

Official Journal

of the European Communities

ISSN 0378-6986

C 149

Volume 45

21 June 2002

English edition

Information and Notices

Notice No

Contents

Page

I *Information*

.....

II *Preparatory Acts*

Economic and Social Committee

390th plenary session, 24 and 25 April 2002

2002/C 149/01	Opinion of the Economic and Social Committee on 'Household over-indebtedness' . .	1
2002/C 149/02	Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the type-approval of mirrors and supplementary systems for indirect vision and of vehicles equipped with these devices and amending Directive 70/156/EEC' (COM(2001) 811 final — 2001/0317 (COD))	5

Price: 18,00 EUR

EN

(Continued overleaf)

2002/C 149/03	Opinion of the Economic and Social Committee on: — the 'Proposal for a Directive of the European Parliament and of the Council on the promotion of the use of biofuels for transport', and — the 'Proposal for a Council Directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels' (COM(2001) 547 final — 2001/265 (COD) — 2001/266 (CNS))	7
2002/C 149/04	Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and amending Regulation (EC) No 1258/1999' (COM(2001) 617 final (Volume I) — 2001-0256 (CNS))	11
2002/C 149/05	Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances' (COM(2001) 624 final — 2001/0257 (COD))	13
2002/C 149/06	Opinion of the Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council establishing the European Year of Education through Sport 2004' (COM(2001) 584 final)	17
2002/C 149/07	Opinion of the Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC)' (COM(2001) 754 final — 2001/0293 (COD))	24
2002/C 149/08	Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Strengthening the local dimension of the European Employment Strategy' (COM(2001) 629 final)	26
2002/C 149/09	Opinion of the Economic and Social Committee on the 'Commission Working Document — The relationship between safeguarding internal security and complying with international protection obligations and instruments' (COM(2001) 743 final) ..	30
2002/C 149/10	Opinion of the Economic and Social Committee on the 'Proposal for a Council Decision amending Decision 1999/311/EC adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006)' (COM(2002) 47 final — 2002/0037 (CNS))	36
2002/C 149/11	Opinion of the Economic and Social Committee on the 'ACP-EU Partnership Agreement'	38

Notice No	Contents (Continued)	Page
2002/C 149/12	Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (COM(2001) 257 final — 2001/0111 (COD)) 46	46
2002/C 149/13	Opinion of the Economic and Social Committee on the 'Eastward enlargement of the European Union and the forestry sector' 51	51
2002/C 149/14	Opinion of the Economic and Social Committee on 'Extending the trans-European networks to the islands of Europe' 60	60
2002/C 149/15	Opinion of the Economic and Social Committee on 'SMEs in EU island regions' 68	68
2002/C 149/16	Opinion of the Economic and Social Committee on 'Fiscal competition and its impact on company competitiveness' 73	73
2002/C 149/17	Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration' (COM(2001) 672 final) 79	79
2002/C 149/18	Opinion of the Economic and Social Committee on the 'European Commission White Paper: A New Impetus for European Youth' (COM(2001) 681 final) 84	84

II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion of the Economic and Social Committee on 'Household over-indebtedness'

(2002/C 149/01)

On 13 July 2000 the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure decided to draw up an opinion, on 'Household over-indebtedness'.

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 8 April 2002. The rapporteur was Mr Ataíde Ferreira.

The Committee adopted the following opinion at its 390th plenary session of 24 and 25 April 2002 (meeting of 24 April) by 78 votes to six with eight abstentions.

1. Over-indebtedness — a topical issue

1.1. On 13 July 1992, in a Resolution on future priorities for the development of consumer protection policy, the Council for the first time included research into over-indebtedness as being one of these priorities.

1.2. From that time on, although the phenomenon of over-indebtedness is acknowledged to have assumed increasing importance at national level in the various Member States, warranting the adoption of specific laws and administrative measures in most of these countries, no policy measures whatsoever have been taken at Community level. This is in spite of the study carried out by Professor Nick Huls⁽¹⁾, and the highly professional monitoring work on the question by DG SANCO.

1.3. On 27 May 1999, the Economic and Social Committee decided to instruct the Section for the Single Market, Production and Consumption to draw up an information report on 'Household over-indebtedness', which was subsequently sent to all the Community institutions by decision of the plenary assembly.

1.4. In the course of the Portuguese presidency, while this report was being drafted, the Consumers' Council meeting in Luxembourg on 13 April 2000 broached this subject again

and drew the Commission's and Member States' attention to the need for the Community to tackle this matter.

1.5. The ESC information report concluded by recommending that the Commission 'make an initial move in this direction by immediately preparing a green paper on household over-indebtedness in Europe, incorporating available research into the issue, providing an up-to-date picture of legal arrangements and statistical data from the Member States and the applicant countries, working towards a single definition of over-indebtedness, and defining its preferred approach to achieve the objectives identified in the present information report'.

1.6. In the wake of this recommendation, it is known that the Commission called for tenders for two studies to be carried out in the Member States, one on statistical aspects and the other on the various legal arrangements covering over-indebtedness.

In the meantime, it has emerged that the Commission has not accepted the study on the legal aspects and has cancelled the relevant contract, and that in examining the statistical study it is encountering difficulties in comparing the data gathered — which is not unexpected given the differing understanding and approaches to the issue in the various Member States. It has not yet officially revealed what tack if any it intends to adopt for dealing with this issue, and it may be that the question will

⁽¹⁾ Overindebtedness of consumers in the EC Member States: facts and search for solutions, Nick Huls et al., in Collection Droit et Consommation No 29, 1994.

be left out of its action programme. However, the one-off measures resulting from the review of the directive on consumer credit, albeit partial, are to be welcomed.

1.7. As part of its moves to draw up the present own-initiative opinion, the ESC decided to hold a public hearing in Stockholm on 18 June 2001, with support from the Swedish Presidency, designed to collate up-to-date information and to compare the variety of experiences in this sphere in the Nordic countries — an aspect which was noticeably missing from the information report mentioned above.

1.7.1. At this hearing, the Swedish Secretary of State for Justice took the opportunity to point out the value the Swedish government attached to adopting a Community approach to this issue, aimed at finding a solution to the disadvantages flowing from both the diversity of national approaches in this area and the variety of lines of action selected by the different Member States, with uneven results ⁽¹⁾.

1.8. Shortly after, on 2 July 2001, the 'Consiglio Nazionale dei Consumatori e degli Utenti (the National Council for Consumers and Users)', held a major conference together with the European Commission on 'Competition rules in the EU and banking systems compared' at which the Head of the SANCO DG's Financial Services Unit presented the guidelines followed in the proposal for the new consumer credit directive, and Community aspects of over-indebtedness problems were discussed ⁽²⁾.

1.8.1. The SANCO DG also took the initiative to hold a hearing with government experts in Brussels on 4 July 2001 to discuss proposed amendments to the consumer credit directive, at which some aspects were highlighted to relating over-indebtedness prevention.

1.9. In the course of the Belgian presidency, a major colloquium was held in Charleroi on 13 and 14 November 2001 on 'Consumer credit and Community harmonisation', where inter alia, the Belgian Minister for Economic Affairs and Scientific Research made a point of highlighting the social and economic aspects of the problem and how these were linked to the development of financial services and cross-frontier trade within the internal market ⁽³⁾.

1.10. The Internal Market, Consumer Affairs and Tourism Council meeting on 26 November 2001 merits particular attention: amongst other statements and recommendations made by the ministers, it was felt that 'divergences as regards both the preventive and the social, legal and economic treatment of over-indebtedness in the Member States could therefore give rise to considerable disparities both between European consumers and between credit-providers' and as a consequence, 'taking into account both the European Community's desire to develop cross-frontier activities relating to financial services and the growing scale of the phenomenon of indebtedness and over-indebtedness, consideration could be given at Community level to complementing the measures to promote the development of cross-frontier credit with measures to prevent over-indebtedness throughout the one credit cycle'.

2. Household over-indebtedness — the Community dimension

2.1. Over-indebtedness is a phenomenon with social, economic, financial, legal (civil and procedural) and, of course, political aspects, all of which merit being tackled at Community level.

2.1.1. From the perspective adopted by this own-initiative opinion, legal aspects with a direct impact on policies for making the single market a reality are fundamental.

2.2. The studies and hearings which have been carried out have unequivocally demonstrated that developing a cross-frontier financial services market requires the trust of producers, traders, professionals and consumers.

2.2.1. A vital element for securing this trust is, on the credit providers' side, transparency of the rules regulating the market, even in cases of payment default.

2.3. Although it is true that a large number of payment default cases — default constitutes the first step towards over-indebtedness — can be dealt with under rules on credit provision, in particular on consumer credit, there is a whole series of measures for preventing and dealing with over-indebtedness which fall more within the policy areas of justice and the single market.

2.4. Bearing in mind the subsidiarity principle and the new wording of Article 153 of the Treaty of Rome and of Article 34 of the Treaty of Amsterdam a Community-wide approach to the essential legal aspects of household over-indebtedness is not only possible, but absolutely vital to the single market's effective operation.

2.5. This claim is based on three fundamental reasons.

⁽¹⁾ One point from the Secretary of State's speech to highlight is his comment that 'there is a real risk that the current diversity of arrangements within the European Union might contribute to an increase in the number of technical barriers to the free movement of goods and services within the single market'.

⁽²⁾ In Italy, ADICONSUM (a consumer organisation), together with other NGOs and a number of credit institutions, has promoted draft legislation for handling cases of household overindebtedness.

⁽³⁾ On 25 January 2002 the Belgian Government adopted draft legislation on consumer credit, in which advertising which might encourage overindebtedness is prohibited.

2.5.1. The first reason is the convergence of competition conditions between those granting credit to private individuals, ranging from credit institutions and other financial operators to actual traders and service providers in credit and instalment sales.

2.5.2. The second concerns the way the single market itself works: while it is 'single' from the point of view of opportunities for cross-frontier transactions, it is split between various national legal systems when dealing with issues generated by this market. In the light of recent approaches, in particular in the field of e-commerce and distance sales of financial goods and services, it is entirely reasonable for arrangements for household over-indebtedness to be harmonised, as has already been done with commercial insolvency: otherwise new barriers to competition and further distortions of business competitiveness will be generated.

2.5.3. The third reason is directly linked to consumer protection and arises from the provisions of new Treaty Article 153. Paragraph 3(b) of the Article now expressly states that the Community shall contribute to the attainment of the objectives referred to in its paragraph 1 — which unarguably include resolving instances of over-indebtedness — through 'measures which support, supplement and monitor the policy pursued by the Member States'. This dispels any remaining doubt as to the need for household over-indebtedness to be framed in a Community policy ensuring harmonisation of national initiatives in this field, without which unjustifiable discrimination will occur against either sellers or consumers.

2.6. Three other circumstances point to the need for immediate action by the Commission.

2.6.1. The first relates to the physical introduction of the single currency and the impetus that this will provide to cross-frontier trade and consequently to the credit involved, eliminating one of the main acknowledged barriers to cross-frontier transactions.

2.6.2. The second circumstance arises from the increase in electronic trade and distance selling, with all that the directives on these subjects aim to contribute to the elimination of geographical and logistical barriers and to increased trust between professionals and consumers. The imminent approval of the proposed directive on the distance selling of financial services will supplement the legal framework necessary for boosting cross-frontier credit.

2.6.3. Lastly, the upcoming enlargement of the European Union calls at the very least for immediate harmonisation before the legal framework becomes even more complex and hard to manage.

3. Conclusions and recommendations

3.1. The ESC thus concludes that:

- a) over-indebtedness is a phenomenon which has become widespread throughout all the countries of the European Union and is a problem in the applicant countries, with a tendency to become worse with the opening of borders and cross-border trade;
- b) most countries in the European Union have devised and implemented national systems for preventing and dealing with a variety of over-indebtedness situations; these systems are highly diverse and at times even at variance with one another, both in terms of the basic laws and the judicial and administrative procedures applied;
- c) these differences generate barriers to the development of cross-frontier credit and to the achievement of the single market, itself, and do nothing to generate the necessary confidence amongst economic operators in the single market's potential and benefits;
- d) an effort should therefore be made to harmonise the legal aspects relating to over-indebtedness; such harmonisation is possible as part of the provisions contained in Articles 2 and 34 of the EU Treaty and current Articles 3 t) and 153 of the Treaty of Rome.

3.2. The ESC thus recommends:

3.2.1. that the Commission:

- a) immediately and officially publish the results of the study it commissioned on the statistical aspects, and issue a fresh call for tenders for a study on comparative law on over-indebtedness in Europe;
- b) draw up a green paper as soon as possible analysing the consequences of the current situation from the point of view of completing the single market;
- c) propose measures for harmonising the legal framework for preventing and dealing with over-indebtedness, relating to matters of both substance and procedure, in accordance with the principles of subsidiarity and proportionality and taking account of the provisions of Articles 2 and 34 of the EU Treaty and Articles 3 and 153 of the Treaty of Rome;
- d) define and set up a network for exchanging information between Member States and the Commission to follow developments in household over-indebtedness in Member States and the applicant countries, aimed at establishing a European Over-indebtedness Observatory;

- e) pay particular attention to the potential impact of the adoption of measures in a variety of Community policy areas — particularly consumer credit and mortgage loans, commercial communications, advertising and marketing and commercial practices — on creating or exacerbating household over-indebtedness;

3.2.2. that the Member States:

- a) continue along the path embarked upon with the Resolution of 13 July 1992 and resumed at the Consumer Council meetings of 13 April 2000 and 26 November 2001, until a legal framework is devised for a Community approach to household over-indebtedness;
- b) consider the possibility that some legal aspects of over-indebtedness be dealt with in regulations similar to those covering business insolvency arrangements;
- c) urge the Commission to look into and present, in the light of experience and information exchange with Member States, harmonisation proposals on the information consumers should be given on credit contracts, the use of data on their solvency, the role of credit intermediaries and financial companies, procedural

arrangements for dealing with payment default and special procedures for payment recovery;

- d) consider the possibility of setting up codes of conduct on a voluntary basis, by means of co-regulation, to settle cases of over-indebtedness;
- e) envisage cooperation options aimed at dealing with excessive multiple debt situations stemming from cross-frontier loans using non-judicial means;
- f) promote information and education campaigns, from early school age onward, designed to prevent over-indebtedness.

3.2.3. and that the Council and European Parliament:

- a) clearly and unequivocally accept the need for initiatives at EU level to harmonise the legal aspects of overindebtedness arrangements, as set out in point 3.2.2.(c) above;
- b) provide the Commission with the budgetary resources required to continue monitoring overindebtedness and to take the preparatory steps needed if the legislative harmonisation measures described above are to be adopted.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICH

Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the type-approval of mirrors and supplementary systems for indirect vision and of vehicles equipped with these devices and amending Directive 70/156/EEC'

(COM(2001) 811 final — 2001/0317 (COD))

(2002/C 149/02)

On 21 March 2002 the Council decided to consult the 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 8 April 2002. The rapporteur was Mr Colombo.

At its 390th plenary session (meeting of 24 April 2002), the Economic and Social Committee adopted the following opinion by 94 votes to none with two abstentions.

1. Content of the proposal

1.1. The purpose of the draft directive is to introduce harmonised requirements for rear-view mirrors and supplementary systems for vehicles of categories M (vehicles for the carriage of passengers) and N (vehicles for the carriage of goods).

1.2. The proposal amends and replaces Directive 71/127/EEC⁽¹⁾ of 1 March 1971, adopted as one of the separate directives under the EC type-approval procedure established by Directive 70/156/EEC⁽²⁾ on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers.

1.3. Article 95 of the EC Treaty is the legal basis. While partly maintaining the original structure of Directive 71/127/EEC, its content is altered significantly.

1.4. The proposal sets out to reduce the risks arising from incomplete vision to the side and rear of the vehicle, by increasing the field of vision through innovative vehicle component features and the introduction of new technologies. The aim is to improve the safety of road users.

1.5. The most significant aspect is to make the type-approval system under Directive 71/127/EEC mandatory rather than voluntary for all light and heavy vehicles covered by the modification.

2. Objectives of the proposal

2.1. The aim is clearly to harmonise the various approaches adopted by individual Member States and to introduce uniform requirements applicable throughout the European Union. It is therefore proposed to repeal Directive 71/127/EEC two years after the draft directive comes into force.

2.2. The main areas of change, other than making the directive mandatory, are the mounting of additional mirrors and modification of certain of their characteristics in order to extend the field of indirect vision, together with the possibility of replacing current mirrors with camera/monitor systems.

3. General comments

3.1. In assessing the text proposed by the Commission, the Committee's starting point has been that the safety issue prevails over possible problems in implementing the planned new elements.

3.1.1. The Committee supports the general thrust of the proposal: it has always welcomed legislative measures to improve safety standards which, as well as protecting vehicles, focus specifically on the safety of the most vulnerable users (pedestrians, cyclists, motorcyclists, etc.).

3.1.2. The Committee considers that although it entails some technical problems, which will be discussed in the general and specific comments below, the shift from the 'voluntary' arrangements under Directive 71/127/EEC to the 'mandatory' approach under the present proposal is an important factor for progressive harmonisation of the requirements governing type-approval systems.

⁽¹⁾ OJ L 68, 1.3.1971.

⁽²⁾ OJ L 42, 23.2.1970.

3.1.3. Full implementation of the proposal will introduce into the EU mandatory requirements and quality standards for indirect vision systems for motor vehicles of categories M and N. This comes in advance of the framework directive on the entire field of goods vehicles, currently under discussion by the Commission, which should do away with the arrangements under which the Member States are entitled to maintain their own regulations.

3.1.4. The Committee regrets that the draft proposal's economic evaluation is incomplete, in that there is no mention of the necessary impact assessment regarding the introduction of additional mirrors.

4. Specific comments

4.1. Implementation deadlines

4.1.1. For the reasons set out above, the Committee is concerned that the planned dates for implementing the proposal may be too tight, failing to allow for the technical difficulties which vary in line with the complexity of the devices which are to be fitted.

4.1.2. More specifically, while the timescales laid down in Article 2(1) and (2) seem appropriate, the implementation deadline for newly-registered vehicles (first registration) under Article 2(3) could be too tight.

5. Annex II — aspherical mirrors

5.1. Points 3.1 and 3.3.3 of Annex II stipulate that an additional aspherical mirror must be fitted to the driver and passenger sides of M₁ and N₁ category vehicles in order to eliminate blind spots.

5.2. The Committee realises that seeking to eliminate this negative factor may involve some technical difficulties relating, for example, to distorted vision, but welcomes the general introduction of all devices which can provide greater safety.

5.3. The Committee believes that the difficulty in using aspherical mirrors hinges largely upon the need for users to adapt to them. Adaptation will however be facilitated by the process of compulsory and universal uniformisation of such devices.

5.4. The Committee hopes that the safety systems set out in the directive will also be fitted to vehicles which are not subject to Community legislation, but which use roads within the Union's territory.

6. Annex III — applicability to vehicles of category M₁

6.1. The new fields for main rear-view mirrors Class III, set out in point 5.3 of Annex III, require road-level vision for mirrors on both the driver's and the passenger's side of four metres from the ocular points.

6.2. While the Committee acknowledges that obtaining this field of vision will require increasing mirror size, with some loss of aerodynamic performance, it nevertheless favours the introduction of such devices, which it considers to represent a significant factor in increasing the safety of the most vulnerable road users.

7. Conclusions

7.1. The Committee supports and approves the general thrust of the proposal, subject to the comments made. It also hopes that the planned framework directive on type-approval of goods vehicles will come into being soon, providing a key element at Community level for type-approvals in the sector.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICHS

Opinion of the Economic and Social Committee on:

- the 'Proposal for a Directive of the European Parliament and of the Council on the promotion of the use of biofuels for transport', and
- the 'Proposal for a Council Directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels'

(COM(2001) 547 final — 2001/265 (COD) — 2001/266 (CNS))

(2002/C 149/03)

On 18 January 2002, the Council decided to consult the Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the above-mentioned proposals.

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 5 April 2002. The rapporteur was Mr Wilkinson.

At its 390th plenary session, on 24 and 25 April 2002 (meeting of 25 April), the Economic and Social Committee adopted unanimously the following opinion.

1. Introduction

1.1. The Commission has produced a communication and two draft directives concerning alternative fuels. All are contained in ⁽¹⁾. The two directives are a proposal to promote the use of biofuels and another to allow Member States (MS) to apply a reduced rate of excise duty on biofuels.

1.2. The reasons given for the proposal to promote alternative fuels are environmental and to improve the security of EU energy supplies. The reason for the proposal to allow (but not force) MS to apply a reduced rate of excise duty is to make biofuels competitive, since it costs about EUR 300 more per 1 000 litres of diesel for the biofuel to replace it ⁽²⁾. According to the Commission, to compete on level terms with petroleum-based fuels, the oil price would have to be about EUR 70 per barrel ⁽³⁾.

1.3. It is proposed to oblige MS to ensure that biofuels provide a certain percentage (initially 2 % of the total, but increasing with time) of transport fuels sold on their territory by 2005. Dependent on an examination by the Commission

before the end of 2006, a second phase would oblige them to ensure that all transport fuels sold contain biofuels. The aim is to achieve 20 % substitution of conventional fuels by 2020, of which 8 % would be biofuels ⁽⁴⁾.

1.4. The Commission believes that blends of up to 15 % for petrol and 5 % for diesel could be accommodated by some cars without them needing significant changes. Vehicles that can use 'pure' biofuel are likely to remain largely limited to captive fleets, such as public transport and taxis, for some years ⁽⁵⁾.

2. General comments

2.1. The Committee welcomes the basis for this proposal, namely the replacement of some fossil fuels by alternative fuels from renewable sources. It notes the considerable variety of alternative fuels already under development or in use. It welcomes the possibilities for diversification in agriculture and for increased employment that are explained in the proposal, as well as the projected environmental benefits, notably in combating climate change, and the increased security of supply.

⁽¹⁾ COM(2001) 547 final.

⁽²⁾ This figure allows for the fact that it requires some 1 100 litres of bio-diesel to replace 1 000 litres of normal diesel; for petrol 1 000 litres of bioethanol will replace 1 000 litres of petrol in the blending conditions authorized in the EU (maximum of 2,7 % oxygen).

⁽³⁾ This reflects the current position, but economies of scale should reduce this over time to about EUR 55 per barrel.

⁽⁴⁾ The remaining 12 % is projected to come from natural gas and hydrogen.

⁽⁵⁾ It is encouraging to note that growing numbers of 'Flexible Fuel Vehicles' (FFVs), using a blend of 85 % bio-ethanol, are being sold in the US and in Sweden, the pilot EU market for Ford. This could indicate that FFVs will become common with individual consumers quicker than expected. To be competitive either the bio-ethanol component must be tax-free or production costs must be subsidized.

2.2. The Committee notes that different studies offer wide variations in the figures involved, although it recognises the efforts that the Commission has made to put forward figures that they can support. The Committee suggests that further work is required to refine the figures given, to give better information on the probable costs involved and to clarify some of the environmental, technical and economic aspects. A particular concern is the balance of environmental advantage (using the same methodology in each case) that would result from the proposals.

2.3. The proposal covers a complex area, involving elements of many EU policies (environment, agriculture, fiscal, etc.), and also an area where technical developments are numerous. It will be important to keep a close watch on developments to ensure that the given aims are met in the best and most cost-effective way. This last point is of particular importance because of the costs involved at a time when so much investment is already planned over the next decade for the production of sulphur-free fuels ⁽¹⁾.

3. Specific comments

3.1. Flexibility

3.1.1. As stated above, many types of alternative fuel are developed or being developed ⁽²⁾. It is not possible to forecast with any accuracy how fast developments will be in most of these areas or what the environmental and economic benefits may be. We therefore welcome the Commissions undertaking to monitor all developments closely.

3.1.2. In addition, the current alternative fuel situation is different from Member State (MS) to MS; their transport fleets are also very different. Different solutions will favour different MS. It is therefore important that maximum flexibility be given to MS in meeting the overall aim. This could include making allowance for all types of renewable fuels in meeting an agreed target for each MS, always provided that such flexibility did not lead to some MS not meeting their targets and provided that it does not lead to distortions to the internal market.

3.1.3. Within the overall context of the EU's energy policies, diversity would have the advantage of allowing the possibility of development and investment in renewable fuels being spread between several different solutions and market forces would be able to play a more important role.

3.1.4. While the Commission foresees trading in biofuels between MS as the way forward, the Committee wonders if, as one possible way of maximising flexibility, it might be possible to consider setting targets for each MS (as proposed), but then following an 'emissions-trading model' to allow MS flexibility in how they met their targets. The overall EU effect would be the same (on emissions, security and employment) and it would still be required of each MS that it met its individual target; but MS would have greater flexibility in how to meet this target.

3.1.5. The proposal, subject to review in 2006, for a mandatory blend of biofuel in each type of fuel marketed would reduce flexibility and requires further analysis.

3.2. Environmental

3.2.1. The major benefit, strongly supported by the Committee, would be the replacement of some fossil fuels by renewables. The directive should make clear that 'renewable' fuels are the key to better environmental results and to security of supply, rather than 'alternative' fuels. There will be some welcome reductions in waste in niche areas (for example, by using waste vegetable oils and fats — up to 3 million tonnes in the EU per year — as secondary biomass).

3.2.2. For biofuels, the effect on CO₂ and other emissions will initially be small because of the limited amounts used.

3.2.3. There are conflicting views about the balance of environmental benefit from biofuels, although the Commission has found a majority of studies to be positive. Since the first aim of the proposal is the benefit to the environment, it is vital to have the best possible information on this aspect and it needs further study.

⁽¹⁾ It should however be noted that the addition of oleaginous methyl ester can usefully compensate for the reduction of the sulphur level in fuels.

⁽²⁾ Biofuels (from a growing number of raw materials), natural gas (including diesel from natural gas and the derivatives methanol and dimethylether), hydrogen and fuel cells, electricity, liquefied petroleum gas.

3.3. *Agricultural*⁽¹⁾

3.3.1. The proposal provides the possibility for most welcome agricultural diversity, and with it the stimulation of rural economies. However, the proposal makes no mention of the strong possibility of a significant part of the biofuel requirement being met from trade with third countries. While some developing countries may benefit from this, it is probable that the greatest opportunities will be for the United States and Brazil; both have considerable capacity in this area and their scale of production is likely to make their prices attractive. Such trade could have a marked effect on the extra employment foreseen. On the other hand, export of EU biofuels could also become an attractive possibility over time. The Committee wishes to emphasize that the development of agriculture to produce more biomass must not be allowed to endanger the precautions taken in the EU with regard to Genetically Modified organisms.

3.3.2. One other area that is promising in the medium term is the use of forest residues (and other cellulose containing raw materials) to produce biofuels. As with other areas of development, the speed of progress will largely depend on the resources devoted.

3.3.3. Developments in the area of biofuels will, in fact, be one part of a much bigger picture, including the future development of the Common Agricultural Policy (CAP) and the EU's energy policies. This will include balancing the use of agricultural land for food production and for other uses. Apart from biofuels, the Committee suggests that the production of energy from the burning of certain biomass would be a further way of reducing the consumption of fossil fuels at an economic cost, while providing benefits to agriculture, the environment and security of supply.

3.4. *Employment*

3.4.1. While the estimates on the employment effect are widely varied, producing biofuels is relatively labour intensive. The Commission estimates that each 1 % of total EU fuel consumption replaced by biofuel should create between 45 000 and 75 000 new jobs, mostly in rural areas (but note the comment in point 3.3.1 above). The Commission note that growing crops for biofuels should facilitate the absorption of the agriculture sector from Candidate Countries as they

become EU MS. There would also be many new (but largely temporary) jobs involved in creating the necessary new infrastructure.

3.5. *Security of supplies*

3.5.1. As EU transport fleets grow, the security of fuel supplies will become more important. The policies proposed would probably have at best a modest restraining effect on oil prices⁽²⁾, although they would certainly help EU self-sufficiency. It is noted that the EU has an existing surplus of gasoline⁽³⁾, which gives reasonable security of supply. The value of bio-diesel in securing supplies would be most welcome and deserves every support.

3.6. *Fiscal*

3.6.1. Market forces will inevitably be important in encouraging the change to biofuels. It is clear that unless there is the possibility of price competitiveness for biofuels, including blends, in the pump prices paid by consumers, there will be no incentive to spend the considerable sums that will be needed to move to more biofuel use. Tax is the only realistic way to achieve this. However, the Committee doubts whether the proposed maximum 50 % reduction in taxes will be enough to achieve this, at least in most MS⁽⁴⁾. Nor is the need for this restriction evident; Finance Ministers will still have full control over the rates that they choose to set. The removal of the current agreement to allow 'tax-free' pure biofuels will also be a disincentive.

3.6.2. The Committee considers that the proposal should simply authorise MS to apply any rate of excise down to zero on the biofuel element in fuels sold on their territory. It will be important that any such incentives are not allowed to distort the market for ethyl alcohol, which has many industrial uses.

⁽¹⁾ See the recent ESC Opinion on New impetus for a plan on plant-protein crops, (CES 26/2002).

⁽²⁾ A 2 % lower demand for oil would lower EU consumption by about 4 billion barrels each year.

⁽³⁾ Although we note that only some 44 % of crude oil requirements are met from European production.

⁽⁴⁾ The proposal would allow the biofuel component of fuel to be completely tax-free up to the point that it makes up 50 % of the product. For fuels whose biofuel component is greater than 50 % no further concessions would be allowed.

3.6.3. For real progress in this new industrial sector it will be crucial for them to have stable conditions in which to operate. The Committee questions whether the six-year 'planning horizon' foreseen is adequate to provide this and consideration should be given to increasing it.

3.7. Promotion

3.7.1. Fiscal incentives (see above) are the only specific promotion measures proposed. The Committee suggests that the Commission and Member States should undertake an information campaign to explain the benefits of biofuels, and other renewable energy sources, to the public.

3.8. Costs

3.8.1. The proposals do not offer firm information on the likely costs involved. If they are very significant, this alone could make the timescale proposed very optimistic. The Commission should include a proper forecast of costs in their proposals.

4. Conclusions

4.1. The Committee strongly supports the aims of the proposals. In particular it welcomes the expected benefits to the environment from the greater use of renewable fuels and the possibilities for further agricultural diversity and for reducing the extent of set aside under CAP.

4.2. It is concerned to make the means of achieving the objectives from using biofuels as flexible as possible to allow for the different circumstances in individual Member States. This would include making due allowance for the various types of renewable fuels.

4.3. The Committee stresses the need to give the new industries necessary to meet the objectives of the EU in this area a stable environment in which to develop and an economic situation that will encourage consumers to use biofuels.

4.4. Given the key role that fiscal incentives will play in the acceptance of biofuels (and other renewable fuels), the Committee believes that the reduction in excise duties for such fuel should not be constrained in the Directive, and should be entirely at the discretion of Member States.

4.5. The Committee regrets that so little information on the likely costs involved in the proposals is given and urges the Commission to provide adequate information to allow both proper planning and clarification of the cost effectiveness of the proposals.

4.6. In view of the doubts expressed by some on the balance of environmental advantage from the proposals, the Commission is urged to ensure that all available studies, past and future, are reviewed to clarify the facts in this respect.

Brussels, 25 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and amending Regulation (EC) No 1258/1999'

(COM(2001) 617 final (Volume I) — 2001-0256 (CNS))

(2002/C 149/04)

On 22 November 2001 the Council decided to consult the Economic and Social Committee, under Articles 36 and 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 4 April 2002. The rapporteur was Mr Ribbe.

At its 39th plenary session of 24 and 25 April 2002 (meeting of 24 April) the Economic and Social Committee adopted the following opinion with 89 votes in favour and 2 abstentions.

1. Introduction

1.1. Council Regulation (EC) No 1467/94 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture launched a five-year action programme that expired on 31 December 1999. This action programme was the Commission's response to various European Parliament resolutions dating back to the eighties which had pointed to the problem of genetic erosion and proposed Community initiatives to counter this process.

1.2. Under this action programme various projects were financed, most of which focused on the characterisation of available ex situ genetic resources; gene banks, research institutes and users were the main participants in the projects. Sometimes NGOs were also involved under the aegis of scientific institutions.

1.3. As provided for in Regulation (EC) No 1467/94, the action programme was evaluated by a group of independent experts after it had terminated. Their report was forwarded to the Council and European Parliament. It gave the programme a generally positive assessment and called for the actions to be maintained and strengthened, recommending inter alia:

- a better balance between 'plant' and 'animal' projects;
- including the concept of in situ/on farm conservation to meet international undertakings and the needs of the ecoregions;
- more active participation by NGOs;
- increased coordination between the Member States and the Commission with regard to negotiations and actions at FAO level;

— in general gearing the projects to broader Member State participation.

1.4. In the present draft regulation the Commission is proposing a new Community action programme to run for another five years.

2. General comments

2.1. The Committee warmly welcomes the fact that the Commission is presenting a new Community action programme. It stresses that the loss of genetic resources in agriculture has been far from halted, so that further efforts are needed (a) to characterise, compile an inventory of and conserve the gene potential and (b) to maintain the utilisation of genetic diversity by farms.

2.2. The properties — i.e. genetic potential — of known species, some of which are highly endangered or threatened with extinction, have been assessed only fragmentarily. An important reason for preserving all gene resources is thus the potential use of their previously unknown properties.

2.3. There are major shortcomings in the compilation of a gene potential inventory in databases and in the networking of existing databases, uncertainties also exist concerning access to databases and the right to use them.

2.4. Firstly, there is the scientific approach, aimed at ensuring the conservation of the gene potential for possible future use. For this, theoretically we only need gene banks or to conserve a comparatively small number of living specimens in a kind of 'botanical or zoological garden'.

2.5. Trends in biological diversity, in agriculture for example, are of course affected by economic criteria, but other factors are also relevant such as climatic conditions, the appearance of new diseases in Europe and favourable trends in plant-health conditions. In parallel with this scientific approach there is the no less important need to ensure that the diversity of genetic resources continues to be used in farming by promoting environmentally sound practices such as diversity in crop rotation under the second pillar of the CAP. Other measures should also be envisaged to preserve the use of rare breeds of productive livestock.

2.6. Conserving this diversity is undoubtedly in the public — and European — interest. In its opinion on The situation of nature and nature conservation in Europe⁽¹⁾ the Committee stated that preserving wild animal and plant species is a European task, even if some of these species are to be found only in particular regions. The same applies to animal and plant species which are not found in the wild; they are more than 'just' gene sequences of potential scientific use. They are an expression of Europe's diverse farming and landscape heritage and worth preserving.

3. Specific comments

3.1. It is noteworthy that between the expiry of the old programme (31 December 1999) and the present proposal for a new programme, almost two years have elapsed. This suggests that the Commission thought long and hard about continuing it.

3.2. The Committee welcomes the increase in funding from EUR 20 million in total to EUR 10 million per annum. It should be clear, however, that while such a sum can finance very valuable measures for scientifically compiling an inventory of, characterising and archiving genetic resources, it is in no way sufficient to support the widespread use of less economically interesting plants in agricultural practice.

3.2.1. Therefore the Committee welcomes the fact that Article 9 of the proposal adds measures to intended to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture to Article 1(2) of Regulation (EC) No 1258/1999.

3.2.2. In this connection it will be important that appropriate programmes and measures be provided at Member State level; they should not be restricted — as hitherto — to species of which only a few remain, i.e. under imminent threat of extinction.

3.3. Despite the fact that the Commission is proposing a new action programme, the Committee has the impression that the importance of direct Community action in this field is not fully recognised. For instance, in contrast to the arrangements under the previous programme, no more Community projects will be initiated and carried out. The new action programme will be implemented solely through measures at Member State level, partly in the form of multinational programmes. Programmes financed from Community funds will not even be approved in Brussels: Member States merely notify the Commission of the programmes and any amendments thereto (Article 4(1)). The Commission is thus relinquishing the option of initiating Community measures in those sectors where the Member States are not active. This is a shortcoming.

3.4. The proposed repeal of Regulation (EC) No 1467/94 — which allowed the Community to initiate its own projects — should be reconsidered. It is also essential that the Commission should retain its important coordinating role in this sector. This goes beyond the strict scope of the measures in this regulation and encompasses, for instance, coordination between Member States at international level.

3.5. Article 7 states that the Member States are to contribute at least 15 % of the costs, while the Community contribution is 35 %, i.e. the projects' sponsors must themselves find up to 50 %. In the case of programmes such as these, where there is not always an obvious immediate financial benefit, there is thus a danger that certain projects which could be important for the conservation and especially the utilisation of genetic resources will not come to fruition.

3.6. In general the Committee is still not clear how things stand with regard to the continuity of the Commission's commitment in this important sector. The measures and activities planned by the Commission — which are necessary to do justice to the scale of the task and which must go far beyond the proposed specific five-year programme — should be announced to the relevant European bodies and to the general public in a separate communication.

⁽¹⁾ ESC Opinion on 'The situation of nature and nature conservation in Europe', OJ C 221, 7.8.2001, pp. 130-137.

3.7. The Committee is not clear what is meant by 'ecoregions' [cf. Article 4(1)(c)]. Who determines these regions (according to what criteria)?

3.7.1. The Commission should draw up a report examining how Regulation (EC) No 1257/99 on support for rural

development could to be framed so as to give greater support for cultivating rare plant species and for keeping rare breeds of productive livestock as a part of a multifunctional agriculture and of a comprehensive programme for the conservation and utilisation of genetic resources.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*

Göke FRERICHs

Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances'

(COM(2001) 624 final — 2001/0257 (COD))

(2002/C 149/05)

On 21 December 2001 the Council decided to consult the Economic and Social Committee, under Article 175 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 4 April 2002. The rapporteur was Mr Levaux.

At its 390th plenary session (meeting of 24 April 2002), the Economic and Social Committee adopted the following opinion unanimously.

1. Aim of the proposal

1.1. The proposal under discussion is intended to update the Council Directive, known as the Seveso II Directive, of 9 December 1996, which aims to prevent major accidents which involve dangerous substances, and limit their consequences for man and the environment.

1.2. This updating is intended to take account of certain recent large-scale industrial accidents, such as:

- that of Baia Mare in Romania, in January 2000, where a cyanide spill from a tailings pond contaminated the Danube;
- that of Enschede in the Netherlands, in May 2000, where a series of explosions took place in a stock of fireworks.

1.2.1. The Commission considered the need for immediate amendment of the Seveso II Directive following the explosion

which occurred on 21 September 2001 at the AZF site in Toulouse. In this case, it was noted that the Toulouse site, unlike the sites of the accidents mentioned above, was fully covered by the obligations imposed by the Directive. Moreover, to wait for the full results of the enquiry would have meant delaying the application of the amendments covered by the present draft directive.

1.2.2. The Commission has therefore postponed its decision on the timing of a new review of the Seveso II Directive, emphasising at this stage that the consequences of both the Toulouse and the Enschede accidents were aggravated by the fact that the establishments concerned were situated close to residential areas. The Committee emphasises that, unfortunately, such areas have in some cases been created after the establishment was set up.

1.2.3. The Commission points out that Article 12 of the Seveso II Directive, on land-use planning, aims in the long term to separate hazardous industrial establishments from residential areas, and that in practice some Member States are unaware of or do not enforce this separation.

1.2.4. To that end the Commission states that it will increase cooperation with the Member States to develop appropriate follow-up to the accidents as regards a number of specific aspects and that, in the light of work and investigations in progress, it will examine the need to amend its proposal or to propose a new modification to the Seveso II Directive.

1.3. The proposed updating is also intended to take account of the results of the work of two technical working groups:

- TWG 7 on 'substances dangerous for the environment';
- TWG 8 on 'carcinogens'.

1.4. Finally, the updating makes it possible to make drafting changes to Annex I of the Seveso II Directive in order to correct some slight inaccuracies or ambiguities.

2. General comments

2.1. The Committee shares the views expressed in the explanatory memorandum to the draft directive. This particularly detailed and well-argued text throws much light on:

- the pragmatic nature of the approach, which seeks to take into account the consequences of each accident soon after it has happened;
- the joint planning arrangements set in train to prepare modifications, which make it possible to involve as many interested parties as possible at a very early stage.

2.1.1. On this point, the Committee notes that the Commission rightly stresses the full importance of the continuous consultation process set up for the implementation of the Seveso II Directive and on the changes and improvements which could be made to it.

2.1.2. The Commission mentions the relevant conferences and seminars which have been held, and states that in drawing up the present proposal it consulted the countries belonging to the European Economic Area, the applicant countries, environmental NGOs, European and national industrial federations and associations, and certain international organisations including the UN.

2.1.3. For its part, the Committee would point out that it was only belatedly involved in this process of continuous consultation. Thus it is now called upon to issue an opinion within a shorter timescale, without having at its disposal all the information accumulated at the consultation stage.

2.2. On the AZF accident in Toulouse, which occurred on 21 September 2001, the Committee endorses the Commission's decision not to delay the present proposal but to put off taking into account the consequences of this recent disaster until the enquiry results are available.

2.2.1. Nonetheless, and without wishing to prejudge the results of the enquiries or future Commission proposals, the Committee emphasises that the Toulouse accident occurred on a site which was fully covered by the obligations imposed by the Seveso II Directive. The Committee stresses that this fact did not make it possible to avoid the accident, nor to limit its disastrous consequences. Like the Commission, it therefore feels it is essential to give prompt consideration to the changes to the Directive which must now be envisaged.

2.2.2. As regards Article 12 on land-use planning, and more particularly the location of dangerous industrial sites in relation to inhabited areas or other areas frequented by the public, both common sense and experience with accidents clearly show the need to impose strict rules of distance and protection for the location of future sites. Once again the Committee endorses — as it did in its opinion of 2 June 1994⁽¹⁾ — the 1996 decisions which will be re-examined in the light of recent events.

2.2.3. However, for the existing sites the Committee has doubts about the presentation of the Commission's approach. In point 1, paragraph 5 of its introduction, the Commission states that in the near future it 'will increase co-operation with the Member States in order to develop an appropriate ... follow-up to the accidents ...'.

2.2.4. Seeking and using the lessons which can be learned from accidents is undoubtedly useful and indeed essential, but when presented in this way the approach belittles the priority aspect of a prevention policy, which is the very foundation of the Seveso II Directive.

2.2.5. The Committee stresses that this prevention policy must involve a systematic effort to provide information firstly for the adult populations working nearby, but also for all pupils of educational institutions.

⁽¹⁾ Economic and Social Committee Opinion of 2 June 1994 on the Proposal for a Council Directive on the control of major-accident hazards involving dangerous substances (COMAH) (COM(94) 4 final — SYN 94/0014) — CES 760/94, OJ C 295, 22.10.1994.

2.2.6. Moreover, the expression 'in the near future' is inappropriate when particularly serious risks are involved. The Committee feels it is necessary to stress the urgency of the decisions to be taken, and therefore to oblige the industrialists concerned to plan the measures to be implemented, so that they programme their investments accordingly.

2.2.7. Finally, the Committee is surprised that the Commission envisages strengthening its cooperation only with the Member States, when a number of applicant countries are certainly lagging behind in this field and should immediately start to redress this situation, which arouses concern for the safety of their populations.

2.3. On the Baia Mare accident, the Committee agrees with the Commission on the need to modify the scope of the Seveso II Directive. This accident demonstrated the existence of serious risks, whereas in the 1980 Seveso I Directive and the 1996 Seveso II Directive the exclusions made could be justified by a lack of experience.

2.3.1. The Committee appreciates the arguments set out by the Commission in point 3.1 of the Explanatory Memorandum. However, it regrets that the Commission has not given a better idea of the scope of these exclusions by indicating how many sites for storage and processing of dangerous substances linked with mining activities would have been concerned; the same applies to land-fill sites the use of which is linked with ore processing. The Committee takes the view that, given that transparency is essential for necessarily binding measures or rules to be more easily accepted, it is vital to inform the public and industrialists fully.

2.4. As regards the changes linked with the Enschede accident, the Committee endorses the Commission's proposals, which take account of the lessons drawn from this serious disaster.

2.4.1. When drawing up this opinion, the Committee noted that many problems exist with regard to explosive products and more specifically pyrotechnic products imported into Europe, mainly from Asia. The customs declarations classifying these products in different categories are often incorrect, so that their transport and storage take place under conditions which do not comply with the rules: this can give rise to serious accidents.

2.4.2. The Committee hopes that the Commission, which is aware of these problems, will take them into account when considering a forthcoming review of the Seveso II Directive.

2.4.3. Similarly, the Committee has noted that, unlike the treatment of accidents occurring on sites covered by the Seveso II Directive, there is no survey or systematic follow-up at European level for accidents linked with the transport of dangerous substances by pipeline, road, rail, inland waterway and sea routes.

2.4.4. The Committee notes that this problem does not relate directly to those covered by the Seveso II Directive, but points out that dangerous substances, apart from their presence on the sites where they are used or stored, also have to be transported and can give rise to major accidents in transit.

2.4.5. The Committee proposes that the Commission should examine the possibility of creating, on the model used for the follow-up of on-site accidents involving dangerous substances, a similar follow-up for accidents occurring at the transport stage. By extending the scope of its responsibilities, such a task could be entrusted to the Major Accident Hazards Bureau (MAHB) or to another body which has the relevant expertise.

3. Specific comments

3.1. The draft directive comprises four articles.

3.2. Article 1, by reducing the number of exclusions laid down in Article 4 (e) and (f) of the Seveso II Directive, broadens its scope to cover chemical and thermal processing operations and related storage linked with mining operations. The Committee, while noting that mining activities proper (exploitation, exploration, extraction and processing) and quarrying activities are still excluded from its scope, endorses the Commission proposal which is the result of a balanced consensus worked out through the prior consultation of the interested parties. However, in the case of reprocessing of tailings containing dangerous substances, the Committee would endorse either the application to them of the Seveso II Directive or the drawing-up of specific rules to cover them.

3.3. The same article broadens the scope to cover tailings disposal facilities which are used in connection with the chemical and thermal processing of minerals and which contain dangerous substances. The Committee notes that other waste land-fill sites are still excluded, and endorses — the Commission proposal on the same basis as above.

3.4. On the updating of Annex I to the Seveso II Directive, after taking note of the Explanatory Memorandum the Committee endorses the Commission proposals as a whole.

3.4.1. However, the Committee emphasises that the Commission added hydrazine to the list of carcinogens after a debate which showed that there was some disagreement about this substance, as the thresholds chosen result from a compromise achieved at meetings with professionals.

3.4.2. The Committee therefore suggests that the Commission should further clarify the proposed text, the current wording of which is difficult to follow, and at the time of the next review should reconsider the position taken on hydrazine, to verify the grounds for it in the light of new research.

3.4.3. Furthermore, the Committee suggests the addition, under Notes to Part 2 of Annex I, of a reference to Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁽¹⁾ to ensure complete and consistent classification of dangerous substances and preparations.

3.5. Article 2 sets a time-limit of 12 months for the transposition of the directive. Given the nature of the proposed changes and the importance of the Seveso II Directive in terms of dealing with the consequences of major accidents involving dangerous substances, the Committee endorses this time-limit, which it regards as very short but reasonable.

3.5.1. It hopes that, in the light of the de facto situation of existing installations, each Member State will concert with the interested parties to set realistic deadlines for the establishments concerned to apply the new provisions. These deadlines should be compatible with the specific economic conditions and with the need to protect jobs.

⁽¹⁾ OJ L 377, 31.12.1991, p. 20.

4. Conclusions

The Committee wishes to stress three points.

4.1. Depending on which states are concerned, there are substantial differences in risk assessment. Thus, in order to encourage harmonisation, the Commission should organise, with the Member States, exchanges between the inspectors responsible for detecting these risks.

4.2. Transport infrastructures pass through areas of high population density where a major accident could have disastrous consequences. No database on this exists, and the Commission, following the model used for risk sites, should entrust a follow-up to accidents occurring in the transport stage to the Major Accident Hazards Bureau (MAHB).

4.3. In its Explanatory Memorandum, the Commission emphasises that 'the obligation to provide information to the public on industrial risks and on the behaviour to adopt in the case of an accident is of paramount importance for the limitation of the consequences of major accidents'. However, while respecting subsidiarity, the Commission should extend its awareness-raising message to cover the local authorities and the public, recommending the use of the guidelines it has published⁽²⁾. In addition, it should suggest that the Member States pass on this message to young people through educational establishments.

⁽²⁾ General guidelines for content of information to the public, Directive 85/501/EEC — Annex VII, published by the European Commission (available in English, French, German and Spanish at <http://mahbsrv.jrc.it/GuidanceDocs.html> — Information for the Public).

Brussels, 24 April 2002.

The President
of the Economic and Social Committee
Göke FRERICH

Opinion of the Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council establishing the European Year of Education through Sport 2004'

(COM(2001) 584 *final*)

(2002/C 149/06)

On 23 November 2001 the Commission decided to consult the Economic and Social Committee, under Article 149 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002. The rapporteur was Mr Koryfidis.

At its 390th plenary session on 24 and 25 April 2002 (meeting of 24 April), the Economic and Social Committee adopted the following opinion by 98 votes, with none against and one abstention.

1. Introduction

1.1. 'Sport is a human activity resting on fundamental social, educational and cultural values. It is a factor making for integration, involvement in social life, tolerance, acceptance of differences and playing by the rules. Sporting activity should be accessible to every man and woman, with due regard for individual aspirations and abilities, throughout the whole gamut of organised or individual competitive or recreational sports' ⁽¹⁾.

1.2. 'Sporting organisations and the Member States have a primary responsibility in the conduct of sporting affairs. Even though not having any direct powers in this area, the Community must, in its action under the various Treaty provisions, take account of the social, educational and cultural functions inherent in sport and making it special, in order that the code of ethics and the solidarity essential to the preservation of its social role may be respected and nurtured' ⁽²⁾.

1.3. '... in addition to its economic significance, professional and amateur sport has an important educational and social function, fostering a spirit of friendship, solidarity and fair play, and helping to overcome xenophobia and racism' ⁽³⁾.

1.4. 'The economic developments observed in the area of sport and the responses of the various State authorities and sporting organisations to the problems that they raise do not go far enough to guarantee that the current structures of sport

and its social function can be safeguarded. The increase in the number of court proceedings is the sign of growing tension' ⁽⁴⁾.

1.5. There will be keen public interest in sports-related matters in 2004. The European Football Championship and, in particular, the Olympic and Paralympic Games in Athens will place top-level sport in the limelight.

The Community has always been attached to the educational values of sport and will thus have an exceptional opportunity to raise the awareness of the governments of the Member States, the education organisations and the sports organisations of the importance of building up an extensive partnership in order to make better use of sporting activities in education.

At a time when professional sport is being excessively commercialised and its image amongst the public tarnished, it is important to restore the true Olympic ideals so that they can help to bring personal fulfilment. The European year will thus contribute to rebuilding the image of sport in European society and to countering the risks of a sedentary way of life and social isolation stemming from the increasing use of new technologies ⁽⁵⁾.

1.6. 'The Olympic spirit is an unwritten law. A spirit cannot be codified or written down, and it eludes description. It must be experienced.' Ultimately it is an approach to and 'model of living that links culture, sport, education and leisure in an unbreakable whole, in precisely the same way as the education of the ancient Greeks' ⁽⁶⁾.

⁽¹⁾ Points 3 and 4 of Annex IV of the Conclusions of the European Council in Nice (7, 8 and 9 December 2000).

⁽²⁾ Point 1 of the above Annex.

⁽³⁾ European Parliament resolution A5-0203/2000.

⁽⁴⁾ COM(1999) 644 final (point 4.1, first paragraph)

⁽⁵⁾ Conclusions of the Explanatory Statement of COM(2001) 584.

⁽⁶⁾ <http://www.sport.gov.gr> (Ολυμπιακό Φεστιβάλ Νέων)

1.7. 'The most important thing in the Olympic Games is not to win but to take part, just as the most important thing in life is not the triumph but the struggle. The essential thing is not to have conquered but to have fought well' ⁽¹⁾.

1.8. 'We urge Member States to observe the Olympic Truce, individually and collectively, now and in the future, and to support the International Olympic Committee in its efforts to promote peace and human understanding through sport and the Olympic Ideal' ⁽²⁾.

1.9. 'The generation born between 1985 and 1995 very largely withdraws from the practice of sport requiring permits and self-organised sport. It refocuses on video games and sports simulators which fuel their emotions without risk and without constraint. In 2003, the virtual sport participation rate among 10-25 year-olds already reaches 40 %' ⁽³⁾.

1.10. This patchwork of comments and statements from different sources to a certain extent determines the prevailing atmosphere in relation to sport, as well as the Commission's frame of reference for its proposal to establish a European Year of Education through Sport 2004.

2. The Commission proposal

2.1. In practical terms, with its proposal to establish the European Year of Education through Sport 2004, the Commission is taking an important step to close the gulf that exists between EU social and economic policies and the everyday life of ordinary people.

2.2. First and foremost, the Commission proposal addresses sporting organisations and education.

2.2.1. However, the proposal concerns everybody. It concerns those active in the world of sport as sportsmen and sportswomen, supporters or interest groups. It also concerns those who have, or tend to have, a purely economic interest in sport. And finally, it concerns all those who have a negative view of what is currently happening in sport, in particular of the immoderate and inappropriate activities — for commercial or other ends — that have been gaining ever more ground recently.

2.3. In view of the above, the objectives of the European Year of Education through Sport are specific and clear, and can be summarised as follows:

- to make European society more aware of the traditional values, the modern role and the particular educational importance of sport;
- to encourage the world of education and sport to establish and develop a close partnership and joint objectives;
- to promote and exploit the educational potential of sports organisations, especially in terms of voluntary activities, mobility and exchanges, and promoting a smooth introduction to and integration into a multicultural environment without social — or any other form of — discrimination;
- to sensitise the educational community to the current need to address the problems of a sedentary lifestyle by promoting sports at school;
- finally, to address and draw attention to the educational problems that arise with young sportsmen or sports-women as a result of the increasingly young age at which they start their sporting career.

2.4. According to the Commission proposal, the European Year of Education through Sport is the appropriate Community initiative for achieving the above-mentioned goals. This is especially true, of course, because it coincides with major sporting events — of particular importance in communication terms — such as the Olympic and Paralympic Games in Athens and the Euro 2004 football championships in Portugal.

2.4.1. According to the Commission, the Olympic and Paralympic Games in Athens especially will highlight the values and ideals of the Olympics, providing an opportunity for a new general understanding of sports, as well as education, by the whole of European society.

2.5. The legal basis for the proposal is identified as Treaty Article 149, while the funding required to implement it is calculated at EUR 11,5 million.

3. General comments

3.1. The EESC endorses the Commission proposal to declare 2004 the European Year of Education through Sport. It agrees with the Commission's objectives, as well as the urgent need for a comprehensive, well-founded and integrated Community approach to the issue before it is too late. The aim of this initiative is to redefine the environment in which the sporting movement operates and ensure that it is compatible with traditional sporting values and with modern educational and economic needs.

⁽¹⁾ Olympic Creed.

⁽²⁾ United Nations Millennium Declaration (point 10), New York, Millennium Summit held on 6-8 September 2000.

⁽³⁾ The possibility of sport developing in this way cannot be ruled out (Sport and Employment in Europe: Final Report, PR-div/99-09/C6, IV-2-1, penultimate paragraph).

3.1.1. In the light of the above, the comments and suggestions in this opinion are intended to:

- clarify certain points of the proposal;
- put forward ideas, approaches and means for supplementary or even alternative forms of Community action in order to achieve the objectives;
- contribute in practical ways to making the European Year of Education through Sport as successful as possible.

3.2. *The significance of sport*

3.2.1. It is awesome to consider the significance of sport. Specifically, we are talking about:

- an enduring concept that spans virtually the whole cultural spectrum of human history; a human (individual and group) activity that is singular in terms of its historical continuity;
- a social phenomenon that has played a catalytic role in creating a global culture;
- a process that for long periods was the main means of socialising young people and integrating them into the value systems of a particular period and geographical region of the world;
- an important measure of individual development and fulfilment, but also of cultivation of social cohesion;
- a clearly enormous economic significance that cannot be estimated when thought of in terms of the time and effort people have invested, as either participants, supporters or commentators.

3.2.2. The EESC considers sport to be a very serious issue for the future of European society, the European way of life and European culture. It is therefore definitely against any policy that would be incompatible with the values that created sport and made it a major social phenomenon.

3.3. *The context*

3.3.1. The environment in which sport takes place has hardly changed, if at all, for centuries. This environment was basically determined by individual and social needs (health, education, collective activities, discipline, military requirements, etc.), which can be considered survival needs. On this basis, the sporting philosophy which developed was thus strong and clearly unchallenged.

3.3.1.1. The main sphere in which these sporting principles were initially cultivated was always schools and education. Education and sport always existed side by side in a reciprocal relationship.

3.3.1.2. The environment in which sport is practised is today in danger of being completely overturned. The manifest reason for this metamorphosis is the over-commercialisation of sport.

3.3.1.2.1. It is worth noting that sport is now emerging as a fast-growing and profitable sphere of economic activity⁽¹⁾, which has implications in terms of maintaining its traditional character.

3.3.1.2.2. Thus a central issue is how to avert this transformation, so that sport can continue to fulfil its key functions, i.e. in relation to public health, as well as its educational, social, cultural and recreational role.

3.3.2. The EESC is against any idea of accepting a European model of sport that would operate exclusively — even at its margins — on the basis of market principles and for the sole purpose of economic gain. It observes that sport as a social phenomenon is an entity in itself and should be treated as such politically.

3.3.2.1. The organisational structure⁽²⁾ of sport, which has been based on freedom of association and voluntary services, provides the basis for further development of a healthy, mutually beneficial, relationship with education, a relationship that must be enhanced, especially by local authorities. This also requires:

- common objectives (promoting the traditional values of sport, improving people's physical and mental condition, socialisation, etc.);
- attributing roles and work to each side (schools complementing physical activity and sports organisations complementing education: parallel education);

⁽¹⁾ Turnover from sport is estimated at USD 107 billion (USD 15 bn. in grants; USD 42 bn. in television rights; USD 50 bn. in tickets). Europe accounts for 36 % of this figure and the US for 42 %. (See Helsinki Report on Sport. Source: 'Finding the right balance for sport', Stephen Townley, SPORTVISION, magazine of the GAIFS, January 1998).

⁽²⁾ It is estimated that the Union has over 600 000 sports associations.

- transparency and democratic control, and of course shared principles.

3.3.2.2. In view of the above, the EESC considers that commercialised sport is not consistent with the objectives of the European Year of Education through Sport.

3.4. Objectives

3.4.1. The main objective of a single, comprehensive EU policy for sport — in which education will obviously be called upon to play a key role — must be to establish the prerequisites for such a policy to be implemented.

3.4.1.1. Basically, this means taking measures to remove obstacles (institutional, legal, economic and social) hampering the development of such a policy.

3.4.1.2. Of great importance here are measures to promote social understanding and awareness of the issue.

3.4.2. The EESC believes that the European Year of Education through Sport and its specific goals should help to achieve this. It also believes that the significance and seriousness of the issue are such as to call for immediate definition of the broader, medium-term and long-term, objectives of the proposal in question.

3.4.2.1. In view of the above, the EESC perceives a need to frame a more concrete strategy without delay, a strategy that will include the prospect of developing a broad, more or less mass, sports movement that is highly aware and active.

3.4.2.1.1. Developing such a movement will require political support, especially to manage the relevant information and draw attention to the negative implications for the European way of life of unbridled commercialisation of sport and the possible demise of the sporting philosophy. At the same time, this movement must be integrated into a broader social movement, which is already taking shape and addressing the general problem of the future of the European way of life in the 21st century and the new situation created by globalisation and technological developments.

3.5. Sphere of action and means

3.5.1. As the basic instrument for achieving the objectives in its proposal, the Commission favours establishing a partnership between education and sports organisations. However, measures also include action targeted at the whole of European society.

3.5.2. The EESC considers it essential to fully clarify which groups are concerned by the proposal. In its view, since sport and education are individual and group activities, they concern all Europeans — of every age, gender and occupation.

3.5.2.1. Today especially — in an age of high demands imposed by the information society, familiarity with digital technology and the need for Europeans to adapt to new economic and employment conditions — the above comment acquires a particular resonance. It must therefore be made clear that during the European Year of Education through Sport all the interest groups of European society are called upon to work together and play an active part.

3.5.2.2. Whether the objectives of the European Year of Education through Sport have been achieved will not ultimately be judged by the obligatory events in which only specialists take part, or by messages that are not understood by the people to whom they are addressed. Whether they have been achieved will be judged by how well the objectives of the Year are understood at local level and especially by that generation in European society that now holds and exercises any form of power.

3.5.2.3. In view of the above, the aim should be to involve organised civil society and the social partners and all educational organisations (e.g. study groups, night schools, clubs) in the whole process. A further aim should also be to involve local and regional authorities that have considerable leverage potential, both with education systems and with sports associations.

3.6. 2004

3.6.1. The EESC believes the Commission's choice of 2004 to be a good one. The major sporting events of that year (Olympics and Paralympics in Athens, European football championships in Portugal) will really provide a great opportunity; one that is of crucial significance for related measures at grassroots level. Of course the substance of these measures must be considered, as well as how they are to be developed.

3.6.2. The EESC believes that the main aim of measures taken by the EU in this area must be to improve the quality of links between education and sport. This means that during the European Year of Education through Sport there must be a focus on measures relating to the traditional values of sport, as exemplified by the Olympic movement. It also means that the year 2004 will provide an important opportunity to revise the basic educational and pedagogical principles governing European education systems. This will mean finding ways of ensuring that the principles are consistent with the new situation created by modern technology and new education needs relevant to developments in sport.

3.6.2.1. Relating EU measures in the sphere of sport and education to the traditional values of sport and Olympic ideals will be a difficult task, requiring a systematic, comprehensive and large-scale effort. Identifying and promoting these ideals, ensuring that they are understood by the general public, and creating a mass movement to support them are important phases in the project.

3.6.2.2. During the period leading up to the European Year of Education through Sport, important steps can be taken both to identify and promote the traditional values of sport and to ensure that they are understood by the general public. It will suffice if various specific policies are introduced, policies that are supported by the Commission and the other EU institutions.

3.6.2.3. Gearing existing European programmes (EVS, youth, other mobility programmes, etc.) to the objectives of the European Year of Education through Sport could help to promote mobility in the context of links between education and sport.

3.6.2.4. In any event, the EESC emphasises that relevant action can and must be developed at local level if the year is to be a success. It therefore proposes an immediate campaign targeted at every school and every sports association. This will be a message announcing the Commission initiative to establish 2004 as the Year of Education through Sport and calling at the very least on everybody to take steps to ensure that the objectives of the year are reached.

4. Specific comments

4.1. On the basis of the above general comments, the EESC notes that the activities and measures proposed by the Commission (see Article 3 and Annex), and the organisations called upon to support them, should be more clearly defined. More specifically, the activities that the Commission itself intends to develop must be defined; as must the activities that

are to be developed at international, national, regional and local level and the methods of persuading public and private organisations to take their own measures without funding. This could also be presented as an explanatory proposal from the Commission in the run-up to the European Year of Education through Sport, in order to answer the questions of local organisations. In the above context especially, the EESC would like to make the following proposals.

4.1.1. A place for sport in schools

4.1.1.1. The EESC believes that re-establishing sport as an educational activity is an important prerequisite for rethinking the relationship between education and sport. In practice, this means re-ordering the priorities of educational objectives, methods and models — which will ultimately redefine the current way of life of European citizens. This re-orientation provides solutions in particular for children and young people, by giving them a broader choice of more natural and lifelong alternatives than those offered by virtual reality and video games.

4.1.1.2. The EESC also believes that any attempt to change the current relationship between education and sport will succeed only if specific decisions are taken. Of these, the following are important:

- capitalising on the individual affinities and qualities of young people in relation to sport;
- developing pro-sporting networks on the basis of the above individual affinities and qualities;
- developing international and pan-European sports information networks on the basis of schools or local sports groups;
- developing a European dimension of school sports, for instance by organising pan-European school competitions for each type of sport or subject area;
- developing comprehensive electronic networks at European level for purposes of communication and, above all, establishment of all forms of sports mobility.

4.1.1.3. The EESC notes especially the need to relate sport in schools to the current European context and to Europe's future. It therefore proposes that an environment be established in which a European sporting consciousness can be cultivated and developed. This would mean in particular providing incentives for setting up cross-border and international sports teams. 'Second-chance' schools might possibly form the basis for creating the first teams of this type.

4.1.1.4. The EESC notes in any event that sporting activity — especially at the level of sport in schools — must not draw dividing lines of any type or degree. On the contrary, it must create an environment in which every form of conflict or exclusion is reduced.

4.1.1.5. The EESC suggests that the Commission should call upon current experts in the process of promoting 2004 as the European Year of Education through Sport.

4.1.2. A place for mass sport

4.1.2.1. Mass sport deserves particular attention and development with a view to realising the objectives of the Commission's proposals, in order to offset the consequences of the modern sedentary lifestyle — both during working and leisure time. Today more than ever people's physical and mental health depends on sports activity and mass sport. Mass sport of any kind also promotes the personal development and socialisation of participants.

4.1.2.2. To maximise the impact of mass sport, all the relevant parties will have to be involved in developing it. It is important for access to sport to be universal and for all facilities to be available in every location (especially facilities that have received any public sector funding) to ensure the widest possible usage. To this end, it is essential that all those operators and organisations interested in mass sport and its effects should be involved in developing it.

4.1.2.3. The EESC feels that the above participants should include institutions providing tertiary education and lifelong learning, local and regional authorities, public services concerned with issues such as sport, health, education and social and environmental matters, as well as private organisations providing mass sports facilities and services. The aim of cooperation must be to maximise the impact of mass sport on education, health and social attitudes.

4.1.3. Proposals for sport among vulnerable social groups

4.1.3.1. The EESC feels that to be complete, a policy of education through sport must take into serious consideration the current position of socially vulnerable groups in relation to sport in general. The Committee appreciates the activities of many sports clubs in terms of social integration, especially with respect to young people. Such initiatives should be supported and be taken up by clubs that are not involved in this type of activity.

4.1.3.2. The EESC would draw the Commission's attention to the need for European Year measures specifically to:

- help regions that owing to poverty and socio-economic conditions (regions lagging behind in development terms) have not developed any type of individual or collective links with organised sport;
- promote participation of women in sporting activities;
- promote sport for people with special needs;
- bring the whole campaign into a more general policy framework that will promote a culture of healthy living;
- enhance sporting activities that cultivate and promote an attitude of intolerance towards racism and xenophobia.

4.1.3.2.1. With respect to people with special needs in particular, the EESC points to:

- the connection between the European Year of Education through Sport (2004) and the European Year of People with Disabilities (2003);
- the promotion by the European Year of Education through Sport of mass sport for people with special needs;
- the promotion of a closer relationship overall between the organised sporting movement and people with special needs, e.g. through providing access to sports facilities.

4.1.4. The European dimension of education through sport

4.1.4.1. Sport is a particularly appropriate sphere for intergovernmental, international and inter-regional cooperation designed to develop joint education and cultural action plans. The European Year of Education through Sport will provide an opportunity to address the whole issue of creating a European area of learning and education. This is an unresolved problem, despite its ever-growing implications, e.g. for European economic competitiveness.

4.1.5. Towards a new sports ethic

4.1.5.1. The EESC believes that the European Year of Education through Sport will have served its purpose if it creates a climate in which the current situation of sport is challenged, i.e. a situation in which sport is associated with the image of a 'superhuman' athlete who constantly surpasses his or her limits. This is the mythical athlete who exists only at and for the moment of victory. If it proves possible to create

a climate of questioning, especially in schools and among young people, a new sports ethic will certainly be established.

4.1.5.2. The European sports ethic of the 21st century cannot be any different from the ethic required to educate Europeans and imposed by modern society. Thus the new European sports ethic must be sought in the messages transmitted by mass and amateur sports, by the hundreds of thousands of sports associations which are supported by voluntary efforts, by the individual and collective sports that have no links with commercial activities. It is essential to try and generate political support for this sports ethic.

4.1.6. The Olympic Games in Athens: spotlight on Olympic values

4.1.6.1. The Olympic Games in Athens, as a major sports and cultural event, will certainly give the Olympic movement an opportunity that must not be lost. The EESC welcomes and endorses the fact that the basic values of the Olympic movement are being highlighted again. The focus must again be on friendly competition, the Olympic truce, cultivation of the mind, in conjunction with cultivation of the body, as values that could represent a goal of modern European society. In the above context, European society will thus have the opportunity to discuss, highlight and possibly revise some of its positions and views relating to the quality of modern life:

- to demonstrate, agree and emphasise that the issue of 'good living' is more complex and difficult than just ensuring the terms and conditions for survival;
- to demonstrate, agree and emphasise that seeking a good quality of life is a matter for each individual, but at the same time also for everybody together, with all that this

implies in terms of the difficulty of determining what is relevant to quality of life and what is not;

- to demonstrate, agree and emphasise that sporting activity is a major factor determining individual and collective quality of life, while also establishing the conditions for people to live a long — and active — life;
- to demonstrate, agree and emphasise that life does not involve just competition, but also cooperation; indicators are not just quantitative, but also qualitative;
- to demonstrate, agree on and determine the limitations of the modern human being; i.e. what today is human and what is not;
- to demonstrate, agree and emphasise that 'good living' does not necessarily and always mean achieving ever higher quantitative goals; it means above all a consistent and balanced individual and collective effort to achieve learning and education ⁽¹⁾.

4.1.6.2. The EESC feels that the aim is not to promote models from former eras. The aim is to develop an intellectual exchange to explore the factors that lead to certain periods being described historically as 'golden ages'. Once these factors are known, it will certainly be easier for European citizens to identify and agree on a modern lifestyle, the future of Europe and the new forms of governance they will choose, obviously consciously and — why not? — for the long term.

⁽¹⁾ See definition (4) of the term education in footnote one in the Appendix to the Information Report CES 1113/1999 ('The European Dimension of Education: its nature, content and prospects'. Thus education is: 'the product of all factors that influence a person and the social product of education and learning processes, which is expressed actively as a positive attitude to life'.

Brussels, 24 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC)'

(COM(2001) 754 *final* — 2001/0293 (COD))

(2002/C 149/07)

On 18 February 2002 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002. The rapporteur was Ms Florio and the co-rapporteurs were Mr Bento Gonçalves and Mr Burani.

At its 390th plenary session (meeting of 24 April 2002) the Economic and Social Committee adopted the following opinion with 98 votes in favour, no dissenting votes and one abstention.

1. Introduction

1.1. A regulation concerning Community statistics on income and living conditions (EU-SILC) is necessary in view of the high priority which the Council and Commission accord to the fight against poverty and social exclusion. Reliable, comparable and timely statistics are vital in order to obtain a realistic picture of the situation and monitor the progress of the relevant policies.

1.2. The legal basis for the regulation is found in Articles 136, 137 and 258 of the Amsterdam Treaty. These articles stress the need for, and possibility of, providing statistics on income, living conditions and social exclusion.

1.3. The conclusions of the European Councils of Lisbon (23-24 March 2000) and Nice (7-9 December 2000) also confirmed the Community's goal of eradicating poverty by means of continued dialogue and the pooling of information and best practice on the basis of commonly agreed indicators.

1.4. In 2000 the Commission drew up a programme of Community action to encourage cooperation between Member States to combat social exclusion. One of the aims of this programme was to promote the 'collection and dissemination of comparable statistics in Member States and at Community level'. The programme also laid down conditions for the funding of measures to obtain reliable, comparable statistics for analysing poverty and social exclusion.

1.5. The Commission communication on structural indicators ⁽¹⁾ includes in this category indicators of inequalities in income distribution and poverty rates.

1.6. The idea of an EU-SILC regulation originated in the second report on economic and social cohesion.

2. The proposed regulation

2.1. The aim of the regulation is to establish a common framework for the systematic production of Community statistics on income and living conditions in all Member States, with a view to gaining a better understanding of poverty and social exclusion at national and EU level. The regulation intrinsically provides a useful tool for achieving these objectives and monitoring developments.

2.2. The statistics are to cover households comprising one or more people, using harmonised methods and definitions which will be common to all Member States.

2.3. Statistical surveys will collect both cross-sectional and longitudinal data. Cross-sectional data provide a snapshot of a given moment of time.

2.4. Longitudinal data relate to changes within a given sample observed over a period of at least four years, and involve a smaller sample than cross-sectional data.

⁽¹⁾ COM(2000) 594 *final*.

2.5. In terms of sources, the regulation favours a flexible approach based on the use of existing national data (registers, surveys, national samples, etc.) plus some new sources. Hence it makes provision for direct interviews but also allows the use of data from registers where these exist.

2.6. Data are to be collected annually.

2.7. The regulation identifies target areas, determined on the basis of primary and secondary variables. Various modules can then be submitted annually for the observation of new phenomena.

2.8. During the first four years of the programme, ad hoc financial contributions will be made to the Member States. After this period, two thirds of the costs of data collection will be met by the Commission.

3. The Committee's recommendations ⁽¹⁾

3.1. As pointed out in earlier opinions, there are nevertheless still considerable differences in the collection of data for the individual national systems. This makes data comparison and analysis difficult.

⁽¹⁾ See also

- EESC opinion on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community — OJ C 48, 21.2.2002
- EESC opinion currently being drafted on social indicators.

3.2. It is disappointing that the data to be collected under the regulation only cover the national dimension of poverty and social exclusion, with no provision for local or regional data. This seems in direct contradiction with EU guidelines, especially as regards economic and social cohesion policy which since 1992 has formed one of the three pillars of the Union.

3.3. The link with regional policies should be brought out more clearly, particularly as regards the less developed regions (objective 1) where unemployment, poverty and exclusion reach worrying levels.

3.4. More detailed analysis is also needed of the big cities, as these problems are particularly acute on their outskirts. Careful attention must also be paid to rural areas with higher levels of poverty.

3.5. The regulation contains no explicit provision for the breakdown of data by gender, although many surveys conducted by international bodies and by the Commission have shown that women are the main victims of exclusion and poverty.

3.6. As regards the need for harmonised definitions and methodology to ensure that data are truly comparable, deadlines should be set and Member States called upon to make a specific economic commitment.

3.7. Cooperation between Eurostat, the European Commission, the socio-occupational bodies and the associations most closely involved in social exclusion issues represented on the EESC, is vital if analysis and monitoring instruments such as EU-SILC are to be exploited to the full.

Brussels, 24 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Strengthening the local dimension of the European Employment Strategy'

(COM(2001) 629 final)

(2002/C 149/08)

On 17 January 2002, the Economic and Social Committee decided, under Rule 23(3) of its Rules of Procedure, to draw up an opinion on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002. The rapporteur was Mr Vinay.

At its 390th plenary session (meeting of 24 April 2002) the Economic and Social Committee adopted the following opinion by 97 votes to 0, with 2 abstentions.

1. Introduction and presentation of the proposal

1.1. The Communication under consideration forms part of the ever increasing attention given by the Commission to the importance of the local dimension in the European Employment Strategy (EES), and follows on from a Communication in April 2000; an extremely wide-ranging consultation took place in that year on that Communication, and the synthesis of the consultation — presented at the Strasbourg Conference — has enriched the new phase of proposals.

1.1.1. The Committee, in the opinion it gave on the previous Communication ⁽¹⁾, had made a number of observations: on the local players, among whom it included the social partners, and their roles; on the importance of full information and adequate training for local players; on the problems involved in finding a common definition for the social economy sector; on the need to act at local level in a consistently targeted way for all four pillars of the employment strategy. It notes with satisfaction that some of these subjects have been taken up in the new document.

1.2. The Communication in question, after briefly sketching the background to the subject from the launching of the Luxembourg process onwards, stresses that in the employment guidelines in 2002 the Member States were called upon to support regional and local bodies in drawing up employment strategies, and notes that in nearly all the countries of the Union there is a tendency to decentralisation, to support for the social economy and to the setting up of partnerships. The NAPs for 2001 also show the development of closer cooperation between national governments and local and regional authorities.

1.3. The Commission emphasises the crucial problem of the clearly inadequate information and the lack of systematic involvement of the local level in the NAPs' formulation process and the implementation of the ESF, and expresses the view that the development of a local dimension of the EES would make a decisive contribution both to achieving Community objectives on employment and to combating social marginalisation.

1.4. The Commission points out that, subject to the principle of subsidiarity, it is necessary, in developing a local dimension of the EES, for there to be a consistent political will at Community, national, regional and local level. It is essential to establish a constant exchange of best practice, and widespread awareness at local level of the EES and related national action plans, of the NAPs for social inclusion and of the structural fund programmes.

1.5. While suggesting the criteria for the drawing up of local strategies for employment, the Commission also advocates building on experience and making fuller use of the existing instruments, mentioning in particular, apart from the Structural Funds, EURES, Urban and Equal. A specific reference relates to the innovative actions promoted on the basis of Article 6 of the ESF and to the budget heading allocated for 2000 and 2001 to support preparatory actions for local employment initiatives.

1.6. The document envisages a series of deadlines for assessment of the initiatives and programmes in progress, with specific reference to the local dimension, and makes clear that the Commission will regard local development as a priority in assessing the planning period.

⁽¹⁾ Opinion on the Commission Communication 'Acting locally for employment — a local dimension for the European Employment Strategy', OJ C 14, 16.1.2001.

2. General comments

2.1. The European Economic and Social Committee welcomes the Communication, as it welcomed its predecessor, endorsing the increase in the attention paid by the Commission to developing an authentic local employment strategy, which the Committee has advocated for many years.

2.2. It particularly welcomes the way in which the consultation phase which took place in 2000 has been put to good use. While that phase brought to light many problems which limit the development of local initiatives, the Commission has nonetheless used the document under consideration to identify actions and instruments which would make it possible to tackle these problems realistically, pointing out the practical scope for players at local level and at the same time encouraging greater awareness on the part of Member States of the need to create a two-way flow in the drawing-up of the NAPs.

2.3. The choice of assessing all current planning primarily in terms of its impact on development at local level has an importance which, on the one hand, almost transcends the subject under consideration, but which, on the other, strengthens the need for the employment strategy defined at the Lisbon Summit to be developed to the full, giving precise attention to the local employment plans which are an essential operational part of it.

2.4. The document points out that the role for the local level in the EES was explicitly acknowledged in the Guidelines for employment policies for 2002, and gives a verbatim quotation of guideline 11. However, this guideline appears in the section devoted to the second pillar ('Developing entrepreneurship and job creation'). In its earlier opinion, the Committee had already expressed the conviction that creating employment development strategies at local level should make it possible — not least because of the many subjects and functions which could contribute to it — to achieve the aims set down in all four pillars of the European strategy. It reaffirms this view and expresses the hope that the Commission may adopt it, as the Communication itself frequently relates to the fourth pillar (equal opportunities).

2.4.1. The attention which the document gives to policies on equal opportunities for women and men is consistent with the entirely realistic belief that it is precisely at local level that the conditions which can limit or encourage gender equality are determined, not only through specific active and targeted training measures but also through a growth in cultural and social awareness. In this last respect, the call to local authorities to promote women's employment through 'measures to reconcile work and family life' seems inappropriate, since they should be reconciled in the equal interest of women and men.

This is taken into account in the Guidelines for employment policies in 2002, where the chapter entitled 'Reconciling work and family life' confirms that policies implemented to this end 'are of particular importance to women and men' ⁽¹⁾.

2.5. The role of the social partners is given greater importance in the present document than in the previous one, and it is emphasised that they should be increasingly involved in developing the implementation of local strategies.

2.5.1. However, as already stressed in the earlier opinion, this role is not just important in the context of joint social planning — on the development of which an important decision was taken at the recent Laeken Summit — but also as an active element in the partnerships; the latter role has already been played in a positive and creative way in the territorial pacts and in the cross-frontier partnerships operating on the basis of EURES. If, in addition, as already laid down at the Feira Summit, the social partners must play a prominent role in defining, implementing and assessing the guidelines for employment, this acquires even greater emphasis at local level.

2.6. The Commission acknowledges the difficulty — already fully documented by the Committee — which arises from the different ways in which the social economy is understood in the Member States, but stresses that this sector — however it is classified — has great potential in local development initiatives, and points out that the idea of partnerships at local level is maturing under the impetus of the political priorities of the European Employment Strategy. It would, however, be desirable for the Commission to work, within the limits of the possible and of subsidiarity, towards a joint definition of principle, not least with a view to the forum on local development planned for the beginning of 2003.

2.7. Although subsidiarity must of course be safeguarded, the Committee appreciates the Commission's reference to the White Paper on European governance which calls, in general terms but also specifically with regard to employment and cohesion matters, for a strong interaction among the various levels of government of the Union and individual countries and regional and local levels. Such interaction is necessary not only to give the maximum impetus to effective unitary policies, but also to rebuild a relationship between European institutions and the citizen and to enable the latter to be able to make a contribution to the formulation and the quality of political and economic decisions.

⁽¹⁾ Proposal for a Council Decision on Guidelines for Member States' employment policies for the year 2002 — COM(2001) 511 final.

3. Specific comments

3.1. Among the various effective European initiatives for developing employment at local level the Commission mentions EURES, an instrument created in 1993: this has been continually renewed because of its acknowledged importance, and a reform of its legal basis is currently under consideration. However, it is strange that in view of its potential the Commission is not proposing a complete reform of it, nor suggesting that it be fully integrated in the EES, and that it proposes a range of criteria and sources of funding rather than incorporating it in the budget of the Structural Funds. As is well-known, the EURES network includes the public services dealing with employment, and the social partners — two groups whose role is identified in the Communication under consideration as being among the actors in an employment strategy at local level. This is a further factor for rationality and consistency which should guide the Commission towards a reform model as suggested above.

3.2. The Commission points out the positive employment impact of Urban, another Community initiative, which covers social and environmental action in extremely problematic districts of city centres. In its opinion on the renewal of this initiative⁽¹⁾, the Committee had underlined that, although it was not one of its primary aims, Urban had the potential of benefiting employment. Moreover, the initiative had the important advantage of encouraging strong involvement of the whole of civil society in the planning of activities to be funded. The Committee would hope that in the analysis which the Commission plans of the results of Urban and any other initiative, attention would also be paid to the spin-off effect of the spreading of best practice which is always included in them.

3.2.1. In the Commission's reminder of the potential of programmes and initiatives already in progress to boost employment at local level, the Committee suggests the inclusion of Interreg III, which mentions this specific theme among the planning criteria.

3.3. In presenting the criteria for implementation of innovative actions funded on the basis of Article 6 of the ESF Regulation, the Commission had already indicated⁽²⁾ an explicit link — a natural one in view of earlier experience — with the development of employment at local level. Moreover, it was pointed out that priority would be given to proposals based on the principle of partnership among the various actors, mentioning public authorities, the private sector, the social partners, the third system etc. The Commission communication recalls this background, and entitles one

of the priority themes 'local employment strategies and innovation'. The Committee obviously agrees with all the above, but points out that the invitation to present proposals is for the moment confined to relevant public authorities or territorial administrations.

3.3.1. This creates a sort of implicit hierarchy among local actors, which could also be followed in the field of the Communication in question, while both in the first Commission document and in the current one, a wide range of participants are mentioned under the 'local actors' heading. It is not clear whether an initiative for a local employment strategy can be drawn up, proposed and presented by any of these actors organising a targeted partnership, or whether the prime mover of any initiative must always be a public or administrative authority at local level.

3.4. The document emphasises the need to activate a strong flow of information to the local actors on EU and national policies — something which is obviously essential to encourage initiatives and strategies which are not only practicable through instruments and resources activated at Community level, but also consistent with the policies defined at European and national levels. However, in sketching out the constituent elements of a local strategy for employment, it neglects one point which the Committee regards as essential and which it had already stressed in the earlier opinion: that of training.

3.4.1. The key procedural sequence proposed by the Commission is as follows: defining the area; diagnosing the points of strength and weakness; identifying the potential actors; analysing the opportunities and threats for employment in the territory concerned; involving the regional and national authorities. It is important to emphasise that points of strength and weakness, and opportunities and threats for employment, can lie not only in the socio-economic, infrastructural, productive or organisational conditions of a territory, but also — to a large extent — in the need for training to facilitate employability, support the development of entrepreneurial skills, encourage the adaptability of workers and enterprises, and promote steps towards gender equality, both in terms of professional skills and in terms of socio-cultural awareness.

3.4.2. The Committee wishes to emphasise that training, alongside education and lifelong learning, are essential components of any initiative to develop employment at local level. Of course there can and will be projects which have training (specific, albeit diffuse training) as an objective for a local strategy, but Annex 2 to the document takes up the proposal, put forward by the Committee in its earlier opinion, to encourage 'territorial training initiatives and agreements'. This is still the need which the Commission should take into account, as part of a wider strategic approach which is essential in formulating any initiative.

(1) Opinion on the Communication from the Commission to the Member States laying down guidelines for a Community initiative concerning economic and social regeneration of cities and of neighbourhoods in crisis in order to promote sustainable urban development — Urban — OJ C 51, 23.2.2000.

(2) Communication from the Commission on the implementation of innovative measures under Article 6 of the European Social Fund Regulation for the programming period 2000-2006 — COM(2000) 894 final.

3.5. The Committee endorses the Commission's decision to organise a Forum on local development next year, and declares even now that it is interested and prepared to make its contribution at a time of wide-ranging reflection. The document would suggest that this event is planned for the beginning of 2003, and it is stated that around the middle of that year an assessment of the 89 territorial pacts launched as pilot projects in 1997 will at last be available. Since the two deadlines are only a few months apart, and the Forum is intended to be a place for exchanging experience and information, it would perhaps be better to make them coincide.

3.6. As indicated above, successful transposition of the EES to the local level and active participation of civil society in identifying strategies and courses of action constitute a strong instrument for promoting a sense of belonging in European citizens and for rebuilding a link between them and the institutions. Nonetheless, it is necessary for employment policies to remain faithful to the principles laid down in Lisbon and further enriched by the recent Laeken summit. Thus on the one hand *lasting, high-quality* jobs must be created (incidentally, it is worrying that the Commission acknowledged in a recent document that the concept of 'high-quality work' lacked definite, effective points of reference); on the other hand, the European social model should be defined, supported and promoted: these two aspects are essential to maintain

social cohesion within the Union and strengthen it with a view to enlargement.

3.6.1. However, the European economy is showing clear signs of slowing down, and expectations of a recovery are very cautious. The local level cannot be treated separately from the national and Community levels. Decisions are therefore needed to revive economic and employment growth decisively, as a matter of priority.

3.6.2. There is scope for manoeuvre, which should be used decisively, and at the same time there should be measures to consolidate a sustainable development model in both environmental and social terms; both aspects require guarantees and safeguards. At all levels — from Community to local level — these two basic points of balance must be identified and respected.

3.6.3. The local level is a microcosm in which the most immediate and real opportunity and risk are combined in a single aspect: the capacity of the individual citizen to verify directly the effectiveness in practice of political choices. Thus the success of the choices covered by the Communication in question will also depend, in the shorter and in the longer term, not only on the effectiveness of the proposals to which we have attempted to contribute, but also, fundamentally, on the choices for progress which will have been made at the highest level.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICHs

Opinion of the Economic and Social Committee on the 'Commission Working Document — The relationship between safeguarding internal security and complying with international protection obligations and instruments'

(COM(2001) 743 final)

(2002/C 149/09)

On 21 January 2002, the European Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned document.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002 (rapporteur working without a study group: Mr Retureau).

At its 390th plenary session (meeting of 24 April 2002), the Economic and Social Committee adopted the following opinion with 92 votes in favour and one abstention.

1. Introduction

1.1. The Commission working document seeks political, legal and practical solutions in the area of internal security, i.e. the protection of European society from the presence and activity of terrorist groups and their members on EU territory, in response to Conclusion 29 of the Extraordinary Justice and Home Affairs Council Meeting of 20 September 2001 shortly after the terrible attack in New York on 11 September.

1.2. The Council invited the Commission 'to examine urgently the relationship between safeguarding internal security and complying with international protection obligations and instruments'.

1.3. This document concerns instruments relating to the protection of persons seeking asylum or benefiting from that status or another protection status in a Member State. The Commission gives consideration to the protection offered not only by the Geneva Convention and its Protocol (ratified by all the Member States) but also by other international and regional texts that offer international protection to certain persons obliged for their safety to leave their countries of origin or residence and seek the protection of an EU Member State.

1.4. The document begins by examining the legal possibilities written into the instruments for excluding those persons from protection who do not deserve it, in particular those engaged in activities of a terrorist nature or other criminal activities (Chapter 1). It then looks into the legal consequences of excluding certain persons from international protection regimes (Chapter 2). It goes on to look at ways for the Member States to approximate their legal or administrative measures, and at administrative cooperation and the use of the Open

Coordination Method (Chapter 3). Lastly, the document analyses the 'internal security' measures contained in the Community legislation currently in force and in legislation in the pipeline in the area of asylum and immigration (Chapter 4).

1.5. As the Commission points out, the document is founded on two main premises:

- bona fide refugees and asylum seekers should not become victims of the recent events, and
- there should be no avenue for terrorists or those supporting them financially or in any other way to secure access to the territory of the Member States.

1.6. Asylum is presented as a potential channel for terrorism to penetrate the EU, although this statement is immediately qualified by a recognition that this channel is an unlikely one, as terrorists have more discrete illegal routes into EU territory, in the same way as the perpetrators of criminal or other illegal activities. The Commission endorses the UNHCR's line, that rather than taking new or extraordinary measures, it would be preferable simply to implement some of the exclusion measures already included in Article 1F of the Refugee Convention when required.

1.7. *Grounds for exclusion and their application to terrorism*

1.7.1. There is no international definition of terrorism in the various universal or European instruments applicable in the Member States. The courts categorise it individually, depending on the circumstances surrounding each case. Article 1F of the Convention does not include it as a criterion, but terrorism can, according to the Commission, be covered by an interpretation of one or more of three categories of

general criteria that can be invoked under the Convention to justify denial of the right to asylum (excluding the second category, as the crime of terrorism is in essence a political crime or one aimed at political or ideological objectives):

- a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments;
- a serious non-political crime outside the country of refuge prior to the person's admission to that country as a refugee;
- responsibility for acts contrary to the purposes and principles of the United Nations ⁽¹⁾.

1.7.2. According to the case law and various resolutions of the UN General Assembly and Security Council referred to by the Commission, terrorism is clearly grounds for exclusion on the basis of the relevant criteria listed in the first paragraph of Article 1F. Regarding the third paragraph, in Resolution 1373 of 28 September 2001 the UN General Assembly stated that 'acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations' and that 'knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations'.

1.7.2.1. According to national case law, these acts of terrorism involve in particular the hijacking of planes or other vehicles, hostage-taking and bomb attacks, etc.

1.7.3. The Commission adds that mere membership of a terrorist group can in certain cases amount to personal and knowing participation, or acquiescence amounting to complicity, although the circumstances of each case and the actual level of involvement must be taken into consideration.

1.7.4. The Commission concludes that terrorism can constitute grounds for refusing or withdrawing refugee status or another form of protection.

2. The Committee's comments

2.1. The European Economic and Social Committee is fully in favour of devising a global and coordinated strategy for fighting terrorism at European level and of harmonising procedures for defining and punishing the crime of terrorism. The Union has every right to protect any person living in or passing through its territory, and public and private property, against terrorist attack, and also to prevent groups or individuals from planning, organising or financing such attacks.

2.2. The causes of terrorism, both in the EU and in third countries, are complex and are often the upshot of political and ethical crisis situations, with ideological, political, religious or nationalist motives etc. As a result, the response should as far as possible be preventive and tailored to the root causes. This may call for various approaches, such as the search for peaceful conflict resolution, criminal prosecution, or economic and social measures. Europe's responses must be measured, and tailored to the causes and nature of the threats.

2.3. The Committee therefore wonders whether targeting asylum policy in this strategy is really useful, and fears that it could lead to restrictive measures that run contrary to the Convention or limit human rights. The Committee does however accept that paragraphs a) and c) of Article 1F could, if necessary, provide an acceptable legal basis for exclusion from refugee status or another form of protection, providing there is evidence that the protection offered was actually being used to commit acts of terrorism.

2.4. The Committee would refer in particular to its opinion ⁽²⁾ on the draft directive on minimum standards for granting and withdrawing refugee status, and the principles espoused therein.

2.5. The Committee is convinced that the right of any person to claim the right to seek asylum must not be questioned, and that the principle of the non-refoulement of asylum seekers must be rigorously upheld, not least in crisis situations and where there is a threat to peace or security, calling for greater vigilance on the part of the authorities.

⁽¹⁾ See on this subject the special set of guidelines and individual positions taken on the application of the provisions of this article published by the UNHCR.

⁽²⁾ See OJ C 193, 10.7.2001 (rapporteur: Mr Melícias).

2.6. As the Commission itself has stated, asylum seeking is not a common way for terrorists to gain access to a country and refugee status is not the best cover for involvement in terrorist activities, even though this hypothesis cannot a priori be completely ruled out.

2.7. The absence of an international or common definition of terrorist crime also poses a problem. The risk of stretching the interpretation of grounds for exclusion and applying them to cases that are not directly related to the preparation and carrying out of criminal acts generally defined as terrorist acts by the laws and courts of the Member States must not be underestimated.

2.8. International and regional human rights instruments must be a permanent reference for interpreting and applying the Convention and Protocol on the protection of refugees. Regional instruments include the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture. The right of asylum is explicitly covered by the Charter of Fundamental Rights unveiled at Nice.

2.9. More specifically, the right to a defence and to a fair trial cannot be suspended because of suspicion of or incrimination for terrorism. The legitimate fight against terrorism must not become an argument for reducing the level of safeguards and protection or for ignoring the principle of non-refoulement.

2.10. The Committee would also point out that many countries use the term 'terrorist' to describe internal or exiled political opponents. The real circumstances of each case must be considered, and there must be an objective inquiry, underpinned by concrete evidence, making certain not to stretch the interpretation of certain provisions or extrapolate by analogy in order to define certain acts as terrorism or as equivalent to terrorism and thereby incriminate a person claiming or enjoying protection.

2.11. The Committee is therefore concerned about the distinction made between the standard of proof required in a criminal court, and that required for excluding or withdrawing protection status. It is enough to have 'serious reasons for considering' that the person has committed or has been an accomplice in a crime defined as terrorism, also by 'inciting', without necessarily having to prove that the person committed the crime (1.4.4). The Committee calls for proof of the crime to be provided, or at least for a sufficiently thorough

investigation that yields substantive and concurring evidence of involvement in an activity intended to cause or causing damage to persons and property with the aim of causing terror. Suspicions alone are not enough.

2.12. Furthermore, if a decision is taken to refuse to grant the protection of the Convention or another form of international protection, this should not necessarily lead to deportation to the country of origin or a third country, particularly not to a country where human rights would not be fully assured to the degree that they are on EU territory. The same principle must apply in the case of extradition cases. However, the document is fairly vague on this subject and clarification is needed. The withdrawal procedure must not automatically be extended to close friends and family members, unless their involvement in terrorist activity can be proved.

2.13. Furthermore, the Committee is very concerned about the danger, in working papers on the fight against terrorism, of making or at least suggesting a connection between people seeking asylum or international protection and people guilty of terrorism or, in another area, between migrant workers and terrorism.

2.14. The document does not view terrorism as a 'crime against peace'. The Committee however feels that acts of war perpetrated in peacetime and aimed at provoking internal armed confrontations or a military or dictatorial coup, or at inflaming a dispute between countries in order to provoke a military escalation, could be defined as crimes against peace.

2.15. Conversely, in wartime, the definition of certain acts as 'terrorist acts' must be used only with the greatest care. The actions of liberation movements, in particular those recognised by the UN, resistance to armed intervention from outside, with the exception of interventions decided on by the UN Security Council, and acts of war by opposition groups in a civil war situation are generally defined by the adversary as terrorist acts, while considered legitimate by the other party. It is therefore necessary to consider the nature of the political regime, the causes of the conflict, the possible legitimacy of the means used, for instance against a totalitarian or dictatorial regime or illegitimate armed intervention, in order to determine for each case, on an objective basis, the acts that may be termed as 'terrorism', war crimes, crimes against peace, or contrary to the purposes and principles of the United Nations.

2.16. Furthermore, for terrorist acts to qualify as war crimes they must be grave and committed in a context of relatively generalised armed confrontation or sufficiently intense or large-scale armed operations, and conducted over a prolonged period, by armed guerrilla or paramilitary groups, against the civilian population or democratically appointed officials.

2.17. Lastly, the Committee considers that the resolution of the UN General Assembly, adopted in a period of heightened international emotion and considering the crime of terrorism as being contrary to the purposes and principles of the United Nations, must also be interpreted as stated for Article 1F of the Convention, in the light of the conventions and customary principles governing human rights. The interpretation of acts considered in this light must not be stretched or extrapolated by analogy in order to define them as terrorist acts and, as a result, contrary to the purposes and principles of the United Nations.

2.18. In order to counter international crimes (war crimes, crimes against humanity — or 'lese-humanity' under the Inter-American Convention —, or genocide) more effectively, Member States should consider equipping themselves with powers of international jurisdiction. Persons guilty of those crimes would not then be tempted to seek any form of protection in a Member State where they would be in danger of being tried for crimes committed in a third country.

2.19. The Committee wonders whether it might be better to 'freeze' requests or status, rather than declaring 'inadmissible' claims made by people in cases where an extradition request or an indictment by an International Criminal Court has been made as a result of a United Nations decision or convention (1.4.2). When the extradition request is submitted by a criminal court in the claimant's country or another country on the grounds of a 'serious crime', there should be a thorough investigation into the real nature of the crime, and checks on whether it really qualifies as crime in the eyes of European criminal law, and not just under the legislation of the requesting country, which may define as a 'crime' public political demonstrations or the expression of 'subversive' ideas, etc. If the court finds in favour of the claimant, the request for asylum could be taken up again at the point at which it had been 'frozen', or the protection status could take full effect once more. Conversely, inadmissibility or withdrawal could be applied if the court definitively ruled that the person was guilty of a serious crime or terrorist activity justifying the refusal or withdrawal of protection status.

2.20. Refoulement or extradition must take into account the possible fate awaiting the claimant or beneficiary whose right has been withdrawn in the country of refoulement or extradition. Well-founded fears of capital punishment, torture or other inhumane or degrading treatment should be a firm argument against the refoulement or extradition of anyone, even if their acts justify refusal or withdrawal of protection status.

2.21. As to whether the granting of economic and social rights to people who are excluded from protection but who cannot be expelled constitutes a 'pull' factor towards countries which grant those rights, the Committee thinks that it would be wrong to align on countries which do not even accord the most basic human rights. The fundamental socio-economic rights which should be granted, with reference notably to the Nice Charter and the European Social Charter, should be equivalent in all the Member States, so as to enable these people legally to meet their basic needs, and where appropriate those of their families. Member States should come to an agreement on this point.

2.22. On the subject of setting up special units to deal with exclusion cases, and in view of the very limited number of cases likely to arise, the Committee feels that it might be preferable, in cases of serious doubt, to call on agents or judges specialised in the fight against terrorism or criminal law, on a case by case basis, to back up the departments responsible for examining requests. In view of the limited number of cases expected, the permanent establishment of specialised exclusion units carries the risk of their being used to excess owing simply to the fact that they exist, and, as a result, of an unjustified increase in the number of rejections.

2.23. Recourse to certain States' special internal guidelines on exclusion in the interests of 'best practice' could carry similar dangers. This does not rule out however the need for an examination to avoid excessively different or even contradictory interpretations of the Convention's exclusion clauses. The 'European' lists of excluded persons, proposed as part of the information exchange mechanism (1.5.3), also bring a risk of unfair exclusion, should the criteria not be uniform or the lists not kept properly up-to-date. For instance, a person who has been extradited might subsequently have been acquitted of serious criminal charges. There are also issues of data protection and respect for privacy. This is especially true in relations with the country of origin of the person concerned, should that country not have the same standards regarding data protection, should it not be sufficiently respectful of human rights, or should the regime not be genuinely democratic.

2.24. The Committee agrees that establishing common definitions, or at least a list of acts that can unequivocally be termed acts of terrorism, would be helpful. However, it is concerned that the wordings used may be too general, making them susceptible to being applied to situations that have no relation to terrorism, as in the case of political or social conflicts for instance. The requirements in terms of evidence must be strict and the personal degree of involvement of the person must be taken into consideration. Nonetheless, the Union needs convergent, universally accepted criteria to avoid any risk of slippage or of significant divergences in assessments.

2.25. A separate problem arises regarding the treatment of people who have been excluded from protection status but who cannot be 'expelled', and who are suspected of being guilty of serious crimes or terrorism. If they do not fall within the jurisdiction of an international court, thought must be given to ways of trying them (universal jurisdiction) and more generally dealing with them, in accordance with human rights obligations, during their presence on Community territory. The Committee is aware that this is a difficult issue and that detention must be justifiable under domestic law and under international human rights law. House arrest might be another alternative, but that would be to deny justice to the victims, should a crime go unpunished.

2.26. As regards Chapter 3 on the approximation of legislation and administrative practices, the Committee would refer to its opinion on minimum standards for refugee status ⁽¹⁾.

2.27. The Committee would nevertheless stress that an accumulation of additional rules must not be allowed to lead to a more restrictive common approach. It points out that increasingly diverse ways of questioning the rights and physical or moral integrity of people, not necessarily on the part of a State, call for a more open and extensive approach to the Geneva Convention. The Union must define itself as a place where human rights are universally protected, and adapt its asylum policy accordingly.

2.28. Lastly, Chapter 4 examines asylum seekers, refugees and migrants from the perspective of 'internal security'.

2.29. Before even beginning to examine the working document's proposals, the Committee wishes to stress that no link should be made or even suggested between international terrorism and asylum seekers or migrants. The mere suggestion officially of the possible existence of such a link could encourage xenophobic and racist organisations and ideas. On

the contrary, in accordance with the Union's anti-racism and anti-discrimination policies, efforts should be made to prevent the spread of these intolerant notions.

2.30. The document recommends a review of existing Community internal security measures 'in the light of the new circumstances'. While there has been an escalation in the level of terrorist crimes committed in the United States, it should be noted that the organisation said to be responsible is currently being hunted down internationally, and the risk of terrorist activities remains constant. If the provisions currently applying in Europe prove to be ineffective in protecting European territory or if they allow the EU to be used as a base for organisations operating in third countries, they should be revised. The Committee would recommend conducting such a study and then going on to plan changes or adjustments that prove useful in the light of that study.

2.31. The granting of temporary protection in cases of mass influxes of refugees ⁽²⁾ must not mean that the people concerned are granted less protection; and this temporary protection must not become a permanent substitute for asylum. The rules governing exclusion from that protection must be as strict as those relating to the protection arising from the right to asylum and refugee status.

2.32. The Committee would question whether the EURO-DAC identification system is really acceptable for asylum seekers, who are not committing any crime and are simply asking to benefit from an internationally recognised right. This system, which was approved by the Council as part of a reinforcement of internal security, jumbles asylum seekers with people who have crossed borders illegally, collecting their identities and their fingerprints in order to make them accessible to all European police forces.

2.33. The Committee remains in favour of suspending the asylum procedure in the case of international criminal procedures or extradition cases, as explained earlier, as opposed to immediate exclusion under the inadmissibility procedure.

2.34. With regard to point 4.3.2 of the Commission document, the Committee would underline that the criterion of financing an organisation linked with terrorism must be treated with care. Charities, aid organisations and political organisations can be linked with terrorism without the donors realising. It must therefore be proved in all cases that the donors are fully aware that their contributions go directly towards financing terrorist activities.

⁽¹⁾ See the ESC opinion on the Proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection (Rapporteur: Ms Le Nouail-Marliere).

⁽²⁾ See the ESC opinion on this subject in OJ C 311, 31.10.2000 (rapporteur: Ms Cassina).

2.35. Furthermore, participation in political, trade-union, religious or other associations should not be assimilated with terrorist activities simply because members or leaders of those associations have proven links with the perpetrators of terrorist crimes. There must be proof of criminal intent and conscious and fully-informed involvement; and this is not demonstrated by mere membership of an association of this kind, which may have a legal or de facto presence in an EU or third country.

2.36. The fact that an organisation that would not involve itself in actions of a terrorist nature might offer political justification for armed actions under certain circumstances while itself advocating peaceful political action should not mean that it and its members and the people who support it financially are automatically accused of complicity in terrorism.

2.37. The Committee would suggest that a common and restrictively defined conception of the crimes of terrorism and complicity in terrorism can be reached using the open coordination method envisaged by the document.

2.38. In point 4.4.3 of its working document, the Commission proposes amending various articles of the proposed directive on the status of third-country nationals who are long-term residents. These proposals include the deletion of Article 13(7) which prohibits the use of emergency expulsion procedures against long-term residents. The Committee thinks that in cases where there are grounds for believing that a long-term resident poses a terrorism-related threat, the ordinary expulsion procedure should be used.

3. Conclusions

3.1. The Committee fully supports coordinated action against terrorism at Community level and the open coordination method recommended by the Commission⁽¹⁾. However, it calls for great caution and very careful thought regarding preventive and punitive measures, notwithstanding the justifiable depth of emotion aroused by the unspeakable

⁽¹⁾ See the ESC opinion on this subject, to be adopted at the plenary session on 29-30 May 2002 (rapporteur: Ms zu Eulenburg).

attacks perpetrated in the United States on 11 September, and other terrorist crimes committed in various EU and third countries.

3.2. It calls on the Commission, and more broadly on all the institutions, to ensure that common anti-terrorism policies and measures respect international commitments, in particular universal and regional instruments aimed at protecting human rights. In all cases, priority must be given to safeguarding the rights and dignity of refugees and asylum seekers.

3.3. The principle of non-refoulement must continue to shape common and national policies relating to refugees and asylum or protection seekers. Every case must be examined individually, and effective means of appeal must be made available to anyone refused protection.

3.4. Lastly, policies relating to refugees and asylum seekers must not be confused with policies relating to migration. Furthermore, these policies must not in any way foster racist or discriminatory ideas that seek to make people from third countries scapegoats for social problems and crime, and incite hatred and the rejection of 'strangers'.

3.5. The right to seek asylum and protection under the Geneva Convention and Protocol or other forms of protection must not under any circumstances be undermined or denied by anti-terrorism, internal security or migration policies, or by emergency responses to influxes of refugees caused by conflicts, such as that in the Balkans. Greater solidarity is needed in the reception of mass influxes of refugees.

3.6. While reasserting that the safeguarding of human rights and international protection instruments must be given priority over all other considerations, the Committee is aware that the common policy for internal security and fighting terrorism needs improving. Without questioning political and humanist ethics there must be effective protection for people and property, and to that end a balance must be struck between the differing requirements involved in protecting the various rights and freedoms.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICH

Opinion of the Economic and Social Committee on the 'Proposal for a Council Decision amending Decision 1999/311/EC adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006)'

(COM(2002) 47 final — 2002/0037 (CNS))

(2002/C 149/10)

On 28 February 2002 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 April 2002. The rapporteur was Ms Florio.

At its 390th plenary session (meeting of 24 April 2002), the Economic and Social Committee adopted the following opinion unanimously.

'Co-operation on higher education strengthens and deepens the whole fabric of relations existing between the peoples of Europe, brings out common cultural values, allows fruitful exchanges of views to take place and facilitates multinational activities in the scientific, cultural, artistic, economic and social spheres.'⁽¹⁾

1. Co-operation in the field of higher education: the reasons for the Tempus programme

1.1. The Tempus programme was launched in 1990 as a programme for co-operation in the field of higher education, conceived as an integral part of the programmes to provide assistance for economic and social reforms in the central and eastern European countries, the republics of the former Soviet Union, and Mongolia.

1.2. Over the last ten years the programme has undergone a series of changes and adjustments, mainly due to the development of relations between the European Union and the CEEC, so that in 1993 — by which time 11 countries were eligible to join the programme — it was decided to extend the programme to include the countries of the former Soviet Union. The programme was thus further modified twice (Tempus II and Tempus II A) with the inclusion of the New Independent States.

1.3. The need was to encourage a comparative system and far-reaching structural reforms in the higher education sector, so as to create in the central and eastern European countries and the former Soviet Union a modern academic teaching

methodology equal to the challenges of radically changing socio-economic systems, with the aim of strengthening democratic institutions and ensuring peaceful coexistence among all the peoples of the continent.

1.4. As the geo-political situation changed, the Balkans region was therefore also included in the programme in successive stages, on the principle that co-operation in the university sector could consolidate and markedly improve the young democracies of the Balkans. At present, Croatia, Albania, Bosnia Herzegovina and the FYROM, followed by the Federal Republic of Yugoslavia, belong to the group of countries included in the Tempus programme.

1.5. Initially the Tempus programme identified three priority areas:

- 1) support for curricular reforms in education programmes;
- 2) reform of the structures of higher education and of their management;
- 3) development and integration of higher training, with a view to bridging the current gaps between the different higher education systems. The reforms are essentially aimed at changing the entire model of higher education, particularly in the former socialist countries, adapting it to the necessary economic reforms, and improving and strengthening the link with the world of work.

⁽¹⁾ Council Decision of 29 April 1999 adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006), 1999/311/EC — OJ L 120, 8.5.1999, p. 30.

1.5.1. All this is implemented mainly through the JEPs (Joint European Projects managed by networks of institutions) and individual bursaries for visits to partner countries awarded to teachers, researchers, trainers, administrators from universities and educational systems, senior ministry officials and training experts. Such visits, which cover a rather broad range of activities, can make a decisive contribution to better understanding between different cultures and to bringing them closer together.

2. Tempus III: extending the programme to the MEDA countries

2.1. By amending Decision 1999/311/EC, the Council now wishes to extend the application of the Tempus programme to include certain Mediterranean countries which already benefit from the European Union's MEDA programme.

2.2. With the adoption of the partnership decision, the Tempus programme would thus be extended to Morocco, Algeria, Tunisia, Egypt, Jordan, the Palestinian Authority, Syria and Lebanon.

2.3. It has become necessary to include such countries to redress imbalances which have gradually arisen in the co-operation programmes, especially in the higher education sector; the need also arises from the strengthening of co-operation and dialogue with eligible countries in the Mediterranean area.

2.4. It is envisaged that Israel, too, could join the Tempus partnership; however, its participation would be self-funded, since the country does not currently belong to the MEDA bilateral agreements.

3. General comments

3.1. It is extremely important to include the countries on the southern shore of the Mediterranean in the programme, because this would boost the chances of greater integration between the countries of the European Union and a geographical area whose economic potential has not yet been adequately developed.

3.2. Such co-operation, the roots of which go as far back as the 1960s, was significantly extended in the 1990s and received a decisive boost from the Barcelona Declaration, adopted in November 1995 at the Euro-Mediterranean Conference.

3.3. The ESC itself has also recently emphasised the need for closer co-operation with the Mediterranean countries⁽¹⁾, in the light of the events of 11 September 2001, and regarding the Barcelona Declaration as an essential instrument for meeting the needs of these countries and facing the challenges posed by relations with them.

3.4. This process of strengthening inter-Mediterranean co-operation has also benefited from the contribution made by the Lisbon Declaration, which stresses the importance of education and training as valuable instruments which can provide a highly qualitative approach to meeting the challenges of an increasingly integrated market.

4. Thus, in view of the increasingly pressing need to strengthen co-operation between the European Union and the eligible Mediterranean countries, the Committee is in favour of their joining the Tempus III partnership, for a variety of reasons relating to the nature of the programme itself and that of international relations.

4.1. First and foremost, the Tempus III programme has already shown itself to be an effective instrument for developing inter-university co-operation and the exchange of experience and know-how between the beneficiary countries.

Secondly, the structure of the programme is simple and easily adaptable, making it easy to apply to countries in a variety of regions.

4.2. The types of projects and general activities envisaged constitute the basic instruments for achieving the aims and priorities set by the third countries themselves. This is also shown by the fact that the structure of the programme has been copied a number of times in applying the EU's policy for co-operation with other regions of the world (LINK, ALFA, MED-Campus).

4.3. It is also worth mentioning that, after the failure of the MED-Campus programme (due more to management problems than to structural ones), inter-university co-operation with eligible Mediterranean countries was entirely suspended, thus breaking a precious link for bringing peoples closer together and developing mutual understanding. We believe that including these countries in the Tempus programme is now the best instrument for reviving this type of co-operation.

4.4. In this context it will be important to develop an adequate information system, for a broader dissemination of the programme in all university and higher training establishments.

4.4.1. The Committee advocates the setting up of an electronic information system between higher education establishments which would further strengthen this type of scientific and cultural cooperation.

⁽¹⁾ Own-initiative opinion of 18 October 2001 — OJ C 36, 8.2.2002.

4.5. The Committee also undertakes to follow the progress of the programme, so as to inform the socio-occupational organisations of the Mediterranean countries with which it has built up close, fruitful cooperation over a period of years, and encourage them to take part in Tempus MEDA.

4.6. The Committee also hopes that the activities carried out under the Tempus programme will be integrated with those envisaged under other programmes, such as the 6th Framework Programme on research and development, and will take account of other initiatives, particularly that on the European Education Area, which should be extended to include the Mediterranean countries.

Brussels, 24 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'ACP-EU Partnership Agreement'

(2002/C 149/11)

On 28 February and 1 March 2001, in accordance with the third paragraph of Rule 23 of its Rules of Procedure, the Economic and Social Committee decided to draw up an opinion on the 'ACP-EU Partnership Agreement'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 April 2002. The rapporteur was Mr Baeza Sanjuán.

At its 390th plenary session of 24 and 25 April 2002 (meeting of 24 April 2002) the Economic and Social Committee adopted the following opinion by 101 votes in favour with two abstentions.

1. Introduction

1.1. ACP-EU cooperation has its roots in the Treaty of Rome where the signatories expressed their solidarity with the overseas colonies and territories and undertook to contribute to their prosperity. The Yaoundé I and II Agreements (1963-1969 and 1969-1975 respectively) regulated relations between the EEC Member States and the ACP countries for the first time. In 1975 the Lomé I Convention was signed; it was revised every five years until the expiry of Lomé IV in 2000.

1.2. For a long time the Lomé Convention was regarded as a model for international cooperation agreements because of its innovative nature. The principle of equality between partners, the linking of trade and aid (with price stabilisation mechanisms and protocols on specific products), the gradual introduction of reciprocal political commitments and the creation of a joint institutional framework made the Lomé Convention a yardstick in international relations.

1.3. However, the political changes which occurred during the 90s called into question this model of EU/ACP relations. Some of the provisions which formed the fundamental commercial basis of the Lomé Convention were incompatible with the new rules established by the World Trade Organisation (WTO). The practical implementation of the Convention turned out to be difficult because of complex procedures which prevented full use of the resources potentially available. Despite the Convention's provisions, the relative share of the ACP countries in EU trade continued to fall and the outlook for the development of these countries was, with a few exceptions, bleak. Poverty increased, exacerbated by a proliferation of armed conflicts. The increase in emergency humanitarian aid bore witness to the shortcomings of long-term development policies, not to mention the fact that some aid did not reach its final destination, not infrequently because of corruption. The end of the bipolar international order favoured the emergence of two aspects where Lomé was clearly deficient: a political dimension and its democratisation, through the effective participation of non-governmental players. Finally,

many ACP countries felt that the EU was losing interest in them and turning to the applicant and Mediterranean countries.

1.4. Against this background the European Commission launched a wide-ranging process of consultation and discussion on future EU-ACP relations, revolving around a green paper published in 1996 on which the EESC issued an opinion⁽¹⁾. The negotiations for the conclusion of the new agreement began formally in September 1998.

1.5. The Partnership Agreement was finally signed in Cotonou (Benin) in June 2000 by the 15 EU Member States and 77 ACP countries⁽²⁾. It will run for 20 years with five-yearly reviews and financial protocols. The Agreement strengthens political dialogue and rests on two fundamental pillars: trade and aid, matched by two main instruments: investment facilities and subsidies for promoting long-term development (national/regional indicative programmes — NIPs and RIPs). To these two pillars a third, equally essential, pillar must be added, namely the political dimension. The Agreement will run under the supervision of the ACP-EU joint institutions.

1.6. The Committee welcomes the conclusion of the Agreement which avoids the possibility — advocated by some — of dispensing with a common regulatory framework for ACP-EU relations. This would have called into question one of the principal distinguishing features of EU external policy. The Committee also acknowledges the effort made to come up with a more readily understandable text than the previous conventions.

2. Objectives and principles of the Cotonou Agreement

2.1. The ultimate objectives of the Agreement are poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy. ACP-EU cooperation rests on certain fundamental principles:

- equality of the partners and ownership of the development strategies, i.e. it is for the ACP countries to define their own economic and social development strategies in all sovereignty;

- participation of other actors (private sector, economic and social players — including trade union organisations, civil society in all its forms), in addition to central government, in the ACP-EU partnership;

- pivotal role of dialogue and mutual commitments;

- differentiation according to characteristics and needs of each partner⁽³⁾, and regionalisation.

2.2. It is particularly appropriate and consistent that the Agreement should have as a reference framework (as is stated in the preamble) the international agreements adopted by most of the Member States and ACP countries, such as the Universal Declaration of Human Rights, the relevant ILO standards, and the commitments emanating from various UN conferences.

2.3. The Committee also welcomes the express recognition of the fact that the Agreement's objectives can only be attained by an integrated approach which takes account of the political, economic, social and environmental aspects.

2.4. From the text of the Agreement it may be deduced that one of the partners is basically a donor (EU) and the other a beneficiary (ACP). It should have spelt out clearly the importance and benefits to the EU of the full integration into the world economy and the sustainable development of the ACP countries. This would have underlined the solidity and reciprocity of the ACP-EU partnership.

3. The role of the new actors in the ACP-EU partnership

3.1. Generally speaking, while the Lomé Conventions were in force the role of non-State actors was limited to the implementation of small-scale projects financed under the 'decentralised cooperation' budget line. Even then, the organisations representing economic and social groups encountered great difficulties in accessing the Convention's resources, on account of both the complexity of the procedures and the widespread lack of political will to facilitate their participation.

⁽¹⁾ Opinion on the Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century — challenges and options for a new partnership, rapporteur: Mr Malosse (OJ C 296, 29.9.1997).

⁽²⁾ Cuba is the only ACP country which has still not signed the Cotonou Agreement.

⁽³⁾ The differentiation applies particularly to the LDCs.

3.2. The Cotonou Agreement marks a turning point in this respect. Among the main innovations which it introduces, its participatory approach should be highlighted. This is manifested in the desire to broaden the ACP-EU partnership to embrace a whole range of non-State actors, including local authorities. The provisions relating to the participation of non-State actors are contained in more than thirty articles, in a final declaration and in Annex IV on implementation and management procedures. The references most representative of this new approach are included in the 'Fundamental principles' (Article 2) and in Chapter 2, devoted entirely to 'the actors of the partnership'.

3.3. The Agreement provides for the full participation of the new actors in ACP-EU relations, in particular by means of:

- consultation on cooperation policies and strategies, and on political dialogue;
- provision of financial resources;
- involvement in the implementation of cooperation projects and programmes in areas that concern them or where they have a comparative advantage;
- provision of capacity-building support in order to reinforce their capabilities and establish consultation mechanisms.

3.4. The provisions of the Cotonou Agreement represent a major step forward on the road towards more democratic ACP-EU relations in that they envisage the involvement of new players in the definition of development policies and strategies. The complementary role of the new actors and of the government should be — and indeed is — specially stressed: they are not competing for the same space but each should provide their own added value in those areas where they can show they have a comparative advantage, thus contributing to the economic development and social well-being of their respective countries. The positive contribution of non-State actors to the consolidation of stable and democratic political systems cannot be underestimated. It should also be stressed that the full involvement of non-State actors in framing national development strategies and sectoral strategies in focal sectors is a *sine qua non* for the implementation of effective anti-poverty policies, the integration of the ACP countries into the global economy and for sustainable development — central objectives of the Agreement. For this reason it is hard to understand why broad consultation is provided for in national programmes, but is seen as merely a possibility at regional level. Finally, it is a good thing that new actors are explicitly not equated exclusively with NGOs.

3.5. Nevertheless, the involvement of new actors as envisaged in the Agreement also raises a number of serious questions. Firstly, the definition of the actors — which is always difficult — is imprecise and has overlaps, and could therefore lead to arbitrary choices by some governments. There is no denying the difficulty of establishing traits which identify clearly and unequivocally the representative non-State actors of 77 different countries. Even so, it is unacceptable that it may be inferred from the Agreement (Article 6b and declaration on the actors of the partnership) that the private sector does not belong with the economic and social partners and that the latter, for their part, are not included in civil society. Such a definition clearly runs counter to current practice in the EU and is merely likely to sow confusion.

3.6. More worrying is the lack of instruments to bind non-State actors into the ACP-EU partnership. It is true that the Agreement provides for incentives and it is unrealistic to expect overnight changes in the political culture of many governments, traditionally little inclined towards power-sharing with organisations representing civil society. Nevertheless, the legitimacy of the Agreement would be seriously jeopardised if one of its central and most innovative planks were infringed with impunity.

3.7. It should be stressed that the Agreement (or its application, through the programming guidelines) expressly provides for the access of non-State actors to three kinds of financial resources: strictly Community budget lines, European Development Fund (EDF) resources earmarked for the focal sectors identified in the National Cooperation Strategy, and EDF funds which can be accessed directly by non-State actors, with a ceiling of 15 % of the total allocated to the National Indicative Programme. Their primary use will be to finance information, consultation, dialogue promotion and capacity-building activities. The possibility for non-State actors to access directly some of the resources allocated to the NIPs (another innovation in the Cotonou Agreement), and for these to be managed directly by the European Commission delegations in each country, is a highly positive step. Nevertheless, there is no doubt that uncertainties persist: the choice of actors eligible for the funding requires the express consent of the national authorising officer (NAO), the government representative who traditionally has had a proprietary perception of the funds and may be tempted not to share them with players who have a critical or merely differing opinion of his activities. It is therefore essential to ensure that all the representative actors have the chance to access, without discrimination, the resources flowing from the Agreement. Nor should the principle of focusing resources work against the access of new actors to these resources.

3.8. The programming exercise is currently still in its infancy. Nevertheless, an initial assessment may be made of this process on the basis of the information gathered by the EESC⁽¹⁾. Although there has been an increase in information and consultation of non-State actors, much remains to be done: in general terms, information on the Agreement has not been adequately disseminated or is still difficult to access; consultation — where it has taken place — has not as a rule been systematic or regular and in some cases representative organisations have been excluded. The current programming should be used to initiate a learning process for all parties, which will not be easy, and to check whether they are actually beginning to move in the right direction. For this reason a specific assessment of the level of consultation and use of resources by non-State actors should be included in the annual, mid-term and end-of-term operational reviews. Similarly the international organisations representing civil society, together with the European Economic and Social Committee, could cooperate effectively with the European Commission and the joint ACP-EU institutions in identifying the difficulties encountered and highlighting the most fruitful experiences.

4. Political dimension

4.1. The Cotonou Agreement, compared with previous conventions, substantially reinforces the political dimension of ACP-EU relations. Political dialogue, a commitment to respect all human rights and fundamental freedoms (with a specific mention of fundamental social rights, democracy based on the rule of law and good governance), peace-building policies and conflict prevention occupy a central place in the political dimension of the Agreement. This is a new approach, based on shared values reflected in key elements of the Agreement.

4.2. The Committee welcomes the boost given to the political dimension in the present Agreement and in particular the unequivocal link established between the afore-mentioned commitments and sustainable development. This is an explicit recognition of the fact that development is a concept which cannot be confined to purely technical considerations. The reference to the involvement of civil society as an element contributing to the consolidation of a stable and democratic political environment, and its role in peace-building, conflict prevention and resolution, along with its involvement in the political dialogue, should also be highlighted. In this connection, the implementation of the Agreement should

encourage the effective involvement of non-State actors in the consultation procedures concerning respect for human rights, democratic principles, the rule of law and corruption, as provided for in Articles 96 and 97.

4.3. The Agreement does not, however, contain instruments for guaranteeing the effective protection of the political principles enshrined therein; because of their general wording, different criteria can be applied in different countries. Although recourse to sanctions should be an exception, more precise criteria should have been established for the protection of emergent democracies, with sanctions against gaining power through violence (especially against democratic regimes), measures for combating corruption and respect for basic standards established by the ILO. These are fundamental principles of the Agreement which deserve greater support; their practical application should have been guaranteed.

4.4. The political dimension of the Cotonou Agreement means putting into practice new working methods, forms of cooperation, indicators and channels of dialogue. The great challenge will be to involve all of society in sharing and implementing the values expressed in the Agreement. To this end it will be essential to promote dialogue between State and non-State actors.

5. Development strategies

5.1. The development strategies, along with economic and trade cooperation, constitute the cooperation strategies of the Cotonou Agreement. The principles, objectives and approach of the development strategies are appropriate. Similarly, the focus on four selected areas of support (economic development, social and human development, regional cooperation and integration, and cross-cutting issues — gender issues, environment and institutional development) should be welcomed.

5.2. Generally speaking, however, there is a question-mark over the degree of coherence between the two pillars which comprise the development strategies; in particular the links between economic and social development, especially as regards training (basic and vocational) and health protection, should have been highlighted more precisely.

5.3. With regard to economic development, the Committee regards the important role assigned to the private sector throughout the Agreement as appropriate, including the measures designed to strengthen that sector. Similarly, the structural policies mentioned include strengthening labour market reforms, which, thus formulated, seems excessively vague and likely to be interpreted in very different, even contradictory, ways. Again, while agreeing with the objective of promoting employment, the Committee would have liked to see the adjective 'decent' added in accordance with ILO recommendations.

(1) The information that the Committee has on the involvement of civil society organisations — especially economic and social groups — in the current programming exercise comes from the European Commission, international socio-occupational organisations and the conclusions of the regional seminars organised by the ESC itself in various ACP countries.

5.4. It is worrying that the Agreement is less sensitive to environmental issues than its predecessors. For example, the Lomé Convention explicitly prohibited all direct and indirect exports of hazardous or radioactive waste between the EU and the ACP countries, while the Cotonou Agreement merely 'takes into account' issues relating to the transport and disposal of hazardous waste. The Agreement should have included an explicit reference to the relationship between environmental protection, food safety and poverty reduction, or — more broadly — studied in depth the concept of sustainable development. Just as it aspires to coherence and compatibility with international economic institutions, the Cotonou Agreement should have taken into account the objectives and instruments of international environmental conventions.

6. Economic and trade cooperation

6.1. While the various Lomé Conventions were in force (1975-2000), the ACP countries benefited from the most favourable trade arrangements granted to third countries by the EU: non-reciprocal trade preferences for most primary, industrial and processed products⁽¹⁾, commodity protocols and price stabilisation mechanisms for certain agricultural products (Stabex) and mining products (Sysmin). Nevertheless, the general reduction in customs tariffs in the wake of global trade liberalisation and the preferences granted by the EU to other developing regions (Mediterranean third countries, Mercosur, etc.) have meant that the ACP preferences have become relatively less valuable. It is estimated that after the Uruguay Round the ACP countries lost a preferential margin of over 30 %.

6.2. The record of these 25 years is disappointing: trade with the ACP countries has fallen from 8 % to 3 % of total EU trade. With a few exceptions, the ACP countries have not been able to increase, improve or diversify their products, unlike some other countries with fewer preferences. In general terms ACP trade has four distinctive features: marginalisation, dependence on raw materials, static specialisation and dependence on the European market. But, especially, Lomé demonstrated that a few percentage points of tariff preference cannot offset the shortcomings of other supply-side factors (lack of investment, inadequate infrastructure, low technological level, poor training, etc.) which determine the competitiveness of export products.

6.3. The Cotonou Agreement attempts to respond to WTO provisions which, in broad terms, prevent non-reciprocal trade preferences or preferences limited to a specific group of countries. This means that the trade arrangements granted to

the ACP countries will have to be extended to all developing countries or be brought into line with free trade agreements. Strictly speaking, therefore, Cotonou comprises not so much a trade agreement as a commitment to undertake the negotiation of trade agreements compatible with WTO rules.

6.4. Thus Cotonou stipulates that between 2002 and 2008 negotiations are to be held to conclude economic partnership agreements (EPAs) — free trade agreements — between the EU and the ACP countries. The present trading system will continue until 2008, thanks to a derogation granted by the WTO. The characteristic feature of the EPAs will be reciprocity, with the accent on negotiations with regional integration groups. The period 2008 to 2020 will be a transitional period for the implementation of the agreements.

6.5. With a view to facilitating the conclusion and implementation of the EPAs, a number of support measures have been provided for: partial compensation to offset the fiscal and balance of payments adjustments necessitated by liberalisation (financed by the EDF and EIB), cooperation on adjusting national to multilateral rules, and creation of a ministerial joint committee responsible for monitoring the negotiation of the EPAs and cooperation in international fora, especially in the WTO, which seems an excellent initiative.

6.6. The Agreement allows LDCs to decide that they are not in a position to negotiate an EPA. Whatever the case, the EU wishes to find a formula which, while compatible with WTO rules, enables products from these countries to have access to the European market without quantitative or tariff restrictions, in line with the 'Everything But Arms' initiative. Hence the Cotonou Agreement puts an end to non-discrimination between ACP countries, providing for different treatment for LDC and non-LDC countries.

6.7. The approach has changed radically. For 25 years Lomé placed considerable confidence in trade preferences as an engine of economic growth. Cotonou seems to transfer the same confidence to trade liberalisation, linking it to integration into the world economy, sustainable development and poverty eradication. The main dynamic effects expected from the EPAs are: promoting the process of regional integration; enhancing belief in the ability of the economic and trade policies of the ACP countries to remain 'anchored' to multilateral agreements; improving internal competitiveness; encouraging modernisation of tax systems; boosting investor confidence; and facilitating integration into the global economy. These dynamic effects could come to act as genuine catalysts for development.

⁽¹⁾ 92 % of ACP exports enter the European market duty free. 100 % of industrial products and 80 % of agricultural products are exempt from duty. If those products covered by protocols are added, only 1 % of products are subject to tariff protection.

6.8. Nevertheless, the EPAs raise not a few concerns, despite the long time-frames envisaged to negotiate and implement them, which would seem absolutely appropriate.

6.9. Firstly, the EU has expressed a wish that the EPAs be negotiated with ACP regional integration blocs. To date, however, these groups have been fragile; frequently their members do not share clear common interests or are involved in armed conflicts; furthermore, few of them have an adequate supranational structure to negotiate free trade agreements on behalf of their members. Plus the fact that both non-LDCs and LDCs are involved in regional integration, further complicating the negotiation of EPAs.

6.10. Secondly, about 20 % of government revenue in many ACP countries comes from customs tariffs. The abolition of duties on European imports (which could reasonably be expected to increase relative to other countries after the EPAs are signed) would roughly halve this revenue. Bearing in mind how difficult it is to diversify fiscal resources, national budgets could face serious problems⁽¹⁾. Besides, there is no guarantee that the fall in customs tariffs will be passed on in lower prices for ACP consumers and importers. For this reason the EPAs should identify those sectors and social groups potentially most affected by a possible reduction in public revenue and adopt appropriate corrective measures. Support should also be provided for the introduction of adequate tax arrangements based on a fair distribution of the burden between citizens in accordance with their income.

6.11. As far as trade is concerned, the main challenge facing the ACP countries will be their ability to respond to European competition. Numerous ACP countries have expressed anxiety at the difficult situation facing some sectors (especially agriculture) which could be at risk on account of their lack of competitiveness and the production, processing and export aid enjoyed by European products, even taking into account that the Agreement (Article 37(7)) allows for the protection of certain sensitive products.

6.12. For these reasons there is a risk that not only the LDCs but also an unspecified number of non-LDCs could avail themselves of the possibility of not signing an EPA and opt for

the System of Generalised Preferences (SGP). The SGP would offer reduced access to the European market, but would require less opening up of their own markets.

6.13. At all events, the liberalisation of trade must not be an end in itself. The principal objective of the EPAs must be to promote forms of sustainable development designed to combat poverty. To this end, appropriate machinery must be established (including capacity building) which enables the representatives of organised civil society — and in particular the economic and social groups — to be properly informed and consulted during the negotiation of the EPAs. Similarly, before the negotiations start an analysis should be carried out of the impact of the EPAs in each ACP country, pinpointing those economic sectors and social groups potentially most at risk.

6.14. The EPAs must help to attract foreign, especially European, investment. For this it will be necessary to adopt simple, transparent and non-discriminatory regulations and to create broader and more integrated regional markets.

6.15. In any case it should be pointed out that to guarantee the success of the EPAs all possible resources will have to be mobilised to put an end to the armed conflicts besetting certain African countries. For its part the European Union will have to pioneer a debt relief initiative (as it did in the trade sphere with the 'Everything But Arms' initiative), since repayments preclude any possibility of development for many ACP countries.

6.16. With regard to the other provisions included in the Title of the Agreement devoted to trade cooperation, the EESC also welcomes the inclusion, in connection with trade policy, of a specific reference to the commitment to core labour standards — as defined by the ILO — and the decision to enhance cooperation in this area, especially as regards the exchange of information on labour regulations, the formulation and strengthening of labour legislation, education and awareness-raising programmes, and enforcement of adherence to national labour regulations.

6.17. On the other hand, the Committee regrets that the article on maritime transport refers to cooperation to promote cost-effective and efficient services, but omits to mention that they should also be safe and of high quality. Some ACP countries act as flags of convenience and their registers do not include conditions ensuring compliance with international rules, nor do their crews always have the proper certificates.

⁽¹⁾ Jadot, Yannick: 'L'UEMOA et la CEMAC face à l'accord commercial de Cotonou', in UE-ACP: A nouvelle convention, nouvelle coopération? Comment appliquer les accords de Cotonou? Paris, GEMDEV, 2001. Similar views are expressed in various articles by Stephan Brune (Institut d'Etudes Politiques de Paris and Deutsches Übersee-Institut Hamburg), Bruno Losch, OECD Development Centre and Cotonou Infokit, and the European Centre for Development Policy Management.

7. EESC proposals for the implementation of the Cotonou Agreement

7.1. The Cotonou Agreement provides an appropriate legal and political framework for developing an effective partnership between the ACP countries and the European Union. Its provisions are a clear advance on Lomé since they build on an approach which integrates political, economic and social factors, while at the same time aiming to involve the whole population of the signatory countries. Nevertheless, the Agreement will only achieve full legitimacy when it is implemented; when it demonstrates that the principle of the ACP States determining their own development strategies is more reality than rhetorical device; when it provides tangible proof that the whole of organised civil society has the opportunity to participate actively in the preparation of the strategies for the development of their country and to access the resources released by these strategies.

7.2. The EESC would wish to contribute to the practical implementation of the Agreement in that area where it can best add value: proposing specific measures for the full participation of organised civil society in the furtherance of ACP-EU relations. First, however, the Committee welcomes the official recognition which the Cotonou Agreement accords it by entrusting it with the organisation of consultation meetings and meetings of ACP-EU economic and social operators. This recognition has strengthened the EESC's role vis-à-vis the Joint Parliamentary Assembly and the ACP-EU Council of Ministers ⁽¹⁾.

7.3. Beyond this institutional recognition, the EESC should continue disseminating information on the opportunities offered by the Cotonou Agreement to the representatives of civil society and drawing attention to any shortcomings in its implementation. The regional seminars already held have shown themselves to be a very useful tool in this respect, but if the Committee is to develop this role to the full it needs to take its cooperation with the international socio-occupational organisations a stage further.

7.4. As a preliminary comment, the EESC would express its concern that the implementation of the Agreement could be complicated unnecessarily and lose its coherence because responsibility for its implementation is shared between different directorates-general in the European Commission. The political dialogue is the remit of the External Relations DG, but the Development, Trade and AIDCO DGs also have major tasks in the future development of the Agreement. It is essential that this multiplicity of responsibilities does not impede full and effective application of the Agreement. The EESC is also confident that the new management procedures adopted by

the European Commission will help to ensure that greater and more effective use is made of the resources released by the Agreement. In particular the Committee hopes that, as anticipated, those ACP countries which adhere most closely to all the provisions will benefit from increased resources.

7.5. With a view to ensuring that the provisions of the Cotonou Agreement are implemented effectively, the EESC proposes the following:

7.5.1. with regard to the dissemination of information:

- the EU and the ACP States should ensure that the contents of the Agreement are widely publicised by all suitable means (information meetings at different levels, publications, new technologies, etc.);
- the European Commission should reinforce the delegations in the ACP countries, in line with the Agreement's new political guidelines. In particular, the representatives of civil society organisations should be guaranteed direct access to EU representations so that they can be fully informed about participation in drawing up development strategies and access to funding;
- the delegations of the European Commission and the ACP States should cooperate with the socio-occupational organisations so that the latter can circulate information on the Cotonou Agreement among their members.

7.5.2. with regard to capacity building:

- establish a regulatory framework that helps civil society organisations to flourish, in particular access to financing and local resources, and prevent these organisations being supplanted by non-representative organisations that are linked to a particular government;
- encourage and support the efforts of civil society organisations to strengthen their structures, build up networks, improve their representativeness and analytic capabilities;
- promote dialogue between organisations in the ACP States and between these organisations and their European counterparts, supporting the creation of networks, with special attention to the processes of regional integration, respect for labour rights, support for the private sector, protection of rural areas and of the environment;
- simplify the machinery whereby the representatives of civil society organisations can access the resources released by the new Agreement ensuring effective access for the representatives of economic and social interest groups;

⁽¹⁾ Cf. Cotonou Agreement, Protocol 1 on the operating expenditure of the Joint Institutions, paragraph 4, and Decision 1/2001 of the ACP/EU Committee of Ambassadors concerning the adoption of the rules of procedure of the ACP-EU Council of Ministers, Article 10 (OJ L 43, 14.2.2001).

- allocate, in the programming of each country, direct funding for non-State actors, as provided for in the programming guidelines, ensuring non-discriminatory access for the most representative organisations.

7.5.3. with regard to strengthening the consultative function:

- involve the representatives of civil society organisations from the outset in the process of applying the Agreement and in programming, so that they can contribute to drawing up development strategies in each of their countries;
- create or strengthen arrangements which enable the representatives of civil society organisations to be involved in the ACP-EU political dialogue and the negotiation of the EPAs;
- adopt or strengthen a participatory approach, establishing national and regional structures which promote dialogue between organisations representing civil society, and between these organisations and the public authorities;
- include a specific assessment of the level of consultation and use of resources by non-State actors in the annual, mid-term and end-of-term operational reviews;
- in turn, the ACP-EU Follow-up Committee will draw up an action plan for assessing the implementation of the Cotonou Agreement, the adoption of which will be submitted to the delegates participating in the 23rd meeting of ACP-EU economic and social interest groups, to be held in Brussels in the second half of 2002.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States'

(COM(2001) 257 final — 2001/0111 (COD))

(2002/C 149/12)

On 30 August 2001 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 27 February 2002. The rapporteur was Mr Rodríguez García Caro.

At its 390th plenary session on 24 and 25 April 2002 (meeting of 24 April) the Economic and Social Committee adopted the following opinion by 89 votes, with one vote against and 12 abstentions.

1. Introduction

1.1. In accordance with the principle of the free movement of persons, all Union citizens have the right to enter, move within, reside in and, where appropriate, to remain in a Member State other than that of which they are nationals.

1.2. The right of all Union citizens to live and travel freely within the territory of the Member States is enshrined in Article 18 of the Treaty establishing the European Community.

1.3. This right, extended to all citizens of the Member States under Article 8a of the Treaty on European Union, is part of citizens' legal heritage and, as such, must be developed within a common framework and regulated by a single legal instrument.

1.4. The right of entry and residence is currently governed by two regulations and nine directives, which cover different categories of citizens, from employees and self-employed persons to students, pensioners and persons not working, and their family members. This body of legislation lays down the specific conditions for the exercise of the right to entry and residence in the Member States in different situations.

The EEC Regulations concerned are:

- 1612/68/EEC on freedom of movement for workers within the Community.
- 1251/70/EEC on the right of workers to remain in the territory of a Member State after having been employed in that State.

The Directives concerned are:

- 64/221/EEC on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health.
- 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families.
- 72/194/EEC extending to workers exercising the right to remain in the territory of a Member State after having been employed in that State the scope of Directive 64/221/EEC.
- 73/148/EEC on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services.
- 75/34/EEC concerning the right of nationals of a Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity.
- 75/35/EEC on the extension of the scope of Directive 64/221/EEC.
- 90/364/EEC on the right of residence.
- 90/365/EEC on the right of residence for employees and self-employed persons who have ceased their occupational activity.
- 93/96/EEC on the right of residence for students.

1.5. Back in March 1997, at the request of the Commission, the High Level Panel on the free movement of persons made 80 recommendations aimed at removing obstacles to the free movement of citizens of the Union. One of the seven headings of the recommendations was entry and residence in the Member States.

1.6. Initially, the rights of entry and residence concerned only persons moving for the purposes of work. These rights were later extended to all citizens which, according to the Commission communication to the European Parliament and the Council on the follow-up to the recommendations of the High Level Panel on the free movement of persons⁽¹⁾, has meant that 'beneficiaries have been compartmentalised in a way that is no longer in keeping with modern forms of mobility or with the establishment of citizenship of the Union.'

1.7. The current rules, designed primarily to deal with the situation of workers moving with their families to reside for a long period of time in another Member State, are ill-suited to the kind of mobility that has become commonplace over recent years.

1.8. The Commission communication referred to above set out guidelines for the legal framework governing movement and residence. The proposed principles were as follows:

- 'the creation, in so far as possible, of a single set of rules on free movement within the meaning of Article 8a for all citizens of the Union and the members of their families;'
- 'a new approach to exercising the right to reside, particularly by restricting the obligation to hold a residence permit to situations where this is justified;'
- 'a clarification of the status of those members of the family of a citizen of the Union who are nationals of a third country;'
- 'clearer restrictions regarding the possibility of curtailing the exercise of the right to reside.'

1.9. Likewise, one of the conclusions of the Report from the Commission to the Council and the European Parliament on the implementation of Directives 90/364/EEC, 90/365/EEC and 93/96/EEC⁽²⁾ was the need to make Community law on the free movement of persons more accessible, to base it on the concept of citizenship of the Union and to start to examine fundamental changes to the existing law.

1.10. Against this background, and in the light of the case-law of the Court of Justice, the Commission has published this proposal for a Directive, and refers it to the European Economic and Social Committee for its opinion.

2. Content of the proposal

2.1. The legal basis for the proposal is provided by the following articles of the Treaty establishing the European Community:

- Article 12, which prohibits discrimination on the grounds of nationality.
- Article 18, which establishes the right of Union citizens to move and reside freely within the territory of the Member States and allows the Council to adopt decisions on the rights of movement and residence.
- Article 40, which states the need to adopt measures to guarantee free movement for workers.
- Article 44, which guarantees freedom of establishment.
- Article 52, which deals with the liberalisation of services.

2.2. The proposal for a Directive consists of 39 articles, divided into seven chapters.

2.2.1. The first chapter contains the general provisions, which state the objective of the directive, specify the areas concerned, identify the beneficiaries and establish the principle of non-discrimination.

2.2.2. The second chapter deals with the right to move and to reside for up to six months.

2.2.3. The third chapter concerns the right of residence for more than six months.

2.2.4. The fourth chapter concerns the right of permanent residence. It deals with how this is acquired and the administrative formalities that must be completed.

2.2.5. The fifth chapter lays down the provisions common to the right of residence and the right of permanent residence with regard to territorial scope, related rights, equal treatment, checks by the authorities and the procedural safeguards by which citizens are protected.

2.2.6. The sixth chapter deals with restrictions on this right, the procedure which applies, safeguards for citizens and the duration of exclusion orders.

2.2.7. The seventh chapter contains the final provisions, which include the repeal of the nine directives currently in force.

2.3. Since this proposal for a directive replaces the nine directives listed in the introduction to this opinion, it constitutes a genuine simplification of Community law on movement and residence, which serves not only to simplify the legal framework, but also to reduce the administrative formalities that Union citizens must complete in order to be able to exercise these rights.

⁽¹⁾ COM(98) 403 final.

⁽²⁾ COM(1999) 127 final.

2.4. As well as scaling down and condensing the existing legislation, the proposal introduces new features and improvements which directly concern citizens moving to Member States other than those of which they are nationals. The most noteworthy are listed below:

- Broadening of the concept of 'family member' to include non-dependent relatives in the ascending line, non-dependent descendants over the age of 21 and unmarried partners.
- Extension of the period for which non-EU nationals can stay in a Member State without having to go through any legal formalities from three months to six months.
- The requirement for a residence permit is removed. This now only applies to family members who are non-EU nationals.
- Introduction of *bona fide* declaration of gainful employment, sufficient resources and sickness insurance for the purposes of residence.
- Introduction of permanent residence after four years of continuous residence.
- Simplification of the administrative formalities and deadlines applying to exercise of the right of residence.

3. General comments

3.1. The Committee welcomes and generally approves the proposed directive, subject to the specific comments set out below.

3.2. Under the Treaty establishing the European Community, the internal market is an area without internal borders in which the free movement of goods, persons and services is guaranteed in accordance with the provisions of the Treaty. The free movement of capital, services and goods is now far advanced in the Union, but has not been accompanied by genuine freedom of movement and residence for citizens within the territory of the Union, which is recognised explicitly under Article 18 of the Treaty and reiterated in Article 45 of the Charter of Fundamental Rights of the European Union. This new initiative could give citizens improved access to a right to which there are currently numerous obstacles.

3.3. While it does not form part of the legal basis of this proposal, the Committee believes that in accordance with Article 13 of the Treaty, the right of movement and residence should not be the subject of derogations or discrimination of any kind.

3.4. The Committee notes that the proposed directive is a step forward in that it comprehensively recognises the right of every Union citizen to move and reside freely in any Member State.

3.5. The simplification of legislation through the replacement of nine different directives is a worthwhile exercise. The complexity of the rules and citizens' lack of knowledge of their rights make it difficult for them to exercise these rights. In view of this, the Commission should mount an information campaign on this directive, in which it would have the support of the Committee.

3.6. This simplification of legal texts is accompanied by a streamlining of administrative formalities, procedures and deadlines, which will benefit the citizen, as enjoyment of this right will be more accessible and less bureaucratic.

3.7. The Committee approves the Commission's decision to enlarge the scope of the definition of 'family member'. A wider definition of who counts as a family member is more in tune with the realities of the modern world and shows greater sensitivity to circumstances affecting all Union citizens.

3.8. The Committee expresses its satisfaction with the improvements introduced in the proposed directive. The free movement of persons and their residence in a Member State other than their own can only be based on the free wishes of the Union citizen. The exercise of this right may not be impaired by any repercussions it may have for the various administrative authorities. The EU in general and the Member States in particular must take whatever measures are necessary to ensure that the freedom to move and to reside as set out in this directive can be exercised by citizens without prejudice of any kind.

3.9. The abolition of Member States' right to fix the minimum amount of economic resources persons not working and retired persons must possess in order to reside in their territory is another improvement which should be highlighted. The Committee endorses the general thrust of Articles 7 and 21 of the proposal for a directive. Establishing minimum resources in each state affects freedom of movement and puts areas of the Union off limits to certain citizens because they lack the means.

3.10. Given the nature of the present proposal and the legislative procedure envisaged for it (co-decision and unanimity for its final adoption), the Committee, in accordance with Article 262 of the Treaty establishing the European Community, will decide on the most appropriate way of monitoring its progress.

4. Specific comments

4.1. Article 7(1)(c)

4.1.1. The conditions governing right of residence for more than six months extend this right to students admitted to a course of vocational training.

4.1.2. The Committee understands the general word 'student' to include all persons who pursue studies in a centre of learning; restricting sub-paragraph (c) to students undergoing vocational training excludes in practice all other students and places a semantic restriction on the right of movement and residence, notwithstanding the broad meaning of 'vocational training' as interpreted in the Gravier ruling.

4.1.3. The Committee can see no grounds for distinguishing between different types of student, and thus considers that the Commission must replace the reference to 'vocational training' with 'student admitted to a course of training'.

4.2. Article 12(3)

4.2.1. This article deals with retention of the right of residence by family members in the event of the Union citizen's death or departure from the host Member State. Paragraph (3) states that the departure of the Union citizen shall not entail the loss of the right of residence of his/her children who are not nationals of a Member State if they are enrolled in an educational establishment.

4.2.2. Paragraph (3) does not cover the case of the mother, father or guardian if s/he too is not a national of a Member State. The logical conclusion is that the children can remain, but the mother, father or guardian must leave the host country when his or her spouse departs. In other words, the children must remain alone in the host country without the proper guardianship of any parent or guardian.

4.2.3. The Committee considers that if the children remain in the Member State to study in an educational establishment, the mother, father or guardian should, if s/he so desires, be able to reside with them until they reach the age of majority. The Committee hopes that its views will be further reinforced by the ruling of the Court of Justice in the Baumbast case.

4.3. Article 13(2)(c)

4.3.1. This article concerns the right of residence of family members in the event of divorce or annulment of the marriage.

4.3.2. Sub-paragraph (2)(c) states that divorce or annulment of marriage shall not entail loss of the right of residence of family members who are not nationals of a Member State 'where this is warranted by particularly difficult circumstances.'

4.3.3. The Committee regards this expression as ambiguous and imprecise, especially when the explanatory memorandum to the proposal acknowledges that the wording is vague and is meant to cover situations of domestic violence. The Committee considers that the wording should be more explicit, referring, *inter alia*, to family, domestic or gender violence, both psychological and physical in nature.

4.4. Article 14

4.4.1. This article lays down the general rules applicable to the acquisition of the right of permanent residence. To be able to exercise this right, a minimum period of four years of continuous residence is required. It further stipulates that the right may be lost in the event of more than four years' continuous absence.

4.4.2. The Committee recognises that this proposal represents an advance on the rules it is designed to replace, and considers that provision should be made for the possibility of exercising this right without the need to prove a specified period of residence.

4.5. Article 21(2)

4.5.1. This article states that, under the common provisions on right of residence and right of permanent residence, Union citizens and their family who are not nationals of a Member State shall enjoy equal treatment with the nationals of that country.

4.5.2. Paragraph (2) contains a derogation to the effect that students and other persons not engaged in gainful activity are not entitled to social assistance or sickness insurance, which obviously includes the right to health care, until they have acquired the right of permanent residence.

4.5.3. The Committee considers that the right to health is a fundamental human right and that the present wording of this paragraph violates it. In the Committee's view, the right to receive health care in the event of need should be excluded from the restrictions imposed by this article.

4.6. Article 25(2)

4.6.1. This article sets out the general principles governing the restrictions on the right of entry and residence on grounds of public policy, public security and public health.

4.6.2. Paragraph (2) states that previous criminal convictions do not in themselves constitute grounds for refusal of the right of entry or expulsion from the territory of a Member State of a Union citizen or family member.

4.6.3. The Committee considers, however, that some situations are sufficiently serious to warrant exclusion from the provisions of this paragraph. It should be qualified further, on the basis of the principle of proportionality, to provide for cases where persons are found to have previous convictions for crimes such as terrorism, trafficking in weapons or drugs and crimes against the person.

4.7. Article 25(4)

4.7.1. The fourth paragraph of this article allows the host Member State to request the Member State of origin or any other Member State to provide the necessary information on any previous police record of a Union citizen or family member, though such enquiries may not be made as a matter of routine.

4.7.2. The Committee considers that where they deem it necessary, the Member States should have the right to request the previous record of persons wishing to enter or reside in their territory.

4.8. Article 28(1)

4.8.1. This article concerns the notification of the persons concerned of any decisions to refuse them leave to enter or to expel them. The first paragraph states that they shall be notified in such a way that they are able to comprehend the content of the decision and what it entails for them.

4.8.2. The explanatory memorandum to the proposal contradicts the content of this article, stating that the wording used does not mean that the decision has to be translated into the language of the person concerned, particularly where it is a lesser known language.

4.8.3. The Committee considers that the best way of understanding a decision which curtails a right is to receive it in a language that is understood by the person concerned. It therefore believes that Union citizens should be entitled to receive this document in the language of the State which issues it and in the language of the Member State of which they are nationals.

4.9. Article 28(2)

4.9.1. The second paragraph enables the Member States not to notify the persons concerned in writing of decisions if this is contrary to the security interests of the State.

4.9.2. The Committee considers that this measure would leave the person concerned unable to defend themselves at law. This paragraph should therefore be deleted.

4.10. Article 30

4.10.1. Paragraph (1) states that Member States may not ban persons covered by this directive from their territory for life. Accordingly the second paragraph enables those citizens who have been expelled to submit a new application for leave to enter.

4.10.2. Referring back to its comments in point 4.6 on Article 25(2), the Committee believes that persons convicted of crimes of the gravity of those referred to in this point should be excluded from the scope of this article.

4.11. Article 31

4.11.1. This article lays down the conditions which the host Member State must respect if it wishes to issue an expulsion order as a penalty or legal consequence.

4.11.2. As for the previous point, the Committee considers that this safeguard should not apply to persons convicted of crimes of this gravity.

Brussels, 24 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Eastward enlargement of the European Union and the forestry sector'

(2002/C 149/13)

On 1 March 2001 the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on 'Eastward enlargement of the European Union and the forestry sector'.

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 4 April 2002. The rapporteur was Mr Kallio.

At its plenary session on 24 and 25 April 2002 (meeting of 24 April), the Economic and Social Committee adopted the following opinion by 98 votes to three with eight abstentions.

1. Purpose of the opinion

1.1. This opinion looks at the role played by forestry and the forest-based industries, i.e. the forestry sector, in the EU applicant countries⁽¹⁾ and the changes that enlargement will entail for the EU's forestry sector. The analysis focuses on the role of forestry and the forestry sector as a source of economic prosperity and provider of employment. The environmental importance of forests is also taken into account, as a basic assumption in the European Union is that forestry should be economically, ecologically and socially sustainable. Another assumption is that the EU applies the subsidiarity principle in all forest-related matters.

1.2. The opinion focuses on the ten applicant countries; Turkey, Cyprus and Malta are mentioned where comments are relevant to them. The applicant countries made an active contribution to the contents of the opinion during its drafting.

2. Forestry and the forest-based industries in the applicant countries

2.1. Forest resources and timber production

2.1.1. The applicant countries have a total of 34 million hectares of forest. Thus enlargement will increase the amount of forest and other wooded land in the EU from 136 million hectares to 170 million hectares. The total area of commercially exploitable forest will increase by about 30 million hectares (31 %) from 95 million hectares at present. Malta and Cyprus have little forest. Turkey has large tracts of forest and other wooded land, just under 21 million hectares, although less than half of this is real forestland.

2.1.2. There are many differences between the applicant countries in terms of their forests, although similar groups of countries can be identified. In the countries with the relatively greatest forest density⁽²⁾, forests account for about half of the surface area, in Hungary, the least forested, for roughly only one fifth and in the other countries for approximately 30 %. In terms of quantity, Poland, with just under 9 million hectares, has the most forestland. Slovenia, with just over one million hectares, has the least. Forests account for about 32 % of the applicant countries' combined total surface area, compared with about 36 % in the current European Union.

2.1.3. Over the last fifty years there has been a significant increase in forestland in many applicant countries (particularly in the Baltic States and Poland) as a result of both the afforestation of farmland and the reversion of farmland to forest. This means that a fairly large proportion of forests in these countries are young. Forestland will continue to expand considerably in some of the applicant countries (particularly Poland, Hungary and Romania), assuming their reforestation programmes come to fruition (see point 5.3). The rather large proportion of young and middle-aged forests and their attendant management needs represent a key challenge, but also an opportunity, for forestry in the applicant countries.

2.1.4. Forests in the applicant countries are relatively dense and timber reserves are continuing to increase since the growth rate clearly outstrips felling rates. The rate of forest use for timber production is slightly lower overall in the applicant countries than in the present EU, where fellings are about 60-70 % of annual increment. However, there are marked differences in this regard, both between the current Member States and the applicant countries. Forests are nevertheless maintaining the growth in carbon sinks in both groups of countries.

⁽¹⁾ Latvia, Lithuania, Estonia, Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Bulgaria, Romania, Cyprus, Malta and Turkey.

⁽²⁾ Slovenia, Slovakia, Estonia and Latvia.

2.1.5. Poland and Romania have the largest growing stock. If all ten candidate countries join the EU, the Union's growing stock will increase to about 20 billion m³, or by approximately 47 %. The percentage increase in growing stock will be greater than the percentage increase in surface area of forest. This means that enlargement will increase average growing stock per hectare in the EU ⁽¹⁾, although here too there are obviously cross-country differences, as there are among current Member States.

2.1.6. In Poland, the Czech Republic and the Baltic States the growing stock is predominantly coniferous. In the other countries deciduous trees make up over half the stock; Hungary has the most deciduous forest.

2.1.7. Forests are a crucial renewable natural resource. Their main commercial product is roundwood, the harvesting and processing of which provide employment opportunities. The largest timber producer among the applicant countries is Poland, followed by the Czech Republic, Romania and Turkey. Slovenia has the lowest annual felling rate, as well as the smallest forested area. Roundwood prices are still lower in the applicant countries than in the present Member States. In some applicant countries, forestry has been developed with regard to other products in addition to wood.

2.1.8. Roundwood felling rates vary considerably not only from one applicant country to another but also from year to year. In some Central European applicant countries it is possible that in some years even the majority of fellings have been a consequence of forest damage. The age structure of the growing stock and net increment would allow timber production, particularly of pulpwood obtained from thinnings, to be increased.

2.1.9. Roundwood is a net export product in many applicant countries, which is not the case in the current EU Member States. In all applicant countries exports have accounted for at least a fifth or a sixth of fellings and some countries have exported almost half of their roundwood production. The biggest exporters of roundwood are Estonia, Latvia and the Czech Republic, which each exported about 3 million m³ of roundwood in 1997. Roundwood exports from the applicant countries (totalling roughly 12-13 million m³ in 1997) have amounted to approximately four times the level of roundwood imports. As a large proportion of the applicant countries' exports currently go to the EU, enlargement would make the Union more, but not completely, self-sufficient in roundwood in the short term.

⁽¹⁾ Growing stock per hectare is largest in the central European applicant states, notably in the Czech Republic, Slovakia and Slovenia, with over 260 m³/hectare. Estonia and Bulgaria have the lowest average growing stock per hectare, with just over 140 m³/hectare. The amount of growing stock thus varies considerably between the applicant countries.

2.2. *The forest industries*

2.2.1. In the applicant countries the forest industries consist predominantly of the wood products industry. Per capita consumption of wood products in the applicant countries is nevertheless low. Sawnwood consumption in the applicant countries stands at 0,1 m³ per capita per year on average, in other words less than half the current level of EU consumption. Sawnwood production in the applicant countries grew considerably in the 1990s, particularly in the Baltic States and Central European countries. Sawnwood production in the applicant countries amounted to more than 17 million m³ in 1997 and approximately half of all production in that year was exported (mainly coniferous sawnwood). Indeed, in several applicant countries the sawmilling industry constitutes a significant export industry ⁽²⁾. Similarly, per capita production and consumption of wood-based panels in the applicant countries is still low, totalling 7 million m³ in 1997. However, production and exports of wood-based panels increased considerably in the 1990s. Production is highest in Poland and Turkey. The Czech Republic, Latvia and Slovakia are important producers of plywood.

2.2.2. Woodpulp and paper production in the applicant countries are rather small and these countries are net importers of paper. Average paper consumption in the applicant countries is approximately 60 kg/pc/pa, which is only one third of that of the current EU.

2.2.3. Companies producing wood products and furniture in particular are small, and these sectors thus have a rather fragmented structure. There are approximately 16 000 companies producing wood products and furniture in the applicant countries and just under 200 pulp and paper mills. Altogether, there are more than 30 000 companies in the forest industries, printing and publishing and the furniture industry.

2.2.4. The main problems facing the forest industries in the applicant countries relate to the fragmented industry structure and the need to improve the level of technology and know-how. Environmental protection and production technology need to be improved. Fairly small production units weaken the sector's structural competitiveness. On the other hand, the sector's lower general level of costs in comparison with the present EU is, for now, a competitive advantage. Timber reserves and the prospect of a rise in domestic demand also offer growth potential for the forest industries in the applicant countries. The applicant countries intend to boost added value and create jobs in the home economy by reducing roundwood exports in favour of, for example, the production and export of sawnwood. This requires that foreign investment capital is also forthcoming in adequate amounts.

⁽²⁾ Particularly in the Baltic States, Poland, the Czech Republic and Romania.

3. The environment

3.1. The guiding principles of forestry use in the European Union are sustainability and multi-functionality. Forests play an important role in terms of environmental protection and conservation. The proportion of the forest area in applicant countries that is designated as protection and conservation forest of different kinds varies, ranging between 2 and 21 %. Strictly protected forests make up less than 1 % of the total forest area in most applicant countries, as in most of the current Member States. However, owing to insufficient background information and varying definitions, no precise figures on the proportion of protection and conservation forests can be given in this opinion. A condition for EU membership is that the applicant countries set up Natura networks of protected sites as required under EU law.

The applicant countries are at different stages in the identification and designation of sites for inclusion in the networks. It was not possible, at the time this opinion was drawn up, to assess the potential impact of this process on forest protection in the applicant countries.

3.2. Among the most serious environmental problems facing applicant countries' forests are air pollution and soil acidification. Many forests — particularly in the Central European applicant countries — are suffering from defoliation caused by pollution. These forests are also susceptible to other kinds of damage. In some countries the shift away from indigenous tree species is also considered to have undermined the ability of forests to resist damage. Forest fires are also a problem, particularly for the southern applicant countries.

3.3. Tending to forests suffering from pollution and, for example, increasing the proportion of original tree species are important forest management objectives in many applicant countries. When forests are better able to resist damage, this enables managed fellings of higher quality timber to be increased and thus serves commercial forestry objectives in terms of expanding timber production.

3.4. Forests in some parts of the applicant countries are considered to have a rich variety of species. Almost all forests have at times been subject to human interference.

3.5. Taking environmental and multi-functional considerations into account in forestry is not problem-free in the applicant countries. A major difficulty is the lack of resources, but know-how also needs to be improved in certain respects. Attitudes are also an obstacle in some cases. The applicant countries must nevertheless be aware that an effective environmental policy helps to preserve forests.

4. Economic and social significance

4.1. *Forests in the economy and society*

4.1.1. In the Baltic States and Slovakia forestry accounts for just over one per cent of gross national product, while in the other applicant countries it contributes less than one per cent. The forest industries make a larger contribution, although precise figures are not available. Together, forestry and the forest-based industries are an important part of the economy in many of the applicant countries, especially in rural areas. They are source of employment, earned income and export earnings, in addition to which forests are used for recreational purposes. Private forestry is re-emerging as an important sector and is discussed in point 4.2.

4.1.2. Although exact figures on employment in forestry are not available, forestry is a major employer, particularly in rural areas. Forestry and forest-based industries together employ an estimated one million people in the applicant countries. The sector is currently estimated to employ 4 million people in the EU. In the applicant countries, the forest-based industries are the biggest employer in the Baltic States in comparative terms, though in absolute terms they provide most jobs in Poland.

4.1.3. The scenic value and recreational use of forests are important in terms of social sustainability. All the applicant countries have forest areas specifically earmarked for recreational use and scenic purposes, and the recreational use of forests is considered to be important. As the applicant countries are situated close to populous countries in the present EU, enlargement could increase the opportunities for the recreational use of forests in the EU. At the same time this would offer the applicant countries opportunities for developing services and tourist industries related to the recreational use of forests.

4.1.4. 'Everyman's right' — at least the general right of the public to roam the forest — applies throughout the applicant countries and represents an important way of exploiting forests from the social point of view. With increased private ownership of forests, the rights and obligations which 'everyman's right' entails for forest owners and society has become the focus of debate in the applicant countries. There is a need for a clear definition of rights, obligations and responsibilities in this regard. It is essential that the recreational use of forests does not prejudice the rights of owners or their opportunities to commercially exploit their forests. At the same time, care must be taken to ensure there is no conflict between 'everyman's right' and the ecological sustainability of forests.

4.2. *The changing pattern of forest ownership*

4.2.1. Land privatisation, or land reform, was the biggest change affecting the structure of forestry in the applicant countries in the 1990s and continues to be so in the current decade. Land reform has led to the revival of private forestry, which disappeared in most of the applicant countries after the second world war. Slovenia and Poland were exceptions as private forest holdings were only partially collectivised in these countries. Obviously, public forest ownership is decreasing as a consequence of land reform. At the same time the tasks and responsibilities of public forest administration are increasing. The changes pose many challenges, despite the fact that forestry know-how and forest science research in the applicant countries are of a high level and have long traditions. Land reform takes place through restitution, which involves the return of land ownership to those who owned the land before the second world war. In addition, a new group of private forest owners is emerging as a result of the fact that other individuals and bodies can buy land that is being privatised if the former owners do not want it or they cannot be traced (this process is referred to as privatisation).

4.2.2. After the completion of land reform, the state will still own large tracts of forest land in many applicant countries. The evolving private forestry sector is helping to diversify the structure of forest ownership. Other public sector bodies besides the state, such as local authorities, own forests in some applicant countries. Similarly, organisations and bodies like the church may also own forest land. The structure of forest ownership varies considerably between applicant countries.

4.2.3. Land reform is an ongoing process in many applicant countries, so that the pattern of forest ownership will change further in the years ahead. By the end of 2000, depending on the country, some 5-70 % of forests in the applicant countries had been privatised; Romania had the lowest percentage (5 %) and Slovenia the highest (70 %). By the time the privatisation process is completed, approximately 30-40 % of all forests will have been privatised, leaving some 60-70 % in public ownership. Obviously, there are and will continue to be sizeable differences in ownership structure between the applicant countries. As a result of enlargement the ownership structure of EU forests will shift slightly towards public ownership, since about 65 % of forest in the present 15 EU Member States is privately owned and only about 35 % in public ownership.

4.2.4. It is estimated that a total of 3-4 million new private forest holdings will be established in the applicant countries. The new forest holdings are generally small, with an average size of 2-3 hectares. In some applicant countries the average size of holdings is even below one hectare. Ensuring the profitability and sustainability of forestry in private forests made up of small holdings is a major challenge for the applicant countries. Enlargement will increase the number of

private forest holdings in the EU by over 40 %, from seven million to 10-11 million. At the same time the number of private forest owners will increase from 12 million in the current EU to approximately 16 million, so that some 3-4 % of the population will be private forest owners after enlargement.

4.2.5. Privatisation of forests also poses a considerable challenge for forest administration in the applicant countries: for example, legislation governing private forestry and the institutions and structures responsible for implementing and overseeing it must be re-established. This development work is currently in progress. The privatisation process will take many years, which causes problems of its own. For example, illegal fellings or tree thefts may have occurred in forest areas where ownership has been unclear. It is therefore important that government and local authorities, private owners and/or organisations, and environmental and nature conservation organisations cooperate in order to achieve effective and responsible forestry management.

4.2.6. Because of these historical events, most new private forest owners lack experience and know-how in the practical aspects of forestry and the timber trade. Similarly, not all the applicant countries have institutions capable of providing training or conducting research in this area or these institutions need to be strengthened. Providing advice to several million new private forest owners on, and increasing their know-how in, economic, ecological and social issues relating to forestry and motivating them to engage in the sustainable management and use of forests is an important objective. It is essential for fostering the economic and ecological sustainability of forestry. Consequently, advisory and training services are currently being developed.

4.2.7. As most new private forest holdings are small, stepping up cooperation between forest owners and the setting-up of forest owners' associations are seen as key ways of promoting the development of private forestry in the applicant countries. Voluntary associations offer an effective means of disseminating information to new private forest owners, promoting the profitability of forestry and self-reliance among forest owners and motivating forest owners to practise sustainable forestry. But the problem is not just lack of know-how but also scarcity of resources. Moreover, in the light of past experience, private forest owners are sceptical about joint projects. However, the training of private forest owners and organisation of cooperation will become increasingly important the further the privatisation process advances. Here the applicant countries need not only financial resources, but also international know-how to provide them with models and experience on effective ways of organising advice for forest owners and cooperation between them. This is another reason why cooperation as mentioned in point 4.2.5 is very important.

4.2.8. Timber markets in the applicant countries are also undergoing change as a consequence of privatisation. The new private forest owners have little experience of the timber trade. In addition, access to market information is limited. Like private forestry infrastructure in general, the laws governing the timber trade, the monitoring of these laws and the provision of market information and advice for forest owners on the timber trade are being developed in the applicant countries.

4.2.9. State forests will continue to be important in the applicant countries from the economic, ecological and social point of view. However, land reform also involves changes in public ownership. In some applicant countries, about half of the forests will pass out of government hands. At the same time forest administration agencies have had to face new tasks and demands. Embracing new ways of working and responsibilities has not always been free of problems. All told, the changes brought about by land reform and social change in general mean there is a need for training and development in forest administration as well.

5. Forestry legislation, programmes and EU support measures for developing forestry

5.1. The applicant countries will be expected to respect the same international commitments and processes relating to forests and the environment as the European Union. National programmes targeting forestry are necessary in connection with EU financial aid for forestry.

5.2. During the 1990s the applicant countries reformed their forestry legislation. Forestry and environmental programmes were developed and the development work is continuing. However, implementation of practical measures and effective supervision lag behind enactment of legislation.

5.3. Extensive afforestation, i.e. increases to the forest area, is an objective of the forestry development programmes of Poland and Hungary in particular, but one which is also being pursued by Slovakia and Romania, for example. In some of the applicant countries, afforestation of farmland or other land falls under the forestry measures eligible for aid (see also point 5.7).

5.4. During the 1990s, overall investment in forestry in the applicant countries was limited because of their difficult economic circumstances. Many other sectors of the economy have been given greater priority in the allocation of scarce resources. For example, public support for developing private forestry has been minimal or support schemes are only now

being developed (see also point 5.5). However, the low level of investment in forestry does not mean that, in principle, forestry or the forest industries are not considered important in society.

5.5. There are various support programmes which the EU can use to promote forestry in the applicant countries before they become full members. The Sapard programme provides support for measures that comply with the Regulation on Rural Development under Agenda 2000. Like the present Member States, the applicant countries are required to cofinance projects under the Sapard programme. In several applicant countries support programmes have been designed to enable private forest owners to access Community financial aid. These countries may also take part in the EU's R&D projects and other initiatives such as the COST programme. Similarly, the EU's Phare and Life programmes have been used to develop forestry in the applicant countries.

5.6. A total of 5 %, or EUR 168 million, of the EU aid the applicant countries will receive under the Sapard programme in 2000-2006 is earmarked for forestry measures. This amount is a few percent of the EAGGF financial aid allocated to forestry in the present 15 Member States between 1994 and 1999. In the 1994-1999 programming period the present Member States allocated around 1 % of total EAGGF financial aid to forestry. However, most of this amount was development assistance other than that provided under programmes like Sapard.

5.7. The proportion of Sapard aid that the applicant countries intend to allocate to forestry varies widely from country to country. Some countries have not earmarked any Sapard aid for this sector. The southernmost applicant countries are the greatest beneficiaries of forestry-related aid under the Sapard programme, on the basis of these countries' programme proposals. Most of the applicant countries plan to support various forms of afforestation, but aid will also be allocated to training for forest owners, the setting-up of forest owners' associations, construction of forest roads, establishment of nurseries, etc. As well as forestry measures per se, funding for forestry-related initiatives may well be available under other headings. If this is taken into account, the proportion of aid allocated to forestry under the Sapard programme is over 5 %. In practice, receipt of aid in the applicant countries requires appropriate administrative systems to be set up, and problems in this area have so far hampered use of aid. It will not be possible to assess aid use until the programming period is over. Moreover, the rules relating to EU aid for forestry and the resources available for it could change in the future.

6. Summary, conclusions and recommendations

6.1. *Summary and conclusions: the impact of enlargement*

6.1.1. Substantial increase in forestland and in the number of private forest owners

Enlargement will boost the EU's population by some 28 % and its surface area by 33 %. Similarly, forest and other woodland will increase by 34 million hectares (25 %) ⁽¹⁾. The EU will acquire an estimated 3-4 million new private forest owners in addition to the present 12 million, so that after enlargement approximately 3-4 % of the EU's population will be private forest owners. Overall, the proportion of publicly owned forests will be higher and the proportion of privately owned forests slightly lower than before enlargement.

6.1.2. Forestry and the forest industries — an important source of employment

The forest-based industries, i.e. the forest and related industries, and forestry together constitute an important source of employment in the applicant countries, providing an estimated one million jobs. Total employment in the forestry and the forest-based industries in the EU will be about 5 million after enlargement, roughly a quarter more than at present.

6.1.3. Higher self-sufficiency in forest-based products and keener competition in the short term

Total roundwood fellings in the applicant countries are just under a third of the total level of fellings in the present Member States. Sawnwood production in the applicant countries is approximately a quarter of current EU production. Production and consumption of paper and board in the applicant countries are both small. After enlargement, the EU will become self-sufficient in sawnwood and have a higher level of self-sufficiency in roundwood, as the applicant countries are major exporters of sawnwood and roundwood to the current EU. The EU will remain a net exporter of paper even after enlargement. In the short term competition is likely to stiffen slightly in the markets for sawnwood and other wood products, but no major changes are expected in the pulp and

paper markets. The applicant countries are an attractive potential location for investment by forest industry companies based in the current EU. If there is no rapid increase in internal EU wood consumption and no new external markets are opened up, there could even be a shift in especially sawnwood and processed timber production from the present Member States to the applicant countries. On the other hand, investment in the applicant countries may be held back by a number of factors, including uncertainty about the pace of economic growth and hence consumption of forest-based products.

6.1.4. Increased consumption of forest-based products in the long term

In the long term, consumption of wood products and paper and board in the applicant countries is likely to increase manyfold. A doubling of sawnwood consumption in the applicant countries would lead to additional demand of around 10-11 million m³ of sawnwood, i.e. an increase of 13-14 % from the EU's and applicant countries' current combined level of consumption. Paper consumption in the applicant countries could even triple from its present level. This would result in a corresponding growth in paper consumption of over 15 % in the enlarged Union. Although the use of electronic media could check growth in paper consumption in the future, growth potential nevertheless exists for some paper categories, for example packaging paper and board.

6.1.5. Privatisation — an important force for change in forestry

Land reform is currently an important factor affecting forestry in the applicant countries and will continue to be so over the next few years. The tasks and responsibilities of forest administration are changing and forest administration faces a wide range of challenges in the areas of development and training. Organising training and guidance for millions of new private forest owners and stepping up cooperation among them are key measures that are aimed at increasing the profitability of private forestry and securing the economic and ecological sustainability of private forestry. The development of properly organised timber markets is important if these markets are to function effectively and flexibly and some of the problems that have hampered them to date are to be overcome. Effectively functioning timber markets are also important for the growth of the processing industry. The applicant countries consider it necessary to increase forestry-related research. The prime concern, however, is the creation and effective implementation of a credible body of laws supporting the changing structure of forest ownership, as this is essential for the development of enduring and responsible forest ownership that continues from one generation to the next.

⁽¹⁾ If, in addition to the ten applicant countries considered here, Turkey, Malta and Cyprus are included, the EU's population will increase by 45 %, its surface area by 58 % and forest and other woodland by 55 million hectares (41 %).

6.1.6. Environmental challenges and social responsibility

Forests in the applicant countries suffer from air and soil pollution, among other things. Efforts are being made to remedy this situation through forest management techniques. The environmental challenges facing the forest-based industries include the introduction of processes and technologies with lower emission levels and the organisation of waste management and recycling. New private forest owners need information on sustainable forest management and use, including environmental issues. At the same time the applicant countries want to boost the importance of forestry and the forest-based industries as providers of jobs and a source of income.

6.2. Recommendations

6.2.1. EU action in forestry is guided by the subsidiarity principle

Even after enlargement, there is a good case for the EU to continue to apply the subsidiarity principle in this sector since forests differ in terms of their economic, ecological and social significance and biological basis, both in the applicant countries and the present Member States. EU forestry initiatives are based on the EU Treaty, other relevant legislation and the EU's forestry strategy. The EU has also entered into several international agreements on forestry. It is important that the applicant countries also comply with these principles and agreements.

6.2.2. Sustainability and multi-functionality — the guiding principles for exploitation of forests

Since forestry and the forest-based industries are a major source of employment and economic prosperity both in the EU and the applicant countries, commercial exploitation of forests will continue to be important after enlargement. The ecological and social role of forests is also important. Consequently, economic, ecological and social sustainability and the multi-functionality of forests must remain key guiding principles for forestry in the EU after enlargement.

6.2.3. A legal framework for private forestry

The applicant countries' timber resources are growing and fellings in relation to growth are lower than in the present EU area. Enlargement offers opportunities as regards utilisation of forests for economic, environmental and social purposes.

Private ownership has been found to have a generally beneficial effect on the sustainability of forestry. Therefore the re-emergence of private forest ownership in the applicant countries is a positive development. Private forest ownership offers a new source of income for many private individuals, a possibility to obtain firewood and wood for domestic needs and job opportunities for others, particularly in the rural areas of applicant countries.

If the opportunities are to be exploited, the legal and institutional frameworks necessary for the growth of the newly emerging private forestry sector will have to be developed by the applicant countries quickly and objectively. This calls for clarification of ownership status and completion of the privatisation process without delay.

6.2.4. Private forest owners — need for training and cooperation

Steps should be taken to promote training, provision of advice and voluntary cooperation since they are crucial for developing private forestry in the applicant countries. Financial support for this is available under the EU's Sapard programme and should be used to these ends. Similarly, the know-how that exists in the present Member States regarding private forestry in general should be made available to the applicant countries. The Committee proposes that the EU take an active role in establishing a forum for the exchange of information that would further this goal.

6.2.5. Timber markets and forest certification

With privatisation, the applicant countries will be able to secure effective operation and competitiveness of the timber markets by increasing access to market information. In addition, monitoring of laws needs to be intensified. Effectively functioning timber markets in the applicant countries are crucial for ensuring competitive conditions in timber markets throughout the EU. As regards voluntary forest certification, it is essential that any certification processes in the applicant countries be transparent and independent.

6.2.6. Forest energy resources and use of forests for recreational purposes

In addition to roundwood used by industry, services related to the recreational use of forests, the use of wood-based energy, hunting and forest products other than roundwood offer potential opportunities as regards rural development in the applicant countries. One of the EU's goals is to substantially increase production of wood-based bioenergy. The applicant countries' young forests, ambitious reforestation goals and forest-management needs provide a source of wood biomass, since, for example, tending of young trees and forest care generate small and waste wood which are of no use to industry. At the same time, in developing the use of wood, the aim should be to create as much value added as possible. The potential for developing forest-based activities and their likely effects should be examined in depth.

6.2.7. Forests and climate

The role of forests in the atmospheric carbon cycle also opens up new prospects for exploitation of forests. The importance of forests in this regard should be examined both in the applicant countries and the present Member States, in general terms as well as in the context of the Kyoto Protocol of the climate change convention. The use of wood as an energy source should also be taken into account in this connection. Studies should be made of the importance of forests as public goods, the associated values and valuations and compensation issues.

6.2.8. Sustainability, competitiveness and social responsibility

Sustainability and respect for the environment in forestry and the forest industries are a fundamental principle. A careful and verifiable environmental policy should therefore be pursued so that forests are not damaged. This policy must leave scope for forestry and the forest-based industries to be competitive, while conducting their activities in a responsible way. Economic sustainability is essential from the viewpoint of social sustainability. It covers such things as job opportunities and the possibility to preserve and promote activities that help to maintain the countryside, such as forestry and the forest industries. The recreational use of forests and associated service industries are, of course, also important in this regard. The development of forestry and the entire forestry sector in the applicant countries should be accompanied by an open and effective process of debate and interaction involving different sectors of society on a wide-ranging basis.

6.2.9. As mentioned above, careful management of forests, as well as other nature areas, is the responsibility of government, private owners and/or organisations, and environmental and nature conservation organisations that own forests and other nature areas. Responsibility must be shared. The Committee calls for a European platform for forestry and landscape management to be set up where experience can be pooled to develop a responsible policy for managing forests and other nature areas.

6.2.10. Fostering the use of wood

Both the present EU Member States and the applicant countries seek to boost production in the wood products industry, as well as related jobs and income. Wood is a renewable, recyclable natural material, the use of which does not increase the atmosphere's carbon load. Therefore, the use of wood as a building material should be promoted, both in the present Member States and the applicant countries. Rising demand for wood products in the applicant countries would boost growth in the wood products industry in these countries and lead to higher income and more jobs.

6.2.11. Forestry-related aid and competition

The EU's support measures for the development of forestry in the applicant countries are warranted in many respects, for example from the point of view of rural development and the environment. Application of the subsidiarity principle nevertheless means that aid granted by the EU must under no circumstances lead to distortion of competition on timber or forest products markets. The use and impact of EU aid allocated to forestry in the 1990s should be made the subject of an EU-wide study. This would shed light on the kind of projects for which aid has been used and the results obtained. Such knowledge would be of benefit for the development and evaluation of support schemes in the future.

6.2.12. Training, research and production of information

EU enlargement highlights the importance of a coherent body of information on forestry and the forest industries in the Union. There is need for further development here, particularly as regards the applicant countries. The EU should devote further efforts to development projects promoting the production of consistent, comparable and up-to-date statistics on the forestry sector in the EU as a whole and in the applicant countries. In addition, the EU should actively promote development projects aimed at improving the compilation of statistics on timber markets in the applicant countries. Development of research and training related to the forestry sector in the applicant countries is essential. For example, resources should be allocated to developing research on private forestry, which received little attention in past decades.

Brussels, 24 April 2002.

*The President
of the Economic and Social Committee
Göke FRERICHs*

APPENDIX

to the opinion of the Economic and Social Committee

The following amendment, which received at least one quarter of the votes cast, was defeated in the course of the Committee's debates:

Point 6.2.2

Add a new paragraph after 6.2.2 as follows: 'From the point of view of the environment, conifer plantations contribute to faster soil acidification, the customary plantation and management methods do not allow the use of forests for recreational purposes, and no wild animal can live under this kind of tree cover. Dense coniferous forests, in which the lower branches are left on the forest floor, are subject to heavy clearing at maturity with machines that cause serious damage to the soil and forest paths. The bare soil that remains is exposed to gullyng due to run-off, making the soil unusable for any other purpose. The medium and long-term effects of these kinds of exploitation on the environment and soil conditions should be the subject of scientific studies. Aid should be only be granted for traditional broad-leaved species and slow-maturing timber and firewood species, which are conducive to a balanced ecology, plus, in the south, fire-resistant species. Aid should carry with it obligations concerning management and clearing, the upkeep of points of access and paths, particularly for recreational purpose, and a balance between the area under conifers and the area under broad-leaved species in order to preserve biodiversity. Certain biotypes require special protection.'

Reasons

The opinion focuses on production, with special emphasis on conifers and fast-growing species like poplar. There should be a shift in emphasis in favour of less intensive, multifunctional and truly sustainable exploitation.

Result of voting

For: 37, against: 39, abstentions: 8.

Opinion of the Economic and Social Committee on 'Extending the trans-European networks to the islands of Europe'

(2002/C 149/14)

On 31 May 2001 the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on 'Extending the trans-European networks to the islands of Europe'.

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 5 April 2002. The rapporteur was Mr Vassilaras.

At its 390th plenary session (meeting of 25 April 2002), the Economic and Social Committee adopted the following opinion by 81 votes to two with 14 abstentions.

1. Foreword

1.1. The Economic and Social Committee has instructed its Section for Transport, Energy, Infrastructure and the Information Society to draw up an additional own-initiative opinion which will provide a useful study of one of the major problem areas affecting the EU's islands — the absence of a development policy and network links. The Committee's aim is to make the Council and the Commission aware of the need for a new approach in their policy towards islands. In the wake of the Nice Treaty — when adopted — and the Nice Council conclusions, such an approach should endeavour firstly to alleviate the problems of isolation and underdevelopment facing these islands and secondly to ensure fair treatment for their populations with regard to development.

1.2. The Committee considers that the trans-European networks must provide a link with islands and extend as far as them instead of stopping at the continental coastline, and that account must be taken of the following factors:

- a) the legal basis provided by Article 158 of the Treaty of Amsterdam (see Appendix 1);
- b) declaration No 30 annexed to the final act of Amsterdam (see Appendix 1);
- c) the future enlargement of the EU;
- d) the Cohesion Fund (which has been reviewed for the period 2000-2006);

- e) regional policy (which will be reviewed after 2006);
- f) the present situation regarding competition and globalisation;
- g) the reports regularly submitted by the Commission;
- h) the 2001 White Paper on Transport ⁽¹⁾; and
- i) the 2001 TEN-T review ⁽²⁾.

1.3. The Committee considers from the outset that the Community will not function properly as a single area unless the following basic principles are respected:

- a) the internal market and the rules governing equal treatment must extend to the whole of the Union;
- b) development must compensate for permanent geographical handicaps.

2. Introduction

2.1. An important decision for the future of the EU's islands was taken at Nice in December 2000 when the Treaty was revised.

⁽¹⁾ White Paper COM(2001) 370, 12.9.2001.

⁽²⁾ Decision No 1346/2001/EC of the European Parliament and of the Council of 22 May 2001 amending Decision No 1692/96/EC as regards seaports, inland ports and intermodal terminals as well as project No 8 in Annex III OJ L 185, 6.7.2001, p. 1. ESC Opinion: OJ C 214, 10.7.1998, p. 40.

2.2. The conclusions of the Nice Council recognise — and this is a first in the history of EU regional policy — that in view of islands' structural problems, specific measures can be taken by the EU to help them.

2.3. The Committee thinks that these measures must compensate for the geographical and natural handicaps resulting from these inherent structural difficulties.

2.4. This declaration elucidates the grey areas surrounding Article 158 of the Amsterdam Treaty while at the same time being consistent with declaration No 30 under that Treaty concerning island regions and the difficulties they suffer as a result of their structural problems. The least favoured island regions covered by Article 158 of the Treaty of Amsterdam share certain problems, and the Committee has underlined on several occasions in previous opinions⁽¹⁾ that this calls for specific measures, regardless of the islands' size.

2.5. In addition, mention must be made of the amendment to the third paragraph of Article 159, which now reads: 'If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of other Community policies, such actions may be adopted by the Council acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.'

2.6. The Committee is therefore involved in these measures and thinks that it is necessary to continue in the same vein by submitting proposals and identifying the measures required to ensure that suitable EU policies are adopted to address the structural problems facing islands.

3. General comments

3.1. Despite considerable efforts in recent years (often with EU support), islands still lag behind in their development and a good number of them are even stagnating. The reason for this is that even objective 1, which lumps them together with

their counterparts from the European mainland or the Member States, does not grant them any preferential treatment on account of their specific nature. (An objective 1+ could possibly remedy this.)

3.2. A definition of 'European island' has been adopted at the initiative of Eurostat. This definition seems to be gradually gaining hold and states that an island is any territory that

- is permanently surrounded by sea,
- is permanently separated from the mainland without a fixed link (bridge, tunnel, etc.),
- is more than one kilometre from the mainland,
- has a permanent population of at least 50 people,
- does not contain the capital of a Member State.

3.3. European islands cover a total area of 110 000 km² (3,4 % of the EU territory) and have almost 14 million inhabitants (3,4 % of the EU population). Despite their differences in size and population, they share a large number of problems, especially of an economic and social kind, which often differ only in intensity.

3.4. These difficulties include:

- their networks in general, regardless of whether these concern transport (where the high cost is a special problem), energy, telecommunications or water supply;
- the policy to be pursued to prevent a population exodus, especially among young people;
- the development of SMEs and the craft sector and their competitiveness;
- health care and access to preventive medicine as well as emergency care;
- culture and education;
- a fragile environment which is expensive to manage;
- the dominance of one given sector of the economy (often tourism or fishing);
- the seasonal nature of employment in the tourist and agricultural sectors.

⁽¹⁾ Opinion on Disadvantaged island regions (OJ C 232, 31.8.1987). Opinion on the Guidelines for integrated actions on the island regions of the European Union following the Amsterdam Treaty (Article 158) (OJ C 268, 19.9.2000).

3.4.1. Together, these problems create difficult living conditions for islanders to a point where the demographic and social balance of most of these communities is under threat.

3.5. The Committee thinks that a system of networks is necessary for the competitiveness and development of the EU's islands and to bring them into the single market. All the prerequisites must be fulfilled for ensuring that islands and especially the most remote amongst them are fully integrated into the single market and are not split up into an array of local markets on account of the inadequacy and extra cost of transport and communication networks. Transport, energy, telecommunications, water supply and waste disposal are all of capital importance for the development of islands. Their inhabitants are calling for better living conditions, which in turn depend on economic development and employment. EU policy measures must serve this end, regardless of the areas concerned or human potential factors.

3.6. The Committee thinks that it is necessary to adapt the general budget of the EU by revamping the Structural Funds and the Cohesion Fund in order to provide the resources needed to implement EU actions, initiatives and programmes after 2006.

4. Specific comments on EU and Member State policies towards networks

4.1. One point which the Committee would highlight from the start is that islands do not enjoy rail or road links with the rest of the Community and that their inhabitants and businesses depend 100 % on sea and air transport. The major hubs of economic development and the regions on the European mainland benefit more readily from regional policy, and it is here that work and better living conditions are to be found. It is also thanks to regional policy that mainland regions have motorways and high-speed train networks and have been able to build or modernise airports, and it will clearly be easier to develop the different types of networks in mainland than in island regions. No matter how admirable islanders' unanimous wish to work together and share in development may be, their decline will be inevitable as long as new legislation has not been enacted and there is little concern to extend the networks to them.

4.2. Existing legislation and the rules governing competition (Article 88(3)) do not give islands the same opportunities to develop as other regions. The Nice summit conclusions clearly show that Europe's political leaders have taken note of

this fact and recognise that specific measures can be taken to help island regions, as provided for under Article 89 of the Treaty establishing the European Community.

4.3. Instead of invoking Community regulations in a bid to prohibit aid from the Member States, such aid could be redesignated as EU aid in order to reduce the disparities of which island regions are victims, thereby giving their populations the satisfaction of enjoying the same conditions as mainland regions, which are easily able to attract infrastructure and share in development.

4.4. The liberalisation of the seas certainly accords with the concept of the common market, but the results achieved in the post-liberalisation era in the field of maritime cabotage are disappointing insofar as the providers of such services — especially if they belong to the private sector — give preference to profitable lines and neglect the less profitable islands, thereby hastening their decline.

5. The public service concept in relation to islands

5.1. Public service and networks

5.1.1. As far as the supply of network services is concerned, the Committee considers that there is no doubt that only public services are able to cater for the needs of islands, for a good many islands are not large enough to be a worthwhile proposition for private stakeholders and do not attract their interest either. Local administrations are also willing to perform all development-related tasks.

5.1.2. Islands are still not attractive enough for the private sector. Careful thought must therefore be given to the public service concept in relation to islands, since the keener competition in the single market is generating new imbalances. This concerns island transport first and foremost. The liberalisation of transport, the abolition of monopolies and EU-wide tendering are of general benefit to the EU economy and the single market. However, as far as island regions are concerned, the single market is often still an abstract concept.

5.1.3. Current Community legislation explicitly recognises islands as a special case, and makes provision for a variety of mechanisms (public service obligations, public service contracts) in relation to island links. The different tendering systems introduced in islands in recent years — quite apart from involving complex procedures — still do not generate real competition (often there is only one tenderer) or significant price cuts. Practice also shows that tenders fail to take sufficient account of employment criteria and the economic knock-on effects on islands.

5.1.4. 'Territorial links' should therefore be provided everywhere. Existing links should be strengthened and the building of new links should be facilitated.

5.1.5. The additional costs associated with island transport vary considerably depending on the goods being transported and how they are transported. Their economic or social impact clearly varies in line with the market value of the product being imported or exported. Any policy of compensation would therefore gain from being adapted to the level of the problems faced.

5.1.6. Even if the EU authorises aid schemes, it does so only for trade within Member States. However, the problem of accessibility to the single market extends beyond the national framework for numerous islands which have sea borders with several Member States (e.g. Corsica has borders with Italy) and even more so for the outermost islands with their intercontinental transport links to the single Community market. Limiting such aid to trade with the national mainland seems in this respect to be discriminatory and contrary to the whole spirit of the Treaty. The recent derogation granted to Bornholm and allowing aid to be granted for transport operations to Copenhagen via Sweden is a move in the right direction and should be applied across-the-board. Community legislation must explicitly allow the provisions applicable to national links regarding public service obligations and public service contacts to be applied to all intra-Community links.

5.1.7. The Committee therefore recommends that the Community rules on State aid for regions be amended in the light of each island's specific case, and that all of the EU's islands be eligible for operating aid (up to a limit set by the real additional cost of transport), which should be paid directly to transport enterprises for the purpose of reducing their additional transport costs with regard to both goods and passengers.

5.1.8. In the case of the Mediterranean islands, this aid should cover trade with all Member States in the Mediterranean area, though it should be limited to the extra cost of transport to and from the national mainland.

5.1.9. In the case of the outermost islands, where intercontinental transport and not EU cabotage is involved, this aid should apply to trade with anywhere in the Community and not simply national mainland ports. This would give these regions direct access, in optimum conditions, to the major centres of production and consumption at the heart of the EU, thereby providing legitimate compensation for the drastic constraints imposed on these islands by their extreme remoteness.

5.1.10. Regardless of the funding required for such a policy, the reform of State aid schemes is therefore vital for solving the problem of the extra transport costs faced by islands.

5.1.11. Islands' transport costs are generally high. A large number of taxes — national, regional and local — make passenger fares and freight tariffs unduly expensive. The Committee calls for the abolition or reduction of dues charged by seaports for their services so as not to penalise transport operations to islands.

5.1.12. The European Union wishes to harmonise all the indirect taxes on transport. Island regions are directly threatened by a number of factors:

- a) The Commission's Transport White Paper describes the Commission's plan to apply throughout the Community a system of charges for the use of infrastructure which reflects the real cost of the infrastructure and also takes account of external costs. Unless specific measures are taken, this is likely to have a serious effect on island regions. Firstly, in a large number of islands, the infrastructure is of necessity too extensive for the limited volume of traffic and questions may well be asked about the criteria which the Commission will select to reflect the actual cost situation. And secondly, air transport — on which islands are heavily dependent both for their inhabitants' needs and for tourism — is considered to be highly polluting and will therefore be particularly hard hit by the inclusion of external costs. The framework directive which the Commission plans to put forward in 2002 must therefore take into account island regions' limited options and the economic and social implications for islands of higher transport costs. The directive must explicitly allow islands to enjoy appropriate tariffs for the use of seaport and airport infrastructure.

b) For the same reasons, the plan to introduce fiscal harmonisation for fuels used by sea and air carriers must be examined with extreme caution so as to avoid an increase in the cost of island services. Appropriate mechanisms must be implemented to encourage the use of the most environmentally appropriate arrangements or fuels without aggravating the problems of islands' accessibility by increasing taxation.

c) Equally alarming is the Commission's plan (Part Three, Chapter II. B) to charge VAT on all air transport in the Community. If the decision is taken to charge VAT on Community air transport, all island services must be exempt.

5.1.13. The Committee would finally stress the need for regular and uninterrupted public service provision for islands, especially in the field of transport. This would involve the application — as is already the case in certain Member States — of minimum guaranteed service practices.

5.2. *Trans-European transport networks*

5.2.1. The inclusion in the TEN-T provisions of ports and airports 'situated in island, peripheral or outermost regions, interconnecting such regions by sea and/or connecting them with the central regions of the Community' is a positive factor from the financial point of view, for improvements to port or airport infrastructure can be financed as a result ⁽¹⁾. However, this does not mean that island or outermost regions are included in arrangements for short-distance sea transport or, for example, in plans for 'motorways of the sea'.

5.2.2. At the same time, the revised TEN-T priority projects affect islands as little as their predecessors. In fact, much to the Committee's regret, they do not include any islands at all.

5.2.3. The White Paper on transport talks about developing 'motorways of the sea' ⁽²⁾, pointing out that 'intra-Community maritime transport and inland waterway transport are two key components of intermodality' and that 'certain shipping links should be made part of the trans-European network, just like motorways or railways'. These 'motorways of the sea', which are designed to bypass existing bottlenecks on road networks (Pyrenees, Alps, etc.), should not overlook islands yet again. In fact, they should provide islands with a real opportunity to open up.

5.2.4. With regard to islands, and especially the most heavily populated islands with extensive trans-European networks comparable to the networks on the mainland in terms of cost and quality, the Committee thinks that the Commission should include shipping links with these islands in the basic trans-European networks and focus on connecting the main road, river and rail routes with the shipping links that serve these islands.

5.3. *Energy*

5.3.1. Meeting islands' energy needs poses particular problems. This is due to the specific nature of supplies (inadequate, costly and occasionally interrupted, especially in times of crisis), the difficulty of linking up with national or trans-European energy networks, and the high seasonal variations in consumption caused by tourism.

5.3.2. The Committee thinks that the measures to be taken must include:

- the funding of the infrastructure work necessary to open up islands and give them access to energy sources from the mainland or, if need be, to export energy to networks on the mainland;
- the promotion of renewable energy sources via economic and tax incentives and of specific pilot projects in island regions, especially those not linked to the trans-European energy networks;
- in the case of islands which are not connected to the continental grid and will not be in the near future and which produce electricity at a higher cost than on the European mainland, the guarantee that tariffs will continue to be subsidised is vital even when the electricity market is opened up fully to competition. After all, who is going to sell energy on small island markets and what will they charge? This system of subsidies must be supported by a system of public regulation, which covers both domestic and industrial prices and which compensates for the lack of a level playing-field and ensures optimum use of energy resources.

5.4. *Waste*

5.4.1. Waste treatment poses a serious environmental problem for islands, which is exacerbated by the part played by tourism in the development of island economies. Priority must be given to programmes for the recycling and reuse of solid waste and the recuperation of energy from refuse.

⁽¹⁾ Decision No 1346/2001/EC, 22.5.2001.

⁽²⁾ White Paper COM(2001) 370 final, 12.9.2001, Part II, A.1, p. 42.

5.4.2. Metal casings, oil or cardboard boxes are never going to be recycled in the near future on most European islands. These bulky, heavy and sometimes dangerous objects have to be exported by sea, the cost of which is additional to the cost of the networks in mainland regions. Who has to pay the extra cost? Residents? Tourists? Or the Community, which lays down inappropriate safety or disposal rules for communities of a few thousand inhabitants?

5.4.3. A system of compensation for shipping waste to the mainland, modelled on the legislation in force in Spain for the Canary and Balearic islands, must be set up as part of a European waste treatment network.

5.5. *Water*

5.5.1. The question of water reserves and their treatment and quality is directly linked to the development of island-based tourism and the increase in water consumption which this brings. Wherever possible, the links between islands (archipelagos) and from the mainland to islands must receive support, in recognition of the vital basic service they provide, and water charges must be affordable.

5.5.2. Seawater pollution is one of the most serious problems, as it affects the two mainstays of island economies — tourism and fishing. For the sake of the islands' development, specific programmes are required for the storage of water, for environmental checks on discharges in watercourses, for waste management and for seawater desalination, etc.

5.6. *Telecommunications*

5.6.1. The establishment of telecommunications networks undoubtedly represents a priority objective for all underdeveloped regions and especially islands, even if the benefits of their spread and development may have been overestimated. As the second cohesion report shows, however, research- and technology-based sectors and services and industries offering a high added value continue to target the most dynamic regions where both telecommunications-intensive applications and the people best trained for these applications are to be found. Furthermore, telecommunications do not come up against the problems of physical access which complicate passenger and goods transport.

5.6.2. Be this as it may, the promotion of telecommunications in all areas of island activity must also form an integral part of tomorrow's policies, for telecommunications can strengthen certain sectors of island economies which are of capital importance for them. For instance, they can improve the educational and training services on offer, facilitate access to universities and research centres, satisfy needs in the fields of health care, tourism, advertising, current affairs and information, or diversify local economies thanks to the development of e-commerce and entrepreneurial activity based on electronic resources.

5.6.3. Telecommunications are the focus of widespread attention, but they are not well established on islands, for the markets they serve are the ones also served by the traditional areas of the economy. One of the priority fields of application for islands must be to focus on the promotion of a cultural identity, by improving islanders' knowledge of their cultural heritage and history and thereby enabling them to rediscover their common roots and revive the exchanges which disappeared as a tradition with the onset of the industrial revolution.

5.6.4. New telecommunications technologies must enable islands to set up networks in order to further decentralisation and engage in consolidation exercises. The problem at the moment is not only a technical one but also concerns the availability of know-how, i.e. the knowledge necessary to see through a development linked to a whole host of services. Given the small size of islands, there is only one solution: namely, alliances must be forged in order to provide the new services (media, culture, tourism) with a quality content.

5.6.5. Recent mishaps in the distribution of regional local-loop licences for high-speed digital data transmissions in France ⁽¹⁾ also point to another danger. Islands do not interest private operators because their populations are too small to make a profit on an investment and their markets are too limited. Only a public service can provide islands with guaranteed access to high-speed data. This experience shows that the private telecommunications sector will not necessarily be interested in island populations, who are in danger of being bypassed by future technological developments.

⁽¹⁾ The operators selected by the Telecommunications Regulatory Agency for the DOMs, Corsica and Auvergne (Siris, Completel, Outremer Télécom) turned down their licences.

6. Proposals

6.1. *Specific measures to extend the trans-European networks to the EU's islands*

6.1.1. The Committee proposes that support be given to the establishment of transport systems based in particular on high-speed ships which integrate islands into more open markets than systems providing lifelines with national mainlands. 'Territorial links' must be provided everywhere. They must be EU-wide and not just national, linking islands to the whole of the single market and not simply to national territory on the mainland.

6.1.2. If the single market is not to remain an abstract concept in islands, compensation for additional transport costs cannot be regarded as discriminatory and likely to distort the operation of the market. Any policy for providing compensation must therefore be adapted to the nature and intensity of the problems encountered. Islands call for positive discrimination criteria to be applied to them.

6.1.3. The Commission itself remarks as follows in its White Paper on European transport policy for 2010: 'Generally speaking, experience has shown that limited amounts of aid have not threatened to distort competition or affect trade. Nonetheless, and contrary to practice in the other economic sectors, all aid to transport still has to be notified in advance to the Commission. This general obligation seems disproportionate, especially when the aid is intended to compensate for public service obligations on links with the Community's outlying regions and small islands. The Commission will be proposing an alignment of procedures in this area ⁽¹⁾.'

6.1.4. The Committee notes the Commission's willingness to adapt its procedures. It trusts that the terms 'limited amounts of aid' and 'small islands' will be interpreted as widely as possible in the case of all islands, given their specific features as recognised in the various texts dealing with islands.

6.1.5. The Committee supports the proposal of the Cagliari conference calling on the Commission to promote a Community policy and Community legislation in support of maritime transport which will connect the North Sea to the Mediterranean and the Black Sea by inland waterways and create 'motorways of the sea' in the Mediterranean.

6.1.6. The Committee would like all European islands to have access to a specific fund for fixed or mobile infrastructure with regard to transport and every form of public network (energy, telecommunications, water, waste).

6.1.7. It would also like all EU islands to be eligible for operational aid, to be paid directly to enterprises so as to reduce the extra cost of transport for them. This operational aid — which would cover both passenger and goods transport — should provide a level playing-field with regard to real costs.

6.1.8. The Commission wishes to introduce full cost charging principles in transport (road, rail and sea). The Committee would urge that all aspects of insularity be included in the calculation of the price of transport (travelling time, price, frequency, loading/unloading, etc.) (see appended map). It would also like consideration to be given to social parameters, given the importance of transport for employment, etc., on islands.

6.1.9. The Committee proposes that 2005 be declared the European Year of Islands. To mark this occasion, the Commission could assess the measures already taken to help islands and use the reform of the Structural Funds and regional policy to endorse a more ambitious policy.

6.2. *Towards an integrated policy for the outermost island regions and islands*

6.2.1. As an adjunct to the moves to develop the trans-European networks, the Committee would like to draw the Commission's attention to the need to put in place an integrated policy which will positively discriminate in favour of the outermost island regions and islands. Four measures seem to be capable of fulfilling this general objective, which must act as a framework for sectoral policies:

- a) The meaning of Treaty Article 158 should be clarified to reflect the spirit of declaration No 30 annexed to the final act of Amsterdam and the conclusions of the Nice European Council. This article should be strengthened by adding specific references to the principle of territorial cohesion and to the various regions with permanent structural handicaps, such as thinly populated regions or upland regions suffering from the same handicaps. The European Spatial Development Perspective (ESDP) is a modest step in this direction. The first progress report

⁽¹⁾ White Paper COM(2001) 370 final, 12.9.2001, Part III, B. 3, p. 84.

on economic and social cohesion ⁽¹⁾ points to 'the extent of the Community territory comprising mountain, coastal and maritime areas, islands and archipelagos'. The Committee thinks that it is necessary to go further.

- b) The reform of regional policy and especially of the Structural Funds after 2006 should make provision for the establishment of a specific financial instrument for non-Objective 1 regions suffering from permanent geographical or demographic handicaps — including, in particular, islands. This financial instrument should — inter alia — co-finance fixed or mobile transport infrastructure and all forms of public networks (energy, telecommunications, water, waste). This reform will have to take account of the consequences of enlargement for the place of islands in regional policy.
- c) The proposals in the White Paper on governance ⁽²⁾ should give greater recognition to islands. The Com-

⁽¹⁾ COM(2002) 46 final, p. 14.

⁽²⁾ COM(2001) 428 final.

mission should make a systematic effort to adopt an 'inter-services' approach or even set up a directorate-general to oversee the policies concerning and affecting islands and integrate their management.

- d) Finally, the remote and outermost islands and regions must be regarded as a central plank in the Community's policy towards bordering non-EU regions and an economic and social interface in a Europe looking out on the world and not as a terminating point for internal networks.

6.2.2. The Economic and Social Committee thinks that this integrated approach, reinforced by national mechanisms for the prior consultation of Member States whenever legislation affects islands, would establish a true tripartite partnership between island regions, States and the Commission.

6.2.3. The Committee would like to help strengthen the dialogue with island regions. As the representative of organised civil society in the EU, it is ready to endorse and support any initiative to this effect.

Brussels, 25 April 2002.

The President
of the Economic and Social Committee
Göke FRERICHs

Opinion of the Economic and Social Committee on 'SMEs in EU island regions'

(2002/C 149/15)

On 30 May 2001 the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on 'SMEs in EU island regions'.

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 April 2002. The rapporteur was Mr Vassilarás.

At its 390th plenary session on 24 and 25 April 2002 (meeting of 25 April), the Economic and Social Committee adopted the following opinion by 87 votes to 1, with 7 abstentions.

1. Introduction

1.1. The Committee's purpose is to make the Council and Commission aware of a new policy approach which has arisen from the conclusions of the Nice summit (7 and 8 December 2000, point J (57)). Its proposals are also intended to contribute to the necessary special measures which will have to be taken to help SMEs in island regions to develop, as part of EU policies.

1.2. The Committee is convinced that island SMEs' lack of competitiveness within the single market stems from the permanent problems caused by the regions' island status.

1.3. The Committee takes note of the 'First progress report on economic and social cohesion' ⁽¹⁾, which devotes a paragraph to 'areas suffering from severe geographical or natural handicaps', as repeatedly requested by the Committee. It also considers the recognition of criteria for defining an island (maritime environment, the size of an island and its distance from the next landfall), and of the accumulation of handicaps in the case of certain islands (island nature, mountainous and thinly populated) to be a step in the right direction.

1.4. Having regard to:

- a) the legal basis provided by Article 158 of the Amsterdam Treaty;
- b) the attached Declaration No 30;
- c) the forthcoming enlargement of the Community;
- d) the review of the Cohesion Fund and regional policy after 2006;
- e) competition and globalisation;
- f) the seasonal nature of SME employment in island regions;
- g) the lack of variety in economic activity;
- h) its earlier opinions;
- i) the NUTS classification system used in implementing the Structural Funds and the Cohesion Fund;
- j) implementation of the European Charter for Small Enterprises;

the Committee intends to examine existing European policies for SMEs, and current practice concerning aid and subsidies under Community legislation.

2. Features of island SMEs

2.1. The Community is made up of regions with varying levels of development. For this reason, they are divided for regional policy purposes into different levels or Objectives (1 and 2). Nevertheless, the development of the disadvantaged island regions is lagging behind, despite the fact that 95 % of the population of the islands are eligible for Objective 1 and 2 support.

2.2. Island SMEs are however experiencing difficulty in participating in these programmes because of problems with implementing projects, lack of own resources, their geographical position, demographic situation, small size of the local market, dependence on larger urban centres, vulnerable economy, the seasonal nature of employment and the lack of economic diversity.

⁽¹⁾ COM(2002) 46 final.

2.3. Island SMEs have little capacity for administrative organisation and management, which leaves them effectively beyond the reach of the information and management procedures provided under the various national or Community programmes. Such programmes are often felt to be technocratic and inappropriate to the situation of micro-enterprises, which want things to be more straightforward. Even more seriously, this management shortfall leaves them without the means to deal with the banking and non-banking financial sector: they cannot easily communicate — and therefore negotiate — with it, making cooperation virtually impossible. Poor access to information in general makes it difficult to obtain Community funding and assistance from banks. Isolation, lack of skills and poor information provision are the main reasons for this. Special liaison centres such as the Info Centre networks are a good way of tackling some of these problems, which should be assessed and analysed.

2.4. In spite of the major efforts which have been made over recent years, often with the help of the EU, island regions continue to lag behind, with many of them in decline. The reason is that because of their island status, not even Objective 1 benefits them when it groups them together with the corresponding part of the mainland, or with the relevant Member State.

2.5. Europe's islands have a total surface area of 110 000 km² (3,4 % of EU territory) and some 14 million inhabitants (or 3,5 % of the EU population). Despite the differences in their size or population, the islands face many of the same problems, e.g. economic and social, which often vary only in degree (see Eurostat, Eurisles table in Appendix I).

2.6. These disadvantaged island regions, covered by Article 158 of the Amsterdam Treaty, share common problems regardless of their size, as frequently pointed out by the Committee in its opinions.

2.6.1. These problems are:

- networks in general (transport, and particularly its high cost, energy, telecommunications, water supply);
- migration, especially of young people towards developed centres;
- SME development and competitiveness, and lack of information about the real needs of micro-enterprises;
- health, education, vocational training and apprenticeships;
- the environment;
- the lack of economic diversity;

- inadequate cooperation with mainland regions and with regions in non-EU countries;
- the seasonal nature of employment and economic activity;
- the vulnerability of historical and cultural assets and sites.

2.7. Infrastructure must be in place if island SMEs are to achieve development and competitiveness. Transport, energy, telecommunications and water supply are all infrastructure elements vitally important to sustainable development in the islands. The inhabitants of the island regions are striving to enhance their local living conditions: this depends on economic development and employment. Action under EC policies must fit in with this approach, regardless of the territorial unit or human potential involved.

2.8. The major centres of economic development and European mainland regions can more easily benefit from regional policy. People find work and enjoy better conditions in mainland towns, areas and settlements. It is thanks to regional policy that there are now motorways, and high-speed trains and that airports have been built or renovated. All types of network can clearly be extended more easily in such regions than in their island counterparts. Such infrastructure facilitates the development of mainland SMEs and makes them competitive. However smooth the cooperation and involvement of island inhabitants in development may be, as long as rules are not enshrined in legislation and networks not extended to the island regions, their populations will be headed for decline.

2.9. The ratio of SMEs is often far greater in island than in mainland regions. Density also increases in line with two structural factors:

- Geography: southern Europe, particularly the Mediterranean, has the highest density of SMEs.
- Sector: the highest density, with the greatest distinctiveness from the rest of the EU is, as might be expected, in the tourism, transport, energy and communications sectors.

2.10. When talking about island SMEs, we often think of a web of micro-enterprises with fewer than 10 employees, or even a very large number of sole traders with no employees. One-person businesses and micro-enterprises together sometimes represent over 90 % of island businesses, and more than 70 % of total employment.

2.11. This is why island micro-enterprises have both a social and an economic role. Not only are they not very profitable, but often they suffer from poor social protection, which has implications for healthcare, pensions, etc. When considering the social dimension of island businesses, it is necessary to look at family and local community ties and to take specific needs into account.

3. Proposals to assist island SMEs

3.1. *An appropriate economic environment through the public sector*

3.2. One of the first principles to be observed in order to take account of the particular features of island SMEs is therefore to ensure a favourable general economic climate, in which more effective equality of opportunities can be promoted. Creating such a climate is the concern equally of the public authorities, occupational and economic bodies, and businesses themselves. Island SMEs and micro-enterprises must benefit from specific support measures.

3.2.1. It must be ensured that the basic public services providing island SMEs and end users with high-quality, regular access to energy, water, fuel, transport, research and innovation etc., are available at the same prices as those which are, on the mainland, generated by competition between large bodies. Balancing mechanisms can range from a national adjustment system to compensation systems tailored to each service or territorial unit. This type of action to help island SMEs falls within the bounds of economic and social cohesion, and should be stepped up in the light of recent Commission decisions in the wake of the Treaties and the Nice summit. Derogations from the general status (possibly even micro-derogations for micro-markets) should be introduced, without distorting competition conditions but rather opening the way to fair competition.

3.3. Because they are geographically isolated, small island businesses cannot — despite the explosion of the internet — obtain the information and services which are vital to their development in a constantly-changing enterprise environment, meaning that it is impossible for them to hone the competitiveness without which they cannot survive. The small size of the local market, and the difficulties they encounter in penetrating the larger market, also serve to undermine business activity within their sphere. Difficulties arise with regard to vocational skills, with adapting to quality and security requirements and with promotional, marketing and even export activities.

3.4. On the local market, producers in the island regions must show they can compete with their mainland European counterparts who benefit from economies of scale of a completely different order to their own. Beyond a certain threshold, which varies from product to product, the lower transport costs are not enough to offset the difference in production costs. Agri-foodstuffs imported from mainland Europe often supplant local produce — even the most commonplace — on supermarket shelves.

3.4.1. On the immediately surrounding market, businesses in the island regions must not only strive to sell goods and services produced with European social and wage cost levels, but must also overcome the various tariff and non-tariff customs barriers which may be imposed by third countries. All these factors come into play against a backdrop of WTO and ACP regulations, under which the EU is assisting production in third countries.

3.4.2. Lastly, it is difficult for producers in the island regions to be competitive on the European market. They are faced with either products from their neighbours, which are much less expensive because social and wage costs are lower or economies of scale are greater, or European mainland producers, who are free of the same transport constraints and whose immediately surrounding market is infinitely larger. Compensation must be available per regulation to SMEs in the island regions by way of derogation from the common European rules.

3.5. In conclusion, the introduction of effective support mechanisms and specific measures to support island businesses requires real creativity, and also entails substantial costs, which neither island economies nor the regional public authorities concerned can meet from their own resources.

4. Access to private finance

4.1. Improving SME access to finance in general, and to bank loans in particular, is a task for central banks, European institutions, chambers of commerce, etc. In a credit market which has, in global terms, become supply-dominated, small island businesses — which are excluded from the move to more open and globalised financial markets — still experience difficulty in finding the financial resources they need to carry out successfully their strategy for growth and investment. Meeting the need for long-term resources is not, however, the only problematic aspect for these businesses.

4.2. To get away from a banking approach to risk analysis, measures should be introduced to try and reduce banking risk or the cost of guarantees requested by banks, e.g. in start-ups by young people. Given that islands sometimes have a weaker business culture than the mainland, young people should be encouraged by supporting entrepreneurship and creativity so as to prevent them leaving the islands or even persuade those who have left to return.

4.3. There is a real need for information. In an economic environment marked by wide diversity of actors, going far beyond the quantitative differences illustrated by numbers of employees, balance sheets or turnover, specialist tools to analyse the viability of island SMEs are needed. An approach based on consideration of different modes of production should enable the characteristic variety of island SMEs to be encompassed, revealing the features of the markets in which they operate, and the different strategic positions, types of organisation, and production and financial structures which flow from this.

4.4. The Economic and Social Committee should propose and help introduce a procedure to assess SMEs' ability to secure access to financial resources. The procedure should be put to use internally for banks and businesses, and also externally for suppliers and public bodies in their dealings with SMEs, and for the Commission.

5. Specific development aid

5.1. The Economic and Social Committee believes that action to help island SMEs should have a dual aim: to safeguard and modernise island SME structures, to promote and encourage island SMEs.

5.2. *Safeguarding and modernising island SME structures*

5.2.1. The Committee believes that SMEs must be helped to preserve the social and employment fabric of these regions. This objective must be refined and adjusted in accordance with the category of each island, and with the economic sectors in which they are active. Particular attention must be paid to 'traditional' businesses producing high-quality — often non-standard — products designed for the local market (agri-foodstuffs, cultural products, etc.).

5.2.2. From the studies carried out by the Commission, it is important to identify the real needs of island-based micro-enterprises and small companies. Implementing the recommendations of the European Charter for Small Enterprises and improving the interplay with businesses should make it easier to define these needs ⁽¹⁾.

5.2.3. Numerous Community programmes are addressed to SMEs for this purpose. Care must be taken to ensure that island SMEs are brought into this process, which is already well under way in mainland regions.

5.2.4. The Committee stresses the need in particular to strengthen training instruments at all levels: initial training, vocational training, continuing training, apprenticeships, etc. In the case of island micro-enterprises, training must include company managers as much as employees. As well as establishing training centres or enhancing programmes, support must be provided for an active strategy of exchanging trained staff.

5.3. *Promoting and encouraging island SMEs*

5.3.1. The Committee thinks that pilot schemes tailored to the specific conditions of island markets should be introduced concomitantly, covering that part of economic activity which is specific to the local economy, in order to allow island SMEs either to develop such markets or to enter market sectors outside their own islands. This should be done in full compliance with the specific development strategies of both public and private enterprises.

5.3.2. The Committee emphasises in particular the need to establish support structures for micro-enterprises and very small companies with fewer than 50 employees. These mediating structures should receive strong backing so that they can ensure that the practical needs of small island businesses, as identified in the future, are really met. They are a strategic aspect of any coherent policy towards the business fabric on islands. One of the priorities in connection with these support structures should be to establish back-up and monitoring facilities for projects based on quality advice. Recruitment of permanent staff for these facilities is one of the only ways to provide:

- support for monitoring and management of Community programmes;
- environmental protection or technology mediators;
- back-up facilities for preparation and follow-up of bank dossiers;
- quality and security control.

5.3.3. Always with the requirements of island micro-enterprises and small companies in mind, the Committee stresses the need to promote and strengthen all networks that link micro-enterprises and small companies on islands, in order to facilitate the exchange of good management practice and communication.

⁽¹⁾ ESC opinion on the European Charter for Small Companies, OJ C 204, 18.7.2000, p. 57.

5.3.4. The Committee proposes that 2005 be declared the European Year of Islands. To mark this occasion, the Commission could assess the measures already taken to help islands and use the reform of the Structural Funds and regional policy to endorse a more ambitious policy.

6. Towards an integrated policy for all the islands of the EU

6.1. In addition to measures to develop policies on micro-enterprises and small companies, the Committee would draw the Commission's attention to the need to introduce an integrated policy which will provide for specific measures to support the outermost island regions and islands. Three measures seem appropriate for achieving this general objective, which must provide a framework for three sectoral policies.

6.2. The Committee would like the meaning of Article 158 of the EC Treaty to be clarified to reflect the spirit of Declaration No 30 and the conclusions of the European Council in Nice. This article must be strengthened by including specific reference to the principle of territorial cohesion and to the various regions facing long-term structural problems, such as island regions, thinly populated regions or upland regions suffering from the same handicaps. The 'First Progress Report on Economic and Social Cohesion' ⁽¹⁾ notes 'the extent of

the Community territory comprising mountain, coastal and maritime areas, islands and archipelagos'.

6.2.1. The Committee hopes that the reform of the Structural Funds in 2006 should make provision for the establishment of a specific financial instrument for non-Objective 1 regions suffering from permanent geographical or demographic handicaps — including, in particular, islands. It must be possible to use this instrument among other things to co-finance fixed or mobile transport infrastructure, but also to strengthen all the networks on which islands depend (energy, waste water, etc.) ⁽²⁾.

6.2.2. The Community added value of such an arrangement is that it enables the effectiveness of procedures to be better assessed and provides support for interregional exchanges to establish the best project design, for benchmarking, etc.

6.3. Finally, the proposals in the White Paper on governance should give greater recognition to islands. The Commission should make a systematic effort to adopt an interdepartmental approach or even set up a directorate-general to oversee the policies concerning and affecting islands and integrate their management.

6.4. The Committee thinks that this integrated approach, backed up by national mechanisms for prior consultation of the Member States whenever legislation affects islands, would establish a true partnership between island regions, governments and the Commission.

⁽¹⁾ COM(2002) 46 final, p. 16.

⁽²⁾ ESC Opinion 'Extending the trans-European networks to the islands of Europe'.

Brussels, 25 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICHS

Opinion of the Economic and Social Committee on 'Fiscal competition and its impact on company competitiveness'

(2002/C 149/16)

On 28 February 2001, the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on 'Fiscal competition and its impact on company competitiveness'.

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 25 February 2002 by a large majority with 4 abstentions. The rapporteur was Mr Morgan.

At its 390th plenary session (meeting of 25 April 2002), the Economic and Social Committee adopted the following opinion by 90 votes to 3 and 2 abstentions.

1. Introduction

1.1. The EESC has chosen to prepare an Own-initiative Opinion on Fiscal Competition and Company Competitiveness. The concerns which caused the opinion to be initiated were well justified. There was evidence of widespread abuse. However, as a result of recent EU and international initiatives, the whole spectrum of issues is now being addressed. Accordingly, in this opinion, we define the issues and present a progress report on the actions being taken.

1.2. By 'company competitiveness' we mean a company's ability to survive and thrive in face of continually changing market forces while fulfilling its responsibilities to shareholders, employees, customers and suppliers.

1.3. Amongst the range of market forces which represent opportunities and threats to companies are factors such as:

- changing consumer preferences;
- competitor advances;
- economic cycles;
- impact of the single market;
- impact of globalisation.

1.4. The whole range of government activity, policy and action in many fields also create factors which can affect the competitiveness of firms. Typical factors are employee social

costs and social systems, environmental taxation and regulation, consumer regulation, transport infrastructure, workforce skills, education, health and the pattern of international agreements. Most direct, of course, is the basis and scale of company taxation.

1.5. By 'fiscal' we mean the national fisc of EU Member and non-Member States. In other words we mean the pattern of tax receipts and public expenditure. 'Fiscal competition' can arise in two ways. First, the overall fiscal posture of one country versus others can make that country more attractive to businesses. In this respect the basis and scale of company taxation is often the key determinant. Second, whatever their basic fiscal policies, states may make exceptions, derogations etc. with the specific aim of attracting and retaining company presence in the country. This is defined as harmful tax competition. These inducements may also take the form of state aids.

1.6. Company decisions relative to facility location for optimum competitiveness are not necessarily and certainly not only fiscally driven. Different factors will be more or less important for different companies in different industries.

1.7. In our review of current EU and international initiatives we have considered the following:

- EU tax priorities;
- EU Commission study of company taxation;
- EU Code of Conduct to eliminate harmful tax competition;

- EU actions to eliminate harmful state aids;
- OECD actions.

2. Review of initiatives

2.1. EU tax priorities

2.1.1. The Commission published a Communication dated 23 May 2001 entitled 'Tax policy in the European Union — Priorities for the years ahead'. An Opinion on this Communication has been presented⁽¹⁾. The Communication gives a number of insights into the fiscal competition issue. This Communication is also discussed at 4.1.

2.1.1.1. In section 3.2.1 there is a reference to the international framework: '(...) The overall aim of the major world economies, including those of the EU Member States, has been to work towards a fiscal climate which promotes free and fair competition and is conducive to cross-border business activity, while at the same time ensuring that national tax bases are not eroded. The work on tackling harmful tax competition, both in the OECD and also in the EU through the tax package, has been central to this aim in the last few years.'

2.1.1.2. In section 1 there is a reference to harmful tax competition: 'The efforts to curb harmful tax competition through the Code of Conduct for business taxation and the proposals on the taxation of income from savings will allow Member States to consolidate their tax revenue raising capacities, thus offering scope for reducing the high average tax burden on labour. It is important therefore that the Community sees the various elements of the tax package through to their conclusion.'

2.1.1.3. In section 2.1 the options for national fiscal strategies are discussed: 'The EU policy dialogue has promoted an integrated approach with a greater awareness of policy options and constraints for taxation. Tax cuts should be focused on areas where they have beneficial supply side effects and they should be accompanied by reforms to benefit systems in order to increase growth potential and employment. Emphasis has been put on the need to reduce the fiscal pressure on labour and non-wage labour costs, in particular on relatively unskilled and low-paid labour.'

And there is a further reference in section 2.4: '(...) The level of public expenditure is equally a matter for national preferences as long as this is adequately met by revenues in such a way that budget positions remain close to balance or in surplus (...).'

2.2. EU company taxation study

2.2.1. The Commission study on Company Taxation was published on 23 October 2001, in the form of a communication (COM(2001) 582) and a Commission staff working paper (SEC(2001) 1681). The EESC will examine these in a separate opinion. This study is further discussed at 4.2.

2.2.2. The Commission⁽²⁾ notes that the results of the quantitative analysis for 1999 show that 'there is a large variation in the effective tax burden faced by investors resident in the different EU member countries, as well as in the way each country treats investments in or from other countries (...) The range of differences in domestic effective corporation taxation rates is around 37 percentage points in the case of a marginal investment (between -4,1 % and 33,2 %) and around 30 percentage points in the case of a more profitable investment (between 10,5 % and 39,7 %). (...) Across the range of domestic and cross-border indicators there is a remarkable consistency as far as the relative position of Member States, notably at the upper and lower ranges of the ranking are concerned.'

2.2.3. 'These high differentials may have an influence on the international competitiveness of EU companies located in different Member States and represent incentives for companies to choose the most tax-favoured locations for their investments, which may not be the most efficient location in the absence of taxes. If this is the case, differences in the effective levels of company taxation may imply an inefficient allocation of resources and, therefore, welfare costs. The study has not attempted to quantify the size of any efficiency loss or welfare cost that might be associated with existing differences in effective corporation tax rates in the European Union. Nevertheless, the size of tax differentials and dispersions deserves attention, considering that some externalities as well as the different legitimate goals of tax policy may justify a certain deviation from the objective of neutrality of taxation.'

2.2.4. In order to remedy the tax obstacles in the EU, the Commission⁽³⁾ considers various targeted solutions. However 'Only providing multinational companies with a consolidated corporate tax base for their EU-wide activities will really, through a single framework of company taxation, systematically tackle the majority of tax obstacles to cross-border economic activity in the single market. Companies with cross-border and international activities within the EU should in future be allowed to compute the income of the entire

⁽¹⁾ OJ C 36, 6.2.2002.

⁽²⁾ COM(2001) 582 final, p. 7.

⁽³⁾ COM(2001) 582 final, p. 15.

group according to one set of rules and establish consolidated accounts for tax purposes (thus eliminating the potential tax effects of purely internal transactions within the group).'

2.2.5. 'It is important to note that this approach does not infringe Member States' sovereignty to set corporate tax rates. (...)'

2.2.6. 'The Commission (therefore) believes that it is only logical to steer its company taxation policy towards achieving a comprehensive solution to the existing cross-border tax obstacles in the internal market (...). The Commission believes that it is necessary to provide companies with a consolidated corporate tax base for their EU-wide activities; develop an appropriate apportionment mechanism which can be agreed by all participants; and, for Member States, to determine the applicable national corporate tax rates.'⁽¹⁾ Various approaches and technical possibilities are examined in the Commission services study.

2.3. Code of Conduct

2.3.1. The Code of Conduct (Business Taxation)/Primarolo Group report was published on 29 November 1999. At its session on 28 February 2000, the Council took no position on its content.

2.3.2. Paragraph 3 of the report defines harmful measures in the following terms: 'A. Without prejudice to the respective spheres of competence of the Member States and the Community, this code of conduct, which covers business taxation, concerns those measures which affect, or may affect, in a significant way the location of business activity in the Community. Business activity in this respect also includes all activities carried out within a group of companies.

The tax measures covered by the code include both laws or regulations and administrative practices.

B. Within the scope specified in paragraph A, tax measures which provide for a significantly lower effective level of taxation, including zero taxation, than those levels which generally apply in the Member State in question are to be regarded as potentially harmful and therefore covered by this code.

Such a level of taxation may operate by virtue of the nominal tax rate, the tax base or any other relevant factor.

When assessing whether such measures are harmful, account should be taken of, *inter alia*:

1. whether advantages are accorded only to non-residents or in respect of transactions carried out with non-residents, or
2. whether advantages are ring-fenced from the domestic market, so they do not affect the national tax base, or
3. whether advantages are granted even without any real economic activity and substantial economic presence within the Member State offering such tax advantages, or
4. whether the rules for profit determination in respect of activities within a multinational group of companies departs from internationally accepted principles, notably the rules agreed upon within the OECD, or
5. whether the tax measures lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way.'

2.3.3. Paragraph 4 of the Report seeks to eliminate future abuses: 'Member States commit themselves not to introduce new tax measures which are harmful within the meaning of this code. Member States will therefore respect the principles underlying the code when determining future policy.'

2.3.4. Paragraph 5 discusses the specific issue of islands and dependent territories: 'Insofar as the tax measures are used to support the economic development of particular regions, an assessment will be made of whether the measures are in proportion to, and targeted at, the aims sought. In assessing this, particular attention will be paid to special features and constraints in the case of the outermost regions and small islands, without undermining the integrity and coherence of the Community legal order, including the internal market and common policies.' Member States with dependent or associated territories or which have special responsibilities or taxation prerogatives in respect of other territories commit themselves within the framework of their constitutional arrangements, to ensuring that these principles are applied in those territories.

2.3.5. The report classified harmful measures into the following groups:

- a) financial services, group financing and royalty payments;
- b) insurance, re-insurance and capital insurance;
- c) intra group services;
- d) holding companies;

⁽¹⁾ COM(2001) 582 final, p. 19.

- e) exempt and offshore companies;
- f) miscellaneous.

In total, nearly 300 measures have been identified and classified as either acceptable or harmful and unacceptable. It has been broadly agreed that there are 66 harmful measures which should be rolled-back for 2003 and a report was submitted to the 4 December ECOFIN Council but there were no clear conclusions. The Council asked the working party to continue its work in accordance with the timetable set for the fiscal package.

2.4. EU Action on State aids

2.4.1. Mario Monti, EU Competition Commissioner, recently stated ⁽¹⁾: Progress is being made; however there is still room for manoeuvre to reduce aid further. The Commission therefore strongly supports the Member States in their quest to reduce overall amounts of aid, in line with the Stockholm European Council's conclusions of spring 2001. Member States should continue to make all efforts to carefully rethink their aid spending. Every single reduction of aid clearly reduces the distortion of competition in the internal market and increases the benefits of Economic and Monetary Union. On the Commission's side, I will maintain strict state aid control as a priority.

2.4.2. Whilst the EUR 28 billion spent in the manufacturing sector are less than the EUR 36 billion in the preceding period from 1995 to 1997, the overall decrease is not EU wide and still mainly depends on the two countries Italy and Germany. In both Member States aid amounts fell substantially. In Belgium, Greece, Spain, Luxembourg, the Netherlands and in the United Kingdom levels of aid to manufacturing also dropped but were offset by increases in other Member States.

2.4.3. Substantial differences between individual Member States remain. Aid levels in relation to value added are highest in Greece and lowest in the United Kingdom and Portugal. A comparison shows that in Greece, aid as a percentage of value added is over seven times higher than in the UK. Member States like Sweden, the Netherlands, the UK or Portugal have maintained their low levels of aid whereas Italy, Germany and Spain are rapidly reducing their aid levels.

2.4.4. The Commission announced in July 2001 that it is taking further action along the following lines:

- a) increasing transparency, via the State Aid Register and Scoreboard;

- b) monitoring the State aid control rules;
- c) enforcing state aid control effectively in candidate countries;
- d) faster recovery of illegal aid. Particular importance will be attached to a more speedy recovery of aid which the Commission has declared incompatible with EC State aid rules.

2.4.5. On 11 July 2001, Commissioner Monti launched a large scale state aid investigation into business taxation schemes. This concerned 11 corporate tax schemes in eight Member States, and also existing fiscal advantages in four other Member States that are no longer justified following the economic changes of the EU single market (see press release IP/01/982).

2.5. OECD

2.5.1. In the global context the OECD has been working on harmful tax competition, and in particular the existence of so-called tax havens, and has arrived at a list of 35 tax havens. So far 28 territories have made commitments and will be removed from the OECD black list. The USA has expressed concern about the ethics of imposing OECD views on sovereign states. However, since the events of 11 September 2001, the political support for combating tax fraud and money laundering has increased and so-called tax havens have come under greater scrutiny.

2.5.2. The deadline for the havens to agree to cooperate with the OECD is 28 February 2002. For havens which fail to comply, it is likely that sanctions will be imposed.

3. Characteristics of national taxation

3.1. The characteristics of national taxation have their basis in historic and cultural choices by government and citizens.

3.2. This reflects the role assigned to government in different countries. Countries choose their economic and social policies and politics, in the knowledge that such policies will have a particular effect on the fiscal regimes they must impose.

3.3. For example, the tax disadvantages created in high tax countries may be compensated for by superior public infrastructure, or by a higher skills base. Host countries and companies located there are fully aware of the trade-off between levels of taxation and consequent government expenditure.

⁽¹⁾ Commission press release on 'State Aid movement in the right direction', 19.7.2001 (IP/01/1033).

3.4. It is the conclusions of the study on company taxation that company tax rates are a matter for Member State governments.

4. Company competitiveness and taxation

4.1. The following issues affecting company competitiveness are discussed in the parallel ESC Opinion on Tax policy in the European Union ⁽¹⁾.

4.1.1. Employment costs, or non-wage labour costs, are so high in some Member States that they may potentially discourage inward investment.

4.1.2. Cost of raw materials can represent a significant proportion of total costs. For energy intensive industries, the effective rate of taxation of energy may be an important factor.

4.1.3. The EU has a common VAT regime, yet applicable rates vary within a given band, and with some derogations in certain Member States. The VAT regime in any one Member State may be an attraction or a deterrent to new companies, as may be seen, for example, in the current debate over VAT and e-commerce, where there is a concern that non-EU companies required to register within the EU will choose a country where a low VAT rate applies.

4.1.4. Taxes and levies on labour vary among Member States, and may have an impact on the company's ability to employ the workers it requires.

4.1.5. The difficulty of transferring pensions from one Member State to another is a barrier to the mobility of labour, particularly for managers and professionals.

4.2. The following issues are among those addressed by the Company Taxation Study which was presented by the Commission in October 2001.

4.2.1. Transfer pricing refers to the price charged by individual parts of one economic entity for transactions of goods and services between themselves, for example within a multi-national corporation. Within the EU, the Arbitration Convention is a means of resolving transfer pricing disputes.

4.2.2. Inter-company payments of interest and royalties are subject to withholding taxes by Member State tax authorities, which can result in double taxation. Should this occur, companies face time-consuming administrative procedures, and may incur financial costs between payment and reimbursement of these taxes.

4.2.3. Cross-border loss compensation is the possibility for a company to offset losses across borders, i.e. if a company makes a loss in one market it can offset this against profits made in another. There is no mechanism for this within the single market. This represents a serious cost to business, and may deter a business from investing in new and untried markets.

4.2.4. Cross-border business integration can be expensive even within the single market, preventing companies from restructuring in an optimal way. The problems encountered include transfer taxes due upon transfer of taxes to a branch structure, loss of pre-conversion losses that cannot be transferred to a new branch structure, and the obligatory release of provisions which have up to that point reduced taxable profits. The 1990 Mergers Directive went some way to improving the situation, but the existing obstacles place EU companies at a disadvantage compared to non-EU companies which start a Greenfield operation in the EU.

4.2.5. Corporate taxation also varies widely among Member States, both in terms of the taxable base and of the corporate tax rate. Governments determine how they wish to tax companies in their jurisdiction, and may be able to use this, for example, as a tool to encourage new start-up companies, or to attract foreign investment. In some cases, companies are able to offset investments against their tax bill, through capital allowances.

4.2.6. In addition to the difficulties of multi-country operations described above, companies active in other Member States where they have no corporate presence often face administrative difficulties with fiscal and social arrangements which are not imposed on national companies. These problems represent distortions of competitiveness.

4.3. Within the EU, companies should be able to operate efficiently across borders, thus benefiting from the creation of the internal market. The difference in efficiency of operation between a multi-country and a single country enterprise is a measure of the obstacles that affect the competitiveness of a company operating within the internal market.

⁽¹⁾ COM(2001) 260.

4.4. The elimination of fiscal distortion between Member States can either be formal or informal. The Company taxation study has the scope to achieve a considerable degree of formal convergence between corporate tax systems. However convergence of tax rates will only be achieved informally by Member States reacting accordingly.

5. Conclusions and further actions

5.1. Company tax rates will remain subject to Member State autonomy. Accordingly, since the systems will differ, they will naturally remain in a state of latent competition. This situation will persist, but following the Commission study on Company Taxation, many inconsistencies should be removed. Overall the Lisbon European Council conclusions invited all Member States to improve the competitiveness of their fiscal systems.

5.2. In the meantime harmful measures affecting company location need to be acted upon. The EESC calls on the Council to commit itself to a political follow-through to the problems treated in the Primarolo report, since the issues which it addresses are central to the question of fiscal competition, without, however, losing sight of the Verona Agreement of December 1997⁽¹⁾ on a package of fiscal measures ('tax package') and the fact that a parallel timetable has been drawn up⁽²⁾ for work to implement the key parts of the package. The preparation of the Report was a great step forward. Failure to act would be two steps backwards.

5.3. The EESC is encouraged by the recent Commission activity in the area of state aids. In the Tax Priority Communication the Commission indicates that for taxation generally it intends to pursue non-conforming Member States through the ECJ. The ESC urges the Commission to use this route to eliminate illegal state aids.

⁽¹⁾ ECOFIN Council Conclusions, OJ C 2, 6.1.1998.

⁽²⁾ Presidency Conclusions from the meeting of the European Council of Ministers in Santa Maria da Feira. Press release (19/6/2000) No 200/1/00.

5.4. The EESC encourages the Commission and the Member States to ensure that the OECD study is brought to a fair and honourable conclusion, after the 28 February 2002 deadline.

5.5. As far as companies are concerned, the first priority must be to complete the programme outlined in the Tax Priority Communication. VAT, personal pensions and transfer pricing are just some of the issues involved.

5.6. Most important for company competitiveness when operating in the EU will be the outcome of the study on company taxation published in October 2001, although it is important to note that rates of corporate tax would remain the responsibility of Member States. The Commission's two-track strategy includes immediate action on targeted measures and the launch of a wider debate on general comprehensive measures with the objective of providing EU businesses with a consolidated corporate tax base for their EU-wide activities.

5.7. There are many issues but priority must be given to the tax dimension of the European Company Statute. The full benefits of establishing a European Company (SE) will only be achieved if existing companies can form such an entity without incurring additional tax set-up costs, and avoid some of the existing tax obstacles of operating in more than one Member State. As things stand neither of these are provided for and its success could therefore be jeopardised. At the same time the implementation of the SE statute should not lead to new fiscal distortion vis-à-vis companies registered in Member States

5.8. Although fiscal arrangements and fiscal competition are important contributors to company competitiveness, the defining issues would not normally be fiscal unless the fiscal arrangements are unreasonable and harmful. Fiscal arrangements are political and reflect public choice. Many market forces affecting company competitiveness are, in effect, uncontrollable. Companies look to politicians to control fiscal arrangements sensibly and logically and to maintain stability over time.

Brussels, 25 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICH

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration'

(COM(2001) 672 final)

(2002/C 149/17)

On 21 January 2002 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002. The rapporteur was Mr Pariza Castaños.

At its 390th plenary session (meeting of 25 April 2002), the Economic and Social Committee adopted the following opinion by 97 votes to one with two abstentions.

1. Summary of the communication

campaigns, etc. Steps to promote peace, political stability, human rights and sustainable economic development should be taken in connection with the countries of origin.

1.1. The communication addresses various aspects of preventing and combating illegal immigration, and proposes action in areas such as visa policy, information exchange, border management, criminal law and return policy.

1.2. There is a section on guidelines, targets and requirements, in which key markers for future policy in this field are laid down, and another on an action plan specifying what action should be taken.

1.3. The section on guidelines, targets and requirements opens by pointing out that illegal immigration is multifaceted and complex, and requires a thorough knowledge of its causes, forms, patterns and channels if future measures are to fit the facts.

1.3.1. The communication states that illegal immigration should be tackled without jeopardising the ability of people who require international protection to gain access to the Member States. In order to maintain this balance, the Member States should explore the possibility of offering rapid access to protection, so that refugees do not need to resort to illegal immigration. Greater use should be made, for example, of the possibility of processing requests for protection in the place of origin, or facilitating the arrival of refugees in the Member States through resettlement schemes.

1.3.2. Preventive measures necessary to combating illegal immigration include research into its causes, support for new partnerships with the countries of origin, information

1.3.3. The criminal activities associated with irregular migration flows, involving both smuggling and trafficking in human beings, must be countered and punished appropriately, which means that Member State criminal law needs to be harmonised. Progress must be made on common standards for dealing with illegal employment, the liability of carriers, and regulations on illegal entry and residence.

1.4. The section on an action plan puts forward measures on visas, information exchange and analysis, frontier measures, operational and police coordination, criminal law and return policy.

1.4.1. The significance of visa policy to illegal immigration lies in the fact that some illegal immigration occurs when people pass through the proper border posts but do not have the right documentation, or offer false documentation. The current Schengen visa is a high-quality document which is effective in countering forgery, but further steps need to be taken to improve ways of identifying the visa-bearer. Thought should be given to the idea of setting up joint visa posts, which would provide better technical services and equipment, at lower cost. A European electronic visa information system is also necessary: in addition to identification by the document itself, a further check could be made through the relevant database.

1.4.2. Information exchange and analysis is of great importance in understanding illegal immigration and dealing with it appropriately. There needs to be more work on analysing causes, methods of entry and so on. Information exchange systems must therefore be modernised and the proposal to set up a European Migration Observatory put into practice. The establishment of an Early Warning System, or a permanent communication network, has also been proposed. This would allow each Member State to report any information on illegal migratory movements instantly.

1.4.3. Possible steps to be taken in migrants' countries of origin and transit include the creation of a network of immigration and airline liaison officers to coordinate action in the countries of origin themselves. A broad package of measures is also needed, including financial assistance for third countries in such areas as support for asylum infrastructure, awareness-raising campaigns, training for their public officials, expert meetings, improved border control equipment etc. Awareness-raising campaigns would focus on the risks involved in illegal immigration as well as other aspects.

1.4.4. Improving the EU's external border controls requires measures such as creating a European border guard, developing a training curriculum for border officials, or establishing joint border teams. The creation of a European border guard school is proposed as a future development.

1.4.5. These proposals could be combined in order to create a single technical support agency. This would include the European Migration Observatory, the Early Warning System, the European Border Guard School and systems management (SIS, Eurodac, European Visa Identification System).

1.4.6. Europol should expand its role in detecting and dismantling criminal networks, and should be granted further operative powers, especially with regard to trafficking or smuggling of human beings.

1.4.7. All the Member States must make any necessary changes to their aliens law and criminal law in order to increase their effectiveness in tackling people traffickers and smugglers. Smuggling is defined as action connected with an illegal border crossing, while trafficking means exploitation of persons. Anti-smuggling measures have been set out in a recent directive, and there is a framework decision on combating trafficking in human beings. Fresh legislative proposals are, however, required to deal with the situation of the victims of trafficking. The Commission is to present a proposal on residence permits for victims of trafficking who cooperate in investigations and criminal proceedings against exploiters.

1.4.8. Illegal employment of irregular migrants stimulates unlawful migratory flows and must be tackled with appropriate sanctions: these should include charging the costs of return and other expenses to their employers. The Member State should ensure that this business does not pay.

1.4.9. Carriers also bear specific responsibilities. They are obliged to take all necessary measures to ensure that aliens are in possession of valid travel documents. The Council has already adopted a directive on this aspect, but further regulations and greater harmonisation are necessary.

1.4.10. Return policy supplements the above-mentioned measures. Priority should be given to voluntary return. Broader cooperation and joint action by the Member States is needed regarding transit and readmission aspects: the human rights situation in the country of origin must always be taken into account in reaching re-admission agreements. The Commission is currently preparing a green paper on a Community return policy.

2. General comments

2.1. The Committee would firstly comment on the terminology used. The term 'illegal' should be used in particular to refer to smuggling, trafficking or exploitative activities, so that those engaging in and profiting from such activities are considered 'illegal'. In contrast, some clarification is needed when the term 'illegal immigration' is used to refer to individual migrants. Although it is not lawful to enter a country without the required documents and authorisation, those who do so are not criminals. Lumping together irregular immigration and crime, as the media frequently do, distorts the facts and breeds fear-driven and racist attitudes among the general public. Irregular immigrants are not criminals, even though their situation is not legal.

2.2. The Committee's initial general comment on the communication would be to express its full support for combating illegal immigration, particularly those aspects involving smuggling and trafficking of human beings. These criminal activities have resulted in a new form of slavery and an illegal trade on a large scale, which feeds on the suffering of millions of people. It is one of the greatest scourges of our times, against which the rule of law should deploy every means at its disposal.

2.3. The Committee welcomes the communication's affirmation of the need to recognise the right to international protection for those who require it and, consequently, to combat illegal immigration without jeopardising the right of asylum. The Committee is however convinced that this right is not sufficiently safeguarded by the terms in which the communication is couched, particularly with regard to carrier liability. This aspect will be discussed under the specific comments below.

2.4. The Committee supports the Commission's proposal to create new legal instruments allowing sanctions for smugglers and traffickers in human beings to be increased, and agrees with harmonisation of criminal and aliens legislation, so that all the Member States can act with the same vigour in this area.

2.5. As argued in the Committee's Opinion on a new Community immigration policy⁽¹⁾, the Community institutions and the Member States need to promote new legislative instruments and enhance their political and administrative work to prevent the illegal employment of irregular immigrants. This same need is reflected in the communication's comments on the 'pull factor' represented by illegal employment.

2.6. The communication takes scarce account of the Commission's own analysis of the causes of irregular immigration in its November 2000 Communication on a Community immigration policy⁽²⁾. At the time, it was pointed out that one of the reasons for the increase in irregular immigration is the lack of legal channels for labour migrants: demand for labour exists in certain sectors of the European economy, but at the same time current immigration policies make legal entry very difficult. This is one of the causes of migration through irregular channels: consequently, measures should be taken to settle the status of those who find themselves in this situation.

2.7. Since restrictive immigration policies, as currently pursued, are largely responsible for many people 'not having the right papers', the Commission and the Member States should consider regularising their situation so that they can legally obtain employment contracts.

2.8. The Committee believes that a common policy on illegal immigration is needed as a necessary adjunct to a common immigration policy. The Council should step up its work on adopting the directives on family reunification, status of long-term residents, and entry and residence conditions for new immigrants. This would significantly reduce the problem of irregular immigration.

3. Specific comments

3.1. In analysing the causes and defining the objectives of a common policy on illegal immigration, equal emphasis should be placed on two major aspects:

- combating smuggling, trafficking and illegal employment of human beings;
- opening up legal channels for migratory flows.

These two aspects must always be considered in tandem, although the second is not covered in the communication since it is currently under discussion in other European Commission proposals. The issue of illegal immigration is not a matter for the police and courts alone.

3.2. *Illegal employment*

3.2.1. Steps to combat illegal employment must be given greater importance. When illegal employment of irregular immigrants infringes existing labour conditions established by law, it should be defined as exploitation. The term 'exploitation' is used in the communication only when discussing trafficking: in the Committee's view, it should also be used with reference to illegal employment under certain circumstances.

3.2.2. Since proper channels for legal immigration do not yet exist, in the course of their business some employers offer work to irregular migrants, because they are unable to find legal migrants.

3.2.3. A minority of employers take advantage of their irregular situation to exploit them, imposing labour and pay conditions which violate all labour standards and/or collective agreements. A few employers also act as accomplices to the networks illegally smuggling human beings.

3.2.4. Exploitation of workers should therefore not be subject to economic sanctions alone: the criminal law of the Member States should be brought to bear.

3.2.5. The proposal to confiscate all financial gains from criminal activities relating to irregular immigration meets with the Committee's approval.

3.2.6. The social partners must be involved in combating the exploitation of irregular immigrants through illegal employment. Trade unions and employers' associations should cooperate with the public authorities to stamp out exploitation of immigrants. The Committee agrees with the Commission's proposal to eliminate any competitive advantages gained by employers through irregular work. The possible future directive mentioned by the Commission could help eliminate this problem.

⁽¹⁾ OJ C 260, 17.9.2001 (rapporteur: Mr Pariza Castaños).

⁽²⁾ Communication from the Commission COM(2000) 757 final.

3.3. *Rewarding victims who cooperate with the judicial authorities*

3.3.1. Victims of illegal work exploitation should be considered sympathetically. When immigrant workers caught up in illegal employment are subjected to extreme conditions, they must be seen as victims of exploitation. It should therefore be stated that if victims cooperate with judicial enquiries into illegal and exploitative working, they will be granted legal residence, as is the case for the victims of trafficking in human beings (point 4.7.2 of the communication).

3.3.2. The Committee welcomes the Commission's swift preparation of a legislative proposal on residence permits for victims who are prepared to cooperate in investigations and criminal proceedings against their exploiters.

3.4. *Penalising carriers*

3.4.1. The Committee would repeat in the present opinion that it opposes penalising passenger carriers. It has already argued, in a previous opinion ⁽¹⁾, that transport companies and their employees should not be responsible for checking passengers' travel documents, as this may prevent the right of asylum, protected by international conventions, from being exercised by asylum seekers trying to reach the territory of an EU Member State. The responsibility for checking travel documents should lie with qualified officials, and could be exercised by the network of liaison officials which the Commission proposes be set up in the countries of origin, rather than by travel operator staff.

3.4.2. Further to the above point, the Committee understands the term 'carrier' to mean a passenger transport company which operates in full compliance with the law by carrying persons who have paid the appropriate fare. It does not therefore apply to goods carriers who knowingly transport people unlawfully, a circumstance which should be covered in any consideration of illegal smuggling.

3.5. *Regularising persons with irregular status*

3.5.1. The Committee's other main objection to the content of the communication concerns the way irregular immigrants in the EU should be treated. The communication speaks only of return policy: in the Committee's view, while this is necessary, it cannot be the sole response to irregular situations.

3.5.2. Within the framework of policy coordination, the Commission should urge the Member States to prepare regularisation measures, averting the risk of irregular immigration being considered as a 'back door' to legal immigration. In regularising the situation of those involved, consideration should be given to the degree to which they have settled in social and employment terms.

3.6. *Cooperation on visa and border control policy*

3.6.1. Cooperation with the countries of origin is a crucial instrument for channelling migratory flows on a legal basis, and for forestalling illegal immigration.

3.6.2. In issuing visas and controlling external borders, the Member States must cooperate with each other and comply with the obligations they have assumed. It is worth bearing in mind that the EU's external borders are going to come under major pressure from migrants in the coming years.

3.6.3. Coordination and exchange of information between liaison officers is needed in order to implement this joint policy.

3.6.4. The Committee wishes to support the Commission's proposal to set up a European border guard with common standards and a harmonised training curriculum. In the medium term, steps should be taken towards the creation of a border guard school. Border controls should be carried out by officials who are skilled in dealing with people and possess thorough technical know-how.

3.6.5. It is very important to provide financial assistance for third countries in combating trafficking and in managing legal migratory flows; these require preventive information campaigns targeting irregular immigration. The social partners and other civil society organisations could take part in such campaigns.

3.6.6. The Committee would point out that priority financial assistance should be given to the applicant countries, which will be subject to transitional periods before their workers enjoy freedom of movement. These countries will also be asked to make additional efforts in terms of border controls and their own immigration flows.

3.7. *Combating organised crime*

3.7.1. Europol's role in detecting and dismantling criminal networks involved in smuggling irregular immigrants should be stepped up. Europol should be given more operative powers, with full implementation of Article 30 of the Treaty on European Union. No effort should be spared in tracking down the financial networks connected with trafficking and smuggling of human beings.

⁽¹⁾ Opinion on the Communication from the Commission on a common asylum procedure, in OJ C 260 of 17.9.2001 (rapporteur: Mr Mengozzi).

3.7.2. Eurojust and the European judicial network should be reinforced in order to tackle organised crime, money laundering and the networks engaged in smuggling human beings. The Convention on mutual legal assistance merits the support of the Committee.

3.7.3. The Committee gives its full backing to the Council and Commission in combating smuggling and trafficking in human beings. New criminal provisions are required to increase penalties; these offences should fall within the remit of the common police and judicial area being developed by the EU in order to combat terrorism and organised crime.

3.8. *European Migration Observatory*

3.8.1. The Committee considers that the Commission's proposed action plan contains positive elements, particularly the establishment of a European Migration Observatory to monitor and carry out comparative analysis of both legal and irregular migratory flows, and the creation of an early warning system on illegal immigration.

3.9. *Return policy*

3.9.1. Turning to readmission and return policy, the Committee would emphasise that the voluntary aspect should be encouraged, and the utmost consideration given to humani-

tarian values. The Member States of the EU must not enter into readmission agreements with third countries where serious political instability or human rights' violations are rife. The Committee will scrutinise the green paper on a Community return policy with great care.

4. **Concluding comments**

4.1. The Committee welcomes the Commission's proposal for civil society to be involved in efforts to prevent and fight illegal immigration. The European Economic and Social Committee can also contribute to the drafting of the proposed action plan.

4.2. A common policy against illegal immigration must take account of all its contributory factors. It must not be restricted to law-enforcement and judicial policies alone which, although certainly necessary, cannot by themselves diminish irregular immigration.

4.3. The Committee calls for greater speed and responsibility on the part of the Council in its legislative work concerning immigration and asylum. The present delay in drafting the directives and regulations proposed by the Commission makes it difficult to ensure that migration takes place through legal channels.

Brussels, 25 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICH

Opinion of the Economic and Social Committee on the 'European Commission White Paper: A New Impetus for European Youth'

(COM(2001) 681 final)

(2002/C 149/18)

On 17 January 2002, the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on the 'European Commission White Paper: A New Impetus for European Youth'.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 April 2002. The rapporteur was Mrs Hassett, the co-rapporteurs were Mr Rodríguez García-Caro and Mr Soares.

At its 390th plenary session, held on 24 and 25 April 2002 (meeting of 25 April), the Economic and Social Committee adopted the following opinion by 72 votes to one with one abstention.

1. White Paper — 'A new impetus for European Youth'

1.1. The Committee welcomes the European Commission White Paper 'A New Impetus for European Youth', presented on 21 November 2001. It is in full support of this policy initiative, which has the potential to create a new dynamic for tackling the challenges faced by young people in Europe, the Committee calls on the Commission to swiftly develop specific actions and allocate the necessary resources for their implementation.

1.2. In November 2000, the Committee adopted a comprehensive own-initiative opinion in anticipation of the announced publication of the European Commission's White Paper: Youth Policy. On the basis of this opinion, the Committee played a pro-active role in facilitating the consultation process. In co-operation with the European Commission and the European Youth Forum, the Committee convened a Hearing on Youth Policy with over 200 participants, representing youth organisations, trade unions, employers and other organisations active in the field of youth, coming both from the European Union and pre-accession countries. The Hearing produced a wealth of contributions and written submissions ⁽¹⁾, which were published and consequently served as a basis for continued involvement of the Committee in the consultation ⁽²⁾.

1.3. The Committee identified youth employment and social integration, education and mobility, participation and

civil society as crucial elements of youth policy ⁽³⁾. It is thus with concern that the Committee notes the limited scope of the White Paper's priorities and therefore urges the European Commission to place the improvement of young people's social situation at the heart of all future youth policy endeavours. The Committee furthermore regrets that the White Paper remains tacit about the participation of pre-accession countries.

2. General Comments on the White Paper — 'A new impetus for European youth'

2.1. The White Paper outlines the Commission's suggestions to the member states and the regions of Europe for putting youth-related measures into practice. Substantial annexes include a synthesis of the results of the consultation process and an overview of existing Community policies and programmes, which are aimed at or affect young people. In response, the White Paper suggests a new framework for European co-operation comprising of two main aspects:

- applying the open method of co-ordination in the specific field of youth;
- taking better account of the 'youth' dimension in other policy initiatives.

2.2. The European Commission states the emergence of four key messages from the consultation process: 'Active citizenship for young people', 'Expanding and recognising areas of experimentation', 'Developing autonomy among young people', and 'For a European Union as

⁽¹⁾ Report of the Hearing on Youth Policy, 20 February 2001, Economic and Social Committee. <http://europa.eu.int/comm/education/youth/ywp/civil.html>.

⁽²⁾ Swedish Presidency Seminar on Conditions for Young People in Europe, Umeå, 16-17 March 2001; Public Hearing on Youth, European Parliament Committee on Culture, Youth, Education, the Media and Sport, 24 April 2001; Belgian Presidency, Hebe's Dream: Colloquium Gent, 26-28 November 2001; Spanish Presidency, Europe and Youth: a new impetus, European Youth Gathering Murcia, 9-12 March 2002.

⁽³⁾ EESC Own initiative Opinion, White Paper: Youth Policy, OJ C 116, 20.4.2001.

a champion of values'. On the basis of these messages, the European Commission has identified four priority themes for applying the open method of coordination:

- participation;
- information;
- voluntary service among young people;
- promoting a greater understanding of youth.

2.3. In four additional policy areas, the European Commission suggests to take more account of youth, by utilising the policies and actions in place and in the application of the various instruments available (such as: the existing open methods of co-ordination and action plans). These policy areas are:

- education, lifelong learning and mobility;
- employment;
- social Integration;
- young people against racism and xenophobia.

2.4. The Committee understands this 'taking more account of youth in other policies', as a form of youth mainstreaming in other policy areas. In current Community policy both equal opportunities and the environment have been mainstreamed⁽¹⁾. If this proposal is to be followed-up, there is a clear need for the Commission to take its responsibility to initiate policy and propose, on the basis of a Communication, a strategy outlining how youth can be taken into account effectively in other policy areas ('youth mainstreaming').

2.5. The four priorities themes for applying the open method of co-ordination, though, reflect a limited view of the 'specific field of youth'. It is difficult to envisage their policy impact and significant added value to national and regional youth policies, which to a large extent already have a much broader remit.

2.6. The European Commission proposes to address these four 'youth specific' priorities through an open method of co-ordination. Though the proposal of an open method of co-ordination is to be welcomed, the defined priorities and suggestions can to a large extent be addressed appropriately through incentive measures and recommendations on the basis of Articles 149 and 150 of the Treaty. These priorities can also to a large extent be addressed through activities in the framework of the existing Community programmes as well as a Union-wide youth information strategy.

2.7. After Commissioner Reding announced a White Paper in November 1999 a multi-stranded and highly inclusive consultation process was launched. This process has been skilfully managed by the European Commission displaying a high degree of flexibility and willingness to adapt the process to the specificity of the youth sector in Europe. The Committee commends the European Commission and trusts that this open approach will continue in the future.

2.8. However, it is important to recall that the consultation was based on thematic dimensions proposed by the European Commission. The consultation actively involved young people, youth organisations, youth researchers, civil society as well as policy-makers and administrations on all levels. The annex of the White Paper reflects the results of the consultations in a thematic structure⁽²⁾, which was initially drawn-up by the European Commission itself:

- participation;
- education;
- employment, vocational training and social inclusion;
- well-being, individual autonomy and culture;
- European values, mobility and relations with the rest of the world.

⁽¹⁾ European Commission Communication 'Incorporating equal opportunities for women and men into all Community policies and activities' COM(96) 67 final. Currently each Directorate General in the European Commission is responsible for mainstreaming equal opportunities into its policy areas. This work is given direction by the Group of Commissioners on Equal Opportunities and supported by an Inter-Service Group on Gender Equality.

⁽²⁾ It is important to note that although the 'Commission has tried to reproduce as faithfully as possible the proposals which emerged from the consultation in order to pass them on to Europe's decision-makers', it also includes a disclaimer that 'the suggestions ... do not necessarily reflect the Commission's views'. European Commission White Paper 'A New Impetus for European Youth', COM(2001) 681 final, p. 23.

2.9. The thematically structured consultation process set expectations and encouraged the various actors in the youth field to elaborate valuable and specific policy proposals. The extent to which the White Paper actually reflects the results of the consultation is unsatisfactory, in particular as it is difficult to see the link to the four 'youth specific' priorities outlined in the White Paper. These priorities can only be considered a first step as they only partly address the issues set out for consultation.

3. Methodology

3.1. The White Paper: A New Impetus for Youth proposes an open method of co-ordination in the field of youth. The proposal to introduce the open method of co-ordination in the field of youth policy is largely unprecedented in the sense that the initiative did not formally come from the European Council and the measures proposed are not presented as promoting the key political objectives of the Union. The open method of co-ordination, which has been used in key policy fields such as economic and employment policy, including their education dimension, was formalised as a method for co-ordinating policies at the European level by the Heads of State and Government at the Lisbon European Council in March 2000. The Lisbon European Council conclusions both define the method and its use to promote the strategic goals of the European Union⁽¹⁾. In this sense, the open method of co-ordination has to date been initiated in order to promote the co-ordination of policies, which are a Member State competence, but which are nevertheless crucial for the Union to 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'⁽²⁾.

3.2. More recently, the European Commission's White Paper on European Governance proposed that the open method of co-ordination should be used on a case-by-case basis to 'achieve defined Treaty objectives and encourage co-operation, the exchange of best practice and agreeing common targets and guidelines for the Member States'⁽³⁾. Moreover, the Governance White Paper also clarified the role of the various institutions in implementing the open method of co-ordination, emphasising that the Commission should play an active co-ordinating role.

3.3. In order to be successful, the methodology proposed in the White Paper on Youth needs adaptation as it does not reflect entirely either the description in the Lisbon European Council conclusions or in the White Paper on Governance. A clear articulation of the process of open method of co-ordination needs to be developed, in the same way that occurred for the European Employment Strategy or the Social Inclusion Process. It is indispensable that beyond the involvement of member states, binding mechanism for the participation of the European Parliament, the European Economic and Social Committee and the Committee of the Regions as well as most importantly of young people and their organisations, such as the European Youth Forum, are developed.

3.4. The methodology proposed in the White Paper requires a high-level of co-ordination and policy capacity in the European Commission. The Committee would like to see this level of ambition met by adequate resources for the Directorate dealing with Youth. In this respect it is to be noted that the Commission was not yet in the position to explore the whole range of instruments offered by Articles 149 and 150. In particular Recommendations of the European Commission (Article 149(4)) should be used to develop the co-operation in the youth field on the basis of the community method that will accompany the development of the open method of co-ordination.

3.5. Furthermore, the Committee would like to have more clarification on its own role and that of civil society organisations, in particular youth organisations, in the cycle of the open method of co-ordination. It should be recalled that paragraph 38 of the Lisbon European Council conclusions describes a role for NGOs in the Open Method Coordination⁽⁴⁾.

3.6. The Committee underlines the importance of developing youth policy objectives. These should be developed in a clear framework in which the respective institutions can assume their roles, in particular the European Commission.

⁽¹⁾ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000, paragraph 37.

⁽²⁾ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000.

⁽³⁾ European Governance, A White Paper, COM(2001) 428 final.

⁽⁴⁾ Paragraph 38 of the Lisbon conclusions states a method of benchmarking best practices on managing change will be devised by the European Commission networking with different providers and users, namely the social partners, companies and NGOs.

4. Involvement of Civil Society

4.1. Any policy aimed at young people must be characterised by the fundamental principle of youth participation; a principle that is reiterated at European and international level⁽¹⁾. The Committee underlines the basic principle that young people and youth organisations should be involved in the formulation of and decision-making on youth policy at local, regional, national and Community levels⁽²⁾. The Committee welcomes the emphasis on promoting the participation of young people in the White Paper, and would like to see a more coherent articulation of this principle in the proposed policy-implementation.

4.2. The Committee notes that many actors in the consultation process in particular the young, have expressed disappointment about the lack of ambition in addressing the social and economic situation of young people⁽³⁾. On the basis of its own-initiative opinion and the results of the Civil Society Hearing on Youth Policy, the Committee supports the reservations raised about the extent to which the White Paper actually reflects the articulated policy challenges.

4.3. The Committee regrets that the European Commission has missed an opportunity to fully understand and recognise the existence, development, and variety of European civil society in the youth field. While in particular youth organisations have taken many initiatives to contribute at various levels and stages to the White Paper, there is an apparent lack of appreciation of their contributions and role in the process. Consequently, and in contradiction to the White Paper on European Governance, the measures proposed in the Youth White Paper do not fully ensure a meaningful role for civil society and its representative organisations. In this context the Committee notes with disappointment the ambiguous statements and proposals with regard to the European Youth Forum, which indicate misconceptions about the functions and independent nature of civil society organisations.

(1) Declaration of the United Nations on the International Year of Youth 1985, 'Peace, Participation, Development'; United Nations Convention on the Rights of the Child, 1989; European Charter on Participation of Young People in Municipal and Regional Life of the Congress of Local and Regional Authorities in Europe, 1992; Recommendation of the Committee of Ministers of the Council of Europe 'On Young People and Participation', 1997; Resolution of Council and Ministers for Youth meeting within the Council of the 8 February 1999 (OJ C 42, 17.2.1999, p.1).

(2) EESC Own initiative Opinion, White Paper: Youth Policy, OJ C 116, 20.4.2001.

(3) The response included: National Youth Council of Ireland 'A Missed Opportunity to put Youth at the Centre of Europe' initial response, incorporating the views of the group of Irish young people involved in the White Paper Consultative Conference; ETUC Youth Reaction to European Commission White Paper: A New Impetus for European Youth; European Youth Forum response, 0011-02 White Paper. ESC Own initiative Opinion, White Paper: Youth Policy, OJ C 116, 20.4.2001.

4.4. As affirmed by the Laeken European Council, progressing European integration requires the substantiation of the concept of European citizenship in order to bridge the increasing gap between the European Union and young people⁽⁴⁾. While the White Paper states a 'citizenship deficit', the European Commission does not fully explore the potential that civil society organisations, including youth organisations, offer for active citizenship⁽⁵⁾. The Committee therefore reiterates that appropriate support and recognition should be given specifically to International Non-Governmental Youth Organisations, as they have a play a unique role to involve young people directly in the European construction⁽⁶⁾.

5. From Impetus to Dynamics

On the basis of the pro-active role the Committee has played throughout the process leading to the publication of the White Paper, the Committee:

5.1. commends the European Commission for having made a qualitative leap forward in the promotion of European co-operation in the youth field;

5.2. trusts that the open approach of consultation and policy formulation in the youth field will continue in the future youth policy development, for which the White Paper and its process of development have created some promising building blocks;

5.3. recommends that the European Commission adopt a broader conception based on objectives, in line with the Committee's proposal on an integrated and cross-sectoral youth policy, when developing policies in the youth field;

5.4. calls upon the European Commission to revisit the results of the consultations, in order to define more comprehensively the issues for which the open method of co-ordination is applied and to publish a Communication laying out how youth is effectively taken into account in other key policy areas;

(4) The Laeken Declaration states that the Union needs to resolve the basic challenge of 'how to bring the citizens, and primarily the young, closer to the European design and the European institutions'. 'The Future of the European Union — Laeken Declaration' 15 December 2001.

(5) Contribution of Lynne Chisholm to the Public Hearing on Youth, European Parliament Committee on Culture, Youth, Education, the Media and Sport, 24 April 2001.

(6) The European Union grants support to International Non-Governmental Youth Organisations through budget line A3029 of the General Budget of the European Communities. International Non-Governmental Youth Organisation (INGYO) is a generic term that includes all youth organisations, organisations of young professionals, youth branches of trade unions, political youth movements etc.

5.5. calls upon the European Commission to prepare, regularly, a regular report on the situation of young people in Europe and to forward it to the Council and the European Parliament as well as the Economic and Social Committee and the Committee of the Regions;

5.6. calls upon the European Commission to inform the Committee how the recommendations of its Opinion of November 2000 and the results of the Civil Society Hearing organised in February 2001 are reflected in the White Paper and how they can be dealt with in the proposed new framework of European co-operation in the youth field;

5.7. calls upon the Council, the European Commission and the European Parliament to increase the Community Budget allocation for Education and Youth from 0,5% to 1%;

5.8. calls upon the European Commission to swiftly develop specific actions and allocate the necessary resources for their implementation. Resources for the follow-up of the White Paper must in no case derive from re-allocating funds of the existing Youth programme;

5.9. notes that the Commission proposes 'setting up a high-level working group to advise it and the Council of Ministers, in its various configurations' to examine the issues surrounding autonomy for young people. The Committee offers its support and expertise to the working of this group;

5.10. recommends that the European Commission give a sharper profile to policy on children and young people⁽¹⁾ by

⁽¹⁾ European Economic and Social Committee opinion on 'Exploitation of children and sex tourism' (OJ C 284, 14.9.1998).

setting up a specific Directorate for Children and Young People within the Directorate General for Education and Culture, the main tasks of which should initially be to give concrete shape to, and to implement, the measures proposed in the White Paper and to implement the Youth programme;

5.11. calls upon the European Commission and the Council to involve the applicant countries as early and as widely as possible not only in the implementation of the White Paper but also in the discussion on the further outlook for youth policy in the European Union;

5.12. calls upon the Convention on the Future of Europe to examine in depth the issue of the status of young people in Europe and to send a clear signal to all forces in society to actively involve young people in the process of building an enlarged and more democratic European Union;

5.13. offers its availability to the Convention on the Future of Europe to facilitate the participation of young people and their organisations in this process, both through its three observers in the Convention and through support to the announced 'youth convention';

5.14. considers that, in connection with the forthcoming revision of the Treaties, a specific article on youth policy should be included in the European Community Treaty providing at least for the Community to promote co-operation between member states on youth policy and, where necessary, to complement their activities; and calls on the Council of Ministers responsible for Youth to support this proposal with an appropriate resolution.

Brussels, 25 April 2002.

*The President
of the Economic and Social Committee*
Göke FRERICH