

The communication <sup>(1)</sup> is part of the process of updating competition policy law. The Committee highlights the major improvements over the previous communication: the establishment of “categories”, the raising of existing

(1) Communication from the Commission relating to the revision of the 1997 notice on agreements of minor importance not covered by the provisions of Article 81(1) of the EC Treaty — SEC(2001) 747 final.

thresholds, the establishment of a new threshold, improved legal certainty.

The Committee calls for further thought to be given to the concept of “relevant market”, and for further simplification of the categories of agreement giving rise to hardcore restrictions of competition policy and greater uniformity in the leeway allowed in the event of the market share laid down being exceeded.’

Brussels, 28 November 2001.

*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 on the Common Procurement Vocabulary (CPV)’**

(2002/C 48/03)

On 15 September 2001 the Council decided to consult the Economic and Social Committee, under Article 47(2) 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 21 November 2001. The rapporteur was Mr Hernández Bataller.

At its 386th plenary session of 28 and 29 November 2001 (meeting of 28 November), the Economic and Social Committee unanimously adopted the following opinion.

#### **1. Introduction**

1.1. In 1996 the Commission adopted a recommendation <sup>(1)</sup> on the use of the Common Procurement Vocabulary (CPV) <sup>(2)</sup> for describing the subject of contracts.

1.2. In its Green Paper entitled ‘Public procurement in the European Union: exploring the way forward’ <sup>(3)</sup>, the Commission invited all interested parties to state their views on the appropriateness of making use of the CPV more widespread. The Committee had previously expressed its views on the subject in an opinion adopted unanimously on 28 May 1997 <sup>(4)</sup>, which referred to the need to simplify the Community legal framework and adapt it to the electronic age and highlighted problems in the area of access to information.

(1) OJ L 222, 3.9.1996, pp. 10-12.

(2) The CPV consists of a main vocabulary for defining the subject of a contract, and a supplementary vocabulary for adding further qualitative information. The main vocabulary is based on a five-level hierarchical structure, while the supplementary vocabulary has two levels. A wording describing the supplies, works or services in all the official languages is associated with each code.

(3) COM(96) 583 final, 27.11.1996.

(4) Opinion on the Green Paper, rapporteur: Mr Malosse; OJ C 287, 22.9.1997, p. 2.

1.3. As part of the consultation process, in its Communication on public procurement in the European Union <sup>(1)</sup>, the Commission encouraged contracting authorities to use the CPV and the standard forms when drawing up their notices and to use the possibilities afforded by the new information and communication technologies for transmitting them.

1.4. Since 1996, the CPV has been systematically used, in accordance with the directives, in all contract notices published in the Supplement to the Official Journal of the European Communities for identifying the subject of contracts, and for automatic translation into the other official languages of the Community. The CPV has thus become the central search criterion used by potential tenderers for selecting and identifying possible contracts.

1.5. Under the public procurement directives, the classifications are used for three different purposes: describing the subjects of contracts in notices, meeting statistical obligations and defining fields of application. Hitherto, the Directives have referred to four different classifications <sup>(2)</sup>. The proposed revisions currently under discussion <sup>(3)</sup> replace these four classifications by the CPV. In recent opinions on these proposals, the Committee has expressed the view that these classifications are an improvement on the CPA and NACE classifications, since they are better adapted to the specific nature of the public procurement sector <sup>(4)</sup>.

## 2. Proposal for a regulation

2.1. To date, the CPV has had no proper legal basis in the form of a regulation clearly defining the rules to be observed when drafting or updating it. This regulation aims to fill this gap by adopting the CPV formally as the Community system for classifying public contracts.

2.2. The aim of the proposal, then, is to create a classification system applicable to all public contracts at Community level.

2.3. A regulation is proposed as the legal instrument, since the establishment of a classification system for public contracts does not require implementation by the Member States.

2.4. The annex to the regulation includes tables showing the correspondence between the CPV and the CPA, CPC prov., NACE and CN.

2.5. The regulation lays down maintenance and revision procedures as part of the implementing powers conferred on the Commission, assisted by the Advisory Committee on Public Contracts.

## 3. General remarks

3.1. The Committee fully supports the Commission proposal, considering it essential to the establishment of a single classification system for all public contracts in the European Union.

3.2. The ESC wishes to ensure that public tender procedures are more transparent and that information is more readily available. It welcomes moves to ensure that information can be read and understood easily, since the CPV allows for immediate comparison between the information in tender notices, regardless of the language in which it was originally published.

3.3. The proposal is positive for European businesses, since it does not place them under any new obligations, but gives them a new common and multilingual reference tool that will facilitate access to contract notices. It will enable businesses to identify suitable opportunities more accurately, which may open up new markets.

3.4.1. The ESC calls on the Council and Parliament to step up the pace of the work on adoption of the proposal as far as is possible so that the necessary changes in this area can be made, and asks that discussion focus on the classifications rather than reopening the debate on other areas contained in the proposals on amending the directives on public procurement, such as, for example, the annexes on services.

3.4.2. It is to be welcomed that a series of complementary measures in the area of public procurement has already been approved, including Directive 2001/78/EC on the use of standard forms in the publication of public contract notices <sup>(5)</sup>.

<sup>(1)</sup> COM(98) 143 final, 11.3.1998.

<sup>(2)</sup> CPA, NACE, CPC Prov. (Provisional Central Product Classification) and CN (Combined Nomenclature).

<sup>(3)</sup> OJ C 29E, 30.1.2001, pp. 11-12.

<sup>(4)</sup> Opinion on public contracts, rapporteur Mr Green, OJ C 193, 10.7.2001, p. 1 and p. 7.

<sup>(5)</sup> OJ L 125, 29.10.2001, p. 1.

3.4.3. The ESC is in favour of simplifying the rules on the publication of contract notices and adapting them to electronic systems developed in connection with the SIMAP (public procurement information system) launched by the Commission working together with the Member States. In this connection, the use of standard forms and a common vocabulary will facilitate access to information and help to make tender procedures more transparent.

3.5. Internationally, various private classification systems already exist or are in development. For this reason, it is

important that there is a single classification system for public contracts (the CPV) in use in the European Union, and it is conceivable that its use in third countries might be proposed in the framework of the WTO negotiations on the grounds that its adoption would lead to simplification and transparency of information.

3.6. A particular virtue of the revision procedure proposed is that it could be based on the suggestions and comments of future direct users of the CPV.

Brussels, 28 November 2001.

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

## **Opinion of the Economic and Social Committee on the 'European Charter for Small Enterprises'**

(2002/C 48/04)

On 13 September 2001 the Economic and Social Committee, acting under Rule 23 (2) of its Rules of Procedure, decided to draw up an additional opinion on the European Charter for Small Enterprises.

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 21 November 2001. The rapporteur was Mr Giron.

At its 386th plenary session of 28 and 29 November 2001 (meeting of 28 November), the Economic and Social Committee adopted the following opinion with 111 votes in favour and three abstentions.

### **1. Introduction**

1.1. In its opinions of 24 May 2000 and 31 May 2001, the Committee set out its views on the relevance and merits of the European Charter for Small Enterprises (the 'Charter'), adopted by the Feira European Council in June 2000 at the conclusion of the Portuguese Council presidency. On that occasion, the Council acknowledged that small businesses are the backbone of the European economy and European employment. Among other things, the Council underlined the need for specific policies that are less general than those lumped together under a generic definition of SMEs.

1.1.1. The European Parliament strongly endorsed the Charter and, in its report on the Multiannual Programme for Enterprise and Entrepreneurship, it stressed that small enterprises, micro-enterprises and craft firms make a significant contribution to competitiveness, research and innovation and have a crucial role to play in strengthening social cohesion and spatial planning, particularly in rural and urban areas and urban conurbations.

1.2. However, more than a year after the Charter was adopted, most of its recommendations appear to be a dead letter. The Charter, which is specifically intended for small