting out criteria and techniques for assessing ambient air quality, and laying down provisions for forwarding information to the Commission and the public.

1.3 This Commission Proposal fulfils the obligations under Directive 96/62/EC by introducing legislation for those heavy metals mentioned in Annex I which are recognised as being either known or suspected human carcinogens for which no threshold levels for adverse effects on human health have been identified.

2. Gist of the proposal

2.1 The Commission proposal recognises there are no cost-effective measures to attain everywhere the concentration levels that would not give rise to harmful effects on human health. It therefore does not strictly follow Directive 96/62/EC which foresees the setting of binding limit values.

2.2 The proposal foresees mandatory monitoring where concentrations exceed the following assessment thresholds:

- 6 ng arsenic /m³,
- 5 ng cadmium /m³,
- 20 ng nickel /m³,
- 1 ng Benzo(a) pyrene (BaP) /m³.

Concentrations below these levels would minimise harmful effects on human health. Therefore, only indicative monitoring of concentration of these heavy metals at a limited number of specific sites is required when the above assessment thresholds are not exceeded.

2.3 Regarding mercury, the Commission considers that the evidence for total exposure should be reviewed in due course and that this review should give particular emphasis to source-receptor relationships and the transformation of mercury in the environment.

2.4 Member States must inform the Commission and the public on any exceedance of the target value, the reasons thereof and any measures taken.

3. General comments

3.1 The Committee appreciates that because there are no known threshold levels for estimating adverse effects on human health, setting targets is especially difficult. Given that the impact on human health and the environment from these pollutants occurs via concentrations in ambient air and via deposition to terrestrial and aquatic environments and that the deposition to the terrestrial environment can also effect soil quality and fertility and the contamination of vegetation, the Committee therefore welcomes the Commission's proposal.

3.2 The Committee agrees with the Commission's evaluation that its proposal is 'ambitious and practical'. It therefore also considers that it is essential that the objectives should be reviewed in due course as there are many issues concerning the fate and behaviour of heavy metals and POP compounds that are still poorly understood, in particular with regard to mercury.

4. Specific comments

4.1 The Committee underlines the need to recognise that reported ambient air concentrations in the proposal are mean values across the EU-15 which are known to vary spatially and for some pollutants seasonally. For example, the heavier PAH compound BaP has significantly higher winter concentrations resulting from increased fuel combustion for domestic heating. This may result in the exceedance of the target level for a significant proportion of the year although the annual average value may show compliance with the threshold.

4.1.1 It is also likely that the proposed assessment threshold values for the metals (and the target value for BaP) will be exceeded close to certain industrial installations and in rural locations during the winter months when demand for space heating is high. As a consequence, there will be a number of sub-populations within the EU that may be consistently exposed to ambient air pollution at levels above the desirable limits. These proposals, therefore, do not provide adequate protection (certainly in the short-term) for some members of the population.

4.2 The Committee believes that as the emission data produced in the proposed directive have been taken from the reference year of 1990, the Commission should consider the need for including more contemporary data which will identify trends over the last decade or so. In this way any reductions in key source groups could also be identified.

4.3 BaP has been chosen as an indicator of carcinogenic risk, although it is only one of 16 commonly measured priority PAH compounds. The UN/ECE list, for example, includes three further indicator compounds. The EESC believes that in order to ensure that the 4th daughter directive is compatible (and comparable) with other international agreements (such as the UN/ECE POPs protocol) other PAH compounds should be considered for inclusion in the directive.

4.4 The Committee believes that diffusive sources such as domestic heating, (important for PAH compounds), are more difficult to control and hence incur greater cost. Other measures aimed at controlling mobile emissions (e.g. improving fuel quality to reduce particulate emissions) will also help to reduce ambient air concentrations. It appears that domestic

stove/burner optimisation for controlling BaP emissions would be beneficial for reducing exposure, particularly in rural areas. Retrospective upgrades to existing stoves are likely to be excessively expensive but specifications for new stoves, boilers and heating appliances should be provided to ensure future emissions are reduced.

4.5 The Committee believes that it is clear that further assessment of the potential sources of these pollutants within the ten Accession Countries is required and that emissions from these countries are likely to affect ambient air quality across the whole of Europe. Accession countries must therefore be encouraged, and where necessary assisted, to comply with the directive in a timely manner to ensure that cross-boundary pollution is minimised.

4.6 The Committee understands that the cost-benefit calculations suggest that the costs for upgrading key sources would require considerable investment. This investment could potentially have serious consequences for industry leading to the loss of competitiveness. The Commission must therefore ensure that when implementing the directive, a balance between economic impacts and positive health benefits must be struck even if difficult steps may be required to improve air quality, reduce exposure and improve human health.

4.7 The Committee also believes that an important part of the implementation of this proposed 4th daughter directive will be the provision of information to the public on local air quality issues with respect to these pollutants. It is imperative, however, that the public are also provided with the necessary tools to interpret and understand these data.

Brussels, 25 February 2004.

*The President
of the Economic and Social Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'proposal for a Regulation of the European Parliament and of the Council on nutrition and health claims made on foods'

(COM(2003) 424 *final* – 2003/0165 (COD))

(2004/C 110/05)

On 29 July 2003, the Council decided to consult the European Economic and Social Committee, under Articles 95 and 251 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 5 February 2004. The rapporteur was Mrs Davison.

At its 406th plenary session of 25-26 February 2004 (meeting of 26 February), the European Economic and Social Committee adopted the following opinion unanimously.

1. Introduction

1.1 The EESC welcomes in principle the Commission's Regulation with its emphasis on nutrition and health. It comes at a time when the WHO (Europe Region) has pointed out that up to 20 %-30 % of adults are overweight and that poor diet and lack of physical activity are also linked with cardiovascular disease. Governments too are increasingly recognising that there is a connection between the foods people eat and the health and well-being they enjoy, as well as the consequences of ill-health to national economies.

1.2 The proposal for a Regulation on nutrition and health claims made on food also comes at a time when diet, dieting and health awareness are receiving prominent news coverage, with consumers needing accurate, substantiated information more than ever before to enable them to make informed choices and decisions. For the EESC, consumer information and protection are of the highest importance.

1.3 In the light of this background, the Commission has proposed in the first instance, as a supplement to Directive 2000/13/EEC (relating to the labelling, presentation and advertising of foodstuffs), this Regulation setting out criteria for producers who wish voluntarily to make claims. In doing so, its intention is to both create a level playing field in an area where interpretation varies and to provide for non-biased information to consumers, thereby overcoming some of the lack of clarity in this regard caused by the present Advertising Directive.

2. Summary of the proposal

2.1 Directive 2000/13/EC generally prohibits the use of information that would mislead the purchaser or attribute medicinal properties to food. The new regulation would

provide more specific guidance concerning nutrition and health claims. This has been proven necessary because of a growing number of such claims, some of which are dubious due to a lack of clear scientific evidence to support these claims. Moreover, consumers are often confused by current labelling ⁽¹⁾.

2.2 The main objectives of this proposal are the following:

- to achieve a high level of consumer protection by providing further voluntary information, beyond the mandatory information foreseen by EU legislation;
- to improve the free movement of goods within the internal market;
- to increase legal security for economic operators; and
- to ensure fair competition in the area of foods;
- to promote and protect innovation in the area of foods.

2.3 Article 3 of the proposed Regulation provides that the use of nutrition and health claims shall not:

- a) be false or misleading;
- b) give rise to doubt about the safety and/or the nutritional adequacy of other foods;
- c) state or imply that a balanced and varied diet cannot provide appropriate quantities of nutrients in general;
- d) refer to changes in bodily functions in improper or alarming terms either textually or through pictorial, graphic or symbolic representations.

2.4 Article 4 provides for a minimum nutritional profile which foods must have in order to carry nutrition or health claims — for example alcoholic drinks may not carry health claims or nutritional claims except in cases where there is reduced alcohol or energy content.

⁽¹⁾ See the Survey by the Consumers Association (UK) April 2000.

2.5 Nutrition and health claims can only be made if science can show a beneficial nutritional or physiological effect, as established by generally accepted scientific data updated in line with technological advances and where the impact is significant and the claim is understandable by the consumer.

2.6 Health claims have to be accompanied by further information, for example when referring to diet and lifestyle.

2.7 Claims about psychological or behavioural functions will not be permitted, nor on slimming or weight control nor referring to health professionals or charities and it must not be suggested that health could be affected by not consuming the food. Reduction of disease risk claims must be authorised through the European Food Safety Authority (EFSA) as long as it is also made clear that diseases have multiple risk factors.

2.8 The Annex lists nutrition claims and conditions applying to them.

3. General comments

3.1 The EESC welcomes the proposal for a European regulatory framework both in the interest of consumer protection and of harmonisation in the internal market. It recognises the need to address the issue of different national rules operating at the moment through self-regulatory national codes of practice. The new Regulation will provide the necessary legislative instrument so that the direct effect of desired outcomes is guaranteed evenly across all Member States.

3.2 It is possible, however, that imported products may breach the Regulation in terms of both claims and labelling by appearing only in non-European languages. There is concern too over products obtained through the internet from non-EU sources.

3.3 The EESC stresses the need for legislation to be proportionate, predictable, properly enforced — and above all practical, and expresses concern that some of the provisions relating to the substantiation of claims may be unnecessarily complex and even cumbersome. Workable procedures with clear timetables that avoid unnecessary delays in the approval process are needed. The EESC also questions whether the operative burden on the EFSA will be excessive.

3.4 The EESC points out that legislation must go hand in hand with life-long consumer education which includes the acceptance of personal responsibility. At a time when obesity in particular is rapidly increasing even in young children, the importance of achieving a balanced diet must be emphasised — yet without taking away enjoyment of good food and drink.

It must also go hand in hand with exercise. The EESC recognises the challenge in reaching consumers with this essential message of balance, moderation and avoidance of excess.

3.5 Nevertheless, it accepts the need for responsibility to be taken — and coordinated wherever possible — by all interested stakeholders: producers, distributors and retailers, enforcement bodies such as trading standards, government departments, relevant professional, social and consumer organisations. The support of the mass media, is essential in providing 'popular' communication.

3.6 The EESC also stresses the need to encourage individual Member States to develop consumer education programmes in schools, integrated into existing subjects such as Language, Home Economics or Citizenship and starting with the youngest children. Other groups such as older people, disabled groups and ethnic minorities, also need particular help provided through the support of local social organisations. Examples of existing best practice could be collected and collated at a European level.

3.6.1 The EESC encourages the Commission to promote campaigns on health and nutrition through its public health programme.

3.7 The EESC would emphasise the value of an overall well-balanced and moderated diet rather than too much designation of foods as 'good' or 'bad'. The Commission must be more specific in its proposals in Article 4 on nutritional profiling so that producers know exactly where they stand.

4. Specific comments

4.1 Article 1, Para 2. The EESC endorses the inclusion of claims relating to mass catering in hospitals, restaurants and schools in view of the large number of consumers involved, many of them vulnerable. But it questions the practicality of the proposal both in its implementation and enforcement.

4.1.1 Para 4. The EESC points to the special importance of foods for the particular nutritional needs of vulnerable categories of consumers.

4.2 Article 2, Definitions, para 1. The EESC questions whether brand names may be developed to express particular nutritional or medical characteristics in order to avoid justifying implicit claims.

4.2.1 Para 2. Sodium is included among the nutrients listed. References, to both salt and sodium are confusing and must be clarified.

4.2.2 Para 3. The definition supplied is vague and difficult to pin down. In order to put this right, it should specify that is referring to any substance that has a nutritional or physiological effect, including probiotic factors and enzymes contained in many foods such as yoghurt, honey, etc.'

4.2.3 Para 8. The EESC notes that the Commission takes its definition of 'average consumer' from that developed by the European Court of Justice. It remains concerned that there will be many semi-literate/semi-numerate consumers with limited education and knowledge about food who are not capable of understanding either the implications of certain claims, especially those including percentages, or their supportive labelling.

4.3 Article 4. Para 1. The EESC appreciates the fact that this Article on nutritional profiling did not feature in the original draft of the proposal. Though it is endorsed by the WHO and Member States, the food industry regards it as impractical and unnecessarily restrictive, believing that consumers should themselves bear responsibility for their own choices of overall diet. Nevertheless, the EESC accepts that consumers are so highly influenced by claims for the particular and substantiated benefits of foods, which are, for example, low in fat, sugar or salt that they may ignore the possibility that such foods may also be high in certain other undesirable nutrients. (e.g. ice cream dessert which is bought because it is 98 % fat-free and yet contains enormous amounts of sugar unrecognised by consumers.). The Commission's proposal indicates that the emphasis on one substantiated 'virtue' of a product, omitting its other 'vices', may be true and accurate but nevertheless misleading to consumers.

4.3.1 The EESC therefore urges the Commission to be much clearer in its proposals for nutritional profiling, and as an interim compromise to place limits on the bearing of health claims on food products with ingredients where there is a pattern of over consumption and an undesirable impact on health.

4.3.2 The EESC recognises that there will be grey areas with some products being borderline (such as fruit juices and full-cream milk) which will require special appraisal by the EFSA.

4.4 Article 6 Para 3. The role of 'competent authorities', also referred to in Article 24, should be amplified, and their relationship with the EFSA defined.

4.5 Chapter 3. The EESC endorses the need for comparisons to be made, but points out that the print size in which an actual comparison is made should be legible. (e.g. the label '30 % less fat' and in minute letters 'compared with the stand-

ard brand'). Moreover, the proposal should make it clear that producers do not need to list things which are not there (e.g. 'This product does not contain Vitamin A or C.')

4.6 Chapter 4, Article 10. The EESC welcomes the specific conditions that health claims must meet on the grounds that greater care is needed with products where there is the possibility of a higher degree of emotion involved in choice and greater ignorance of scientific terms. It urges the Commission to ensure that claims relate to the actual product promoted, and not to another product used with it — e.g. some breakfast cereals claim to contribute towards maintaining 'healthy bones', whereas it is the milk used which provides the calcium content.

4.7 Article 11, Para 1 d). The EESC recognises the role of certain professional organisations and charities in promoting a healthier diet as a means of preventing specific diseases. Their contribution in providing specialist advice is welcomed. Nevertheless, their possible dependence on financial support or sponsorship should be monitored as they may provide endorsements for foods which are simply promotional deals not based on any set standards or open to other competing brands. Moreover, clear criteria must be developed concerning the acceptability of sponsorship.

4.8 The EESC asks the question whether some claims for general health or well-being (for example 'no colourings') and some slimming claims could be acceptable if they comply with the conditions set down.

4.9 Article 14, Para 1.c). Here and elsewhere there are references to availability of documentation to the public. The EESC approves such publicity but hopes that efforts will be made to reach the public at large (see also Article 15 point 6, and Article 17 point 2).

4.9.1 Para 2. The EESC questions whether procedures for compliance laid down by the Commission are unnecessarily complex. Prior approval arrangements could be modified and more reliance placed on EFSA's Register. It also asks whether the functioning of the EFSA will be slowed down by these new procedures. The wording of paragraph 2 needs to be clarified and the EESC proposes that only the claims need to be translated into the EU's official languages and industry needs flexibility in translation for marketing purposes. Likewise in Article 15 it asks whether timescales are reasonable or too time-consuming, with unnecessary delays in the approval process as paragraphs 1 and 2 leave the control of timing in the hands of EFSA.

4.10 ANNEX, The EESC welcomes in principle the inclusion of the Annex which attempts to clarify definitions and provide a practical guide for producers to follow. It recognises the need in a global society for this Annex to take full account of the recommendations of the Codex Alimentarius and of the World Health Organisation (WHO). It also asks the Commission to initiate an immediate and detailed expert refinement of each clause (e.g. on the use of 'natural') before the Regulation is adopted and therefore finally closed. It disputes the interpretation of 'light/lite' on the grounds that consumers are more likely to understand it as meaning 'low' rather than 'reduced', as the Commission proposes.

5. Conclusion

5.1 The EESC regards the present proposal as an important step forward both in consumer protection and in the harmoni-

sation of rules in the internal market. It looks forward progress on nutritional labelling, while recognising that this is not the only solution to the problem of communicating with consumers.

5.2 It supports the general aims of the present proposal, but suggests the need for simplification of procedures and a careful scrutiny of timescales. Moreover, the EESC here recommends certain compromises, which may be needed to balance the requirements of consumers for more substantiated information and the needs of industry to operate in a market free from excessive constraints. It stresses the important contribution of consumer education and the role that all stakeholders have to play in providing it.

Brussels, 26 February 2004.

The President
of the European Economic and Social
Committee
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'proposal for a Council Directive laying down animal health rules for the importation into the Community of certain live ungulate animals, and amending Directive 90/426/EEC and 92/65/EEC'

(COM(2003) 570 final – 2003/0224 CNS)

(2004/C 110/06)

On 16 October 2003 the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 5 February 2004. The rapporteur was Mr Donnelly.

At its 406th plenary session of 25/26 February 2004 (meeting of 25 February 2004), the European Economic and Social Committee adopted the following opinion by 106 votes in favour and 2 abstentions.

1. Introduction

1.1 The recent outbreaks of foot-and-mouth disease (FMD) and also classical swine fever (CSF) have prompted a thorough review of Community measures to prevent and combat these diseases. As part of the response to possible future outbreaks the Commission is proposing to rationalise, strengthen and update the legislation governing the importation into the Community of wild and domestic animals of species susceptible to either or both FMD and CSF.

1.2 Council Directive 72/462/EEC ⁽¹⁾ of December 1972 on the health and veterinary inspection issues relating to the importation of bovine, ovine, caprine, swine and fresh meat or meat products from third countries ensures a high level of animal health protection by laying down the general sanitary requirements for certain imports from third countries. However, as part of the hygiene package, Council Directive 2002/99/EC ⁽²⁾ laying down the animal health rules governing production, processing, distribution and the introduction of products of animal origin for human consumption will replace the requirements for meat and meat products in Directive 72/462. This proposal on live ungulate importation and the amendments of Directives 90/426/EEC ⁽³⁾ and 92/65/EEC ⁽⁴⁾ will ultimately result in the repeal of Council Directive 72/462 EEC.

1.3 Under Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae, imports into the Community of equidae are allowed only from third countries appearing on a list drawn up in accordance with Directive 72/462/EEC. This therefore will require amendments in order to meet the new requirements resulting from the updating and strengthening process.

1.4 Council Directive 92/65 EEC of 13 July 1992, laying down animal health requirements governing the trade in

imports into the Community of animals, semen, ova and embryos not subject to the animal health requirements laid down in specific Community rules referred to in Annex A (1) to Directive 90/426/EEC, lays down the conditions for the importation into the Community of ungulate animals other than domestic bovine, ovine, caprine, porcine and equine animals. This Directive will also require amendments as the new proposal lays down rules for wild as well as domestic ungulates. An amendment of Council Directive 92/65 to reflect the new proposal's criteria on the drawing up of a list of Authorised third countries is also required.

2. Gist of Commission proposal

2.1 This proposal lays down the animal health requirements for the importation into the Community of live ungulate animals of the species listed in Annex A.

2.2 The proposal consolidates in a single act the animal health requirements relating to all cloven-hoofed animal species, including the animal welfare provisions of Community legislation.

2.3 The proposal also clarifies the conditions for granting authorisation to a third country for the exportation of equidae (e.g. horses) to the EU and amends Directives 90/426/EEC and 92/65/EEC accordingly.

2.4 Article 4 lays down specific conditions, including the taking into account of previous experience of imports and audits of third countries, that must be considered when preparing a list of authorised third countries.

2.5 Derogations are proposed under articles 8 and 9, so as to allow flexibility when for example animals travel to and from shows and sporting events.

⁽¹⁾ OJ L 302, 31.12.1972 P. 0028 - 0054

⁽²⁾ OJ L 018, 23.01.2003 P. 0011 - 0020

⁽³⁾ OJ L 224, 18.08.1990 P. 0042 - 0054

⁽⁴⁾ OJ L 268, 14.09.1992 P. 0054 - 0072

2.6 Inspections and audits of third countries from the Commission in order to verify conformity with or equivalence to Community animal health rules are envisaged.

2.7 It is proposed to extend to this proposal the new comitology procedures established in Regulation (EC) No. 178/2002 ⁽⁵⁾ laying down the general principles and requirements of food law, establishing the European Food Safety Authority, and laying down procedures in matters of food.

3. General comments

3.1 The EESC welcomes this proposal as part of the ongoing review of Community measures to prevent and combat foot-and-mouth disease and classical swine fever.

3.2 The EESC supports the concept of consolidating the rules governing the imports of wild and domestic ungulates into one Directive.

3.3 The EESC is also very much in favour of the integration into this proposal of the general animal welfare requirements of Council Directive 91/628/EEC ⁽⁶⁾ on the protection of animals during transport, in particular as regards watering and feeding.

3.4 The EESC welcomes the use of the new comitology procedures, which allows a timely response when acting on scientific advice.

4. Specific comments

4.1 While the EESC recognises that flexibility in the form of derogations is desirable, it emphasises that derogations should only be made on a case-by-case basis so that the risk of importing diseases is not increased.

4.2 The EESC recognises the existence of potential new risks, as a consequence of the new borders the EU will have after the enlargement; the EESC therefore recommends that sufficient resources are made available by the Commission for the inspection and auditing in third countries.

5. Conclusions

5.1 The EESC supports the Commission's proposal in the interests of the protection of animal health and consistency of Community legislation.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*

Roger BRIESCH

⁽⁵⁾ OJ L 031 , 01.02.2002 P. 0001 - 0024

⁽⁶⁾ OJ L 340 , 11.12.1991 P. 0017 - 0027

Opinion of the European Economic and Social Committee on the 'proposal for a Council Regulation on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No. 827/68'

(COM(2003) 698 *final* – 2003/0279 (CNS))

(2004/C 110/07)

On 1 December 2003, the Council decided to consult the European Economic and Social Committee, under Article 36 and Article 37(2), third paragraph, of the Treaty establishing the European Community, on the above-mentioned proposal.

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 5 February 2004. The rapporteur was Mrs Santiago.

At its 406th plenary session held on 25 and 26 February 2004 (meeting of 25 February), the European Economic and Social Committee adopted the following opinion by 103 votes to three with two abstentions:

1. Introduction

1.1 The Commission is proposing to amend the Oils and Fats Regulation, 136/66 EEC, which will no longer be in force after 1 November 2004. The new Regulation will cover olive oil and table olives, comprising measures for the internal market, trade with third countries and the promotion of quality in the broad sense of the term. The Commission is proposing that, after an interim marketing year in 2004 of eight months, and starting in 2005, the marketing year for olive oil should run from 1 July. It is also proposing that the current private storage measures for olive oil should be retained and that the refunds relating both to the export and the manufacture of foodstuffs preserved in olive oil should be repealed. The existing quality and traceability measures will also have to be reinforced.

2. General comments

2.1 The EESC welcomes the legislative simplification entailed in the new proposal to which it would nevertheless wish to add the following comments:

2.2 Operators' organisations — Article 7. Approved operators' organisations should comprise only producers' organisations and interbranch organisations and no others. The Committee feels that in this way the interests of producers and processors would be better protected than at present with intervention from parties outside the sector.

2.3 Work — Article 8. Three-year programmes aimed at improving quality, the environmental impact of olive cultivation and product information dissemination and promotion should also be able to be carried out in non-Member and Member States already producing or beginning to produce olive oil, be they new or potential consumers, such as France, Australia, Peru and others.

2.3.1 The EESC feels that it is most important for the sector that the quality strategy be promoted, and it stresses the need to step up financial support for such measures, compliance

with which would be more effective if they were integrated into the relevant COM.

2.3.2 The EESC would draw the Commission's attention to the key work carried out by the International Olive Oil Council (IOOC) on such important issues as the promotion and improvement of olive oil quality; it stresses that the IOOC should continue to develop these activities, with the appropriate checks.

2.3.3 The EESC feels that the work programmes of operators' organisations should include measures to concentrate supply and market own-brand oils in the production sector itself.

2.4 Trade with third countries — Article 11. Partial or full suspension of common customs duties for olive oil does not seem to be necessary for a product which is not perishable and the market for which is growing. The Commission justifies this measure in the fourteenth whereas of its proposal, referring to the need to ensure an adequate supply of the internal market, while in parallel underlining the fact that olive oil exports have doubled in the last ten years.

2.5 Export refunds. It would be wise to maintain these refunds for a given period of time so that the parties concerned can become aware of the impact of the present reform on developments in both EU olive oil production and prices. Maintaining these arrangements, which in practice have no financial impact given that export refunds have been set at zero since 1998, would nonetheless mean that such refunds could be brought into play in the event of any major market upsets resulting from the proposal in hand; this would secure competitiveness for Community olive oil on the world market.

2.6 Aid for private storage. This system — which has already proven ineffective since it is not tailored to the realities of the market — must be a flexible automatic trigger system, designed only to be used to resolve major crises in the sector. It is also necessary to update the trigger prices in the light of the present price references.

2.7 Quality standards. The EESC reiterates the need for a total ban within the EU on blends of olive oil with other vegetable oils ⁽¹⁾.

2.7.1 The technical difficulty involved in analysing and monitoring blends, the percentage of olive oil included and the quality thereof, makes it difficult to check strict compliance with Article 6 of Regulation 1019/2002. This opens the door to fraud, which only contributes to the deteriorating quality and image of olive oil, in addition to being detrimental to the consumer.

2.7.2 The introduction of other food oils mixed with olive oil not only is damaging to this high quality product, but also means that consumers are buying a product which, compared to olive oil, is acknowledged as being of inferior food quality.

2.8 Designation of origin. In order to protect and promote quality, the EESC further stresses that the origin of olive oil must be determined by the place of origin of the olives used.

2.9 The EESC would alert the Commission and the producer countries to the serious problems affecting the olive-pomace oil sub-sector as a result of the so-called benzopyrene crisis which has — since it began in July 2001 — caused major losses in the sector, reflected in a 70 % drop in the price and a 50 % fall in consumption, in comparison with the situation before the crisis.

2.9.1 The EESC urges the Commission to set maximum levels for polycyclic aromatic hydrocarbons (PAH) in olive-pomace oil; such a move has been pending for more than two years and this has been seriously detrimental to the sector.

Brussels, 25 February 2004.

The President
of the Economic and Social Committee
Roger BRIESCH

⁽¹⁾ NAT/102; OJ C 221 of 7.8.2001, pp. 68-73.

Opinion of the European Economic and Social Committee on the 'communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Equal opportunities for people with disabilities: A European Action Plan'

(COM(2003) 650 final)

(2004/C 110/08)

On 30 October 2003, the European Commission adopted the Communication addressed to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 February 2004. The rapporteur was Mr Cabra de Luna.

At its 406th plenary session on 25/26 February 2004 (meeting of 25 February 2004), the European Economic and Social Committee adopted the following opinion by 116 votes in favour, no votes against and one abstention.

1. Introduction

1.1 The EESC has received with great interest the EC Communication 'Equal opportunities for people with disabilities: A European Action Plan'. The EESC has stressed in many of its reports the need that the success of the European Year of People with Disabilities should be measured by the concrete outcomes it will produce. The Communication provides a good framework for the follow-up to the European Year of People with Disabilities

1.2 Disabled people ⁽¹⁾ constitute 10 % of the population, a percentage that increases with the ageing of our societies. This will mean almost 50 million people in the enlarged European Union. If we add to this figure the relatives of disabled people, it is clear that we are not speaking about a small minority of the population.

1.3 The EESC has continued during this year to increase its focus on disability issues. The drawing-up of an opinion on the United Nations Convention on the Rights of Disabled People ⁽²⁾, the organisation of two seminars devoted to the employment of disabled people and to the evaluation of the European Year, the preparation of a guidance note on mainstreaming of disability in the work of the EESC and the organisation of an exhibition by disabled painters at the EESC headquarters are some examples of this work. The cooperation between the EESC and the European Disability Forum, together with other Organisations, has continued to prove very useful.

1.4 The EESC considers that the European Year of People with Disabilities has contributed to an increased awareness of disabled people in society. The awareness of the need to a rights-based approach to disability has been one of the major goals of the European Year. However, it has to be noted that the different national initiatives for further legislation to protect

disabled people from discrimination are leading to an increase in the gaps among Member States. This increasing gap is not only detrimental to the idea of a social Europe but will also create additional barriers to a real internal market.

1.5 The initiative of the United Nations to promote a thematic Convention on the rights of disabled people has contributed to the recognition of disability as a human rights issue.

1.6 The new European Constitution will incorporate stronger references to disability issues, including a clause which will require mainstreaming of anti discrimination throughout all policy areas. The potential of this new clause requires some further analysis.

1.7 The forthcoming incorporation into the EU Treaty of the EU Charter of Fundamental Rights is very welcome, in particular as Article 21 prohibiting discrimination against, inter alia, people with disabilities, and Article 26 on integration of persons with disabilities, recognise the need for measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

1.8 The new Eurostat figures on employment of disabled people show that 78 % of the severely disabled people in working age are outside of the labour force as compared to 27 % for those without a disability. Within those in the labour force, the unemployment rate is nearly twice as high among severely disabled people compared to non-disabled people. Only 16 % of those who face restrictions at work are provided with some assistance to work ⁽³⁾. The gender breakdown of these statistics shows that the situation is even worse for disabled women.

⁽¹⁾ In view of the new approach to disability which has been promoted through the European Year of People with Disabilities, it might be the right time to revise the terminology used to define disabled people and disability, which in many countries has not evolved and still reflects an outdated approach.

⁽²⁾ OJ C 133 of 6.6.2003.

⁽³⁾ 'Employment of disabled people in Europe in 2002', Population and Social Conditions THEME 3 – 26/2003 Population and Living Conditions, Eurostat, 25.11.2003.

2. Comments and suggestions to the Commission proposal

2.1 The EESC welcomes the fact that the European Year of People with Disabilities has produced a concrete action plan for the period 2004-2010. However, it needs to be stressed that the action plan somehow lacks ambition and the EESC would like therefore to propose some additional elements, to be taken into account, if possible, already in the first phase of the action plan and, if not possible, in the period after 2005.

2.2 A previous EESC opinion⁽⁴⁾ suggested to launch an open method of coordination in disability policies. Therefore, the EESC welcomes the proposal reflected in the EC Communication to produce biennial reports on disability. The EESC considers that these reports should be based on common guidelines in order to allow benchmarking among countries. While employment is obviously a priority of disabled people, other policy areas should also be covered by these reports and the social inclusion and full participation of disabled people in society should be overall guiding principles and objectives. The EESC proposed that the results of these biennial reports should be presented to the Council of Employment and Social Affairs. The involvement of representative disability organisations at national and EU level in this process is considered of vital importance.

2.3 The EESC welcomes the references included in the EC Communication on the capacity building project undertaken by the European Disability Forum in ten accession countries. In order to build on the work undertaken in this project, the EESC would like to see special attention given to disability organisations in the ten acceding countries during a transition period. Targeted measures should allow for these organisations to increase their knowledge and therefore become really active in the implementation of EU policies which favour disabled people. The support to disability organisations from those candidate countries which will not join the EU in May 2004 has to be increased.

2.4 The EESC welcomes the proposal in the EC Communication to prepare a working paper on how to mainstream disability in all of the Employment Guidelines. To complement this, the EESC proposes the establishment of a proper monitoring mechanism to allow the preparation of country specific recommendations to Member States on their inclusion of disability issues. Priority should be given in this respect to the employment of disabled people on the open labour market, including the employment of disabled people by public authorities and bodies as well as special measures to address the employment of disabled people in rural areas. The role of the social partners in this process is of vital importance. In view of the demographic evolution of our societies, the increase of the employment rates of disabled people can have a huge and positive impact also from an economic point of view.

⁽⁴⁾ The integration of disabled people in society, OJ C 241 of 7.10.2002.

2.5 The EESC welcomes the proposal in the EC Communication to use the structural funds to promote the social inclusion of disabled people. This should be done in a two-track approach. On the one hand, disability specific projects should be funded and on the second hand all projects to be funded by Structural Funds have to comply with compulsory accessibility criteria. This two track approach has to be included in the new EU regulation for Structural Funds, which the European Commission plans to present in May 2004. An outcome of the current process of revision of the Structural Funds must be the recognition of disability and disabled people as a key area and target group to be taken into account at a Community level as well as in the Member States, regardless of the new financial perspectives.

2.6 The EESC has been monitoring closely the process to arrive at the new EU directives on public procurement⁽⁵⁾. The potential of public procurement to promote the employment of disabled people, the accessibility of public transport and the built environment, as well as the production of accessible goods and services, is huge. The EESC therefore welcomes the commitment to produce a tool kit to facilitate the inclusion of accessibility requirements for Information and Communication Technologies in public procurement calls and suggests to extend this exercise to other products and services.

2.7 The EESC stresses the negative implications of the non transposition of the 2000/78 EU directive on equal treatment in the workplace in most of the EU Member States. The EESC urges the European Commission to fully use the available tools against those Member States that have not implemented the directive or have not implemented it properly. Additionally, measures need to be undertaken to increase the capacity of disability organisations, social partners and the judiciary system in order to ensure an effective implementation of the directive.

2.8 The EESC has asked in several of its previous opinions⁽⁶⁾ for a disability-specific directive based on Article 13 of the EU Treaty to combat discrimination of disabled people in all areas of life. The EESC is therefore extremely disappointed not to see any reference to this initiative in the EC Communication. While being aware of the current difficulties to launch successfully such an initiative, the EESC would have at least expected an acknowledgement of the need for such an initiative, as well as number of preparatory actions which would have paved the way for such an initiative to be launched.

2.9 The EESC considers that such a directive would ensure a minimum level of protection against discrimination in all areas of life across the European Union. As it would cover the area of access to goods and services, it would also contribute to a more efficient single market.

⁽⁵⁾ Opinion on the Proposal for a Directive of the European Parliament and of the Council on the coordination of procedures for the award of public supply contracts, public service contracts and public work contracts. OJ C 193 of 10.7.2001.

⁽⁶⁾ The integration of disabled people in society, OJ C 241 of 7.10.2002, and Proposal for a Council Decision on the European Year of People with Disabilities 2003 - COM(2001) 271 final - 2001/0116 (CNS), OJ C 36 of 8.2.2002.

2.10 The EESC agrees with the importance of mass media to contribute to a better image of disabled people in society. The EESC would welcome the establishment of a European network on media and disability, which would further contribute to a better portrayal of disabled people in media by, among others, promoting the exchange of good practice among mass media. The example of the UK Broadcasting and Creative Industries Disability Network could serve as a model.

2.11 The EESC welcomes the focus of the EC action plan on accessibility. However, the EESC considers that the proposals made will not properly achieve the objective. An adequate policy framework needs to be established, which will provide financial incentives to companies to make their premises and services accessible. This should be complemented by awareness raising campaigns targeted at companies to show the importance of disabled people as consumers. When needed, this needs to be complemented with binding legislation to make accessibility standards of compulsory compliance.

2.12 The EESC welcomes the report produced by the expert group on access to the built environment and requests the European Commission to put in place all of its recommendations, in particular those related with the Directive 89/106/EEC on Construction Products. The EESC also supports to undertake follow-up action on the study on harmonised criteria for good accessibility of tourist sites ⁽⁷⁾. The EESC reminds that proper legislation and proper use of public funds will be key elements of success to promote the objective of accessibility of tourist sites.

2.13 The EESC also welcomes the report on assistive technologies recently presented by the European Commission, and looks forward to the implementation of its recommendations, specially taking into account the single market, as well as the need for Member States to increase transparency as regards products and reimbursement systems.

3. Additional recommendations and commitments

3.1 The EESC has stressed in its previous reports the need to mainstream disability in all policy areas. It therefore welcomes the forthcoming new budget line which will finance a pilot project on mainstreaming of disability actions as a follow-up initiative to the European Year of People with Disabilities. The EESC considers this pilot project as a first step towards a disability specific action programme which will be focused on the mainstreaming of disability in all relevant policy areas.

3.2 The EESC would like to suggest some actions which could be undertaken under this pilot project:

- the preparation of a guideline document on how to mainstream disability in all policy areas which will be at the

disposal of policy makers throughout the European Commission, related to the impact assessment methodology;

- the funding of actions to increase the capacity of national disability organisations to be actively involved in the preparation of the National Action Plans on Employment and Social Inclusion;
- the establishment of statistical indicators to measure the real impact of mainstreaming;
- the funding of actions to exchange information on best practice of mainstreaming of disability at national level;
- in all the measures to be financed under this pilot project, special attention should be given to disabled people from the acceding Member States;
- the funding of a European network on media and disability.

3.3 The EESC looks forward to the forthcoming Green Paper on non discrimination and stresses the need for a clear commitment to a disability-specific directive.

3.4 The EESC welcomes the involvement of large European companies in the European Year of People with Disabilities. Their role as catalysts towards other companies should not be underestimated. As mentioned in its previous report, the EESC would welcome the establishment of a European network on business and disability as one of the concrete outcomes of the European Year of People with Disabilities. This network could contribute to the improvement of the legislative framework to increase the employment of disabled people and the production of accessible goods and services, therefore increasing the business case for disability. The network would also provide useful advice to new companies interested in becoming more actively involved in disability issues, with a particular effort to be made towards SMEs.

3.5 The EESC welcomes the campaign led by the European Trade Union Confederation and its members. The EESC stresses the important role of trade unions and encourages them to continue increasing their focus on disability issues.

3.6 The EESC has in all of its previous reports highlighted the importance of the involvement of representative disability organisations in all levels of policymaking. The representative character of the European Disability Forum is accepted by all EU institutions and its special status needs therefore to be acknowledged. A strong and independent European Disability Forum which acts as a watchdog is one of the best guarantees that the rights of disabled people will continue to be respected in all EU initiatives.

⁽⁷⁾ See also EESC report INT/173 'Socially sustainable tourism for everyone', OJ C 32 of 5.2.2004

3.7 The role of the European Disability Forum would not be possible without its national and European members. Therefore, the financial support the European Commission provides for European impairment-specific organisations, members of the European Disability Forum, is of vital importance and has to be maintained. The diversity of the disability movement can only be respected if financial support is provided to the different European impairment-specific organisations.

3.8 The EESC would like to see the establishment of a monitoring structure of the EC action plan. The participation of all relevant partners in this monitoring structure, including the European Disability Forum, will be of vital importance to ensure the success of the action plan. The EESC would like to be associated to this monitoring structure.

3.9 The EESC welcomes the impact the European Year of People with Disabilities has had to include disability on new policy agendas, like youth and culture. The Council Resolution 'Accessibility and Cultural Infrastructure and Cultural Activities for People with Disabilities' ⁽⁸⁾ is a good example of this. The EESC stresses the importance to ensure that all projects funded in the areas of culture, youth and education with EU funds should comply with accessibility criteria.

3.10 The new European Commission work programme for 2004 provides several initiatives which are relevant for disabled people and the commitment to mainstream disability should lead to adequate references to disabled people in these initiatives. Some of these initiatives are:

- the mid term review of e-Europe and the revised e-Europe Action Plan for an enlarged Europe;
- the sustainable development strategy, the new Commission proposal on internal market services and the future ones on services of general interest;
- the proposal for a new generation of programmes in the domain of education and culture post-2006;
- the Communication from the Commission on the rights of passengers in the transport sector;

- the Commission Communication on Social Inclusion Strategies of Candidate Countries;
- the Commission proposal for the review of the European social policy agenda beyond 2005.

3.11 The EESC welcomes the references to the High Level Group on Disability and considers that the role of this Group should be strengthened. The participation of the European Disability Forum in the meetings of this Group needs to be permanent, in line with how the Advisory Committee on Equal Opportunities for Women and Men works. The social partners at EU level should also be involved in the work of the High Level Group.

3.12 The EESC requests that in all future work in the area of human rights, the rights of disabled people need to be specifically addressed. The EESC looks forward to the results of the study which is currently being undertaken on the situation of disabled people in residential institutions and which should provide not only an overview of the situation, but concrete proposals on alternative community based measures for this large group of disabled people.

3.13 The EESC welcomes the guidance document on development cooperation and disability which has been presented in March 2003 and which was prepared in cooperation with the European Disability Forum and the International Disability and Cooperation Consortium. The EESC urges the European Commission to implement this guidance note in order to ensure that disabled people will benefit from development cooperation funds, also in situations of emergency and humanitarian aid.

3.14 The EESC commits itself to continue strengthening its focus on disability issues. The efforts made by the EESC to ensure full accessibility of its new premises and services, show the real commitment of the EESC, which wants to be seen as leading by example in the protection and promotion of the rights of disabled people and their families.

Brussels, 25 February 2004.

The President
of the Economic and Social Committee
 Roger BRIESCH

⁽⁸⁾ Council Resolution ACCESSIBILITY OF CULTURAL INFRASTRUCTURE AND CULTURAL ACTIVITIES FOR PEOPLE WITH DISABILITIES, 5-6.V.2003, 8430/03 (Presse 114) 23.

Opinion of the European Economic and Social Committee on the 'proposal for a Council Directive amending Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States'

(COM(2003) 613 final – 2003/0239 COD)

(2004/C 110/09)

On 28 October 2003 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 9 February 2004. The rapporteur was Mr Ravoet.

At its 406th plenary session (meeting of 25 February 2004), the European Economic and Social Committee adopted the following opinion by 114 votes to one with two abstentions.

1. The Commission's strategy on company taxation

1.1 This proposal is one element in the Commission's strategy on company taxation submitted in 2001 ⁽¹⁾, in which it identified a certain number of fiscal obstacles to cross-border economic activity in the internal market and announced its short and longer-term plans to remove them.

1.2 The strategy provides for a number of targeted measures on issues such as extending the directives on dividends, interest and royalties and mergers, as well as cross-border loss offset, transfer pricing and double taxation agreements.

1.3 The Commission feels that, in the longer term, companies must be offered the possibility of being taxed on the basis of a consolidated basis of assessment for corporation tax covering all their activities in the European Union, so as to escape the expensive inefficiencies which currently result from the co-existence of 15 (soon to be 25) separate sets of tax rules.

1.4 In its opinion on Direct Company Taxation adopted in 2002 ⁽²⁾, the EESC supported the European Commission's proposals to remove in the short term any form of double taxation or other tax obstacles faced by companies conducting cross-border activities within the internal market.

1.5 As for the longer term, the EESC endorses the aspiration to an internal market without fiscal obstacles, believing that common principles have to be established which would promote an internal market with fair competition. These common principles would also help to achieve the objectives of simplification, competitiveness and job creation.

1.6 The strategy adopted by the European Commission in 2001 was first reviewed in November 2003 ⁽³⁾. The conclusion was that, after two years' work, the Commission's two-tier strategy on company taxation remains the best approach for addressing the problems in the internal market and that the promised measures and initiatives had been carried through. This was confirmed at the European conference on company taxation held in Rome on 5 and 6 December 2003 ⁽⁴⁾.

2. Targeted short-term measures in the Commission strategy

2.1 One of the short-term objectives set by the European Commission in its October 2001 strategy for company taxation was to adopt proposals intended in particular to update and widen the scope of the Parent-Subsidiary and Merger Directives.

2.2 Another is to adopt and subsequently modernise the draft Interest and Royalties Directive included in the 'tax package', which comprised the code of good conduct, the Savings Directive and the Interest and Royalties Directive.

2.3 The draft directive modernising the Parent-Subsidiary Directive was adopted at the ECOFIN Council on 22 December 2003. The final text of the directive was published in the Official Journal on 13 January 2004 ⁽⁵⁾.

⁽¹⁾ Communication of 24 November 2003, An Internal Market without company tax obstacles - achievements, ongoing initiatives and remaining challenges, COM(2003) 726 final.

⁽⁴⁾ See: www.europa.eu.int/comm/taxation_customs/taxation/company_tax/conference_rome.htm

⁽⁵⁾ Council Directive 2003/123/EC of 22 December 2003 amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, OJ L 7, 13.1.2004.

⁽¹⁾ Commission Communication of 23 October 2001 Towards an Internal Market without tax obstacles: A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities, COM(2001) 582 final

⁽²⁾ OJ C 241, 7.10.2002

2.4 The Interest-Royalties Directive was adopted on 3 June 2003 ⁽⁶⁾ and must be transposed into national law by 1 January 2004. A draft directive to modernise this directive was published by the Commission on 30 December 2003 ⁽⁷⁾. It is intended in particular to incorporate substantial improvements to the scope of the Parent-Subsidiary Directive.

2.5 The draft Merger Directive is thus the last of the three proposals to be adopted by the Council. It is the fruit of an impressive and large-scale consultation exercise which made it possible to identify all the taxation problems associated with cross-border restructuring.

3. Proposal modernising the directive on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares

3.1 The directive now in force (90/434/EEC) provides for deferred taxation of capital gains resulting from cross-border company restructuring in the form of mergers, divisions, transfers of assets and exchanges of shares.

3.2 This tax deferral regime ensures the fiscal neutrality of restructuring operations by allowing a temporary exemption: the taxation of capital gains is deferred until subsequent transfer of the assets received. This is why:

- the assets and liabilities of the transferring company are transferred to the receiving company at their tax value;
- the allotment of shares in the receiving company to shareholders in the transferring company may not result in the latter being taxed (otherwise there would be double taxation).

3.3 The directive of 23 July 1990 thus already provides for a solution in certain cases to the cross-border obstacle created by high tax costs linked to business restructurings by guaranteeing that a cross-border operation will not give rise to a higher tax liability than if the operation had been done within the same Member State.

3.4 The proposal modernising the directive replaces a 1993 proposal which was withdrawn by the Commission. It aims to improve the scope of the current directive and the methods for tax deferral whilst safeguarding the financial interests of the Member States. It also complements a tenth draft directive on company law aimed at facilitating mergers between companies in different Member States.

3.5 The key elements of the new proposal for modernising the Merger Directive are as follows:

3.5.1 The proposal is intended to align the Merger Directive with the amendments introduced into the Parent-Subsidiary Directive, namely:

- lowering the minimum holding required to be considered a parent or subsidiary from 25 % to 10 %;
- updating the list of companies to which the directive applies so as to include new types of legal entity, especially certain cooperatives and non-capital based companies, mutual companies, savings banks, funds and associations with commercial activity. The new list includes the European Company and the European Cooperative Society which can be set up as of 2004 and 2006 respectively.

This widening of the scope of the Merger Directive is achieved by adding new legal forms designated by name to the list of entities given in an appendix to the directive. It is basically the same list as that adopted as part of the directive modernising the Parent-Subsidiary Directive and which should be adopted as part of the directive modernising the Interest and Royalties Directive.

3.5.2 The proposal also extends the benefit of the directive (the tax deferral regime) to companies within its scope which are corporate taxpayers in their Member State of residence, but are considered transparent for tax purposes by other Member States.

3.5.2.1 Without modifying the arrangements on transparency, the draft directive stipulates that this other Member State may no longer tax its resident taxpayers having an interest in the company at the time of the transactions covered by the Directive. These taxpayers will only be taxed on the occasion of a later disposal of the assets transferred.

3.5.3 The draft extends the scope to include split-offs, i.e. limited or partial divisions where the transferring company continues to exist. The tax deferral regime will also be applicable to these transactions.

3.5.3.1 A split-off is a transaction whereby, without being wound up, a company transfers part of its assets and liabilities constituting one or more branches of activity to a receiving company. In exchange, the receiving company transfers securities representing its capital to the shareholders of the transferring company.

3.5.4 The draft provides fiscal neutrality for the transfer of the registered office of a European company or a European cooperative society from one Member State to another. It also provides for a tax deferral regime which prevents such a transfer resulting in immediate taxation of capital gains relating to those of its assets becoming connected with the permanent establishment that the company transferring its registered office will now have in the State where it had tax residence. This tax regime will also refer to provisions or reserves constituted by the company before transfer of the registered office, to the possible take-over of losses and to the existence of a permanent establishment in a third Member State.

⁽⁶⁾ Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, OJ L 157, 26.6.2003, p.49.

⁽⁷⁾ COM(2003) 841 final

3.5.4.1 The possibility of transferring the registered office is expressly provided for in the statute of these companies so as to guarantee the right of establishment, a fundamental freedom. It is therefore essential that this freedom should not be impaired by tax provisions.

3.5.5 The draft makes clear that the directive's tax deferral regime may also apply in the case of companies that decide to convert their branches into subsidiaries.

3.5.5.1 The tax deferral provided for in the directive is associated with keeping the assets and liabilities transferred connected with a permanent establishment of the transferring company, which is not the case when a branch of a foreign company is converted into a subsidiary of the same company. In such cases, the assets and liabilities transferred are connected to the receiving company (the new subsidiary). Since conversions of branches into subsidiaries fall within the aims of the directive and pose no threat to Member States' taxing rights (the assets and liabilities remaining under the same tax jurisdiction), it is appropriate to specify that these operations do fall within the scope of the directive.

3.5.6 The draft also extends the benefit of the directive to exchanges of shares where the majority of the voting rights in the acquired company are obtained from shareholders who do not have tax residence in an EU Member State.

3.5.7 Lastly, the draft introduces appropriate rules to prevent double taxation due to different rules for valuing shares and assets in different Member States. This applies to asset transfers and share exchanges.

3.5.7.1 Since the receiving company will subsequently be taxed on the capital gains from the assets transferred, national tax rules for valuing shares received as a result of an asset transfer of share exchange had to be harmonised. It is therefore envisaged that these shares will be ascribed the 'real' value that the assets and liabilities had immediately prior to an asset transfer or the 'real' value which the shares received had at the time of an exchange of shares (one exception being when own shares are held).

4. General comments

4.1 The Merger Directive of 23 July 1990 was designed to guarantee vital tax neutrality for cross-border company restructuring operations while at the same time safeguarding the Member States' financial interests.

4.2 The Committee welcomes the proposals for modernising this Merger Directive drawn up by the European Commission. These proposals make essential and appropriate improvements to the directive of 23 July 1990 and, in principle, do not entail any unfavourable consequences for companies as compared with the present situation. They do not require companies to meet any new fiscal obligation or formality in order to comply.

4.3 The aim of the proposal to modernise the directive is to improve and extend the tax deferral regime for capital gains from restructuring. A broad range of forms of company (including the European company (SE) and the European cooperative society (SCE), as well as the forms of company usually adopted by SMEs) and restructuring operations (such as split-offs and conversion of a branch) are now explicitly covered.

4.4 By extending the regime of tax neutrality to the SE and SCE, including in the case of a transfer of registered office, which is an operation specific to the statute of those two forms of company, the draft directive will contribute to the setting up and management of European-scale companies free of the obstacles associated with the territorially limited tax and company law of the different Member States.

4.5 All these amendments will enable companies – including a larger number of SMEs – to benefit fully from the advantages associated with the single market (through the balanced taxation of national and cross-border activities, which will ensure the neutrality of investment and restructuring decisions). This should improve their competitiveness and thus have a positive impact on job creation and the fight against unemployment.

5. Specific comments

5.1 The Committee feels that the clause stipulating that any new form of company introduced by a Member State is automatically to be added to the list of that Member State's forms of company appended to the directive, should be made generally applicable. This would solve any problems arising from a failure to update the list.

5.2 The Committee also considers it essential that the modernisation of the Merger, Parent-Subsidiary and Interest and Royalties Directives be done consistently, both in terms of the scope (for example, the forms of company listed in the appendix to the directives) and the conditions needed to qualify for the proposed tax regime (for example, the holding requirement reduced to 10 % in the directive modernising the Parent-Subsidiary Directive).

5.3 The Committee feels that the extended scope (including other forms of company and other restructuring operations) is incomplete — and therefore unsatisfactory — inasmuch as:

- it does not include all types of taxation involved in restructuring operations (particularly registration charges and transfer taxes);
- the tax deferral regime in the case of transfer of the registered office is limited to SEs and SCEs, whereas the case law established by the Court of Justice in its Centros ruling⁽⁸⁾ recognises the right to freedom of establishment and freedom to choose the location of the registered office for all forms of company.

⁽⁸⁾ Case no. C 212/97 of 9 March 1999.

5.4 Finally, the Committee insists that the fiscal neutrality of cross-border restructuring operations should be fully guaranteed, particularly as regards the take-over of losses and the immunisation of provisions and reserves.

6. Conclusions

6.1 The Committee wholeheartedly supports the proposals to amend the Merger Directive drawn up by the European Commission. These proposals make essential and appropriate improvements to the directive and will enable companies —

including SEs, SCEs and a larger number of SMEs — to benefit fully from the advantages associated with the single market, which should improve their competitiveness and thus have a positive impact on job creation and the fight against unemployment.

6.2 However, the Committee urges the Commission to re-examine certain key aspects which remain outstanding. These are referred to in the Committee's specific comments.

Brussels, 25 February 2004

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'generalised system of preferences (GSP)'

(2004/C 110/10)

On 20 January 2003 the Commissioner for Trade, Mr Pascal Lamy, asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on the Generalised System of Preferences.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 February 2004. The rapporteur was Mr Pezzini.

At its 406th plenary session (meeting of 25 February 2004) the European Economic and Social Committee adopted the following opinion by 117 votes to one with no abstentions.

1. Introduction

1.1 Over the last few decades, the EU has consistently adjusted and updated its policy on trade preferences for developing countries in the light of developments in the situation. The latest major revision of the Generalised System of Preferences (GSP) came into force on 1 January 1995 to cover the ten-year period starting on that date. It is, therefore, due to expire on 31 December 2004 and this necessitates a further revision.

1.2 The existing guidelines introduced a number of important changes. They replaced the traditional approach of granting duty-free market access for limited quantities with the concept of modulation, which provides limited preferences for unlimited quantities. At the same time, new rules were introduced on graduation, allowing for the exclusion of certain sectors of exports from specific beneficiary countries.

1.2.1 Subsequently, additional preferences were offered in the form of special incentive arrangements. These were intended to promote the objectives of:

- achieving sustainable development;
- assisting the Least Developed Countries;
- suppression of drug production and trafficking;
- protection of labour rights;
- environmental protection.

1.2.2 Provisions exist for the temporary withdrawal of benefits from countries which are in breach of human rights, have committed serious and systematic violations of core labour standards, have exhibited shortcomings in customs controls, have connived at drug trafficking, have been involved in fraudulent behaviour or unfair trading practices, have infringed international conventions concerning the conservation and management of fishery resources or have contravened one or more of a number of other requirements. However, this sanction has been invoked so infrequently as to be largely ineffective; the only country presently being disciplined in this way is Myanmar.

1.3 In 1998, in order to facilitate the application of the GSP, the Commission introduced proposals (COM(1998) 521 final) bringing together the widely differing provisions for

industrial and agricultural products in a new Regulation to come into effect on 1 January 1999 and remain in force until 31 December 2001. The EESC gave its approval to these proposals.⁽¹⁾ They were subsequently embodied in Council Regulation (EC) 2820/98.

1.4 In 2001, the Commission introduced proposals (COM(2001) 293 final) for a modified regime to cover the period from 1 January 2002 to 31 December 2004. The EESC also gave its approval to these proposals,⁽²⁾ which were enacted as Council Regulation (EC) 2501/2001.

2. The Commission proposals

2.1 The Commission originally envisaged publishing a document in September 2003 to set out its proposals for the new regime to come into effect on 1 January 2005. Subsequently, it decided to delay the introduction of the new system for a period of one year and to put forward a proposal for an interim arrangement in the intervening period, which would continue the existing guidelines with some relatively minor modifications, primarily of a technical nature.

2.1.1 The decision to delay the introduction of fundamental changes to the system has been attributed inter alia to a wish to await the results of the Doha round of WTO negotiations and a desire not to prejudice the outcome of these talks. An additional factor was the complaint brought against the EU at the WTO by India. It was also considered that it would be advantageous to postpone the introduction of the new guidelines until some time after the enlargement of the Union had taken place, in order to give the new Member States more time to adjust; one of these (Cyprus) is currently a GSP beneficiary.

2.1.2 The ten-year period for the new regime is now expected to commence on 1 January 2006; even in the event that implementation of the Doha round of negotiations has not been achieved by that date, the Commission has now decided that it will not seek a further prolongation of the status quo. The relative failure of the Cancun talks does not bode well for a successful conclusion of the Doha round within this time-scale.

⁽¹⁾ Opinion on the Proposal for a Council Regulation (EC) applying a multiannual scheme of generalized tariff preferences for the period 1 January 1999 to 31 December 2001 - (COM(1998) 521 final - 98/0280 (ACC)), (OJ C 40 of 15.02.1999)

⁽²⁾ Opinion on the Proposal for a Council Regulation (EC) applying a scheme of generalised tariff preferences for the period 1 January 2002 to 31 December 2004 - COM(2001) 293 final - 2001/0131 (ACC), (OJ C 311 of 07.11.2001)

2.2 The Commission proposals for the interim period were published in September 2003 (COM(2003) 634 final) and the EESC duly gave its approval to these arrangements. ⁽³⁾

2.3 In accordance with the request received from Mr Lamy, the EESC now sets out its observations and recommendations on the form which the guidelines for the new definitive GSP regime, to be introduced at the end of this interim period, should take.

3. EESC comments

3.1 The EESC believes that the objectives of the present system (as set out above) are worthwhile and should form the basis of any new system which is designed to replace the current arrangements.

3.2 The challenge must now be to design a system that will ensure effective implementation of the EU's policies in these areas.

3.3 In this context, the EESC notes that the special incentive arrangements have largely failed to have the desired impact. At the latest count, only one country (the Republic of Moldova) had been included in the special incentive arrangements for the protection of labour rights (a second country, Sri Lanka, is due to be included in February 2004) and none at all in the special incentive arrangements for the protection of the environment; this is a clear indication that the special incentive arrangements have not transpired to be incentives. The EESC therefore considers that a fundamental review of these mechanisms should form part of the revision process.

3.3.1 In a previous opinion on this subject, ⁽⁴⁾ the EESC commented that the Commission's proposals to improve these arrangements might not have gone far enough to make the incentives attractive to the beneficiary countries. This raises the issue of whether it is possible, within the restrictions of the modulated system, with its limited preferences, to offer incentives to the countries concerned to adopt the desired modes of behaviour.

3.3.2 The additional flat-rate reduction of 3.5 percentage points, giving a total reduction of 7.0 percentage points, might well constitute an inadequate incentive compared to the enormous sums of money involved in drug trafficking or the daunting cost to the national coffers of the beneficiary countries of implementing environmental projects.

3.3.3 There is also the question of how the incentive can best be structured; whether it is better to grant the reduction on an ex-post basis in recognition of the fact that a beneficiary country has complied with the requirements or whether it is

preferable to offer the incentive on an ex-ante basis in order to encourage the countries concerned to adopt the required policies. However, neither of these approaches will have the desired effect unless the preferences are of sufficient magnitude to constitute a worthwhile inducement.

3.4 The EESC considers that, whatever measures are adopted, they should be transparent, coherent, objective and non-discriminatory. They should be based on internationally agreed standards and internationally-recognised criteria, where these exist, including the eight core ILO labour standards. They should also be compatible with WTO regulations and other treaty commitments.

3.5 In its previous opinion, ⁽⁵⁾ the EESC observed that the revision introduced at that time stopped short of fully harmonising and unifying all the rules and procedures of the GSP and expressed the hope that advantage would be taken of the major revision in 2004 to simplify, harmonise, streamline, codify, reduce and unify the entire system. It now reiterates this statement and stresses the importance which it attaches to this issue; simplification is fundamental to the improved operation of the GSP and to any prospect of realising its objectives. The existing arrangements are characterised by a lack of clarity, concision and structure.

3.6 One of the factors which is contributing to the complexity of the present arrangements is the system of graduation, whereby specific sectors of exports from individual beneficiary countries can be excluded on the grounds that support for those particular industries in those territories is no longer required and its prolongation cannot be justified in the context of aid to developing nations, even though the continuance of support for other industries in the same nation is envisaged. While the EESC gave its approval ⁽⁶⁾ for retaining the system of graduation in the context of the interim arrangements for the period from 1 January 2002 to 31 December 2004, it feels that this process should be reviewed as part of the more thorough-going revision which is now to take place.

3.7 In a number of recent opinions, ⁽⁷⁾ the EESC has laid emphasis on the essential need for legislative proposals to be accompanied by a detailed impact assessment. It hopes that the Commission will prepare such an impact assessment of its proposals to revise the GSP system.

4. The views of civil society

4.1 On 10 June 2003 the EESC conducted a hearing of civil society representatives at its Brussels headquarters. The views set out in this section reflect the written submissions received and the interventions made at the hearing.

⁽³⁾ Opinion on the Proposal for a Council Regulation amending Regulation (EC) No. 2501/2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 and extending it to 31 December 2005 - COM(2003) 634 final - 2003/0259ACC, (CES 1623/2003 of 10.12.2003).

⁽⁴⁾ Opinion on the Proposal for a Council Regulation (EC) applying a scheme of generalised tariff preferences for the period 1 January 2002 to 31 December 2004 - COM(2001) 293 final - 2001/0131 (ACC), (OJ C 311 of 07.11.2001, § 3.6).

⁽⁵⁾ Opinion on the Proposal for a Council Regulation (EC) applying a scheme of generalised tariff preferences for the period 1 January 2002 to 31 December 2004 - COM(2001) 293 final - 2001/0131 (ACC), (OJ C 311 of 07.11.2001).

⁽⁶⁾ Ibid.

⁽⁷⁾ Opinion on Simplification, (OJ C 48 of 21.02.2002), Opinion on the Communication from the Commission - simplifying and improving the regulatory environment - COM(2001) 726 final (OJ C 125 of 27.05.2002) and the Opinion on Simplification, (OJ C 133 of 06.06.2003).

4.2 In general there was a feeling that the present system was not working as well as it might. Several respondents said that they had serious doubts about the efficacy of the preferential tariffs but they lacked any means to substantiate them. Evaluations of the success of the system were difficult to make because of the paucity of available data. Others pointed to an imbalance in the distribution of benefits; 75 % of the total volume of tariff reduction goes to Eastern countries, of which one third is to China. Concerns were expressed that the preponderance of benefits went to the most advanced of the developing countries and not to the Least Developed Countries. Frequently, international traders rather than nation states are the major beneficiaries. It was felt that the impact of the GSP was often outweighed by other factors, such as non-tariff barriers.

4.3 Several problems were identified:

- Tariff erosion is undermining the impact of the GSP. As tariffs in general are reduced, the scope for giving preferential treatment on a significant scale to selected countries is diminished. The conclusion of the Doha negotiations is expected to produce further across-the-board reductions.
- The system is susceptible to fraud. It is relatively easy for unscrupulous traders established in countries that are not eligible for preferential tariff rates to export their goods to an eligible country and thence re-export them to the EU under the guise of products of that country.
- Even where fraud is not involved, the process of verifying country of origin is complex, particularly for manufactured articles containing a number of materials or sub-components; in many cases, this imposes unacceptable compliance burdens on the EU importer.
- The rules, especially in relation to graduation, are too complex and lead to confusion and controversy.
- There is a lack of cohesion between the GSP system and other EU instruments. In some instances, countries can benefit from quotas under:
 - a) a bilateral agreement with the EU;
 - b) autonomous product-specific quotas granted every year in favour of all third countries, irrespective of origin; and
 - c) preferential tariffs granted under the GSP system.

4.4 Views were sharply divided on the question of which objectives the GSP system should be designed to pursue for the next ten-year period. The trade union organisations were firmly of the opinion that core labour standards, environmental protection and the suppression of drug production and trafficking should remain an essential part of the system; even to the extent of excluding countries which did not comply with these requirements, regardless of their economic status. Conversely, the trade associations, while recognising the great importance of these issues, felt that the GSP was not a suitable instrument for dealing with such problems and that including them made the application of the preferential scheme more difficult, as well as resulting in some legal uncertainty.

4.5 Some respondents felt that the current list of beneficiary countries was inconsistent because:

- a) the range of development stages comprised in the list is too wide;
- b) developing economies and transitional economies are intermingled;
- c) several beneficiary countries also have preferential status via bilateral or regional trade agreements.

Others felt that GDP per capita should not be the defining criterion because some countries with a low per-capita GDP had a strong, or even dominant, position in the world trade in particular industrial sectors. Trade union representatives argued that adherence to core labour standards, environmental protection and combating drug trafficking should be the sole criteria. Many respondents held the view that the list of beneficiaries should be restricted to the 49 nations on the UN list of Least Developed Countries.

4.6 There was general agreement that basic preferences should be granted on an ex ante basis, but that special preferences – if granted at all – should be awarded on an ex post basis.

4.7 Suggestions for simplification included:

- reducing the list of beneficiary countries
- reducing the number of industrial sectors and product categories
- excluding countries which have a bilateral agreement with the EU
- excluding countries which benefit from a regional trade agreement
- abolishing special preferences or reducing their number
- simplifying the rules regarding the country of origin
- simplifying or deleting the graduation clause
- eliminating all ad valorem duties of 3 % or less and all specific duties of EUR 5 or less.

Proponents of limiting the beneficiaries to the 49 Least Developed Countries pointed out that this would ipso facto result in a major simplification of the system.

4.8 There was a general feeling that the operation of the graduation clause was not working satisfactorily and had led to a great deal of controversy. One respondent went so far as to say that 'the current system of graduation is totally blind and untransparent'. It was noted that loss of GSP status often led to the curtailment of FDI in the country concerned because the investment had been predicated on the existence of the preferential tariffs; the countries excluded therefore suffered a double penalty. Another problem is that the period of reference used for updating the graduation is too far removed from the updating point; for example, the reference period for 2003 is 1997-1999.

4.9 It is generally considered that there is not only a lack of coherence in the general trade and development policies of the EU but that these are sometimes contradictory. Rectifying this situation and achieving a proper balance between the various factors to be taken into consideration will require a coordinated approach from all of the EU institutions and the active involvement of a number of Directorate Generals within the Commission.

5. The views of third countries

5.1 The same questionnaire was sent to the governments and representative organisations in a number of the beneficiary countries. Regrettably, very few replies were received and the results have been excluded from this survey as it is considered that the response is too low to represent a statistically significant sample. However, the EESC continues to be actively engaged in assisting the developing countries to build their capacities to respond to requests of this nature.

6. Specific comments

6.1 It seems likely, given its inauspicious start, that the Doha round of GATT negotiations will be as protracted as its predecessors. The EESC therefore endorses the Commission's decision to proceed with the introduction of the new system with effect from 1 January 2006 and not to await the outcome of the Doha round at some uncertain time in the future.

6.2 The initiative which the EU has launched under its Everything But Arms deal for the 49 Least Developed Countries means that they are effectively removed from the GSP regime. As they are entitled to export all other products (with some transitional exceptions in the agricultural field) to the EU in unlimited quantities on a duty-free basis, the GSP no longer applies to them, since you cannot reduce by preferences that which has already been set at zero.

6.3 The GSP is one element in the EU's development policy. As such, it must not be out of kilter with the other elements of this policy. Changes to the GSP system have to be considered in the light of the overall development strategy. This will require a close degree of coordination between the relevant Directorates-General of the Commission.

6.4 The EESC hopes that when the new system is introduced the opportunity will be taken to harmonise all the rules and procedures of the scheme.

6.5 The GSP is primarily aimed at assisting developing countries to develop their economies. It cannot be a panacea for all the problems faced by those countries.

6.6 Various criticisms have been levelled at the existing GSP system, viz:

- there are too many countries covered by the scheme;
- the special incentive arrangements have failed;
- there is an imbalance in the distribution of benefits;
- the graduation system is too complex;
- the scheme is susceptible to fraud;
- the impact of the scheme has been diminished by tariff erosion.

6.6.1 The EESC agrees that there are too many countries covered by the GSP scheme. The current list of eligible nations extends to 174 and within that figure there are wide discrepan-

cies in state of development, volume of trade, per-capita GDP, level of industrialisation, level of poverty and adherence to internationally accepted standards of social responsibility.

6.6.1.1 On the one hand, it includes major trading nations such as China, India, the Russian Federation and South Africa, who are formidable competitors of the EU in many market sectors; at the other end of the scale, it embraces remote island territories with minuscule economies such as Christmas Island, Heard Island, the McDonald Islands, South Georgia and the South Sandwich Islands; in between these two extremes fall tax havens such as the Cayman Islands, oil-rich nations like Kuwait, countries with well-developed economies such as Egypt and those with totalitarian regimes such as Zimbabwe.

6.6.1.2 The EESC agrees with the proposition that per-capita GDP cannot be the sole criterion used to determine eligibility for inclusion in the GSP arrangements. It also shares the concerns which have been expressed in many quarters that an undue proportion of the benefit is going to those nations which have least need of it. In order to ensure that assistance under the GSP system is concentrated on those countries with the greatest need, the EESC recommends that the new guidelines should exclude the following categories from participation:

- those nations which are not designated by the United Nations Organisation as 'developing countries';
- those nations which have bilateral or regional trade agreements with the EU;
- those nations which are members of OPEC;
- those nations which have a nuclear weapons programme;
- those nations which act as tax havens.

6.6.1.3 In order not to disadvantage nations with existing bilateral or regional trade agreements with the EU, it should be possible to modify the existing agreements in such a way as to consolidate in those agreements any benefits to which they may currently be entitled under the GSP arrangements.

6.6.2 The EESC attaches prime importance to promoting the observance of core labour standards, protecting the environment and combating drug trafficking but it has to be said that the present GSP regime has been totally ineffective in achieving any of these aims. Only one country has been included in the special incentive arrangements for the protection of labour rights and none at all in those for the protection of the environment while there is no evidence that the special incentive arrangements for combating the production and trafficking of drugs, from which twelve countries have benefited, has had any impact whatsoever on the drug trade.

6.6.2.1 The EESC regards it as pointless to prolong a system which, while admirable in its objectives, has so patently failed in practice. It believes that consideration should be given to devising more effective ways of meeting these worthwhile objectives; if it is felt that the GSP system should be employed to this end, then this can best be achieved by making greater use of the temporary withdrawal mechanism. To date, this has been invoked against only one of the countries in the list of 174, despite the fact that breaches of the required standards can readily be found passim. In many cases, this is because it is deemed impolitic to offend or antagonise the regimes of the countries concerned; the EESC cannot condone the subordination of matters of principle to political expediency.

6.6.2.2 The EESC recommends that, as part of the new guidelines, the Commission should lay down clear standards for the protection of labour rights, the protection of the environment, the suppression of drug trafficking, the observance of fundamental human rights, sustainable development and other areas of concern such as consumer protection and animal welfare. Countries which are seen to be in serious and systematic breach of these standards should, in the first instance, have their attention drawn to their defalcations and be required to correct them; where this is ignored, a public warning should be issued that failure to meet the required standards by a specified date will result in the temporary withdrawal of all GSP benefits; countries which do not respond to these warnings should then have all preferences withdrawn until such time as they have complied with the requirements. In order to produce the desired effect, this must be regarded as a measure to be applied routinely, where necessary, and not as a weapon of last resort, to be used only in extremis.

6.6.2.3 Where internationally-accepted standards exist, as in the case of the core ILO labour standards, ⁽⁸⁾ these should form the basis of the applicable EU standards. However, the absence of such international standards should not be an impediment to the formulation and application of relevant EU standards. The EU is entitled to impose conditions on the conduct of trade on preferential terms at its absolute discretion. The temptations to connive at drug-trafficking, turn a blind eye to violations of human rights and plunder the environment are strong and it is necessary to provide a countervailing force of sufficient weight. At the same time, it is essential to stress the moral imperative in these issues in order to counter the accusation that these requirements are merely another form of non-tariff barrier in disguise.

6.6.3 The EESC accepts that there is an imbalance in the current distribution of benefits, with the major beneficiaries being the more advanced of the developing countries and not those which stand most in need of assistance. It feels that the elimination of the categories set out in 6.6.1.2 above would go some way towards redressing the balance. In order to promote economic development in the poorer countries, preferences for products must be fixed primarily according to the export interest of the beneficiary country. It would simplify the process considerably if there were to be some rationalisation of the industrial sectors and product categories covered by the scheme.

6.6.4 The EESC accepts that there is too great a degree of complexity in the present system of graduation and that it has led to considerable controversy and discontent, particularly from those countries which have been subjected to it; some improvement is obviously desirable but the EESC does not agree with those who postulate that graduation should be discontinued. Graduation should not be seen as a sanction; it is, rather, a recognition of the fact that the preferences have worked and that a particular industrial sector has advanced to the point where it no longer requires preferential assistance. That this is indeed the case, is demonstrated by the fact that eight of the nine industries which have been graduated to date have continued to increase the volume of their exports to the

EU after graduation. The assumption that sectors, and nations, will eventually reach this stage is inherent in the GSP system.

6.6.4.1 The EESC recommends that the graduation system should be simplified, rendered more transparent and should combine a statistical economic assessment based on a formula of market indicators with a serious market evaluation of the sector concerned. It would be advantageous for DG Enterprise to be involved in this exercise and the views of European industry should also be canvassed. In addition, the interval between the graduation point and the reference period should be reduced.

6.6.4.2 The EESC recommends that the provision introduced in the interim arrangements whereby the graduation process should not be applied to any beneficiary country whose exports to the EC account for less than 1 % of total Community imports of products covered by the Community preference scheme in at least one of the reference years, should be retained in the guidelines for the new definitive system. Indeed, it feels that consideration could well be given to increasing this threshold limit.

6.6.5 The EESC is concerned by the incidence of fraud and considers that every possible measure should be introduced to reduce it. The rules of origin are too complex and are difficult to apply; they are easily misunderstood and require in-depth knowledge of a huge quantity of legal texts; consequently they act both as a constraint on trade and an incitement to fraud. Too often, beneficiary countries are merely serving as conduits for the products of non-beneficiary nations. The incidence of GSP Form A Certificates incorrectly issued or falsified in certain countries of origin in the 1990s is a case in point. There must be an effective system of inspection, verification and enforcement. This will require the strengthening of customs services within the EU and better coordination between them.

6.6.5.1 Beneficiary countries must also be required to improve their controls; those beneficiaries who connive at fraud by operating ineffectual control mechanisms should suffer temporary withdrawal of their benefits. The EU is incurring an annual cost in excess of EUR 2.2 billion by way of lost customs revenue in order to fund the GSP scheme. Conversely, the participating countries are receiving a collective annual benefit of that amount; if the EU is to give advantages of that magnitude, it is entitled to impose terms and conditions on the receipt of those advantages.

6.6.5.2 There is also a need for closer contact and cooperation between the customs services of the EU and those of the originating countries. This may require financial commitments at Community level to provide liaison between EU customs officials and their counterparts in developing countries; in addition, it may require training facilities to be provided to the customs services of those nations. There is also a security aspect to this situation; in the current climate, it has to be recognised that, in reality, the external frontiers of the EU lie not only at the boundaries of its Member States but increasingly in the territories of the countries from which its imports emanate. The EESC is currently preparing an opinion on this topic. ⁽⁹⁾

⁽⁹⁾ Opinion on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code - COM(2003) 452 final - 2003/0167 (COD).

⁽⁸⁾ ILO standards, 29, 87, 98, 100, 111, 138 and 182

6.6.6 The EESC recognises that the effectiveness of the GSP preferences is constantly being eroded by progressive across-the-board tariff reductions as a result of successive rounds of the GATT negotiations. It regards this situation as being inevitable and not necessarily undesirable. It has been clearly demonstrated that global tariff reductions have been very effective in stimulating world trade and increases in global commercial activity can only be to the benefit of all trading nations. Indeed the evolution of this process is such that the new guidelines, which are envisaged to remain in force for a ten-year period, may well be the last application by the EU of a conventional reduced-tariff system.

6.7 The EESC considers that the present rules of origin applied to preferential trading are too complex. As a result, they create unnecessary compliance burdens for EU importers and produce a system which is characterized by opacity and confusion. Such a system can only be conducive to fraud. The EESC would like to see these rules replaced by new rules drawn up on the lines of those currently in force for non-preferential goods.

6.8 A further measure of simplification would be to eliminate duties where preferential treatment results in: ad valorem duties of 3.0 % or less; specific duties of EUR 5 or less.

6.9 In order to give the governments of the developing countries and EU importers time to adjust their planning, any changes in the preferential treatment of a country should be made public one year before entry into force.

6.10 The EESC considers that the new guidelines should be: simple; predictable; easy to administer; consistent; transparent; relevant; equitable; stable over time.

7. Conclusions

7.1 The EESC endorses the Commission's decision to introduce the new system of GSP with effect from 1 January 2006.

7.2 The EESC urges that advantage should be taken of the opportunity to harmonise, unify and streamline all the rules and procedures of the GSP system in the new guidelines.

7.3 The EESC considers that the Commission should issue a detailed impact assessment with its proposals for the new guidelines.

7.4 The EESC accepts that the existing special incentive arrangements have been ineffectual and advocates that they should be withdrawn; instead, the Commission should lay down internationally acceptable standards based on the fundamental principles of European society; countries that violate any of those standards should have their access to all preferential tariffs temporarily suspended.

7.5 The EESC agrees with the view that there are too many participating nations in the GSP system and argues that these should be reduced as outlined in the text.

7.6 The EESC recommends that the graduation mechanism should be retained but that it should be simplified and rendered more transparent.

7.7 The EESC is concerned by the incidence of fraud in the present system and calls for tighter controls to be introduced.

7.8 The EESC regards the existing preferential rules of origin as being too complex and suggests that they could be simplified on the lines of the current non-preferential rules of origin.

7.9 The EESC believes that simplification of the system should be a primary objective for the new guidelines. It hopes that the proposals which it has made to, inter alia, reduce the number of beneficiary countries, replace the special incentive arrangements by application of the temporary withdrawal mechanism based on clearly-defined standards, replace the current rules of origin by rules based on the non-preferential rules of origin, reduce the interval between the graduation point and the reference period and rationalise the industrial sectors and product categories covered by the scheme will go some way towards achieving this goal.

7.10 This opinion, prepared at the request of Mr Lamy, is an important first step in the consultation of civil society on this issue. The EESC feels that the introduction of the new guidelines should be preceded by further wide-ranging and timely consultation on the proposals with the stakeholders, both in the EU and in the developing countries.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'Repercussions of the Free Trade Area of the Americas Agreement on EU relations with Latin America and the Caribbean'

(2004/C 110/11)

On 21 January 2003, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an opinion on the Repercussions of the Free Trade Area of the Americas Agreement on EU relations with Latin America and the Caribbean.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 December 2003. The rapporteur was Mr Soares.

At its 406th plenary session, held on 25 and 26 February 2004 (meeting of 25 February), the Committee adopted the following opinion by 109 votes to 8, with 15 abstentions.

1. Summary of the opinion

1.1 The process of forging an Agreement on a Free Trade Area of the Americas (FTAA), launched by the USA, is a wide-ranging initiative designed to transform the American continent into one of the largest trade areas in the world, with a population of over 800 million, an overall GDP of over EUR 11 trillion and a trade volume of EUR 3.5 trillion.

1.2 Despite numerous setbacks to the process and concerns expressed over respect for the deadlines set by the agenda, the fact remains that, as it stands, negotiations are scheduled for completion in January 2005, with a view to the FTAA entering into force in December of that year. Moreover, the failure of the WTO Ministerial Conference held in Cancun from 10 to 14 September 2003 has given new impetus to the FTAA project, the next extraordinary summit of which was recently set for January 2004. A breakthrough was achieved in the deadlocked negotiations at the FTAA ministerial summit held in Miami in mid-November 2003, and the aim remains to keep to the official date for entry into force (December 2005). Nevertheless, the agreement reached at the meeting provides for a reduced form of the FTAA.

1.3 One of the features of the FTAA project, and the main criticism voiced by many sectors of Latin American society, is that it exclusively concerns trade, which would serve only to exacerbate existing imbalances in the region where the USA alone accounts for 77 % of GDP of the Americas and 62 % of all exports from the continent.

1.4 The positions taken by civil society in Latin America and the Caribbean (LAC) with regard to the FTAA project are very different. On the one hand, the business community sees it as a means of gaining access to the large American market, though some companies fear American and Canadian competition; on the other hand, some sectors grouped around the Hemispheric Social Alliance (unions, NGOs, universities) reject it, especially since their main concerns – respect for the environment, workers' rights, social exclusion, foreign debt, democ-

racy and respect for human rights, exploitation of minors and respect for indigenous communities – are insufficiently addressed in the project, if, indeed, at all.

1.5 It is vital for the EU to find a stronger political will to forge relations with LAC countries, particularly since it is in its own economic and commercial interests to do so. The EU must not forget that when NAFTA entered into force, it had significant negative repercussions for European businesses, which lost half their share of the Mexican market. Despite the Association Agreement rapidly negotiated between the EU and Mexico, the lost market share has not been fully recovered.

1.6 The current political and social backdrop in Latin America is conducive to the EU successfully concluding negotiations with its LAC partners, especially MERCOSUR.

1.6.1 The election of Luis Inácio Lula da Silva in Brazil and Néstor Kirchner in Argentina reflect the call for change in the region. Besides the strong interest which they share in developing MERCOSUR, even before concluding the FTAA, they have also expressed their willingness to promote relations with the EU.

1.6.2 Now more than ever there is a clear need for Europe in the troubled Latin-American/Caribbean continent. The EU continues to be perceived as a social model and political benchmark. The great challenge currently faced by LAC countries is to find an alternative economic and social model to the 'Washington consensus' and to the plans to integrate with the USA, which is seen as too hegemonic.

1.7 Nevertheless, although there does seem to be a call for greater European involvement in Latin American society, in particular from leading sections of society, the EU must make a concerted effort to involve civil society more closely in its strategy. Decisive political commitment, coupled with adequate and effective information, and the involvement of civil society, is the only way to show that the project is mutually beneficial. The EU must not make the same mistake as the FTAA.

1.8 The EU must also take note of the failure of the WTO multilateral negotiations in Cancun and bear in mind that its international partners, like the USA, have decided to use other means, such as bilateralism or bi-regionalism, to further international trade. In the eyes of the United States the Cancun failure is another reason for pressing ahead with the FTAA negotiations. Against this backdrop, it is clear to the EESC that the EU and MERCOSUR must show a stronger political will to conclude an Association Agreement by overcoming the hesitations and obstacles which any negotiations entail. With a view to achieving the same objective with the Andean Community (CAN) and the Central American Common Market (CACM), the Council of the European Union must give a mandate to the European Commission so that it can launch negotiations. Otherwise, the EU will see its hopes of being a strategic partner of Latin America diminish, potentially weakening its role in the process of devising new rules for international trade and global governance. For cultural, political and economic reasons, the LAC countries are natural allies and Europe needs them if it is to redefine its role on the world political stage.

1.9 Therefore the EU cannot afford to adopt a reactive policy to its LAC partners. It should not wait for progress in the FTAA negotiations before proceeding with the EU/LAC strategic partnership. The EU must show real leadership in its approach to this political and international trade issue.

1.10 The EU cannot remain indifferent to the aspirations and just concerns of the peoples of LAC and should therefore give a new political impetus to relations with this region and step up its efforts to fulfil the commitments agreed at the Rio Summit in 1999 and the Madrid Summit in 2002. The EU must therefore redefine its strategy based on the following points:

- the drawing-up of an action plan and an explicit negotiating timetable containing proposals that also respond to the interests of the LAC countries,
- trade liberalisation beneficial to the economies of both regions,
- greater involvement of organised civil society in all stages of the negotiations,
- pursuit of a policy supporting regional groupings in Latin America and the Caribbean,
- defence of a coherent social model in its relations with LAC aimed at promoting social cohesion,
- a significant increase in financial resources to reflect the strategic importance of the region,
- breaking the link between the conclusion of an EU-MERCOSUR Association Agreement and the end of the Doha negotiation round,

- swift conclusion of Association Agreements with the other regional blocs, such as the Andean Community (CAN) and the Central American Common Market (CACM),
- revitalisation of the inter-regional political dialogue and, consequently, a strengthening in the presence of European ministers in inter-regional forums, such as the meetings of the EU-Rio Group.

2. The Free Trade Agreement of the Americas

2.1 *The background to the FTAA project*

2.1.1 Although the idea of uniting all the countries of the Americas is a long-standing one, the lack of consensus between the countries has hitherto prevented it from coming to fruition. The Free Trade Agreement of the Americas (FTAA), which is currently being negotiated, is a serious attempt to achieve this. The process is now entering its final phase.

2.1.2 The project is based on a North American initiative of the 1980s. In May 1982 the Reagan administration launched the Caribbean Basin Initiative, with the aim of setting up an economic partnership programme oriented towards trade liberalisation and private sector initiative. In January 1988 the US government signed a free trade agreement with Canada. Talks on extending this agreement to Mexico were initiated by the Bush (senior) administration and formalised under the Clinton administration, with the conclusion of the North American Free Trade Agreement (NAFTA).

2.1.3 In 1990, President Bush (senior) announced his 'Enterprise for the Americas Initiative' (EAI) project, which aimed to create a free trade area for the hemisphere and establish an investment fund to encourage economic reform, attract international investment and alleviate the debt burden of the Latin American states.

2.1.4 For their part, the governments of the LAC countries embraced the idea of a broad economic alliance with enthusiasm.

2.1.5 On coming to power, the Clinton administration took up the idea of uniting the Americas via a free trade agreement. The first Summit of the Americas was held in Miami in December 1994 and was attended by the continent's 34 heads of state and government, with the exception of Cuba ⁽¹⁾.

2.2 *Guidelines and key principles of the initiative*

2.2.1 At the Miami Summit, the participants adopted a Plan of Action and Declaration of Principles setting out the guidelines and key principles of the initiative, the primary objective of which is to establish a free trade area by phasing out barriers to trade and investment.

⁽¹⁾ The countries involved in the initiative are: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, El Salvador, Ecuador, the United States, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, the Dominican Republic, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Surinam, Trinidad and Tobago, Uruguay and Venezuela.

2.2.2 The Plan of Action, which is intended to promote prosperity through economic integration and free trade, contained three other chapters: preserving and strengthening democracy; eradicating poverty and discrimination; and sustainable development and conserving the natural environment.

2.2.3 Revisions were made to the Plan of Action at the Second Summit of the Americas held in Santiago in April 1998, but its basic objectives remained unchanged. The four chapters were now: education; democracy, justice and human rights; economic integration and free trade; eradication of poverty and discrimination. Although the initiative continued to focus on economic issues, at the request of Brazil, in particular, emphasis was also placed on social issues through education and the alleviation of poverty.

2.2.4 The plan of action subsequently underwent further changes. The chapter on education, on which no progress was made in the negotiations, was dropped. However, at Canada's instigation, at the third Summit of the Americas, held in Quebec in April 2001, the theme of communications (access to new information and communication technologies) was included alongside those of strengthening democracy, increasing economic prosperity and developing human potential.

2.3 *The structure of the negotiations*

2.3.1 These summits of heads of state and government – which are held every three or four years and are designed to lend support to the main policy outlines drawn up at other levels of negotiation and signal the parties' political commitment – are part of the extremely complex structure of the negotiation process. The trade ministers, who meet every 18 months or so to set the overall priorities of the FTAA are the key political element in the negotiating structure.

2.3.2 The deputy trade ministers jointly form the Trade Negotiation Committee (TNC), which plays a decisive role by directing the work of the nine FTAA Negotiating Groups, taking decisions on the general outline of the future free trade agreement and institutional matters and guaranteeing the transparency of the negotiation process.

2.3.3 The remaining pillar of the FTAA is a technical one, comprising the nine Negotiating Groups of negotiators and experts in the areas of 1) market access, 2) investment, 3) services, 4) government procurement, 5) dispute settlement, 6) agriculture, 7) intellectual property rights, 8) subsidies, anti-dumping and countervailing duties, and 9) competition policy.

2.3.4 A Tripartite Committee formed by the Organisation of American States (OAS), the UN Economic Commission for Latin America and the Caribbean (ECLAC) and the Inter American Development Bank (IADB) provides technical and analytical support to the various groups.

2.4 *The phases of the negotiations*

2.4.1 *Preparatory phase*

2.4.1.1 The FTAA initiative has gone through several phases of negotiations since the Miami summit. The basic structure of the initiative was defined during the preparatory phase, from 1994 to 1998. Four ministerial meetings were held (June 1995 in Denver, March 1996 in Cartagena, May 1997 in Bélo Horizonte and March 1998 in San José).

2.4.1.2 The guidelines for the FTAA negotiations were adopted during this preparatory phase. It was decided that decisions would be adopted by consensus, that the FTAA would represent a single undertaking and that it would comply with WTO regulations and disciplines. At the insistence of MERCOSUR, particularly Brazil, but against the wishes of the USA, it was ultimately decided that the FTAA could be compatible with other regional or bilateral agreements and that states could accede to the agreement either individually or as a regional bloc. Thereafter, several regions spoke with one voice in the FTAA negotiating bodies, notably the Andean Community (CAN), MERCOSUR, the Caribbean Community (CARICOM) and subsequently also four countries from the Central American Common Market (CACM), known as CA-4⁽²⁾.

2.4.1.3 During the preparatory phase, the parties also took steps to gather information, acquire knowledge and lay the foundations for the future negotiations.

2.4.2 *The second phase*

2.4.2.1 At the Santiago Summit, the heads of state and government made a commitment to proceed with the Americas project. The ministers met twice during the second phase (November 1999 in Toronto and April 2000 in Buenos Aires) and announced that measures to facilitate trade would come into force in January 2001. In addition, the Negotiating Groups presented a preliminary draft agreement on the FTAA to the ministers concerned.

2.4.2.2 Following pressure from civil society, it was decided to make the preliminary draft agreement available to the public in order to make the process more transparent. The ministers reaffirmed their commitment to finalise the project by January 2005 so that it could enter into force in December 2005.

2.4.3 *Third phase*

2.4.3.1 The third phase of the negotiations began with the Third Summit of the Americas in Quebec in April 2001, when the heads of state and government issued a declaration setting out wide-ranging social and economic undertakings. A clause was adopted on democracy: i.e. agreement was reached that consultations would be held if a signatory country abandoned its democratic institutions. No sanctions were specified.

⁽²⁾ El Salvador, Guatemala, Honduras and Nicaragua. Costa Rica did not join them.

2.4.3.2 The aim of the third phase of the negotiations was to prepare a more detailed version of the future agreement. Accordingly, at the 7th ministerial meeting held in Quito in November 2002, a new draft agreement was published setting out the guidelines for the negotiations over the coming 18 months. The ministers also agreed to launch a Hemispheric Cooperation Programme, aimed at strengthening the ability of the region's smaller economies to participate in the FTAA. The Quito meeting marked the beginning of the final phase of the negotiating process, which is being chaired jointly by the USA and Brazil.

3. Characteristics of the initiative and obstacles to its realisation

3.1 The FTAA would be one of the largest free trade areas in the world, with a market of over 800 million people, an overall GDP of over EUR 11 trillion and trade amounting to EUR 3.5 trillion.

3.2 However, one characteristic feature of this process is that it is asymmetrical and polarised towards the USA. For all but a few of the countries, the USA is the primary trading partner. The sole exceptions are Argentina, Paraguay and Uruguay, whose main foreign trading partner is Brazil.

3.3 In 2000, the North American economy alone represented 77 % of the GDP of the Americas as a whole, and 62 % of its exports. Brazil, Canada and Mexico represented, respectively, 6 %, 5 % and 4 % of the region's GDP, whilst the remaining 30 countries produced 8 %. Small countries such as Nicaragua and Haiti together represented only 1/2000 of the total. NAFTA and MERCOSUR represented 87 % and 9 % of total GDP and 90 % and 6 % of hemispheric trade, respectively.

3.4 The data also point to an asymmetry in per capita GDP: the USA is in first place, with a per capita GDP of EUR 34,400, followed by Canada (EUR 21,930), Argentina (EUR 6,950), Uruguay (EUR 6,000), Mexico (EUR 5,560) and Brazil (EUR 3,060). At the other extreme, the per capita GDP of Nicaragua and Haiti was EUR 745 and EUR 480 respectively. The project therefore incorporates very different economies with widely varying levels of development ⁽³⁾.

3.5 These asymmetries and inequalities raise the problem of the potentially profound impact of economic integration on the small economies, for whom no development fund or security net has been provided. The stakes involved in integrating these economies into the FTAA process are considerable. These 25 countries ⁽⁴⁾ face a number of handicaps in the negotiation process. One major obstacle is the lack of sufficient financial and human resources to pursue the negotiations. To

date, the only measure taken to compensate for these asymmetries is the introduction of longer deadlines for trade liberalisation in small economies.

3.6 The effects of the absence of a social clause are likely to be even more marked in view of the fact that, over the past ten years, orthodox structural adjustment policies have led to steep rises in unemployment and increased poverty in the LAC, where, according to ECLAC, the number of poor people amounted to more than 220 million, or 43.4 % of the population, in 2002 ⁽⁵⁾. The continent's social, economic and political problems have not facilitated the progress of talks since the Quebec Summit.

3.7 Despite a sustained twenty-year reform programme, the LAC economies are still finding it difficult to ensure rigorous, stable and competitive economic growth. A study by the ECLA shows that for the second year running, there has been negative growth in GDP, with a figure of -1.9 % for 2002, thus completing a period which it describes as 'half a lost decade for the region as a whole'.

3.8 The situation is particularly serious in Argentina, which has been facing an unprecedented crisis since December 2001. After the crisis broke, Argentina preferred to move closer to its MERCOSUR partners in order to strengthen regional integration, establish closer ties with Europe and distance itself from the strategy of automatic alignment with Washington. The President of Brazil, Luiz Inácio Lula da Silva, has also made the development of MERCOSUR and relations with the EU a priority.

3.9 Brasilia does not intend to make a drastic U-turn in its position with regard to the FTAA. Its strategy seeks, above all, to organise negotiations between MERCOSUR, the CAN (Andean Community), Chile, the Caribbean countries, Guyana and Surinam, with a view to establishing a Free Trade Area of South America (FTASA) that would enable LAC countries to strengthen their position in the FTAA negotiations. In December 2002 the parties involved in the project agreed on a timescale, including the abolition of customs barriers by the end of 2003 and the entry into force of the agreement by 2005. Consistent with this idea of 'linking the whole of South America to MERCOSUR' by the end of 2003, the Lula administration succeeded in getting Peru to sign an Association Agreement with MERCOSUR (August 2003) which is very similar to those concluded with Bolivia in December 1995 and Chile in June 1996. MERCOSUR also hopes to conclude an Association Agreement with Venezuela and launch another with Colombia. In terms of its objectives and timescale, this project offers an alternative to the FTAA process.

⁽³⁾ The source for all the figures is the European Commission's DG Trade.

⁽⁴⁾ Antigua and Barbuda, Bahamas, Barbados, Belize, Bolivia, Costa Rica, Dominica, El Salvador, Ecuador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, the Dominican Republic, St Lucia, St Kitts and Nevis, St. Vincent and the Grenadines, Surinam, Trinidad and Tobago, Uruguay.

⁽⁵⁾ Annual survey by the UN Economic Commission for Latin America and the Caribbean on the Social Panorama of Latin America 2002-2003.

3.10 For its part, the USA has not hesitated to use bilateral agreements – as demonstrated by the signature of an agreement with Chile in December 2002 – to push the FTAA forward, particularly since the adoption of the fast track or TPA ⁽⁶⁾ in July 2002. Following the WTO Ministerial Conference in Cancun, the trend towards bilateralism is likely to gather momentum.

3.11 However, the protectionist measures recently adopted in the USA are having an impact on the TPA. After increasing the tariffs protecting the US steel and wood product industries, the USA has adopted a Farm Bill which grants \$180 billion of subsidies to agricultural producers over ten years. These protectionist measures are re-igniting tensions between the USA and certain Latin American countries, principally Brazil.

3.12 Export subsidies have become one of the main obstacles to the successful completion of the FTAA. Many Latin American countries are pressuring the USA to lower their agricultural subsidies. However, the Bush administration is pushing for the issue of agricultural subsidies and use of 'anti-dumping' and compensatory duties to be discussed within the WTO. But the failure of the multilateral negotiations in Cancun illustrates the difficulties which rich countries, like the USA and the EU, encounter especially when agricultural issues are addressed in the context of international negotiations.

3.13 Recognising the failure of the multilateral trade negotiations, the USA announced at the closing press conference of the summit that it was prepared to work at bilateral and regional level. If the USA follows up these words, it is likely that the American negotiators will return to the agricultural negotiating table in connection with the FTAA project. That would enable the pan-American integration process to surmount one of the most difficult obstacles and, consequently, to make significant progress.

3.14 Nevertheless, despite the TPA, the executive's negotiating powers are constrained by the Congress. The Trade Act (establishing the TPA) provides for review procedures, which may well prove onerous, especially in connection with subsidies and 'anti-dumping' and compensatory duties. It also provides for a consultation procedure, which gives Congress a substantial right of supervision over the negotiations.

4. Civil society players and the Americas project

4.1 Institutional involvement

4.1.1 The FTAA's governmental process is followed by citizens' organisations, whose participation in the FTAA is envisaged. Going beyond that participation, these organisations meet alongside ministerial and presidential meetings in order to influence the course of the negotiations.

4.1.2 Civil society participation mechanisms are divided between the initiatives set up by the bodies involved in the

FTAA process and those emanating from social movements. As part of the FTAA process a mechanism has been set up by the committee of government representatives on the participation of civil society, in order to pass on the proposals originating from employers, workers, environmental groups and academic circles. This is an indirect form of participation. Indeed, these groups can write to the committee, which will then forward their recommendations to the Trade Negotiations Committee (TNC) or the appropriate negotiation group.

4.1.3 In order to encourage the participation of civil society, government officials responsible for the Americas project held a regional symposium on the FTAA at Mérida in Mexico in July 2002. This first regional forum for public discussion attracted 100 members of the public. The aim was also to provide information and explanations on the process itself.

4.1.4 A second initiative was taken at the ministerial meeting in Quito in November 2002: the trade ministers separately met representatives of the private sector and those of civil society (environmental groups, trade unions, parliamentarians and indigenous peoples). It was the first time that representatives of civil society had been able to address government ministers directly.

4.2 Stance of civil society on the FTAA project

4.2.1 Business circles in the Americas took an interest in the FTAA project very early on. Indeed, since the first ministerial meeting, in Denver in 1995, they have tried to organise meetings in parallel to the official process in order to promote the private sector's interests. More than 1,500 business people have been involved in these meetings through the Americas Business Forum (ABF) which groups together business circles on a sectoral and national basis.

4.2.2 The Americas Business Forum, which is in favour of the Americas' integration project, seeks to contribute to the debate by making technical and data analyses of the strategic objectives and the aspirations of the private sector. It also helps to distribute information on the process and establish personal and institutional links between heads of companies and the organisations of the Americas.

4.2.3 During the annual meetings of the Forum, conferences and seminars are held on key themes concerning the integration of the hemisphere. Although the annual meetings planned by the Forum are not included officially in the negotiating process, objectively speaking the work the Forum carries out has a strong influence on the shaping of the project. Indeed, the recommendations made by the private sector are taken into account by each of the negotiation groups. One of these recommendations concerns the rapid implementation of measures to facilitate trade, and the leaders have in fact agreed that the measures should come into force before the end of the negotiations.

⁽⁶⁾ The fast track, recently rebaptised the Trade Promotion Authority (TPA), is the authorisation given by the US Congress to the executive to negotiate trade agreements without having to return to Congress at each stage. Congress only ratifies or rejects the agreement once it has been concluded.

4.2.4 As regards the other sectors of civil society, such as the trade union movement, NGOs and university research centres, the contribution of trade is much less obvious. The social organisations have taken their own steps to get their views across on the integration process. Among the various initiatives is that of the Hemispheric Social Alliance (HSA), which is a major network of inter-American social organisations and movements. It also covers a wide range of positions which vary from reform to rejection of the FTAA project. Although this initiative materialised in 1997, civil society mobilised much earlier than that.

4.2.5 Just like the employers' sector, the trade unions took a very early interest in the Americas project. They, too, were present on the occasion of the ministerial meeting in Denver. The trade union movement, supported by the Inter-American Regional Organisation – the American branch of the International Confederation of Free Trade Unions (ICFTU) – set up a parallel conference at the end of which a declaration was drawn up setting out the concerns and demands of the participants.

4.2.6 At the next ministerial meeting in Cartagena, the trade union movement did not confine itself to drawing up a new document for consideration: it also sought to exert pressure on the government representatives. Moreover, in their conclusions the latter stressed the importance of encouraging better recognition and promotion of workers' rights and the need for their respective governments to envisage appropriate measures in this field.

4.2.7 The movement was extended to include other social groups. Thus, at the third ministerial meeting, in Belo Horizonte in May 1997, delegates of the coalitions opposed to free trade (NGOs, certain research centres, environmental associations, feminists and indigenous peoples) took part in the meeting of representatives of the trade union movement of the American continent, giving rise to the Hemispheric Social Alliance which appeared as such the following year when the Second Summit of the Americas was held.

4.2.8 To mark the occasion, the HSA held the first Summit of the Peoples of the Americas, from which emerged a document entitled *Alternatives for the Americas*. A second Summit of the Peoples was held to coincide with the Third Summit of the Americas in April 2001 in Quebec, bringing together more than 2,000 representatives of movements and organisations throughout the Americas, including Cuba.

4.2.9 Mindful of the objective influence of business circles in the context of the FTAA negotiations, the HSA seeks to promote a different type of project by proposing the inclusion of social and environmental measures in the future agreement. In this way it hopes to guarantee employment and the quality of jobs, and to avoid 'ecological dumping' by taking account of environmental costs in exports. But many of the Latin American and Caribbean (LAC) governments oppose measures of

this type, regarding them as a pretext for protectionism. In addition, since 2001 the American position has not been conducive to progress in these areas. In contrast to the developments with NAFTA, the plan to include clauses on employment and the environment lost ground in the official FTAA negotiations, with the USA repeatedly signalling its unwillingness to address these issues in the discussions.

4.2.10 The Hemispheric Social Alliance also made known its opposition to the systematic liberalisation of government procurement, health services, education and investment.

4.2.11 The HSA has also condemned the lack of transparency in the process. It is currently trying to organise a consultation on the FTAA project, to be carried out over a year between 2003 and 2004 and covering the whole Americas region.

4.2.12 In this movement of opposition to the creation of the FTAA, as at present negotiated, certain parliamentarians from the Americas have also sought to draw attention to their views on the project. Members of more than 164 provincial or national parliaments, as well as delegates from regional parliaments in 34 countries involved in the FTAA negotiations and Cuba, have met several times in a forum called the Parliamentary Conference of the Americas (COPA) in order to express their misgivings with regard to the Americas project.

4.2.13 In the declaration it adopted at its second general assembly in July 2000, the COPA called on the heads of state and government to take account of the level of development of the countries involved in the FTAA project, and to ensure that parliamentarians from all quarters took part, in order to encourage transparency.

4.2.14 Concurrently with the ministerial meeting in Quito, there was a continental meeting of parliamentarians who issued a resolution rejecting the FTAA and proposing that the governments should opt instead to strengthen the Latin American and Caribbean integration agreements, such as MERCOSUR, the CAN, CARICOM, the CACM etc.

4.3 *Concerns and expectations of civil society*

4.3.1 The attitudes of civil society groups in the LAC region towards the FTAA project vary. The groups which oppose the FTAA regret that key elements of civil society, such as unions and representative NGOs, have not been effectively involved in the decision-making process and that only the American Business Forum, which, by contrast, supports the FTAA project, has had direct access to negotiators and a clear influence on working documents during the negotiations.

4.3.2 The main fear is that the process will continue in a non-transparent way and that the results of the negotiations will be presented to civil society as a 'fait accompli', leaving them with little scope for influence.

4.3.3 The unions and other social players grouped around the HSA complain that government and big business are continuing to shape the future agreement to integrate the Americas without taking into account their main concerns: the environment, workers' rights, job insecurity, unemployment, poverty, social exclusion, the widening gap between the various economies of the continent, agricultural protectionism and American export subsidies affecting LAC countries, foreign debt, democracy (the call for governments to organise consultation on the FTAA), as well as respect for human rights, exploitation of minors and respect for indigenous communities.

4.3.4 Although the majority of social movements (NGOs, trade union organisations, research institutes, etc.) support the process of regional integration, they have expressed serious misgivings on integration agreements such as the FTAA. In their opinion, steps to achieve integration (such as MERCOSUR) are seen as a potential benchmark for integrating the Americas, as they include political, social, cultural and strategic aspects. On the other hand, the FTAA, in its current form, would only exacerbate the imbalances between the USA and LAC, especially when the former pursues protectionist policies affecting the international competitiveness of the latter.

4.3.5 The social players are in favour of integration that is not limited to trade and, in contrast to the great majority of LAC governments, they oppose an agreement that fails to provide any guarantees on social and environmental matters. They call for respect for human rights to be properly taken into account. They have stated that they would be less inclined to support a USA-LAC agreement than an EU-LAC agreement. They claim to value not only the emphasis that the EU places on social, environmental and human rights issues, both internally and at international level, but also the consistency with which these requirements are observed. However, they complain of the lack of energy and will demonstrated by the EU's strategy on Latin America.

4.3.6 The HSA also calls for governments to make the negotiations transparent and to hold an open debate on the FTAA with all components of civil society in order to examine the viability and potential consequences of such an agreement for the countries of the Americas.

4.3.7 As regards the business sector, many companies in the LAC countries, headed by agrobusiness, see the FTAA as a way of penetrating the vast US market. They feel that the FTAA represents an important means of breaking out of the vicious circle of debt of the 1980s, consolidating liberal reforms and emerging from international isolation. Others are less enthusiastic, however. This is the case, for example, with the petrochemicals sector in Latin America, which reiterated its opposi-

tion to the FTAA at its last meeting, held (on 11 November 2003) in conjunction with the annual petrochemical meeting of the Latin American Petrochemical and Chemical Association (APLA).

4.3.8 Some business sectors in Latin America, and particularly in Brazil, are reluctant to move forward in the FTAA negotiations. This applies particularly to some companies which are very concerned about the competition from American and Canadian firms which could result from the conclusion of the FTAA. In contrast, a large number of firms in the secondary and tertiary sectors in the USA and Canada see the FTAA as an opportunity to penetrate Latin American markets, particularly the Brazilian market.

4.3.9 Nevertheless, there are signs that the position of the Brazilian private sector is shifting. Although for a long time the national business community and the Brazilian foreign ministry shared the same negative view of the FTAA project, the former have started to warm to the idea of greater trade liberalisation and now profess to be willing to face external competition. The national private sector has begun to put pressure on the Lula administration to soften its stance in the FTAA negotiations so that the agreement can be concluded on schedule.

4.4 *Views and concerns of the political decision-makers*

4.4.1 There is a real gulf between the vision of civil society and that of government as to the course to be followed towards integration of the Americas. The LAC governments, which are predominantly concerned with economic liberalisation and, in particular, with penetrating the vast US market, are negotiating a continental trade agreement with the aim of encouraging the US to end its protectionist agricultural policy.

4.4.2 Following the example of MERCOSUR members, they believe the FTAA may encourage the EU to press ahead with its negotiations with LAC countries and with the WTO multilateral negotiations. In their opinion, the FTAA, the negotiations with the EU and the WTO are three inter-linked and inter-dependent processes. The firm position adopted by the developing countries, through the Group of 21 (G21, also called G20 plus), in the face of the reluctance of the rich countries to make concessions in the agricultural field during the Cancun Ministerial Conference and the breakdown of these negotiations could, to some extent, be interpreted as a setback for multilateralism. The stalled multilateral negotiations seem to have opened the way for regional, bilateral and bi-regional strategies. As was pointed out above, the USA makes no secret of its desire to push forward with such agreements. Emerging powers like China and Brazil have also indicated their willingness to move down this road.

4.4.3 The South American bloc is of the opinion that, in contrast to the offer made by the USA concerning agriculture, the EU's offer is far from clear. It feels that simple negotiation on agricultural products is not enough; export subsidies must also be tackled. On these issues, the FTAA appears to offer more hope than the EU negotiations. Nonetheless, the negotiations with the EU appear easier than those on the FTAA: the former entail bi-regional negotiations while the latter involve a large number of players and sometimes very different proposals. In the negotiations on the EU-MERCOSUR Association Agreement, the EU, whose common standpoint is represented by the European Commission, has consistently encouraged the MERCOSUR countries, with a measure of success, to establish a common position of their own. In bi-regional negotiations the proposals tabled by the parties are, in this way, limited to two, which makes negotiation easier.

5. Europe-Latin America/Caribbean relations

5.1 Background

5.1.1 As a result of various historical factors, certain European countries (in particular Spain, France, the United Kingdom, Portugal and the Netherlands) have had long-standing and more or less close bilateral relations with LAC countries. Despite the cultural diversity and heterogeneity of LAC countries, their cultural identity is deeply imbued with the values which shaped the character and history of Europe. The prevalence in this part of the world of such enlightened philosophical ideals as democracy, the rule of law, the idea of liberty and human rights are conducive to closer EU-LAC relations.

5.1.2 Despite this, formalising Euro-Latin American relations is a new development. Since the beginning of the 20th century, Latin American has developed unequal and almost exclusive diplomatic relations with the USA. On the other hand, Europe has always had formal relations with the Caribbean countries (except for Cuba), under the ACP agreements.

5.1.3 Although Europe's return to Latin America began almost thirty years ago, it was not until the 1990s that – largely as a result of the impetus provided by the accession of Spain and Portugal – the EC/EU (?) developed a strategy to forge relations with the entire LAC area. Acting on the European wish to develop preferential relations with Latin American countries, the EEC signed a series of sectoral, 'first generation' agreements in the 1960s, followed by 'second generation' agreements in the 1970s, covering a range of sectors.

(?) The Single Act transformed the European Economic Community into the European Community, which subsequently became the European Union with the 1992 Treaty of Maastricht.

5.1.4 The armed conflicts in Central America during the 1980s and the establishment of European political cooperation led the EEC to play an important political role as intermediary. The talks held in San José (Costa Rica) in September 1984 brought together the foreign affairs ministers from the EEC, Spain and Portugal alongside representatives from Central America. The talks aimed to restore peace and discuss measures to bring democracy to the continent and marked a renewal of EEC/Latin America relations (culminating in the 'San José process').

5.1.5 When Spain and Portugal became members of the European Community, this process of political dialogue was extended to the rest of the region, with the discussion partner being the Rio Group. The Rio Group was set up in 1986 by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela as a forum for the discussion of political problems, the development of external relations and regional integration issues. It was subsequently joined by other Latin American countries. The Group was the natural negotiating partner for the EC/EU in Latin America in the field of political dialogue. Bi-regional dialogue started in 1987 and was institutionalised in 1990.

5.1.6 Relations between the two continents were further boosted by the end of bi-polarism, the will shown by Europe to make the Community a player on the world stage, political stability, the return to democracy and Latin America's adoption of a more open economic policy. Historic and cultural factors, common principles and legal and philosophical values also played a part in facilitating rapprochement between the two continents.

5.2 Features of relations

5.2.1 Whilst the USA established NAFTA and launched the FTAA project in 1994, Europe sought to secure a different type of partnership with the Latin American countries. Mindful of the diversity of Latin America, the EU tried to develop a strategy based on different approaches, according to national and regional situations. In other words, it tried to take account of the heterogeneity of the continent, which the FTAA does not do. Therefore the EU proposed a partnership based on dialogue organised in sub-groups at regional level, using a range of instruments tailored to the specific political and socio-economic situations of each group.

5.2.2 The new European strategy drawn up by Commissioner Manuel Marin from the Santer Commission and ratified by the Council in October 1994 sought to establish a form of association based on the third-generation and the new, fourth-generation agreements with Latin America. The former emphasise regional integration and cooperation and contain a future developments clause allowing signatories to step up their level of cooperation and a democracy clause guaranteeing respect for basic principles reflecting common values. The fourth generation agreements include these measures and also provide for the conclusion of trade agreements.

5.2.3 The austerity measures and privatisations carried out during the early 1990s in the Latin American countries attracted private investment from Europe, thereby promoting rapprochement between the two regions. Between 1996 and 1999, the EU provided the lion's share of inward investment into Latin America, which became the prime destination for European investment in emerging markets. Over this period, European investment grew from \$13.289 billion to \$42.226 billion. In addition, bi-regional trade doubled between 1990 and 2000. Export of goods from the EU to Latin America grew from EUR 17 billion to just over EUR 54 billion, and exports from Latin America to the EU grew from EUR 27 billion to EUR 49 billion. The EU thereby became the second largest investor and trading partner of Latin America, and the largest for MERCOSUR and Chile.

5.2.4 This doubly positive situation, i.e. confirmed political will on both sides and clear economic rapprochement, gave rise to the idea of boosting relations in qualitative terms by holding a summit in Rio de Janeiro in June 1999 bringing together the 48 heads of state and government of the EU and LAC, including Cuba.

5.2.5 The summit was a historic milestone. It showed the EU to be an increasingly mature player on the international stage and the growing interest of the industrialised countries in the LAC region. The summit also aimed to provide a response to the unipolarism of the post-cold war period and instead favour regionalism as a new force in international relations. Some were quick to see this as the first step towards the creation of a multi-polar world, no longer dominated by the USA.

5.2.6 The summit produced two documents: a declaration and an action plan designed to form the basis of a new strategic partnership between the two sides of the Atlantic. The 69-point declaration called for the strengthening of relations on political, economic, scientific, cultural, educational, social and human issues, with a view to establishing a strategic association. The accompanying action plan contained 55 priorities.

5.2.7 Owing to the number of areas covered and priorities defined, these documents failed to focus on a clear line of action. Consequently, the bi-regional follow-up group of high-level officials identified 11 priorities at its first meeting at Tuusula (Finland, November 1999) ⁽⁸⁾. Some progress has been made regarding priorities 5, 7 and 8. In the case of priority 5 the Bi-regional Coordination Mechanism was established to combat drugs. The progress made with regard to priority 7 is due to the signing of Association Agreements with Mexico and Chile. Finally, in the case of priority 8, a specific bi-regional dialogue on science and technology was launched. This led to the Brasilia Ministerial Conference (March 2000) and the adoption of the Brasilia Statement and an EU-LAC Action Plan on science and technology. The latter, which identified health and quality of life, sustainable development and urbanisation, cultural heritage and the information society as priority areas for action, was presented to the Second EU-Latin America/Caribbean Summit held in May 2002 in Madrid.

5.2.8 Nevertheless, despite the drawing-up of the Tuusula list of priorities and the achievement of some objectives, the lack of clear direction in bi-regional relations was again apparent at the Madrid Summit.

5.2.9 The Commission budget provides for EUR 323 million a year, on average, over the period 2000-2006 ⁽⁹⁾ for the whole of Latin America, which is clearly inadequate given the importance of the project and all that is at stake. Thus Latin America continues to be one of the regions which benefits least from Community aid.

⁽⁸⁾ 1. Deepen and enhance existing cooperation and consultations in international forums and extend them to all matters of common interest; 2. Promote and protect human rights, especially those of the most vulnerable groups, and prevent and combat xenophobia, manifestations of racism and other intolerance; 3. Women – adopt programmes and projects related to priority areas contained in the Beijing Declaration; 4. Enhance cooperation programmes in the area of environmental and natural disasters; 5. Drugs – implement the Panama Global Action Plan, including measures against illicit arms traffic; 6. Formulate proposals for bi-regional cooperation directed to establishing mechanisms to promote a stable and dynamic global economic and financial system, strengthening national financial systems and creating specific programmes to help the economically relatively less developed countries; 7. Promote trade, including SMEs and business forums; 8. Provide support for bi-regional cooperation in the fields of education and university studies as well as research and new technologies; 9. Cultural heritage, EU-Latin America/Caribbean cultural forum; 10. Establishment of a joint initiative on particular aspects of the information society; 11. Support activities related to research, postgraduate studies and training in the field of integration processes. Communication from the Commission to the Council and the European Parliament on the Follow-up to the First Summit organised between Latin America, the Caribbean and the European Union, Brussels, 31 October 2000, COM(2000) 670 final.

⁽⁹⁾ The total budget of EUR 2,264 million is allocated over the period as follows: 2000 – EUR 368.37 million; 2001 – EUR 336.25 million; 2002 – EUR 315 million; 2003 – EUR 310 million; 2004 – EUR 310 million; 2005 – EUR 310 million; 2006 – EUR 315 million.

5.2.10 Regarding the negotiations themselves, the Madrid summit, which was held in the political context of post-11 September, produced little in the way of tangible results. Thus the EU chose to focus on issues of security and terrorism which dominated discussions, whilst LAC countries were far more interested in economic and trade aspects. This divergence of priorities had already been noted at the Rio summit, at which Europe focused on the themes of governance and poverty, whilst the LAC countries were more interested in economic relations and their repercussions on employment. It is essential that the third summit, which will be held in Mexico in May 2004, define an agenda that is built around a true common denominator.

5.3 *Current state of relations*

5.3.1 The main achievement of Rio was undoubtedly the launch of trade negotiations between the EU and MERCOSUR. The agreement concluded between Mexico and the EU entered into force in 2000 while Chile concluded an agreement with the EU at the Madrid summit in 2002. These agreements included the three pillars of the European strategy for Latin America: political dialogue, cooperation and economic and commercial integration. Apart from the agreement with Chile, however, it is hard to say what progress was actually made in Madrid with regard to this new strategic alliance.

5.3.2 Paradoxically, the Latin America regional process, as advocated by the EU, has so far failed to conclude association agreements with Europe. At the Madrid summit, the EU proposed launching negotiations with the CAN and the CACM through political dialogue and cooperation, which came to an end in October 2003. On the other hand, the start of trade negotiations depends on the conclusion of the Doha Round of multilateral trade negotiations, which is scheduled for the end of 2004, and developments within the CAN and CACM.

5.3.3 For its part, MERCOSUR, which has forged the strongest political and economic ties with Europe, has still not presented its overall offer for the negotiations on the lowering customs tariffs, particularly on agricultural products. Should agriculture prove a major sticking point in the negotiations, it is up to the EU to ensure that any association agreement does not clash with the political objectives of the EU, such as public health, intellectual property and sustainable development.

5.3.4 Given the European strategy of negotiating with these regional blocs, it is surprising that the EU has given priority to Mexico and to Chile, both countries being far from the integrationist model and closer to Washington's plans for hemispheric integration. So, contrary to the Joint Declaration and Action Plan approved at the Rio summit, which sought to steer

EU-LAC relations towards a new strategic relationship, the EU's actions to date have been a reaction to the FTAA project.

5.3.5 Most regional groupings in Latin America wish to develop trade relations with other players on the world stage besides the United States, first and foremost with the EU. By diversifying their external relations and especially by developing political and economic ties with the EU, LAC groups, like MERCOSUR, hope to be perceived as much less peripheral in international affairs. A more active approach by the EU in this regard could make an important contribution to the continuation and consolidation of these regional groupings, and help to change the shape of alliances and increase the clout of LAC countries in the FTAA negotiations. This new strategic partnership could also enable both sides to make their views heard in multilateral forums, when their views and interests coincide.

5.3.6 However, the EESC takes the view that the preferential agreements which the EU will conclude with MERCOSUR, the CAN and the CACM must comply with Article 24 of GATT/WTO ⁽¹⁰⁾.

5.3.7 These future agreements must also take account of the interests of large and small agricultural undertakings, both in Europe and LAC, and respect social harmony in the rural community.

5.4 *The role of organised civil society in EU/LAC relations*

5.4.1 Recognising the EU's strategic commitment to strengthening its relations with LAC, the EESC closely monitors developments in these relations. It has, on many occasions, expressed its views on the need for greater involvement of organised civil society in all stages of the process.

5.4.2 In various opinions on Latin America ⁽¹¹⁾ the EESC has highlighted the need, with regard to political and trade issues, to strengthen the social aspects of relations between the EU and the regions of Latin America and the Caribbean in terms of both respect for human and workers' rights and strengthening social cohesion.

5.4.3 With a view to increasing the involvement of civil society, the EESC plays an active role in the preparation of meetings between representatives of organised civil society in the EU and LAC. Meetings were held in Rio de Janeiro (1999) and Mexico (2002) in conjunction with the summits of heads of state and government from the EU, Latin America and the Caribbean.

5.4.4 To the same end, the EESC is currently preparing a third meeting of organised civil society, to be held in Mexico in 2004 in conjunction with the next summit of heads of state and government.

⁽¹⁰⁾ Article 24 allows several contracting parties to discriminate against others when they enter into arrangements which meet the criteria for a customs union or free trade area. Specifically, the arrangements must satisfy the following criteria: elimination of customs duties and other regulations on the main part of the trade between the participating countries; customs duties and other regulations applicable to third countries or their incidence must not be higher of more restrictive than before the formation of the customs union or free trade area; all agreements providing for the progressive formation of a customs union or free trade area must contain a plan and a schedule for its completion within a reasonable length of time.

⁽¹¹⁾ OJ C 169 of 16.6.1999 (rapporteur: Mr Zufiaur); OJ C 260 of 17.9.2001 (rapporteur: Mr Zufiaur); OJ C 94 of 18.4.2002 (rapporteur: Mr Gafo Fernández). The Committee is currently drawing up an opinion on Social cohesion in Latin America and the Caribbean (rapporteur: Mr Zufiaur).

5.4.5 A good example of this strategy is the meetings held between the EESC and the MERCOSUR Economic and Social Consultative Forum (FCES). The purpose of these meetings is to promote greater involvement of organised civil society in all areas of the bi-regional negotiations conducted in connection with the future association agreement between the EU and MERCOSUR.

5.4.6 At the last meeting between the EESC and the FCES held on 5 and 6 May 2003, the two institutions called on the negotiating parties to strengthen the social aspects of the agreement under negotiation by making explicit reference to MERCOSUR's Workers' Rights Declaration (the Declaración socio-laboral), the EU Charter of Fundamental Rights and the ILO's Declaration of Fundamental Principles and Rights at Work of 1998.

5.4.7 The two organisations have also called for concrete forms of participation in the negotiations on the association agreement, arguing that the success of the process is conditional on the full involvement of representative civil society organisations from the two regions in all areas of discussion.

5.4.8 As regards other institutional meetings, those of sectoral organisations which seek to promote the Transatlantic Dialogue, such as the EU-MERCOSUR Business Forum and the newly established EU-MERCOSUR Labour Forum, and to influence policy decisions that affect their interests are likely to assume growing importance.

6. The strategic partnership between the EU and LAC in the post-Cancun world

6.1 The repercussions of the Cancun failure

6.1.1 Many Latin American countries are currently facing economic difficulties and are desperately seeking economic opportunities. Some of these countries which are also CAN or MERCOSUR members would be willing to give up their regional commitments in favour of accepting the proposals of the Bush Administration and signing bilateral trade agreements. Among these countries are Colombia, Costa Rica, Guatemala, Peru and El Salvador, who are giving serious consideration to this option in the post-Cancun world. These countries, together with Chile and Mexico, are now seeking to dissociate themselves from G21, following the example of El Salvador, which left the group shortly before the end of the Cancun summit.

6.1.2 Despite the first cracks in G21, it is must be emphasised that, following the fiasco of the Seattle Ministerial Conference in December 1999, the world's leading trading powers, the United States, Japan and the EU, now have to rely on countries in the multilateral negotiations, such as South Africa, Brazil, China and India (referred to today as emerging powers), who are in a position to form coalitions, like G21, which are capable of blocking progress in the negotiations. Group 21 is supported in an ad hoc manner and for different reasons by a front of 90 poor, predominantly African, countries, which are not however members of Group 21.

6.1.3 One of the main reasons for setting up a coalition of this kind is the difficulty developing countries have in gaining access to rich countries' markets. The developing countries demand that the Americans, Europeans and Japanese abolish

their agricultural subsidies, which they consider to have a destabilising impact on their economies. Although the EU showed a willingness to compromise by proposing to isolate the use of subsidies which have been demonstrated to have a detrimental effect on farmers in developing countries, it refused to commit itself to a date for eliminating these subsidies, as provided for in the agreement which the Europeans and the Americans signed in mid-August 2003 in preparation for the Cancun summit.

6.1.4 A second source of contention which has emerged alongside agriculture is the issue of the 'Singapore subjects', so called because they were first discussed at the Ministerial Conference in Singapore in 1996. The Singapore subjects (investment, competition, transparency of public procurement markets and trade facilitation) are of great importance for the rich countries but problematic for the developing countries.

6.1.5 At Cancun some developing countries reiterated their opposition to the launch of negotiations on the Singapore subjects and the liberalisation of services. Faced with the dogged determination of the rich countries, the poorest countries, which up till then had always been marginalised in the negotiations because of their minor importance in world trade (less than 1 %), stood their ground on this issue.

6.1.6 The poor handling of the cotton issue reinforced this alliance, which had been formed in Geneva a few months before the Cancun summit. The final text offered nothing concrete on a subject of vital importance for the Sahel countries (Mali, Burkina Faso, Benin, Chad), which are among the world's poorest nations, while the negotiations that opened in Doha were made a 'development round', at the initiative of the EU. The United States refused to make any reduction in the \$4 billion worth of subsidies which it grants to its producers every year. Against this backdrop, the developing countries refused to fall into line.

6.1.7 Given such firmly entrenched positions, the fiasco of the multilateral negotiations in Cancun was inevitable.

6.1.8 The Cancun failure highlights not only the growing capacity of the countries of the South to organise to defend their interests but also a lack of judgement, particularly by the EU with regard to the G21 alliance. The failure of the talks is a further threat to global governance. Since the end of the Second World War, international relations have been regulated by a framework of rules and international treaties. This body of rules, often perceived as a spider's web which, as far as is possible, helps to bring the countries of the world closer together, was built around the UN. Despite its weaknesses and alleged failures, this organisation has succeeded in establishing a minimal degree of international order. From the start, the EU has made multilateralism the keystone of its external relations. The multilateral framework provides, insofar as is possible, a platform for the collective management of the planet.

6.1.9 Today, a shadow of doubt hangs over the global legal architecture and recently there has been a clear trend towards unilateralism, particularly in the USA, which is a serious blow against the international legal order patiently constructed over the last five decades.

6.1.10 The Cancun failure has added fuel to the crisis of global governance. At present, the USA is trying to circumvent the WTO by favouring bilateral alliances with its neighbours. Bilateralism is one of the methods the USA uses to push ahead with the FTAA project. Moreover, the Bush Administration has recently made it clear that, although the war in Iraq had distracted the USA from the LAC region, it would be resuming efforts to pursue the Americas project, a statement that was repeated shortly after the Cancun Ministerial Conference. As was noted in point 6.1, some Latin-American countries would be prepared to conclude bilateral agreements with the USA, thus abandoning their own regional commitments and undermining the Latin-American integrationist efforts supported by the EU.

6.2 *Regional strategies in the Americas*

6.2.1 The USA perceives the FTAA as a way of boosting its own global leadership in comparison with major world trade blocs such as Japan and the EU. The many dimensions of the FTAA project are proof of its scale. It commits countries to going well beyond a simple free trade agreement designed to stimulate trade in goods and services by dismantling customs barriers. It also aims to encompass issues such as investment and investor protection, financial markets, intellectual property, government procurement and competition policy in the discussions.

6.2.2 In reality, an institutional framework is being established, based on law and promoting a profound market-driven economic integration. This means that the plan for integrating the Americas involves both a process of opening up markets and the establishment of new laws, standards and regulations to govern world trade. Given the political and economic power of the United States, it is highly likely that these rules will be based upon American law and practice.

6.2.3 If this scenario were to become a reality, it would only accelerate Europe's loss of influence and complicate matters for European businesses operating in LAC countries.

6.2.4 The entry into force of NAFTA has already had very negative consequences for the EU as it has caused a shift in trade, with European businesses losing half their market share in Mexico. In 1990 Europe still accounted for 14.3 % of Mexican imports, but by 1997 its market share had fallen to 8.5 %. At the same time, the EU only accounted for 3.6 % of Mexican exports, compared to 12.6 % in the early 1990s. By contrast, the USA now accounts for 90 % of Mexican exports and has become the country's main trading partner. Despite the Association Agreement which the EU rapidly negotiated with

Mexico, the lost market share has not been fully recovered. Too accustomed to trading with the United States, Mexico is taking a long time to forge trade links with Europe. The great potential offered by the EU-Mexico agreement has not yet been exploited to the full by the two parties.

6.2.5 The NAFTA experience has shown the extent to which trading patterns can be shifted by such means. This is precisely the type of trade and investment shift which the FTAA could cause.

6.2.6 Even though the FTAA project is behind schedule, the trend to regionalise/continentalise trade in the Americas is already clear, as a result of the various free trade agreements negotiated on the continent. At present, 60 % of exports and 50 % of the total imports of 34 countries are carried out within the Americas, compared to 48 % and 41 % ten years ago. With the exception of MERCOSUR, whose main trading partner is the EU, the rest of the LAC region is strongly dependent on trade with the north of the continent. Almost 50 % of CAN exports, 45 % of CACM exports and 41 % of CARICOM exports go to NAFTA. The FTAA would reinforce this trend.

6.3 *The EU/LAC strategic partnership*

6.3.1 The EU must take due note of the United States' international strategy in seeking to build its own strategy. This does not mean that it should set itself up in opposition to the United States on the international scene but rather that it should pursue the European way of promoting the European model of regional governance to the rest of the world, whilst respecting existing international rules, with a view to ultimately building a multi-regional, and hence more balanced, world. The conclusion of preferential agreements with the various regional groupings in Latin America would enable them to strengthen their internal structures and be integrated as individual players on the international stage.

6.3.2 The EU cannot afford to neglect this world region since it needs partners to redefine its role in world politics. LAC is a natural ally for cultural, political and economic reasons, especially as there is a real desire for closer links with Europe. As the European Parliament report of October 2001 proposes, the EU must no longer make the conclusion of a free trade agreement with MERCOSUR dependent on the finalisation of WTO negotiations⁽¹²⁾. This is especially so as the date set for the conclusion of the Doha Round seems doubtful because of the difficulty the parties are having in finding a consensus for moving forward with the multilateral trade negotiations, as evidenced by the failure at Cancun.

⁽¹²⁾ European Parliament A global partnership and a common strategy for relations between the European Union and Latin America, Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (rapporteur: José Ignacio Salafranca Sánchez-Neyra), 11 October 2001, A5-0336/2001 final.

6.3.3 It is important for the EU to get to grips with the Americas project. If it wants to retain its position on the continent and play a part in developing new rules for international trade, the EU must as a matter of urgency find the political will and the financial resources to match its international ambitions and act as a single voice within international economic institutions (IMF, World Bank, etc.) in order to make its influence felt.

6.3.4 Now more than ever there is a clear need for Europe in the troubled Latin-American/Caribbean continent. The EU continues to be perceived as a social model and political benchmark. Europe must not lose sight of the fact that the great challenge currently faced by LAC countries is to find an alternative economic and social model to the 'Washington consensus' and to the plans to integrate with the USA.

6.3.5 It is clear that multilateral negotiations, eastward enlargement, developments on the international stage since 11 September 2001 and the crisis faced by Latin America have all contributed to a slowdown in relations between the two sides of the Atlantic. However, the EU does not have only economic interests in the region, it is a global player. It cannot therefore do without a consistent overall policy towards this region.

6.3.6 There is a strong demand for change in Latin America, witness for example the many demonstrations and expressions of popular discontent in Andean and South American countries in recent years as well as the election of Luis Inácio Lula da Silva in Brazil and Néstor Kirchner in Argentina, who have expressed their willingness to strengthen the region, even before concluding the FTAA, and to promote relations with the EU, as shown by the visits the two presidents made to various European capitals in July 2003.

6.3.7 This need for Europe has yet to be acted upon, which has provoked expressions of regret within Europe. In fact, some MEPs have been quick to point out that, although Europe has the necessary means to offer LAC an alternative to the FTAA, the political will has not been forthcoming. This was reiterated at the Sixteenth EU-Latin America Inter-parliamentary Conference in May 2003.

6.3.8 More emphasis must be placed on social and environmental aspects of relations. The EESC endorses Commissioner Patten's initiative, proposing that social cohesion⁽¹³⁾ be one of the main themes of the discussions at the next EU-LAC summit (Mexico, 2004).

6.3.9 Given the rise in unemployment, accelerating impoverishment and social injustices that LAC societies have experienced over the last ten years, it would be useful to include a

social clause – as well as a clause on the environment – in the strategic partnership to ensure that the trade agreements signed with Europe help reduce poverty and the extreme inequalities which mark the region, as well as mitigating the potential collateral social risks of trade liberalisation. The purpose of the social clause would be to enable LAC governments to use EU funds for income redistribution and thus combat the social disparities that are a scourge in this part of the world.

6.3.10 Moreover, as was pointed out above, the EU and LAC have so far found it difficult to define a real common agenda. There is a danger that the differences in agendas will continue at the next EU-LAC summit in Mexico. While Commissioner Patten wants to put the spotlight on social cohesion at this third summit, so as to help eliminate social inequalities and poverty in the LAC region, the latter believe that it is through better access to international trade that they can return to growth and thus fight poverty. As long as the Europeans and Latin Americans are unable to agree on a common agenda, or at least reduce the differences in priorities, they will experience many difficulties in trying to move forward in the ambitious strategic partnership initiative proposed at Rio. Although the EESC strongly endorses the social cohesion initiative, the EU must also pay due regard to the priorities of its partners so as to ensure the success of the Mexico summit. Mindful of the post-Cancun situation, the EU must not only devote itself to social issues, which enable it to make its mark on the international scene, but also respond to the expectations of LAC, which are to conclude preferential agreements with the EU. Europe must seize the opportunity offered by the Mexico summit to give much-needed impetus to the EU-LAC strategic partnership, some months before the completion of the FTAA negotiations.

7. The EESC's proposals

7.1 The Cotonou Agreement, which was concluded between the EU and the African, Pacific and Caribbean States in June 2000, requires dialogue to be conducted between the institutions and NGOs in a manner whereby the State and civil society have a complementary role in action taken in the development field. The White Paper on European Governance, presented in 2001, also underlines the importance of civil society for defining policies with an international dimension.

7.2 Therefore it is within a framework of participation by civil society that LAC must conduct its relations with the EU, both in the cooperation programmes and in the negotiations on agreements under preparation.

⁽¹³⁾ Patten C., 'Latin America: what has gone wrong? An EU policy proposal focused on social cohesion', Communication presented at the EU-Rio Group Interministerial Forum, Vouliagmeni (Greece), 28 May 2003.

7.3 Up till now, there has been no real, basic strategy for involving civil society in the negotiations between the EU and LAC; participation has been largely symbolic. Apart from meetings between the EESC and organised civil society in LAC countries, most notably at the summit of heads of state and government, very little has been done in this regard.

7.4 Given that active citizenship is a key aspect of consolidating democracy and an essential basis for sustainable development, and that it is therefore vital to be able to rely on civil society to provide legitimacy to the EU-LAC strategic partnership and avoid the mistakes made in the FTAA project, so heavily criticised by the societies of the Americas, the EESC makes the following proposals:

7.4.1 Defining a clear strategy

7.4.1.1 In a more complex world where there are an increasing number of risks, the European Union must have a global strategy based on the following values: peace, sustainable development and human rights, while seeking to build a fairer, more balanced world.

7.4.1.2 These values and this objective must be borne in mind in relations with Latin America and the Caribbean so that the people of this region understand that agreements with the EU can be a key factor in promoting their own development and their place on the world stage.

7.4.1.3 To give practical effect to this strategy, it is important that the EU increase its financial resources accordingly.

7.4.1.4 Thus, in the negotiations under way with MERCOSUR, the CAN, the CACM and CARICOM, the EU must, over and above trade and customs-related issues, take the above-mentioned global strategy into consideration.

7.4.1.5 The EU must also provide new impetus to the EU-LAC dialogue, not only because it represents one of the three pillars of the association agreements it has signed, or is in the process of signing, with LAC countries or regions, amongst others, but also, and above all, because it is the component which differentiates the association project which the EU is putting together with LAC from the FTAA. To achieve this, it is vital for the European ministerial presence at EU-LAC inter-ministerial fora, along the lines of the EU-Rio Group meetings, to be equal to the task in hand: bringing about a strategic bi-regional partnership.

7.4.2 Establishing an action plan and timetable

7.4.2.1 Given the failure of the WTO negotiations at Cancun and the North American decision to carry out negotiations aimed at achieving the timetable envisaged for the FTAA, the European Union must as soon as possible draw up a new action plan and timetable which are more in line with the new circumstances.

7.4.2.2 In particular, the European Union must consider the need for a new negotiating mandate which is not dependent on the conclusion of the Doha Round.

7.4.2.3 The EESC would like to see the Association Agreement with MERCOSUR signed (or at least announced) during the May 2004 summit of heads of state and government to be held in Guadalajara, Mexico.

7.4.3 Promoting greater transparency and information

7.4.3.1 Transparency in the negotiations and information about successes and obstacles encountered are essential for civil society to be involved in all stages of the negotiation process.

7.4.3.2 Europe must take initiatives with all sectors of civil society, explaining the thinking behind its proposals and the concessions it is ready to make to reach an agreement with the parties involved.

7.4.4 Supporting steps to strengthen civil society organisations

7.4.4.1 The European Union has broad experience in civil dialogue, the EESC being one of the most notable examples of this.

7.4.4.2 Without any intention of exporting its own models, the EU must support the establishment of similar institutions in regions which do not already have them or where they are less effective.

7.4.4.3 Likewise, support for more or less institutionalised contacts and relations with organisations on both sides of the Atlantic seems to offer a way of bringing the two sides together which is very positive for the European strategy.

7.4.5 Compiling impact studies and fostering policies to combat poverty and promote employment

7.4.5.1 All integration processes have repercussions affecting people's everyday life, particularly those who are the most vulnerable.

7.4.5.2 With this in mind, the EU must carry out studies into the effects of integration and the opening up of markets and, consequently, provide financial support for policies to counter poverty and social exclusion and promote employment.

7.4.6 Promoting a social cohesion policy

7.4.6.1 The European Union should not only view the agreements with LAC as a chance to gain access to new markets, but also as an opportunity for the economic and social development of the populations concerned.

7.4.6.2 The whole population must benefit from these agreements, not only those who are already benefiting. It would be a strategic error with the most damaging repercussions if the EU were to be linked to a policy which aggravated economic and social inequalities in LAC.

7.4.6.3 The requirement for a social cohesion policy backing up the whole process of agreements already negotiated, or in the process of being so, must be the component which differentiates the association project which the EU is putting together with LAC from the FTAA.

7.4.6.4 The EESC welcomes the Commission's initiative proposing that social cohesion be the topic for discussion at the Mexico summit.

7.4.7 Stepping up the EESC's role in transatlantic civil dialogue

7.4.7.1 In the protocol signed between the European Commission and the EESC in 2001, and in the wake of the

Nice Treaty, the EESC is recognised as the leading body for dialogue between the European institutions and civil society not only in Europe, but also with regard to organised civil society in non-Member States.

7.4.7.2 The EESC has made use of every opportunity to carry out this role, but acknowledges that it can – and must – go further in the dialogue with similar bodies in LAC and seek other ways of cooperating more closely and effectively.

7.4.7.3 So, at a key moment in relations between the EU and LAC, the EESC must:

- step up its links with MERCOSUR's ESCF (Economic and Social Consultative Forum);
- gain a better picture of the situation of organised civil society in other LAC regions; and
- involve civil society in LAC in its opinions on Latin American and Caribbean issues.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on 'Social cohesion in Latin America and the Caribbean'

(2004/C 110/12)

On 1 July 2003, in a letter from Mr Christopher Patten, the Commission asked the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on Social cohesion in Latin America and the Caribbean.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 February 2004. The rapporteur was Mr Zufiaur.

At its 406th plenary session of 25 and 26 February 2004 (meeting of 25 February), the Economic and Social Committee adopted the following opinion by 94 votes to 5, with 11 abstentions.

Summary

i. The present exploratory opinion, requested by Commissioner Patten, sets out to express the views of European, Latin American and Caribbean organised civil society on social cohesion in Latin America and the Caribbean (LAC). It will focus in particular on how civil society organisations can contribute to this objective by means, for example, of social consultation, developing social protection systems or promoting corporate social responsibility. To this end, the EESC opinion should be fleshed out by contributions from Latin American and Caribbean organisations, and by the outcome of the proceedings at the third meeting of EU-Latin America civil society to be held in Mexico City in April 2004.

ii. The opinion does not seek to define the concept of social cohesion, but rather to point out its various dimensions – political, economic, social and territorial – so that account is taken not only of the usual macroeconomic factors, but also of others, such as education, institutions or access to essential public assets: these are fundamental to any analysis of the degree of social cohesion in LAC.

iii. As the opinion explains, the lack of social cohesion in LAC countries is most clearly illustrated by poverty and inequality. Although poverty figures have improved in relative terms over the last decade (affecting 48 % of the population in 1990, falling to 43 % in 2002), inequality has continued to worsen to the point where it has become chronic. Although the picture varies widely, Latin America as a whole is now the most unequal part of the world. Physical poverty is aggravated by intangible forms of poverty (access to education, spread of opportunities) and legal poverty (effective inequality before the law, weak civil, political and social citizenship and general insecurity in terms of life events). This generates violence, social breakdown and alienation, and undermines the credibility of institutions and the democratic system. A recent UNDP report (Report on democracy in Latin America 2004) highlighted the danger that the perception among Latin Americans that their democracies are irrelevant could spread.

iv. The lack of solid pillars which underpin any advanced society (infrastructure, education, health and tax systems, justice, social protection, framework for labour relations, etc.) is a common feature of all Latin American and Caribbean countries. The UNDP report even goes so far as to describe the 'absent State' as a typical characteristic of many Latin American countries. The education system's low quality, unequal access and dissociation from the economy, the inadequacy and unfairness of the region's prevailing tax systems, and the lack of universal social protection schemes in most of the region's countries are three of the clearest expressions of this state of affairs. The result is drastic inequality and the exclusion of most of the population from cover under existing systems.

v. The opinion argues that one of the key factors to boosting social cohesion lies in achieving greater efficiency and democratisation within the economy, which is held back by the extent of the informal economy, the small size of markets, lack of economic diversification, underdeveloped infrastructure – especially in transport and communications – delay in agrarian reform, the lack of financial resources and the region's ensuing external dependence in this area, the penury of different forms of social economy, poor employment quality and protection, and the virtual absence of labour relations systems based on compliance with basic labour rights, a balanced approach and trust.

vi. Similarly, the opinion points to an aspect of key importance to the EESC: securing higher levels of democracy, human development and governance in LAC depends on strengthening civil society organisations and involving them more closely in decision-making. This is a prerequisite for successfully boosting political democracy, achieving fairer distribution of material and intangible wealth and facilitating the integration into political, economic and social life of sectors of society and minorities, such as indigenous populations, who have been excluded for centuries.

vii. Lastly, the opinion makes a series of proposals on the contribution which EU-LAC relations can make to social cohesion in this part of the Americas. These are based on two starting-points. Firstly, the strategic importance for the EU of its relations with Latin America and the Caribbean, both in order to boost its role in world affairs and to foster a new international order and fair, solidarity-based governance of globalisation, together with the importance for LAC of its relations with the EU, with a view to achieving balanced integration in the area and strengthening its negotiating position in the international arena. Secondly, the conviction that, as well as helping to increase social cohesion in LAC through development aid and cooperation, the EU must place this objective at the heart of all its relations – in all spheres – with Latin America and the Caribbean.

viii. Some of the opinion's suggestions are geared to strengthening organised civil society (support for projects to boost the social dimension in regional integration processes; support for joint EU-LAC forums bringing together socio-occupational organisations; introducing a budget line for strengthening socio-economic organisations; setting up a programme to protect those working for human rights in LAC, etc.); others aim to have an impact on developing the productive system and establishing democratic frameworks for labour relations and social dialogue (transfer of European know-how on social consultation; encouragement for the development of infrastructure to attract foreign direct investment; setting up an SME fund for Latin America; joint development plans with the countries of origin of migrants from LAC to the EU; drawing up a charter of the principles of corporate social responsibility). Some initiatives aim to reduce the external debt burden and finance development (formulas for renegotiating, relieving or cancelling external debt by means of programmes for poverty reduction, environmental or educational cooperation, recommendations to attempt to prevent rating agency dependence). A number of proposals seek to reinforce social protection systems (transfer of European know-how, support for international agreements on migration, support for management and specialist training). Lastly, a series of suggestions are also put forward concerning development aid and development cooperation: stepping up coordination between European donors, adjusting aid more closely to the stated objectives, trying to ensure that the recipient countries take the basic decisions on where to intervene, and helping the most needy countries to facilitate and strengthen their ability to act autonomously in multilateral negotiations. The overall priority should be with provision of training, and strengthening of institutions.

1. Introduction

1.1 On 28 March 2003, Commissioner Patten unveiled to the members of the Rio Group meeting in Vouliagmeni, Greece an initiative aimed at boosting social cohesion in the countries

of Latin America. The starting point for the initiative – which is set to be a central theme at the summit of EU-Latin America and Caribbean Heads of State and Government to be held in Guadalajara (Mexico) on 28 and 29 May 2004 – is the observation that the benefits of democratisation and economic development achieved during the 1990s have failed to reach large sectors of the population, who continue to suffer from inequality and exclusion. This constitutes a barrier to further economic development and is a source of instability across the region.

1.2 The EU is ready to back a new consensus between the governments of Latin America and the Caribbean, which must take official form at the Mexico Summit with a firm commitment to achieving a number of targets relating to social, tax, economic development and social expenditure policy amongst others. The EU plans to contribute to this objective, which is an aspect of particular importance for the strategic association between the two regions, with a EUR 30 million programme aimed at transferring experience and know-how in defining and implementing social policies.

1.3 To kick-start this initiative, on 5 and 6 June 2003 the Commission and the Inter-American Development Bank (IADB) organised a seminar on Social Cohesion in Latin America and the Caribbean, the objective of which was to open a broad debate on the scope of the problem, its negative impact on development and stability, different policy options and steps that must be taken by Latin American governments to tackle problems arising from the lack of social cohesion, such as inequality and social exclusion.

1.4 On 1 July 2003, Commissioner Patten asked the EESC to draw up an exploratory opinion on social cohesion in Latin America in preparation for the third meeting of EU-Latin America civil society to be organised by the EESC, in conjunction with its Latin American and Caribbean counterparts, in Mexico on 13, 14 and 15 April 2004.

1.5 In Commissioner Patten's view, the opinion should reflect the views of Latin American, Caribbean and European civil society organisations on social cohesion in LAC, build on documents drawn up in connection with the above-mentioned seminar in June 2003, take account of the role currently played by the social partners in Latin America and the Caribbean, and analyse – together with Latin American and Caribbean civil society organisations – how the social partners can contribute towards greater social cohesion in their countries. Possible answers could be social dialogue, joint management of social protection systems and the implementation by European companies that invest in Latin America of a policy of social responsibility⁽¹⁾ that simultaneously improves business competitiveness and social cohesion for all those concerned.

⁽¹⁾ See letter from Commissioner Patten to President Briesch on 1 July 2003, which refers to 'the role of European businesses that invest in the Latin American and Caribbean countries in demonstrating that 'social policies' practised by companies can be beneficial for competitiveness'. See also the EESC opinion of 20 March 2002 on the Green Paper: Promoting a European framework for corporate social responsibility (OJ C 125 of 27 May 2002), which describes the corporate social responsibility concept.

2. The concept of economic and social cohesion

2.1 The concept of economic and social cohesion is open to many interpretations. For the purposes of this opinion, we start with the concept that has been devised by the European Commission in its successive reports on economic and social cohesion in the EU, incorporating in the analysis a number of aspects specific to Latin America, such as hunger, indigenous peoples and informal employment, together with greater social determinism in access to equal opportunities.

2.1.1 According to Enrique Iglesias, IADB president, in order to achieve greater social cohesion, States need to be provided with the mechanisms and institutions to reduce inequalities and divisions. From this perspective, the concept of social cohesion is not limited to a set of socio-economic indicators, but encompasses various dimensions.

2.2 *The political dimension*

2.2.1 Social cohesion firstly has a fundamental political dimension which ranges from the quality of democratic institutions to grassroots involvement in public affairs, encompassing protection of social ties, establishment of more equitable societies and of social protection and solidarity systems, conservation of cultural heritage and natural resources, and active participation of economic and social stakeholders in economic and social life.

2.2.2 Improving social cohesion requires intervention by the State and public institutions, in terms of effective legislation and action: developing infrastructures, high-quality public services, independent courts, labour relations standards, etc. In short, public bodies have an essential role to play in promoting rights and civic, political and social citizenship. Social cohesion is therefore first and foremost a political issue.

2.3 *The economic dimension*

2.3.1 The economic dimension of social cohesion relates to wealth and its distribution, the growth of the production base (e.g. access to basic resources, increase in factors affecting productivity, favourable environment for the growth of investment and SMEs, etc.), research, development and innovation, the rate of employment and the quality of jobs, pay levels and existing pay differences. Among the obstacles to achieving these objectives are, in the case of the Latin American and Caribbean countries, the dual nature of the labour market, divided between formal and informal employment, the lack of productive investment and low skill levels among the region's human resources. High levels of economic inequality, such as those characterising Latin American societies, hinder economic

development, resulting in economic backwardness and social de-structuring.

2.3.2 At the same time, there will be no major improvement in social cohesion in the LAC countries without sustained economic growth and social development. To this end, a greater degree of macroeconomic stability is needed – without this standing in the way of considerable improvements in social equity – as well as structural reforms to energise productive resources in the region, in particular providing company start-up incentives, training employees, distributing wealth more fairly and creating democratic frameworks for labour relations.

2.4 *The territorial dimension*

2.4.1 Social cohesion is intrinsically linked to territorial cohesion: the ability to generate synergies between all players in a given area; sufficient provision of all types of infrastructure, including new information and communication technologies; and access for all to essential public services (ranging from health and education to water supplies, transport, electricity and housing). Inequalities are reflected on the ground, between the centre and outskirts, between urban and rural areas, between coastal regions and the interior, and concerning sectors of society such as indigenous peoples, new migration patterns, etc.

2.5 *The social dimension*

2.5.1 The fair distribution of wealth, of the various sources of material and non-material wealth and of income, is inherent to the concept of social cohesion. The characteristic feature of the European social model (in terms of the common features of the various models co-existing in Europe: a high level of social protection expenditure, a regulatory role for the State and a key role for social stakeholders) has been the attempt to link economic and social development. In other words, defining the rules of wealth distribution (labour and social standards, social protection systems for old age, illness, unemployment, family protection, collective bargaining and the tax system) for the benefit of all and without waiting for economic results and such wealth to be produced.

2.5.2 The social dimension of the concept of social cohesion also relates to the very topical issue of horizontal inequality, which is related to discrimination on the grounds of gender, racial or ethnic origin, or other aspects identifying a specific social group. The main principles underpinning social cohesion are therefore security in terms of life events and guaranteed rights for all.

2.5.3 An all-inclusive interpretation of the concept of social cohesion, such as the one proposed in this opinion, opens up a wide spectrum of possibilities for strengthening it, whether through policies to be developed by Latin American and Caribbean countries or through EU-LAC relations. Firstly, material support and the experience acquired in the EU must be used to bolster strategic vectors that help raise social cohesion levels in Latin America and the Caribbean. Secondly, EU-LAC relations, as well as earmarking resources for development cooperation, ensure that the aim of promoting social cohesion in Latin America and the Caribbean is built into exchanges and commercial, educational, technological and social policies. This was upheld by the first two meetings of EU-LAC civil society organisations and expressed recently by a number of Latin American leaders, such as President Lagos of Chile, President Lula da Silva of Brazil and President Néstor Kirchner of Argentina.

3. The social deficit in Latin America

3.1 Any analysis of Latin America and the Caribbean must begin by acknowledging the considerable economic, political and social heterogeneity of countries in the region. However, while we are aware of the risk of simplification, this opinion will lay down a number of common guidelines for analysing economic and social cohesion levels in the region as a whole and drawing conclusions on how to address this cohesion deficit, which to a greater or lesser extent affects all these countries.

3.1.1 This opinion will analyse the situation in Latin America and the Caribbean on three levels: the socio-economic sphere, the political sphere and social discontent indicators.

3.2 *The socio-economic sphere*

3.2.1 Latin Americans consider poverty and inequality to be the worst problems affecting them. According to Latinobarometer, more than half the population considers the major problems affecting the region to be unemployment, low wages and poverty. In 2003 almost a quarter of Latin Americans declared that their income did not cover their basic needs. These problems are considered to be more important than other problems such as corruption and crime.

3.2.2 Poverty

3.2.2.1 According to the Economic Commission for Latin America and the Caribbean (ECLAC)⁽²⁾, in 2002 the poverty level in Latin America and the Caribbean reached 43.4 % of the population while the level of extreme poverty reached 18.8 %. In absolute terms, this corresponds to 220 million inhabitants and 95 million inhabitants respectively. Forecasts for 2003 predict a 0.5 % rise in the number of poor people, which means that for a third consecutive year LAC poverty levels have risen. Between 1997 and 2002, the level of poverty stabilised at around 43.5 % of the population; however, in absolute terms, the number of people with an insufficient standard of living rose from 204 million to 220 million. This is due to

poor economic growth in the past six years and, in general, to what has also been described by ECLAC as the 'lost half-decade'.

3.2.2.2 Poverty is more pronounced in rural areas, where the poverty level is twice that of urban areas (59.1 % compared to 26.1 %). However, in absolute terms, and owing to the growing rural exodus, poor people are distributed equally between the rural and urban population. Poverty is concentrated in homes where the head of the family works in agriculture or non-financial urban services (35.5 % and 29.1 % of the region's poor, respectively). Internal inequalities are also particularly blatant in many countries such as Brazil, Guatemala or Colombia, where the lack of territorial cohesion is a factor in stoking political violence.

3.2.2.3 Poverty affects women more than men. The percentage of women receiving no income is higher in both urban areas (45 % compared to 21 %) and rural areas (53 % compared to 20 %). In urban areas, the percentage of poor homes where the head of the family is a woman is higher than the percentage of homes where the head of the family is a man (30.4 % compared to 25 %). Poverty is also much more pronounced among people of indigenous origin or African descent than for the rest of the population. A number of studies on Brazil, Bolivia, Guatemala and Peru show that the poverty level in these groups is twice that for the rest of the population.

3.2.3 Distribution of income

3.2.3.1 The richest decile of the LAC population receives 48 % of total income, while the poorest decile receives only 1.6 %. Over the past three years, inequality, as measured by the Gini index, rose in Latin America and the Caribbean. An ECLAC study of eleven countries in the region (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Mexico, Nicaragua, Panama, Uruguay and Venezuela) reveals an increase in the concentration of income in all these countries bar Mexico. However, it must be remembered that the distribution of income varies considerably from one country to another and is not related to the level of industrial development.

3.2.4 Hunger

3.2.4.1 In general, hunger (measured as the percentage of the population suffering from malnutrition) fell in Latin America and the Caribbean between the period 1990-1992 and 1998-2000, affecting on average 11 % of the population. However, it must be remembered that figures vary considerably from one country to another. The case of data for 1998-2000, for example, includes countries (Bolivia, Guatemala, Haiti, Honduras, Nicaragua and the Dominican Republic) where more than 20 % of the population suffered malnutrition, together with others (Argentina, Chile and Uruguay) where the figure was less than 5 %. According to ECLAC, malnutrition is caused - among other things - by unequal access to food supplies, scarce supplies and poor distribution of income.

⁽²⁾ Social Panorama of Latin America 2002-2003, ECLAC (2003), Santiago de Chile.

3.2.4.2 Malnutrition affects children in particular and merits special attention given its long-term consequences. Although child malnutrition indicators improved for the period 1995-2001, they are still very high, with chronic and severe child malnutrition affecting 19.5 % of under five-year-olds.

3.2.4.3 Chronic child malnutrition is the main way in which under-development and poverty is passed from one generation to another, as a lack of food during the most critical years of a child's physical and psychomotor development seriously compromises their intellectual capacity, performance at school, productive capacity and social integration, and has a major impact on society's potential for development.

3.2.5 Education and access to education

3.2.5.1 Illiteracy levels are high compared to developed countries, but vary considerably across the region. In some countries, such as Argentina, Chile, Costa Rica, Cuba and Uruguay, the illiteracy rate is less than 5 % among over fifteen-year-olds. However, this rate exceeds 20 % in El Salvador, Guatemala, Haiti, Honduras and Nicaragua. In general, illiteracy is higher among women.

3.2.5.2 Access to basic education (pupils between seven and twelve years old) is very high in urban areas, with levels exceeding 90 % (although regular attendance in classes or over the school career is another matter: according to ECLAC ⁽³⁾, in 2000 almost 15 million young people between fifteen and nineteen years old, out of a total of 49 million, left school before completing twelve years of studies). School attendance levels are always much higher in higher income families, particularly in countries with a higher concentration of income and less relative development, such as Colombia, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic. The relation between access to education and income level becomes even more apparent as the child grows older, as they are often required to work to supplement the family's income. In most LAC countries, the level of school education is higher among women than men (for all income levels), in particular in the 20 to 24-year-old age group.

3.2.5.3 Educational problems in the LAC countries are concentrated in three aspects. Firstly, the quality of education on offer which, in areas such as primary and middle education, is very low, reflected in high drop-out and failure levels, low educational performance by pupils, poor school equipment, and low teacher motivation. Secondly, great inequalities exist in access to education: imbalances in enrolment rates and performances between urban and rural areas, in terms of ethnic origin or even gender are obvious. Lastly, there is a serious mismatch between the educational and training system and labour market needs, not only on account of the shortcomings of the labour markets, but also due to the weaknesses of, amongst others, middle and vocational education.

⁽³⁾ Social Panorama of Latin America 2002-2003, ECLAC (2003), Santiago de Chile.

3.2.6 Health

3.2.6.1 Life expectancy varies from 59 in Haiti to 77 in Costa Rica and Barbados, with infant mortality ranging from 7 per thousand in Cuba up to 59 per thousand in Haiti ⁽⁴⁾.

3.2.6.2 In comparative terms, the life expectancy of people in Latin America is eight years below that for a European country such as Spain. The health gap is also reflected in the relatively high mortality rates which persist in the region, being seven times higher than those in Spain or Germany.

3.2.7 Social expenditure and social protection

3.2.7.1 Average social expenditure in Latin America and the Caribbean (under four headings only: education, health, social security and assistance, and housing) reached 13.8 % of GDP in the period 2000-2001, a 1.7 % rise on the period 1996-1997. Expenditure is distributed as follows: 4.2 % on education, 3.1 % on sanitation, 5.1 % on social security and assistance, and 1.4 % on housing and other areas. Average per capita public social expenditure is almost 30 times lower than the EU average.

3.2.7.2 Throughout the 1990s, LAC social expenditure followed a cyclical pattern, rising in periods of growth and falling in periods of economic crisis. For this reason, although public social expenditure in the region has not fallen, since 1998 it has increased at a slower rate owing to the slowdown in growth in the region.

3.2.7.3 In comparative terms, spending on social protection systems (old age, illness, disability) provides a very low level of cover. In the vast majority of LAC countries, only 10 to 15 % of the relevant population benefits from an adequate social protection system; even in the best-equipped countries cover does not rise beyond 50 % of the working population. A worrying downward trend has emerged as a result of the burgeoning informal economy.

3.2.7.4 The reforms of social protection systems carried out over recent decades – privatisation of pension and health scheme management and replacement of distribution-based funding systems by individual capitalisation – have failed to secure the expected results, undermined state control and revenue-raising capacity, boosted informal employment and are leaving a growing majority of the population without cover by protection systems. The increasing intra-regional migration flows, produced by the on-going integration processes, are also helping to generate pockets of poverty and social exclusion given the lack of recognised social protection mechanisms.

3.2.7.5 The Ibero-American Heads of State and Government have declared 2004 as the Ibero-American Year of Disabled Persons. It is estimated that there are between 45 and 65 million disabled people in Latin America, most of whom suffer from social exclusion and poverty. This is often the case for their families too.

⁽⁴⁾ Meeting the Millennium Poverty Reduction Targets in Latin America and the Caribbean, ECLAC, Santiago de Chile.

3.2.8 The labour market

3.2.8.1 The labour market in Latin America and the Caribbean is going through a period of deteriorating labour relations owing to a slowdown in economic growth in the last six years. Urban unemployment rose to 9.2 % in the first quarter of 2002, the highest rate registered in the last twenty-two years. More than 70 % of the region's households depend exclusively on income from employment; one in every two workers is in receipt of pay levels placing them on the edge of poverty. A growing majority of the working population is not covered by labour legislation; cover steadily declined throughout the 1990s.

3.2.8.2 Between 1990 and 2002 ⁽⁵⁾, there was a growing trend towards informal employment (seven out of ten jobs created since 1990 have been in the informal sector and informal employment accounts for 46.3 % of Latin America's total employment) and precarious working conditions (only six out of ten new jobs in the formal sector and two out of ten in the informal sector provide access to some form of social cover). It is estimated that 93 million LAC workers are without 'decent work' – 30 million more than in 1990 (meaning the 50.5 % of the working population who, lacking proper employment, work in the informal sector, or who work in the formal economy but without social benefits or under precarious conditions).

3.2.8.3 Labour relations are marked by patchy and incomplete recognition of basic labour rights (ranging from countries with labour relations systems nominally comparable to those in Europe to others where dozens of trade unionist activists are murdered each year in the course of their work), under-developed systems for collective bargaining and consultation, low levels of trade union membership (only 14 % of the urban work force) and few employers' associations, and mistrust and conflict as the form in relations between workers and employers.

3.2.9 Migration

3.2.9.1 Migration has a huge impact – both positive and negative – on the socio-economic situation in LAC countries. The greatest migration flows from ALC countries have been northwards, i.e. towards the US and Canada, though in the last decade there have also been considerable flows towards the European Union.

3.2.9.2 The positive aspect of migration is that immigrants send money back to their countries of origin, often providing an important source of foreign currency for the country and alleviating the lack of resources in many sectors of the population.

3.2.9.3 However, migration also has many negative aspects. Here we refer only to macroeconomic aspects and do not touch upon the effect that abandoning country and being far from family has on people. The primary negative aspect is the loss of human capital, as it tends to be the most highly

educated and enterprising people with the most initiative who emigrate. Moreover, migration flows over a long period of time create a certain 'culture of emigration', encouraging the idea that only by emigrating can a person prosper. This undermines the economic dynamics of society and favours social dis cohesion.

3.2.10 Growth, development and structural reforms

3.2.10.1 Economic conditions in the region are not ideal for ensuring sustained economic growth. The major improvements in recent years in macroeconomic stability in many countries in the region is an essential, albeit insufficient, step towards ensuring higher and more stable rates of economic growth.

3.2.10.2 The external side of Latin American economies continues to seriously hinder sustained growth. These economies are extremely dependent on external capital and this considerably limits internal development. Because of the volatile nature of these capital flows, which are at the mercy of international crises or changes in the investing countries' economies, local economic stakeholders are excluded from the continuity and growth of productive investment. Such dependency also means that the cost for Latin American countries of financing their debt – the other area in which they suffer from external restrictions – is constantly fluctuating. That Latin American economies are so vulnerable to the external economic cycle is one of the most significant factors preventing them from being more dynamic.

3.2.10.3 However, the real reason for this high degree of external dependency and vulnerability is the weakness of local institutions themselves, the lack of diversification in Latin American economies, the burden of external debt and the inability to generate their own financial resources (savings). In this context, considerably strengthening the internal market (not to be confused, simplistically, with substituting imports) could open up new possibilities for economic development in Latin America.

3.2.10.4 In this light, boosting regional economic integration would help create larger markets, creating economies of scale and thereby providing an incentive for local production bases to expand and for attracting foreign investment.

3.2.10.5 At the moment, the region's production base is extremely fragmented, characterised by a highly informal institutional framework and forced to operate in local markets which are often very small and enjoy some kind of protection from external competition. However, before subjecting these markets to external competition, we need to address why their productivity levels are so low.

3.2.10.6 The growth of small and micro enterprises faces insurmountable obstacles owing to an inadequate business culture, a lack of human capital, and the legal uncertainty of the institutional environment in which they operate. Moreover, the financial system has evolved little and its brokerage instruments are poorly developed.

⁽⁵⁾ Good Jobs Wanted: Labor Markets in Latin America (<http://www.iadb.org/res/ipres>).

3.2.10.7 In the same way, the unfair distribution of productive assets (from land to physical and human capital) exacerbates existing obstacles facing the business community in Latin America.

3.2.10.8 The expansion of business activity in Latin American economies is a pre-requisite for achieving sustained growth. However, reforms in this area come up against indifference among some business circles, a lack of credibility or continuity in government industrialisation or agrarian reform plans, the absence of political and social consensus on progress to a democratic society and, sometimes, resistance from certain local elites, who are more interested in how the profits from dismantling the now obsolete industrial State will be distributed than in creating a competitive industrial and productive fabric.

3.2.10.9 In this context, the social economy can play a key role as a factor that generates social fabric, economic development and social cohesion. It is also a valuable solution in times of economic crisis and industrial restructuring (e.g. when failing companies are taken over by their own employees) and an effective alternative for fostering local development (e.g. local development cooperatives, etc.).

3.3 *The political sphere: political elements that define the quality of institutions and machinery for political participation.*

3.3.1 Despite the emergence of democratic systems across practically the whole of Latin America, social citizenship has not increased (employment, welfare provision for old age, illness, unemployment and disability, education, housing, equal opportunities, civic security, better economic level, access to new means of information and communication). Many citizens have no basic civil and social rights. The inability or failure of LAC States to safeguard fundamental rights - such as fair taxation, access to justice, protection from different forms of violence, universal social protection systems, involvement of citizens in issues affecting them, etc. - has led some people to speak about absentee States and low-intensity citizenship.

3.3.2 The social fabric of Latin America is very weak. Civil society is not very well organised and the role of the institutions does nothing to improve this situation, as the political elite seems to have serious reservations about allowing civil society to participate in them. This simply results in a weak and vulnerable social fabric. It is, nonetheless, essential to be able to call on efficient and socially credible social partners and effective cooperation between the public and private spheres of action, in order to make social cohesion policies more effective.

3.3.3 Equal opportunities are created through social policies, i.e. investment in health, education, employment and housing. These policies also contribute towards a fairer distribution of income and enable people to be more actively involved in political decisions. This in turn strengthens democracy and governability.

3.3.4 In this context, LAC citizens are noticeably switching off from politics. This is expressed through increasing demands on democracy in terms of satisfying material needs and rising electoral absenteeism. This is particularly true of young people, who demonstrate a considerable level of political disaffection with political parties and other political organisations and institutions. According to a UNDP report, 54.7 % of Latin Americans would be prepared to accept an authoritarian government if this meant an improvement in the economic situation.

3.4 *Social discontent indicators*

Following on closely from the above, an analysis of social fragmentation in Latin America and the Caribbean requires knowledge about the levels of social dissatisfaction. It also requires considering different social expressions of rejection, e.g. urban violence, delinquency, and the emergence of parallel societies and 'mafia legality'.

3.4.1 *Discontent with institutions*

3.4.1.1 According to Latinobarometer ⁽⁶⁾, people's trust in all institutions, but especially in political institutions, is falling. There is no doubt that this affects the performance of these institutions and has a negative impact on citizens' participation in the management of public affairs.

3.4.2 *Equality before the law*

3.4.2.1 This seems to be closely related to the evolution of social and economic equity in the region and to the lack of fundamental civic and political rights. For example, more than 50 % of Latin Americans interviewed by Latinobarometer said that the most important factor for determining confidence in institutions was 'whether they treat everyone as equals' (as well as wealth distribution issues, this may be influenced by discrimination - including in legally recognised forms - against certain social or ethnic minorities: this can help explain the rise of indigenous-population movements in several countries of the region and the survival of phenomena such as forced labour and slavery).

⁽⁶⁾ <http://www.latinobarometro.org>.

3.4.2.2 Although all the countries in the region have ratified international conventions on human rights, the number of human rights violations remains high. These can no longer be attributed to the actions of dictatorships, but to widespread violence practised by individual groups (e.g. drug traffickers and private militias, sometimes in collusion with repressive State apparatuses). It is therefore essential that a respected and autonomous judicial system, along with other related policies, is reinforced so that citizenship can be based on the rule of law. This must be done in such a way as to eliminate one of the major contradictions in LAC democracies, i.e. the gap between legislation and its practical implementation.

3.4.3 Corruption

3.4.3.1 Latin Americans' faith in democracy as a form of government fell steadily throughout the 1990s⁽⁷⁾. There is a clear correlation between the consolidation of institutions and the degree to which people accept them. However, for the latter to occur, the transparent management of public affairs is essential.

3.4.3.2 Political and economic corruption is a phenomenon that is found in almost every country in the world and, it must be remembered, always has two faces: the corrupted and the corrupter. Such corruption is considered to be one of the most serious problems affecting the region. This may explain the increasingly negative image of governments and the political parties that underpin them – but not democracy itself – the re-emergence of populist political groupings and the rejection of a number of economic reforms, including some of the privatisations of the 1990s.

3.4.3.3 Corruption and institutionalised unlawfulness break the basic ethical, legal and community-related bonds that hold society together. To mend these bonds, action must be taken in the area of education, rebuilding confidence in the credibility of the rule of law and effective legislation. Reducing social inequalities through policies on protection and inclusion, indigenous people, women, young people and, in general, extending and developing social citizenship for all is essential if development is to be sustainable and if South Americans are to have more confidence in political institutions and the democratic system.

3.4.4 Violence, crime and civic insecurity

3.4.4.1 The high level of crime and violence in the region is linked to social exclusion, extreme poverty and inequality. The UN's victimology index shows that LAC crime levels are among the highest in the world. A study commissioned by the World Bank in 2000⁽⁸⁾ reveals a close relationship between economic inequality and crime levels. In Latin America and the Caribbean, the number of violent deaths rose from 8 per 100,000 inhabitants in the 1970s to 13 per 100,000 inhabitants in the

1990s. Colombia tops the list, with 60 (non-political) murders per 100,000 inhabitants.

3.4.4.2 There are many complex historical and social reasons behind the violence that characterises everyday life in Latin America's big cities and which has worsened in recent years owing to economic crises and weakened institutions. Apart from those countries in which violence has political roots, in the rest of Latin America the main causes of violence are the widespread presence of criminal organisations involved in drug trafficking, and social inequalities. Such widespread violence is a major obstacle to social harmony, democracy and productive development.

3.4.4.3 Drug trafficking is a source of insecurity and violence which affects the poorest sectors, weakens political institutions and destabilises economic systems and social relations. It also feeds corruption and civil wars, and exacerbates inequalities in Latin America. Finally, the eradication of networks and laboratories requires not only international police and judicial cooperation, but also a significant financial commitment by the countries concerned.

3.4.4.3.1 The roots of illegal crop production in Latin America, which continues to be a tricky subject in north-south relations, can be found in the extreme poverty of some rural areas, which have no other means of surviving.

3.4.4.3.2 Consumer countries should accept their share of the responsibility in combating drug cultivation instead of placing all the responsibility on producer countries, especially as it is in the former that the financial systems for laundering drug money are found.

3.4.4.3.3 The EESC calls on the EU to continue and step up trade liberalisation, in full compliance with WTO rules, with those Andean countries that are willing to reduce and replace illegal crops, and condemns the arbitrary destruction of crops from the air. This approach has clearly failed to achieve its objective, succeeding only in stirring up social and political violence.

3.4.4.3.4 In order to make crop replacement systems more efficient, these new crops need to be given financial and technical aid and promoted through local transport networks that make it easier to sell alternative products regionally.

3.4.4.4 Crime networks – particularly those found on the outskirts of cities – very often constitute parallel forms of social organisation that use violence to hinder and prevent the development of organised civil society, an essential component for building a democratic State that is satisfactory for the majority of citizens. By imposing their own rules on the area in which they operate, such parallel societies undermine and sometimes even call into question the democratic State itself.

⁽⁷⁾ <http://www.latinobarometro.org>.

⁽⁸⁾ Pablo Fajnzylber, Daniel Lederman and Norman Loayza: Inequality and violent crime, World Bank, Washington, 2000.

4. The origins of social inequality in Latin America

4.1 In most Latin American countries, independence from empire failed to trigger a process of thorough-going social, economic and political reform. In general, it signalled a change of political elite without a significant overhaul of the institutional field. Many pre-capitalist social and economic structures lived on, keeping Latin American societies in a sort of economic timewarp.

4.2 The result of this colonial social and economic heritage and the successive failures to change it significantly has been highly concentrated ownership of resources (land ownership is emblematic of this state of affairs in several Latin American countries), the political, economic and social marginalisation of entire sectors of Latin American society, the often parasitical appropriation of economic activity by ruling elites, with its familiar fall-out in terms of corruption and inefficiency of public action, poor market regulation, generating numerous negative externalities and, in particular, profoundly unequal distribution of income, and lastly, an increasing and unstructured level of urbanisation, in which the social bases of a market economy are dissolving into an informal economy.

4.3 Ever since decolonisation, LAC economic history (although to very different degrees between countries) has displayed a seamless sequence of deep crises, marked by external imbalances penalising the region's attempts to promote development. In brief, three common phases can be distinguished in the economic dynamics of LAC countries over the last two centuries. For a substantial part of the 19th and the early part of the 20th centuries, Latin American economies developed according to the 'primary exporter' model, based on strong specialisation in exports of primary products. In the second phase, beginning in the 1920s and 30s, the powerful economic growth generated in some Latin American countries by the First World War, triggered a shift towards an 'import substitution' model, striving to replace the imports resulting from a process of integration, of national economies in the global trade environment with national products and to create a domestic productive fabric. However, the appearance of profound macroeconomic imbalances (inflation and balance of payments deficits) jeopardised these internal development efforts. Lastly, in the late 1970s and early 80s, the widespread implementation in LAC countries of economic policies at the urging of international organisations (the so-called 'Washington consensus') promoted the opening up of economies to the outside world, basing economic and social development on the market.

4.4 Over the last few decades, although the radical economic reforms in Latin America in keeping with the 'Washington consensus' have secured their third objective (privatisation, liberalisation and macroeconomic stability), overcoming high inflation levels and monetary instability, they have not produced substantial improvements in the variables of a

real balance: employment, income growth and distribution. Indeed, as seen above, some of these parameters have actually worsened (especially in countries such as Argentina).

4.5 Not only have many of the policies advocated by the 'Washington consensus' become ends in themselves, rather than means for achieving sustainable and fair growth; in addition, other external factors are having a negative impact on the level of social cohesion in LAC countries. These include the double standards employed by the developed nations in their trade relations with the Latin American region; the structural adjustment programmes imposed by the international financial institutions which, in most cases, have aggravated the crises affecting LAC countries; the lack of appropriate and stringent legislation regulating foreign investment, or sometimes a failure to apply it, has in some cases had the effect of destroying local competition and creating monopolies instead of helping to enhance the productive fabric and social responsibility of companies; rising debts since the 1960s, which the debtor countries have more than cleared through interest payments; and official development aid, which is not always channelled to comprehensive, coherent projects, but occasionally simply serves as a tool for cultivating preferential commercial or diplomatic relations. These are all key factors which affect the progress of social cohesion in Latin America and the Caribbean.

5. Weaknesses in Latin American societies concerning the process of social cohesion

5.1 It can be seen from the above points that Latin American societies suffer a number of core weaknesses preventing them from meeting the challenge of achieving acceptable levels of social cohesion and which may be condensed into the five following shortcomings:

5.2 Shortcomings in the state's function as a body responsible for upholding the common interest and promoting the common good, as a body for regulating the development of the market economy and the social pact, as an essential instrument for ensuring social cohesion since civil society alone does not have the necessary means for achieving and maintaining it. The state, in LAC societies, has not performed the role of modernising and stimulating economic development and social protection, a role which has been fundamental in other, now developed parts of the world. According to the point in time and specific circumstances of each country, LAC states have tended to be at the service of the spurious interests of certain social groups rather than the very different role the state has played in most developed countries, as a market economy regulator, a go-between in social conflicts, and a spur for economic activity by means of a framework of appropriate micro- and macroeconomic and social policies backing up the development process. In many cases, the weakness of the state has prevented it from implementing – or even framing – effective social cohesion policies.

5.3 Social inequality which, quite apart from wealth distribution statistics, acts as a brake on citizens' social and economic mobility. In the absence of machinery for breaking out of pre-determined social moulds, more traditional patterns of perpetuating social groups and classes operate. In this context, the participatory instruments which are typical of democratic systems experience enormous difficulty in taking root and consolidating their position as means of social organisation.

5.4 The weakness of organised civil society. Setting up democratic institutions and establishing a market economy are not enough to produce economic development and social cohesion. Social change must come about, extreme poverty and exclusion banished, the conditions for equal opportunities created, and access to essential services such as health and education facilitated. This process cannot be dictated from within each individual country, or imposed from outside. Each country must assume its responsibilities. This will be impossible unless society is involved on a permanent basis in decision-taking, through its various outlets: political parties, employers' associations, trade unions and social organisations. Fairer distribution of wealth – a precondition for social cohesion – always entails sharing power, which cannot come about unless organised civil society is strengthened. This weakness has a direct impact on the productivity of the economic system, since areas of dis cohesion pose a permanent threat to the foundations of legal and political stability which are needed for any economic institution to function adequately.

5.5 Globalisation-related imbalances. Latin American economies are particularly vulnerable to events beyond their borders. In some cases, their integration into the accelerating process of economic globalisation is accompanied by declining relative efficiency and international competitiveness among their production structures. This fuels what the Swedish Nobel-winning economist, Gunnar Myrdal, described as 'circular causation', especially in the recession phase of the international economic cycle, standing in the path of higher levels of economic and social cohesion.

5.6 The structural policies put into practice over recent decades, often under various forms of pressure from international organisations, have served to aggravate some of the traditional imbalances in these societies, particularly with regard to levels of social cohesion.

6. Possible vectors for social cohesion in Latin America and the Caribbean

6.1 The purpose here is to indicate some of the vectors which could, in the light of the European experience and taking account of the weaknesses in LAC economic and social development as identified above, also assume a strategic role in Latin American circumstances in achieving higher levels of social cohesion.

6.2 The state, institutions and policy

6.2.1 Discussion of social cohesion is meaningless unless all citizens are guaranteed equal rights which are in turn guaranteed by law, upheld in the courts and endorsed by specific economic and social programmes.

6.2.2 Neither can a modern state, fulfilling the functions required of it, be developed without a fair, efficient and adequate tax system. LAC tax systems are marked by weak management structures for tax collection and inspection, a general tendency for systems to revolve around indirect taxation, low tax pressure and high levels of evasion. This is therefore one of the main challenges for LAC societies and economies. Tax reform will probably encounter resistance from social and economic groups which are accustomed to economic activity without taxation, or basically regressive tax regimes, but it remains an essential requirement for social cohesion.

6.2.3 Similarly, social cohesion requires an active presence on the part of the state in promoting specific policies to redress social inequalities, implement policies based on redistribution and solidarity, and promote equal opportunities for all citizens, breaking down social exclusion. Universal social protection systems for this purpose are sorely needed in LAC countries; in most of them, such systems either do not exist or are marked by serious shortcomings or even inequalities.

6.2.3.1 Social cohesion is not achieved simply by drawing up action plans against social exclusion; social security systems are also needed to provide, *inter alia*, healthcare and pensions for the whole population. There is therefore a particularly urgent need to address the profound inequalities affecting the older segment of the population, who often border on destitution and/or social exclusion. The introduction of public pension schemes – funded by distributive mechanisms and providing general cover – is absolutely essential if a reasonable degree of social cohesion is to be attained. This is compatible with the existence of supplementary systems operating on different bases.

6.2.3.2 Social security systems should also analyse formulae for providing cover for the self-employed, false self-employed and people working in the informal sector – all of which are very important sectors in LAC – based on experience gained in some European countries.

6.2.3.3 Improving public health is another key vector for improving social cohesion in Latin America and the Caribbean. The social effectiveness of public health systems, financed according to the principles of redistribution, have proved themselves, in the European setting, to provide far more mutual support, to be less costly and more cohesive than schemes based on private insurance.

6.2.3.4 A number of LAC countries have, since the 1990s, introduced public sector social programmes intended to meet some of the basic needs of the most vulnerable communities. The programmes are conditional upon certain requirements or matching measures: educational programmes, for example, are tied to educational assistance to pupils, and food programmes to vaccination campaigns and food safety information. These programmes are promoted and operated by the country in question; their impact on wealth distribution, educational cover and health is mixed. In another sphere, some governments have set up initiatives to facilitate access to credit. In Brazil, for example, electronic cards have been distributed providing easier access to State-guaranteed micro-loans. The EU could support these kinds of innovative measures as part of a strategy for social cohesion in the LAC countries.

6.2.3.5 Complete social protection of labour relations in the formal economy, progressive extension of cover to workers in the informal sector, social protection for migration flows and the eradication of some of the underlying causes of infant mortality are major priorities for better social cover in LAC countries.

6.2.3.6 Some of the EU's outermost regions, which are located in Latin America and the Caribbean, receive Community structural aid specifically geared to developing basic infrastructure. Their level of social cohesion, however, remains much lower than in Europe; their lack of integration into the Caribbean region poses serious economic challenges for their future and some of their basic products, such as in the farm and tourism sectors, may suffer from competition from ACP countries benefiting from preferential agreements, while being burdened with higher costs. Consequently, the EU's new financial perspectives should take account of the need for continued specific aid for the Union's outermost regions.

6.3 *Economic infrastructure. Research and development*

6.3.1 Providing all kinds of infrastructures (in particular, with regard to LAC, for transport, communications, drinking water and energy accompanied by commitments on sustainability and maintenance) is a basic condition for economic development, increased production and trade and, in short, improved productivity. Productivity is also improved by introducing more technology in productive processes and by training everyone involved in the productive system.

6.3.2 Efforts made by LAC societies to compete in the global economy must be accompanied by a concerted effort by

public authorities and the private sector to develop the most advanced technology. This is essential if these societies are to bridge the gap between them and more developed countries, and meet the challenge of 'top-down' development, by generating added value in the global productive system.

6.3.3 To this end, efforts to improve ongoing training through vocational and university training systems are essential. This is an area in which the EU can contribute specific knowledge and experience in managing vocational training systems, harmonising professional titles and building educational infrastructure.

6.4 *Education*

6.4.1 Education is a key factor in removing the obstacles in the path of economic and social development, and is the essential element in ensuring equal opportunities and social mobility. In view of the educational conditions described above (poor quality, unequal access and dissociation from the economy), education in LAC may end up as a mechanism consolidating and perpetuating social inequality instead of representing a factor for progress, social mobility and greater justice. Without minimising the aspects of education which may be developed by private initiative, the state must therefore assume responsibility for guaranteeing a basic level of education of proper quality for all citizens, for guaranteeing discrimination-free access to higher levels of education, gearing education more closely to the labour market, promoting talent wherever it is and preventing the emergence of new forms of exclusions arising from the advent of the 'knowledge society'.

6.5 *The productive system and its dynamics*

6.5.1 Social cohesion requires an efficient productive system which can generate employment and income for all citizens. In this regard, LAC countries must focus on the business fabric at local and regional level, which is made up of a network of small businesses, many of them currently operating in the informal sector and, since they are only tangentially involved with the national markets, offer little potential for growth.

6.5.2 The mushrooming informal economy is, first and foremost, a reflection of states' lack of economic power to regulate markets capable of expanding. Rather than potential for growth, the informal economy most often reflects backward economies with little capacity for generating proper employment.

6.5.3 The social economy – i.e. cooperatives and community associations – is a very significant economic and social reality in several EU countries. In the Latin American countries, it could be an important vector for future consideration as an alternative to the informal economy in terms of economic development, job creation, social integration and the participation of broad sectors in the productive process, as explicitly acknowledged in the recent declaration by the countries of Latin America ⁽⁹⁾.

6.5.4 Weaknesses in the area of financial resources represent one of the main bottlenecks in LAC productive systems. Low levels of saving combine with inefficient intermediary mechanisms to make it difficult to provide broader, improved access to funding for economic players, especially SMEs (approximately 80 % of LAC companies are SMEs or micro-enterprises), the self-employed, cooperatives, etc. There is then a need to develop systems for micro loans and to improve the management capacity of small enterprises and the self-employed.

6.5.5 The primary sector continues to be relatively important in many LAC countries, placing it – together with a policy of vertical and horizontal industrial development aid – at the heart of pending reforms intended to boost economic and social development. The search for greater productivity levels in agriculture (which is a basic source of foreign exchange in many countries) must go hand in hand with an effort to solve deeply rooted social conflicts in LAC rural zones. Agrarian reform, which varies according to the country concerned, continues to be an essential factor in offering a solution to millions of farmers and day labourers living in poverty, increasing agricultural incomes and production, and thereby improving economic and social cohesion.

6.5.6 Regional economic integration - which encompasses not only market liberalisation but also compensation and solidarity mechanisms similar to the EU's Structural Funds - is gradually making headway in Mercosur, the Andean Community and between the two sub-regional groupings and represents an essential element in boosting LAC economic and social development. This applies in particular to the need for LAC economies to diversify and the need to build up competitive sectors of production and attract foreign investment.

6.6 *Expansion and quality of employment*

6.6.1 According to their own citizens, unemployment is one of the most serious social problems in most LAC countries (e.g. Argentina, Colombia, Ecuador, Jamaica) and illegal employment, which has reached alarming proportions, continues to

grow. Achieving higher employment levels and decent working conditions for the working population as a whole are two key and extremely urgent objectives for LAC public authorities and social players.

6.6.2 The objective of more and better employment calls for major intervention, agreed by consensus, in the functioning of labour markets. The labour reform carried out in many LAC countries has not met the stated objectives of generating employment and increasing decent employment; in many cases, it has even contributed towards more widespread precarious employment, as is demonstrated most clearly by the high levels of informal labour that have been observed.

6.6.3 In this context, there are a number of structural requirements that relate to the objective of more and better employment in LAC. These include: establishing macroeconomic policies designed to reduce the extremely volatile nature of their economies, perfecting mediation systems in the workplace, strengthening the link between the education system and job creation, developing appropriate mechanisms to protect employees from loss of income caused by continual changes in the workforce, providing more training for employees, complying with labour legislation and promoting labour relations based on negotiation and consensus.

6.7 *Employment rights and social dialogue*

6.7.1 The former President of the European Commission, Jacques Delors, defined the European social model as one which combines the state and the market, private initiative and collective rights, businesses and trade unions. In Europe, the existence of democratic frameworks for labour relations has been, and continues to be, an essential factor for economic competitiveness and social cohesion.

6.7.2 Labour relations systems of this kind are characterised not only by respect for human rights in the workplace (as set out in the basic ILO conventions), but also by the existence of representative trade unions and employers' organisations, by collective bargaining procedures at various levels and, in some cases, by forms of tripartite consultation on economic and social policy guidelines (ranging from types of negotiated legislation to social pacts on pay levels) and by several means of worker participation in companies and social institutions (social security, vocational training, etc.).

6.7.3 The underdevelopment of fully democratic labour relations systems is one of the main factors in Latin American societies' failure to strengthen social cohesion.

⁽⁹⁾ XIII Ibero-American Summit of Heads of State and Government, Santa Cruz de la Sierra, Bolivia, 14-15 November 2003.

6.7.4 In July 2001 the European Commission published a Green Paper promoting a European framework for corporate social responsibility. This initiative, together with others, comes on top of the International Labour Organisation's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

6.7.5 The green paper establishes a number of criteria for defining the social responsibility of European companies: the voluntary character (therefore extending beyond the legal obligations to which companies may be subject) of the steps undertaken; the lasting nature of the commitment entered into (a new form of corporate governance rather than one-off actions); involvement of those affected, both within and outside companies, in matters of concern to them; the requirement for transparency when demonstrating practices related to social responsibility.

6.7.6 These criteria should be promoted so that all multinational companies in LAC countries, in particular European ones, take them on board voluntarily in such a way that they become a catalysing and exemplary factor in building up democratic structures for labour relations and responsible corporate practice in respecting labour and environmental rights.

6.8 *A structured society. Strengthening civil society*

6.8.1 Achieving higher levels of democracy, human development and governability entails boosting forms of social participation. Civil society involvement is an expression of public demands in securing the general interest, an incentive for more efficient public management, an instrument for public monitoring and a means of real participation in decision-making in public and private institutions. It is a precondition for sound democratic governance.

6.8.2 According to Latinobarometer, the most striking feature of Latin America culture is the low level of trust between individuals. Promoting collective projects is therefore a basic condition for giving political support to address the challenge of social cohesion in Latin America and the Caribbean.

6.8.3 Strengthening independent representative economic and social organisations which are capable of compromise is a key condition for bringing about social dialogue and fruitful civil dialogue and, therefore, for the very development of LAC countries.

6.8.4 Civil society involvement in the European venture has historically rested on both the party system and the labour relations and social consultation systems referred to above, reflected in part in the establishment of economic and social councils or committees, as well as on the involvement of social

actors in various social institutions (social dialogue, social protection, protection from unemployment, public employment and training agencies, etc.) at sectoral and cross-sector level.

6.8.5 The legal recognition of the social associative movement – as part of which NGOs have gained particular significance and relevance in recent years – has been another of the pillars on which civil society involvement rests, as has dialogue with the various organisations defending particular groups and, more recently, the development of civil dialogue.

6.8.6 The local sphere has proved particularly effective in giving shape to such participation and in facilitating interaction between representative social dialogue and civil dialogue organisations.

7. Relations between the European Union and Latin America and the Caribbean. Their impact on social cohesion

7.1 The EESC has drawn up a series of opinions on EU-LAC relations, the FTAA initiative and relations with a number of regional groupings or countries (Mercosur, Mexico, Chile) which assess the current state of such relations, especially from the point of view of the socio-economic dimension of the various association agreements.

7.2 More complete and balanced relations

7.2.1 In the EESC's view, strengthening EU-LAC relations can, under certain conditions, be extremely influential in achieving greater social cohesion in LAC. The EU has therefore recently concluded Political Association Agreements with the Andean Community and with Central America. A timetable and deadline have also been established for completing negotiations with Mercosur.

7.2.2 The EESC has consistently advocated rapid completion of these negotiations with Mercosur – arguing too that they should not depend on WTO negotiations, which came to a standstill following the failure of the last summit in Cancún – as well as a balanced and satisfactory agreement that includes, amongst others, issues relating to agriculture and the trade in services.

7.2.3 Achievement of an agreement with Mercosur, and further development of the agreements with the Andean Community of Nations and the Central American Common Market, should contribute to more balanced economic relations between the EU and LAC, which are at present marked by the Latin American countries' growing trade deficit with the EU.

7.2.4 In the EESC's view, implementing a bi-regional strategic alliance, as proclaimed at the Madrid and Rio Summits of Heads of State and Government, requires a common agenda to be drawn up to enable negotiations to begin as soon as possible on an association agreement for the entire Latin American region.

7.2.5 The institutional instruments for EU-LAC relations are essentially limited to agreements and summits. A more operative agenda would require more structured relations. EU-ACP relations, for example, already have a Joint Parliamentary Assembly and a General Secretariat, based in Brussels. In the EESC's view, EU-LAC relations need to be more flexible, permanent and structured in order to promote this Europe-Latin America alliance.

7.2.6 In short, EU relations require a strategic orientation in all aspects – development aid and cooperation, but also commercial, technological, political, educational, cultural, etc. aspects – so that they all include the objective of social cohesion in LAC.

7.2.7 The EESC believes that EU-LAC relations are not limited to trade agreements but are essential in order to strengthen the EU's role as international player; to support a regional integration process in LAC which, unlike the original FTAA project, would provide the region and its various sub-regional groups with greater negotiating capacity on the international stage; and to promote a new international economic order and worldwide governance of globalisation. This type of governance must be of a multilateral nature and subject to international law, protect the environment, preserve peace and reduce the development gap between North and South on a global scale.

7.3 *Strengthening and participation of civil society organisations*

7.3.1 From the EESC's point of view, EU-LAC relations must facilitate regional integration processes in Latin America which, mirroring the European experience, include not only larger markets in order to promote economic development, but also solidarity-based mechanisms and a set of social standards which accompany the completion of the single market and promote a higher degree of social cohesion.

7.3.2 The EESC also calls on the EU to draw upon the example of the project supporting Mercosur's socio-occupa-

tional dimension and fund projects designed to strengthen the social dimension of sub-regional integration processes and civil society organisations throughout LAC.

7.3.3 The EESC also calls for all agreements between the EU and the various countries or sub-regional groupings of LAC to establish formal procedures – such as Joint Consultative Committees – to ensure that civil society organisations are involved and consulted when such agreements are drawn up. The EU should therefore encourage civil society organisations to be set up or developed in areas where they are either non-existent or embryonic, in order to meet this objective.

7.3.4 Promoting direct relations between socio-occupational organisations in the EU and LAC can contribute towards the transfer of experience and to economic, political, social and cultural exchanges, as well as stronger civil society organisations. The EESC is of the view that existing experiences – e.g. the EU-Mercosur Business Forum, forums for NGOs from the EU, Central America and Mexico, etc. – should be extended to other sectors such as trade unions (an EU-Mercosur Labour Forum has already been set up), the social economy and agriculture.

7.3.5 Similarly, the EESC urges the EU to create a budget line similar to those for promoting urban development and technology or training exchanges, and dedicated to reinforcing civil society organisations – e.g. trade unions, employers' associations and social groups – in LAC countries.

7.3.6 The World Bank and the IMF should also participate in strengthening the organisations of social partners and civil society in cooperation with the EESC and other EU institutions as well as the ILO.

7.3.7 A developed framework for labour relations is an essential condition for achieving a form of social dialogue that promotes productive investment, decent employment with full rights, stable economic activity, changes to production processes and a better distribution of wealth. The European experience, business and trade union organisations, and a variety of bodies – at both EU and Member State level – could all help to strengthen the social partners, improve systems for negotiating and settling disputes, and step up company participation and dialogue between all social stakeholders.

7.4 Productive investment and corporate social responsibility

7.4.1 The European Union is one of the biggest investors in Latin America. The flow of direct investment from European countries is continuing to grow, presently accounting for the largest share of investment resources entering the region. EU-LAC cooperation is essential to creating the national and international conditions needed to guarantee high-quality and constant investment, in particular in infrastructure, in order to attract direct foreign investment. The EESC considers that the determined work on the part of European companies investing in Latin America, with the support of the Community institutions and the Member States, must be the cornerstone for relations with LAC and greater economic and social development.

7.4.2 Financial support to strengthen SMEs is of special importance in LAC, first and foremost in order to boost its physical, technological and human capital. In this connection, it would be particularly helpful to set up an SME fund for Latin America, financed by the Member States and the EU.

7.4.3 Increased European investment should go hand-in-hand with a greater voluntary undertaking on the part of companies investing in LAC countries to implement a policy of social responsibility exceeding the relevant national requirements, whether based on law or agreements, and the ILO's basic employment standards. This could serve as a benchmark in the construction of democratic frameworks for labour relations.

7.4.4 A charter laying down the principles of corporate social responsibility for European companies operating in LAC – which companies based in the region would also be free to apply – would provide a powerful boost to social dialogue and respect for the environment and, therefore, to social cohesion in LAC.

7.5 Immigration

7.5.1 Migration flows from LAC to the EU have increased substantially over the last few years. The EU could contribute towards social cohesion in LAC through agreements facilitating legal immigration, integrating immigrants and their families in the EU Member States and framing a co-development policy (e.g. education and funding programmes for productive undertakings based on professional experience, savings, repatriated immigrants, etc.) between the countries of origin and the host countries. This would also help to alleviate the drain on skills and initiative which migration to the EU represents for Latin American countries.

7.6 Official development aid

7.6.1 The EESC agrees with the European Parliament's recent call for the EU to set up and release the necessary resources for a bi-regional Solidarity Fund for Latin America (intended to support the management and funding of programmes on health, education and the fight against extreme poverty, inter alia), as well as increase the amount of ODA for Latin America (over and above the commitments already made by the EU and its Member States) and re-define the ways in which it is applied. Likewise, coordination with other regional or international financial bodies should be stepped up.

7.6.2 As explained above, the EESC believes that the EU should mainstream the strategic objective of social cohesion in all its relations (e.g. commercial, technological, business, educational, etc.) with LAC. However, both development aid and development cooperation remain highly important. The EU should spare no effort in defining a poverty reduction programme in the poorest LAC countries, ensuring that aid is channelled towards the central aim of combating poverty and promoting closer coordination between donors (Community ones at least). In the least relatively developed LAC countries, EU development cooperation should be directed to creating the conditions for these countries to enter the international arena under advantageous conditions, reducing their degree of external vulnerability and devising policies to redress inequalities and help legitimise institutions and root them in society. To this end, there should be a blend of political dialogue, technical assistance, financial cooperation and backing in the international arena.

7.6.3 In all cases, the EU and its Member States should strive to enhance the quality and efficacy of aid. This should be done firstly, by attempting to make public policy more consistent; secondly, by stepping up coordination between donors; and thirdly, by helping aid beneficiaries to take over ownership of development: it should be up to them to take the key decisions in planning and managing action.

7.6.4 In the EESC's view, a proportion of Community aid should be earmarked for strengthening the negotiating capacity of the least developed LAC countries in multilateral forums, through assistance and support for the relevant institutions. The EU's efforts should focus throughout the entire region on training human resources in line with labour market conditions, and on strengthening institutions.

7.7 Reducing the burden of external debt and funding development and social cohesion

7.7.1 External debt continues to seriously hinder development in many LAC countries. High external debt and poorly functioning financial markets are related factors affecting both foreign and national investment. With regard to debt, despite the World Bank and International Monetary Fund initiative to alleviate the debt of Highly Indebted Poor Countries (Bolivia, Guyana, Honduras and Nicaragua are among the Latin American countries benefiting from this initiative), the problems facing these countries have not been resolved. Even debt relief is insufficient if it is not accompanied by measures to promote productive investment.

7.7.2 The EU Member States hold over 50 % of the debt of LAC countries. In the EESC's view, the EU and its Member States should therefore initiate moves in multi-lateral forums towards redefining the conditions for debt relief, drawing up debt relief formulae based on programmes for environmental, educational and other types of cooperation, and providing actual debt relief accompanied by investment commitments (e.g. rural development aid, support for SMEs, basic infrastructures, programmes to encourage returning immigrants to set up new productive undertakings, etc.).

7.7.3 It is practically impossible for LAC countries to raise funds on the international markets owing to their poor capacity for generating capital internally. Access to the financial markets under suitable conditions in terms of sufficiency and cost is determined to a large degree by rating agencies (risk rating). Such agencies operate in a de facto oligopoly, often causing financial instability on the national markets and undermining LAC access to international credit. An effort by the Community bodies and European financial bodies to make rating agency markets more competitive could help improve development and cohesion in LAC countries.

7.8 Strengthening the local level

7.8.1 Globalisation has reinforced the importance of the local level as a fundamental area for productive development, job creation and social integration, as well as more participatory forms of democracy. The experience and bodies of the EU and Member States (e.g. various forms of local dialogue, the Committee of the Regions, the Congress of Local and Regional Authorities of Europe, etc.) could provide a powerful boost to strengthening local bodies and action in this area.

7.9 Strengthening social protection systems

7.9.1 Social protection systems are key aspects of any strategy geared to social inclusion, poverty reduction and improved social welfare in South America. The EU could therefore contribute by promoting universal social protection systems, encouraging the various countries of LAC to sign international conventions and thereby coordinate their social security legislation, giving support to modernising the way in which social protection systems are managed, and promoting specialised training in this area.

7.10 Fostering a more balanced form of regional development in LAC

7.10.1 In the EESC's view, the EU could encourage greater and more balanced regional integration in LAC - a key factor for stepping up its development and autonomy - not only through association agreements, but also through technical assistance and investment in infrastructure, introducing formal procedures based on the experience of Community policies. It is not only the EU and national governments that should be given a key role in this, but also business, trade union and social organisations.

7.11 Sustainable development

7.11.1 It is generally accepted that sustainable development cannot be guaranteed in the medium- and long-term unless environmental protection is improved. In the context of its relations with LAC, the EU could help promote specialised forms of production to prevent the region's considerable natural resources being overexploited.

7.12 Defending human rights

7.12.1 There are many reports from international organisations highlighting the difficulties in LAC countries in terms of ensuring that human rights are respected. Human rights defenders are often persecuted, slandered, tortured or murdered. According to a UN report (2002), 90 % of the human rights defenders murdered across the globe are from Latin America. Persecuting and criminalising perfectly legitimate social leaders seriously undermines attempts to combat exclusion and social inequality. In the EESC's view, an EU programme to protect human rights defenders in LAC would be very welcome.

7.13 Open-ended opinion

7.13.1 The present opinion is open-ended and will only be finalised following the debate on social cohesion in LAC to be held during the third meeting of organised civil society in Mexico in April 2004. This opinion puts forward a number of proposals concerning ways in which the EU can contribute towards greater cohesion in LAC. At the moment, however, it still lacks the views of LAC civil society organisations, which are called to act in various strategic areas, concerning the role of the following in boosting social cohesion in the region: the

State and its institutions, fiscal policy, education, health, social security, economic infrastructures and industrial policy, frameworks for labour relations, participation of civil society and the protection of human rights. Once this contribution has been made and discussed, we will either add an appendix to this opinion or draw up a supplementary opinion in order to submit to the Commission 'the views of civil society organisations in Latin America, the Caribbean and Europe', as referred to by Commissioner Patten in the letter in which he asked for this opinion to be drawn up.

Brussels, 25 February 2004.

The President
of the European Economic and Social
Committee
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code'

(COM(2003) 452 *final* – 2003/0167 (COD))

(2004/C 110/13)

On 4 August 2003 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 2 February 2004. The rapporteur was Mr Simpson.

At its 406th plenary session of 25 and 26 February 2004 (meeting of 26 February 2004), the European Economic and Social Committee adopted the following opinion by 67 votes, with one abstention.

1. Introduction

1.1 The European Economic and Social Committee (EESC) has taken a close interest in the evolution of customs policies as they apply to the import, export, and transit trade of the European Union and has supported the changes designed to enhance the role of the customs authorities in the discharge of their responsibilities including the need to enhance the advantages of the internal market by minimising any delays or disruption in the enforcement of the Community Customs Code ⁽¹⁾.

1.2 The EESC shares the ambitions outlined by the Commission in this publication on the merits of a simple and paperless environment in which customs functions can be administered more effectively and efficiently.

1.3 The Committee also acknowledges the changed emphasis in the strategic approach to customs services' policies with the recent additional and merited emphasis on the challenges of the application of common customs policies across a series of new external borders following the enlargement of the Union. It also acknowledges the changed environment created by the raised concerns about security procedures, particularly with regard to the experience of the USA, to protect citizens in the Union.

1.4 The EESC therefore welcomes these communications from the Commission and endorses the amendments proposed to the Community Customs Code through the revision of Regulation 2913/92.

2. Communication: a simple and paperless environment

2.1 This communication illustrates the constructive role that can be played by the Commission in coordinating and improving the several customs procedures of the Member States. Each Member State retains responsibility for the admin-

istration of the customs services yet each of the Member States will benefit if the procedures are logical and designed to facilitate cross-border cooperation.

2.2 Ideally, the procedures should be harmonised to enhance the impact of the Single Market operating with no internal frontiers and applying an agreed administrative framework for the customs services.

2.3 Not only does this harmonisation depend on various degrees of mutual cooperation in administration and agreement on verification mechanisms, but it can be further enhanced if documents are standardised and transmission methods are modernised.

2.4 There is no surprise, therefore, that the Commission has set out the principles for simplification and the application of e-Europe concepts in a review to determine methods of better regulation of customs services.

2.5 Particularly, but not only, because of the new emphasis on the role of customs services in assessing security risks posed by terrorism and the trade in dangerous, or offensive, or fraudulent goods, the harmonisation of customs procedures is not only an exercise in the simplification of documentation and information. Customs services must now use appropriate risk analysis to determine the degree and methods of surveillance to identify and deter evasion of customs checks and also to identify materials that pose wider security risks.

2.6 These responsibilities must be accepted in a manner that also recognises the objective of facilitating trade within the Union, particularly acknowledging the extra difficulties following the enlargement of the Union, and between the Union and other trading nations. Enhanced vigilance must be balanced with improved methods that are agreed for all the Member States of the Union.

⁽¹⁾ Committee Opinion on Customs 2007, C 241/8 of 7.10.2002.
Committee Opinion on Computerizing excisable goods, C 221/1 of 17.9.2002.

3. The Commission proposals for a simpler and paperless environment:

3.1 The Commission has invited the Council and Parliament to endorse five strategic goals. These are:

3.1.1 Customs procedures to be fully revised and radically simplified, integrating modern techniques, including extensive use of IT and of risk analysis.

3.1.2 Customs work to be organised so that traders can benefit from the Internal Market, i.e. irrespective of the place where a customs procedure begins or where it ends.

3.1.3 Customs intervention should ensure that the Internal Market functions properly and that no barriers, including those of a digital nature, are introduced or maintained.

3.1.4 Customs controls are of equivalent intensity and reliability at the EU's external borders especially where the protection of our society and its security is at stake. This requires common risk management.

3.1.5 Customs IT systems operated by Member States offer everywhere the same facilities to traders and should be fully inter-operational.

3.2 The achievement of these strategic goals obviously depends on acceptance of the principles by all of the 25 Member States and their uniform application.

3.2.1 The Commission points to the logic of an early implementation of a paperless environment as documents are accepted using the facilities available to assist e-commerce and e-administration.

3.2.2 All Member States should introduce arrangements for the exchange of information using digital technology. This technology should be devised to avoid differences between Member States that would create digital barriers. Systems should be co-ordinated to ensure compatibility and connectivity.

3.2.3 The Commission has also identified some basic principles to simplify customs administration. Border controls would be limited mainly to security aspects of customs verification and other controls should be shifted to the customs authorities responsible for the trader's premises. This would reduce the risks of fraud and non-compliance.

3.2.4 The Commission sees itself as a necessary catalyst in the design and introduction of these changes. The needs are assessed as those of securing inter-operability through the further development of the e-Europe 2005 initiative. They also see a need for an understanding of the relevance and application of the 'better regulation' initiative outlined in the White Paper on European Governance.

3.3 The beneficiaries from improved customs services would include:

3.3.1 society; through enhanced protection:

— by assisting consumers through the protection against goods that are dumped, subsidised or counterfeit,

— by protecting public health and the environment by deterring or preventing the import of dangerous substances,

— by acting against criminal activities such as money laundering, illegal trade in arms, or child pornography,

— by detecting fraud in the evasion of indirect taxation,

— by promoting regional integration through preferential trade links;

3.3.2 businesses; through easier and more efficient customs services:

— through more efficient customs services,

— improved facilitation of trade transactions, particularly where the point of import, or export, is distant (and across the borders of Member States) from the point of destination, or origin,

— by enhancing the degree of uniformity in the application of customs law,

— by enabling the use of a single entry point for customs declarations (enhanced by the existing provisions for transit from the point of entry to the destination),

— through simplification and standardisation of information requirements and simplified administration procedures,

— through a reduction in the need for physical controls by the use of appropriate risk analysis techniques.

4. General comments from the EESC on the communication on a simpler and paperless environment for customs services

4.1 The EESC fully accepts the strategic goals as formulated by the Commission for the improved customs services environment.

4.2 There is, understandably, a tension between efforts to simplify and facilitate trade in contrast to the need to improve the standards of enforcement. This tension calls for greater clarity of objectives, risk assessment to identify the need for closer or more relaxed supervision, and assurance that common standards are enforced across all the external borders of the Union.

4.2.1 The Committee acknowledges that customs supervision now needs, in the wake of events in the USA on 11 September 2001, to take account not only of breaches of trading regulations and customs duties but also the need for enhanced security protection to deter terrorist activity.

4.3 The Committee has noted the more detailed administrative proposals that the Commission is going to discuss with the relevant representatives of the Member States in the preparation of an Action Plan.

4.4 The basic principles are logical and desirable. In particular, the Committee notes the focus on:

- acting, across the Community, (de facto) as a single administration,
- sharing risk related data,
- maximising the common rules and data requirements,
- introducing a Single European Authorisation procedure to enhance suspensive arrangements,
- reducing the 13 existing customs treatments (procedures and paperwork) into a group of three types (import, export including re-export, and suspensive arrangements),
- sharing data electronically,
- setting a transitional timetable for a move from paper-based systems to electronic systems,
- enhancing the inter-operability of national systems,
- quicker release of goods aided by traders following agreed procedures on notification (and pre-notification),
- agreement on the rights and responsibilities of traders and freight forwarders.

4.5 The Committee has noted the six proposals for action under this enhanced e-customs programme and welcomes the ambitious timetable for discussion and later implementation.

4.6 The Committee wishes to draw two specific features of these principles to the attention of the Commission. First, the Committee endorses the emphasis on the potential use of the 'new technologies' [ICT] and suggests that the Commission should specifically develop an extension of the IDA project to assist the administration of customs services.⁽²⁾ Second, and in a cautionary restraint on the application of ICT systems, the Committee has a concern that the sharing of data electronically should pay particular regard to the need for business, personal and commercial confidentiality for traders.

5. Communication: The role of customs in the integrated management of external borders

5.1 In this second communication, the Commission has asked the Council, Parliament and the EESC to endorse a series of measures to improve the integrated management of the external borders. These proposals further develop the strategy for the Customs Union that was endorsed by Council Resolution in June 2001⁽³⁾. This communication is a direct sequel to the earlier communication from the Commission, May 2002, on the integrated management of the external borders⁽⁴⁾.

⁽²⁾ The EESC Opinion on the interoperable delivery of pan-European eGovernment Services commends the merits of the IDA and IDABC proposals [see TEN/154].

⁽³⁾ OJ C 171, 15.6.2001.

⁽⁴⁾ COM(2002) 233, 7.5.2002.

5.2 The aim of the communication is 'to give customs and the other authorities responsible for managing goods at the external border, the resources needed to combat any risk to the Community's safety and security in a coordinated manner'.⁽⁵⁾

5.3 The Commission asks for support so that the proposals for implementation can be presented without delay. The Commission acknowledges that it is acting as a catalyst for actions throughout the Community. In addition there is an acknowledgement that the implementation of the proposals will require financial commitments at Community level to help to secure the refinement of administrative systems to enhance interoperability taking particular account of the needs of the new Member States.

5.4 The Guidelines for the discussion of these changes are based on five groups of proposals. These are to:

- i. rationalise the number of customs controls at customs border posts,
- ii. introduce a common approach to goods-linked risks and implement it using common collaboration and cooperation mechanism,
- iii. guarantee an adequate level of human resources and equipment at external borders,
- iv. set up a legal and regulatory framework integrating the security dimension of customs work,
- v. introduce closer cooperation with the police, border guards and other authorities at external borders,

6. General comments on the communication on the integrated management of external borders

6.1 The first two guidelines (in point 5.4) are developments of the ambitions expressed in the earlier discussion (see above) on the introduction of a simpler and paper-free environment for customs services.

6.1.1 The EESC notes the use, by the Commission, of the word 'rationalise' in reference to the number of customs posts. Given the various priority tasks to be examined, the Committee would prefer the Commission to seek to optimise the number rather than adopting an approach that may seem to be less sensitive to changing needs.

6.2 The other three guidelines take the discussion into topics that embrace other services as well as customs services and propose cooperative models of operation that make for a strengthened administration at the external borders.

6.3 The proposals to attempt to provide adequate human resources and equipment are a logical ambition for the Community but the detailed suggestions carry extra costs that would particularly fall heavily on the new Member States. If there is a Community interest in securing improvements at external borders, then a dedicated financial instrument would be desirable. This, in turn, opens the door to consideration of the extension of the limits of Community responsibilities.

⁽⁵⁾ COM(2003) 452, 24.7.2003, p. 37.

6.4 Not only is there a case for the Community to provide financial support to facilitate the enhanced policies as they affect new Member States, the Commission also proposes further developments in common training measures for customs staff, steps to identify best working practices for security at external borders, and rapid-reaction teams to deal with unexpected risks.

6.5 These needs, and opportunities, demonstrate that there is a strong case to enhance the ability of the Commission, on behalf of the Community, to have greater authority to deal with these issues. In particular, the Committee is in favour of the introduction of Community inspections to make sure that customs coordination is effective at the EU's external borders.

6.6 The case for stronger cooperation and authority for the various agencies at external borders goes beyond only the customs services. The EESC commends the Commission for the identification of these needs but notes that improvements will essentially rely on good cooperative working arrangements between agencies that have shared responsibilities but are accountable to different national authorities and retain responsibilities that do not uniformly match those of the customs services.

6.7 The EESC endorses the suggestion that, for these important services, the Commission should promote responsibility-sharing agreements based on the mutual interests of the agencies.

6.8 The EESC welcomes the decision of the Council, on 5 November 2003, to endorse the Commissions proposals to strengthen the role of customs in managing security at the external borders and notes the request to the Commission to present all necessary proposals to implement this approach whilst paying special attention to the strengthening of the information exchange between all administrations and operators involved in international trade. ⁽⁹⁾

7. Regulation to amend Regulation 2913/92 establishing the Community Customs Code

7.1 The two communications from the Commission precede the publication of a draft Regulation amending Council Regulation 2913/92 establishing the Community Customs Code.

7.2 Since this draft Regulation reflects some of the main proposals in the two communications that can be assisted by a formal amendment to the Customs Code, and since the EESC welcomes the thrust of these proposals, the EESC welcomes most of the proposed amendments to the current Regulation.

7.3 The consistency and effectiveness of a Community-wide application of customs policies can only be improved by these measures. The Committee notes the legislative proposals that will clarify:

- the wider concept of customs responsibility extending to other legislation relating to the import and export of goods and the co-ordination of actions with other formal authorities;
- more precise definitions of terminology of 'operators';
- putting responsibility on the Commission to establish a common risk management framework;
- clarifying the use in exchanges of confidential data.

7.4 A key feature of the proposed Regulation is the introduction of a requirement that customs declarations should be presented before goods arrive. This links to the underlining of the principle that goods should be finally cleared by customs at a point where the trader is established, near to the declared destination, rather than at the external frontiers.

7.5 The Committee does, however, have a serious reservation about the 'basic rule' that a pre-arrival declaration must be lodged 24 hours before the goods are presented to customs. The Commission does acknowledge that trade in some categories of goods would be delayed, with critically disadvantageous effects, if this rule was applied to them. Examples are goods which are transported in a journey taking less than 24 hours.

7.6 The proposed wording of Article 36a of the Customs Code does offer the prospect of procedures to determine when the 24 hour requirement may be waived. The Committee suggests that the rules, setting out when 24 hour advance notification is required, should be clarified before the Code is amended so that the many areas where trade may be adversely affected are explicitly identified and appropriate compromise procedures formally adopted rather than being considered as ad hoc waivers to the basic rule. A general waiver should, however, be provided for exports by authorised economic operators as their procedures have already been checked when the authorisation was granted.

8. Summary

8.1 These Commission Communications and proposed new Regulation offer a prospect of the enhanced application of a uniform customs code across the Community.

8.2 The proposed regulation amending the Community Customs Code will be consistent with the principles outlined in the two Communications only in the event of uniform implementation and only if this includes electronic systems.

8.3 The principles of a simpler and paperless environment for Customs and Trade are now logical and practical. They are also necessary if the internal market of the Union is to function without unnecessary handicap.

⁽⁹⁾ ECOFIN Council conclusions, 5 November 2003

8.4 The principles of seeking to establish common customs standards at the external frontiers of the Union are inherent in the concept of the Union as a single trading area.

8.5 Also, the acknowledgement of the need for a co-operative framework to ensure maximum effectiveness of customs services, border policing, security surveillance and common risk management strategies is to be commended.

8.6 The EESC would wish to see the range of improvements to policies and services made effective as soon as possible.

8.7 In the absence of a Community responsibility for the delivery of customs services, these changes move closer to the framework of a single customs agency which can enhance the functioning of the Community.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on 'The issues involved in using nuclear power in electricity generation'

(2004/C 110/14)

On 23 January 2003, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on the issues involved in using nuclear power in electricity generation.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 January 2004. The rapporteur was Mr Cambus.

At its 406th plenary session (meeting of 25 February 2004), the Committee adopted the following opinion by 68 votes to 33 with 11 abstentions:

INTRODUCTION

This own-initiative opinion has been submitted to help clarify the debate on the use of nuclear power in electricity generation at a time when the Commission has re-introduced the issue in the Green Paper on the security of the EU's energy supplies and in the 'nuclear package' on general principles in the field of safety and the management of irradiated nuclear fuel and radioactive waste.

The European Economic and Social Committee (EESC) has been in favour of each of these initiatives. In its opinion on the Green Paper (CES 705/2001 of 1.5.2001), it stated in particular that: 'There are problems connected to nuclear power, but it also has clear benefits. Member States take the decisions on the use of nuclear power. However, it is difficult to see how the EU can in future meet the challenges of climate change and ensure energy supply at reasonable prices without nuclear power continuing to make at least its current contribution to electricity generation.' (point 5.7.8).

In the opinion on the 'nuclear package' (CES 411/2003 of 26.3.2003), the Committee generally approved the Commission's initiative, while making suggestions based on its expertise.

The present opinion looks at other nuclear-related issues – particularly the environmental, physiological and economic aspects – which the EESC feels are essential to acquiring a full understanding of the EU's energy problems, so that the debate may be as wide-ranging and well-informed as possible.

For reasons of consistency, the quantitative and qualitative data in this opinion concern the EU-15, since the outlook is based on an analysis of past trends. If the acceding countries and those applying for EU membership were taken into account, the figures would be changed to a certain extent, but the issues surrounding the use of nuclear power, both the positive and the negative aspects, would be unaffected.

It must be said that since 1992 the question of safety in nuclear power stations in the acceding countries and those applying for EU membership has been under review, and upgrading programmes have been in operation, involving deci-

sions to shut down or re-organise plants and provide safety training where necessary. Constant surveillance of operators and safety authorities in the Member States concerned remains necessary in order to maintain, and indeed improve, safety levels.

Finally, the limits of this opinion are set by its title; it is but one element in a wider debate on energy policy which has already been the subject of several opinions and which must be continued in areas such as the development of renewable energies and control of demand.

1. PART ONE: THE CURRENT ROLE OF NUCLEAR POWER IN ELECTRICITY GENERATION

1.1 *Nuclear power in present-day electricity generation: the global picture*

1.1.1 In 2002, 441 power reactors, representing a capacity of 359 GWe, were already in operation across the world, and a further 32 new reactors were under construction. The reactors already in service generated 2574 TWh, or around 17 % of the total world production of electricity. In the EU, 35 % of electricity was generated by nuclear power.

1.1.2 Of the total primary energy requirements for 2000, which stood at 9,963 Mtoe, nuclear energy accounted for 6.7 %, whilst renewable energy sources accounted for 13.8 % (biomass and urban waste 11 %, hydro-electric power 2.3 % and geothermic, solar and wind power 0.5 %) and fossil fuels for 79.5 % (oil 34.9 %, coal 23.5 % and gas 21.1 %).

1.1.3 Nuclear power is used to generate electricity in thirty-two countries. According to the figures for 2002, its share in overall electricity generation ranged from 80 % in Lithuania and 77 % in France to 1.4 % in China. The fact that 32 new power reactors are under construction demonstrates that nuclear energy is an expanding sector of industry world-wide and that the EU must not neglect it in its formulation of both energy and industry policy. Within the EU, in Finland the company TVO obtained a decision from its government in January 2002 agreeing to the 'principle' of constructing a fifth nuclear power station, and this decision was approved by parliament in May 2002.

1.1.4 In contrast, in a referendum in 1980 the people of Sweden voted in favour of phasing out the country's 12 nuclear reactors before 2010. However, in 1997 the Swedish parliament and government were forced to conclude that the objective of replacing these reactors with other sources of energy was not feasible. As of 2003, a single (600 MW) reactor, Barsebäck 1, had been taken out of service. The future of Barsebäck 2 is currently under discussion, since it will be impossible to close it in 2003. One option being considered is to follow Germany's example and negotiate a gradual phasing out of nuclear power with the companies that own the nuclear power stations. A recent opinion poll showed a shift in public opinion, which now seems in favour of the continued use of nuclear power.

1.1.5 In Belgium, the government decided in March 2002 to phase out nuclear power from 2015 and the act was approved by the parliament at the beginning of 2003. The law establishes a maximum lifespan of 40 years for nuclear power stations, meaning that they should all be closed between 2015 and 2025, and stipulates that no new nuclear power stations can be built and/or commissioned. However, the legislation does leave open the option to continue with the use of nuclear power in the event of a threat to the security of electricity supply.

1.1.6 In Germany, the coalition government of the Social Democrats (SPD) and Greens has decided on a policy of a gradual phasing-out of nuclear power and reached voluntary agreement on this with the nuclear power industry. After difficult negotiations, an agreement was concluded with the owners of Germany's 19 nuclear power stations, which limits the average lifespan of the stations to 32 years, calculated from the time they went on stream. The first nuclear power station has already been decommissioned. Most of the stations will be shut down between 2012 and 2022.

1.1.7 Beyond the borders of the EU, but still within Europe, in Switzerland, the public rejected two anti-nuclear initiatives – the 'Moratorium Plus' and the 'Electricity without Nuclear Power' – in May 2003. The first initiative involved extending the current ten-year moratorium on the construction of additional nuclear power stations by a further ten years; it was rejected by 58.4 % of those who voted. The second, which called for a phasing-out of nuclear energy – without replacing it with fossil fuels – and for an end to the reprocessing of spent fuel, was rejected by 66.3 % of those who voted.

1.1.8 The different types of technology in use:

The following table sets out the different types of technology (reactors) currently being used:

Type and common name	Energy level of the neutrons	Moderator	Fuel	Coolant	Total number of operational units / Number of countries
Pressurised (ordinary or 'light') water reactor (PWR)	Low	Ordinary water *	Enriched uranium with or without plutonium	Pressurised ordinary water *	258 / 25

Type and common name	Energy level of the neutrons	Moderator	Fuel	Coolant	Total number of operational units / Number of countries
Boiling (ordinary or 'light') water reactor (BWR)	-id-	Boiling ordinary water *	-id-	Boiling ordinary water *	91 / 10
Pressurised heavy water reactor (PHRW, or CANDU)	-id-	Heavy water	Natural uranium	Heavy water	41 / 6
Gas graphite reactor (UNGG, GCR, Magnox or AGR)	-id-	Graphite	Natural or slightly enriched uranium	CO ₂ or He	32 / 1
RBMK (ordinary water/graphite) reactor	-id-	-id-	Enriched uranium	Boiling ordinary water	13 / 3
Fast breeder reactor (FBR)	high	None	Uranium and plutonium	Melted sodium	4 / 4

1.1.9 The major producers of nuclear-generated electricity are: the USA, 780 TWh (20.3 % of its total electricity production); France, 416 TWh (78 %); Japan, 313 TWh (34.5 %); Germany, 162 TWh (30 %); Russia, 129 TWh (16 %); South Korea, 113 TWh (38.6 %); and the UK 81.1 TWh (22 %) (editor's note: figures for 2002).

1.1.10 Other countries which generate a significant proportion of their electricity using nuclear power are: Armenia, 40.5 %; Belgium, 57 %; Finland, 30 %; Hungary, 36 %; Lithuania, 80 %; Slovakia, 73 %; Sweden, 46 %; Switzerland, 40 %; and the Ukraine, 46 % (editor's note: figures for 2000).

1.1.11 According to the figures for 2002, the EU-15 generated 855.6 TWh or 35 % of its electricity using nuclear power. There will be no significant change in this ratio with EU enlargement and the accession of the 10 new Member States in 2004. Thus, nuclear power is the most important source of electricity production, and, with its share in primary energy consumed in the EU (15 %), it is an important factor as regards the security of the EU's energy supply.

1.2 Reduction of CO₂ emissions in the EU using nuclear energy

1.2.1 In 1990, total greenhouse gas (GHG) emissions in the EU-15 had reached the equivalent of 4,208 million tonnes (Mt or Tg) of CO₂.

1.2.2 The European Environment Agency's 2002 report gives a total level of GHG emissions for the year 2000 of 4,059 Mt, an increase of 0.3 % compared to 1999, but a decrease of 3.5 % from the 1990 levels.

1.2.3 In relation to the objective of reducing total GHG emissions by 8 % by 2008-2012, the figure for 2000 (4,059 Mt) was above that year's target, resulting from a linear decrease in emissions between 1990 and 2010 (4,208 reduced by 4 %, or 4,039 Mt).

1.2.4 Energy uses (industrial, refineries, electricity production, heating of buildings and transport fuels) accounted for most of these emissions, with 3,210 Mt in 2000, including 1,098 Mt from energy production and only 836 Mt from electricity production for networks.

1.2.5 CO₂ emissions alone, which represent 82 % of GHG, stood at 3,325 Mt in 2000, only 0.5 % lower than their 1990 level (3,342 Mt).

1.2.6 All these figures demonstrate that it will be difficult to comply with the Kyoto commitments. Furthermore, these figures cover a period of weak economic growth. The result would not have been so good if the EU had reached its planned economic growth target of 3 %.

1.2.7 These figures show that nuclear power has enabled Europe to avoid producing between 300 and 500 Mt ⁽¹⁾ annually, depending on the references used, of carbon dioxide emissions. These figures compare with the total CO₂ production of all passenger transport vehicles in the EU in 1995, i.e. 430 Mt ⁽²⁾.

1.2.8 A 'bottom-up' report ⁽³⁾ produced for the Commission in 2001 by a group of energy sector experts gave a figure of 1,327 Mt for the CO₂ emissions produced by the energy sector (excluding transport) in 1990, together with a projected figure – using a frozen technology reference level – of 1,943 Mt in 2010. Taking this projected increase as a basis, the report concludes that four basic options for using new methods for producing steam and electricity could avoid CO₂ emissions by:

- 500 Mt, if all new plants used the natural gas-fired combined cycle (NGCCs); it should be pointed out that using gas alone in the future to supplement renewable energy for electricity production will accelerate the exhaustion of gas reserves and does not constitute a 'sustainable' approach;
- 229 Mt through the use of renewables;
- 23 Mt through optimising production cycles in oil refineries;
- 50 Mt through CO₂ removal, subject to further studies and a big rise in costs;

⁽¹⁾ The Commission established this figure with reference to the equivalent electricity generation by gas. However, if the actual energy mix of the past ten years is taken as the reference, the equivalent of 500 million tonnes of carbon dioxide emissions were avoided annually through the use of nuclear power.

⁽²⁾ Economic Evaluation of Sectoral Emission Reduction Emissions for Climate Change, Bottom-up Reports, Energy, European Commission-Environment, March 2001, chapter 1.3.4.

⁽³⁾ Cf. footnote 2.

- 280 Mt according to another study (Shared Analysis Project) ⁽⁴⁾, if the current proportion of energy produced by nuclear power were maintained, which would mean installing an additional nuclear capacity of 100 GWe (around 70 reactors).

Use of these various options, coupled with a vigorous policy of demand-side management, will allow the 1.4 % annual increase in energy efficiency mentioned in point 2.4.2.2 of this opinion.

1.2.9 If all these potential gains were actually made, it appears that the Kyoto targets could be attained. However:

- on the one hand, it is impossible to determine at the present time whether it would be feasible to introduce all the prerequisite policies or whether the costs of doing so would be acceptable;
- on the other hand, the Kyoto targets are comprehensive and even an 8 % reduction in emissions from the energy sector will not be sufficient, if for example, no reductions are made in the transport sector.

Lastly, abandoning the use of nuclear power in electricity generation would lead to a 'positive gap' of 300 Mt annually in CO₂ emissions in the energy sector.

1.3 Management of nuclear waste and spent fuel

1.3.1 Nuclear power stations are currently the largest producers of radioactive waste, followed by medical establishments, industrial establishments and research laboratories which use radioactive sources for examinations and measurements.

1.3.2 For the classification of waste, two parameters – the radioactivity and lifespan (period) of the waste products – are generally taken into account, with waste classed as 'low', 'intermediate' or 'high-level' and as 'short-' or 'long-lived' products. It should be noted that the products with the longest lifespan are not the most highly radioactive; on the contrary, a long lifespan correlates with low disintegration and relatively low radioactivity.

1.3.3 Technical solutions for managing this sort of waste are already known. For low-level, short-lived waste, an acceptable solution might be surface storage, and this course of action has already been officially decided on and implemented by some Member States. For high-level or long-lived waste, the standard technical solution that is recognised internationally by the experts is storage in deep geological strata, but surface storage is a temporary solution while the Member States concerned decide democratically which management option to adopt. It must be pointed out that for these products, surface packaging and storage comply with legitimate safety requirements and this provisional solution is managed pending the implementation of ultimate solutions. The nuclear package proposed by the Commission under the Euratom Treaty aims to speed up the decision-making process for geological storage.

⁽⁴⁾ The Shared Analysis Project, Economic Foundations for Energy Policy – Directorate General for Energy.

1.3.4 Given that there is a direct correlation between the amount of spent fuel produced and the amount of electricity generated, the Member States most concerned are those which produce the greatest amount of nuclear energy. For high-level or long-lived waste the situation varies from one Member State to another:

- Finland, which is the most advanced country, has opted for the solution of geological storage and has chosen a storage site;
- Sweden has also opted for geological storage and is currently identifying a site;
- France is exploring three possibilities: geological storage, lifetime reduction through separation-transmutation and long-term surface or underground storage;
- the other countries have not yet started the process of choosing an ultimate solution for high-level or long-lived waste.

For other, low-level and short-lived waste, the surface storage technique applied in most Member States can be regarded as the acceptable solution.

1.3.5 Situation in the candidate countries ⁽⁵⁾:

'In those candidate countries operating Russian-designed nuclear power plants and research reactors, spent fuel management has become a crucial issue in the last decade because shipments back to Russia for reprocessing or storage are no longer possible. As a matter of urgency, these countries had to construct temporary storage facilities for their spent fuel. Little, if any, progress has been made regarding implementation of programmes for longer-term management and ultimate disposal of this spent fuel.

Regarding the less hazardous operational waste from nuclear power plants, only the Czech Republic and Slovakia have operational disposal sites. Several countries have Russian-style repositories for institutional (i.e. non-fuel cycle) radioactive waste. However, these facilities often do not meet current safety standards. In some cases, waste may have to be retrieved and disposed of elsewhere.'

1.3.6 In the EU, 2 million m³ of low-level or short-lived radioactive waste have already been eliminated. These wastes, which account for significantly larger accumulations by volume than the more hazardous categories, present no major technical challenges regarding their disposal but nonetheless require close supervision while in temporary storage (COM(2003) 32 final).

2. PART TWO: LONG-TERM ENERGY OUTLOOK (2030)

2.1 In view of the large number of uncertain variables involved, it is difficult to make a long-term prognosis for

energy consumption patterns. We know that increasing energy consumption has been the cornerstone of recent progress across the board, whether in technology, living standards and levels of comfort, or hygiene, health, the economy and culture. On the other hand, we also know that the structural shift in the economy (tertiarisation) and advances in energy consumption processes are leading to a decrease in the energy intensity of our activities (i.e. the quantity of energy consumed per unit of production). The energy needs of the billions of people living in the developing world must not be underestimated. Lastly, the effects of energy consumption on the environment and the climate need to be taken into account.

2.2 In relation to the abovementioned factors, this opinion draws on two of the studies available which were conducted for the Commission: the 'European Energy Outlook' by P. Capros and L. Mantzos from the University of Athens ⁽⁶⁾ and 'World Energy, Technology and Climate Policy Outlook' (WETO), DG. Research ⁽⁷⁾. We have chosen them because both studies aim to elucidate the long-term energy outlook up to 2030, but one covers the European outlook and takes the abandonment of nuclear power for granted, while the other covers the outlook worldwide and assumes the continued use of currently available technologies.

2.3 Both reports use models which extrapolate from ongoing trends, including structural changes and technical progress. Although this means that they cannot incorporate new and radically different policies, the impossibility of making serious forecasts about changes to ongoing trends makes this a minor problem. This opinion therefore draws on these studies to elucidate the nature of the issues involved rather than to predict future patterns.

2.4 The key messages of these studies are set out below.

2.4.1 Capros-Mantzos Study

It is projected that in 2030, the EU's GDP will be more than double that of 1995, but as a result of the technological progress made both in the various branches of energy production and in the consumption process, together with structural change in the economy, energy consumption will have risen by 20 %, from 1,650 to 1,968 Mtoe (EU-25), meaning an average drop in energy intensity of 1.7 % per annum.

⁽⁵⁾ Extract from COM(2003) 32 final – CNS 2003/0022, paragraph 5 in the section 'Situation in the EU Member States and candidate countries'.

⁽⁶⁾ The European energy outlook to 2010 and 2030, P. Capros and L. Mantzos, 2000

⁽⁷⁾ World energy, technology and climate policy outlook 2030 –WETO – Directorate General for Research Energy, 2003.

According to this scenario, oil would continue to provide the lion's share of energy, followed by gas and coal. Total CO₂ emissions (4,208 Mt in 1990), which fell from an indicator of 100 in 1990 to 98.7 in 1995, would rise to 109.5 in 2020 and 117.2 in 2030. The Kyoto commitments could not be met within this basic scenario. Further, looking in more detail at the increase in CO₂ emissions (assessed in the study at 568 Mt between 1995 and 2030), emissions from the industry, tertiary and domestic sectors and non-commercial uses would decrease, but emissions from the transport sector and energy production would increase by 163 Mt and 533 Mt respectively. The phasing-out of nuclear power would account for most of the increase in the latter figure.

2.4.2 WETO Study

2.4.2.1 Global outlook for 2030

The study projects that the world population will rise from 6.1 billion people in 2000 to 8.2 billion in 2030, and that global GDP will grow by an average of 3 % per year (as opposed to 3.3 % during the thirty years between 1970 and 2000).

World energy consumption is projected to increase by 70 % between 2000 and 2030 (from 9,963 Mtoe to around 17 Gtoe), representing an annual increase of only 1.8 %, for a 3 % growth in GNP.

In terms of demand for fossil fuels, oil would represent 5.9 Gtoe or 34 % of global consumption, natural gas 4.3 Gtoe or 25 % and coal, more competitive in terms of price, 4.8 Gtoe or 28 %.

Demand for nuclear power is projected to increase by 0.9 % per year over the reference period, but nuclear energy would account for only 5 % of global energy consumption in 2030, compared to 6.7 % in 2000.

The share of large-scale hydropower and geothermal energy would stabilise at 2 % of the total (2.3 % in 2000). Demand for solar power, small-scale hydropower and wind power would increase by 7 % per year between 2000 and 2010 and then by 5 %, but their share of consumption would still reach only 1 % of the total in 2030 (0.5 % in 2000).

The share of wood and waste consumption is projected to fall and would only represent 5 % in 2030 against 11 % today.

In total, renewable energies would represent 8 % of total world energy consumption in 2030.

According to this scenario, global energy consumption would rise by 1.8 % per year with a population increase of 1 % and an annual increase in per capita wealth of 2.1 % per year, implying an overall reduction in energy intensity of -1.2 % per year.

2.4.2.2 2030 Outlook for the EU

Within the EU, the population is projected to remain stable. Per capita wealth is expected to rise by 1.9 % and improvements in demand-side management (EDM) would permit a 1.4 % reduction in energy intensity, meaning that energy demand would increase by 0.4 % per year.

The overall demand for energy would rise from 1.5 Gtoe in 2000 to 1.7 Gtoe in 2030. This analysis takes account of the accession of the new Member States, where economic growth would be higher but where the gains in terms of energy intensity would also be more significant⁽⁸⁾.

In terms of fuel shares, natural gas is projected to reach 27 % of total EU energy consumption, and would be behind oil (39 %) but ahead of coal and lignite (16 %).

2.4.2.3 Outlook for electricity production

Global electricity production is projected to increase by a steady 3 % per year. New technologies which emerged during the 1990s, including combined cycle gas turbines, advanced coal-burning technologies and renewables would account for over half of this production.

The share of gas in global electricity generation is expected to rise in the three main gas-producing regions.

The development of nuclear power would not be sufficient to maintain its share in global electricity production, which would fall to only 10 %.

Renewables would account for 4 % of energy needs, compared to 2 % in 2000, mainly due to increased electricity generation through wind power. For the EU-25, total electricity production would rise from 2,900 TWh in 2000 to 4,500 TWh in 2030, with the share of renewables rising from 14.6 % to 17.7 %, that of combined heat and power from 12.5 % to 16.1 %, while that of nuclear power would fall from 31.8 % to 17.1 %.

2.4.2.4 CO₂ emissions

Under the basic reference scenario, global annual CO₂ emissions would more than double between 1990 and 2030, rising from 21 Gt to 45 Gt.

For instance, in 2003, China would become the largest economy (with a 10-fold increase in GNP since 1990) and would become the biggest source of CO₂ emissions, which would increase by 290 % in relation to 1990.

In the EU, the shares of coal and oil would decrease respectively by 7 % and 4 % and the share of natural gas would increase by 10 %, leading to a modest drop in the carbon intensity of energy consumption. However, due to the overall increase in energy consumption, total CO₂ emissions would increase by 18 % between 1990 and 2030.

2.4.2.5 Variations in the basic reference scenario

The data set out above is drawn from the WETO study's basic reference scenario. The study also includes a further four variations on this scenario:

- The 'gas' case assumes increased availability of natural gas and the introduction of major improvements for gas turbine combined cycles and fuel cells. It would result in a 21.6 % increase in gas consumption compared to the basic scenario, and a 1.6 % drop in CO₂ emissions.

⁽⁸⁾ The most recent data provided by the Commission list 1,650 Mtoe in 2000 and 1,968 Mtoe in 2030 for the EU of 25.

- The 'coal' case assumes major improvements in advanced super coal power plant technology, integrated coal gasification combined power plants and direct coal-fired combined cycle plants. It would result in a 15 % increase in coal consumption compared to the basic scenario and would produce no increase in CO₂ emissions.
- The 'nuclear' case assumes a major breakthrough in nuclear technology in terms of cost and safety, both for standard light water reactors and particularly in the design of new reactors. It would result in an additional 77.5 % of nuclear generated electricity and a 2.8 % drop in CO₂ emissions.
- The 'renewables' case assumes major improvements, particularly in wind power, solar thermal power plants and small-scale hydro-electric installations and photovoltaic cells. It would lead to a 132 % increase in the contribution of these energies and a 3 % drop in CO₂ emissions.

2.5 The outcome of this research is that, with no additional changes to the technologies and legislation in place in 2000 (when both studies were published) it will be extremely difficult to stabilise greenhouse gas emissions, either at global level, or within the enlarged EU.

These two studies demonstrate that, looking at all the technologies currently available, the contribution of nuclear energy would be just as important to climate control as that of renewables.

3. PART THREE: PROSPECTS FOR RESEARCH

3.1 *The achievements of nuclear R&D*

3.1.1 Of all the various sources of energy, nuclear energy indubitably makes the most intense demands on R&D. The adoption of the Euratom Treaty in 1957 encouraged research and the dissemination of knowledge in the nuclear sector well before the inclusion of general research policy in the EC Treaty. Research has also focused on technological procedures and on safety issues and the protection of workers, the general public and the environment.

3.1.2 The knock-on benefits of non-military nuclear research for countries generating part of their electricity using nuclear energy are reduced energy bills for the general public and businesses, a more secure energy supply and a proven contribution to the reduction of greenhouse gases.

3.2 *Key research issues in the nuclear sector*

3.2.1 The European Commission's Green Paper 'Towards a European Strategy for Energy Supply' (2001) addresses the key challenge for the European Union: How can the EU, which has

insufficient energy resources and relies on foreign imports, often from unstable countries, for 50 % of its energy supply - essentially from fossil fuels - simultaneously maintain its competitiveness, comply with its Kyoto commitments and ensure the well-being of its population? This balancing act is further complicated by the prospect of growing energy dependence towards 2020-2030 and the need for urgent action to combat climate change.

3.2.2 One of the suggestions put forward in the Green Paper is that: 'the Union must maintain its expertise in civil nuclear technology in order to maintain the necessary expertise and develop more efficient fission reactors,' as part of an approach geared to sustainable development, which reconciles economic development, social balance and respect for the environment. In its response to the Green Paper, the European Parliament confirms the existence of these issues. It must be recognised that maintaining this expertise requires the continued operation of the present reactor population.

3.3 *Key research themes in the nuclear sector*

3.3.1 Like research into other technologies, the objective of the research conducted in the nuclear sector is to improve performance in the various areas concerned. Under the 6th Euratom FRDP, research has focused on waste and the effects of low radiation doses.

3.3.2 Research into radioactive waste management aims to ensure that control of radioactive waste is as failsafe as possible. Safe industrial solutions have already been found for the permanent disposal of low-level waste, for packaging (vitrification) and for the temporary storage of high-level or long-lived waste.

3.3.2.1 As regards high-level or long-lived waste, research is also being conducted into temporary above-ground and underground (i.e. several dozen metres below ground) storage that would be capable of keeping radioactive waste confined in sealed containers for several centuries. Research is continuing on storage in geological formations and the direct storage of spent fuel.

3.3.2.2 A number of studies are also focusing on the possibility of perfecting the processes used in reprocessing spent fuel so as to separate and then 'transmute' (transform into radioactive elements with a shorter lifespan) the most toxic types of long-lived waste which nowadays are still present in the final waste products. 'Transmutation' could be carried out in existing nuclear reactors or in the current prototypes (cf. new innovations).

3.3.3 The research being carried out into new innovations is part of efforts to achieve sustainable development. The global challenge of providing energy for future generations will require the utilisation of the whole spectrum of technologies which can draw on long-term fuel resources.

3.3.4 From an industrial perspective, nuclear power is preparing to meet this challenge, firstly through the introduction, towards 2010, of new evolutionary design or 'generation 3+' technologies based on the existing light water reactors and secondly, towards 2035/2040, through the introduction of new '4th generation' types of reactor using different technology (e.g. gas or liquid metal coolants).

3.3.5 Research into new types of reactors has a number of objectives: to make nuclear power more competitive (by shortening the investment period); to improve reactor safety; to minimise the production of waste and to recycle re-usable elements; to foster multi-purpose production, by generating by-products such as hydrogen, as well as electricity. Progress is also awaited in sea water desalination.

3.3.6 Another type of reactor – the HTR (High Temperature Reactor) is situated between the generation 3+ and 4th generation reactors. The HTR is a modular reactor which uses helium at extremely high temperatures as a coolant and is equipped with a direct cycle gas turbine conversion system. The concept is well-known, and technological advances over traditional high temperature cycles should facilitate its translation into practice, although there are still technological barriers to bringing it into industrial operation.

3.3.7 Research into future systems is being conducted at an international level, specifically under the Generation IV programme, initiated by the United States and involving ten countries. Out of around 100 proposals, 19 groups of related concepts have been evaluated and 6 concepts have been selected, many of which comprise several reactor projects. The concepts which are being taken forward are currently at different stages of development and could be ready to be taken up by the nuclear industry at various points after 2035/2040. Some of these concepts will satisfy the wider energy 'markets' of heat or hydrogen production.

3.3.8 When they become available, 'Generation IV' reactors will make more efficient use of the energy potential of uranium, will also use other fuels (plutonium and thorium) and will burn their own waste products, whilst also being extremely economical and safe and therefore fully meeting sustainable development criteria. All the concepts being taken forward open up extremely promising possibilities with regard to all three of the objectives of the 'Generation IV' programme, namely sustainability (efficient use of fuel resources and minimisation of waste), safety and economy. Like the existing reactors, they will be equipped with all the available guarantees concerning non-proliferation of nuclear material for military

purposes, whilst the generating reactors all have a closed fuel cycle.

3.3.9 The R & D programmes conducted under EURATOM have made protection against radiation a priority theme and cover a broad spectrum of research including: study of the effects of low doses (from the perspective of cellular and molecular biology as well as epidemiology); exposure during medical procedures, in particular the development of radiotherapies tailored to individual patients' sensitivity to radiation, and exposure to natural sources of radiation; protection of the environment and radiation ecology; risk management and emergency response and protection at the workplace. Cutting edge techniques, such as genomics and biotechnology, are used in all these areas of research, whose findings are already being used – and will continue to be used in the future – to improve both methods of protecting people and the environment and the related protection standards.

3.3.10 The safety of nuclear installations is naturally one of the priority areas for nuclear research. Here too, the EURATOM research and development programmes⁽⁹⁾ have clearly identified the key priorities and stressed that, at European level, the most important issue is to improve the safety of existing nuclear installations in the Member States and in the acceding and candidate countries. Research in this sector will focus on the management of these installations – including the effects of installation ageing – and fuel performance and will also cover management of serious accidents, in particular the development of advanced digital simulation codes. Benefits will also be drawn from capacity and knowledge-sharing amongst the European partners involved in the dismantling of nuclear installations and from cooperative work to establish a scientific basis for nuclear safety and to exchange best practice at European level.

3.3.11 Lastly, looking further forward to equally promising developments, it is important to mention research into controlled thermonuclear fusion, which is the subject of an own-initiative opinion currently being drawn up by the EESC.

4. PART FOUR: HEALTH, PROTECTION AGAINST RADIATION AND SAFETY

4.1 *Biological effects of radiation*

4.1.1 Ionising radiation acts by tearing electrons (ionisation) from the main atoms which make up living matter. This radiation can be made up either of particles (alpha or beta) or electromagnetic rays (X rays, gamma rays).

4.1.2 Ionising radiation is measured according to an 'activity' scale, which calculates the number of emissions per second. The unit of measurement employed is the becquerel (Bq) which represents one emission per second (the Curie (Ci) represents the activity of one gram of radium, or 37 billion becquerels).

⁽⁹⁾ The following areas correspond to the priority thematic areas for research set out in the specific programme for research in the nuclear sector, which will be covered by the 6th EURATOM RTD Framework Programme.

4.1.3 Living organisms have been exposed to ionising radiation since the very beginning of time – and in fact partially owe their evolution to it. Today, we are continually exposed to ionising radiation from our own bodies (6,000 to 8,000 Bq) and from our environment: the earth, which contains uranium (650,000 Bq for a cubic metre of earth), the air, which contains radon, the sky, from cosmic rays, and such familiar products as sea water (10 Bq/litre) or milk (50 Bq/litre).

4.1.4 The effects of ionising radiation are measured in terms of the 'absorbed dose' using the gray (1 joule per kilogram of body tissue), and the 'effective dose' using the sievert, which is based on the total amount of radiation absorbed by each organ, with coefficients that take account of the nature of the radiation (high or low risk) and of the tissue (high or low sensitivity).

4.1.5 Expressed as an effective dose, natural and medical exposure to ionising radiation (accounting for 30 %) in Paris or Brussels stands at around 2.5 mSv/year (a thousandth of a sievert per year). It reaches levels of approximately 5 mSv/year in granite sites such as the Massif Central in France and is over 20 mSv/year in some areas of the world (e.g. Iran and Kerala). For a European, by way of comparison, radiation from the nuclear industry represents around 15 µSv/year (a millionth of a sievert per year).

4.1.6 The human body possesses its own systems for repairing the damage caused to its chromosomes by ionising radiation. This explains why doses of ionising radiation administered at low rates are not carcinogenic (or have never been proved to have a carcinogenic effect) and that cancer levels are not higher in areas of the world where natural radiation reaches a level of 20 mSv/year.

4.1.7 Ionising radiation may have two types of effect:

4.1.7.1 'deterministic' or 'non random' effects above 700 mSv; as these effects only appear once particular thresholds are reached, protecting oneself is a relatively straightforward matter of ensuring that one's exposure remains below the threshold and within a certain margin of protection;

4.1.7.2 'random effects,' which fall into two categories: the first category is radiation-induced carcinogenesis, whose likelihood increases proportional to dose; cancers have only been demonstrated to occur with doses of over 100-200 mSv for adults and 50-100 mSv for children; the second category is the appearance of congenital, hereditary malformations; this effect, which has been proven to occur in mice, has never been scientifically proven in humans, neither in the populations affected by Hiroshima-Nagasaki nor in those affected by Chernobyl.

4.2 Policy on protection against ionising radiation

4.2.1 Current policy on protection against ionising radiation is determined in various stages and involves the intervention of a number of different international and national bodies.

4.2.2 At the 'initial' level, the UNSCEAR⁽¹⁰⁾ (a UN body whose members are appointed by national governments) and, above all the ICRP (International Commission on Radiological Protection - an independent international organisation) analyse the scientific literature and draw up recommendations in the form of reports. For example, ICRP report No. 73 focuses on radiation exposure resulting from medical treatment.

At the next level (in Europe) the European Community adapts the texts of the ICRP in the form of Recommendations or Directives. For example, ICRP 73 led to Euratom Directive 97/43 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure.

Lastly, the Member States transpose the EU Recommendations or Directives into national law.

4.2.3 The basic standards⁽¹¹⁾ for the protection of the general public against ionising radiation are extremely strict and lay down a limit for additional exposure resulting from the activities of the nuclear industry of 1 mSv per person per year. This regulatory threshold, which has no correlation with the figures discussed in the chapter on the biological effects of radiation, was essentially determined on the basis of the technical capacities of the nuclear industry.

4.2.4 The basic standards for the protection of workers in the nuclear industry lay down a maximum dose of 100 mSv over five consecutive years, or an annual average of 20 mSv, provided that the dose does not exceed 50 mSv in the course of a single year.

4.2.5 Companies using nuclear technology have made continuous progress. To cite just one example, within the company with the greatest number of nuclear installations in the EU, the annual doses for workers exposed to radiation have fallen from 4.6 mSv in 1992 to 2.03 mSv in 2002.

4.2.6 This outcome has been achieved by first subjecting operations in exposed areas systematically to the yardstick of 'justification, optimisation and limitation'. To give concrete expression to these three principles on an industrial scale, a procedure of 'ALARA' (as low as reasonably achievable) was developed by all operators.

⁽¹⁰⁾ United Nations Scientific Committee on the Effects of Atomic Radiation.

⁽¹¹⁾ A European Directive adopted in May 1996 under the Euratom Treaty (dir 96/29) lays down maximum doses for the general public and workers in the nuclear industry.

4.3 *The principles behind safety procedures*

4.3.1 Nuclear safety relies on a body of provisions relating to the planning, construction, operation, closure and decommissioning of nuclear installations and the transport of radioactive materials.

4.3.2 These provisions, which aim to avert accidents and limit the effects of any which might occur, are based on the principle of 'defence in depth', which involves the systematic use of multiple barriers against any escape of radioactivity from nuclear plants:

- prevention to avoid faults: mainly through ensuring compliance with operating procedures;
- monitoring (or detection) aimed at anticipating faults through tests and/or controls: this can take the form of regular testing of the materials necessary to ensure safety;
- action or treatment to limit the consequences of a fault and ensure that it does not re-occur;
- systematic analysis of events that might be the precursors of a worsening situation.

A distinction can be made between three types of provision:

- material – relating to the design and reliability of nuclear installations;
- organisational – relating to the clear definition of each player's responsibilities in the work of the installation, relevant controls and the provision of appropriate resources required by given situations, particularly emergencies;
- human – to ensure that people's actions are based on specific training relevant to their job and responsibilities and on a culture of safety, which motivates each player to be rigorous and vigilant.

4.4 *Responsibility for and monitoring of safety*

4.4.1 Responsibility for nuclear safety falls to the operator of the installation concerned, who acts under the supervision – and according to the rules established by – the national safety authority.

As a result of international exchanges between national safety authorities and/or nuclear operators, indicators on the quality of the various installations are published on a regular basis. Regular exchanges are organised through international inspections (such as OSART (Operational Safety Review Team) under the auspices of the IAEA (International Atomic Energy Agency), or 'Peer Review' under the aegis of WANO (World Association of Nuclear Operators) during which nuclear plants are visited by a team of international experts.

4.4.2 These indicators show that there has been a continuous improvement in the performances of nuclear installations in the European Union and in particular that there has been a reduction both in the number of 'significant incidents' (level 1 on the 7-level INES (International Nuclear Event Scale) and in emissions of radiation into the environment.

4.4.3 The European Commission recently established a Community mechanism for verifying the effectiveness of national nuclear safety provisions (COM(2003) 32 final). On this occasion, the Committee noted that, in this area, European directives on safety of nuclear installations and the corresponding monitoring procedures should make it clear that the current remit of Member States' safety authorities will remain unchanged and that the operators of nuclear installations will also continue to bear sole responsibility for safety. This last requirement is also consistent with the polluter-pays principle, which the Committee considers to be very important.

5. THE ECONOMIC ISSUES INVOLVED IN USING NUCLEAR POWER IN ELECTRICITY GENERATION

5.1 Nuclear generated electricity is extremely expensive in terms of capital, but its operating costs are proportionately very low and very stable. It is worth noting that there are 362 electricity-generating nuclear power stations across the OECD and that today these are generally competitive within their own markets, whether or not these are deregulated.

5.2 In the long term, the competitiveness of nuclear generated electricity is closely dependent on which scenarios are adopted for other sources of energy, particularly natural gas, which now seems to be the benchmark in view of the need to reduce CO₂ emissions. A major advantage for nuclear power is still the ability to post a stable – as well as a competitive – price at a time when prices on the internal electricity market are starting to lurch upwards as supply/demand equilibrium comes under pressure (as demonstrated by the Nordel network during the winter of 2002/2003).

5.3 The competitiveness of nuclear power depends on the cost of investment. For a financial return of 5 %, nuclear power is demonstrably competitive in over a quarter of the OECD countries which in 1998 provided data on their studies of electricity production investment for 2005. For a return of 10 %, nuclear power is no longer competitive.

5.4 However, the results of the study published in 1998 rely on the hypotheses adopted by the IEA (International Energy Agency), which are based on gas prices over the next 25 years being lower than in 2000 and less than half their 1980 value in real terms. However, it is extremely unlikely that gas prices will not rise considerably over the complete lifespan of a nuclear power station (40 to 60 years).

5.5 The key question is the financial risk facing operators investing in electricity production in what has become a highly competitive market. This is leading nuclear industry operators to re-examine the issue of the size of production units. Until now, the tendency has been to increase size in order to achieve economies of scale. Given the new characteristics of the electricity market, it is now essential to look at projects that respond to lower unit capacity requirements. For countries such as Finland, France and Japan, nuclear power still remains the most economical way to generate electricity.

5.6 The constructors of nuclear installations (AREVA-Framatome and BNFL/ Westinghouse) are currently signalling falling costs for light water reactors, which could be somewhere in the order of 25 % compared with the prices of reactors currently in operation. The real test will be the TVO consultation carried out in Finland, since this company has obtained all the necessary agreements to invest in a new nuclear power station.

5.7 For the GIF (Generation IV International Forum) studies, an international collaboration scheme for research into future nuclear technology, the objective is a 50 % reduction in capital expenditure together with reductions in construction time, to bring the level of financial risk closer to that in other sectors of energy production.

5.8 In the longer term, the economic competitiveness of the nuclear industry will also depend on the price of renewables. Renewable energies are mostly intermittent, and therefore require complementary installations for producing or storing electricity, meaning that they will remain expensive as long as no major progress is made.

5.9 It should be noted that the price of nuclear generated electricity includes the costs of waste processing and plant decommissioning, which is generally estimated at 15 % of a plant's initial cost.

5.10 Among the factors that help shape choices and decisions, it should also be mentioned that in the EU, the civilian nuclear industry currently employs 400,000 people in jobs that are generally highly skilled.

5.11 Although not an economic issue as such, the downward pressure on costs that normally accompanies a competitive deregulated market and its impact on the steps taken to improve the safety of installations and the security of workers and the population at large could become an issue. The EESC believes that this is a point to which the Commission should pay very careful attention in its proposals for provisions in the field of safety.

6. CONCLUSIONS

6.1 From the data collected from existing EU publications, specialist agencies, experts' hearings and industrialists, which

are included in this opinion, the EESC feels it should particularly stress the following points when considering the issues involved in using nuclear power in electricity generation.

6.2 Nuclear energy produces a significant proportion (35 %) of the EU's electricity and makes up 15 % of primary energy consumption. It makes a major contribution towards ensuring security of supply and reducing the EU's energy dependence.

6.3 It leads to the avoidance of 300 to 500 Mt of CO₂ emissions per year, thereby making a very useful contribution towards the range of solutions enabling the commitments made at Kyoto to be respected.

6.4 It ensures stable production prices and therefore contributes to price stability in the EU and removes a source of uncertainty for economic operators about their future prospects.

6.5 When the current nuclear power stations come to the end of their lifespan, renewables will not be able to rise to the challenge of both replacing them and responding to rising electricity demand, even though the development of this form of energy is desirable and encouraged by the EU (see Directive 2001-77 EC). For instance, wind power has only a relatively low and generally unpredictable level of availability, of the order of 2,000 to 2,500 hours a year.

6.6 Control of energy demand must help make human activity less energy-intensive (both in business and private life), but this is not enough to justify stopping nuclear energy production entirely; because of the quantities involved, control will have to focus on uses other than electricity, such as transport.

6.7 The issues raised by nuclear power are safety, protection against the physiological effects of ionising radiation, waste and spent fuel. The first two are already the subject of technical and regulatory responses, which will evolve over time. The increased risk of attacks from the outside which society and industrial activities in general have to face is a factor which has to be taken into account by the public authorities and industry in their safety and protection policies.

6.8 Some EU Member States are making progress in resolving the issue of nuclear waste. Two countries (Finland and Sweden) have chosen the solution and even the site; other countries (France and Spain) have adopted solutions for low-level products and are continuing investigations into higher-level products; the EU Commission has taken steps under the Euratom Treaty to speed up the process. A packaging industry for high-level products has been set up in France and the United Kingdom. Storage is a reality and the fact that other research is continuing does not mean that no solution has been found.

6.9 On the basis of the points made in this opinion and the conclusions which precede, the EESC considers, like the Green Paper, that nuclear power should be one of the elements of a diversified, balanced, economic and sustainable energy policy for the EU. In view of the issues which it raises, staking everything on nuclear power is not an option which should be considered; on the other hand, the EESC considers that a partial or total abandonment of nuclear power would compromise the EU's chances of respecting its commitments on the climate issue. It goes without saying that under the subsidiarity prin-

ciple a consensual choice of energy sources for the future must be made by the Member States who are in a position to take account of specific national circumstances.

6.10 The EESC suggests that, in follow-up to this opinion, efforts should be made to provide information on the real issues of the nuclear industry: security of supply, elimination of CO₂ emissions, competitive prices and the safety and management of spent fuel, so that organised civil society can carry out a critical analysis of the debates on these issues.

Brussels, 25 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

APPENDIX I

to the opinion of the European Economic and Social Committee

The following amendments, which received at least one quarter of the votes cast, were rejected in the discussion:

Introduction

Amend sixth paragraph as follows:

'It must be said that since 1992 the question of safety in nuclear power stations in the acceding countries and those applying for EU membership has been under review, and upgrading programmes have been in operation, involving decisions to shut down or re-organise plants and provide safety training where necessary. Constant surveillance of operators and safety authorities in the Member States concerned remains necessary in order to ~~maintain, and indeed improve, safety levels~~ maintain and further develop the highest standards of safety. The terrorist attacks of 11.9.2001 have undoubtedly brought a new dimension to the issue of safety at nuclear power plants.'

Reason

Safety at nuclear power plants should not merely be maintained at the current level but, where necessary, improved. Thus, for example, they should certainly be protected against aircraft impacts.

Result of vote

For: 34, Against: 60, Abstentions: 8

Point 1.1.3

Amend as follows:

'Nuclear power is used to generate electricity in thirty-two three out of the 192 countries in the world. In 18 of these countries no new nuclear power stations are being built. According to the figures for 2002, its share in overall electricity generation ranged from 80 % in Lithuania and 77 % in France to 1.4 % in China. The fact that 32 new power reactors are being planned or in some cases are under construction demonstrates that, despite high economic, safety and political risks, nuclear energy is an expanding sector of industry world wide outside the EU, in some cases in countries in which the military use of fissile material cannot be excluded and that the EU must not neglect it in its formulation of both energy and industry policy. Within the EU the go-ahead for the construction of a nuclear power station was given for the last time in 1985, until in Finland January 2002, when the Finnish company TVO obtained a decision from its government in January 2002 agreeing to the 'principle' of constructing agreement in principle to allow the construction of a fifth nuclear power station, and this decision was approved by parliament in May 2002. No official application for planning consent has, however, so far been submitted.'

Reason

The text gives the impression that there continues to be a great demand for new nuclear power stations throughout the world (Europe included). This is not the case. Some of the nuclear power plants 'under construction' have in fact been mothballed for years. In Europe the last application for construction of a new nuclear plant was made some twenty years ago.

Result of vote

For: 30, Against: 58, Abstentions: 9

Add a new point 1.1.4 after point 1.1.3:

'In the EU of 15 Member States 145 nuclear plants are at present generating power in 8 Member States. Portugal, Greece, Italy (since 1987), Austria (referendum 1978), Luxembourg and Ireland make no use of nuclear power. In the Netherlands one reactor is still operational, a second having been decommissioned in 1997. Spain (with 9 nine reactors) and Belgium (see point 1.1.5) have adopted a moratorium. In Great Britain (35 reactors) the nuclear power industry is facing very serious economic problems and can only survive thanks to subsidies from levies on other forms of energy.'

Reason

If the situation in the EU is to be described, it should be done fully.

Result of vote

For: 36, Against: 55, Abstentions: 8

Point 1.1.11

Amend as follows:

'According to the figures for 2002, the EU-15 generated 855.6 TWh or 35 % of its electricity using nuclear power. There will be no significant change in this ratio with EU enlargement and the accession of the 10 new Member States in 2004. Thus, nuclear power is ~~the most~~ at present an important source of electricity production, and, with its share in primary energy consumed in the EU (15 %), it is an important factor as regards the security of the EU's energy supply. This will only be the case, however, for as long as existing reactors, which are already approaching the end of their lives, are still in operation. If this share of power generation is to be maintained in the medium to long term, for example because it is felt that it will be impossible to compensate for its loss through increased energy efficiency, renewable energy sources etc, it will be necessary to build a sufficiently large number of new nuclear plants. It is by no means clear to what extent the construction of an estimated 100 new nuclear plants would be politically acceptable.'

Reason

With a 35 % share, nuclear power is not the most important source of electricity production, merely an important source. Even if this opinion is not intended to debate energy policy, it should however at least be clearly stated that in the EU we have to answer an important question: Is the construction of (a large number of) new nuclear power stations politically feasible? The EESC must not sweep this question under the carpet.

Result of vote

For: 36, Against: 65, Abstentions: 8

Point 1.2.9

Amend the final paragraph as follows:

'Lastly, abandoning the use of nuclear power in electricity generation would lead to a 'positive gap' of 300 Mt annually in CO2 emissions in the energy sector. This figure can, however, be reduced if nuclear power is phased out over an extended period, new power-generating capacity based on renewable energy sources developed and efficiency-boosting measures stepped up.'

Reason

The emission figures quoted are a snapshot and do not shed any light on future emission levels, as these depend on trends in energy demand, energy intensity and power generation capacity.

Result of vote

For: 32, Against: 66, Abstentions: 9

Point 1.3.3

Amend as follows:

'Definitive ~~Technical~~ solutions for ~~managing~~ the management and temporary and final storage of this sort of waste are already known. ~~Technical~~ solutions are still being sought given the problems inherent in storing dangerous substances. For low-level, short-lived waste, an acceptable solution might be surface storage, and this course of action has already been officially decided on and implemented by some Member States. This does not, however, mean that safe forms of storage already exist. For high-level or long-lived waste, the standard technical solution that is recognised internationally by the experts is storage in deep geological strata, but surface storage is a temporary solution while the Member States concerned decide democratically which management option to adopt. The EU has neither a final storage facility nor the necessary long-term experience. It must be pointed out that for these products, surface packaging and storage must comply with legitimate safety requirements and this provisional solution is managed pending the implementation of ultimate solutions. The nuclear package proposed by the Commission under the Euratom Treaty aims to speed up the decision-making process for geological storage. Clearly, the safety criteria which a final storage facility must meet if it is to remain safe for a million years are extremely high. The costs of such final storage should be reflected in power generation costs.'

Reason

It is simply not true that practicable solutions exist for all problems connected with the (final) storage of nuclear waste.

Result of vote

For: 34, Against: 68, Abstentions: 7

Point 2.1

Add the following paragraph at the end of the point.

In view of the large number of uncertain variables (...) the effects of energy consumption on the environment and the climate need to be taken into account.

Scenario studies attempt to predict the various possible development paths of energy supply in the future. They are intended to model alternative options for public discussion with the aim of achieving a consensus-based energy supply concept. However, this approach also demonstrates the essential foundations of such an energy blueprint.'

Reason

Self-explanatory. The addition makes sense here in terms of clarifying the role of the studies discussed in detail later in the text.

Result of vote

For: 32, Against: 60, Abstentions: 15

Point 2.3

Amend as follows:

'Both reports use models which extrapolate from ongoing trends, including structural changes and technical progress. Each assumes that there will be no fundamental change in investment decisions relating to energy during the period in question, e.g. substantial growth in the share of investment in renewable energy sources or an increase in energy efficiency compared with the current trend, as a result of political decisions. Although this means that they cannot incorporate new and radically different policies, the impossibility of making serious forecasts about changes to ongoing trends makes this a minor problem. This opinion therefore draws on these studies to elucidate the nature of the issues involved rather than to predict future patterns.'

Reason

Both the studies in question essentially provide reference scenarios, which do not take into account such changes in investment flows, which are technically and economically defensible. If such decisions were to be taken, which cannot be ruled out, the decrease in energy intensity might accelerate appreciably, e.g. owing to existing possibilities. This is by no means a pipe dream, but is consistent with EU policy. In its current proposal for an energy efficiency Directive (COM(2003) 739 final of 10 December 2003), the European Commission proposes using political measures to boost the rate of increase in energy efficiency, currently averaging 1.5 % p.a., by at least 1 % annually over the next few years. This would substantially reduce energy consumption.

Result of vote

For: 33, Against: 64, Abstentions: 10

Point 2.5

Amend as follows:

'The outcome of this research is that, with no additional changes to the technologies and legislation in place in 2000 (when both studies were published) it will be extremely difficult to stabilise greenhouse gas emissions, either at global level, or within the enlarged EU.

~~These two studies demonstrate that, looking at all the technologies currently available, the contribution of nuclear energy would be just as important to climate control as that of renewables.~~

If nuclear power plants are kept in operation, their contribution to solving the problem of climate change in the next few years, based on current technology, could be comparable to the contribution of renewable energy.

In any case, over the long term only renewable energy and improved energy efficiency will solve the climate change problem, since the raw material of atomic energy, uranium, is a finite resource.'

Reason

The qualification ('If nuclear plants are kept in operation...') reflects the fact that one of the two scenarios considered excludes nuclear energy and only the other involves keeping nuclear plants in operation. Thus the claim made in this sentence can be based on only one scenario (maintenance of nuclear energy), not on both. The potential additional emissions forecast in the phasing-out scenario could be avoided by keeping nuclear power plants in operation (i.e. not phasing them out), but equally by stepping up efforts to introduce renewable energy and improve energy efficiency or through other possible measures. This is not mentioned, however.

Result of vote

For: 29, Against: 62, Abstentions: 9

Point 3.3.2

Amend as follows:

'Research into radioactive waste management must aim to ensure that control of radioactive waste is as absolutely failsafe as possible. No absolutely safe industrial solutions have already been found yet for the permanent disposal of low-level waste, for packaging (vitrification) and for the temporary storage of high-level or long-lived waste. However, the Committee would like to know how long research in this industrial sector should be seen as a public responsibility and receive public funding.'

Reason

In point 3.1.1 the rapporteur already notes that 'nuclear energy indubitably makes the most intense demands on R&D'. The question must be raised of how long the public sector should be involved in research activity in this industrial sector, especially as it is clear that, since uranium is a finite resource, atomic energy also has a limited lifespan.

Result of vote

For: 29, Against: 72, Abstentions: 7

Point 4.1.6

Delete point.

Reason

This sweeping statement is untenable.

Result of vote

For: 43, Against: 58, Abstentions: 9

Point 4.3.1

Add a new point 4.3.1

'4.3.1 For many years what worried people most about nuclear power generation were the risks inherent in normal operation and possible accidents. The terrible Chernobyl disaster showed that, on the one hand, human error cannot be completely excluded and, on the other, that it is impossible to make safety plans covering every eventuality. It would be too simplistic to ascribe Chernobyl to the shortcomings of a particular political system. The accident at the Harrisburg nuclear power plant in the USA and the still unexplained clusters of leukaemia cases around German nuclear power plants show that 'western' reactors too are certainly in need of critical assessment.'

Reason

Self-explanatory.

Result of vote

For: 32, Against: 63, Abstentions: 8

Point 4.3.2

Add a new point 4.3.2:

'4.3.2 A new, serious and hitherto unknown risk connected with nuclear power generation is the threat of terrorism – and potentially also armed conflict. The nuclear power industry is the only kind of power generation that might be of any fundamental interest to terrorists. When the nuclear industry was first conceived, such a threat was wholly unimaginable for engineers and politicians alike. Unfortunately, however, the times have changed dramatically and the discussion must not ignore the fact. The extent to which it is possible to avert such substantial risks in our democratic countries governed by the rule of law is questionable. In politically unstable countries, such risks are many times greater.'

Reason

Self-explanatory.

Result of vote

For: 32, Against: 68, Abstentions: 8

Point 5.1

Amend as follows:

'Nuclear generated electricity is extremely expensive in terms of capital, but its operating costs are proportionately very low and very stable. Reasons for that include high levels of grants and subsidies, the use of technologies the cost of which has been written off, tax-free reserves, the fact that the full cost of storage is not taken into account, insufficient risk insurance and high levels of research support. As a result of these and other factors it is worth noting that there are 362 electricity-generating nuclear power stations across the OECD and that, today these under the given conditions, are generally competitive within their own markets, whether or not these are deregulated. It must be recognised, however, that, in the UK, for example, all moves to privatise nuclear electricity production have failed. That is the surest indication that economic uncertainties do certainly also exist.'

Reason

Self-explanatory.

Result of vote

For: 26, Against: 69, Abstentions: 6

Point 5.2

Amend as follows:

'In the long term, the competitiveness of nuclear generated electricity is closely dependent on which scenarios are adopted for other sources of energy, particularly natural gas, which now seems to be the benchmark in view of the need to reduce CO2 emissions. A major advantage for nuclear power is still the ability to post a stable – as well as a competitive – price at a time when prices on the internal electricity market are starting to lurch upwards as supply/demand equilibrium comes under pressure (as demonstrated by the Nordel network during the winter of 2002/2003). The competitiveness of nuclear energy varies, depending on the price of gas. It can also help secure stable prices on the internal electricity market by reducing the impact of upsets in the supply/demand equilibrium that are inherent in the single market (look at what happened with the Nordel network in Scandinavia in the winter of 2002/2003), thereby preventing such upsets from causing excessive fluctuations in price.'

Reason

The first sentence of the amendment explains the first sentence of point 5.2 by correctly stating that the competitiveness of nuclear energy is currently determined first and foremost in relation to the price of gas. In contrast, the original sentence ('A major advantage...') is phrased in absolute terms and thus directly contradicts the preceding statement. It must therefore be deleted. The second sentence of the amendment explains the mechanics of price stability.

Result of vote

For: 27, Against: 65, Abstentions: 9

Point 5.3

Amend as follows:

'The competitiveness of nuclear power depends on the cost of investment, subsidies and the overall energy context. For a financial return of 5 %, nuclear power is demonstrably competitive in over a quarter of the OECD countries which in 1998 provided data on their studies of electricity production investment for 2005. For a return of 10 %, nuclear power is no longer competitive.'

Reason

Self-explanatory.

Result of vote

For: 38, Against: 63, Abstentions: 6

Point 5.10

Amend as follows:

'Among the factors that help shape choices and decisions, it should also be mentioned that in the EU, the civilian nuclear industry currently employs 400,000 people in jobs that are generally highly skilled. As many – if not more – additional jobs will be created in the EU by the intensive expansion and ongoing development of renewable energies and energy-efficiency technologies.'

Reason

Given the precarious employment situation, particular attention should be paid to markets that may, potentially, generate new jobs. The projected number of jobs appears conservative given estimates from the German construction workers' trade union IG Bau of some 200,000 additional jobs in the German building insulation industry alone, and Eurosolar's predictions of some 500,000 potential additional jobs in the EU's renewable energy sector.

Result of vote

For: 28, Against: 61, Abstentions: 18

Point 5.11

Amend as follows:

'Although not an economic issue as such, the downward pressure on costs that normally accompanies a competitive deregulated market and its impact on the steps taken to improve the safety of installations and the security of workers and the population at large could become an issue. Large operators have already made substantial staff cuts. The EESC believes that this is a point to which the Commission should pay very careful attention in its proposals for provisions in the field of safety.'

Reason

Self-explanatory.

Result of vote

For: 28, Against: 63, Abstentions: 18

Point 6.3

Amend as follows:

'It leads to the avoidance of 300 ~~to 500~~ Mt of CO₂ emissions per year, thereby making a very useful contribution towards the range of solutions enabling the commitments made at Kyoto to be respected.'

Reason

The amendment reflects the change to point 1.2.9.

Result of vote

For: 27, Against: 67, Abstentions: 12

Point 6.4

Amend as follows:

'It ensures stable production prices and therefore contributes to price stability in the EU and removes a source of uncertainty for economic operators about their future prospects. Long-term economic and safety considerations, however, lead to a different cost assessment.'

Reason

Self-explanatory.

Result of vote

For: 31, Against: 65, Abstentions: 6

Point 6.5

Amend as follows:

'When the current nuclear power stations come to the end of their lifespan, Renewables will not be able to cannot at present rise to the challenge of both replacing current nuclear power stations ~~them~~ and responding to rising electricity demand which in some cases is still rising, even though the development of this form of energy is desirable and encouraged by the EU (see Directive 2001-77 EC). There also remain structural obstacles to this: for instance, wind power currently has only a relatively low and generally unpredictable availability, of the order of 2,000 to 2,500 hours a year. However, all this could change significantly, for example through energy efficiency measures, the further development of permanently available energy sources such as biomass, etc.'

Reason

Renewable energy is only just being introduced into the market. In particular, biomass and geothermal energy, constantly available renewable energy sources that would be able to replace nuclear energy even in those areas where it performs best, are at a very early stage. This is also true of storage systems that would be able to make intermittent energy sources such as wind and solar energy capable of bearing a constant load. It should therefore be made clear that the circumstances described are a snapshot of the current situation.

Result of vote

For: 27, Against: 54, Abstentions: 16

Point 6.6

Add new point 6.6:

'6.6 The point that significant strategic decisions must soon be taken in the EU is an important one for the EESC. The lifespan of the existing nuclear power stations is gradually coming to an end. Europe thus faces the question of whether to begin a new generation of nuclear power usage and indeed to what extent society will accept this. The latter important question is for politicians to resolve. Alternatively, do we want, as of now, to start making every possible effort to move towards an age where energy policy will involve the use neither of fossil fuels nor of nuclear energy? The need eventually to achieve this is not a matter of 'yes' or 'no', but of 'when'.'

Reason

We depend on fossil fuels, mostly in the form of stored solar energy (coal, oil and gas) and from uranium, of which reserves are equally finite. It is simply a matter of when we move into a new age of energy use. The EESC cannot duck this question.

Result of vote

For: 32, Against: 58, Abstentions: 15

Point 6.6

Amend point 6.6 as follows:

'Control of energy demand must help make human activity less energy-intensive (both in business and private life). In respect of electricity, there is great untapped potential in this area, which needs to be exploited. Exploiting that potential alone is not, however, enough to compensate for stopping nuclear power production entirely. Furthermore, greater potential for reducing energy intensity lies in the areas of heating and transport. The transport sector in particular requires special attention, in order to achieve an effective reduction in carbon dioxide emissions in this area and at the same time ensure sustainable mobility.'

Reason

These conclusions can logically be drawn from the scenarios described in Part 2 of the opinion.

Result of vote

For: 34, Against: 59, Abstentions: 13

Point 6.9

Delete point and replace as follows:

'Notwithstanding the continued public controversy over nuclear power in EU Member States, the EESC concludes that, on the basis of the subsidiarity principle, it is primarily up to the relevant national decision-makers to achieve a consensus as to the sustainable future energy mix. The particular circumstances of each country must be taken into consideration, in particular the extent to which energy sources are available within that country. It is these sources that should be used as a matter of preference, in order to reduce the EU's heavy dependence on energy imports, which the European Commission's Green Paper on security of supply has already identified as a priority. It is beyond dispute that renewable energy and improvements in energy efficiency have a very important role to play here, since they reduce dependence on imports and do not produce climate-changing greenhouse gases. The development of renewable energy and efficiency technologies is an important building block on Europe's road to becoming a knowledge-based, highly developed, competitive and export-oriented region and thus to fulfilling the Lisbon agreements with respect to the energy sector. In addition, new jobs can thus be created.'

Reason

The text is self-explanatory in terms of its content, whilst also being consistent with previous EU statements on energy policy. This paragraph also takes the necessary step of placing nuclear power in the context of the overall debate on a sustainable energy mix.

Result of vote

For: 33, Against: 61, Abstentions: 13

Opinion of the European Economic and Social Committee on the 'proposal for a Council Regulation amending Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)'

(COM(2003) 806 final - 2003/0312 CNS)

(2004/C 110/15)

On 16 January 2004 the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the above-mentioned proposal.

On 27 January 2004 the Committee Bureau instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

In view of the urgency of the matter, at its 406th plenary session of 25 and 26 February 2004 (meeting of 25 February 2004) the European Economic and Social Committee decided to appoint Mr Donnelly as rapporteur-general and adopted the following opinion by 60 votes for, one against and with one abstention.

1. Introduction

1.1 The Act of Accession provided to the new Member States the measure 'Compliance with community standards', financed under EAGGF Guarantee Section, intended to support farmers' efforts to reach EU standards during the transition period granted by giving them additional transfers to offset the costs of compliance.

1.2 The CAP Reform introduced a general 'Meeting standards' measure ⁽¹⁾ intended to help farmers adapt to the operating costs resulting from newly introduced EU standards based on Community legislation in the fields of the environment, public, animal and plant health, animal welfare and occupational safety.

1.3 The Commission proposal on the Act of Accession adaptation to CAP Reform ⁽²⁾ deletes the measure 'Compliance with community standards' in order to avoid any overlap and to maintain the possibilities available to the new Member States under the new 'Meeting standards' measure.

1.4 However, the new Member States have allocated substantial amounts of their EAGGF Guarantee rural development allocations to cover on-farm investment to adapt to Community standards in the field of environment, rather than providing for this expenditure out of their EAGGF Guidance allocations.

2. Gist of Commission Proposal

2.1 As it seems at this stage very difficult to increase the Structural Funds resources to support compliance with standards, and as it is at the same time a priority for the EU to speed up compliance with Community standards, particularly in the field of environment, the Commission proposes to introduce a further derogation to Council Regulation (EC) 1257/1999 to allow new Member States to take investment costs into account, under certain conditions, when determining the level of the annual support under the 'Meeting standards' measure.

2.2 This temporary derogation would be limited to the 2004-2006 programming period and would not involve additional spending from the Community budget as it will be financed within the envelopes 2004-2006 approved for the new Member States.

3. General comments

The Committee fully endorses the Commission's priority to speed up the new member states' compliance with Community standards, particularly in the field of environment, and therefore supports the Commission's proposal allowing the ten acceding countries to utilise funding from the Guarantee Fund on measures to improve and protect the environment.

⁽¹⁾ Council Regulation (EC) No. 1783/2003 of 29 September 2003 amending Regulation (EC) n. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF), Chapter Va – OJ L 270 21.10.2003

⁽²⁾ COM(2003) 643: 'Proposal for a Council Decision adapting the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia and the adjustments to the Treaties on which the European Union is founded, following the reform of the common agricultural policy'

4. Specific comments

4.1 The EESC places a high priority on measures in the field of environment and believes that investments in projects to ameliorate the environment at farm level in the new member states are desirable.

5. Conclusions

5.1 The EESC fully supports the Commission proposal.

Brussels, 25 February 2004.

The President
of the European Economic and Social
Committee
Roger BRIESCH

Opinion of the European Economic and Social Committee on the communication from the Commission entitled 'Europe and Basic Research'

(COM(2004) 9 final)

(2004/C 110/16)

On 14 January 2004, the 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 entitled 'Europe and Basic Research'

The European Economic and Social Committee instructed its Section for the Single Market, Production and Consumption to prepare its work on this subject.

In view of the urgent nature of the work, the EESC appointed Mr Wolf as rapporteur-general at its 406th plenary session, held on 25 and 26 February 2004 (meeting of 26 February 2004), at which it adopted the following opinion, by a unanimous vote:

importance of making progress in all scientific disciplines, including basic research, if the Lisbon objectives are to be achieved in reality.

1. Introduction and gist of the Commission's communication

1.1 For a long period it was the prevailing view amongst both the Member States and also amongst the EU Institutions that basic research was predominantly the responsibility of the individual Member States, whilst the Community was to concentrate mainly on applied research and development work. This standpoint was based on what was, with the benefit of hindsight, a rather one-sided interpretation of Article 163 of the Treaty establishing the European Community⁽¹⁾.

1.2 An initial change, triggered by two pioneering actions and decisions, came about at the beginning of 2000. Two elements were of decisive importance in this context: on the one hand, the Communication from the Commission entitled 'Towards a European Research Area'⁽²⁾, which did not explicitly describe basic research as an EU responsibility but made it clear that this was the case; and on the other hand, the decisions taken at the Lisbon European Council⁽³⁾, which included, inter alia, the ambitious and important objective of making the EU a knowledge-based economy and society, whilst not, however, explicitly stressing the fundamental importance of basic research.

1.3 At much the same time, the EESC, in its opinion⁽⁴⁾ on the Communication from the Commission entitled 'Towards a European Research Area', drew attention to the importance of a balanced relationship, and the requisite interaction, between basic research and applied R&D. In its opinion, the EESC explicitly urged that basic research for the purpose of broadening our knowledge be adequately promoted, as such research was the source of new discoveries, concepts and methods.

1.4 This view has since gained widespread acceptance. There is a clearer awareness of the need for a knowledge-based economy and society, together with a recognition of the

1.5 Europe has undeniable strengths in basic research, too, both at university level and in a number of special organisations⁽⁵⁾. More initiatives should, however, be taken at Community level.

1.5.1 Historically, the first initiatives in the field of scientific cooperation in (western) Europe concerned basic research projects. This cooperation derived from the need to establish centres for the use of large-scale facilities and to attain a critical mass, the cost of which was beyond the financial capacity, or exceeded the readiness to pay, of individual Member States.

1.5.2 Thus, CERN (high-energy physics) was founded in the 1950s, and the 1960s saw the establishment of ESO (astronomy), EMBO and EMBL (molecular biology)⁽⁶⁾, together with the Franco-German ILL⁽⁷⁾. ESRF⁽⁸⁾ was set up later. Large experimental plants⁽⁹⁾, exploited on a bilateral or multilateral basis, have also been built in individual Member States in the meantime.

1.5.3 Even European programmes which are particularly high-tech and applications-oriented, such as space travel and fusion research, interact very closely with basic research and require considerable input from such research.

⁽¹⁾ Incorporated, to a large extent, in the draft Constitution of 18 July 2003 in Article III - 146

⁽²⁾ COM(2000) 6 final

⁽³⁾ Lisbon European Council, held on 23 and 24 March 2000

⁽⁴⁾ OJ C 204 of 18.7.2000

⁽⁵⁾ OJ C 204 of 18.7.2000

⁽⁶⁾ CERN - European Organisation for Nuclear Research; (ESO) - European Southern Observatory; EMBO - European Molecular Biology Organisation; EMBL - European Molecular Biology Laboratory

⁽⁷⁾ Institute Laue-Langevin in Grenoble

⁽⁸⁾ ESRF - European Synchrotron-Radiation facility, also based in Grenoble

⁽⁹⁾ e.g. DESY (German Electron Synchrotron), Hamburg

1.6 It has thus been possible to establish institutions which have since assumed world-wide importance and have made a decisive contribution towards establishing Europe's reputation as a leading scientific area ⁽¹⁰⁾. Furthermore, these institutions have a great impact on and serve as a magnet for a great variety of research work carried out at universities and other research institutes. This has led to the formation of valuable cooperation networks, a vital prerequisite for the achievement of joint success.

1.7 The research carried out by the European Science Foundation (ESF), too, which is a non-specialised organisation set up in the 1970s, frequently covers relatively basic research subjects. The same applies to the work carried out under the R&D framework programme of the EU; this work, which forms part of the broader thematic actions undertaken by the EU, also requires and includes an albeit relatively small degree of basic research.

1.8 The Commission's Communication also addresses the role, importance and current situation of basic research in the European Research Area, and sets out observations on possible measures to be taken by the Commission to promote basic research in the EU not only much more intensively than in the past but also on a systematic basis.

1.9 The Commission's Communication thus covers the following aspects of basic research:

- Basic research and its impact,
- The situation worldwide and in Europe,
- Basic research at EU level,
- Prospects
- Next steps.

1.10 As regards the situation of basic research in Europe, the Commission notes the following:

1.10.1 In Europe, the private sector is relatively inactive in basic research. Only a few companies have strong research capabilities in this field, and their activities generally tend to focus on applied R&D. Moreover, the funding of research

through foundations is limited.

1.10.2 Unlike in the USA, where the private sector has always defended the idea of the need for public funding of basic research ⁽¹¹⁾, European industry has also for a long time advocated giving priority to public funding for applied research carried out by companies themselves. The importance of basic research for economic competitiveness is, however, starting to be recognised more and more in Europe, including by the business world (for example the European Round Table of Industrialists).

1.11 The further measures referred to in the Commission's proposal will also be based on the views expressed on this issue by a large number of key figures, organisations and institutions, such as a group of 45 Nobel Prize winners, the European Science Foundation (ESF), the Association of Heads and Presidents of National Research Councils (EuroHORCS) ⁽¹²⁾, the Eurosciences Association, the Academia Europea, the European Research Advisory Board (EURAB) and an Adhoc Group of individuals (ERCEG) set up following the conference on the European Research Council (ERC) held in Copenhagen on 7 and 8 October 2002 under the Danish presidency of the Council of the EU ⁽¹³⁾.

1.12 The Commission is thus planning follow-up action in the first quarter of 2004, namely:

- a broad debate on the Commission's Communication within the scientific community and the groups concerned, in conjunction with the reflections on a European Research Council;
- a debate at the political level within the Council and the European Parliament on the basis of the Commission's Communication.

2. General comments

2.1 The EESC expressly welcomes the Commission's Communication and the observations and planned measures set out in this Communication. In giving its endorsement to the Commission's Communication, the EESC would also draw attention to its recent opinions on R&D in which it has drawn attention time and again ⁽¹⁴⁾ to the need, in the light of the objectives set at the Lisbon European Council, for the EU to promote basic research adequately – i.e. much more than it has done hitherto.

⁽¹⁰⁾ The EESC also draws attention to the fact that the revolutionary Worldwide Web communications system, which forms the basis for the Internet, is a development pioneered by CERN which was originally intended to be used only for the transfer of scientific data between laboratories participating in its research.

⁽¹¹⁾ See the report on 'America's Basic Research: Prosperity Through Discovery' of the Committee for Economic Development, which comprises representatives of the major industrial groups. There are, however, companies in the USA, such as IBM or Bell Labs, which continue to be extensively engaged in basic research, and, albeit to a decreasing extent, in very basic research.

⁽¹²⁾ EuroHORCS: European Heads of Research Councils, EURAB: European Research Advisory Board, ERCEG: The European Research Council Expert Group, Chair: Professor Federico Mayor.

⁽¹³⁾ On 15 December 2003 the Danish Minister for Research sent his EU colleagues copies of the final report drawn up by the Expert Group. In its report the Expert Group endorsed the establishment of a European Fund for Basic Research which would be funded primarily from new resources made available under the research framework programme of the EU and which would be administered by the European Research Council.

⁽¹⁴⁾ OJ C 221 of 7.8.2001 (see points 4.4.1, 4.4.2, 4.4.3, 4.4.4 and 4.4.5).

2.2 The EESC supports, in particular, the Commission's call for the research budget of the EU to be substantially boosted. In so doing it would especially refer to its opinion⁽¹⁵⁾ on the Commission's proposal for the Sixth R&D Framework Programme and its recommendation that the overall R&D budget of the EU be increased by 50 % in the medium term (with reference to the budget of EU-15). The EESC also supports the Commission's intention to follow the recommendations of the Mayor Group and to make increased support for basic research one of the focal points of the EU's future research measures. In this context, the EESC would draw attention to the alarming indicators produced by the Commission which show that the gulf between the EU and, for example, the USA in the scientific and research fields is even still expanding.

2.3 The EESC also endorses the initial observations on the establishment of a 'European Scientific Council', which could assume responsibility at EU level for the tasks carried out at Member-State level by bodies such as the Research Councils in the UK, the 'Deutsche Forschungsgemeinschaft' (German Research Council) in Germany, the 'Vetenskapsrådet' (Science Council) in Sweden, the NWO in the Netherlands, the FRNS in Belgium, etc. These bodies provide, on request, funding for projects or grants to projects carried out by individual research teams, as in the USA.

2.4 The EESC agrees with the Commission that it is hardly possible to define strict criteria for drawing a distinction between basic research and applied research. The EESC does not, however, see this as a problem (and therefore recommends that a degree of discretion be authorised at a practical level), as there is, and should be, fruitful interaction and even collaboration between these two categories of research.

2.4.1 The EESC draws attention to the recommendation which it made in an earlier opinion⁽¹⁶⁾ that the interplay between fundamental and applied research in a diverse multi-polar scientific system be strengthened.

2.4.2 In the EESC's view, there is, however, a need, as part of the further action in this field, for the Commission to define the term 'basic research' (or propose a definition of the term) in such a way that the definition provides a sufficiently practical basis for taking decisions on aid applications. In this context, the EESC draws attention to the definition which it recommended in an earlier opinion⁽¹⁷⁾.

2.5 In its Communication, the Commission also addresses the highly complex issue of intellectual property rights in connection with basic research. It is a well-known fact that discoveries are not patentable, whereas inventions are. As there is a need for research workers to publish their findings without delay (see below), with a view, *inter alia*, to enabling knowledge

to be disseminated, they thus face a conflict.

2.5.1 This conflict derives from the question which arises when discoveries are made, namely whether the discovery in question could not lead to an application which should be patented; in that case, a patent application would clearly have to be made before the findings in question were published. As a result of this conflict, either the dissemination of knowledge and, thus scientific reputation suffers or potential patent protection for new, and possibly pioneering, ideas is lost, to the detriment of the EU and inventors.

2.5.2 This conflict could be considerably eased by introducing a so-called 'grace period'⁽¹⁸⁾. The EESC therefore reiterates the recommendation which it has made on numerous earlier occasions⁽¹⁹⁾ that the 'grace period', which is customary in the USA, also be introduced in the EU. The EESC also takes the opportunity to re-emphasise the need to introduce a European Community patent. This would remove a serious handicap for EU businesses and researchers.

2.6 Furthermore, the EESC wonders how and whether the promotion of basic research (with a view to meeting the Lisbon objectives) could be explicitly enshrined in future EU treaties or decisions.

3. Specific comments

3.1 The EESC also largely agrees with the stocktaking presented by the Commission and its analysis of the current situation as regards basic research.

3.1.1 The EESC does not, however, agree with all the points made by the Commission. The Commission states, for example, that: 'Along with its assets, Europe... suffers from a number of weaknesses as far as basic research is concerned. These are largely due to the compartmentalised nature of the national research systems and, above all, to the lack of sufficient competition between researchers, teams and individual projects at a European level', and concludes that there is a need for better coordination of activities, measures and national programmes in the field of basic research.

3.1.2 The EESC takes the view that the Committee's observation concerning the 'compartmentalised nature of the national research systems' and the 'lack of sufficient competition' – an observation which generally does not probably hold good in the case of those institutions which supervise or direct research at a political level – is misleading, both from a general point of view and with regard to scientific research. This observation fails to recognise or give adequate consideration to, above all, one decisive characteristic of scientific research.

⁽¹⁵⁾ See OJ no. C 260/3 of 17.9.2001

⁽¹⁶⁾ See OJ No. C 221 of 7.8.2001, point 6.7.2

⁽¹⁷⁾ CESE 1588/2003, point 4.5.3.

⁽¹⁸⁾ This provision was earlier enshrined in German patent law in the form of a period of grace prior to publication which does not infringe novelty status.

⁽¹⁹⁾ See, in particular, OJ C 95/48 of 23.4.2003, point 5.2.

3.1.3 One of the most important motivating factors for research workers, in addition to the search for knowledge and the endeavour to find and develop new ideas – is the competition between rival groups or laboratories and the desire to exchange ideas with specialist colleagues working elsewhere. Excessive competition or ambition is, however, detrimental to the very nature of scientific research. It may lead researchers to adopt a superficial approach and it may have a damaging effect on the careful, thorough approach required by scientific work or jeopardise the endeavour to discover new knowledge.

3.1.4 This exchange of ideas and competition can be observed, for example, at international scientific conferences or congresses and in reputable international specialist journals. The national and international reputation of individual research workers (and hence, also, their career prospects) and that of the institutes for which they work also rests on who is the first to discover and publish important new findings.

3.1.5 Such conferences or congresses are generally organised by the respective scientific societies or associations and provide – on the basis of a trade-off between cooperation and competition – an international forum for the exchange of the latest findings and plans, for the launching of new cooperative ventures and also for demonstrating capabilities and achievements and for bringing competition into play.

3.1.6 The fact that highly international teams⁽²⁰⁾ work on many research projects, and that many projects form part of international programmes⁽²¹⁾, also promotes the exchange of knowledge and coordination of effort.

3.1.7 All of the abovementioned factors do, of course, prompt the various institutions and their research workers to draw conclusions and thus also bring about a constant process of adjustment and reorientation of research programmes, in line with the timeframe for scientific research.

3.1.8 As the EESC has already stressed in one of its earlier opinions, the Commission should be more aware of and do more to recognise and exploit this process of self-regulation and adjustment in the scientific and research sectors which is now coming into play at international level and is also partly promoted by competition. The Commission should therefore involve, more than has hitherto been the case, recognised leading scientists and representatives of scientific societies and associations (bodies which are supported and funded by their members and therefore take the form of NGOs) in its internal deliberating processes and, in particular, also

its funding-distribution processes.

3.1.9 The above observations are not, however, to be construed as opposition to further 'open coordination' and hence 'Europeanisation' of the basic research programmes of the individual Member States, insofar as these processes are necessary and helpful. These objectives should, however, preferably be achieved by providing adequate incentives for 'bottom-up' processes generated from within the sectors concerned and also by providing support for projects⁽²²⁾ or large-scale facilities which, in line with the principle of subsidiarity, exceed the capacity or ambition of national aid programmes and from which European networks are built up in the fields concerned.

3.1.10 There is also a need to develop a cultural environment and administrative and financial context that encourage excellence, provide scope for more open work programmes and topics, and become more attractive for researchers.

3.1.11 The Committee reiterates its concern regarding the insufficient synergy and exchange of researchers between universities and the business sector. This creates a split between basic and applied research, makes it difficult to achieve synergy between different technologies, methods and approaches, and reduces interdisciplinary work, while also encouraging people to focus too much on scientific publications and on short-term results.

3.2 The EU should also, preferably, provide assistance to programmes or institutions which involve a high degree of interdisciplinary research. This type of research is becoming more and more important in many key areas; such research can be carried out most effectively by interlinking the various disciplines and the requisite facilities at a central point from where Europe and European networking could benefit.

3.3 In the light of its above comments, the EESC endorses the Commission's views in respect of the following measures put forward in the Communication:

- strengthening European support for research infrastructures and supporting the creation of centres of excellence through a combination of national and European, public and private funding;
- strengthening support for the development of human resources, researcher-training and the development of careers in science⁽²³⁾;
- supporting collaboration and networking.

⁽²⁰⁾ For example, over 50 % of the junior research workers and even a quarter of the directors of the Max Planck institutes are non-Germans.

⁽²¹⁾ This applies, for example, particularly in the case of the programmes also referred to by the Commission in the fields of climatology, oceanography, atmospheric physics, etc.

⁽²²⁾ OJ C 95 of 23.4.2003.

⁽²³⁾ See the Communication from the Commission entitled 'Researchers in the European Research Area: one profession, multiple careers' (COM(2003) 436 of 18.7.2003) and the EESC opinion on this Communication – CESE 305/2004.

3.4 In the EESC's view, a key tool should be the provision of adequate financial support for individual projects. As proposed by the Commission, this could involve a body such as the European Research Council, which should be modelled on the institutions already working very successfully at national level, such as the Deutsche Forschungsgemeinschaft (DFG) (German Research Council) or the (UK) Research Councils. Because of, inter alia, the points raised below, projects should, however, be allowed to run for a sufficiently long period. Particular forms of more institutionalised assistance⁽²⁴⁾ (e.g. covering periods of between 12 and 15 years) should also be considered to a certain extent.

3.4.1 In this context, two key points - which have already been addressed in an earlier EESC opinion⁽²⁵⁾ - should be borne in mind.

3.4.2 Firstly, there is the question of ensuring that research workers taking part in projects have adequate personal contractual arrangements. Because projects are per se of limited duration, research workers must not suffer any disadvantages in respect of their contractual arrangements, pay and social security cover, and adequate incentives must be provided to attract and retain particularly well-qualified research workers.

3.4.3 Secondly, there is the question of the outlay⁽²⁶⁾ involved for both the applicants and the experts in submitting applications, providing expertise, etc. There is a need to follow, in this context, the example of bodies such as the German Research Council (DFG), and to ensure, inter alia, that the outlay is small in comparison to the potential success if the requested funding is granted. One possible solution could be to standardise and amalgamate the application and assessment procedures of all funding bodies involved - and not subject them to constant amendment.

3.5 In this context, a particularly difficult situation could arise if the budget available for basic research were to be drastically limited and a large number of applications for funding - far in excess of the budget available - were to be submitted for

a decision, which would in most cases take the form of a rejection.

3.5.1 On the one hand, it is necessary to avoid a situation where unsuccessful applicants for funding - who would, in the circumstances form the vast majority of applicants - may feel a grudge towards the Commission and the EU, not least because of their outlay.

3.5.2 And on the other hand, it is necessary to avoid excessive bureaucracy (see above) in proving correct and fair procedures have been followed. For this very reason, the EESC urges the Commission to seek advice from both organisations with experience in this field in the Member States and also, above all, successful and unsuccessful applicants for funding.

3.6 The Commission rightly draws attention to the decisive role played by basic research in helping universities fulfil their educational responsibilities; the EESC therefore agrees with the view expressed by the Commission in its Communication that: 'In this respect and for this reason, basic research is likely to remain a central feature of the activities and tasks undertaken by universities and, along with teaching, the performance of such research is the reason why they exist' (see page 6 of the Communication). In the EESC's view, the abovementioned observation does however apply equally to research bodies other than universities which (also) carry out basic research and are linked in many ways, with regard to staffing, programmes and administration, to the research and educational work of universities.

4. Conclusion

The EESC strongly supports the Commission in its goal of ensuring that basic research receives appropriate and systematic support at EU level too, and of making available, to this end, an adequate budget and suitable, 'lean' administrative instruments. The EESC recommends that the Commission implement its planned 'Next steps' and, in so doing, take account of the abovementioned observations and detailed recommendations.

Brussels, 26 February 2004.

The President
of the European Economic and Social
Committee
Roger BRIESCH

⁽²⁴⁾ As is the case with, for example, the 'special research areas' funded by the German Research Council (DFG) in Germany.

⁽²⁵⁾ CESE 305/2004, point 5.1.8.

⁽²⁶⁾ CESE 305/2004, point 5.1.8.4

APPENDIX

to the opinion of the European Economic and Social Committee

The following proposed amendment was rejected in the course of the debate (Rule 54(3) of the EESC's Rules of Procedure).

Point 2.6 — Delete.**Reason**

Basic research is already funded under the sixth RTD framework programme, and it is appropriate that the mix of basic and applied research should be decided by the political decision-makers (the Council and the European Parliament) in the light of strategic objectives at the time. Moreover, practical problems would arise because there is no unanimously accepted definition of the term 'basic research'.

Voting

For: 18, against: 43, abstentions: 12.

Opinion of the European Economic and Social Committee on the 'proposal for a Council Regulation concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea and amending Regulations (EC) No. 2847/93 and (EC) No. 973/2001'

(COM(2003) 589 final -2003/0229 (CNS))

(2004/C 110/17)

On 16 December 2003, the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the above-mentioned proposal

On 27 January 2004, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare its work on the subject.

In view of the urgency of the matter, the Committee appointed Mr Sarró Iparraguirre as rapporteur-general at its 406th plenary session held on 25 and 26 February 2004 (meeting of 26 February). The opinion was adopted by 63 votes to two, with three abstentions.

1. Introduction

1.1. The proposal for a regulation ⁽¹⁾ is intended to amend Council Regulation (EC) No. 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean ⁽²⁾, taking into account the main points of the Communication from the Commission to the Council and the European Parliament laying down a Community Action Plan for the conservation and sustainable exploitation of fisheries resources in the Mediterranean Sea under the Common Fisheries Policy ⁽³⁾.

1.2. In the same context it proposes amendments to Council Regulation (EEC) No. 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁴⁾ and Council Regulation (EC) No. 973/2001 of 14 May 2001 laying down certain technical measures for the conservation of certain stocks of highly migratory species. ⁽⁵⁾

1.3. In its proposal for a Regulation - consisting of 26 recitals, eleven chapters and five annexes - the Commission recommends a series of management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea. These management measures consist in regulating protected areas, species and habitats; laying down restrictions on fishing gear; fixing minimum sizes for certain species; regulating non-commercial fishing; making it possible to establish management plans; introducing control measures;

fixing certain conditions for catches of highly migratory species; and establishing certain provisions for the waters around Malta.

2. General comments

2.1 The EESC has stated its views on fisheries management in the Mediterranean in previous opinions ⁽⁶⁾. We think it helpful to include in this opinion the conclusions of the Committee's 1998 opinion on management of fish stocks in the Mediterranean, since these are relevant and important, provide an overview of fishing in the Mediterranean and are still completely valid:

- The Mediterranean displays a number of specific features to which management systems must be geared if they are to be effective.
- The efficacy of management systems will also depend on their fairness, thus preventing discrimination.
- Scientific research funding must be stepped up still further, giving greater dynamism to the GFCM and making it the leading body, but without neglecting scientific cooperation through joint studies by Mediterranean countries.
- Situations clearly differ, requiring real and comprehensive harmonization of Mediterranean fisheries. Harmonization will only be possible following the gradual removal of all the derogations contained in Regulation (EC) No 1626/94, when not scientifically justified, with the same technical measures applying to all fleets.
- The Committee would urge that fishermen be consulted on the proposed legislation, thereby involving them in its application. This would give greater force to the proposal made by the EU within the GFCM concerning the creation of a committee on which fishermen would be directly represented.

⁽¹⁾ COM(2003) 589 final

⁽²⁾ OJ L 171, 6.7.1994, p. 1. Regulation as last amended by Regulation (EC) No 973/2001 (OJ L 137, 19.5.2001)

⁽³⁾ OJ C 133, 6.6.2003

⁽⁴⁾ OJ L 261, 20.10.1993, p.1.

⁽⁵⁾ OJ L 137, 19.5.2001, p.1.

⁽⁶⁾ OJ C 133, 6.6.2003

- Appropriate steps must be taken against producers who infringe resource conservation rules. Responsible trade must be encouraged so as to prevent the current unfair competition, particularly with regard to third country fleets.
- The establishment of protected fishery zones in the Mediterranean is the type of measure capable of ensuring that resource protection and conservation measures are effective.
- The diplomatic conferences must do more than issue declarations of intent. There must be closer cooperation between all the countries, working together at an early stage to prepare conclusions which can be put into practice immediately.
- Small-scale fishing must have priority over its industrial counterpart in the transition to sustainable fishing in the Mediterranean. The interests of the Mediterranean countries should come before those of other countries.

2.2 In point 2.6 of Opinion CESE 402/2003, the Committee notes: 'Integrated fisheries management requires an analysis of biological, economic and social aspects, appropriate management instruments, and dialogue between the sector, the authorities and the scientific community.'

2.3 In the Committee's view, the Commission's proposal for a regulation neither fulfils the expectations raised by its action plan⁽⁷⁾ nor takes account of the guidelines set out by the Committee in its two earlier opinions, for the following reasons.

2.3.1 The Commission fails to set out the reasons for its belief that Regulation (EC) No 1626/94 should be revised. The EESC considers the measures introduced in that regulation to have failed, because, among other things, many exceptions were allowed, resulting in unequal treatment of different countries and sectors, which in turn has resulted in the absence of a real common fisheries policy in the Mediterranean.

2.3.2 The Commission has not adequately justified the technical proposals presented from a scientific point of view. We do not know which scientific and technical studies the Commission based its proposals on because no reference is made to them.

2.3.3 The Commission also fails once again to mention and take account of the economic and social aspects of fishing in the Mediterranean, omitting any reference to the potential impact of the measures proposed on businesses,

workers and coastal areas that are highly dependent on fishing.

2.3.4 The proposal for a regulation does not pay enough attention to the role of management systems based on trade regulation, nor does it mention problems relating to trade in catches from vessels flying flags of convenience fishing illegally in the Mediterranean. Moreover, there is no provision for a mechanism to effectively ensure the safety of fish products.

2.3.5 The Commission does not highlight the importance of increasing multilateral cooperation, through the GFCM⁽⁸⁾, so that rules fixed for the Community countries also apply to fleets of third countries fishing in the Mediterranean Sea.

The EESC therefore asks the Commission to strengthen the role of FAO regional projects such as COPEMED and ADRIAMED.

2.3.6 The Commission merely adjusts existing technical measures, making them more restrictive, without providing for possible innovative alternatives by exploring more selective mechanisms.

2.4 *Negative aspects of the proposal for a regulation*

Of the eleven chapters of the regulation, those displaying negative aspects are analysed first.

2.4.1 With regard to Chapter IV, restrictions concerning fishing gears, the EESC would point out the following:

2.4.1.1 The wording of the articles is ambiguous and confused and leaves the door open to exceptions which could once again cause the measures to fail by not reflecting a true common fisheries policy. The EESC considers that the articles should be more clearly worded and exceptions eliminated, pending measures harmonised in the European Union and capable of harmonisation with non-EU countries involved in fishing in the Mediterranean.

2.4.1.2 The definition of the various kinds of fishing gear is confused. The areas regulated in accordance with international standards, e.g. the FAO's 1980 ISCFG,⁽⁹⁾ should be defined, at least distinguishing towed gears and encircling nets from smaller gear. Similarly, the various towed nets should be regulated separately so that the general measures provided for trawl nets do not affect others, such as seines, which are local in character.

2.4.1.3 The document does not include drift nets among prohibited fishing gear and practices. The Committee considers that drift nets, especially those designed for catching highly migratory species, should be specifically included in the list of prohibited fishing gear.

⁽⁷⁾ OJ C 133, 6.6.2003

⁽⁸⁾ General Fisheries Commission for the Mediterranean

⁽⁹⁾ International Standard Classification Fishing Gears.

2.4.1.4 With regard to minimum mesh sizes, the proposals are not based on reliable scientific studies and the practical application of the Commission proposals could mean the disappearance of numerous fishing-sector firms and jobs, as activities would cease to be profitable. For this reason, the EESC suggests that, before any firm decision is taken on minimum mesh sizes, the Commission should step up scientific research to improve our knowledge of the kind of materials to be used in order to test their selectivity, thus enabling fishing activity to continue in the future.

2.4.1.5 The minimum size of hooks used to catch voracious red sea bream is unjustified. Existing scientific data, which are a result of tests of hook selectivity in relation to the mature size of the species, prompt the EESC to recommend that hook size be set at 3.95 cm in length and less than 1.65 cm in width. On the other hand, in the case of bottom and surface-set longlines, the total number of hooks should be limited in line with the total length of the gear. Thus, the former should be limited to 3,000 hooks and the latter, depending on whether swordfish or other species are being caught, should be limited to 2,000 and 10,000 hooks respectively.

2.4.1.6 With regard to the minimum distances and depths for the use of fishing gear proposed by the Commission, the EESC considers that the wording of the article is once again ambiguous and that it leads to confusion. Application of the Commission's proposals would undoubtedly lead to the disappearance of the shellfish industry from the greater part of the Mediterranean seaboard. The Committee considers that limiting fishing activity on the basis of minimum distance from the coast could have detrimental effects as a result of the uneven shape of the continental shelf in the Mediterranean. For this reason, the EESC is in favour of limiting fishing activity on the basis of minimum depth. The Committee therefore proposes that, in the case of towed gear, fishing be prohibited within the 50 metres isobath and, in the case of encircling nets, within the 35 metres isobath.

2.4.2 With regard to Chapter V, minimum sizes of marine organisms and artificial restocking, the EESC would make the following comments:

2.4.2.1 The European Commission cites no scientific arguments to justify the sizes proposed. In some cases, such as that of hake, the proposal to reduce the size from 20 to 15 cm is both inconsistent and indefensible from the biological, scientific or economic point of view. In other cases, such as that of swordfish, the Commission proposes a size, although ICCAT⁽¹⁰⁾ has not yet made any recommendation. In other cases, such as that of clams, the Commission has decided to eliminate the minimum size without taking account of the serious effects which this could have on the market.

2.4.2.2 The EESC considers that allowing catches of fries of sardine exceptionally is a biologically inappropriate measure, a

bad precedent and out of line with the general increase in minimum sizes.

2.4.3. The measures for highly migratory species proposed in Chapter IX do not have a sufficient scientific basis for adoption. As these are management methods which affect international resources regulated by ICCAT, the EESC considers that they should be regulated by this organisation through its recommendations. ICCAT makes no specific recommendation for Mediterranean swordfish, so that the Commission's proposals for a minimum size for longline hooks, a four-month moratorium on fishing with pelagic longliners and a minimum size for swordfish should be rejected. If these recommendations were adopted, they would spell the end for the fishing with longlines based on these species.

2.5 Positive aspects of the proposal for a regulation still leaving room for improvement

2.5.1 Chapter II deals with protected species and habitats, prohibiting fishing above beds of seagrass (*posidonia oceanica*) or other marine phanerogams. The EESC welcomes this, but considers that coral or maerl beds should also be included.

2.5.2 Protected areas, both national and Community, are dealt with in Chapter III. The Committee approves the establishment of an instrument to protect juvenile and spawning stock.

2.5.3 The EESC agrees that there is a need to regulate non-commercial or recreational fishing, as the Commission does in Chapter VI of the proposal. However, it considers that the use of bottom-set longlines should be prohibited and that all the EU Member States should be required to have licensing systems which would make it possible to assess the real scale of these activities. On the other hand, the proposal prohibits the marketing of catches of marine organisms resulting from leisure fisheries. The Committee considers that the marketing of fish products deriving from sporting contests should be allowed on an exceptional basis, providing that the proceeds of such sales are used for non-commercial purposes in order to prevent concealed trade and facilitate health checks.

2.5.4 Chapter VII deals with national and Community management plans. The EESC considers that the management plans can be a useful instrument which, combining the management of fishing activities with specific technical measures, can be geared to the specific characteristics of a large number of Mediterranean fisheries. However, the Committee would draw attention to the danger of the management plans being used to derogate from the general provisions of the regulation. The proposal should therefore stipulate that any management measures contemplated must be more restrictive than the regulation's provisions. It should thus be made clear that the management plans may not include any measures which are less restrictive than the provisions of the draft regulation with regard to selectivity, discarding and fishing activity.

⁽¹⁰⁾ ICCAT: International Commission for the Conservation of Atlantic Tuna:

2.5.5 The EESC considers the control measures laid down in Chapter VIII to be necessary but that catches made using bottom-set longlines and gillnets should be included among those which may be landed and marketed for the first time only at ports designated by the Member States. Similarly, the requirement that amounts greater than 10 kg of live-weight equivalent of certain species be recorded in the logbook could be a source of unnecessary administrative work. The Committee therefore proposes that, in the case of vessels based in ports where catches are immediately registered with the competent authorities, market sales receipts be deemed equivalent to entries in the log book, with the requirement for the latter thus being eliminated.

2.6 The EESC will not assess the content of Chapter X, measures for the waters around Malta, as these are provisions

implementing agreements enshrined in the 2003 Maltese Accession Treaty.

3. Conclusion

3.1 In view of the above and of the general opposition to the proposal from fishermen in the EU's four Mediterranean states, the EESC proposes that the Commission withdraw the proposal.

3.2 In view of its concern that effective management methods be put in place as soon as possible to ensure sustainable exploitation of fishery resources in the Mediterranean, the EESC calls on the Commission to reformulate its proposal for a Regulation without delay, taking into account the comments contained in this opinion.

Brussels, 26 February 2004.

The President
of the European Economic and Social
Committee
Roger BRIESCH

Opinion of the European Economic and Social Committee on the 'proposal for a Council Decision establishing Regional Advisory Councils under the Common Fisheries Policy'

(COM(2003) 607 final - 2003/0238 (CNS))

(2004/C 110/18)

On 16 December 2003 the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the above-mentioned proposal

On 27 January 2004, the Committee Bureau instructed the Section for Agriculture, Rural Development and the Environment to prepare this opinion.

In view of the urgency of the matter, at its 406th plenary session held on 25 and 26 February 2004 (meeting of 26 February 2004), the European Economic and Social Committee appointed Mr Manuel Chagas as rapporteur-general and adopted the following opinion by 76 votes to two.

1. The Commission proposal

1.1 Council Regulation (EC) No. 2371/2002 provided for the establishment of Regional Advisory Councils (RAC) as a way of stepping up dialogue in the Community's fisheries sector by involving stakeholders more in the Common Fisheries Policy decision-making process.

1.2 The Commission's proposal aims to promote a consistent, balanced approach, laying down aspects common to all of the RACs to be set up, as regards their establishment, membership, structure, functioning and financing.

1.3 The Commission proposes setting up six RACs, covering five shipping areas – the Baltic Sea, Mediterranean Sea, North Sea, North Western waters and South Western waters – and the pelagic stocks.

1.4 RACs will be set up at the initiative of fishermen and other stakeholders who, to do so, will have to apply to the Member States concerned and the Commission. Each RAC will have a general assembly which will appoint an executive committee of between 12 and 18 members. In both bodies, two thirds of the members will represent the fisheries sector and the remainder will represent other interest groups affected by the Common Fisheries Policy (CFP). Observers such as scientists, representatives from Member States not covered by the RAC in question and those from third countries that have a fishing interest in the area, may also be invited to attend meetings, as may be representatives of the Advisory Committee on Fisheries and Aquaculture (ACFA). Representatives of national administrations may also attend as observers.

1.5 The Commission will, moreover, secure initial start-up funding for RACs and their first three years of operation, in addition to covering the cost of interpreting at meetings and document translation.

2. General comments

2.1 The EESC has constantly reiterated the need to involve the main stakeholders – ship owners and workers – in defining and implementing Community fisheries policies and the

specific measures associated with this. Typically, businesses in the Community's fisheries sector are small and there is a little involvement in associations; it is therefore vital to ensure that stakeholders are involved in all stages of the decision-making process, so that (i) they grasp the need for the measures to be taken and (ii) these measures are better geared not only to the level of resources available, but also to the socio-economic circumstances of the communities concerned.

2.2 In its Green Paper on The Future of the Common Fisheries Policy ⁽¹⁾, the Commission already acknowledged the importance of providing for new ways of involving stakeholders in the pre-decision phase of CFP policy-making. At that time, the Committee expressed its satisfaction at the Commission's intention 'to involve interested parties more closely in the debate and to let the sector share the responsibility for decision-making and management at local level'. ⁽²⁾

2.3 Likewise, in its opinion on the Commission Communication on the Reform of the Common Fisheries Policy ('Roadmap') ⁽³⁾, the EESC expressed its support for the creation of the RACs, nonetheless pointing out the need to ensure that this move did not undermine the maintenance of a common fisheries policy by shifting discussions to regional level, which would distort the policy's key principles. It is therefore important that a representative of the ACFA may attend RAC meetings as an observer (Article 6(4)), and that each RAC must submit an annual report on its activities to the Commission, Member States and the ACFA (Article 10).

2.4 The need to ensure that RAC members are sufficiently representative of the various interests of each country concerned will necessarily require the involvement of a large number of organisations. However, the fact that it is the Member States who appoint the members of the general assemblies could lead to problems and disputes as to how representative the appointees actually are. Given that it has been proposed that the general assemblies meet once a year, provision should be made for as extensive participation as possible, involving all the recognised representative organisations with interests in the RAC in question.

⁽¹⁾ COM(2001) 135

⁽²⁾ EESC 1315/01 - OJ C 36 of 8.2.2002.

⁽³⁾ EESC 1369/02 - OJ C 85 of 8.4.2003.

2.5 The EESC supports the proposal in Article 5(2) that European and national organisations may propose members to the Member States concerned. It will nevertheless be necessary to ensure that both national and European organisations are informed quickly of any moves to set up an RAC. It would be worthwhile to involve the ACFA more in this process, in particular to call on European organisations to nominate their representatives and to centralise and manage the responses.

2.6 Given that it is up to the executive committee to manage the RAC's activities and adopt its recommendations and suggestions, the EESC does not feel that the Commission's proposal, as it stands, guarantees legitimate representation of all the parties concerned. In fact, by only requiring the participation of at least one representative of the catching sector from each Member State concerned, there is a risk that workers' representatives will be systematically left out.

2.6.1 Recently there have been a number of cases where trade union representatives have not been included amongst the representatives appointed by Member States to meetings on CFP issues. In advocating the involvement of those working in the sector, the EESC believes that ship owners and employed fishermen should also be included, since it is the latter who will really put into practice the measures adopted. The EESC thus recommends that the regulation explicitly set out the need to secure the participation of both ship owners and employed fishermen.

2.7 On the other hand, the share of the seats allocated to 'other interest groups' – one third of all the seats – also seems too large. Since there is no doubt that these groups' participation on the RACs must be secured due to the fact that their contribution will necessarily reflect different viewpoints, the RAC's opinions will essentially be the fruit of attempts to reconcile the different national interests at stake. It would be more appropriate for this group to be allocated a 20 % share of the seats on both the general assembly and the executive committee.

2.8 Although Article 32 of Regulation 2371/2002 stipulates that the RACs will 'cover sea areas falling under the jurisdiction of at least two Member States', the EESC suggests that consideration be given to setting up a seventh RAC which could, in view of the size of the Community fleet fishing in waters outside Community waters, bring together those parties involved in fishing in these areas, under an RAC entitled 'External fishing regions'. Furthermore, the EESC considers it crucial that organisations representing ship owners and employed fishermen from the non-Member States concerned also be included in the RACs.

3. Specific comments

3.1 Article 2 - Establishment of Regional Advisory Councils

3.1.1 As suggested above, an additional paragraph g) should be inserted to propose a seventh RAC, entitled 'External fishing regions'.

3.2 Article 4 – Structure

3.2.1 The necessarily small number of members on the executive committee should restrict the powers of this body. In particular, the EESC feels that the recommendations and proposals made by the RAC should always go through the general assembly.

3.2.2 Unlike some of the other language versions, the Portuguese version sometimes refers to a regional assembly and sometimes to a general assembly. It seems that the latter is the correct term and the text should be amended accordingly.

3.3 Article 5 – Members

3.3.1 Appointment of RAC members should be coordinated by the ACFA in conjunction with its constituent European organisations.

3.3.2 The proportion of representatives from the fisheries sector should be reviewed along the lines set out in point 2.7 above.

3.3.3 Provision should be made to ensure that at least one employed fisherman from each Member State sits on the executive committee.

3.3.4 The Portuguese and the English versions (inter alia) of paragraph 2 read: 'Members of the general assembly shall be appointed by common agreement between the Member States concerned.' However the French version employs the term 'by' instead of 'between', which would seem more appropriate: 'Les membres de l'assemblée générale sont nommés d'un commun accord par les États membres concernés.' In fact there seems to be no grounds for the names put forward by one Member State to be decided on by other Member States.

3.4 Article 6 – Participation

3.4.1 Observers should be given the right to speak, although not the right to vote.

3.4.2 It should be optional as to whether the meetings should be open to the public; the decision on this should be up to the body in question.

3.5 Article 7 – Functioning

3.5.1 Although the EESC agrees that the chairperson should be designated by consensus, it feels that it is worth establishing that he or she should come from the catching sector.

3.6 Article 9 – Financing

3.6.1 It is not clear how a trans-national body such as an RAC could fit into the mould of a legal personality. The Commission will have to clarify this concept.

3.6.2 The EESC supports the Commission's intention to help finance interpreting and translation costs through annual 'agreements'. Indeed, it is only by ensuring that all participants can speak in their own language and that all documents are translated into the languages used in good time, that the RAC's members will be able to participate on an equal footing with one another.

4. Conclusions

4.1 The EESC notes the Commission's present proposal which aims to promote a consistent, balanced approach, laying down aspects common to all of the RACs to be set up, as regards their establishment, membership, structure, functioning and financing.

4.2 The EESC nonetheless feels that the proposal does not ensure adequate representation on the RACs of the main operators in the Community catching sector, namely ship owners and employed fishermen. This could be achieved by stepping

up involvement of the ACFA and the European organisations represented therein, when RAC members are appointed.

4.3 The EESC also considers the relative size of the representation allocated to 'other interest groups' to be inappropriate, and proposes that this be brought down to 20 % of the total number of seats.

4.4 It also recommends that an RAC entitled 'External fishing regions' be set up, bringing together those parties involved in fishing in non-Community waters; this concerns a large part of the EU's fishing fleet.

Brussels, 26 February 2004

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee on 'budgetary policy and type of investment'

(2004/C 110/19)

On 21 January 2003 the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on the Budgetary policy and type of investment.

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 9 February. The rapporteur was **Ms Florio**.

At its 406th plenary session (meeting of 26 February 2004), the Economic and Social Committee adopted the following opinion by 98 votes to 38 with three abstentions.

1. From Maastricht to the Stability Pact

1.1 The Maastricht Treaty was signed in 1992. The Treaty criteria, which brought the first countries (followed later by Greece) into the single currency, were essentially based on a drastic reduction of the budget deficit, public debt and on low inflation. The quantitative criteria underpinning it are set out in Treaty Article 104 (ex Article 104 c) and in the appended Protocol on the excessive deficit procedure, which establishes the stages and timeframes for reviewing it.

1.2 The same criteria were later applied to the Stability Pact. However, unlike the Pact, the Maastricht Treaty gave the Council a certain leeway with regard to the implementation and nature of penalties. Moreover, it did not establish any deadlines for the various steps towards the declared objectives ⁽¹⁾.

1.3 The Stability and Growth Pact, adopted in 1997, will go down in the history of Treaties and Agreements as one of the most important steps towards the policy of coordination sought by the European Union. The Pact sets itself three main objectives: strengthening control of budgetary policies, coordination of economic policies, and support for economic policy monitoring procedures.

1.4 The Pact states that, in the short-medium term, the budget must be 'close to balance'. It is this same mechanism which should enable the automatic stabilisers to be triggered more effectively during a recession.

1.5 The deficit is excessive if it exceeds 3 % of GDP. However, there is an 'exceptionality clause' that can be called upon to address external factors that are beyond the control of the Member States (natural disasters, etc). As far as 'close to

balance' is concerned, no country has yet revealed exactly what an acceptable percentage might be for the eurozone.

1.6 The Pact requires each national government of the eurozone countries to present a 'stability programme', while the other countries are to adhere to (national) 'convergence programmes'. The Council decides when and how to issue recommendations and 'early warnings'. Unlike with the Maastricht criteria, the specific deadlines set by the Stability and Growth Pact enable decisions to be taken rapidly in cases of excessive public deficit.

1.7 Economic growth has fallen far short of expectations, and this has prevented France and Germany – and to some extent Portugal – from respecting the agreed criteria. Under Treaty Article 104(8) and Regulation 1466/97 of the Stability and Growth Pact, this should have triggered drastic adjustment measures and possible sanctions for failure to respect the agreed criteria. However, the Ecofin Council of 25 November 2003 decided to suspend the infringement procedures against France and Germany.

1.8 Generally speaking, the Maastricht Treaty has achieved significant and positive results, not least the introduction of the euro in 12 countries of the Union: to such an extent that, soon after the Treaty was signed, i.e. from 1993, the budget deficits of most EU countries started to fall (in 1993 the budget deficit in the eurozone had reached its historical maximum: 5.5 %).

1.9 Since 1997 the EESC has adopted several opinions on budget policies, notably the Opinion on the Pact for Stability and Growth ⁽²⁾

⁽¹⁾ Marco Buti, 'Maastricht's Fiscal Rules at Ten: An Assessment' Vol. 40, no. 5 – December 2002

⁽²⁾ OJ C 287 of 22.9.1997, p. 74

2. The Stability Pact in the current European and international economic climate

2.1 A discussion of budgetary policies and potential investments to re-launch the European economic system must include an appraisal of **the current situation**, the direction it might take and the instruments needed to pull back from the brink of stagnation/recession.

2.2 In Japan, the US and the EU, the interest rates set by the major central banks are already at historically low levels: 2.5 % for the ECB, 1.25 % for the American Federal Reserve and 0.5 % for the Bank of Japan (figures for July 2003). The European Central Bank (ECB) argues that there is little room for manoeuvre on interest rates. Moreover, the single interest rate could turn out to be too high for some and too low for others. This is probably why the ECB moves so cautiously compared to the speed with which the Federal Reserve intervenes ⁽³⁾.

2.2.1 However, in practice a monetary policy that is more reactive to the difficulties involved in achieving recovery and growth and swifter to respond could be a useful factor (but not necessarily the only one) in kick-starting the EU economy.

2.2.2 The European Central Bank could have exercised its room for manoeuvre on interest rates, particularly with a view to benefiting EU external trade as a whole and giving some breathing space to national economies under stress. But although the ECB President said, in the immediate aftermath of the Council decisions, that recent events would weaken confidence in the euro, causing inflation to resume, and that the ECB would therefore have to intervene by raising interest rates, this does not seem to be an imminent threat.

2.3 The particularly critical state of public finances in the major industrialised countries would appear to make economic and financial recovery difficult in terms of new expenditure (investment), particularly in the eurozone. The budget deficit in France was 3.1 % of GDP in 2002; Germany, with a negative balance of 3.6 %, is in an even worse state. In the United States, the ambitious plan to kick-start the economy with an injection of 674 billion dollars over 10 years, announced at the beginning of the year, has ended up increasing the budget deficit, which has naturally worsened owing to the military expense of the war in Iraq. This has now been partially offset by the withdrawal of some of the tax cuts promised to American taxpayers. In Japan, the forecast is circa 8 % of GDP for 2003, i.e. the same level as in 2002.

2.4 In its most recent report, published in April 2003, the World Bank forecast global growth of 2.3 % for the second half of 2003 (2.5 % in the US, 1.4 % in the eurozone and 0.6 % in Japan). However, more recent data suggest there are signs of a slow recovery of the United States economy, but this has yet to be confirmed. Cyclical estimates confirm the current phase of almost imperceptible growth in the economy: Eurostat figures

for the last four-month period of 2003 show eurozone GDP growth of 0.4 %, the same as in the EU 15 area.

2.5 Over the last few months the conflict in Iraq has aggravated the global mood of uncertainty (political and military). Oil prices in the wake of the conflict have not reacted as expected, and tension has risen with the Arab countries and in the Middle East, with a significant intensification of the conflict between Israel and Palestine.

2.5.1 Economists believe that the difficulties in the global economy are not a result of a shortage of credit, but of a lack of confidence, which is further aggravated by the international crisis.

2.5.2 In Europe, the greatest obstacle to a real economic recovery is undoubtedly the widespread lack of certainty in economic and industrial circles, and in public opinion in general, as to the future of the European Union's strategy on economic and budgetary policy, combined with slow implementation of the Lisbon Strategy and doubts about the Stability Pact. If the reference point continues to be the rate of growth of the US economy, the European economy will not take off of its own accord.

2.5.3 What then, are the 'ghosts' we need to lay in order to speed up economic recovery? First and foremost, weak internal demand throughout the EU system (low growth, stable unemployment, low take-up capacity for human resources).

3. Should we re-interpret the Pact?

3.1 The European Commission believes that the fact that some major countries such as France and Germany have failed to comply with the Maastricht Treaty and Stability Pact criteria (3 % and 60 %) could be an obstacle to efforts to secure economic recovery, better coordination of eurozone budgetary policies and a re-launch of employment promotion policies. However, many observers see the restrictive use of the Pact and the lack of a strategy to boost demand and supply in the EU as perhaps the most serious obstacle to the success of the Pact.

3.1.1 The restrictive way in which the Pact has been used has led to a worsening economic situation in some countries, such as Portugal, where cutbacks in current public spending, mainly in investment, which are necessary in order to reduce the deficit, have aggravated the economic situation and thrown thousands of people out of work. Application of the Pact should allow for counter-cyclical use of public finances.

3.2 The European Commission has often argued that if implementation of the regulatory measures needed to achieve the declared objectives is postponed, the instrument itself is viewed with suspicion, especially at a time when unexpected stagnation/recession puts the Pact in further difficulty.

⁽³⁾ Fitoussi 'La règle et le choix', Seuil 2002

3.3 It is not enough: major international organisations such as the IMF and OECD have suggested raising the inflation threshold from 2 % to 2.5 %. More importantly, however, almost all economic and financial circles recognise that monetary instruments are not the only realistic way of securing a chance of economic recovery.

4. The Stability and Growth Pact: an instrument for resolving the crisis

4.1 The Pact must be maintained by policies designed not just to control inflation, make adjustments and to limit the public debt, but also to provide greater stimulus to internal demand and encourage the public and private investment needed to revive the economy in the context of the objectives laid down by the Lisbon Strategy, as the EESC has argued in a number of documents.

4.2 Now that the 'dividend' effect from the introduction of the euro has worn off, the priority instruments we need to activate in order to stimulate growth, development and employment are those aimed at boosting macroeconomic policies, which should focus chiefly on relaunching the Lisbon Strategy and aim for full employment, the creation of high-quality jobs, and stimulating supply and demand. Moreover, the automatic stabilisers designed for an economic downturn could help prop up demand.

4.3 In short, the EESC takes the view that employment policies should be one of the basic assessment criteria for economic growth, with special reference to economic and social cohesion policy. This should become a criterion for assessing economic growth, enabling cohesion countries to increase their spending on investment in this area.

4.4 A European Central Bank (ECB) that is the guardian of monetary policy and price stability but also pays heed to economic growth and employment could play an even more important role than that laid down in the Treaty. This presupposes constant dialogue with the European institutions (Council, Commission) and the social partners. The European Investment Bank (EIB), for its part, could fulfil its remit by harmonising its activity with that of the other European institutions and with national government plans to boost development and secure greater economic and social cohesion for the EU.

4.4.1 Furthermore, the main task of the ECB as a financial instrument is to help to achieve EU objectives and policies. Multiannual programming of budget resources, coordinated with the Commission, would make it possible to optimise the impact of these measures in order to bolster EU economic and social cohesion within the framework of the new financial perspectives.

4.5 Moreover, the accession of ten new countries will make further demands on the economy in terms of investment in

infrastructure, which is already planned, and more especially in terms of training, support for research and civil service reforms.

4.6 It is essential to shore up the Stability and Growth Pact with a comprehensive information campaign, including by involving the intermediate levels of society (principally the social partners, but also consumer organisations, etc.), as was the case with the introduction of the single currency. Sharing, co-responsibility, and a large-scale public information campaign were the key to the success of the Maastricht Treaty and of joining the single currency. This was not done in the case of the Stability and Growth Pact.

4.7 It would also be advisable to review the definition of the 'exceptional circumstances' in which countries can exceed the Pact's 3 % threshold, thus providing a breathing space for economies that are experiencing difficulties or negative annual growth.

4.7.1 'Exceptional circumstances' should in particular include setting a long-term ceiling for increases in public spending which reflects the situation in each individual country, accompanied by European-level monitoring. Targets would thus be adjusted to each country's short-term economic situation and position in the economic cycle.

4.8 A genuine European strategic plan must retrace the path embarked upon more than ten years ago by the Delors White Paper, working towards boosting the Lisbon objectives and supporting the Stability and Growth Pact in the political arena. A rethink of the way the Pact is run will mean reconsidering the case for a common EU growth strategy, and using tax policy as one of the ways of achieving it. To this end, the Committee would reiterate the need for a suitably flexible approach towards any departure from the 'close to balance' rule, in order to permit investment in activities that are conducive to growth. Infrastructure is certainly necessary to a market extending to 25 countries, but the keystone is investment in human resources and the future of the EU: hence, research but also school and university education, designed for the new generations and for the challenges of competition, then lifelong learning etc.

5. Investments of European interest designed to achieve the objectives set in Lisbon should be excluded from the calculation of the public deficit

5.1 The missed forecasts and a relative lack of investment could also widen the development gap of the new Member States, which – if they do not receive adequate assistance to achieve growth and create new competitive, skilled jobs, could feed dangerous pockets of poverty and exclusion that the EU's economic and social system would find difficult to sustain.

5.2 A rethink of the way the Pact is run would require flexible, expansionist budgetary policies that include a common growth and cohesion strategy and that remove strategic investment and investment for growth from the budget deficit books, and leave it to the Council, with the agreement of the Commission, to decide what is meant by 'strategic investment' in the European interest, as set out in the Delors White Paper and the Lisbon objectives.

5.3 As stated in the Report which the Commission presented in preparation for the Spring European Council in March 2003 (Going for Growth), there is a need to encourage all aspects of the knowledge chain – from basic education to advanced research – and to provide funding for corporate management skills.

5.4 Consequently, it is important to secure harmonisation of tax regime criteria, with a universal guarantee of the principles of equity, proportionality and efficiency policed at European level and endorsed by European citizens.

5.5 A good national tax regime, monitored at European level, not only ensures a healthy current expenditure environment, but could also be key to providing public investment to revitalise the whole national and European economic and employment system.

5.6 A healthy tax policy restricts as far as possible recourse to one-off measures, tax amnesties, etc., which could encourage irresponsible forms of management of national budgetary policies.

5.7 Here, we need to indicate what type of investment is useful for growth. Common criteria will naturally have to be

agreed for all EU countries, with due regard, of course, for differing circumstances and growth requirements. This could also require a rethink of the role of the ECB as no longer just the 'guardian' of monetary policy, but as a strategic instrument for growth and economic development, and as a helpmate for the Commission, which would have a beefed-up role in terms of ex ante and ex post monitoring and assessment of strategic investments.

5.8 The European Economic and Social Committee believes then that all the potential for economic and employment growth must be ensured, whilst still maintaining macroeconomic stability, especially in the eurozone.

5.9 The investment needed for this will call for closer macro-economic cooperation, consensus, common standards and harmonised best practice from national governments. At European level, the open coordination method could provide one of the more flexible means of determining the type of intervention needed for a recovery in the economy and in employment.

5.10 The objective is to go for growth and economic and social cohesion on the basis of a common understanding, worked out between all the social players (national and supranational institutions, governments, social partners and interest groups), while complying with Community rules.

5.11 The European Economic and Social Committee can play an important part, thanks to its accepted, established role as a consultative body and monitoring agency, for the course set out by the Stability and Growth Pact.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendment was put to a vote and rejected in the course of the discussion (Rule 54(3) of the Rules of Procedure):

Point 5.2

Replace this paragraph by the following:

A reconsideration of the rules of the Pact, and the application of the rules, should take account of the requirement for adequately flexible budgetary policies supportive of a common medium-term growth and cohesion strategy. The amended rules should give a clear definition of what constitutes a budget deficit in a way that allows borrowing to finance strategic investment to take place within the application of discretionary counter cyclical macro-economic policy and is external to the short-term disciplines on the permitted scale of current deficits.'

Result of the vote:

For: 43, Against: 61, Abstentions: 8.

Opinion of the European Economic and Social Committee on the 'proposal for a Council Regulation amending Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers'

(COM(2003) 698 final - 2003/0278 (CNS))

(2004/C 110/20)

On 1 December 2003, the Council decided to consult the European Economic and Social Committee, under Article 37(2) of the Treaty establishing the European Community, on the above-mentioned proposal

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 5 February 2004. The rapporteur was Mr Fernando Moraleda Quilez and the co-rapporteurs Mr Christas Fakas, Mr Adalbert Kienle and Ms Luisa Santiago.

At its 406th plenary session of 25 and 26 February 2004 (meeting of 26 February 2004) the European Economic and Social Committee adopted the following opinion by 58 votes to seven with one abstention.

1. Introduction

1.1 In Luxembourg on 26 June 2003 the European agriculture ministers adopted a fundamental reform of the CAP, leaving it up to the Member States to implement it between 2005 and 2007. The agreement also included a joint declaration by the Council and the Commission on certain products for which the current principles and standards, the long-term budget perspective (2013) and the financial framework would be maintained (status quo).

1.2 In the explanatory memorandum to the proposal the Commission states that since 1992 the common agricultural policy (CAP) has been immersed in a fundamental reform process, aimed at moving away from a policy of price and production support to a more comprehensive policy of farmer income support. The latest step in this process was the adoption of Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers.

1.3 The de-coupling of direct producer support and the introduction of the single payment scheme are essential elements in the process of reforming the common agricultural policy. As the next step in the reform process, the Commission proposes to integrate the current support schemes for cotton, olive oil and table olives, tobacco and hops into the regulation.

2. General comments

2.1 The EESC would point out that the purpose of the common agricultural policy is to realise the objectives set out in the Treaty establishing the European Community, in particular to stabilise markets, to increase productivity, to ensure a fair standard of living for farmers and to increase their earnings. The achievement of these objectives would be seriously called into question if the proposals put forward by the Commission for the sectors in question were to be implemented, as the

proposed reform neither guarantees production of these crops, takes account of the situation of producers in less favoured areas, increases competitiveness nor even respects the environment.

2.2 In the course of the preparatory work for the June reform the impact of the application of a given model on farms and geographical areas was in some cases evaluated. Thus, the European Parliament, during its hearing on the Evolution of farm incomes in the European Union, held last September, recommended that, for future reforms, greater attention be paid to the analysis and evaluation of their consequences. The EESC would point out that this has not been done and recommends that this mistake should not be made again in the future.

2.3 In the EESC's view, the de-coupling of aid in the forms proposed in the sectors in question would give rise to a series of problems and difficulties, including the following: the proposed historically based support per producer takes a previous period as its point of reference, without eliminating existing geographical and social imbalances, indeed probably exacerbating them; it would be particularly detrimental to young farmers starting out in agriculture; it would also have damaging effects on tenant farms and would jeopardise the continuation of production in certain areas and regions.

2.4 The forms of agricultural production in question are supported by a broad social fabric, in terms of both production and processing. In this sense these are extremely 'social' crops by virtue of the jobs they generate, and particularly in the light of their labour-intensity and the dominant role they play in certain areas and regions of the European Union. The EESC considers that the social repercussions and the loss of jobs which would result from the proposed reforms would be particularly severe in areas which already suffer from high levels of unemployment.

2.5 Most of the sectors affected by the Commission proposal are located in Mediterranean regions which qualify as less developed regions, less favoured regions suffering from depopulation or upland areas. The EESC therefore considers that the Commission should take account of the Conclusions of the European Council of 24 and 25 October 2002, which stressed the need to protect the interests of producers in the less favoured regions of the current EU of 15.

2.6 The Commission claims to be reinforcing the second pillar of the CAP, rural development, by diverting funds from the sectors in question to the measures set out in Regulation (EC) No. 1257/1999 on regional development. However, the EESC considers that the real driver of rural development in the regions and areas concerned is the maintenance of socio-economic activity on the basis of existing production. It therefore considers that, as a matter of priority, the reforms in question should guarantee and promote multifunctionality in the broadest sense of the term, taking on board the Conclusions of the European Councils of Luxembourg (1997) and Berlin (1999).

2.7 The new criteria recently adopted for direct support, as regards both environmental conditions and the requirement for good agricultural practice compatible with the conservation of natural resources, guarantee the sustainable management of land used for the crops in question.

2.8 Moreover, taking account of the decision of the European Council of Gothenburg to add an environmental dimension to the Lisbon Strategy (strategy for economic and social reform), the EESC considers that the EU's sustainable development strategy should maintain the balance between economic growth, prosperity, social justice and protection of the environment, aspects which should be taken into account in the Commission's proposal in order to maintain the social and economic fabric and conserve natural resources in the regions producing the crops in question.

2.9 The EESC considers that a probable reduction in the land area devoted to the crops in question will have grave consequences for the other crops which can be grown on the land in question, as most of these are subject to quotas, which in turn will produce further distortions of competition and economic, social and environmental repercussions.

2.10 The EESC considers that a series of specific analyses should be carried out by sector and region on the possible effects of various degrees of de-coupling of aid (market, territorial, employment, environmental effects, etc.) before any decisions are taken on changing the existing mechanisms. In particular, the EESC considers that it is vitally important to evaluate the territorial impact of the proposed measures. In the EESC's views, the total de-coupling of aid threatens to cut production of the crops in question in areas which are already disadvantaged, thus giving rise to undesirable environmental effects, including acceleration of desertification and erosion in certain vulnerable agricultural areas.

2.11 When making use of historical statistics on land areas and output, the Commission should not lose sight of the true

situation in the various sectors, and it needs to take account of a range of data to gain an accurate statistical picture of production in recent years.

2.12 Bearing in mind the provisions of Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy, leaving it to the Member States to determine the date, between 2005 and 2007, when the new system of aid will enter into force, the EESC considers that this option should also be offered to the other sectors to which similar measures apply.

2.13 The EESC points out that, in the light of the failure of the Cancun Ministerial Conference, the Commission is not expected to maintain the same principles with which it began the negotiations without drawing the appropriate conclusions as to the suitability of the strategy pursued by the European Union.

2.14 Finally, the EESC considers that the same approach should be adopted to the June decisions, as to the sectors currently affected by the reforms, so that the Member States will have suitable latitude for implementation of the decisions.

COTTON

3. Gist of the proposal

3.1 As we already know, the Commission proposes transferring the part of EAGGF expenditure for cotton, which was used for producer support during the reference period (2000–2002), into funding two income support measures for producers, namely the single farm payment scheme and a new production aid granted as an area payment. The total available amount for both measures is EUR 695.8 million divided as follows: EUR 504.4 million for Greece, EUR 190.8 million for Spain and EUR 0.565 million for Portugal.

3.2 It is recommended that 60 % of producer support expenditure per Member State should be transferred to the single farm payment scheme in the form of new entitlements which will be granted to the beneficiary whether they cultivate cotton or not. The total amount to be transferred to the single payment is EUR 417.3 million (EUR 302.4 million for Greece, EUR 114.5 million for Spain and EUR 0.365 million for Portugal).

3.3 The Commission proposes that the Member States should keep the remaining 40 % of production support expenditure (EUR 202 million for Greece, EUR 76.3 million for Spain and EUR 0.2 million for Portugal, i.e. a total of EUR 278.5 million) as national budget envelopes, to be used to grant producers the new area payment (per hectare of cotton) in areas that are suitable for growing cotton, so that cotton cultivation is not abandoned. The new area payment applies to a maximum area of 425,350 ha, corresponding to 340,000 ha in Greece (an 11 % reduction in eligible areas compared to the reference period), 85,000 ha in Spain (a 5 % reduction in eligible areas compared to the reference period) and 360 ha in Portugal.

3.4 Finally, the Commission proposes transferring a sum of EUR 102.9 million (EUR 82.68 for Greece, EUR 20.13 million for Spain and EUR 0.12 million for Portugal) to the second pillar, to be put towards sectoral restructuring measures in the context of rural development.

4. Introduction

4.1 The cotton sector is based not on a Common Market Organisation but on Protocols 4 and 14 which are attached to the Acts of Accession of Greece and Spain respectively, on the basis of which a system has been set up to:

- support cotton production in regions where it is important for the agricultural economy;
- guarantee a fair income for producers; and
- stabilise the market by improving structures for producing and selling cotton.

4.2 With the decision reached in Luxembourg on 26 June 2003 regarding reform of the CAP, European agriculture set out on a path towards decoupling payments from production. The decision also included a Joint Statement by the Council and the Commission (point 2.5) ⁽¹⁾ on the Commission's subsequent second wave of proposals for Mediterranean products (tobacco, cotton, olive oil), concerning:

- same rules and regulations;
- same long-term time frame (2013);
- within the existing budgetary framework (status quo).

4.3 The EESC considers full respect for the decision to be imperative, and therefore calls on the Commission to be sufficiently flexible when the decision is discussed at the Council and to correct the major inconsistencies in its proposal as regards both how the reform is implemented and the implementation timeframe. The EESC is calling for nothing more and nothing less for cotton than that which was decided upon unanimously by agriculture ministers on 26 June 2003 for other CAP sectors.

5. General comments

5.1 The cotton sector has substantial economic and social importance for certain regions of the EU. Approximately 300,000 people are employed in the primary sector, and more than 100,000 people in the secondary sector. In 2002, cotton accounted for 9 % of total agricultural production in Greece and 1.5 % in Spain (4 % in Andalusia).

5.2 There are 71,600 farms in Greece and 10,000 in Spain, though the average size of farms in Greece is much smaller: 4.9 ha compared to 9 ha in Spain.

5.3 The EESC does not share the Commission's view and does not agree that there will not be a reduction in cultivated areas. There has been a continuous reduction in cotton-

growing areas in recent years in Greece, from 440,000 ha in 1995 to 380,000 ha today. A similar reduction has occurred in Spain, where cotton-growing areas have shrunk from 135,000 ha some years ago to 90,000 ha today. In the EESC's view, the proposal to reduce eligible areas by differing percentages (11 % in Greece and 5 % in Spain) is therefore completely unjustified.

5.4 As a producer, the EU plays a minor role on the international stage, accounting for only about 1.5 % of cotton-growing areas and about 2.5 % of total world cotton production. The main cotton-producing countries are China (22.6 %), the US (20.1 %), India (13.1 %) and Pakistan (9 %).

5.5 With 708,000 tonnes of imports and 227,000 tonnes of exported ginned cotton, the EU is the world's major net importer. It must also be pointed out that two thirds of imports come from developing countries and are duty-free. It should also be pointed out that European cotton is exported without export subsidies. The EESC does not share the Commission's views and cannot understand how international trade is distorted when cotton is imported into the EU duty-free in such large quantities and is exported in very small quantities without export subsidies.

5.6 The EESC points out that during the Cancun Ministerial Conference the European system of aid to the cotton sector came under unfair attack, doubtless as a result of the EU's strategy of aligning itself with the USA. In the EESC's view, therefore, it is completely unjustified for the EU to react so strongly to the initiative of four African countries (Burkina Faso, Benin, Mali and Chad) to abolish cotton subsidies, which was launched during the WTO negotiations in Cancun. No serious trading partner can argue that with 2.5 % of global production the EU is capable of affecting world prices.

5.7 Cotton is the main natural fibre for weaving and must consistently be given priority over synthetic fibres. Cotton produced in the EU is of a high quality, though there is room for improvement; if European textile manufacturers are to compete in the world market they require top-quality cotton. The EESC therefore backs all of the Commission's proposals in this area, as they aim to improve quality.

5.8 On 22 May 2001 the Council adopted Regulation 1051/01 revising the regime of production aid for cotton. The new regime has been working satisfactorily both from the point of view of farm profitability and from the point of view of limiting the area under cultivation and reducing the environmental impact. The EESC can see no reason why, two years later, the Commission should propose a completely different system without at least looking at the results of implementing the 2001 revision. The EESC would also point out that the Commission proposal is not accompanied by an impact study as was the case for the sectors reviewed in June 2003 and the tobacco sector.

⁽¹⁾ CAP Reform – Presidency Compromise (in agreement with the Commission). Document No.: 10961/03

6. Specific comments

6.1 The Commission proposes transferring EUR 102.9 million from the first pillar to the second pillar. In practice, this will place a double burden on cotton producers as they already contribute to rural development through the horizontal regulation and tapering payments (reduction of 3 % in 2005, 4 % in 2006 and 5 % from 2007 onwards, when direct aid exceeds EUR 5,000 per year). These arrangements apply only to the tobacco and cotton sectors. The EESC believes that this contradicts the Luxembourg decision and calls on the Commission to re-consider its position.

6.2 The EESC considers that, as well as horizontal compulsory measures provided for to protect the environment, the Member States can implement complementary environmental programmes to promote efforts to monitor production and environmental protection. When determining area payments, account must be taken of the social and economic characteristics of these products in addition to other criteria.

6.3 The EESC finds it unacceptable to have a special review clause applying only to Mediterranean products. It therefore calls for Article 155a, which refers to legislative proposals to be submitted by 31 December 2009, to be scratched, and instead proposes that Mediterranean products come under the provisions of Article 64(3) of the Horizontal Regulation (R 1782/2003), which refers to the submission of evaluation reports.

7. Conclusions

7.1 Community cotton cannot be competitive on international markets because production costs are much higher than those of other competitor countries. It should be noted that other developed producer countries (particularly the USA) subsidise their own cotton to a many times greater degree than the EU, and developing countries have very low production costs because of social dumping.

7.2 The EESC feels that, in a sector such as this, with such large fluctuations in world price trends and such a vast difference between prices within and outside the Community, the principles of complete trade deregulation and of decoupling aid from production are not to be recommended.

7.3 If, despite the EESC's assessment, the Commission insists on placing the cotton sector on the course of deregulation, the EESC calls for the Luxembourg compromise of 26 June 2003 to be implemented entirely as agreed, with regard to both the method of implementation and the timeframe for implementation.

7.4 In the EESC's view, the events that took place during WTO negotiations in Cancun concerning cotton should not be allowed to shape the context for cotton negotiations in the Council of Ministers. With only 1.5 % of the world's cotton-

growing areas and 2.5 % of world production, the EU plays a very minor role on the world stage and does not influence world prices. The EESC believes that by adopting this kind of approach we are not helping developing countries, but simply casting doubt on and undermining the European Agricultural Model. The EESC therefore feels that, in WTO negotiations, cotton cannot be negotiated as an independent sector and should be included in the general negotiations on agriculture.

OLIVE OIL

8. Introduction

8.1 The first common market organisation for olive oil, which was set up in 1966 under Regulation 136/66/EEC, lasted for 31 years and had a very positive impact on the modernisation of olive groves and the processing and marketing sectors.

8.2 In 1998, the intervention system was replaced by a private storage mechanism, consumption aids were abolished and export refunds were set at zero.

8.3 Production support, which is granted to all producers on the basis of the quantity of olive oil produced and the table olive equivalent, is EUR 1322.50 per tonne. This sum is corrected whenever the Member States exceed their respective national guaranteed quantities (NGQs).

8.4 The olive oil sector was not part of the reform package approved at the Luxembourg Council. However, the same Council asked the Commission to present a proposal on reforming the CMO in olive oil based on the principles of the new CAP before the end of 2003.

9. The Commission proposal

9.1 The Commission proposes that:

- support for the sector should not be linked to the amount of olive oil and table olives actually produced by each olive grower;
- support should not be granted on the condition that growers must harvest table olives or produce olive oil or table olives;
- the payment of support is dependent only on observing the standards of good farming practice.

9.2 However, the Commission is concerned that a total decoupling of aid will lead to the abandonment of certain traditional olive-growing areas, the degradation of soil cover and landscape, and negative social impacts. It has therefore established two types of aid:

- direct decoupled aid to growers, to the value of 60 % of the average of payments made over the three-year period 2000-2002;

— per-hectare aid linked to the maintenance of olive groves with a recognised environmental and social value, to the value of 40 %, which will be expressed in olive GIS-ha, leaving it up to each Member State to organise the aid in up to five categories based on environmental and social criteria, including aspects related to the landscape and tradition.

9.3 The Commission is concerned that the new aid system could alter the fragile balance on the olive oil market and is therefore limiting access to the single payment scheme to olive-growing areas that existed prior to 1 May 1998 and to new plantings provided for under the programmes approved by the Commission.

9.4 The new proposed legislation will enter into force with the expiry of Regulation 136/66/EEC and after an interim marketing year of eight months in 2004 (1.11.2004-30.6.2005).

9.5 Current measures for the private storage of olive oil must be maintained and measures aimed at enhancing quality reinforced.

10. General comments

10.1 The EESC welcomes the Commission's assessment that 'the olive sector is a key element of the EU model of agriculture' and its reference to the fact that, although export refunds have been set at zero since 1998, European Union olive oil exports have doubled in the last ten years.

10.2 The sector's efforts in terms of quality, market organisation, publicising the product and conquering new markets, as well as the recognition of olive oil's illness-prevention properties, in particular regarding cardiovascular diseases, are key factors for the gradual increase in world olive oil consumption.

10.3 The EESC points out that the role of olive groves in creating jobs, combating desertification and protecting biodiversity has also already been highlighted in previous Committee opinions, one of which states that 'as the southernmost productive wooded areas in the EU, olive groves play a key social and environmental role in areas where they could not, or could not easily, be replaced with other crops, and help rural populations to continue living in the countryside' ⁽²⁾.

10.4 Moreover, with regards to the current CAP reform, the EESC – both in its own-initiative opinion on the future of the CAP ⁽³⁾ and in its opinions on the mid-term review of the CAP ⁽⁴⁾ and the 2003 CAP review ⁽⁵⁾ – repeatedly warned the Commission that a total decoupling of aid could lead to production abandonment in certain regions and for certain crops, with serious consequences for employment and the social fabric in surrounding rural areas.

10.5 This clear and real risk is contrary to the primary objective of any CMO reform, i.e. to maintain production and the economic and social fabric which it supports, particularly when olive production is based in some of the least-favoured regions of the EU and is in relative terms the most labour-dependent crop (in some regions, it provides 90 % of jobs in the agricultural sector).

10.6 The EESC was very pleased that the Commission listened to this concern and proposed a partial decoupling of aid for some of the sectors included in the proposal approved by the Luxembourg Council, with the uncoupled percentage of aid being decided by each Member State.

10.7 The Committee is surprised to note that this criterion has not been adopted in the present draft Regulation.

10.8 There is no doubt that granting an additional 40 % of totally non production-linked aid to olive groves will inevitably lead to the technical abandonment of the crop, especially in areas with the lowest production levels and/or very high production costs.

10.9 In fact, these areas are characterised by a series of different factors which lead to significantly higher production costs, potentially making them candidates for economic abandonment.

10.10 At the same time, such moves would lead to the closure of associated processing plants, owing to the lack of raw material, and the forced abandonment of farms that still demonstrated a degree of productive competitiveness.

10.11 The EESC calls on the Commission to fulfil the objectives laid down in the reform of Regulation 136/66, by means of Regulation 1638/98, which ushered in a transition period, the purpose of which was to give the Commission time to gather accurate data on the realities of EU olive production, thereby enabling it to design a new system based on solid arguments founded on actual conditions in the sector and recent statistical data.

11. Specific comments

11.1 The EESC would draw attention to the fact that Article 155a of Title IVa – Financial transfers provides for the Commission to submit a report to the Council by 31 December 2009 on the implementation of this Regulation, accompanied, where appropriate, by legislative proposals.

11.2 The EESC considers it unacceptable to have a specific revision clause applicable only to Mediterranean products and calls for this to be removed. Instead, the Committee proposes that this sector be included within the purview of Article 64(3) of the horizontal regulation (No. 1782/2003), which provides for an evaluation report to be submitted.

⁽²⁾ OJ C 221, 7.8.2001

⁽³⁾ OJ C 125, 27.5.2002

⁽⁴⁾ OJ C 85, 8.4.2003

⁽⁵⁾ OJ C 208, 3.9.2003

11.3 With regard to the 40 % of aid earmarked for environmental and social protection, we fail to understand why, in a production sector that is so sensitive and only relevant for Mediterranean countries, Member States are not allowed to use a system similar to the one provided for in Chapter V, Section 2, Articles 66, 67 and 68 (arable crops, sheep and goats, beef and veal) of Regulation 1782/2003 of 29 September 2003, whereby each Member State may decide on the percentage of coupled aid it wishes to allow.

11.4 The fact is that, especially in areas of low productivity, the total decoupling of production may entail a real risk of production abandonment with serious implications for local employment and surrounding industry, as well as the continued population of the region. The Committee also feels that the subsidiarity principle should apply as regards additional support so that such support is allocated according to criteria laid down by each Member State, both in terms of amount and the system used.

At all events this support should guarantee:

- the continuation of olive production and its associated industry, ensuring that the necessary checks are carried out to underpin the transparency of the market and the quality and traceability of the product,
- the maintenance of low-yield olive groves, which play a vital socio-economic and environmental role.

11.5 For this reason, the EESC insists that, as in Regulation 1728/2003 of 29 September 2003, the Member States be given the possibility of deciding the percentage of aid coupled to production and the marketing year in which the single payment is to be applied.

11.6 The EESC feels that the Council's provisions, especially those concerning the eligibility of areas of new planting authorised by the Council in 1998 and the relevant budget funding for this, should be taken up.

11.7 The EESC feels that funds linked to measures in the current CMO which are to be abolished, such as export refunds, support for preserving olives and the financing of control agencies, should continue to be earmarked for the olive sector in each Member State.

TOBACCO

12. Summary of the European Commission's proposals

12.1 The Proposal for a Regulation recommends the complete decoupling of support in line with the scheme laid

down in the Commission's Communication of September 2003 ⁽⁶⁾. A gradual decoupling in three steps is envisaged in the tobacco sector.

12.2 It also recommends establishing a restructuring envelope for the tobacco sector. This envelope will include a percentage of the current premium, which will now go towards rural development measures with the primary aim of restructuring tobacco-producing regions.

12.3 The proposed Regulation also recommends a review of the proposed reform in 2009.

13. Introduction

13.1 The EESC would like to point out the following:

- Tobacco is an annual crop with very important social repercussions throughout Europe. The Commission itself has carried out studies acknowledging the social and cultural importance of this crop, which has led to an important network of services in producing regions. In Europe, 453,887 ⁽⁷⁾ jobs are directly linked to tobacco production and 80 % of European tobacco is grown in Objective 1 regions.
- Even the Commission acknowledges the importance of labour for tobacco cultivation ⁽⁸⁾, having pointed out that it is one of the most labour-intensive crops in the Community. On average, a European farmer must invest 2,200 hours of labour a year to grow one hectare of tobacco, compared to just 147 hours for general crops. Moreover, for most varieties, labour represents between 50 % and 70 % of production costs.

13.2 The EESC also wishes to highlight the capacity of this sector to create jobs for women during the primary processing phase. Given that 80 % of tobacco production is found in less-favoured regions, maintaining these jobs ensures that areas under tobacco are more dynamic than areas under other crops.

14. Comments

14.1 The EESC has issued a number of opinions on the subject in recent years. Its most recent opinion (CES 190/2002) ⁽⁹⁾ stressed the need for a study on the sector in which the Commission would assess its decisions, since the tobacco sector is of major regional importance for less favoured areas and a source of employment. The CAP has now been reformed, with aid being decoupled from production and we expect to see studies making a complete separation between tobacco growing and smoking.

⁽⁶⁾ COM(2003) 554 final

⁽⁷⁾ UNITAB White Paper on Tobacco Growing in Europe.

⁽⁸⁾ COM(96) 554 - Report from the Commission to the Council on the common organisation of the market in raw tobacco.

⁽⁹⁾ OJ C 94, 18.4.2002, pp. 14-17

14.2 The Commission's proposals for tobacco follow on from the Communication on sustainable development presented to the Gothenburg European Council in June 2001⁽¹⁰⁾. The EESC points out that, following legal consultations by one of the producer Member States, no decision was reached on the future of tobacco during this Summit. The Council's legal service expressed the view that, with its fifth recital, the Commission was attempting to get the Council to accept a measure (the elimination of tobacco aid) which it had proposed in its Communication to the European Council, but which the latter had rejected.⁽¹¹⁾

14.3 In the EESC's view, CAP reform - as agreed in Luxembourg on 26 June 2003 - is one of the reasons behind the Commission's efforts to reform the current CMO for tobacco. The main objectives of this reform, as laid down in the explanatory memorandum to the September 2003 Communication, have only partially been met.

14.4 Moreover, with regard to tobacco and health, both the evaluation report and the impact assessment acknowledge that the CMO has no impact whatsoever on smoking statistics. There is currently no link between production and consumption, the latter depending more on fashion than on cultivation. Moreover, only 20 % of tobacco consumed in Europe is actually produced in the EU, and this is linked to the fact that there is a support scheme for raw tobacco production.

14.5 The Framework Convention on Tobacco Control, unanimously approved on 21 May 2003 by the 192 members of the WHO, specifically avoided expressing a view on tobacco subsidies and left out any reference to these in the final wording of its Article 17.

14.6 The EESC nonetheless acknowledges that public opinion associates production with consumption. In the light of the urgent need to step up anti-smoking campaigns, particularly those aimed at young people and those at high risk of dependency, the EESC would not wish to remain silent on the issue.

14.7 The EESC notes the low level of take-up of Community Tobacco Fund resources. In line with its views on the subject, it urges that the significant tax revenues arising be used to finance more ambitious anti-smoking programmes.

14.8 The EESC acknowledges that if Community tobacco production were to disappear, so could the tobacco with the lowest level of phytosanitary waste in the world and the most sustainable form of production (from the environmental point of view).

14.9 Without special external protection or special production quality it will be difficult to compete with third-country

producers owing to the fact that these countries largely practise social dumping, i.e. they exploit female and child labour. One WHO study⁽¹²⁾ reveals that in India today 325,000 children, 50 % of whom are under seven years old, work in the sector; in Brazil, the number of children working in the sector rises to 520,000, 32 % of whom are under 14 years old. There is also evidence to suggest that a similar situation exists in other countries such as China, Indonesia, Zimbabwe, Argentina, etc. all of which are key tobacco producing countries.

14.10 In the EESC's view, the survival of the processing sector in Europe is directly linked to the continuation of primary tobacco production in the EU. Given the extremely high cost of transporting raw tobacco, a primary processor cannot live on processing imported tobacco. If tobacco production disappears, the EU will start to import processed tobacco, with the obvious consequences for the industry and employment in it.

14.11 Moreover, there is no economically viable agricultural alternative to tobacco that at the moment could by itself create the same number of jobs and therefore keep people in rural areas as tobacco currently does. At the moment there are no alternatives to tobacco growing, as other crops are subject to production quotas (with penalties in the event that they are exceeded). Moreover, reform is being proposed before an in-depth assessment of the sector has been carried out. This is a clear indication that the EU is keen to cut the agricultural budget. The Member States, however, will continue to levy a tax on tobacco even if it is imported from third countries.

14.12 In the EESC's view, while this proposal is in line with sustainable development and health policies, it hides a large dose of confusion as tobacco consumption (which is a major source of tax revenue for the Member States - to the tune of EUR 63,000 million) cannot and must not be tackled in the short term by plunging European producers into crisis, most of whom live in less-favoured rural areas and receive only EUR 955 million of the Community budget.

14.13 Before any decision on total decoupling is adopted, the Commission should propose measures to cushion the impact of this on the sector. The EESC regrets that there is at present no plan for switching production.

14.14 In this connection, the EESC would like to highlight the environmental benefits of European tobacco cultivation methods. Even the Commission recognises the risk of tobacco production being abandoned in mountainous areas, which account for 30 % of tobacco growing regions. Likewise, according to information provided by experts in the sector⁽¹³⁾, European tobacco is four times less polluting than other crops.

⁽¹⁰⁾ COM(2001) 264 final

⁽¹¹⁾ Report of the Council's legal service (2002) on the Commission Communication on sustainable development and the Conclusions of the Göteborg European Council as against the fifth and sixth recitals of the draft Tobacco Regulation.

⁽¹²⁾ WHO-ILO

⁽¹³⁾ Tobacco regime. Extended impact assessment SEC(2003) 1023

14.15 According to the impact assessment⁽¹⁴⁾, 81 % of world tobacco production is based in developing countries, which in turn consume 71 % of cigarettes. It also points out that the CMO in tobacco has no impact on world prices, intervention mechanisms and export refunds disappeared a decade ago and border protection levels are very low.

14.16 The EESC believes that the CMO in tobacco makes a very important contribution to sustainable development in tobacco producing regions, combining economic development with respect for the environment and dignified working conditions. The large majority of these regions are less-favoured areas and Objective 1 regions.

14.17 The EESC would like to highlight European society's growing concern for product quality, which includes production methods and working conditions.

15. Conclusions

15.1 The EESC believes that the Commission's proposal is inconsistent and will have serious repercussions on tobacco growing regions and tobacco producers' incomes.

15.2 In the EESC's view, in the light of studies in the tobacco sector, the Commission proposal presents no solutions for the potential effects of total decoupling on the sector. The EESC therefore considers that the Commission should present all the possible alternatives in order to safeguard the future of farmers in the regions affected.

15.3 The EESC considers that our understanding of the lack of causal connection between tobacco growing in Europe and tobacco smoking has progressed. However, it acknowledges the fact that public opinion still tends to make this link.

15.4 The EESC recommends to the Commission that, in the reform of the tobacco CMO, a system of decoupling be considered which takes account of the social importance of the crop and allows Member States a high degree of flexibility in assessing different production situations.

15.5 The EESC considers that it would be beneficial for reform of the tobacco CMO for the structure of the sector to remain as it is at present, managed by groups of producers which have in the past enabled the sector to function.

15.6 The EESC welcomes the provision for mobility of growers in order to boost the future viability and competitiveness of farms. It hopes that the quota buy-back option will be retained.

15.7 The EESC calls for the subheading 1a) budget to be retained in full, leaving the Member States the option of using a proportion of it for rural development.

15.8 Due to the special environmental and social importance of tobacco cultivation in the regions, a definition should be provided specifying the requirements for maintaining the soil in a good agricultural and environmental condition. Minimum criteria should likewise be introduced for securing employment and enabling this aid to be taken up.

HOPS

16. Introduction

16.1 Hops are an essential raw material in beer production. The hop plant (*humulus lupulus*) is a perennial climbing shrub which is grown on cost-intensive trellis structures. Hops give beer its aroma, bitterness and long shelf life.

16.2 On 30 September 2003 the European Commission submitted a report on the evolution of the hop sector (COM(2003) 571 final).

16.2.1 This comprehensive report provides a good overview of the entire hop sector and the market organisation rules in force.

16.3 The Commission report gives a positive assessment of the market organisation in hops.

16.3.1 The common market organisation in hops has successfully dealt with the major market adjustments of recent years. EU hop producers have been able to consolidate their position as world market leaders. Special measures have been used successfully to match supply and demand more effectively. In the eight EU Member States which produce hops, the market is structured around specialized family farms with an average of 7.8 hectares which face a considerable degree of concentration among breweries on the demand side.

16.3.2 The existing CMO in hops also provides the basis for implementing universal hop certification, including a full certificate of origin for every batch and a comprehensive system of quality control and contracts.

16.4 The implementation of this system is the responsibility of producer groups, which are described by the Commission itself as the 'heart and soul' of the CMO in hops. The producer groups do indeed have a key role to play in a comprehensive system of quality control and contracts which includes universal hop certification and a full certificate of origin for every batch. The same goes for the initiation and implementation of projects concerned with quality, growing, research, pest control, marketing and production technology.

16.5 Expenditure on the hop sector has remained stable for years at around EUR 13 million.

⁽¹⁴⁾ See footnote 12.

17. Gist of the Commission proposal

17.1 Until now, permanent crops such as hops and olive trees were not covered by Regulation 1782/2003. The proposed amendment of Regulation 1782/2003 is intended to integrate the direct payments for hops under the specific CMO in hops 1696/71 into the general regulation on direct payments.

17.2 The Commission proposes fully integrating support payments for hops into the single payment scheme. Support is to be pitched at EUR 480 per hectare across the board.

17.3 However, the Commission proposes that Member States should have the option of coupling up to 25 % of the component of the national ceiling to hop production.

18. Comments

18.1 The EESC feels it is consistent and makes sense, in the wake of the 'Luxembourg decisions' on CAP reform of 26 June 2003, for the Commission henceforth to integrate direct payments for hops into the general regulation on direct payments and to wish to maintain the current level of support. In any event, efforts should be made to ensure that hop production in the EU, including the new Member States, should continue to be at the forefront of world hop production.

18.2 The EESC accepts the conclusions of the Luxembourg Council and the arguments put forward by the Commission to facilitate the introduction of a partial decoupling in those sectors at particular risk of abandonment of production or imbalance. The Committee would therefore be in favour of coupling a certain proportion of the direct payments to hop production in all hop-producing Member States.

18.2.1 In the EESC's view, the percentage of coupled aid in the hops sector should be increased from 25 %, as initially proposed by the Commission, to 40 %, in order to ensure that the essential work of producer groups is appropriately taken into account. Areas formerly used for hop-growing which are cleared under the special programme should be included in the calculation of the reference amount.

18.2.2 As regards the Member States being able to choose between the farm payment model (Articles 51-57) and the regional model (Article 58 ff.), the EESC points out that if a Member State opts for the regional model, current support for hops would be considerably 'watered down' and redistributed for other types of land use.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

Opinion of the European Economic and Social Committee 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 the transition from analogue to digital broadcasting (from digital "switch-over" to analogue "switch-off")'

(COM(2003) 541 final)

(2004/C 110/21)

On 17 September 2003, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 February 2004. The rapporteur was Mr Green.

At its 406th plenary session held on 25 and 26 February 2004 (meeting of 26 February), the European Economic and Social Committee adopted unanimously the following opinion.

1. Background

1.1 The switchover from analogue to digital broadcasting is a complex process whose social and economic implications go well beyond the pure technical migration. Replacing analogue broadcasting with a digital system presents huge advantages in terms of more efficient spectrum usage and increased transmission possibilities; these will lead to new services, wider consumer choice and enhanced competition. These advantages are underlined in the Action Plan eEurope 2005.⁽¹⁾

1.2 The objective of the eEurope 2005 Action Plan is to provide a favourable environment for private investment and for the creation of new jobs, to boost productivity, to modernise public services, and to give everyone the opportunity to participate in the global information society. The European Commission is thus seeking to stimulate secure services, applications and content based on a widely available infrastructure.

1.3 However, the Commission does not take a position on the timing of analogue switch-off, which is a matter to be decided at the level of the Member States or of the regional authorities. The main difficulty concerns terrestrial broadcasting.

1.4 The communication underscores the many advantages of switching to digital broadcasting in the EU, but these are counterbalanced by a number of significant migration obstacles. Hence, there may be circumstances that justify policy intervention to address these obstacles and certain general requirements to be respected by such measures.

2. General comments

2.1 The European Economic and Social Committee agrees with the Commission's key assertion that switchover implies much more than a technical migration. Considering the role of television and radio in contemporary societies, the impact is not only economic but also social and political. Switchover

affects all segments in the broadcasting value-chain, namely: content production, transmission and reception.

2.2 Switchover is thus a complex, protracted process involving many variables and affecting all social groups - consumers, industry and public authorities.

2.3 In an environment where production and consumption technology is otherwise increasingly digital, it is realistic to assume that analogue broadcasting will be replaced by digital broadcasting in the longer term.

2.4 Switchover should, in principle, be market-driven and consumer-centred. That means, among other things, that the role and remit of public service operations should be discussed and adapted to an environment in which technological developments are changing market conditions and generating new services. Public authorities do nevertheless have an obligation to create the conditions needed to ensure that, when markets are ready to accept the transition risks, there will be total transparency in the changeover process, no social exclusion will be engendered, all sectors of the population will have access to the potential benefits, high quality standards will be complied with and public service standards pertaining to broadcasting services will be guaranteed.

2.5 However, the Committee agrees with the Commission that television has a number of special features. Some of these are connected specifically with the development of digital TV, but others apply to television generally.

2.6 Traditionally, there have been three transmission routes: terrestrial, cable and satellite. The range of each of these routes has been contingent on social circumstances and geographical conditions. So far, digital TV has mainly grown on the back of satellite pay-TV. However, this development has stalled, and there are many indications that digital TV needs new drivers beyond traditional pay-TV.

⁽¹⁾ COM(2002) 263 final, eEurope 2005: An information society for all.
http://europa.eu.int/information_society/eeurope/news_library/documents/eeurope2005/eeurope2005_en.pdf.

2.7 Television has special political and social relevance and, for that and other reasons, has generally been subject to enforced minimum quality and pluralism requirements. As a result, market failure has, in turn, also been an issue for consideration.

2.8 Broadcasting thus has a stronger tradition of policy intervention than other information and communication sectors, such as telecommunications. There is a strong case for EU-level coordination of any future policy intervention but, at the same time, it is important that each Member State should pursue its own switchover path in line with national traditions and national circumstances, including the development of the various (satellite or cable) networks.

2.9 It is therefore appropriate to reaffirm the guiding principles of the Commission's audiovisual policy set out in its Communication of 14 December 1999 (COM(1999) 657 final), namely proportionality, subsidiarity, separation of infrastructure and content regulation, recognition of the role of public service television and the need for transparency in its financing and autonomy for the regulatory bodies in relation to political and economic authorities.

3. Specific comments

3.1 In a market-oriented, demand-led switchover model, it is crucial that the transition is prompted and promoted both by users and by the supply side.

3.2 Transparent conditions for both existing and new services are vital for users and operators alike.

3.3 For existing services, these relate in particular to 'must carry' obligations which, today, typically give universal access to the national public service channels. It will nevertheless always be essential to guarantee that the transition will be gradual and without interruption and not aggravate social and cultural exclusion.

3.4 Users are also likely to need clarification of the copyright issues involved in free access facilities to neighbouring countries' free-to-air/public service channels, so that, in that area, they are not put at a disadvantage vis-à-vis digital technology. Specific copyright issues are being dealt with separately by another study group.

3.5 With regard to new services, the Committee agrees that it is important that the public authorities encourage the availability of added-value content on TV networks, by, for instance, ensuring that public information is increasingly available. In that connection, however, it is also important to stress the importance of technological neutrality, as regards, for instance, the links between traditional mass communications and new mobile services.

3.6 This is also of crucial importance for future spectrum allocation/assignment.

3.7 It is important to establish new business models which, inter alia, secure the balance between free-to-air and pay services in future digital TV broadcasting. That also means giving the public service an appropriate role tailored to the changes in market conditions and social circumstances triggered by technological developments regarding the spectrum, where European-wide cooperation is particularly necessary, especially as regards the coordination of frequencies and information exchange, to which point the Council has already alerted the Commission ⁽²⁾.

4. Conclusions

4.1 The switchover from analogue to digital broadcasting has crucial implications for social, political and industrial development.

4.2 Policy intervention may encourage switchover and must ensure fairness and transparency so that the public and users understand what is going on. The national authorities play a key role in this process and EU coordination is also important.

4.3 Sustainable business models should be put in place in order to ensure a balance between free-to-air and pay services in future digital TV broadcasting. In that connection, it is important to remember the proven viability so far of the 'European model', which involves a mix of free-to-air/public service broadcasting and pay services, but which is being challenged by new market conditions and technological developments.

4.4 It is therefore deemed to be vital that public interests be coordinated at EU level so as to secure the proportionality of any intervention and ensure that it is kept to the strict minimum needed to achieve those social objectives and others relating to price accessibility and the universality and continuity of public audiovisual service provision.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

⁽²⁾ Conclusions of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 26 June 2000, concerning the communication from the Commission on principles and guidelines for the Community's audiovisual policy in the digital age (OJ C 196 of 12/07/2000 p. 1, 13th whereas).

Opinion of the European Economic and Social Committee on Employment support measures

(2004/C 110/22)

On 17 July 2003, the European Economic and Social Committee decided to draw up an opinion, in accordance with Rule 29(2) of its Rules of Procedure, on Employment support measures.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 4 February 2004. The rapporteur was Mrs Hornung-Draus. The co-rapporteur was Mr Greif.

At its 406th plenary session, held on 25 and 26 February 2004 (meeting of 26 February), the European Economic and Social Committee adopted the following opinion by 102 votes to 10 with 11 abstentions:

1. Summary and overall appraisal

The EESC welcomes the report of the Employment Taskforce, chaired by Wim Kok, which has succeeded in presenting a largely balanced analysis of the current challenges facing employment policy. The report graphically demonstrates to the Member States the pressing need for reform.

1.1 The method adopted by the Taskforce, namely using benchmarking and the identification of good practice to make specific proposals for improvements to employment-policy measures, is a welcome approach. The EESC considers the following measures referred to by the Taskforce as particularly important with a view to strengthening the EU's international competitiveness, in a manner which safeguards social stability, and creating more jobs:

- promotion of an entrepreneurial culture and reduction of excessive administrative and regulatory obstacles to new company start-ups and entrepreneurial activity;
- strengthening of innovation and research by stepping up investment in these fields, whilst, at the same time, promoting a climate which is favourable to innovation;
- creation of greater flexibility for workers and employers, without losing sight of the necessary balance between flexibility and job security on the labour market, it being particularly important to link new forms of labour market flexibility with new forms of job security;
- setting of taxes and social security contributions in such a way that they do not act as a brake on recruitment, as long as this does not jeopardise the financial basis and the social function of social security systems;
- increasing the participation rate of women by creating favourable conditions for combining family and career, particularly with regard to childcare;

- creation of incentives for workers to retire later and for employers to take on and retain older workers by means of appropriate general personnel policy and labour market conditions;
- raising the basic level of education, efforts to improve basic education in schools and basic vocational training, together with endeavours to coordinate university education more effectively with the requirements of the labour market;
- promotion of lifelong learning, involving all relevant actors
 - government, individuals and business;
- urgently needed stepping-up of measures to combat unemployment at all levels: in the EU, at national level and at local level;
- strengthening the role of national parliaments and the social partners in the process of drawing up national action plans.

1.2 The EESC is glad that the Taskforce deals with the implementation of the proposed reforms. In this area in particular increased efforts are needed in many cases. More needs to be done than hitherto to convince the public that economically and socially balanced structural reforms result in the strengthening of Europe and the improvement of the labour-market situation.

The EESC also regards certain aspects of the Taskforce's report critically:

- it would have been a good idea for the Taskforce, in some parts of its report, to have dealt more comprehensively with the employment-policy challenges, e.g. by focusing more sharply on the teaching of science and the imparting of key social skills or the reduction of obstacles to successful entrepreneurial activity;

- the report fails to give due acknowledgement to the fact that, in addition to structural measures with regard to the labour market, a successful employment policy depends on growth and employment-orientated macroeconomic policy;
- the report does not address in appropriate detail the key issue of promoting the sustained integration of young people into the labour market. Furthermore, the report fails to address – over and above the undisputed role played by the social partners in this field – the importance of social bodies such as NGOs, welfare associations and cooperatives, which work on behalf of unemployed persons and the victims of social exclusion;
- statutory compulsory contributions from all companies are suggested as one of the possible solutions to the problem of the allocation between employers of the costs of investment in human capital. In view of the specific features of the respective Member States it is, however, questionable whether adopting such an approach, throughout the EU, is the right way to promote investment in human capital. It would be desirable in some cases, rather to promote wider use of voluntary solutions involving the use of pools and funds, including agreements between the social partners, e.g. at local, regional, sectoral or national levels, in order to enable, in particular SMEs, to step up their investment in human resources;
- whilst a balance has been found in the thematic chapters of the report between the promotion of labour-market flexibility and security, the right balance is not struck in, in particular, the concluding Chapter 5 on governance, to the detriment of the necessary security, which a flexible labour market needs to have;
- the question as to the impact of EU-level legislation on the current employment situation is not addressed;
- the Report fails adequately to address the relation between active measures to stimulate increased employment – as mentioned in the Report – which are bound to result in additional costs to be met by the public purse, and the demand that these reforms be implemented within the budgetary constraints deriving from the Growth and Stability Pact.

1.3 The employment trend is a key issue for the EESC; it intends to keep a very close watching brief on the situation and to actively follow up developments. The EESC hopes that its above observations will be taken into account in the ensuing discussions on this issue.

1.4 In this context the EESC reiterates its firm belief, which it has already expressed on many occasions, namely that the chief way to achieve this goal is through the close involvement

of the autonomous labour market partners at all levels and at all stages of the European Employment Strategy from the formulation of the strategy right through to its implementation and its appraisal, and by involving national parliaments in the corresponding procedures at national level. In order to make this possible, the respective timetables will have to be aligned.

2. Introduction

2.1 A high level of employment is a vital basis for sustainable development in society. Employment is a key prerequisite for moulding the various social groups into a functioning social system and it makes an essential contribution to social integration. Employment also bridges the generation gap between young and old and brings together people from various regions and social strata. Jobless totals are high throughout the EU; safeguarding employment, enhancing the quality of employment and increasing the number of jobs are therefore pressing tasks.

2.2 Persistently high levels of unemployment - which are now once again on the increase - in many EU Member States, are giving rise to pressing economic and social problems. All Member States are called upon to give the highest priority to measures to improve the labour market situation by promoting economic growth and a growth in employment and by reducing the high level of unemployment. The aim is to translate into reality the objectives for the EU defined in Lisbon in 2000. According to these objectives, the EU should by 2010 become 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'. This goal embraces the fields of economic growth (3 % per annum), jobs (setting, in particular, the target of achieving an employment rate of 70 %) and social cohesion.

2.2.1 The EESC has not wavered in its view that, when compared with the Lisbon objectives – which it endorsed and supported – considerable weaknesses and gaps remain in many Member States, particularly with regard to the rate of employment, measures to combat unemployment, and productivity. ⁽¹⁾ In order to fill these gaps, there is also a need to start by examining the causes of the current situation. One of the factors involved is the increasing pace of technological change which makes it necessary for knowledge to be constantly adapted to bring it into line with new requirements. Another factor is the failure of the EU Member States to respond adequately to the advance of globalisation which also obliges enterprises to make structural adjustments with ever increasing frequency and speed, in order to remain competitive. Yet another factor is the sometimes inadequate forecasting of skills requirements and provision of the requisite training.

⁽¹⁾ EESC opinion on the European Employment Strategy (OJ C 133, 6.6.2003)

2.2.2 If there is to be an appropriate response to these problems, the following issues, in particular, need to be addressed:

- measures to promote economic growth: coordinating the timing of employment-policy guidelines and the broad guidelines for economic policies provides a means of backing up the Lisbon objectives. A further means of promoting these objectives is by seeking to interlink the contents of the processes to a greater extent. The EESC firmly believes that 'without strong and sustainable economic growth it will be difficult to achieve the [Lisbon] objectives'.⁽²⁾ The Lisbon objectives necessitate a stronger orientation of EU economic policy towards the goal of achieving a higher level of employment. Attention needs to be paid not only to employment policy measures and labour market policy measures but also to general economic policy in order to give a new impetus to growth in Europe, as a prerequisite for improving the employment situation, by implementing the broad guidelines of economic policy in a more purposeful and effective way in practice and by incorporating these guidelines more effectively in other policy areas⁽³⁾;
- international trade, free trade systems, globalisation: in these areas there will be opportunities to boost economic growth and employment but there will also be new challenges to be met. One of the consequences will be that enterprises will have to make structural adjustments ever more frequently and rapidly in order to remain competitive. This requirement will have a significant impact on economic and social development in the EU. It will affect not only large enterprises but also, and in particular, small enterprises. The EESC has also addressed this issue in a number of opinions⁽⁴⁾;
- structures having a bearing on employment in the individual EU Member States: in its report of November 2003, the Taskforce on Employment set out practical reform measures to be addressed by the EU Member States as of now. These issues are examined in this own-initiative opinion of the EESC.

2.3 The EESC welcomes the establishment of the European Employment Taskforce, chaired by Wim Kok. This Taskforce was set up at the European Summit held last spring with a view to pinpointing the challenges facing employment policy and putting forward practical proposals for reform, at both EU level and at the level of the Member States, with a view to providing further input in respect of the EU employment strategy. The Taskforce impresses upon the governments the urgent need for far-reaching reform and urges both the current EU Member States and the future Member States also to implement these reforms in reality.

2.3.1 The Taskforce submitted its report in November 2003; the report addresses the following issues:

⁽²⁾ EESC opinion on the Proposal for a Council Decision on guidelines for the employment policies of the Member States OJ C 208 of 3.9.2003

⁽³⁾ EESC opinion on the Broad economic policy guidelines for 2003 (OJ C 133 of 6.6.2003); see also the EESC opinion on Economic governance in the EU (OJ C 85 of 8.4.2003) and the EESC opinion on Broad economic policy guidelines of 11.12.2003

⁽⁴⁾ EESC Information Report on Coping with globalisation EESC opinion entitled 'For a WTO with a human face: the EESC's proposals' (OJ C 133, 6.6.2003); opinion on the preparation of the Fifth WTO Ministerial Conference (OJ No. C 234 of 30.9.2003)

- adaptability (promotion of the establishment of new enterprises, maximization of job-creation, development and dissemination of innovation and research, promotion of flexibility and security on the labour market);
- labour markets (need to make work pay, strengthening of active employment measures, increasing the number of women in gainful employment, strategies for reacting to the problem of the ageing population, integration of minorities and immigrants);
- investments in human resources (achievement of a higher level of education, allocation of costs and responsibilities, facilitating access to lifelong learning);
- reform through mobility (mobilisation of society, implementation of reforms, improving the leverage exercised by EU instruments).

2.3.2 The Taskforce report pinpoints four key factors which are of vital importance in bringing about an increase in employment and productivity; these factors are as follows:

- increased adaptability on the part of both workers and enterprises;
- the need to make the labour market more attractive to a larger number of people;
- increased and more effective investment in human capital;
- more effective implementation of reforms through the introduction of better employment measures.

2.3.3 The EESC broadly welcomes the report submitted by the Taskforce. The Employment Taskforce has succeeded in drawing up a largely balanced analysis of current employment-policy challenges. The EESC is, however, critical of certain aspects.

The report demonstrates to political decision-makers in the Member States and at EU level how urgent it is to introduce and implement reforms to enable the European Union to achieve the objective set in Lisbon of becoming the most competitive and dynamic knowledge-based economy in the world by 2010, capable of sustainable economic growth with more and better jobs and greater social cohesion.

2.4 In order to assist the Lisbon Process, it is both important and appropriate to carry out benchmarking as a learning process at EU level, as part of the European Employment Strategy (EES), whilst leaving responsibility in the hands of the individual Member States⁽⁵⁾. The EU can propose a framework and encourage the Member States to flesh it out. By pinpointing problems on the labour markets of the EU and coordinating labour market measures at EU level, the EES makes a positive contribution towards providing a useful framework and important stimuli for tackling challenges at national and local levels. The Member States are urged to lose no time in taking account of these stimuli in their policies.

⁽⁵⁾ EESC opinion on the European Employment Strategy (EES), OJ C 133, 6.6.2003; EESC opinion on Employment policy guidelines, OJ C 208, 3.9.2003

2.4.1 The new, medium-term orientation of the employment-policy guidelines, covering the period up to 2010, is the right choice and one which makes sense⁽⁶⁾. Greater stability and a longer-term perspective serve to strengthen a policy which seeks to back up short-term measures by adopting a medium- and long-term orientation, thereby making it possible to set out fundamental pointers to the way forward. The achievement of greater coherence and complementarity by coordinating more effectively the time schedules for the employment policy guidelines and the broad guidelines for economic policies, together with the other processes covered by the open method of coordination (social exclusion, pensions, etc.) is helping to achieve the Lisbon objectives. In the EESC's view efforts should be made to bring about a further alignment of the contents of the coordination policies. At the same time, even greater importance should be attached to the aspects of implementing the guidelines in the Member States, results and appraisal. The fact must also not be overlooked that a successful European employment strategy, which boosts employment, makes a key contribution to social integration. In this context, the EESC would stress that the objectives in respect of economic employment and social policy set out at the Lisbon European Council, form part of a coherent whole and should not be considered in isolation.

2.5 Europe is about to undergo major changes, not least because of the forthcoming enlargement of the EU. The establishment of an internal market of over 450 million people, the development of new markets, and the extension of cross-border infrastructure will provide the whole of Europe with a new economic impetus and also strongly influence developments in the field of employment. The EU-wide employment objectives set out in Lisbon are, in particular, about to be subjected to a major test. The current Member States are therefore urged to set national targets, also in the field of employment policy, in such a way as to prepare themselves to meet the new challenges. The EU should, at the same time, pay particular attention to the needs of the new Member States when formulating its employment strategy, so as to enable these states, too, to achieve EU employment goals in reality. The EESC has already addressed these issues in detail with representatives of organised civil society from the candidate countries within the framework of the joint consultative committees.⁽⁷⁾

Measures for promoting employment

3. Increasing adaptability

3.1 Economic development and the employment trend are closely linked. Economic growth and a climate which is propitious for investment are the key prerequisites for the creation of new jobs and the maintenance of existing employment. Economic success provides the basis for sustained creation and safeguarding of jobs. The establishment of a macro-economic policy mix which promotes international competitiveness and employment and embraces monetary, fiscal and wage policy

(whilst taking account of the responsibilities and autonomy of the various players involved) is an essential prerequisite for bringing the EU economy back onto the road to growth in such a way as to facilitate optimal exploitation of the growth and employment potential of the EU.

3.2 To achieve this aim it is, in the EESC's view necessary to provide enterprises with the general conditions which they need in order to enhance their ability to act and to enable them to focus on their core business activities and to create jobs, whilst, at the same time, assuming their social responsibility⁽⁸⁾. With a view to enabling enterprises to exploit to the full their potential to create jobs, the EESC draws attention to the call made by the European Employment Taskforce for the establishment and expansion of enterprises to be facilitated by, for example, cutting down on excessive administrative and regulatory obstacles to the establishment and running of enterprises and by providing these enterprises with a combination of advice and support through the establishment of one-stop shops.

3.3 In addition to the promotion of existing businesses, in particular SMEs, special attention should, in the EESC's view, also be paid to developing the entrepreneurial spirit and promoting business start-ups⁽⁹⁾. The foundations of the entrepreneurial spirit could already be laid while students are still undergoing training. In 2000, the European Charter for Small Enterprises set out key requirements which needed to be implemented in order to strengthen small enterprises⁽¹⁰⁾. The EESC welcomes the fact that the Employment Taskforce is taking a close look at the conditions which need to be met in order to facilitate the establishment of enterprises. The Report rightly highlights the particular need to reduce the amount of time it takes to set up enterprises and the costs involved. There are quite considerable differences between the Member States in this context; these differences should be removed. The Report of the Taskforce also identifies important general conditions which need to be in place in order to promote the development of SMEs, such as access to finance. Furthermore the considerable employment potential offered by SMEs should be exploited and expanded. Attention should also be paid in this context to promoting employment in micro-enterprises. In order to enable people to set themselves up in business as self-employed persons and to prepare them for this activity, appropriate training and support should be provided for the persons concerned. By way of example, 'one-stop shops' for information should be established. Young entrepreneurs should take account of the development potential of particular sectors, such as the care sector and the environmental sector. In this context, the EESC has already drawn attention to the growing employment potential of the social economy⁽¹¹⁾. In its report the Taskforce calls upon the Member States to promote a culture of entrepreneurship and to remove the stigma attached to business failure. In the view of the EESC, too, these proposals for tackling the issues involved are of key importance.

⁽⁶⁾ EESC opinion on the employment policy guidelines (OJ C 208, 3.9.2003)

⁽⁷⁾ See, amongst others, the following EESC documents: REX/130 – 2003 – Vocational training and lifelong learning and their impact on employment in Estonia; REX/148 – 2003 – Joint declaration; REX/087 – 2002 – The situation of the small and medium-sized enterprises in Hungary compared to the SME policy of the EU

⁽⁸⁾ EESC opinion of 20.3.2002 on the Green Paper entitled 'Promoting a European framework for corporate social responsibility' (OJ C 125 of 27.5.2002)

⁽⁹⁾ EESC opinion on the Green Paper on Entrepreneurship in Europe

⁽¹⁰⁾ European Charter for Small Enterprises, June 2000; EESC opinion on a European Charter for Small Enterprises, OJ C 204, 18.7.2002

⁽¹¹⁾ See the EESC opinion on the social economy and the single market (OJ C 117 of 26.4.2000)

3.4 In its report the Taskforce addresses the issue of promoting innovation and research and disseminating information on this subject; the EESC also regards this approach as making a key contribution towards boosting adaptability and improving the quality of work. As a result of the increasing level of integration brought about by globalisation, the ability to innovate provides a key competitive advantage, for both enterprises and workers. In this respect the EESC welcomes the call made by the Taskforce for expenditure on R&D in the Member States to be increased in accordance with the targets set at the March 2003 European Council (3 % of GDP). It is, however, also necessary to promote the creation of a climate which is favourable to the transformation of ideas and research into innovation.

3.5 The Member States are called upon to take the necessary measures – in accordance with their respective national structures – to enable both enterprises and workers to respond more effectively to the gathering pace of change. In the EESC's view, it is important, in this context, to strike the right balance between flexibility and security on the labour markets in order to ensure that, on the one hand, enterprises are able to offer more employment and that, on the other hand, workers are provided with the requisite security. The EESC welcomes the balanced approach adopted by the Taskforce on employment in the chapter of its report dealing with the promotion of flexibility and security on the labour market. Although social and structural conditions differ from Member State to Member State, they do have aspects in common, to which, in the EESC's view, particular importance should be attached, namely:

- the modernisation and improvement of social security systems, in order to bring them into line with the present circumstances whilst, at the same time, maintaining their social protection functions;
- enhancing entrepreneurial flexibility by stepping up the adjustment of the general conditions in order to bring them into line with the needs of enterprises and their workforces whilst, at the same time, ensuring adequate job security for workers;
- promoting and consolidating flexible forms of employment, such as temporary work, which may, if workers so wish, serve as a springboard for providing access to lasting employment; in this context, equal treatment and worker protection provisions should also be respected. It is also important to promote innovative forms of organising employment (e.g. teleworking). New forms of flexibility on the labour market should go hand in hand with new forms of security. In this context, the social partners have a very important role to play in establishing the appropriate general conditions, inter alia in respect of collective bargaining policy;
- promoting geographical mobility between EU Member States and within the labour markets of the respective Member States, e.g. by taking steps to overcome linguistic and cultural problems and to remove administrative barriers.

4. Making the labour market more attractive to a larger number of people

4.1 In calling for steps to be taken to 'make work pay', the Employment Taskforce is addressing an important issue. Taxa-

tion and social security systems in the Member States should be organised in such a way that it is worth their while for workers who join the labour market to stay there and to advance their careers. In the EESC's view, however, such a policy will only be successful if it is backed up by measures to boost the number of available jobs and - as pointed out by the Employment Taskforce – by measures to prevent people from being unable to escape from badly paid or unskilled work or repeated periods of unemployment. In this context, there is also an important need to convert undeclared work into legal employment; as the EESC already pointed out in its opinion on the future of the European Employment Strategy⁽¹²⁾, this objective can be attained by a combination of inspection measures and incentives and also by cutting the tax on employment. Taxes, social security contributions and the level of social security benefits should be determined in such a way as to ensure that the sound financial basis of the social security schemes and the responsibilities of the State in the field of infrastructure are not jeopardised.

4.2 The EESC sees the promotion of active preventive measures to assist unemployed persons and persons not in gainful employment as a key objective. Labour-market measures must be consistently geared to helping unemployed persons to rejoin the mainstream labour market. Special importance should be attached to the evaluation of these measures. It is also important to encourage unemployed persons to play an active role themselves in seeking work. Obstacles to such an active role should be removed, inter alia through the provision of tailor-made services. Employment agencies have an important role to play in this context. Efforts should be made to achieve close collaboration between the employment services and enterprises in order to facilitate flexible adjustments to meet the changing requirements of the labour market. The EESC also welcomes the recommendations made by the Taskforce in respect of prevention and encouraging unemployed persons to play an active role in seeking work; in the event of the restructuring of enterprises, priority should be given to active, rather than passive, measures, including the provision of information for employees and consultation of employees. The European social partners have made an initial important contribution in this context by publishing a document entitled 'Orientations for reference in managing change and its social consequences'⁽¹³⁾; this document is welcomed by the EESC.

4.3 It would have been desirable for the Taskforce to have addressed more thoroughly the issue of measures to integrate young people into the labour market and to combat youth unemployment. Particularly against the background of a difficult economic situation and an overstretched labour market, young people need to be provided with adequate assistance in order to enable them to secure a foothold in the labour market. With this aim in view, all of the labour-market players are urged to carry out a review of their current contributions towards combating young unemployment and their current policies in this field. All training courses for young people, particularly those geared towards traditional occupations, should include developing skills which are of importance in the expanding knowledge-based society. The EESC has dealt with this issue at length in a number of opinions⁽¹⁴⁾.

⁽¹²⁾ EESC opinion on the European Employment Strategy (OJ C 133 of 6.6.2003)

⁽¹³⁾ Orientations for reference in managing change and its social consequences – 16.10.2003, UNICE, ETUC, CEEP, UEAPME

⁽¹⁴⁾ EESC Opinion on the European Commission White Paper entitled 'A new impetus for European youth' (OJ C 149 of 21.6.2002); EESC Opinion on the White Paper on Youth Policy (OJ C 116 of 20.4.2001)

4.4 Particular groups of individuals, such as persons with disabilities and less-skilled workers, together with particular groups of immigrants, who have to contend with additional difficulties on the labour market, frequently require special conditions to enable or to help them to find a job or remain in employment. The integration of these people is an important task for society. An active integration policy needs to be pursued. In order to enable the abovementioned groups of people to join the labour market and to remain in employment, there needs to be not just a change in the level of awareness of all social groups, but the appropriate general economic and personnel policy conditions also need to be created. Providing these people with the requisite skills makes a valuable contribution towards enabling them to assert themselves. The overriding objective in this context should be to secure their lasting integration into all forms of employment.

4.5 The EESC also welcomes the fact that the Employment Taskforce has addressed the issue of increasing the labour force participation rate of women. The EESC urges the Member States to continue with their efforts to make the world of work compatible with family life. The Lisbon European Council set out a target of raising the employment rate of women from 54 % (in 2000) to 60 %. If this objective is to be attained, the general conditions need to be improved in order to enable women to take up employment. This is a task for society as a whole. In particular, the provision of child-minding facilities makes it possible to reconcile family and occupational obligations and enables women to continue to work in gainful employment, or to rejoin the labour market quickly after a break. The EESC therefore welcomes the call made by the Council of the European Union to the Member States to remove the barriers preventing women from joining the labour market and also to make child-minding facilities available ⁽¹⁵⁾. The EESC likewise welcomes the call made by the Employment Taskforce to public authorities to ensure that such services are made available and affordable to the general public. It is also important for the Employment Taskforce to address the subject of flexible working-time arrangements, such as part-time work. The EESC also calls upon the parties to collective agreements to respect the principle of equal treatment for men and women in their agreements.

4.6 In view of the fact that the working population is both declining in number and ageing, the EU Member States are more than ever dependent upon the knowledge, wealth of experience and ability of older workers in order to enable them to maintain the capacity for innovation and competitiveness on a permanent basis. The promotion of 'active ageing' is an important issue for the EESC. The EESC therefore welcomes the call made by the Employment Taskforce for incentives to be provided, on the one hand, for workers to retire later and, on the other hand, for employers to take on and retain older workers. If this is to be achieved in reality, there is a need to create general economic and political conditions providing stronger incentives for longer working careers and also making it easier for enterprises to employ older workers, in particular. With a view to promoting the employment of older workers,

there is a need to have a labour market which also permits the employment of older workers. With this aim in view, all labour-market players need to take proactive measures, including pursuing further training in order to improve qualifications and adopting flexible methods of organising work, as pointed out in an investigation carried out by the Dublin-based European Foundation for the Improvement of Living and Working Conditions ⁽¹⁶⁾. Special attention should be paid to maintaining the working capacity of older workers. With this aim in view, organisation of work and personnel management in line with the needs of older people is just as important as the need to take the requisite measures in the fields of health and safety ⁽¹⁷⁾.

4.7 In view of the EU's declining labour force, the EESC has recently also drawn attention to the role which immigrants can play in ensuring that the EU labour market has an adequate potential supply of skilled workers ⁽¹⁸⁾.

5. Investment in human capital

5.1 A good school education backed up by good vocational training provides the key to a successful career. Europe is changing and becoming a 'knowledge-based Europe'. The EESC has, in earlier opinions, repeatedly drawn attention to the importance of education and intensively addressed the issue ⁽¹⁹⁾. The EESC welcomes the fact that the Employment Taskforce places special emphasis on education. The foundations of education are laid in schools. It is particularly important to reduce the number of pupils dropping out of school without having achieved an adequate level of skills and ability, as stressed by the Employment Taskforce in its report. The aim is to ensure that young people possess at least the basic qualifications which are vital to ensuring that they have a successful start to their working careers. In order to achieve this, there is a need to make schools more attractive, without cutting back on the quality of education. In the field of vocational training, too, in which the social partners have traditionally played an important role, it is essential to have an efficient system geared not to just meeting the general educational objectives but also to meeting the needs of the labour market.

⁽¹⁶⁾ European Foundation for the Improvement of Living and Working Conditions document entitled 'Combating age barriers in employment'; in this context see also the EESC opinion on Older workers (OJ C 14 of 16.1.2001)

⁽¹⁷⁾ EESC opinion of 20.3.2002 on the Green Paper entitled 'Promoting a European framework for corporate social responsibility' (OJ C 125 of 27.5.2002)

⁽¹⁸⁾ See the EESC opinion of 10.12.2003 on the Communication from the Commission on immigration, integration and employment (SOC/138)

⁽¹⁹⁾ See, amongst others, the EESC opinions on the following subjects: The European dimension of education: its nature, content and prospects (OJ C 139, 11.5.2001); Lifelong learning (OJ C 311, 7.11.2001); European benchmarks in education and training (OJ C 133, 6.6.2003); the eLearning Action Plan – Designing tomorrow's education (OJ C 36, 8.2.2002); and the eLearning Programme (OJ C 133, 6.6.2003)

⁽¹⁵⁾ Council Decision on guidelines for the employment policies of the Member States (2003/578/EC)

5.2 The EESC calls for a further expansion of higher education. The call made by the Employment Taskforce for measures to be taken to enable a larger percentage of the population to study at colleges or universities pinpoints a desirable objective. There can, however, be no question of accepting a drop in the quality of higher education. The establishment of a 'European Higher Education Area' is a further important step. The EESC has long been calling for efforts to establish a 'European Learning Area' to be stepped up ⁽²⁰⁾. Qualifications need to be recognised throughout Europe and to be internationally transparent. The EESC therefore welcomes the decision taken by the European science ministers ⁽²¹⁾ to introduce the internationally recognised university degrees of 'master' and 'bachelor' in the next few years. With a view to making it easier for graduates to embark upon their professional careers, curricula should be examined to determine their relevance to the modern world of work.

5.3 The field of lifelong learning has an important role to play with regard to all groups of employees. The term 'lifelong learning' covers, in particular, lifelong, systematic and proactive endeavours by EU citizens to equip themselves, through education, to meet the present-day needs of everyday life ⁽²²⁾. In addi

tion to employees themselves, enterprises also have an interest in recognising and increasing occupational abilities. The EESC welcomes the fact that the Employment Taskforce also sees the public authorities as key players in this field. The social partners, too, have an important role to play here. As the benefits of lifelong learning are enjoyed by workers, enterprises and society as a whole, it is also natural that responsibility for organising lifelong learning and for meeting the attendant costs should also be shared. The provision of high-quality initial and further training gives employees the opportunity to acquire the necessary skills, reduces the risk of unemployment, increases the prospects of finding employment and therefore also helps to combat social exclusion. Investment in providing higher qualifications and strategies for lifelong learning are key factors with regard to the future competitiveness of European enterprises and are therefore rightly accorded a position of prominence in the European Employment Strategy. There is a need to strengthen initial and further training facilities, as regards their ability to provide students with the relevant skills, in order to improve the career development prospects of workers and to give them a better chance to find a job. The EESC welcomes the fact that the social partners have pursued this approach in the 'Framework of Actions for the Lifelong Development of Competences and Qualifications' ⁽²³⁾.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*
Roger BRIESCH

⁽²⁰⁾ See, especially, the EESC opinion on the European Dimension of Education: its nature, content and prospects (OJ C 139, 11.5.2001)

⁽²¹⁾ Communiqué of the Conference of Ministers responsible for Higher Education in Berlin on 19 September 2003

⁽²²⁾ Opinion of the EESC on lifelong learning (OJ C 311, 7.11.2001)

⁽²³⁾ Framework of Actions for the Lifelong Development of Competences and Qualifications, published on 14.3.2002

APPENDIX

to the Opinion of the European Economic and Social Committee

Rejected amendment

The following amendment, which was supported by a quarter of the votes cast, was rejected in the course of the debate.

Point 3.5, third bullet point

~~'promoting and consolidating flexible forms of employment, such as temporary work, which may, if workers so wish, serve as a springboard for providing access to lasting employment; in this context, equal treatment and worker protection provisions should also be respected. It is also important to promote innovative forms of organising employment (e.g. teleworking). New forms of flexibility on the labour market should go hand in hand with new forms of security. In this context, the social partners have a very important role to play in establishing the appropriate general conditions, inter alia in respect of collective bargaining policy;~~

Delete the first two sentences and change the following two sentences so that the text reads as follows:

'New forms of flexibility on the labour market should go hand in hand with new forms of security. The general conditions for this should be established by the social partners through collective bargaining.'

Reason

The statement to promote temporary work cannot be an acceptable policy. There are situations where such forms of employment are necessary but the promotion should be for lasting employment. Flexible forms should be considered an exception to this. The rules for flexible employment should always be a question for the social partners.

Voting:

For: 53, against: 67, abstentions: 4.

Opinion of the European Economic and Social Committee on the 'proposal for a Council Regulation on protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC'

(COM(2003) 425 final – 2003/0171 (CNS))

(2004/C 110/23)

On 17 September 2003, the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 5 February 2004. The rapporteur was Mr Kallio.

At its 406th plenary session of 25 and 26 February 2004 (meeting of 26 February), the European Economic and Social Committee adopted the following opinion unanimously.

1. Introduction

1.1 Transport is one of the most controversial areas of animal welfare and has been receiving increased political and policy attention at EU level over the last few years:

a) In December 2000 the Commission adopted a report ⁽¹⁾ to the Council and the European Parliament on the experience acquired by Member States since the implementation of Directive 95/29/EC.

b) The report was presented at the Agriculture Council in June 2001 which supported the outcome in the form of a specific resolution ⁽²⁾. In November 2001 the European Parliament adopted a resolution ⁽³⁾ on this report.

c) On 11 March 2002 the Scientific Committee on Animal Health and Animal Welfare adopted an opinion on the welfare of animals during transport. The scientific opinion provides in particular recommendations concerning the fitness of animals to be transported, the training of personnel transporting animals, the handling of animals, increased space allowances and restrictive journey time limits.

1.2 Road transport represents between 90 to 99 % of the overall trade of live animals in the EU and as such constitutes an important part of the overall economic activity associated with the commercial transport of farm animals. As such, it also plays a significant role in regional economic development. Thanks to its flexibility road transport is used by a wide range of operations and companies. The average annual trade of live animals in the EU was 2 million tons between 1996 and 2000 and 80 % of this was between EU Member States. Export to third countries outside the EU was approximately 10 % of annual transport of live animals and long distance transport amounts to just 1.5 % of animals transported in the EU.

1.3 The Protocol on the protection and welfare of animals annexed to the Treaty establishing the European Community requires that in formulating and implementing agriculture and transport policies, the Community and the Member States shall pay full regard to the welfare requirements of animals.

2. Gist of the proposal

The proposal contains a series of reforms and specific provisions:

a) The aim is to harmonise EU rules governing vehicles used for transporting animals, the training of drivers and control and enforcement by the authorities. Improvements in instruments for control and enforcement are also proposed.

b) Under the proposal, the scope of the present provisions will be extended to apply to the transport of live vertebrate animals for commercial purposes taking place in the Community, regardless of distance, and to specific checks on consignments arriving or leaving the customs territory of the Community. The legislation does not apply to the transport of a single animal accompanied by the person who is responsible for it during transport.

c) The transport of animals will remain subject to authorisation. The proposal introduces two types of authorisations, one for long distance journeys and the other for short distance journeys, as well as separate authorisation requirements for drivers. There is also a separate approval procedure for road vehicles used to transport animals over long distances.

d) Harmonised training requirements are laid down for drivers and personnel handling animals.

⁽¹⁾ COM(2000) 809 final adopted on 6 December 2000.

⁽²⁾ Council resolution of 19 June 2001 on the protection of animals during transport (OJ C 273, 28.9.2001, p. 1).

⁽³⁾ European Parliament resolution of 13 November 2001 on the Commission report on the experience acquired by the Member States since the implementation of Council Directive 95/29/EC amending Directive 91/628/EEC concerning the protection of animals during transport (COM(2000) 809 - C5-0189/2001-2001/2085 (COS)) – A5-0347/2001.

- e) The proposed Regulation establishes detailed definitions of animals unfit for transport and bans the transport of very young animals.
- f) The proposal upgrades technical standards for road vehicles used to transport animals and updates the requirements governing vehicles used for long distance transport.
- g) More detailed rules are established for water and rail transport and a separate approval procedure is laid down for livestock vessels.
- h) The proposal lays down more detailed provisions for the loading and unloading of animals, the handling of animals during transport and handling facilities.
- i) Maximum travel times are introduced for the transport of farmed animals and there are stricter rules for the transport of horses.
- j) The proposal provides for increased space allowances for animals during transport, over both short and long distances.
- k) Journey logs are divided into the following sections: planning, place of departure, place of destination and any anomalies during the journey.
- l) Documents required for the transport of animals will be harmonised in order to facilitate enforcement and exchange of information.
- m) The proposed Regulation seeks to facilitate control and enforcement by the authorities and foster cooperation between enforcement bodies.
- n) The proposed legislation also takes account of the need to prevent the spread of infectious animal diseases.

3. General comments

3.1 The EESC endorses the proposal's approach and its main principles and considers it important to improve animal welfare during transport. The Committee also believes that moral and ethical principles associated with animal welfare should be taken into consideration. The Committee believes that the duty of care due to animals during transport must be consistent with good animal husbandry practices informed by the best available advice from the most competent veterinarians dealing with animals.

3.2 Revelations concerning the problems associated with animal protection during transport have attracted much debate and publicity in the EU. The level of public pressure varies between Member States, however. The changes and provisions relating to animal welfare during transport in the single market must apply equally to all Member States.

3.3 The Committee welcomes the fact that the legal instrument is in the form of a Regulation, which means it is directly applicable in national legislation in each Member State. This

supports the policy line that rules and implementation be harmonised in all Member States.

3.4 The proposal provides for a complete overhaul of all existing legislation on animal transport and amends Directives 64/432/EEC and 93/119/EEC on the basis of the recommendations of the Scientific Committee and the comments obtained from the consultation exercise with stakeholders. It represents a wide-ranging reform, the implementation of which will also have to take account of a host of practical and economic considerations and differing conditions - the use of the 'Committee Procedure' outlined in the proposal will assist in this important task.

3.5 The EESC wishes to stress that the provisions and changes contained in the proposal must be based on the latest scientific research on improving animal welfare. There must also be a realistic economic assessment of the costs of the proposed measures, both related to the investments in new equipment and infrastructure that will be required and including the social impacts that the measures could have, especially in peripheral areas and areas which are in economic decline.

3.6 In assessing the proposal, it needs to be borne in mind that animal welfare is the sum of many factors. Discussion of specific limits and recommendations could, in some cases, lead to solutions which are even worse than the present ones from the point of view of animal welfare and/or economically unsustainable. It must be possible to use discretion when this is justified and supported by competent veterinary opinion. This will allow for adequate flexibility without undermining safeguards to the welfare of animals during transport.

3.7 There is a need to establish global rules on animal transport. The fact that animals imported from third countries are subject to different transport rules distorts trade and reduces EU competitiveness in relation to third countries, since improving animal welfare means higher transport costs. Therefore, the ultimate aim of establishing European rules must be considered to be to create global rules. Indeed, the World Organisation for Animal Health (the OIE) has included animal welfare as a priority in its programme, opening the way to negotiation of common rules on a broader scale than hitherto.

3.8 Animal welfare should form a more important part of the overall package of policies related to agriculture and trade even if its role has already increased in recent years - for example, as proposed by the EU during WTO negotiations. Animal welfare should therefore become a more significant part of global trade policy's 'Green Box'.

3.9 Animal welfare must also be included, alongside economic considerations, as a criterion in planning sustainable livestock farming. In future, the transport of carcasses and meat products could also provide an alternative opportunity to reducing the long-distance, cross-border transport of live animals.

3.10 In the proposal, the Commission draws attention to preventing the spread of infectious animal diseases, which is actually an important part of animal welfare. The animal disease epidemics of recent years and the measures taken to eliminate them have caused considerable economic losses and attracted adverse publicity. Long-range, sustainable planning can play an important role in helping prevent the spread of such diseases and specifically requires developing far sighted systems which continually take account of the potential role of animal transport in the spread of infectious diseases.

3.11 The Committee welcomes the fact that working time legislation for drivers is taken into account in planning animal transport. Animal welfare and the working time directive for drivers should be taken into consideration together, for example in the form of a single maximum limit for driving times. However, the legislation should be clear not to confuse animal transport legislation with working time legislation.

3.12 The Committee notes that no mention is given in the proposal to the relevance for human health of ensuring safe animal transport and believes that this aspect should be integrated into the approach adopted by the proposal.

4. Specific comments

4.1 Chapter I, Article 1(1). The definition of 'transport for commercial purposes' should be specified as it determines the scope of the Regulation, bearing in mind that daily transport of animals from farm to farm should be excluded from the scope of the legislation⁽⁴⁾ and that long distance transport of live animals is in any case nearly always commercial in nature. It is necessary when drawing up new rules on animal transport to take account of the special needs of breeding animals during transport.

4.2 Chapter I, Article 2(h). Notwithstanding the fact that loading and unloading can be interpreted as being part of the journey time, given that animals are being moved also during these stages in the journey, the practical measurement of journey time can only be carried out via use of the tacograph. The EESC therefore believes that the definition of journey time can only be measured from the actual start of the journey to the termination of the journey.

4.3 Chapter III, Article 16. How do you harmonise the training of drivers who already work in the sector? One way would be to hold tests for these drivers, regardless of where they received their training.

4.4 Chapter IV, Article 28. Guides to good practice should be harmonised at EU level.

4.5 Annex I, Chapter I – Fitness for transport 2 (e):. Certain Member States allow calves at 10 days old to be transported when the navel is dried. If the minimum age at which very young calves can be transported is raised to two weeks, certain practical difficulties in terms of day-to-day farm practices will

be experienced. Pigs are to be considered fit for transport from three weeks old. The EESC therefore believes that the Commission should fully consider this aspect in terms of assessing the full impact of the proposal.

4.6 Annex I, Chapter III, Handling 1.8(e). The use of electric whips should be avoided as far as possible. In some cases, however, it may be necessary from the point of view of occupational safety, for example because of the large size of the animals. There is a need for harmonisation here with the recommendations of the Council of Europe, so long as these are consistent with the aims of this proposal.

4.7 Annex I, Chapter V – Journey times. The definitions of (a) 'rest period' and (b) 'travel time' should be clarified. Regarding maximum travel times, agreement should be reached on transporting animals to the place of destination without delays. The nine-hour maximum travel time is a compromise between studies of different animal species and working time legislation. In the case of bovine animals, studies show that the vehicle and animal handling have a greater impact on animal welfare than journey time alone⁽⁵⁾. A maximum transport period of 12-14 hours could be a suitable alternative for long distance transport, when animals are transported straight to their final destination.

4.7.1 In the event that the proposed 12-hour rest periods in stationary vehicles are implemented, a ceiling should be set on the number of times sequences of travel times and rest periods can be repeated during a journey. In addition, for geographical reasons, flexibility should be allowed regarding the maximum travel time, since applying 12-hour rest periods in a stationary vehicle during extreme conditions (-30° or +30°) could actually reduce animal welfare by, for example, worsening air quality or lengthening travel time unreasonably. In cold conditions it may be impossible to provide effective heating and ventilation in a vehicle which is stationary for a long time. The automatic drinking water system may freeze up, etc. If a journey could be completed either as a sequence of 9 hours' travel time + 12 hours' rest + 3 hours' travel time or in a single stage of 12 hours, which would be the better alternative from the point of view of the animals?

4.8 Annex I, Chapter 7 – Space allowances. Higher minimum space allowances and the height of the compartment have a direct impact on transport costs. Further research is needed in this area in order to establish optimal space allowances. Where too few animals are transported in a given space, it is possible that they will start to fight among themselves or that they will be vulnerable to sudden movements caused by the motion of the vehicle, thus increasing the risk of injury and reducing the quality of slaughtered carcasses. Minimum floor areas as set out in Tables 1, 2 and 3 (Annex I, Chapter VII, paragraphs 1.1(a) and (b)) shall be provided as follows: (a) Area A1 for all transport of animals of equine, bovine, ovine, caprine and porcine species.

⁽⁴⁾ Seasonal migratory movements of stock (bringing cattle up to and from alpine pastures) should also be excluded.

⁽⁵⁾ See the findings of the Commission funded 'CATRA' (Cattle TRANsport) project, June 2003. Cf. Commission IP 03/854, 17 June 2003.

4.9 The provision of staging posts should not be ruled out completely. Staging posts can provide animals with a good respite during long journeys provided adequate precautions are taken to prevent the spread of infectious diseases.

5. Conclusions

5.1 The EESC thinks that the proposed Regulation will improve animal welfare during transport and enable more effective enforcement of the rules, but lead to higher transport costs which in turn may impact upon the food production chain as a whole and the economic actors involved. Before implementation, there is a need for well-substantiated economic calculations of both the upstream and downstream costs arising from the implementation of the new requirements and the potential social implications of the reform.

5.2 The Committee believes that the aim of the Regulation must be to ensure that animals are transported to their place of destination without delays by skilled animal handlers. Animal welfare is the sum of many factors and should be assessed as a whole.

5.3 Enhanced control and enforcement is desirable and the authorities must be guaranteed powers to address shortcomings in a uniform manner across Member States.

5.4 The EESC would emphasise that the provisions and changes contained in the proposal must be based on the latest

scientific research on improving animal welfare. There must be a realistic assessment of the economic effects of the measures. A particular problem is posed in cases where the changes increase transport costs directly but the scientific evidence regarding the beneficial impact on animal welfare is contradictory or insufficient. Existing rules should be changed in such cases and additional information should be sought and the legislation updated only when the scientific evidence is both clear and conclusive

5.5 Differences in geographical and climatic conditions between countries may hamper the implementation of the rules. Specific regional characteristics must be taken into account where the proposed changes would, as they stand, significantly weaken the competitiveness of livestock farming in a particular region because of higher transport costs. The result could even be that production ceases altogether, which would further increase the already high susceptibility of these regions to desertification. The rules must be flexible enough to safeguard livestock farming outside livestock-intensive areas and the transport of animals to livestock markets.

5.6 Discussions should be launched as soon as possible with a view to reaching concrete agreements on the application of international transport standards on a global scale.

Brussels, 26 February 2004.

*The President
of the European Economic and Social
Committee*

Roger BRIESCH
