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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion of the Economic and Social Committee on the 'Green Paper on European Union Consumer Protection'

(COM(2001) 531 final)

(2002/C 125/01)

On 4 October 2001 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the 'Green Paper on European Union Consumer Protection'.

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 1 March 2002. The rapporteur was Mrs Davison.

At its 389th Plenary Session (meeting of 20 March 2002), the Economic and Social Committee adopted the following opinion by 52 votes to three with one abstention.

1. **Introduction**

1.1. On 2 October 2001, the European Commission adopted a Green Paper on European Union Consumer Protection. Its purpose is to launch an extensive public consultation on the future direction of EU consumer protection in the area of commercial practices, and particularly on options to improve the functioning of the business-to-consumers (B2C) Internal Market. The area of consumer protection covered here is the regulation of consumer economic interests in marketing, advertising, payment and after sales service excluding health and safety matters and other connected concerns in marketing.

1.2. The Green Paper follows an analysis made by Commission services that shows that existing EU rules on consumer protection are not up to the challenge posed by a rapidly changing marketplace. Partly as a result of confusion over which national consumer protection rules apply and the limited scope of EU consumer protection legislation, consumers lack the confidence to participate directly in cross-border transactions, and businesses, especially small and medium-sized enterprises, hesitate to offer their goods and services EU-wide. Today, the 'consumer internal market' has not achieved its potential nor matched the development of the internal market in business-to-business development.

1.3. The Commission acknowledges that this situation is not new. However it sees a case for further action to complete the consumer internal market now, due to the introduction of the Euro, E-commerce, enlargement, the recognition at political level of the need to enhance the consumer dimension of the internal market, and the need to bring the EU closer to its citizens.

1.4. The Commission aims at achieving a greater degree of harmonisation of the rules that regulate business-to-consumer commercial practices where cross-border restrictions to business-to-consumer trade exist. Consumer contract law issues, which require detailed regulation are not being reviewed here.

1.5. The Commission has invited all interested parties to comment on the Green Paper, and organised a hearing, at which its ideas received a generally favourable reception.

1.6. The central choice revolves around the type of method needed to achieve greater harmonisation. There are essentially two options:

— a specific approach based on the adoption of a series of further directives, which is the approach adopted in most cases for the last two decades; or

— a mixed approach of a comprehensive framework directive, supplemented by targeted directives, where necessary.

1.7. One of the key questions is the scope of the directive if the second option were chosen. The Green Paper offers a choice between the concepts of 'fair commercial practices' or 'misleading and deceptive practices'. Both concepts have some basis in existing EU law.

1.8. In this context, the Green Paper also presents new ideas for the use of self-regulatory codes within a legislative framework. The Commission believes that a framework directive could make it possible to work towards effective EU-wide self-regulation in the field of consumer protection.

1.9. Finally, the Green Paper develops ideas for better enforcement of consumer rights in business-to-consumers transactions. Currently there is no legal framework for intergovernmental co-operation between the bodies enforcing consumer rights in the Member States. Ideas are developed to set-up a system for co-operation between national consumer protection agencies to help consumers to get their rights respected in other EU Member States.

2. **General comments**

2.1. The Committee welcomes the Commission's initiative which responds in part to ESC proposals for simplification of legislation and a greater commitment to consumer protection ([1]). The title of the Green Paper is slightly misleading as it covers only commercial practices, and the ideas in it need further clarification. Nonetheless the Committee agrees that consumer and small business participation in the Internal Market ([2]) needs to be encouraged and that enforcement is a sensible target for improvement.

2.2. The Committee sees some scope for simplification and consolidation of existing legislation — without endangering the consumer acquis. The sometimes fragmentary and overly detailed nature of EU legislation points to the need for regulatory reform in parallel with the introduction of any new legal structure. For example the time-share directive quickly became out of date and loopholes emerged. As the proposed regulation on sales promotion is a sectional regulation, the Committee suggests speeding up the process of consultation on the ideas in the Green Paper. Thus the principle of the way forward with co-regulation and a general clause would be determined before finalisation on sales promotions and the two properly coordinated. It is important to avoid a period of confusion and legal uncertainty.

2.3. The Committee has been exploring the options for self regulation and co-regulation and considers that a general requirement for fair commercial practices could provide a basis for a more flexible approach to the detail of consumer protection in this area, although not for contract law. For this reason, the Committee would support the more general proposal rather than a restriction to misleading and deceptive practices. The EU already has the model of a general product safety directive and misleading advertising and Sweden successfully follows this model. It is possible to define fairness. For example, fairness has been defined in the context of the unfair contract terms directive and also in the OECD guidelines on E.Commerce.

2.4. However, the Committee would like to emphasise that the proposal for a framework directive and a general clause cannot be fully assessed on the basis of the Green Paper. The Commission has not yet clarified how this legal system would work at Community level. It should aim for simplification rather than a lot of further legislation. In particular, further details are needed on mechanisms to be put in place to guarantee unified application and a level playing field across the EU. The Committee would propose the use of Article 153. The Committee points to a shortage of coordinated EU research on consumer issues and asks the new Framework Programme on Research to address this.

2.5. The Committee welcomes the option of giving an increased role for co-regulation in the framework of this new approach commercial practices regulation. The role of Codes of Conduct which businesses may voluntarily subscribe to is useful provided that:

— the resulting Codes of Conduct or Codes of Good Practices are of good quality and concentrate on the definition of good practices within the limits of the framework directive and,

([1]) ESC Opinion on Simplification, OJ C 48, 21.2.2002.
([2]) See also the forthcoming ESC Opinion on sales promotions.

— there is monitoring by government and by consumer organisations;

— the Codes of Conduct are associated with redress mechanisms;

— violation of self regulation rules by participants is fully addressed.

2.6. The Committee appreciates the inclusion, in the new approach, of a greater effort in avoiding divergence in the interpretation of existing and future regulations by means of non-binding practical guidance in plain, user-friendly language, for the benefit of consumers, business, judges and enforcement authorities. The role of the regulatory committee needs to be clarified.

2.6.1. The Committee would oppose the idea of using this guidance to expand legislation through a committee. The Committee stresses that the official interpretation of directives or regulations is the exclusive competence of national courts and, at last instance, of the Court of Justice. The aim over time will be to create a clear corpus of consumer rights based on the framework directive.

2.7. In order to ensure the full involvement of the main partners, business and consumers, and the participation of the rest of civil society where required, the Committee would also propose clarifying the role of business-consumer dialogue, under the framework of the new general clause on fair commercial practices, namely in the definition of the guidelines for the interpretation and application of the 'hard' and 'soft' regulations. Payment, or provision of research support will be necessary to ensure full participation of all the players.

2.7.1. The Committee accepts its role in support of the producer-consumer dialogue and would ask governments to ensure a balanced and full representation of consumers on the Committee.

2.7.2. The Committee emphasises that the stakeholders participation can supplement but never replace the role of democratic government. Technical 'effectiveness' or 'coherence' — as stated in the Report of EP on the Commission White Paper on European Governance (A5-0399/2001 final, 15.11.2001) — is no substitute for democratic control.

2.8. The Committee is in favour of much more harmonisation, and considers that protection of consumers in line with Article 153 should be at the highest level.

3. **Specific comments**

3.1. The Commission asks for specific answers to certain precise questions. The Committee would like to contribute to the discussion of each main question.

3.2. The first question deals with the key elements of a general clause, the general criteria and the core rules for regulating commercial practices.

3.2.1. The Committee agrees that a general clause containing a legal standard is a flexible and suitable instrument to govern marketing behaviour in a very dynamic area, which is constantly developing and undergoing change.

3.2.2. It should be made clear that the concept of fairness incorporates good business ethics and that self-regulatory codes offer interpretative guidance in that respect.

It should include the provision of clear, helpful and adequate pre-contractual information.

3.2.3. The general clause should be complemented by a series of definitions of practices, which should be considered as unfair.

3.2.3.1. This should include:

— incitation to or indulgence in unlawful behaviour;

— misleading presentations, unsubstantiated claims including;

— exploitation (abuse) of children's credulity;

— inertia selling (unsolicited products).

The list should be considered as a non exhaustive and could be amended whenever necessary.

3.2.4. Example of unfair practices are promoting baby milk at the expense of breast feeding, misleading consumers about price savings that can be made by switching service providers and inaccurate advice about work required.

3.2.5. The framework would enable a legal backdrop to protect vulnerable consumers such as to give force to voluntary rating/filtering and 'notice and take down' systems on the Internet to protect children from the harmful content the Committee has shown to be reaching them in large quantities [1]. It would also imply safety messages and systems to prevent paedophile approaches and child pornography on-line.

3.2.6. A 'grey' list of practices should also be included, which require vigilance because they could involve unfair practices, under certain defined and precise circumstances. Guidelines should be produced for example on:

— regard for health and safety precautions;

— liquidation, clearance and bargain sales;

— environmental claims;

— promotional sweepstakes and contests;

— financial and non-financial investment offers.

3.2.7. Examples of grey areas where codes could help are the promotion of prizes, which involve hidden costs, the use of premium lines to sell information/entertainment on-line, marketing to children such as the promotion of brands especially sweets/drinks in schools through educational materials, and accepting repeated orders for goods or services from an elderly consumer who is clearly confused. Several countries have self-regulation of premium lines. The UK body, ICSTIS, found half of all its complaints in the year 2000 relating to the Internet concerned downloads by children. One quarter of UK and one-sixth of Austrian children recently surveyed by European Research into Consumer Affairs and LandesAcadamie, Lower Austria said that they had bought something over the Internet or that they had paid for games or entertainment.

3.3. The second main question is related to the inclusion in the framework directive of a basis for self-regulation.

3.3.1. The Committee recognises the importance of self-regulation in filling out the definitions of fair trade and good marketing practices, under a legal framework, and, from this perspective, welcomes the inclusion of a basis for self-regulation in the framework directive.

There should be penalties for traders who sign up to codes and then fail to comply.

3.4. The third main question refers to the development of non-binding practical guidance.

3.4.1. The Committee accepts the idea of complementing the framework directive with recommendations adopted by the Commission with non-binding practical guidelines which interpret the meaning of the directive and other regulations and specific directives, in a plain and user-friendly language.

3.4.2. The framework directive should state in a very precise manner the field of application and the ambit of these guidelines. It should also be clearly stated in the framework directive that these guidelines, published through recommendations from the Commission, do not replace single directives and regulations when they are needed, and should not prejudice the existence of the above mentioned lists of unfair practices.

3.5. The last main question is related to the role of stakeholders participation in the development of the non-binding legal guidance.

3.5.1. Provided that the institutionalisation of the 'dialogue' does not mean the subversion of the rule of law and the principles and structural elements of representative democracy, the Committee welcomes the increased participation of business and consumer organisations in the decision making processes which lead to the definition of rules and political orientations in consumer protection.

3.5.2. The framework directive should therefore define accurately the criteria for the representation of trade and consumer organisations and the nature, organisation and functioning of the regulatory body which shall have the power of promoting the dialogue and defining the standards and regulations and their interpretation.

3.5.3. Finally, the framework directive should state clearly that such process of elaborating guidelines would never exclude the possibility of recourse to courts or any other alternative means of dispute settlement, in case of conflict.

[1] Opinion on a Programme for child protection on the Internet, which quotes research by European Research into Consumer Affairs, LandesAcademie, Lower Austria and the Hellenic Consumers' Association under the EU Internet Action Plan, OJ C 48 of 21.2.2002.

4. **Enforcement**

4.1. The Commission has been working hard to make existing consumer legislation work on the ground and to improve access to justice for consumers in cases of cross-border complaints, but problems remain. Uneven enforcement is a barrier to fair competition and the efficient operation of the Single Market, as well as unsatisfactory for consumers. The Committee regrets also that there have been unnecessary delays in Member States' implementation of consumer laws. Member States must transpose legislation more quickly. The Committee therefore welcomes the proposals to organise regular meetings with the governments on these issues and to establish central national contact points on enforcement. Transnational contacts between local enforcement offices should be encouraged too.

4.2. One problem that needs urgently to be addressed is the fact that many Member States lack any central enforcement body. Member States should be required, when notifying the Commission of their national laws implementing EU legislation, to give details of the relevant bodies responsible for enforcement, along with the range and type of sanctions which are available to it under national laws and sanctions should be harmonised and efficient. A rolling programme of reviews of the implementation and enforcement by Member States of EU consumer protection directives, staff exchange and joint surveillance would ensure more consistent action.

4.3. The Committee has called in the past for more cooperation between enforcement officers across Europe and is encouraged by the establishment in 1999 of IMSN Europe, an informal network of enforcement bodies. Details of cases being pursued nationally could be usefully shared between enforcement authorities, including by means of a shared website. Member States should be under an obligation to give assistance to each others' enforcement bodies if they require information (already in the public domain) about the activities of companies whose headquarters or main place of business are within their jurisdiction.

4.4. The Commission should consider the establishment of minimum EU standards of enforcement, based on a number of key principles such as efficacy and independence, and monitored by the Commission. The Committee does not advocate uniform standards of enforcement across the EU, as this could lead to a lowest common denominator rather than a general levelling up. The emphasis should be on effective audit procedures to ensure broad equivalence in terms of outcome, rather than in techniques. The Commission should also establish a periodical evaluation of co-regulation and self-regulation schemes, each two/three years, drafting a report on the experiences of self regulation in the member states and suggesting improvements.

4.5. Efforts to help individual consumers obtain redress through EEJ-NET etc. need to be redoubled. The Commission could consider a scoreboard on implementation of consumer legislation similar to that of DG Markt on the Single Market.

4.6. There is also a need to develop European consumer education so that consumers themselves take action to secure their rights. The Committee regrets that the Commission tends to limit the concept of 'consumer protection' solely to 'economic interests'. Information and education are also very important, especially for the disadvantaged. The advent of the Information Society should be capitalised on to provide information to larger numbers of consumers, but the needs of those without regular access should not be overlooked. The Committee hopes that the Commission's proposal will result in more secure funding for consumer education at European level and in cooperative EU level programmes by consumer organisations.

Brussels, 20 March 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 Directives 70/156/EEC and 80/1268/EEC as regards the measurement of carbon dioxide emissions and fuel consumption of N_1 vehicles'

(COM(2001) 543 final — 2001/0255 (COD))

(2002/C 125/02)

On 27 November 2001 the Council decided, under Article 95 of the Treaty establishing the European Community, to consult the European Economic and Social Committee on the above-mentioned proposal.

The Section for the Internal Market, Production and Consumption, which was responsible for drawing up the Committee's opinion on the subject, adopted its opinion on 1 March 2002. The rapporteur was Mr Colombo.

At its 389th Plenary Session (meeting of 20 March 2002) the European Economic and Social Committee adopted the following opinion by 55 votes to 0, with 5 abstentions.

1. **Aim of the proposal**

1.1. The aim of the proposal in question is to extend the harmonised standards on CO_2 emissions and fuel consumption already laid down for M_1 class vehicles (cars) by Directive 1999/100/EEC amending the original Directives 70/156/EEC and 80/1268/EEC to cover also N_1 vehicles (light commercial vehicles).

1.2. It is clear that the main objective of the proposal is that of preparing specific measures designed to reduce CO_2 emissions and fuel consumption to protect the environment where transport is concerned.

2. **Scope of the proposal**

2.1. The present proposal covers light commercial vehicles (N_1 vehicles) having a maximum mass not exceeding 3,5 tonnes: this definition includes a wide range of vehicles (e.g. smaller car-derived transport vehicles, sport utility vehicles and multi-purpose vehicles, pick-ups and larger vans). Each base model usually has a relatively large number of different versions.

2.2. The size of this market segment is considerable: in the year 2000, about 1,8 million of such vehicles were sold in the EU, as compared with about 14 million passenger cars. Light commercial vehicles account for about 10 % of total road transport CO_2 emissions. The synoptic table below, drawn up by the Commission, gives a clear picture of the situation.

— total EU CO_2 emissions (1995): 3 227 Mton CO_2 eq;

— total EU CO_2 emissions road transport sector (1995): 655,7 Mton CO_2 eq (= 20 % of total CO_2 emissions);

— EU CO_2 emissions other sectors (1995)

other transport sources: 195,7 Mton CO_2 eq

combustion (energy sector): 1 041 Mton CO_2 eq

combustion (non industrial): 654,9 Mton CO_2 eq;

— CO_2 emissions of N_1 vehicles are estimated at approximately 10 % of total road transport CO_2 emissions (± 65 Mton CO_2 eq);

— the division of the fleet between class 1, 2, and 3 is estimated at approximately:

  — class 1: 25 %

  — class 2: 50 %

  — class 3: 25 %;

— CO_2 emissions for the different classes are probably in the same order of magnitude with somewhat higher value for class 3 (higher fuel consumption, higher mileage);

— the total number of different versions for class 2 and 3 is estimated at 3 000 different versions. However, this does not mean 3 000 type approvals would be required, as there is a significant degree of flexibility to the manufacturers to group different versions into one type approval;

— the exemption for small volume manufacturers is really to ensure that type approval cost would not be excessive with respect to the number of vehicles to which the approval applies. The CO_2 contribution of these vehicles is negligible.

2.3. This figure is likely to rise since a gradual increase has been noted in this market share. No Community initiative has been taken on this so far in order to monitor and then improve fuel economy and CO_2 emissions for this category of vehicles.

3. **General comments**

3.1. The Committee supports planned Commission initiatives to introduce measures to reduce CO_2 emissions and optimise fuel consumption: these initiatives are important for achieving the Community's ambitious environmental protection plans in the transport sector.

3.2. Achieving the CO_2 reduction objectives laid down at Kyoto must be regarded as a priority strategic aim with a view to 'lasting and sustainable development'. It seems fundamental that the transport sector should play a part in achieving these objectives, and the Committee has supported this argument in earlier opinions.

3.3. However, in the Committee's view, while the Commission proposal is a step in the right direction it does raise some doubts: it may fail to achieve the desired results because of the additional costs arising from either duplication of the planned tests or the funds needed for the new tests. These factors will inevitably have an impact on the product's final price. These costs double whenever production takes place in different establishments and countries. An initial examination of the costs confirms this assessment and has led the Commission to provide for firms which produce fewer than 2 000 units per year to be exempted from this testing method.

3.4. There is in fact a lack of differentiation as to the composition of the N_1 category which Directive 98/69/EEC divides into three sub-categories on the basis of the reference mass (tare): the first sub-category up to 1 305 kg, the second from 1 305 kg to 1 760 kg and the third above 1 760 kg.

3.5. As regards the criterion for measuring the vehicles, which is done solely unloaded, the Committee takes note of the Commission's comments on the difficulties involved in increasing the tests and therefore the costs. However, it stresses the fact — and calls upon the Commission to take account of it — that consumption clearly varies with the rated load and type of fittings of the vehicle.

3.6. The Committee also wishes to point out the lack of a reference to a cost-benefit analysis, which would seem to be necessary for a more careful assessment of the results which can be achieved under this proposal. For the two sub-categories II and III in particular, the cost of funding the necessary infrastructure and manpower does not seem to be commensurate with the expected results.

4. **Specific comments**

4.1. Using the breakdown of category N_1 given in detail in point 3.4 above, the Committee believes that for the first sub-category there are no special problems, since such vehicles are derived directly from cars, and it is well-known that they are already subject to roller bench tests. This means in effect that there are no problems of implementation.

4.2. The situation is different with regard to the second sub-category, and more particularly the third sub-category: both involve considerable problems of implementation.

4.3. These vehicles are produced in factories which build heavy vehicles, the motors of which are subject to different tests (Directive 88/77/EEC and subsequent amendments). Extending the rules now covering cars, as envisaged in the present proposal, would therefore lead to a system with two types of test.

4.4. The proposed directive provides for the exclusion of the pay-load from the test methodology, although the Explanatory Memorandum of the same proposal states in point E.2 that 'the pay-load has a significant impact on the actual fuel consumption and CO_2 emissions.' This exclusion seems to arise from the existence of a large number of different versions, which would 'result in a substantial amount of additional testing and associated costs' (see point 3.4 above).

4.5. It also provides for exemption of small manufacturers (see point 3.3). It is understandable and proper for the Commission to concern itself with the effects on SMEs. However, it is necessary to avoid this exemption being used to reduce the effectiveness of the standard laid down in the proposed directive.

4.6. The ESC favours this solution, which forms part of the broader approach of support for small and medium European enterprises, and suggests that for those who produce only slightly more than 2 000 units per year the public bodies responsible for type-approval checks could make available the technical type-approval equipment (dynamometer bench) at a reasonable cost.

5. **Conclusions**

5.1. For the reasons set out above, the Committee, while endorsing the application of this provision to the first sub-category, would ask the Commission to provide further justification for the application of the draft directive's provisions to vehicles in the second and third sub-categories; it seems more realistic for such vehicles to be excluded from its scope. It would also seem desirable to extend the deadlines for new type-approvals as well from 1 July 2003 to 1 October 2005. That would enable the present draft directive to come into force at the same time as the more restrictive emission standards known as EURO 4.

Brussels, 20 March 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 amending Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports'

(COM(2001) 335 final — 2001/0140 (COD))

(2002/C 125/03)

On 12 July 2001 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 proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2002. The rapporteur was Mr Tosh.

At its 389th Plenary Session of 20 and 21 March 2002 (meeting of 20 March) the Committee adopted the following opinion unanimously.

1. **Introduction**

1.1. This proposal attempts to re-focus upon the management of slots and in conjunction with that to reflect ATC, airports operation and capacity issues alongside current environmental objectives, to impart fair and transparent procedures to protect and encourage the industry and users alike and arbitrate upon congestion.

1.2. It offers clarification to the definition of slot rights, airports status, new entrant management, coordination, conciliation and ultimately enforcement.

1.3. It sets out to enhance the prospects of finding and maintaining the right balance between air carriers and the development of a competitive network within the EU and with third countries.

2. **Background**

2.1. This proposal amends Council Regulation (EEC) No 95/93 of 18 January 1993.

2.2. The Committee should note the context within which this proposal resides. In 2002 the following proposals are programmed for implementation:

— common rules on noise measurement around airports;

— standards of noise and emission of air transport;

— common requirements and procedures in the field of aviation security;

— specific common requirements for air safety;

— air transport pricing.

2.3. We should also note that a review of the process and options on a market-based system by which slot-trading will be managed, is planned. No external award by the Commission has yet been commissioned!

2.4. Also, in the Transport White Paper it is noted that:

— the EU suffers from over-fragmentation of its air-traffic-management systems;

— transport is globalised but international rules to facilitate trade and commerce do not take sufficient account of environmental protection or security of supply concerns.

3. **Content**

It comprehensively revises the following principal aspects and features:

— new entrant definition and allocations process;

— slots transfer;

— designation and use of airports where demand exceeds capacity;

— international terminology;

— principles of transparency, neutrality and non-discrimination for slot allocation;

— roles of schedules facilitator and coordinator, and, of the Coordination Committee;

— definition of slot entitlements at airports;

— recognition of allocation and precedence in slot rights;

— operational priorities of airports;

— efficient use of airport capacity;

— environmental impact objectives;

— inter-regional air-service provisions;

— third-country comparability;

— enforcement and review.

4. **ESC comments**

The Committee welcomes the proposal, not least in view of the current situation where poor performance and punctuality of air transport is causing serious disruption to business and individuals.

The proposal entails far-reaching impact on the core business of airports — namely the landing and take-off of the range of carrier aircraft. It serves to describe and mould procedures and organisation so as to improve both efficiency and effectiveness. The Committee would make the following remarks on specific aspects:

4.1. *New entrants*

4.1.1. The accommodation now extended to new entrant applications offers a rolling opportunity for new competition to assess the attractiveness to compete for both existing route traffic and new inter-regional routes. The proportion of pool slots at 50 % appears adequate given that it can be expected that they will probably be at off-peak times. Article 10(5) should be reworded to ensure that first preference is given to new entrants up to 50 % of slots in the pool.

4.1.2. The decree in Article 10 which removes new entrant status from a carrier who refuses offered slots appears unreasonable, given the attendant front end commercial risk level in developing a new route.

4.2. *Slots transfer*

4.2.1. Whereas they might reasonably expect first refusal on such better timings as became available, the proposal does not offer such an incentive to new entrants.

4.2.2. When an established carrier unilaterally withdraws a regional service, as did BA from Heathrow to Belfast immediately post 11 September, slot transfer action must facilitate return of the service, by whomsoever, and not debar any carrier. Article 9 should specifically refer to support for meeting Public Service Obligations in particular to isolated and island regions. The ESC is concerned that serious difficulties will arise in the policing of slot mobility as outlined in Articles 8a and 8b.

4.2.3. The ban on bogus or fake unilateral slot transfers, where in essence valuable slots were exchanged for poor quality slots should help open the competitive environment.

4.3. *Airport designation and terminology*

Major airports will be clearly coordinated, with slots allocated by coordinators, others will suffer partial congestion. It should be understood that when average daily slot allocation exceeds a designated level, say 40 %, and the 'analysis' predicts further growth, an airport will switch from 'schedules facilitated' to 'coordinated' status.

4.4. *Principles of slot allocation*

4.4.1. The ESC welcomes the Commission explanation that slots are considered as 'rights to use infrastructure' and not 'property rights'. This does beg the question of the proposed examination of slot trading and the inevitable challenge by flagship carriers that the 'grandfather right' embodied in the proposal is de facto their 'property'.

4.4.2. There is concern at the provision (Article 2 (b)) to debar partners in route sharing from new entrant status; such route sharing has sound reasons e.g. load factor, environmental impact, services, to justify it.

4.4.3. On the other hand, the comfort of 'grandfather' rights gives balance to the process of slot mobility, recognition of historical commercial costs and control of transfers.

4.5. *Coordination*

4.5.1. General

4.5.1.1. The coordinated periods require definition. Some references suggest six-monthly periods, summer and winter, elsewhere the emphasis is on year round operational provision. It is important that these periods be defined and, further, that to afford the widest opportunity for competition to reposition slots, the periods should be staggered within national boundaries to facilitate this. Six-monthly periods would appear to be the most responsive format.

4.5.1.2. The appointment of the coordinator must be totally independent and apolitical. There is concern that the coordination exercise could become both costly and bureaucratic. The ESC would emphasise the importance that the proposal insist that:

— coordination is established as a totally independent entity;

— Member States adequately ensure their operational budgets and assure their authority;

— expertise evolves from current status to ensure it has transparently sustainable, independent capacity;

— management systems develop in concert with airports to create the data that ensures fast response for solutions creation.

4.5.2. Coordinator

4.5.2.1. The reinforcement of neutrality and independence of the coordinator is an essential ingredient for the success of this proposal, as is the remit of his/her reach into inter-related issues such as airport-capacity considerations. The wider auditorial remit to cross-refer will ensure malpractices are identified and addressed, though it is unclear in which forum. This should be clarified. Member States must provide indemnification to coordinators so that they may act in an unimpaired manner to pursue their brief and respect their principles. This does not remove any responsibility from the Coordinator to satisfactorily account for their actions and decisions.

4.5.2.2. It is assumed that standardised data will be made available to the industry at large, within defined response times, to ensure best competitive knowledge is disseminated. The ESC insists that coordinators cooperate with relevant authorities and respect the provisions of Article 81 and 82 of the EU Treaty to ensure that resulting decisions are favourable for all air-traffic users.

4.5.3. Coordination committee (Article 5)

4.5.3.1. This forum appears to be an amalgam of the great and the good from the industry, apparently single airport focused. With the caveat that matters of commercial confidence are kept off the agenda, it would be more efficient if regional Coordination Committees governed the policy matters outlined in Article 8, when it is considered that methodology, local guidelines and procedures for example would be common.

4.5.3.2. It would appear that the Coordination Committee has significant influence but no teeth, and definition of its right of recourse to Member State competent bodies should be spelt out. The ESC believes that this Committee's remits should discourage an infestation of local rules that inadvertently or otherwise frustrate competitive practice.

4.5.4. Slots allocation and entitlement

4.5.4.1. The refinements to the process are justified. Given the Coordination Committee's brief to arbitrate it would appear relevant that the coordinator should report and describe the totality of all of his/her justifications to this Committee within each period, so that their deliberations are not predicated upon complaints only.

4.5.4.2. There is concern that coordinators are not compelled to arbitrate upon 'alternative' transfer modes, which is outside their field of responsibility.

4.6. *Airports*

4.6.1. Capacity and priorities (Articles 3 and 5)

4.6.1.1. Intermediate capacity review should only be conceived after significant changes occur to influence airport capacity, or at three years' intervals.

4.6.1.2. Given that airports will make decisions to maximise returns, it cannot be assumed that an airport will be driven to invest by the outcome of a dispute referral to the Coordination Committee. An example could be the desirability of funding the ubiquitous shopping mall in preference to a no-frills terminal for low-cost arrivals and departures. So, if this proposal cannot be seen as the means to influence strategic airport planning, additional measures will be needed.

4.7. *Environment*

4.7.1. Given the recently adopted ESC Opinion on holistically minimising the noise and pollutant discharges around airports [1], it would be appropriate for local/regional government to be represented on the Coordination Committee.

4.8. *Inter-regional route development*

4.8.1. The ESC understands the demands for economic justification, but given the proposal's emphasis on network development and the value of this to Community cohesion, it should clearly establish to what level available slots should be so reserved and for how long, so as not to consume scarce airport capacity.

4.8.2. It is inevitable that major hubs such as London or Frankfurt will find regional network evolution impossible to accommodate. Such can be more readily resolved on a regional air-transport basis, not by a single airport.

4.9. *Third countries*

4.9.1. The proposal promotes, in essence, measures against carriers of a third country which refuses comparable treatment to Community carriers. Such action is surely misdirected and raises the need for EU diplomatic efforts to reach comparable stewardship of slots and cross-reciprocity globally. Airline alliances tend to be global, so identifying suitable candidates for action could be tricky and damaging, by association, to EU partnering carriers.

4.10. *Enforcement*

4.10.1. It seems reasonable that non-performance is penalised by both fines and slot withdrawal. The coordinator must nevertheless act expeditiously to limit collateral damage to airports from such actions. Given the recent asymmetric shocks to the air-traffic industry, coordinators should hold a degree of autonomy to deal wisely in such occurrences.

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[1] Opinion on the Proposal for a Directive of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating instruction at Community airports.

4.10.2. The ESC would note that in Article 14 the intervention proposed when carriers default could be frustrated by the slot-trading process.

5. **Final observations**

5.1. The ESC believes that EU agreed legislation must be universally upheld.

5.2. Member States must offer indemnification to coordinators so that they may be clear to pursue their brief and principles unfettered.

5.3. This proposal avoids any comment upon the maximum level of slots which, in the interests of competition, any one carrier may hold in a given airport. Present levels above 60 % are not uncommon.

5.4. The measures provided for in this proposal need to be understood by the widest cross-section of the travelling public. Well-displayed user-friendly records by way of e.g. score boards showing performance achievements, would be of interest. Slots' usage is in the gift of the airport and punctuality performance must be reported therefore by them, to show actual and trend reliability.

5.5. Whilst air traffic safety is not under consideration, it is of paramount importance. The Coordination Committee should ensure high levels of safety and security in its operation.

5.6. There is much emphasis on new entrants developing new routes. All carriers should be so encouraged, those already established then also having more leverage. Recognition of effective competition should be the driving principle.

5.7. The inclusion of regional local authority representation on committees should be considered essential. This influence could assure that regional capacity, land-side infrastructure and public service obligations are satisfied, and Article 5 should assert this. However the ESC does recognise that slots are not infinitely interchangeable given the widely diverging character of airports.

5.8. The allocation of slots will require sensitivity in the policing of 'use it or lose it'. Coordinators must not be bureaucratic and restrained by red tape, but should retain some authority to exercise discretion e.g. when a carrier is dislodged from a slot by the direct interventions of serious disruptive actions by terrorists. If airlines can demonstrate their discomfort to the coordinator's satisfaction, they should be accorded the right to retain their slots for the subsequent coordinated period, to facilitate recovery.

5.9. The Coordination Committee's remit should include clear responsibility to assess the capacity and implementation of best security practice and ensure that its common adoption is practised evenly so as to ensure that this slots' proposal is implemented in such a secure environment, established jointly by airports and carriers.

5.10. Whilst the impact of forthcoming reports is awaited, it is the ESC view that coordinators reflect the latest understanding of environmental constraints in their selection process. It is anticipated that such findings will clarify the weighting of their impact upon decisions.

Brussels, 20 March 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 amending Regulation (EC) No. 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks'

(COM(2001) 545 final — 2001/0226 (COD))

(2002/C 125/04)

On 18 February 2002 the Council decided to consult the Economic and Social Committee, under Article 156 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2002. The rapporteur was Mr Kleemann.

At its 389th Plenary Session on 20 and 21 March (meeting of 20 March), the Economic and Social Committee adopted the following opinion unanimously.

1. General comments

1.1. Many factors are responsible for the rise in EU traffic levels, but the growth in car traffic — both work-related and private — plays a major part in the use of transport systems. On the one hand, car traffic levels have risen considerably because of the need to commute between home and work, changes in consumer behaviour and the disproportionate growth in leisure travel. On the other hand, traffic density has increased considerably over the past few years, owing to heavy goods vehicles in certain regions and conurbations. Globalisation of the economy, the increased functioning of the internal market, changes in production methods and the logistics associated with this contribute, among other things, to changes in the structure of the economy and inevitably generate increased traffic across all transport modes. With the accession of the applicant countries this will increasingly affect cross-border routes which, according to the Commission, are also currently the weakest points.

2. Specific comments

Current capacity, especially on cross-border routes, is inadequate.

2.1. The ESC therefore agrees with the Commission that additional financial resources are needed for the most urgent improvements in cross-border transport infrastructure, not just within the Community, but also with the applicant countries through other programmes. Given the anticipated volumes of traffic, the question of expanding infrastructure — including rail infrastructure — within the applicant countries (to meet EU standards) should also be addressed during the accession negotiations.

2.2. Even in the case of cross-border rail projects on Community territory involving necessary infrastructure measures, such as building tunnels or bridges, the ESC thinks that their sustainability and economic and social viability should be assessed in all cases.

2.3. The ESC agrees with the new Article 5(3)(a). The rail networks of the applicant countries already fail to meet economic needs and capacity bottlenecks will therefore increase very rapidly given the anticipated economic growth. We would particularly point out that the Community provides alternative funding options (e.g. ISPA, TINA) for the applicant countries, though it must be ensured that these are coordinated with the guidelines.

2.4. With regard to funding for the inland waterway network, the Commission is asked to list in a document all types of funding for transport networks within and outside the Community, especially in the applicant countries.

2.5. Article 5(3)(b) should cover all other projects (road, terminals, air and water, pipelines, etc.) relating to bottlenecks at borders. It would be helpful if the amendment were more specific.

2.6. Article 5(3)(c) is to be endorsed.

3. Conclusions

3.1. The ESC supports the possibility of increasing the ceiling for financial aid from 10 % to 20 % of total investment costs for cross-border transport projects and for projects that

make a major contribution to the objectives of the trans-European networks, and it hopes that the goals set are thus achieved more quickly.

3.2. In an own-initiative opinion the Committee is urging that Community financial involvement in projects to improve and extend the inland waterway network be stepped up [1]. Community support for the elimination of bottlenecks is also to be doubled (from 10 % to 20 %). Such an increase should on no account be allowed to affect the increase in Community grants for the TENs.

[1] OJ C 80 of 3.4.2002, 'The future of the trans-European inland waterway network' is currently being drawn up by the ESC.

Brussels, 20 March 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 establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports'

(COM(2001) 695 final — 2001/0282 (COD))

(2002/C 125/05)

On 29 January 2002 the Council of the European Union decided to consult the Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Union, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 26 February 2002. The rapporteur was Mr Green.

At its 389th Plenary Session of 20 and 21 March 2002 (meeting of 20 March 2002), the Economic and Social Committee adopted the following opinion by 74 votes in favour with one abstention.

1. **Background**

1.1. At the Council meeting in Luxembourg on 16 October 2001 the Transport Ministers noted that the resolution on environmental protection adopted by the International Civil Aviation Organisation (ICAO)'s 33rd assembly (25 September — 5 October 2001) opens up a prospect of replacing the 'Hushkits' Regulation in the near future.

1.2. To combat aircraft noise around airports, the EU proposed a Regulation in 1999, which would ban aircraft equipped with noise reduction devices ('Hushkits') from EU airports from 1 April 2002. Only hushkitted aircrafts registered outside the EU but operating there before 1 April 1999, would be allowed to continue.

1.3. In March 2000 the United States lodged a complaint in the ICAO Council against the fifteen EU Member States on the grounds that this Regulation was an infringement of the Chicago Convention and Annex 16 thereto.

1.4. The 1999 regulation was challenged by the United States, which claimed that it breached international agreements on aircraft noise and would disrupt the market for used aircraft.

1.5. The Council's conclusions also took note of the Commission's intention of presenting as speedily as possible a proposal which, in compliance with ICAO conditions, can establish a framework for operational restrictions in the Community, making full use of the flexibility provided by the ICAO, and which protects people living around airports.

1.6. The Council's conclusions presupposed that this matter was given sufficient priority to allow the adoption of a proposal by April 2002, when the existing Hushkit Regulation's provisions on halting operations take effect.

1.7. For many years the EU has urged the ICAO to update the Chapter 3 noise certification standard adopted in 1977.

1.8. In June 2001 the ICAO Council adopted a new noise certification standard, to become chapter 4 in Annex 16 volume 1 to the Convention on International Civil Aviation.

1.9. The market-induced introduction of Chapter 4 requires accompanying measures which will allow for harmonized application of operating restrictions, including withdrawal from operation of those aeroplanes that only marginally comply with Chapter 3 limits.

1.10. At the 33rd ICAO assembly a world-wide agreement was reached through the above Resolution A33/7 on how to frame such accompanying measures/operating restrictions within the concept of a balanced approach to noise management. This will allow EU Member States to progressively withdraw marginally compliant aeroplanes at noise sensitive EU airports.

1.11. With a view to reducing noise in the most cost effective manner, a balanced strategy generally consists of action on four fronts:

1. Reduction of noise at source;

2. Spatial use and management (land-use planning) ;

3. Noise abatement operational procedures;

4. Restrictions on air traffic operations.

1.12. Air traffic in the EU, as elsewhere in the world, is concentrated on a relatively small number of airports.

2. **The Commission proposal**

2.1. The Commission proposal contains a common set of rules and principles relating to noise-related operational restrictions as part of a balanced approach to noise management.

2.2. Only airports with over 50 000 movements per year fall within the scope of the directive.

2.3. The proposed directive also covers 'city airports', in the centre of large conurbations. An airport can only be defined as a 'city airport' if there is an alternative airport also serving that city.

2.4. For the purposes of the proposed directive the environmental performance of aeroplanes is assessed on the basis of the Chapter 3 certification limits. Aeroplanes that have a cumulative margin of no more than 5 decibels in relation to the Chapter 3 certification limits are considered as being only marginally compliant. Airports with a problematic noise situation would be allowed to remove these aeroplanes gradually from operation after an assessment has been carried out. Other noise mitigation options remain available if the withdrawal of these aeroplanes is not sufficient to meet the directive's objectives.

2.5. Under certain specific conditions, aeroplanes from 'developing nation' companies may be exempted from the directive's provisions.

2.6. The entry into force of the directive will result in the repeal of the Hushkit Regulation.

3. **General comments**

3.1. The ESC broadly supports the Commission's proposal for a directive which will assist in reducing aviation and airport-related noise.

3.2. The ESC points to the need for uniform legislation to regulate noise from other sources, including other modes of transport.

3.3. The proposed short timespan for adoption of the proposed directive, as soon as 1 April 2002, could result in inadequate and ill-judged legislation.

3.4. Correspondingly, adoption of the directive with effect from 1 January 2003 would mean postponing the reduction of aviation-related noise; the earlier regulation (EC) No 925/1999 bans the operation of aeroplanes fitted with hushkits within the EU from 1 April 2002 unless these aeroplanes were operational on Community territory before 1 April 1999. Adoption of the proposed directive will result in this regulation being superseded.

3.5. It should also be noted that the new draft directive will make it possible to phase out certain aeroplanes which would have been authorized under the Hushkit Regulation.

3.6. Transitional problems could arise prior to the introduction of the requisite procedures provided for in the directive.

3.7. Attention is drawn to the fact that the draft directive primarily addresses operational restrictions for aviation, which is only one facet of the balanced approach referred to in the ICAO resolution of September 2001.

3.8. The ESC stresses that the 'interested parties' must include the population groups exposed to noise in the specific case concerned.

4. **Specific comments**

4.1. Though a cost/benefit assessment is a major component of the balanced approach, the draft directive only contains a general reference to this point (in annex 2).

The draft directive should preferably give a more precise description of the methodology to be followed for this assessment so as to avoid discrepancies in the Member States' implementation of the directive.

4.2. In the absence of an internationally agreed definition, the wording 'light aircraft' in Article 2 (a), should be deleted from the directive in order to avoid any uncertainty about the nature of this aircraft and due to the need to pass this legislation swiftly.

4.3. The developing countries' participation should be limited to a specific period; it should at the same time be made clear that exemptions can only be made for flights covered by Chapter 3 of the Convention on International Civil Aviation.

4.4. On the definition of aeroplanes which only marginally comply with the certification limits laid down in Chapter 3 of Annex 16 to the Convention on International Civil Aviation, by a margin of not more than 5 EPNdB (Effective Perceived Noise in Decibels), the ESC advocates a more stringent limit of 8 EPNdB instead. For practical reasons, the ESC recommends a certain transitional period.

4.5. Article 13 should therefore be amplified as follows: 'Unless proposed otherwise by the Commission, the cumulative margin of 5 EPNdB will be increased to 8 EPNdB no later than 5 years after the entry into force of this directive'.

5. **Conclusion**

5.1. The ESC wholeheartedly supports the Commission's proposal seeking to introduce noise-related operating restrictions at EU airports. Future growth in air travel, under growing environmental constraints, will depend exclusively on a progressive and credible reduction in aircraft noise at source.

5.2. The cumulative margin should be increased to 8 EPNdB no later than 5 years after the entry into force of this directive.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on the Community statistical programme 2003 to 2007'

(COM(2001) 683 final — 2001/0281 COD)

(2002/C 125/06)

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 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. The rapporteur was Ms Florio.

At its 389th Plenary Session (meeting of 20 March 2002), the Economic and Social Committee adopted the following opinion with no dissenting votes and three abstentions.

1. **Foreword**

1.1. Regulation (EC) No 322/97, which the Council adopted on 17 February 1997, provides for the establishment of a Community statistical programme setting strategies, priorities and work plans for the period 2003 to 2007.

1.2. The strategic importance of the programme has increased over the years, partly owing to the gathering pace of economic, monetary and institutional processes, and of social change within the EU, and partly owing to the practical progress made by the central and eastern European candidate countries which will conclude their EU accession negotiations in 2002.

1.3. The five-year programme for 2003-2007 is the sixth successive medium term programme prepared by Eurostat. Like its predecessors, the programme contains provision for a mid-term evaluation and a more detailed annual plan, and a final evaluation.

1.4. On the basis of the indications provided by the Commission and the Council, Eurostat should increasingly take on a key role in setting ever more standardised criteria for data collection and analysis and ensuring their timely provision in statistical programmes.

1.5. Eurostat, and the European Statistical System (ESS) in general, have the delicate task of speedily obtaining comparable data both in sectors which the EU institutions have analysed and monitored for many years, and concerning socio-economic trends and the changes which the enlargement process is causing in the candidate countries and will cause in the Member States.

1.6. In this context, while a statistical evaluation of the eurozone should clearly focus on monetary-related aspects, care must be taken to use a method which brings out differences in the three areas: eurozone Member States, non-eurozone Member States, and candidate countries.

2. **Statistics as a source of guidance in the EU**

2.1. Eurostat data are regularly used in the many reports, periodic monitoring and analyses of economic and social cohesion in the EU, and in national governments' planning papers.

2.1.1. The Committee would draw attention to the usefulness of statistical surveys for boosting the strategies decided at the Lisbon and Gothenburg Councils.

2.2. The introduction of the single currency will undoubtedly increase the need for monitoring tools to provide a scientific and realistic basis for economic, financial and social decisions that will strengthen the Union and boost its competitiveness on the world market while also upholding the principles of equity and social justice.

2.3. It is clear that the efficacy and practical value of the ESS depend on the collection of data that are as standardised, integrated and harmonised as possible.

2.4. Member States will have to make significant investments, both financially and in terms of training, if they are to iron out the continuing differences in statistical survey criteria and speed up the adjustment of their national statistical institutes to EU standards.

2.5. The position of the network which Eurostat has set up to handle monetary statistics is somewhat different, as it directly meets the monitoring requirements of the European Central Bank. The inconsistencies between the various data collection systems must be swiftly eliminated if the task of shaping the EU's future is not to be left solely up to monetary policies.

2.6. By the same token, as the Commission pointed out in its last report on economic and social cohesion, statistical instruments also need to be brought into line for the economically lagging regions and areas.

2.7. In the ESS, data collection is mainly undertaken according to the subsidiarity method. National statistical bodies often work with private agencies which directly or indirectly influence the reading of statistics and in any event become 'shadow' partners. A serious assessment is needed of the role which such agencies play in data collection, with a view to ensuring that statistical instruments are as neutral, scientific and accurate as possible.

2.8. Lastly, alongside national governments, businesses etc. ([1]), there is another major category of Eurostat user to be considered, namely the national and European socio-economic organisations. In both the ex ante and ex post evaluations, there should be consultation of all the parties who use and provide input for statistics services.

([1]) COM(2001) 683 final — 2001/0281 COD, page 61, point 5.2.1.

3. **Statistics and enlargement**

3.1. Statistics have a dual role in the enlargement process and in negotiations with the candidate countries. Firstly, they are an integral part of the Community acquis, and secondly they are basic indicators of the 'health' of the candidate countries' economies.

3.2. With the exception of Turkey, all the candidate countries submit data to Eurostat four times per year using the same criteria as the Member States. The national data collected in the candidate countries are not yet comparable with ESS data and are therefore still analysed with some caution. Nonetheless, major progress has been achieved over the last few years.

3.3. The EU has undertaken many schemes to promote closer harmonisation of data collection criteria, but not all the problems have been solved definitively. Turkey and Malta remain outside this system (the Turkish statistical office is outside the European system).

4. **Recommendations**

4.1. As in earlier opinions, the Committee calls for cooperation between Eurostat and the national statistical institutes to be made as effective as possible, so that the ESS can play a more effective role.

4.2. The coordinating role of Eurostat must be improved so as to secure greater harmonisation and effective comparability of data.

4.3. As enlargement draws nearer, the statistical institutes of the candidate countries should be more effectively brought into the system by stepping up cooperation with the provision of economic aid for training and adjustment of statistical instruments.

4.4. In order to ensure that statistics are more neutral, the Committee also thinks that the activity of private agencies working directly or indirectly within the ESS should be monitored.

4.5. In the light of the above, the Committee thinks that Eurostat's funding should be increased, with greater involvement of Member States' governments and a coherent role for the Commission.

4.6. As already noted, statistical surveys should focus on already identified, clearly targeted strategies (Lisbon and Gothenburg Councils). In particular, as noted in an earlier Committee opinion [1], specific data should be provided on all aspects of sustainable development.

[1] OJ C 221, 7.8.2001, p. 169 and OJ C 48, 21.2.2002.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on 'Hospice work — an example of voluntary activities in Europe'

(2002/C 125/07)

On 26 April 2001 the Economic and Social Committee, acting under Rule 26 of its Rules of Procedure, decided to instruct the Section for Employment, Social Affairs and Citizenship to draw up an information report on 'Hospice work — an example of voluntary activities in Europe'.

At the last plenary session on 20 and 21 February 2002, it was decided to transform the information report into an own-initiative opinion (Rule 23(3) of the Rules of Procedure).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion unanimously on 27 February 2002. The rapporteur was Mrs zu Eulenburg.

At its 389th Plenary Session on 20 and 21 March 2002 (meeting of 20 March), the Economic and Social Committee adopted the following opinion by 80 votes to one, with three abstentions.

Preamble

Action and commitment by citizens are an essential part of political and social life and the basis of the Member States' system of organisation and values. For private individuals participation and involvement mean taking part in cultural, social and political life. Society is shaped and developed by voluntary involvement in intermediary organisations (action groups, societies, interest groups, trade unions, political parties). When ordinary people make a commitment to the common good, they create social cohesion and put flesh on the bones of democracy.

Voluntary activity is a higher form of citizen involvement and is based on a firm and steady determination to do something for the common good because we are all responsible for everyone.

This firm and steady determination to do something for the common good is based on a humanistic view of society and on the awareness that we all belong to the same 'solidum', in which joint responsibility requires voluntary participation and high-minded action.

So, this commitment does not correspond to a mere feeling or a mood, but presupposes a degree of magnanimity and personal devotion, which gives honorary activities their essential aspect of being voluntary and gratuitous, without which there would be a danger of people blindly counting their 'cost' simply on the basis of their 'monetary value'.

People have to be encouraged to extend their commitment. More commitment and individual responsibility will be possible only in a state whose actions are guided by the principle of subsidiarity and which takes its role as guardian and guarantor seriously. The state must create the conditions for ordinary citizens to play their part.

Civic involvement of the type described here is generally on an unpaid, voluntary basis. It extends to all areas of the life of society.

The discussion below does not aim to given a complete account of all areas of voluntary activity in the Member States. Rather, the purpose is to bring to light the roots and motives of voluntary work in general and to highlight the enormous importance of individual commitment for the social and political development of the Member States and the Community. The opinion focuses on hospice work as an example of voluntary commitment, in order to illustrate the kind of work volunteers do and the conditions necessary for this. Finally, on the basis of this specific illustration and of experience drawn from different countries, conclusions are drawn from the opinion's findings.

1. **Voluntary work in Europe**

1.1. *International Year of Volunteers 2001*

1.1.1. The Universal Declaration on Volunteering describes voluntary work as a fundamental building block of civil society. According to the declaration the right of all people to assemble freely and exercise their responsibilities is a basic principle of democracy, enabling people to engage in the pursuit of peace, freedom, safety, justice and personal learning and growth.

1.1.2. Voluntary work is performed by individuals — often far from the public gaze — or through groups, societies and associations. The civil-society organisations which make these voluntary activities possible and support them play an important role in society.

1.1.3. The Economic and Social Committee is the representative of civil society organisations in Europe. Within its ranks are representatives of many associations and organisations for which, on both a personal and an institutional level, voluntary commitment is an integral part of their work. For the Economic and Social Committee the International Year of Volunteers is an important and appropriate opportunity to stress the significance of voluntary work for the development of a social Europe.

1.2. *Voluntary work as a component of European civil society*

1.2.1. Voluntary work is a major force in shaping social solidarity and participative democracy. It is unpaid, creative, entailing commitment and personal involvement. It bears witness to man's strength and to his will to shape his own environment and to act on his own responsibility for the general good.

1.2.2. In undertaking voluntary work and serving the common good, volunteers' horizons extend beyond themselves, their families and their jobs. They are more than just workers, parents, consumers and/or voters. Volunteers embody in the truest sense the threefold role of professional, citizen and human being. Civil society, in which people are to take on more responsibility for themselves and others, is rightly much talked about today.

1.2.3. Working together with others — as well as individual commitment — form a counterweight to an increasingly self-centred society. They also counterbalance the tendency to reduce social, human and cultural issues to market economics.

1.2.4. Voluntary work in the Member States extends to all areas of society, from political involvement (political parties, trade unions, action groups, etc.) via sport and culture, social involvement (young people, family, women's issues, marginal groups) to disaster and emergency relief work.

1.2.5. Voluntary work is the ideal environment for the expression of attachment to one's fellow man, values and a sense of responsibility to oneself and to others. There are a variety of underlying motives, such as:

— the need for company and human contact;

— the need to do something worthwhile and organise one's own life;

— the wish to right a personally experienced wrong;

— a decision to take on social responsibility;

— the need for social recognition or the need to acquire and maintain personal skills;

— the need for help with solving one's own problems and

— religious or humanitarian motives.

1.2.6. The traditional image of 'helping out' (implying availability, willingness to make sacrifices, commitment) is just as important as an understanding of voluntary work geared more to personal development, involving modest, manageable tasks, limited in time, options and the ability to choose one's area of involvement.

1.2.7. Increasing individualisation and personal mobility and the proliferation of lifestyles contribute to the increasing breakdown of traditional social environments for which there are no durable substitutes. As a result people often do not find their place in the group, they do not feel involved and needed and they do not commit themselves despite an underlying willingness to do so. There are however signs that organisations and bodies are beginning to open themselves up and that local authorities and government bodies are setting up structures to bring people interested in doing voluntary work together with providers of social and community services. Examples of this are voluntary work agencies, forums, exchanges, citizens' advice bureaux etc. Voluntary work on a temporary basis requires the institutional backup of associations and societies. It has to be organised and coordinated. Structures created in this way make it possible to take account of personal interests and needs as well as of the demands of the work.

1.2.8. Voluntary work requires encouragement and support structures. Government bodies at transnational, national and regional level, local authorities, industry and associations can ensure the maintenance and development of social capital by ongoing investment (see the ESC opinions on Cooperation with charitable associations as economic and social partners in the field of social welfare ([1])) and private not-for-profit social services in the context of services of general interest in Europe ([2]). Firms and associations prove themselves to be good citizens and social players through 'corporate citizenship' and by supporting employees who make a personal and financial commitment (e.g. by giving them time off or through top-up donations). Voluntary work is thus a link between government, market and society.

1.2.9. Voluntary work has a quality of its own. Volunteers can set about their tasks spontaneously, passionately, with little 'red tape'. Budgeting for their own time and providing a broad range of skills, they can be used in a great variety of ways.

1.3. *The importance of social voluntary work*

1.3.1. Voluntary work in social services, institutions and action groups makes a special contribution to social cohesion. It is geared directly to people in a particular situation and makes it possible to integrate them into society.

1.3.2. The opinion shows how social voluntary work can develop and how it can shape and change political conditions, using the hospice movement as an example. A short introduction is therefore needed to the variety of social voluntary work and to its political dimension.

1.3.3. Social voluntary work provides society with an insight into the problems of disadvantaged and marginalised groups, and highlights society's responsibility for them, at the same time as frequently providing these people with a bridge to the everyday life of society. In working for these people's interests citizens become their advocates and ensure that their needs and aspirations are aired in the world of politics and in society. Voluntary work can prevent these people experiencing society almost exclusively in terms of professional care systems.

1.3.4. Social voluntary work embraces participation in established societies, associations, organisations and projects. Often volunteers are the driving force behind new activities.

Volunteers are for example involved in:

— support groups for immigrants and asylum seekers aimed at alleviating problems of racism;

— activities aimed at promoting the social integration of disadvantaged, sick, disabled or marginalised groups such as, for example, prisoners, drug addicts, the elderly, the sick, those in need of nursing care, the terminally ill, children and families;

— poverty relief projects aimed at alleviating the consequences of social and economic imbalances;

— self-help groups;

— youth work, schools, kindergartens and school exchange programmes etc.

([1]) OJ C 73, 9.3.1998.
([2]) OJ C 311, 7.11.2001.

Volunteers also make a major contribution to general social activities geared to the common good (e.g. volunteer fire brigades, rescue and emergency services) or to the hospice movement, where they work for a more humane approach to the seriously or terminally ill and the bereaved.

1.3.5. Without voluntary work many health and social initiatives would be unthinkable. It is often personal commitment and the willingness to offer help where it is needed that has made it possible to provide new forms of social assistance and support. Although the range of voluntary work is greater today, and although many innovative measures being developed in all European countries deserve more detailed treatment and broader public acknowledgement, this opinion will concentrate mainly on one aspect: the hospice movement. This movement is of exemplary importance to the extent that work in this area deals with the basic issues of human existence, such as our attitude to death. Moreover, it is a new, very new field which has influenced the actions of the Member States in relation to their social security arrangements.

2. **The example of hospice work**

2.1. *General*

2.1.1. The driving force behind the hospice movement

The hospice movement is not the result of government planning or initiatives. Hospices exist thanks to the voluntary commitment of family members and friends of the terminally ill, as well as of individuals with a professional interest, whose commitment often went far beyond the purely professional. These individuals who were unwilling to tolerate shortcomings in the treatment and care of the dying started to work for a more humane approach. Death, dying and grief are not to be hidden, but rather brought to people's attention as part of life. This means creating a space in which the dying can live and feel part of life.

2.1.2. Tenets of the hospice movement

2.1.2.1. Underlying the hospice movement is a concern for the terminally ill and their relatives. Through a holistic approach the seriously and terminally ill are acknowledged and accepted in physical, psychological, socio-economic and spiritual terms.

2.1.2.2. The hospice movement is based on the following basic tenets:

— Hospices should be open to all the terminally ill and their relatives, regardless of social or financial status, cultural or religious affiliation.

— The hospice concept is based on an image of humanity which has the sanctity of human life as its centre point.

— The action arising from these beliefs can take place anywhere where there are people who take the needs of the dying and their personal integrity and autonomy seriously. However, it has to be realised that no counselling or holistic care can take away the suffering inherent in death and dying.

2.1.2.3. There is a social impetus behind the hospice movement.

— People should be encouraged to come to terms with life, dying, death and grief, and dying and death should become an integral part of life and be brought to people's attention.

— People from different walks of life who are willing to engage in voluntary work should be encouraged and empowered to assist the dying.

— Voluntary work is an integral part of support for the dying. It assists and complements the work of hospital in- and outpatient departments, old people's and nursing homes, doctors and spiritual counsellors.

— The existing institutions for the care and support of the elderly should be encouraged to rethink their approaches to support for the dying and, where necessary, to develop new ideas.

2.1.3. Hospice tasks

2.1.3.1. Hospices, whether catering for inpatients or outpatients or a combination of both, provide a wide range of services. Some of the main tasks are:

— psycho-social counselling and care of the seriously ill and dying (e.g. support with psychological problems, helping individuals take stock of their lives, helping overcome crises, relieving the pressure on those close to the dying, assistance with everyday tasks);

— advice (e.g. on social issues, care, putting affairs in order);

— provision of palliative assistance up to and including comprehensive palliative care;

— therapy; spiritual counselling;

— round-the-clock availability of support;

— counselling for the bereaved and relatives;

— intensive preparation, support and further training of volunteers and professionals;

— educational and publicity work;

— fund raising from donations and sponsorship.

2.1.3.2. All the above tasks are, depending on facilities and staffing, provided by the hospice itself or by third parties. They are necessary for the holistic care of the dying and their relatives.

2.1.4. Hospice networks

Hospice work builds new networks based on (voluntary) civic commitment aimed at improving the quality of the final stage of life. Here the accent is on the physical and emotional, as well as the social and spiritual needs of the individuals concerned and those close to them.

The establishment of such a network requires an interaction of nursing, medical, therapeutic, spiritual and social counselling support, as well as the voluntary contribution, in the framework of a multidisciplinary team.

Networks of this kind need ongoing support from policy-makers and society at large.

2.2. *Voluntary hospice work*

2.2.1. The basic concept

2.2.1.1. The contribution of volunteers is an essential feature of hospices. Volunteer workers help, care for and support the dying. They form a bridge with the outside world, and complement, and relieve the pressure on, family/caregivers. It is thanks to volunteers that the dying are not exclusively cared for by professionals. This is all the more important if there is no support from family/friends.

The presence of volunteers, indeed the very knowledge that voluntary hospice workers exist, can encourage family members and friends to maintain contact with the dying person.

2.2.1.2. Volunteers working in capacities not bringing them into direct contact with patients (e.g. publicity, fund raising, planning — in the sense of expert advice) also make a major contribution to raising the public profile of hospices.

2.2.1.3. Hospices' outpatient work is entirely in keeping with the principles of networking and building a basis of support in society. The work of volunteers on patients' behalf is particularly tangible here. Care dispensed in patients' own homes makes it clear that it is always at patients' own request that they receive support and visits from hospice workers. Volunteers are welcome guests.

2.2.1.4. The volunteer contribution is based on:

— neighbourly, human solidarity which allows the dying and the bereaved to participate in the life of society;

— solidarity which encourages and relieves the pressure on relatives/friends and professionals;

— listening, sympathetic solidarity which actively and genuinely seeks contact and builds up a relationship of trust;

— solidarity inspired by hope, open to ideas about the meaning of living and dying and the individual's attitude to the fundamental questions of human existence.

2.2.1.5. The support and complementary services provided by volunteers are a challenge to government and society to improve the working conditions of full-time professionals, so that the dying and the bereaved can receive the expert help which they need.

2.2.2. Conditions of voluntary hospice work

2.2.2.1. Volunteers contribute their work and their time. In view of the scale of the commitment and the pressures involved, conditions need to be created to make such commitment possible and to keep the load to manageable proportions. A number of aspects have to be considered here:

— Suitable, high-quality preparation and regular basic and further training are essential to ensure that volunteers are able to approach the task and assume their responsibilities with confidence.

— Cooperation with, and support by, the multidisciplinary team help volunteers to cope with difficulties. The contribution of voluntary work must be recognised and valued, but also clearly defined.

— Coordinated use of volunteers is necessary to make the most of their availability (in terms of personal commitment and time).

— Support and supervision guarantee the quality of volunteer work and help safeguard volunteers' psychological stability.

2.2.2.2. Voluntary work means commitment for a given period. Hospice volunteers perform their duties with a high degree of reliability and commitment. Professional support is needed to ensure the long-term continuity of services, particularly with regard to organisation and coordination. Thus, expert advice is often needed, as is support specifically geared to volunteers and to patients.

2.3. *Situation in some Member States and applicant states*

2.3.1. Basis for the use of volunteers

2.3.1.1. The same principles applying in other areas of voluntary work to the recruitment, training and coordination of volunteers applies to a particularly high degree in the case of hospice work. The example of hospice work should make it clear that the conditions for the successful ongoing use of volunteers are to a great extent universal.

2.3.1.2. Volunteers come to hospice work through personal experience, word of mouth, direct approaches, newspaper advertisements, hospice open days, conferences and targeted information campaigns.

2.3.1.3. Volunteers are given a thorough preparation for their work.

The aim of the preparation is to enable volunteers:

— to provide support with self-confidence and a sense of responsibility;

— to assess their own abilities and limitations;

— to develop new communication skills in dealing with the seriously and terminally ill.

2.3.1.4. The training of volunteers differs from hospice to hospice and from Member State to Member State. The duration of training varies from 2 to 3 months to 10 to 12 months. In many hospices on-the-job training is part of the preparatory stage. Basic training may be followed by more specific training geared to the volunteer's future field of activity. This applies particularly to volunteers who will be working as bereavement counsellors.

2.3.1.5. Training is generally provided by a multi-disciplinary team and the progress of training is monitored by management. Apart from basic knowledge (dying, death, grieving, hospice work and palliative care and medicine), the accent is on the role of counselling, the individual volunteer, the basic idea underlying the concept of the hospice, communication and caring skills.

2.3.1.6. During their work with the dying and the bereaved volunteers have access to the coordinator or manager as well as to members of the team. Supervision is regularly offered. Volunteers are expected to attend regular further training courses and lectures. One-to-one spiritual counselling can often also be arranged on request. Some hospices also offer memorial services for volunteer and professional staff and family and friends. Events such as summer or pre-Christmas parties form an important part of the hospice's programme.

2.3.2. Volunteers' areas of work

2.3.2.1. Volunteers are involved in all areas of hospice work. The extent of their duties is often determined by their professional skills. Hospices ensure that the duties of volunteer workers are clearly defined in advance. These may vary from one individual or hospice to another.

2.3.2.2. The following are examples of areas in which volunteers provide additional and complementary services.

— psycho-social counselling (e.g. conversation, reading aloud);

— spiritual counselling (e.g. prayer, reading aloud, accompanying patients to church services);

— psycho-social counselling of relatives and the bereaved;

— transport;

— complementary therapy;

— helping patients with personal hygiene;

— assisting with meals;

— hair care;

— looking after plants;

— gardening;

— telephone calls;

— administrative work;

— publicity work (press relations, manning stands at fairs, information events, newsletters etc.);

— fund raising (benefit concerts, jumble sales, raffles etc.).

Volunteers have more time and opportunity than professionals to focus on the individual needs of the seriously and terminally ill. This considerably enhances patients' sense of well-being.

2.3.2.3. Volunteers also make an essential contribution to supporting hospice work financially, morally and professionally through their work in the management of support associations, and work on committees and boards. In countries such as Poland, where social security systems do not finance basic (palliative) care in hospices, doctors and nurses often work voluntarily.

2.3.3. Cooperation between volunteers and professionals

2.3.3.1. Experience of cooperation between volunteers and full-time professionals in hospice work varies. Where the tasks and areas of responsibility of volunteers and full-time professionals respectively are demarcated, experience of cooperation is generally positive. Regular joint and separate supervisory sessions and guided discussions strengthen the respective identities and provide an opportunity to discuss day-to-day cooperation and solve any problems arising. The essential thing is the basic underlying attitude which stresses partnership and cooperation in the interests of terminally ill patients. Based on this understanding, every staff member, whether voluntary or professional, has his place in the team, even if areas of responsibility differ according to the individual's skills.

2.3.3.2. As so often in voluntary work, the emerging need for institutionalisation of volunteer hospice work is at odds with a creative grass-roots movement which is constantly taking on new challenges. The important thing is that the structure within which volunteers choose to work leaves scope for, and encourages, voluntary commitment.

2.3.4. Integration into health services

2.3.4.1. The Member States' hospice movements have generally developed independently and on their own responsibility, outside the framework of state planning. They owe their existence to a high degree of personal initiative and creativity, particularly with regard to funding. In some Member States hospices are financed mainly by socially orientated associations, charities and religious orders.

2.3.4.2. In the course of the 1990s government involvement increased. With the creation of tumour networks (Great Britain), a development plan for the promotion of hospice work (Poland) and laws underpinning in and outpatient hospice work (Germany, Italy) politicians have been doing more to create the framework conditions for hospice and palliative care, particularly in terms of supporting voluntary work.

2.3.5. Funding and costs

The fundamental principle of voluntary work is that it is unpaid. Expenses may however be reimbursed.

Although volunteers are generally (e.g. in Germany, Great Britain and Poland) insured through their organisations and associations (third party and accident insurance), the risks actually covered by insurance and the adequacy of cover need to be studied.

Costs also arise in connection with preparation, further training, supervision and coordination provided by qualified staff. Such activities are also conducted on a voluntary basis or in return for charitable donations.

2.3.6. Encouragement of and hindrances to voluntary hospice work

2.3.6.1. The following have proved conducive to social voluntary commitment:

— encouragement and recognition of social voluntary work by society;

— open discussion of death and the process of dying;

— local/regional networks embracing and linking the healthcare, social security and hospice systems;

— high-quality standards in hospices;

— thorough preparation of volunteers;

— good working environment;

— acceptance and recognition of volunteers;

— opportunities to use personal experience from hospice work in other areas of an individual's life;

— spiritual motivation or membership of a religious community;

— family support.

2.3.6.2. The following have proved a hindrance to voluntary hospice work:

— a society in which discussion of death and dying is taboo;

— lack of recognition and feedback;

— lack of knowledge of opportunities in hospice work;

— competition between hospices for funding;

— inadequate preparation and support;

— unclear demarcation of tasks and responsibilities;

— lack of recognition from family and friends;

— lack of leisure time;

— feelings of social isolation.

2.3.6.3. The above positive and negative factors depend mainly on the volunteers' personal situation, social and political recognition and the way in which voluntary work in hospices is organised. Long experience in countries where voluntary work plays a significant role has highlighted the value of professional support for volunteers to ensure continuity.

2.4. *Summary and conclusions based on the example of hospice work*

2.4.1. The following can be deduced from the example of voluntary hospice work:

— Volunteers see their work as worthwhile and carrying responsibility.

— Thorough and well-planned preparation, supervision and further training are seen as something of value, a source of assistance and personally enriching, strengthening the individual's self-confidence and self-esteem and contributing directly to the effective performance of duties.

— New and lasting bonds are formed between like-minded people working as an increasingly cohesive group. Open discussion of existential issues normally considered taboo promotes mutual trust and cohesion.

— Features of voluntary work are a high degree of commitment and enthusiasm, sustained over an extended period, and willingness to undergo further training.

— Voluntary work enjoys a high level of recognition in society, the world of politics and the volunteers' immediate environment.

— Volunteers identify to a high degree with the objectives of the hospice movement and hospices themselves as the embodiment of this idea. This feeling is significantly promoted by identification with a region. There is a great willingness and potential for voluntary hospice work.

2.4.2. As preconditions for the above:

— The maintenance of motivation and enthusiasm depends directly on good management and a good working atmosphere.

— Volunteers' tasks are generally clearly described. They should be clearly identifiable and diverse.

— Organisation and coordination are needed to ensure that volunteers' needs are as far as possible catered for.

— Voluntary work is in principle limited in time. The duration of the period of voluntary work should be regularly confirmed (e.g. annually).

— A permanent point of contact, such as a hospice office or in-patient hospice provides orientation and identification.

— A permanent contact person providing coordination, guidance, practical supervision etc. provides continuity for the purposes of networking and contacts with volunteers.

— Clear consultation and a high degree of mutual commitment, taking account of responsibilities towards volunteers as well as to the seriously or terminally ill patients and bereaved persons entrusted to the volunteers, are a precondition for a reliable service.

— The hospices' public relations work keeps the importance of voluntary work in the spotlight. This makes it easier to recruit volunteers, contributes to a sense of identification with the hospice idea and communicates an additional sense of recognition.

2.4.3. On the basis of an analysis of voluntary work and experience in hospices, thought needs to be given to ways in which society can specifically promote voluntary work. In the process it should be borne in mind that the variety and combination of motives displayed by volunteers shows that they are increasingly looking for meaning and opportunities for personal development in their voluntary work. It may be assumed that political and cultural factors at regional and national level will strongly influence people's willingness to engage in voluntary work.

3. **General conclusions and recommendations**

3.1. The example of hospice work provides convincing proof of the power of voluntary work to help change political conditions and social realities. The tenacity and persistence of individuals in translating their ideas and convictions into action and in persuading (and inspiring) others to follow their example are an important driving force behind the development and continuity of civic commitment. Volunteers' advocacy on behalf of people in need and the resulting pressure for political action can be seen to bring about change in laws and regulations. Volunteers' impact on social conditions and realities is an excellent example of a properly functioning civil society.

3.2. Cooperation is developing in the European Union. Enlargement is coming. The processes associated with this need to be harnessed and consolidated if social cohesion is to be promoted in the applicant countries and in the Community. Making voluntary work possible and promoting it in the European Community will help ensure that individuals can participate in the development of society and in solving problems and tackling tasks of a social nature. Establishing a network of organised civic commitment can make a major contribution to the development of a national understanding of the concept of 'Europeans'.

3.3. A possible basis for further development is Declaration 38, appended to the Treaty of Amsterdam, which recognises 'the important contribution made by voluntary service activities to developing social solidarity. The Community will encourage the European dimension of voluntary organisations with particular emphasis on the exchange of information and experiences as well as on the participation of the young and the elderly in voluntary work'.

3.4. The Committee makes the following proposals:

1) Policy to promote voluntary work must, building on the International Year of Volunteers, give lasting recognition to voluntary work and promote dialogue between the supporting associations, authorities and social facilities.

2) Forums and/or exchanges for volunteers must be established providing detailed information on the many opportunities and areas of voluntary work at regional, national and European level. The new media should be used to this end. Suitable measures to tackle mobility problems should also be considered.

3) As a basis for successful voluntary work financial and staffing provision must be made for the basic and further training and supervision of volunteers during their service.

4) Research should be carried out into the basic conditions for voluntary work, such as motives, the effects of prevailing conditions, the differences and similarities between the various areas of voluntary work, and the differences and similarities between regional, national and European voluntary work, as well as into the positive effects of a society based on solidarity. To this end regional, national and European projects will need to be coordinated and promoted by the European Community.

5) Research must be carried out into the development of voluntary work from a grass-roots movement to a self-managing network, using the example of hospice work, with consideration for the opportunities and risks involved for social voluntary work. Studies should concentrate more than hitherto on common criteria underlying the different trends in the various European countries.

6) Continuity of organisation, administration and basic counselling of volunteers must be ensured by a minimum presence of full-time professional staff. The support of volunteer workers by full-time professionals should be an important measure of the extent to which responsibilities towards volunteer workers are being met.

7) Voluntary work must not be disadvantageous to the volunteers. Statutory cover for risks to life and limb should be available to protect the livelihoods of the volunteers themselves and their families. Legal framework conditions should be laid down at European level.

8) Greater use should be made of existing dialogue arrangements in the Member States, e.g. in the economic and social councils or in connection with the discussion of the national action plans, to promote the development of voluntary work.

Experience of existing programmes e.g. youth programmes, should also be exploited.

3.5. Finally, the Committee recommends that the visibility and wide distribution of the hospice movement in the Member States be exploited for further own-initiative work (for example the holding of hearings involving practitioners). This opinion

should be disseminated and discussed in all the Member States and applicant countries. Suggestions and feedback should be absorbed into a further discussion process and used as a basis for new initiatives. In this way it will be demonstrated that the widespread application of provisions to promote voluntary work and the willingness to put these on record can be harnessed for the task of developing ways of promoting voluntary work and establishing conditions conducive to it.

Brussels, 20 March 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 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national'

(COM(2001) 447 final — 2001/0182 (CNS)

(2002/C 125/08)

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 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 unanimously on 27 February 2002. The rapporteur was Mr Sharma.

At its 389th Plenary Session on 20 and 21 March 2002 (meeting of 20 March), the Economic and Social Committee adopted the following opinion by 79 votes to one with three abstentions.

1. **Introduction**

1.1. This is a Commission proposal for a Council Regulation laying down the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

1.2. The aim of the Commission's proposal for a Regulation, which is designed to replace the Dublin Convention, is not merely to implement Article 63(1)(a) of the EC Treaty. The aim is also to respond to the wish expressed at the Tampere European Council that the criteria and mechanisms for determining the Member State responsible for examining an asylum application are to be based on a 'clear and workable method' forming part of a 'fair and efficient asylum procedure'. The Regulation is designed to bring the Dublin Convention into Community law.

1.3. After first considering a number of alternatives, the Commission has decided to maintain the (current) criteria and mechanisms for determining the Member State responsible for examining an asylum application.

1.4. Thus, the general principle is that responsibility lies with the Member State which played the greatest part in the applicant's entry into or residence on the territories of the Member State, subject to exceptions designed to protect family unity. It should be noted that the system for determining the State responsible applies only to persons requesting recognition of the status of refugee within the meaning of the Geneva Convention of 28 July 1951 and does not cover the forms of subsidiary protection which has not yet been harmonised.

1.5. The proposal seeks to ensure that asylum seekers have effective access to the procedures for determining refugee status, prevent abuse of asylum procedures, close the loopholes and correct the inaccuracies detected in the Dublin Convention, adapt the system to the new realities resulting from the progress made as regards the establishment of an area without internal borders, determine the Member State responsible as quickly as possible and increase the system's efficiency.

1.6. The proposal includes a number of innovations:

New provisions emphasise each Member State's responsibility vis-à-vis all its partners in the Union when it allows illegal residents to remain on its territory, shorter procedural time limits, extended time limits for implementing transfers to the Member State responsible and provisions aimed to preserve the unity of asylum seekers' families.

2. **General comments**

2.1. The Committee would like its opinion on the draft Regulation to be considered in the context of two previously adopted opinions in this subject area.

2.2. The first of these references is the Committee's opinion on the Commission's proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status ([1]). In this opinion the Committee stated that it should be remembered that the Geneva Convention is a human rights' instrument. The references made in the preamble to the convention to the 1948 Universal Declaration of Human Rights strengthen the view that protection of refugees should be seen as an integral element of human rights' protection, since it is based on safeguarding the dignity and fundamental rights of all human beings.

2.3. Alongside the references to the Geneva Convention, the Committee believes that there must also be references to other relevant international conventions: the European Convention on Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Convention on the Elimination of all forms of discrimination against Women.

2.4. The second reference is to the Committee's Opinion on the Commission's Communication to the Council and the European Parliament: 'Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum ([2]) in this opinion the Committee stated that, at all events, it is clear that the Dublin Convention will need to be revised in the light of the new overall approach proposed by the Commission, paying particular attention to the following aspects:

— Making the common position of 4 March 1996 legally binding this provides a uniform interpretation of the concept of refugee — after first correcting the concept of persecution so that it includes persecution by non-state bodies;

— Offering the asylum-seeker the possibility of choosing the country he wishes to apply to, taking account of the cultural and social factors which determine this choice and which are crucial for faster integration;

— Guaranteeing the right to legal protection, information and appeal;

— Defining minimum reception standards;

— Overcoming excessively slow transfers and the scarcity of information given to asylum-seekers.'

2.5. The Dublin Convention was introduced with the two-fold aim of reducing multiple asylum applications (i.e. submitted by one individual to several states), and of solving the problem of asylum seekers being shunted from one country to another.

2.6. In the light of experience, it is generally felt that the convention does not work as it should and creates more problems than it solves. The volume of work and costs which it entails are not proportional to the results, as many asylum-seekers disappear before they are transferred, thus swelling the ranks of illegal immigrants.

2.7. In only 6 % of cases is there any debate as to which Member State has the responsibility for determining the application and, moreover, in 95 % of cases it is the Member State, in which the asylum application is lodged, that assumes responsibility for examining that application. The laborious mechanism of the Dublin Convention is therefore only applied to a very small proportion of all asylum application cases, and of these, only 1,7 % are actually transferred to a Member State other than in which the application was lodged. In the years 1998 and 1999, of the 655 000 applications for asylum only 10 998 asylum seekers were actually transferred to a Member State other than the one to which they had applied. The figures therefore demonstrate that only around 5 000 people are successfully transferred/taken back per year.

([1]) OJ C 193, 10.7.2001, points 2.1.1.1 and 2.1.2.

([2]) OJ C 260, 17.9.2001, point 2.3.4.3.

2.8. The Committee's conclusion is that this Regulation is bringing into Community law the main features of a substantially flawed Dublin Convention. Even after the improvements proposed by the Commission we will not have a Regulation that is clear, workable, effective, fair and humane.

2.9. The Committee does accept however, that there may well be a political imperative to proceed with this Regulation at this moment in time. It therefore notes the greater emphasis which is put on the principle of a Member State's responsibility for illegal entrants into its territory and those who have been resident illegally for a considerable length of time. The Committee also welcomes the greater importance attached to family unity, although this falls well short of the Commission's proposals on family reunification. The Committee welcomes the much shorter procedural deadlines which we hope will lead to earlier determination of asylum applications.

3. **Specific comments**

3.1. *Article 3*

Article 3 refers to the criteria for determining which Member State will be responsible for examining an asylum claim. It is notable that unlike the Dublin Convention there is no reference in this provision to Member States' international obligations. The Committee is concerned that Member States are reminded of their obligations under international law, such as the European Convention on Human Rights and the Convention against torture, when they undertake to examine asylum applications.

3.2. *Article 6*

Article 6 refers to the position of unaccompanied minors. It is proposed that the Member State where there is a member of his family who is able to take charge of him shall be responsible for determining the application for asylum. The Committee accepts that processing an application made by an unaccompanied minor can raise many problems and that in the best interests of the minor and in completing the procedures as rapidly as possible the definition of people who are eligible to take charge of the child should not be unnecessarily restrictive. The definition as proposed, excludes grandparents, uncles and aunts and adult brothers and sisters, all of whom might be equally suitable to take charge of the child. The Committee therefore proposes that, in the best interest of the minor, the definition of family member be extended to a family member or another relative who is both able and willing to take charge of the minor.

3.3. *Article 16*

Article 16 refers to the circumstances in which a Member State may consider the criteria of family reunification in determining where an asylum application from a dependant person should be processed. The Regulation proposes that 'Member States shall regard situations where one of the persons concerned, is dependent on the assistance of the other on account of pregnancy or maternity, their state of health or great age as justifying the uniting of the asylum seeker with a member of his family present in the territory of one of the Member States in circumstances not provided for in this Regulation'. The Committee proposes that the definition of family member be widened to include the words or other relative.

3.4. *Article 18, paragraph 1*

Article 18 concerns the timetable for requesting another Member State to take charge of processing an asylum application. The proposal is for a request to be lodged with another Member State within a maximum limit of 65 working days. The Committee believes that this time-scale is too short when considering asylum applications from unaccompanied minors. The Committee proposes that the time limit should be suspended and the 65 working days should only start to run in the following circumstances:

— after the completion of an assessment of the suitability of a family member or other relative to take charge of the child;

— and, where it is necessary, after the outcome of the admissibility procedure relating to the asylum application of a family member or other relative.

3.5. *Article 20*

This provision provides for an appeal to the courts against a decision on inadmissibility. However the appeal is not to have suspensive effect on the basis that, 'Since a transfer to another Member State is not likely to cause the person concerned serious loss that is hard to make good, it is not necessary for the performance of the transfer to be suspended pending the outcome of the proceedings'. The Committee does not accept this rationale because it is extremely difficult for an asylum applicant to maintain contact with lawyers who would have to conduct the appeal. Most asylum applicants lead a hand-to-mouth existence and international communications are likely to be impossible.

4. **Conclusion**

4.1. Whilst the Committee welcomes the improvements to the Dublin Convention proposed in this Regulation, our position remains that, harmonisation of asylum procedures, reception conditions, interpretation of the definition of refugee and other complementary forms of protection, should take place before formulating a system for allocating responsibility between Member States for examining of asylum applications. In our view such harmonisation would reduce any perceived incentives for asylum applicants to choose between Member States when lodging their applications. No system of allocating responsibility for considering asylum applications can function fairly without harmonisation of the law and procedures.

4.2. At the European Council in Tampere the importance of both the European Union and individual Member States respecting the right to seek asylum was reaffirmed, as was the offer of guarantees to those who seek protection in, or access to, the European Union.

4.3. The right to seek asylum is contained in the Universal Declaration on Human Rights is undermined by a system which links allocation of responsibility for asylum applications to responsibility for entry controls. Such a system encourages States to prevent asylum applicants from ever reaching their territory through an ever-increasing variety of control measures.

4.4. Far from contributing to safeguarding of rights at national level, this proposed regulation undermines those rights. It encourages Member States to externalise their borders and to take repressive measures against those seeking entry into their territory with the result that asylum seekers are forced into the hand of organised criminals involved in human trafficking.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Green Paper on compensation to crime victims'

(COM(2001) 536 final)

(2002/C 125/09)

On 28 September 2001 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the 'Green Paper on compensation to crime victims'.

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 Melícias.

At its 389th Plenary Session (meeting of 20 March 2002), the Economic and Social Committee adopted the following opinion by 85 votes to three with no abstentions.

1. **Introduction**

1.1. The State first took on the role of the injured party in the settlement of criminal cases in the 18th century, thereby taking the place of the victim. Ever since then, individuals who are the victims of crime have increasingly lost the chance to speak for themselves and have been ignored more and more as they ceased to play any part in proceedings. The leading role taken by the State, and the consequent sidelining of the victim, have brought suffering and injustice for crime victims and disrupted the social order.

1.1.1. A negative and unsustainable situation has thus developed which has slowly begun to be questioned only in the last few years.

1.2. In almost all countries for some twenty years now, groupings of citizens' associations — today under the umbrella of a European forum — act as a mouthpiece and high-profile advocate for those who suffer the psychological, physical and material consequences of crime.

1.3. In tandem with these groupings, and in response to developments in penal systems and in the defence of the principles of social solidarity and equity, a number of countries have come to pay more attention to the hitherto largely overlooked victims of crime.

1.3.1. They are doing this not only by taking greater account of the position of crime victims in the workings of the criminal justice system but also by contemplating compensation in cases where failure to provide it would fly in the face of basic justice.

1.4. The United Nations and the Council of Europe have been conducting important work in pursuit of international solutions to the problems faced by crime victims. The Council of Europe approved a European Convention in 1983 (not yet ratified by all signatories) and the United Nations adopted a Declaration in 1985.

1.5. The European Union has inevitably followed suit, to safeguard a society in which safety and the justice system rest on a culture of solidarity that implies a true sharing of responsibility and the fundamental universal right of each individual not to be left alone in the face of aggression, danger or crime.

1.6. The sterling work done by the Commission in this field (Communication issued in July 1999) provided a full response to the decisions set out in the Vienna Action Plan [1] and influenced the conclusions of the Tampere European Council of 1999 (Point 32 of Presidency Conclusions). The establishment of an area of freedom, security and justice in the Member States, initiated by the Amsterdam Treaty, has taken on particular meaning and importance, as it focuses on — and strives to resolve — practical problems faced by individual Community citizens. The European Parliament too has firmly supported the improvement of compensation for crime victims, adopting resolutions on the subject in 1989 and 1999.

1.7. During the Portuguese presidency in the first half of 2000, and at its initiative, the Council recognised the need for a framework decision on the standing of victims in criminal proceedings. The initiative was strongly backed by the Commission and by succeeding presidencies, and the decision was duly adopted in March 2001.

1.8. Spurred by the preparatory work undertaken by the Swedish presidency, the Commission has now tabled a green paper that makes a further key contribution to securing State compensation for crime victims, providing a full response to the Tampere Council recommendation.

1.9. As the institutional forum for organised civil society, the ESC applauds this initiative.

2. **Gist of the Commission document**

2.1. The Green Paper launches a consultation process on how to safeguard and improve State compensation for crime victims in the EU.

2.2. The Green Paper gives an overview of European legislation in this field.

2.3. It also provides details of the situation in the Member States.

2.4. It puts forward information and ideas that lead it to pose basic questions concerning such issues as:

— the need for, and scope of, action at EU level;

— how to enable victims of crime to obtain State compensation in all Member States;

— how to make it easier for victims of crime to obtain State compensation when the crime was not committed in the victim's country of residence.

2.5. The manner in which these issues are addressed in the Commission initiative will have important implications, as it could:

— make it obligatory for all Member States to provide an adequate level of State compensation for crime victims by establishing a possible common denominator for this level;

[1] OJ C 19, 23.1.1999, p. 1-15, Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice.

— ensure the existence of practical mechanisms, through cooperation between national authorities and the development of existing systems, to make it easier to obtain State compensation whether or not the victim is resident in the Member State where the crime was committed.

3. **General comments**

3.1. The EU's Member States have very different traditions, cultures and practices, and their treatment of crime victims varies widely. It is clear from the study conducted following the Umeå conference in October 2000 and from the Green Paper that State compensation of crime vi ctims ranges from virtually zero to highly acceptable levels which nevertheless could not feasibly be adopted in other Member States at present.

3.1.1. Analysis of this issue in the context of enlargement further highlights the differences.

3.1.2. The exercise is thus clearly a difficult one, and must be carried out with great caution. It is nevertheless essential as an indication and symbol of the practical success of the European venture, centred on the individual and his or her practical problems.

3.2. It is undoubtedly desirable — and acceptable for all Member States — for all countries to have State-guaranteed compensation systems for crime victims.

3.2.1. It is also both right and proper to ensure that such systems provide an adequate level of protection.

3.2.2. Arriving at a consensus on how to determine the right level and deal with the consequences will obviously be difficult, and will require considerable commitment from the relevant authorities of the Member States if truly positive results are to be achieved.

3.3. A positive momentum must be built up, with action to ensure that in cases where a higher level of protection has already been set, there is no danger that the establishment of a lowest common denominator will deter countries from retaining or increasing their existing levels.

3.3.1. At the same time, in cases where no compensation is yet envisaged or where the level is below the agreed minimum, positive steps are needed to dispel the temptation to turn the minimum level into the maximum.

3.3.2. This is the only way to ensure that the spirit of a common system is upheld, fairness is respected, and people are protected.

3.4. For the Commission initiative to have any meaning, there must be reference parameters and thus common standards to foster convergence.

3.4.1. Once again, the aim must be to strike a balance — notwithstanding the inherent tension that often exists — between the interests of the individual citizen and the collective interests represented by the concrete circumstances of each Member State, thereby helping to build a common area of freedom, security and justice for all the Community's citizens.

3.5. The questions posed by the Commission provide reasons and pointers for achieving this delicate balance.

3.6. These warnings and our common culture of solidarity and shared responsibility should be borne in mind when the current opinion is read.

4. **Replies to the Commission's questions**

4.1. *Question 1: Should a Community initiative on State compensation to crime victims pursue the objectives listed in Chapter 4.2? Are there other objectives that should be pursued as well?*

4.1.1. The answer to the first part of the question is clearly 'yes'. The three listed objectives are fundamental and must be addressed in a Commission initiative; a directive would appear to be the most appropriate instrument for this. The Committee fully supports such an initiative.

4.1.1.1. Other objectives — e.g. providing victims with full and clearly worded information, or the need to ensure that victims are able to make full use of the instruments available to them — will be driven by the three listed objectives. At all events, the answers to several of the following questions will go a long way towards achieving these objectives.

4.1.1.2. The Committee is fully aware of the financial implications which the implementation of a Commission initiative in this field will have for the Member States. However, it feels that this is an area of crucial importance for EU integration, concerning as it does the status of the citizen in a true common judicial area, the protection of particularly delicate and essential rights, and the approximation of laws founded on shared objectives that are accepted as the keystone of a better common future.

4.2. *Question 2: What should be the eligibility criteria for types of crime and for types of injury covered by a minimum standard?*

4.2.1. Always remembering the need to avoid resorting to lowest common denominators in the light of the situation in each Member State, but instead to set a minimum standard which guarantees the position and interests of victims within the EU, the Green Paper's response to this question is satisfactory.

4.2.2. Analysis of the criteria put forward:

— Eligible victims — both direct and indirect victims; the definitions should be standardised as far as possible, without forgetting dependants, bystanders and 'good samaritans'.

— Criteria related to types of crime and types of injury: the most acceptable approach at present would seem to be to provide compensation for the effects of violent crimes that cause physical or psychological (immaterial, pain/suffering) damage or material damage that is indissolubly linked thereto. Purely material damage, even if inflicted without the use of violence, must be considered if it causes the victim serious economic hardship. Victims of drink-driving or of driving under the influence of other substances which impair the ability to drive should also be considered, as in cases where the driver has acted with intent and caused physical injury or loss of life, it must be formally recognised that a violent crime has been committed and that appropriate action must follow.

— A generic definition of the crimes covered is therefore needed.

4.3. *Question 3: Should the degree of proof required from an applicant for State compensation be included in a minimum standard?*

4.3.1. Provision must be made to ensure that sufficiently clear evidence is submitted, together with means of proving it (and the principle that those who abuse the system will be punished must be established).

4.3.1.1. Provision must also be made to enshrine the principle of the utmost facility and latitude in the submission of proof (understood to mean 'the highest probability of establishing a causal link between the alleged crime and the damages sought'), outlawing procedural mechanisms that impede this.

4.3.1.2. Aside from the basic principles which each Member State must respect as a matter of solidarity (and which it is for 'European common sense' to judge), the minimum common standard could be found as regards a reasonable deadline (with due exceptions) for the submission of evidence or proof, always bearing in mind the particularly vulnerable and uncertain position which the victim is likely to be in, and the need to avoid secondary victimisation.

4.4. *Question 4: Should immaterial damages be included in a minimum standard, and if yes, could a definition of such damages be included?*

4.4.1. The Committee fully supports the Green Paper's stance regarding compensation for material losses. Particular attention must be paid to the most disadvantaged victims.

4.4.2. A minimum standard for immaterial damages is vital. The Green Paper's proposal for this also deserves endorsement, given the difficulty of arriving at a common definition. Special attention must be paid to the situation of victims in cases when the effects of the damage continue to be felt for some time.

4.4.2.1. The principle of following the line taken by national legislation as regards civil liability would be a major step forward, even if it would not necessarily lead to standardisation.

4.4.2.2. However, one step towards standardisation might be to draw up a common indicative table establishing compensation levels for each category of crime and laying down the criteria for including situations in each category in the table.

4.4.2.3. However, there is a danger of indicative tables being applied mechanically by the authorities, thereby depriving all decision-taking of the human touch. To counter this, victim-support organisations should be consulted when decisions are taken. Because of their backgrounds and sensibilities, such organisations could provide vital information in real-life situations, thus ensuring that the decisions taken are not automatic and lacking compassion.

4.5. *Question 5: Could compensation for permanent disability be defined for the purposes of a minimum standard?*

4.5.1. The Committee broadly supports the Commission's line on this. It stresses that the abovementioned minimum standard of compensation for immaterial damages must not overlook all possible cases of permanent disability or cases of immaterial damage resulting from a long-term disability. A common graduated table of disability might be helpful here.

4.6. *Question 6: Should a minimum standard allow for taking into account the victim's financial situation, when determining the victim's eligibility or when determining the amount of the compensation?*

4.6.1. The Committee's answer has to be no. The fairest solution would seem to be compensation based on actual damage.

4.6.2. The Committee also broadly supports the Commission's stance regarding the level of compensation. For immaterial damages, the most viable solution seems to be for each Member State to decide for itself how to determine the amount of compensation. The use of a common table, as mentioned above, should not however be ruled out, despite the difficulties.

4.6.3. When dealing with cross-border victims, account must be taken of possible differences in Member States' treatment. This matter will be dealt with at a later point.

4.7. *Question 7: How should the subsidiary character of State compensation, in relation to other sources of compensation to victims, be defined in a minimum standard?*

4.7.1. It is not necessary to wait until the end of the proceedings before countenancing the possibility of receiving compensation either from the offender or by some other means.

4.7.2. If compensation procedures are very protracted, it is the victim who will suffer.

4.7.3. State compensation, and the prompt advance payment of a sufficient sum to meet the victim's actual needs, must be enshrined as the immediate first step wherever necessary.

4.7.4. The State will then have a right to recourse in the light of any subsequent compensation payments received from the offender.

4.7.5. Affirmation of the principle of the subsidiary character of State compensation must not lead to a failure to intervene or to a solution that creates secondary victimisation.

4.7.6. In practice, State compensation will frequently have to be the first answer.

4.7.7. If a victim cannot obtain State compensation until he has proved that he has unsuccessfully explored all other possible avenues (compensation from the offender, from insurance, etc.), the slow and difficult nature of the process will victimise him still further and make State assistance appear somewhat hypocritical.

4.8. *Question 8: What other sources of compensation should be deducted from State compensation?*

4.8.1. As the Green Paper notes, this question arises mainly in relation to private insurance.

4.8.1.1. In this context the question of insurance is similar to that of the victim's economic situation.

4.8.1.2. Nevertheless, one could countenance the aid paid by the State being returned when the victim receives compensation through an insurance policy. If the sum received under this policy is equal to or less than the amount provided by the State, the repayment should be the exact sum received under the policy.

4.8.1.3. It might be argued that this would adequately protect the interests of the victim.

4.8.1.4. However, the key question here is complementarity rather than subsidiarity. The existence of any private insurance cover should be ignored and the State should proceed as if the victim had no cover, as otherwise the victim would be penalised for his circumspection.

4.8.1.5. If State compensation is to be treated as a subsidiary form, the State should promote wider use of private or social insurance by providing special incentives or tax rebates for them.

4.9. *Question 9: Should a possibility for advance payment be included in a minimum standard?*

4.9.1. From the paragraphs which lead up to this question (points 5.5 to 5.8 of the Green Paper), it follows that as a matter of principle, State subrogation in the victim's right to compensation arises from the declared subsidiary nature of the State's intervention.

4.9.1.1. However, from the standpoint of the needs of the victim, this principle could have unacceptable implications for the sequence of State intervention.

4.9.2. Relegating the State's action until all other possibilities have been exhausted does not defend the victim's interests, and condones solutions which are inherently contradictory.

4.9.3. In any situation, advance payments are the most effective way to give the victim prompt assistance and rule out the possibility of the victim suffering exclusion.

4.9.4. Where sufficient elements are in place to justify it, the use of advance payments as the priority mechanism can reduce the problem of deadlines for compensation claims, as it gives the victim a strong incentive to submit the claim as quickly as possible and obliges the State to conduct a preliminary examination and take a decision that will generally facilitate the subsequent procedure.

4.9.5. At all events, the Committee agrees that the deadlines should be as long as possible and that exceptions should be made for special cases where the deadlines should be made even longer (e.g. sexual abuse of minors), always remembering that the interests of the victim come first. This would not seem likely to cause particular damage for the State.

4.9.6. Reporting the crime to the authorities, under the terms and subject to the exceptions set out in point 5.6 of the Green Paper, should be included in a minimum standard, with exceptions for cases where it is acceptable or inevitable for the victim to do otherwise.

4.10. *Question 10: Should criteria related to the victim's behaviour in relation to the crime, to his or her involvement in criminal activity in general, or other considerations of justice or public policy, be included in a minimum standard?*

4.10.1. The victim's behaviour cannot be overlooked if the breach of law and the resultant damage stemmed from it. Such behaviour may negatively influence — or actually rule out — State compensation. However, the victim's social, moral or other conduct hitherto — even if illegal — cannot be automatically linked to a particular instance of victimisation in order to justify refusal of State compensation. This would open the way to all kinds of discrimination that would be unacceptable in terms of human rights and a common area of free movement, freedom and guarantees.

4.10.2. To protect the victim and ensure that he or she is treated fairly, there are therefore grounds for reviewing and tightening up the principles set out in the 1983 European Convention. For instance, it is unacceptable that a victim should be penalised because of past criminal activity that is completely unrelated to the crime of which he is a victim. Similarly, it would be unacceptable to invoke public policy considerations in order to discriminate against certain forms of behaviour or groups of people in relation to State compensation.

4.11. *Question 11: What other criteria, not covered in this paper, could be considered for inclusion in a minimum standard?*

4.11.1. Pursuing its line of thinking from the previous question, the Committee does not see any point in devising other criteria.

4.12. *Question 12: Would a right for the cross-border victim to receive assistance from an authority in his or her Member State of residence when applying for State compensation from another Member State be an appropriate way of facilitating access to State compensation for cross-border victims?*

4.12.1. A viable solution in many cases could be interactive cooperation via the network of national bodies dealing with victim compensation, or the European network of associations and other organised civil society bodies dealing with support for crime victims, alongside cooperation between the countries involved in the European Judicial Network. It is right that there should be a national body — preferably involving the civil

society organisations which provide victim support — responsible for all national relations and action and acting either singly and/or in cooperation with other bodies in the Member State.

4.12.2. Complementary action between Member States can help overcome some of the obstacles mentioned in point 6.2 of the Green Paper, once the common procedural points which all Member States must follow have been established.

4.12.3. It seems difficult in the present circumstances to avoid the principle of territoriality.

4.12.3.1. Given that this is the best known and most developed basis for cooperation and mutual assistance, it might be worth considering a hybrid system in which the primacy of territoriality was backed by a complementary 'double responsibility' system which the victim could use to top up the compensation which he or she could receive in the State where the crime occurred, in cases where the compensation system of his or her Member State was more favourable.

4.12.4. For the complementary process, and using a form of mutual recognition, the victim's Member State of residence would be obliged to accept the result of the compensation procedure in the State where the crime occurred.

4.12.4.1. However, this would not of course prevent the victim submitting an application for complementary assistance in his or her Member State of residence, enabling him or her to receive advance payments where justified.

4.13. *Question 13: Would a possibility for the victim to get State compensation in his or her Member State of residence as well as in the Member State where the crime occurred be an appropriate way of facilitating access to State compensation for cross-border victims?*

4.13.1. The intrinsic difficulty in the double responsibility system is that the victim's Member State of residence has to deal with a situation arising in another country, and with all the related information (the need for close relations between Member States has to be remembered here, as do the difficulties which the victim will face in obtaining proof).

4.13.1.1. Application of this system could lead to potentially diverging decisions arising for procedural reasons.

4.13.2. The hybrid system mooted in the answer to the previous question would allow similar cases to receive the same treatment in all Member States and, at the same time, would ensure that nationals of a Member State with a more favourable system were not treated less favourably than fellow victims of a crime within that country.

4.13.2.1. On the other hand, it is clear that such a system would do little to encourage the less generous countries to move towards convergence.

4.13.3. To avoid this system leading to stratified solutions in each Member State, a benchmark should be established based on the best features of the various Member States' systems. This would be the optimum convergence point.

4.13.3.1. Each Member State should be required to reach this point within a reasonable time-frame, depending on their initial situation.

4.13.3.2. There would thus be two common standards for determining the action to be taken:

— a standard below which the system would lose its credibility; the less generous systems would have to attain this standard immediately as an initial step towards further improvement;

— another standard representing a quality response which would serve as a development benchmark and incentive, and as a yardstick for assessing the progress made during the commonly accepted reasonable time-frame.

4.13.4. The possible harmonisation could be reached in successive stages, tempered by the hybrid territoriality/complementarity mechanism or by a joint standardisation fund.

4.13.5. A schedule for reaching the benchmark standard could be established, e.g. in three or four stages, and Member States could be placed in a grid to chart their progress towards that standard.

4.14. *Question 14: What solutions, other than those outlined in this paper, could be envisaged to facilitate access to State compensation for cross-border victims?*

4.14.1. The hybrid system outlined above is one possibility.

4.14.2. It is also worth mentioning the work being done at the United Nations to set up a support fund for cross-border crime victims. From the standpoint of the current opinion, this fund could provide compensation to top up that offered by Member States which are unable to meet the minimum sums deemed reasonable. The fund would also help with the publicity and information campaigns that will be needed within the Union.

4.15. *Question 15: Should harmonised forms, possible to use when applying for State compensation in all Member States, be established?*

4.15.1. As already noted, harmonised forms — including translations in the main languages — are vital for the strategy advocated in the Green Paper.

4.16. *Other aspects to be covered by standards*

4.16.1. For victims of cross-border crime in particular, a common standard is needed covering the type of information that should be available throughout the Union, how to access it and the bodies which provide it.

4.16.2. In cross-border cases, the use of the main European working languages (and sign language in the case of victims with hearing impediments) should be accepted — together with their interpreting — by all countries. As already noted, the use of common bilingual or trilingual forms is vital.

4.16.3. Consideration should be given to a standard establishing a maximum time limit for the processing of compensation applications by the relevant authorities.

4.16.4. The official documents which the victim needs to prepare his or her application should be provided free of charge. The authorities should provide assistance in the use of these documents, the contents and wording of which should be comprehensible, whether directly or indirectly, to the victim. Preference should be given to ultra high-speed communication technologies.

5. **Summary conclusions**

5.1. While reiterating the cautionary remarks made at the beginning of this opinion, and mindful of the difficulties in making the final decisions, which will inevitably reflect the level of consensus that proves possible, the Committee thinks that solid steps are being taken in the right direction.

5.2. Given that the main issue here is the best way to deal with the situation of cross-border victims, the Committee reiterates the view that in order to avoid the difficulties raised it is necessary to strive for the most stringent common standard possible, setting different starting levels and establishing subsequent steps to bring about a gradual alignment.

5.3. A strong emphasis must be placed on the principle of solidarity and equal treatment for people throughout the common area, without forgetting that convergence is a process and not just a goal, and that the idea of 'European citizen' should be a quality benchmark and must never mean a downgrading.

5.4. In other words, the adoption of a maximum reference standard must mean that the Member States reach a minimum common denominator.

5.5. To this end, the progressive development targets must be defined in terms of both content and timescale, and penalties must be devised for those who fail to meet them.

5.6. The proposal to apply a complementarity principle might prove difficult in practice, as most State compensation decisions are based not on objective legal criteria but on principles of fairness. This could lead to a dual assessment. It is just one point for discussion, as is the possibility of achieving complementarity by setting up a European fund in which the Member States would — via their respective contributions — converge towards the standard and to the agreed level of compensation. The use of a fund would mitigate the fact that the same people always pay the most.

5.7. As stressed at the start, the Commission's sterling work marks the culmination of a vital stage in the building of an important framework for the establishment of a common area of freedom, security and justice.

5.8. The realisation of the Commission initiative on State compensation for crime victims will form a crucial step in meeting the needs of citizens, and a visible and exemplary step by the Member States in the construction of a true European justice area, based on a culture of solidarity — in the sense of real sharing of responsibility — and on the universal basic right of all human beings not to be left alone in the face of aggression, danger or crime.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on 'EU/Russia strategic partnership: What are the next steps?'

(2002/C 125/10)

On 28 February and 1 March 2001 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 'EU/Russia strategic partnership: What are the next steps?'

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2002. The rapporteur was Mr Filip Hamro-Drotz.

At its 389th Plenary Session of 20 and 21 March 2002 (meeting of 20 March), the Economic and Social Committee adopted the following opinion by 86 votes with two abstentions.

1. **Introduction**

1.1. The EU-Russia relations have advanced substantially in recent years. The cooperation covers widely all important policy fields of mutual interest. A good relationship between the EU and Russia is a core element for a prosperous future of Europe.

1.2. The EU should promote transparent and open neighbourly relations with Russia both at the bilateral and multilateral level. The forthcoming enlargement of the European Union stresses even more the need for good relations and public understanding of a solid partnership between the EU and Russia. This concerns the EU, its Member States and Russia but also the candidate countries, the EEA countries and other European countries.

1.3. The intention of this opinion is to table conclusions and recommendations, which indicate above all that an engagement of organised economic and social actors in the EU-Russia cooperation, as well as raising public awareness of this cooperation, would facilitate a successful outcome of the efforts to improve the EU-Russia partnership.

2. **Important elements in the institutional framework**

2.1. The Partnership and Cooperation Agreement (PCA) was signed in 1994 and entered into force in 1997. It covers political, economic and social cooperation at a broad range, i.a. trade, education and training, environment and energy, the transition to market economy. The cooperation mechanism is described in the PCA: the partners meet twice a year at Summits; the Cooperation Council, which meets once a year, is the main forum, the Cooperation Committee is responsible at the operative level and many sub-committees (dialogues)

have been established. An EU-Russia Parliamentarian Cooperation Committee has also been established. Article 93 states that 'the Cooperation Council may decide to set up any other special committee or body that can assist it in carrying out its duties (...)'. The initial duration of the PCA is ten years, renewable by tacit agreement.

2.2. The Common Strategy of the European Union on Russia was agreed by the Member States in 1999 ([1]). The strategy outlines the principles and means of the EU and the Member States to take actions based on the PCA. Strengthening the rule of law and public institutions, consolidating economic reforms in Russia, strengthening civil society, as well as security and stability are main fields for action. The Common Strategy is in force until June 2003.

2.3. The establishment of a 'Common European Economic Space' is indicated both in the PCA and in the Common Strategy.

2.4. Article 1 of the PCA states: '(The objectives of this partnership are) … to provide an appropriate framework for the gradual integration between Russia and a wider area of cooperation in Europe'.

2.5. The chapter on 'Principal Objectives' of the EU's Common Strategy states in para. 2 the outlines for the 'integration of Russia into a common European economic and social area'. Preparation of a Russian WTO-membership, institutional building and meeting the social aspects of the transition to a market economy are important subjects in this context.

2.6. The EU-Russia Summit in Moscow in May 2001 decided that the parties would jointly study the possibility of establishing a Common European Economic Space. The Summit in October 2001 in Brussels agreed on the terms of reference of a High-Level Working Group, which was entrusted with the task of drawing up the concept of a Common European Economic Space and the measures needed to realise it. The High Level Group, which began its work in December 2001, should report to the EU-Russia Summit no later than 2003. The parties will, as a first step, consider the structure and substance of the Common European Economic Space, which would partially be based on enhancing compatibility between Russian and EU legislation with the view to their alignment.

2.7. The EU has, together with the partner countries concerned, developed in recent years the Northern Dimension of the EU. The cooperation between the EU and Russia is a core element in the action plan for multilateral cooperation in the region for 2000-2003. The Northern Dimension Ministerial Meeting in Helsinki in November 1999 laid down the basis of the Northern Dimension. The Ministerial Meeting in Luxembourg in April 2001, as well as the European Council Summit in Gothenburg in June 2001 launched the action plan The ESC influenced the conclusions of the Ministerial meeting in Luxembourg and of the EU Summit in Gothenburg as regards the action plan for the EU's Northern dimension. The Northern dimension will be dealt with at Ministerial level during the Danish EU-Presidency in the second half of 2002.

2.8. Since 1999, Tacis has been the leading technical assistance programme supporting the transition process in Russia. Key EU and Russian institutions are jointly working in the framework of the programme. To date, more than 2,4 billion EUR has been earmarked to over 1 500 projects directed to a broad range of policy fields.

3. **Links to be strengthened**

3.1. The EU recognises generally the necessity of the participation of economic and social actors in its efforts to achieve overall goals in the establishment and the improvement of its third country relations. This is the case in all relevant dimensions of external relations: the Euro-Mediterranean Summits of Economic and social councils and similar institutions; the meetings of civil society representatives from the EU, Latin America and the Caribbean; the bilateral Joint Consultative Committees with the candidate countries; the business, trade union, consumers dialogues in the Trans-Atlantic cooperation with the United States; the business dialogue in the relations with Asia; the India-EU Round-Table; the EEA Consultative Committee; the Cotonou Agreement and regional seminars in the relations with the ACP countries; the report from the European Council in June 2001 expressing i.a. the desire to establish a dialogue and multilateral cooperation between the actors in the Northern dimension; the promotion of social and civil dialogues in the Stability Pact for South East Europe. In many of the above cases the relationship has been institutionalised through the involvement of the ESC.

3.2. The EU-Russia cooperation is conducted by the EU institutions and the Russian government. The EU-Russia Industrialists' Round Table is recognised as a useful advisory body, but economic and social representatives of civil society have, however, been only marginally involved in the cooperation. Both the PCA and the Common Strategy stress, however, the necessity for the parties to cooperate in strengthening civil society and in bringing both societies closer together.

([1]) (1999/414/CFSP), OJ L 157, 24.6.1999, p. 1.

3.3. The main Russian economic and social interest groups have in recent years strengthened their organisation and capacity to act as independent and credible interest groups. This is the case above all with business/employers and the trade unions, but also other civil society organisations, for instance the consumers are improving their role and official networking. The contacts with sister organisations in the EU are, however, in many cases still limited. The above mentioned EU-Russia Industrialists' Round Table has been accompanied by recent European cooperation among the trade unions (ETUC-FNPR) and also among other actors, both at bi- and multilateral level. European companies have established in Moscow the European Business Club (EBC). Russian actors do participate, though with different intensity, in international cooperation: the main organisations of Russian employers and employees participate in the work of ILO; the Russian Chambers of Commerce have a role in the international network of the Chambers; the main Russian trade union organisations are members of the International Confederation of Free Trade Unions (ICFTU); Russian actors participate in the Baltic Sea cooperation. The main Russian civil society organisations have expressed their interest in establishing and improving contacts and cooperation with the actors in the EU.

3.4. Public awareness about the partnership is weak both in Russia and in the EU Member States. There is little public interest in, or debate about, the EU-Russian emerging relations and their future. Media has a central role for stimulating public opinion. Fragile anchoring of the EU-Russian integration process in society has a negative consequence on the alignment of Russian legislation on that of the EU, which is needed for a closer coexistence.

3.5. In both the economic and social field there exist institutionalised relations between the Russian government and the actors. Tripartite commissions and working groups have been established at least by the Ministry of Labour and the Ministry of Economic Development and Trade. An example is the Russian Tripartite Commission on the Regulation of Social and Labour Relations. Ten representatives of each main partners (employers-trade unions-government) meet monthly. It has set up seven permanent working groups. Examples on topics at the agenda are the ratification and implementation of the Council of Europe's Social Charter, the implementation of the new Labour Code, the reform of the pension system. The actors consider their contribution to be valid and appropriately taken on board by the government. The system works best at the federal level and in main regions.

3.6. The new Labour Code came in force on 1 February 2002. It is considered to bring far reaching improvements to the labour market and as regards labour rights. It institutionalises the role of the social partners and has a separate article on social dialogue. Agreements between the partners concerned will be the main basis in the future for actions in the labour market. The implementation of the Labour Code at all levels will be a demanding task for the partners in the years to come. A new code on the rights and obligations of unions and employers is under preparation.

3.7. The establishment of the tripartite 'Centre for Social Partnership' and the 'Model Labour Arbitration Court' would become important elements for the labour market. They were established in September 2001. The establishment of both institutions was financed by Tacis. They are expected to have an important impact on the implementation of the new Labour Code.

3.8. There is an emerging recognition by the Russian government of the role of civil society organisations. Efforts are made to establish a dialogue with and between major organisations. The Russian President has recently met Russian civil society organisations at a broad front and new forms for contacts with the emerging network of these organisations are under way. Also the recent initiative by a member of the Duma, to establish a committee for 'an international Russia in an integrating Europe' is a positive sign.

3.9. The institutional building and the implementation of new legislation in Russia need, however, further improvement. The same goes with the further development of social and civil dialogue as well as improvements in labour market relations between the social partners in Russia. The Russian civil society organisations and social partners have, on their part, the challenge to contribute to a positive development by raising their preparedness to involve themselves in constructive dialogue, in consultations and negotiation procedures.

3.10. The Tacis programme to Russia, both the national and the horizontal programme is extensive. The major part of the projects are directed to support the modernisation of the economy and the strengthening of the rule of law, democracy and the social sector. There is a country strategy paper for 2002-2006 and a national indicative programme for 2002-2003. Tacis seems to be pragmatically focused on the most important topics. The decentralisation of Tacis administration to the Commission's delegation in Moscow seems to have improved the efficiency of the programme. Russian partners express, however, their criticism about the bureaucracy and time demanding preparatory procedures. The coordination of projects between different programmes (for instance Interreg IIIA and Tacis small Projects) would also need improvement. In the practical implementation of Northern Dimension projects, difficulties often arise in connection with coordination of funding received from different programmes (Tacis, Phare, etc.). The Commission's coordination of the Northern Dimension management should also be improved.

4. **Conclusions and recommendations**

4.1. The ESC expresses its strong support for all efforts to improve the EU-Russia partnership. The partnership should encourage European integration, bearing in mind above all economic and social transformation in Russia, trade and a Russian membership in the WTO, economic co-operation and growth, employment, improved well-being and living standards, environment, working infrastructures and border relations, investments and co-operation between both business and citizens.

4.2. The ESC supports the EU's view, as described in the Common Strategy that a Common European Economic Space should include both economic and social aspects. Attention should, in addition to economy, technology cooperation, trade, the conditions for companies to operate etc. be given also to topics, such as employment, education and exchange between universities, social security, working and living conditions, fight against corruption, public health, the role of independent media. The ESC is considering to express its detailed opinion in this matter.

4.3. Innovative and mutually beneficial solutions should be reached in negotiations on the main issues of interest. The prerequisites for Russia's WTO-membership include i.a. the abolishment of barriers to trade and investments. The liberalisation of Russian banking, insurance, services and energy markets should be addressed open-mindedly. Issues, which are related to the impact of the EU enlargement on EU-Russia relations, among them Kaliningrad — the movement of persons and goods, should be clarified as far as possible by the partners prior to the enlargement.

4.4. As regards the ensurance of the security of the citizens and the observance of basic human rights in Russia, the Committee's opinion is that they should be promoted in particular in regions in crisis. The EU's support programmes, above all the 'European Initiative for Democracy and Human Rights' (EIDHR) and the 'Core Tacis Action Programme' should be purposefully implemented. The Committee supports also the efforts to deal with these topics in the framework of the Organisation of Security and Cooperation in Europe (OSCE) and the UN. The Committee will follow the developments in various crisis regions, including Chechnya. It may address them at a later stage taking its own responsibilities and expertise as the point of departure.

4.5. The development in Russia has reached a stage when it would be advantageous to engage main civil society actors in the joint efforts to improve the EU-Russia partnership and to establish regular dialogue between Russian and EU actors as an element of the cooperation. The economic and social interest groups would contribute with their experience and knowledge in economic and social policy covered by the PCA.

4.6. The ESC focuses in this opinion on the following recommendations to achieve a functioning partnership: taking advantage of the experience of organised actors of civil society by engaging them in EU-Russian cooperation; anchoring the partnership in society by promoting public information and debate; supporting Russia's efforts to further improve institutional framework and dialogue, as well as the Russian civil society organisations' efforts to strengthen their contribution.

(a) The ESC supports the decision to study the establishment of an EU-Russia Common European Economic Space. It is recommended, with reference to paragraph 4.2, that the High-Level Group with the task to prepare a report to the Summit in 2003, should arrange hearings or similar events to give main actors from both the EU and Russia the opportunity to express their views about the Common European Economic Space.

(b) The Cooperation Council should, based on the experiences from the abovementioned hearings, establish a permanent consultative forum which is composed of the main components of organised civil society. The task of this forum would be to advise the cooperation bodies at different levels, as appropriate (Summits, the Cooperation Council and Committee, sub-committees). Establishment of this consultative forum would be based on Article 93 in the PCA [1]. Involvement of organised civil society should be recognised also in the Common Strategy. The ESC has also in its previous opinions recommended the creation of a consultative forum [2].

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[1] See paragraph 2.1.

[2] Opinion on 'Relations between the European Union and Russia, Ukraine and Belarus'OJ C 102, 24.4.1995, p. 40; Opinion on 'Relations between the European Union and the countries bordering the Baltic Sea'OJ C 73, 9.3.1998, p. 57.; Opinion on 'Northern Dimension: Action Plan for the Northern Dimension in the external and cross-borders policies of the European Union 2000-2003'OJ C 139, 11.5.2001, p. 42-50.

(c) The EU should initiate actions to enforce public information about and visibility of the EU-Russia partnership. Anchoring the partnership in society would strengthen the basis for alignment of legislation. Public awareness, understanding and debate should be promoted and stimulated at all levels in society in Russia, in the EU Member States and in the candidate countries, as well as in other European countries. Publications, seminars and information campaigns should be initiated. The Member States, the European Parliament, the EU delegations, media and civil society organisations should be engaged in these efforts.

The EU should also improve transparency within the EU, as regards ongoing activities in the EU-Russia cooperation. Information and progress reports from the Summits and the different dialogues should be improved, as well as reports about the programmes and the results of the EU Presidency.

(d) The ESC welcomes the efforts by Russian authorities to promote dialogue with the civil society organisations and to engage main actors in the preparation, implementation and enforcement of new legislation. Tacis projects should be tailored to support the implementation of the Labour Code, including the improvement of mechanisms for relations locally, sectorally and regionally (both among the actors and between them and the authorities concerned). Further efforts should be made to smoothen Tacis management and the best expertise should be used.

Also Russian civil society organisations should be encouraged, as appropriate, to improve their preparedness to be involved as credible partners. This activity should cover the different regions of the Russian Federation. The economic and social actors in the EU and the Member States should be encouraged to assist in this endeavour.

(e) The Northern dimension of the EU should be purposefully implemented and further developed in the years to come, as it is a useful tool also to improve the EU-Russia relations. The ESC recommends that, in 2002, the EU prepares a follow-up action plan and takes steps to ensure that both the financing and management of the Northern Dimension are better focused and coordinated so that in future the action plan can be implemented more effectively.

The ESC welcomes the recommendation that a high level forum with broad participation from all parts of society should be regularly arranged. Such a forum would ideally be arranged in 2002, as preparation for the Ministerial meeting during the Danish EU-Presidency, as indicated in the conclusions of the European Council in June 2001. The recommendation that appropriate actions to establish regular multilateral contacts between the economic and social actors in the countries concerned is also relevant. The ESC arranged in February 2001 in Umeå a multilateral meeting, in line with the recommendation of the Northern dimension Ministerial meeting in November 1999. A resolution was launched to the Ministerial meeting in Luxembourg. A multilateral meeting would now, ideally, be put into practice in the context of the above-mentioned high-level forum and in co-operation with the Council of Baltic Sea States. The EU may rely on the ESC's contribution in such actions.

(f) The ESC expresses its preparedness to participate and assist in forthcoming EU actions to achieve a dynamic EU-Russia partnership. Relations between Russian and European civil society organisations should be improved. The ESC would therefore penetrate appropriate ways to create and encourage regular contacts and dialogue with main actors of Russian organised civil society.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Green Paper: Promoting a European framework for Corporate Social Responsibility'

(COM(2001) 366 final)

(2002/C 125/11)

On 25 July 2001 the European Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the 'Green Paper: Promoting a European framework for Corporate Social Responsibility'.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 December 2001. The rapporteur was Ms Hornung-Draus and the co-rapporteurs were Ms Engelen-Kefer and Mr Koffelt.

At its 389th Plenary Session held on 20 and 21 March 2002 (meeting of 20 March), the Economic and Social Committee adopted the following opinion by 117 votes to four with 14 abstentions.

1. General comments

1.1. Corporate social commitment is an important basis for creating and maintaining civil society institutions, and extends beyond existing national, European and international law. There are many positive examples which show that cooperation between companies and trade unions, as well as local bodies and associations, is a feature of local civic commitment.

The issue now is for companies to apply CSR to develop good relationships with all stakeholders: shareholders, workers, trade unions, customers, suppliers, sub-contractors, local organisations and authorities — mainly in the human, social, financial and environmental spheres — on the basis of voluntary action and/or negotiation. The question for the EU is how to find ways of encouraging this development.

1.2. Globalisation leads to worldwide business networks, contractual arrangements and new forms of division of labour. This means that companies must increasingly consider the international dimension of their social responsibility. Companies with international operations often make an important contribution through their economic presence to improving living and working conditions in developing countries. By investing in production facilities or buying goods and products for processing from local companies, they help to create and safeguard employment, finance welfare services, improve the level of education, bring about structural change and thus strengthen the economy in these countries. However, if companies do not behave responsibly, considerable risks arise. These particularly concern the threat to local small business structures, exploitation of the environment and of raw materials, political interference, violation of core labour standards, trade union freedoms, child labour, forced labour and discrimination against women and minorities, etc.

1.3. Corporate social responsibility in the international context has been an important issue for international organisations for many years. The International Labour Organisation (ILO) introduced important principles with its Core Labour Standards; the OECD followed suit with its guidelines for multinational enterprises; and the United Nations has addressed the issue in the context of globalisation with Kofi Annan's Global Compact Initiative. In its Green Paper, the Commission raises the question of whether European rules are also needed to promote CSR.

1.4. Even if corporate social responsibility is not a new phenomenon, it is particularly relevant in the age of globalisation. The ever more vehement protests of anti-globalisation campaigners evidence the growing unease that people feel about worldwide networking and an increasingly 'virtual' economy. The unease expressed in these protests is taken very seriously by the ESC. It advocates a broader dialogue in which these fears and misgivings are articulated and which enhances the transparency of the rules by which the global economy operates. Above all, the debate should encourage certain companies to make the necessary changes in their behaviour and so promote social responsibility.

1.5. The ESC hopes that this Green Paper will initiate a critical debate on the issue of corporate social responsibility, the basis of which must be the concept of sustainable development. Since the Gothenburg Summit if not before, sustainability in the environmental, social and economic fields has become an important frame of reference for economics and politics. We must try and ensure that a better balance is achieved between the 'shareholder value' and the interests of workers and their representatives and other stakeholders — customers, suppliers, the local community and society. Companies must make profits in order to survive in a competitive environment, safeguard their future and so create jobs. It is in the economic interests of businesses to behave in

a socially responsible way; it serves their own long-term interests. Corporate investors need a favourable and stable environment: legal certainty and harmony, fair relations at work and an investment-friendly social climate. Companies cannot be indifferent to the society in which they operate. Every business must take the social environment into account in its economic calculations and decisions.

1.6. The ESC supports the European Commission: corporate social responsibility is an important contribution to realising the strategic goal which the EU set itself at the Lisbon Summit of becoming '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'.

1.7. But if the Lisbon objectives are the point of reference, then strengthening company competitiveness must also be taken into account. This is because competitiveness and profitability, as the basis for long-term survival, are the essential prerequisite for companies accepting social responsibility. The connection between business success and social responsibility must be seen in the following terms: social responsibility together with economic success contribute to a company's sustainability. It is therefore important to persuade companies to see social responsibility as a long-term undertaking, as a strategic investment in policies such as marketing, management tools and activities.

1.8. Corporate social responsibility is not just about creating and safeguarding employment; it is also about developing better jobs with adequate health and safety at work, taking the needs of people with disabilities [1] into account and promoting a culture of lifelong learning. Socially responsible behaviour means companies applying existing social rules in a committed way and endeavouring to build up spirit of partnership. This also means developing labour relations and promoting negotiations with and participation of workers.

1.9. Profit, investment, consumption, labour costs, regulation, taxes, an optimum supply of goods, a high level of employment, growth, dignified existence, welfare, solidarity, mutual respect, self-discipline, morale at work, freedom and justice are inextricably linked and form the cornerstone of our system of values and economic set-up. In this context businesses must be managed successfully, which means they must be economically efficient and socially responsible.

1.10. CSR is a complex area that must be addressed carefully and thoroughly. Local cultural features and legal environments have a direct impact on the development of CSR. The Commission unfortunately overlooks this complexity, but it must be taken into account. Distinctions must be drawn between the different geographical levels of action (local, national, European and global), between developing and industrialised countries, between large multinational corporations, SMEs and micro-businesses, and between sectors. The Commission's observations also assume a traditional hierarchical company structure, whereas new types of structure and work organisation (part-time, teleworking, virtual companies, etc.) should also be considered.

1.11. Voluntary — including negotiated — action is one of the fundamental principles of CSR. Voluntary measures and initiatives give businesses the opportunity to develop appropriate company- or sector-specific approaches and models of social responsibility. Approaches that are developed inside companies and sectors are much better accepted than requirements imposed from outside. This realisation is reflected in existing initiatives — e.g. on social codes of conduct, at the level of the ILO, the OECD and the United Nations — which are all based on the principle of voluntary implementation of CSR measures.

1.12. The decision by a company voluntarily to implement CSR measures — whether in the form of codes of conduct, charters or quality labels — presupposes of course that it is also willing to make a binding commitment. The ESC welcomes relevant joint actions and voluntary agreements in relation to CSR between the social partners and partners to wage agreements, which may also provide for appropriate monitoring and evaluation mechanisms.

1.13. The principle that social codes of conduct should be voluntary also derives from another consideration. In the EU and its Member States, companies are obliged by law and by minimum standards to satisfy certain requirements — which are exactly the same for all companies — to help promote the development of responsible behaviour. CSR concerns activities that go beyond simple compliance with existing laws. It is no coincidence that the impetus to develop and apply social codes of conduct came mainly from those countries and cultures which have only limited social legislation. There is no question that companies have to respect existing laws. But all measures to strengthen CSR go by definition beyond existing legal provisions and can only be of a voluntary nature.

[1] Cf. ESC opinion on the European Year of People with Disabilities — OJ C 36, 8.2.2002.

1.14. The ESC feels that the Green Paper does not sufficiently explore the particular role that companies in the social economy (third sector) play in promoting CSR. This is a pity, since this sector provides particularly good examples of how social responsibility can form the basis for business objectives. Many companies in the social economy regularly publish reports about their CSR measures or use specific instruments such as social audits or social balance sheets to assess their activities. The ESC believes that particular attention should be drawn to such activities.

1.15. The Commission generally approaches the issue of CSR too much from the angle of large multinational corporations. The majority of companies in Europe are small and medium-sized businesses, or micro-businesses, which require an approach to CSR that is specifically adapted to their situation and needs. In this connection the ESC notes that it is absolutely necessary to distinguish between the social dimension of corporate responsibility and the environmental and societal dimension. Environmental protection in particular is a new sphere for many SMEs, calling for other resources and approaches than the social dimension.

2. **Levels of action — global level**

2.1. There is still a wide gap in prosperity between the industrialised and developing countries. Because the economy in many developing countries is weaker and democratic and other representative structures sometimes underdeveloped, the terms of employment are often far inferior to those in the industrialised world. This means that there are still unacceptable forms of child labour, very low wages, suppression of trade unions and unhealthy working conditions.

2.2. Many companies have already introduced measures to improve working conditions that go beyond the existing legal requirements in their branches and subsidiaries — and even for their contractors, suppliers and licensees — in developing countries. Such initiatives are explicitly welcomed and supported by the ESC. Even allowing for the lower economic performance of developing countries, practices such as forced labour and extreme forms of child labour are unacceptable. All forms of discrimination against trade unions must also be precluded and freedom of association respected. By endeavouring, within their sphere of influence and with the resources available to them, to effect positive changes, companies with international operations are providing an important impetus to development as a whole.

2.3. In order for companies' positive potential to develop as effectively as possible, there must be a sound legal framework for business start-ups and investment, and for securing free international trade as far as possible — subject to the ILO core labour standards. The governments and authorities of the countries in question are called upon to provide this. They are also responsible for providing an efficient education system and effective social security institutions, which companies help to fund through the taxes they pay.

2.4. It is also the task of legislators, governments and authorities in the countries concerned to introduce appropriate social and employment legislation and to ensure that it is respected. Developing countries often fall short here, especially as regards the enforcement of legislation. For instance, child labour is banned in many developing countries, but without the ban being enforced. In addition, trade union rights are trampled on in many countries. The primary objective must therefore be to achieve application of the necessary laws and international workers' and human rights by the relevant state authorities. This is an important goal of the International Labour Organisation (ILO). The World Bank, the IMF and the WTO must also consider social responsibility when playing their international role. European companies operating in a given country can help, too, setting an example for other companies by respecting legal provisions themselves and encouraging local business partners to comply with employment laws. The legislation of the host country is thus the basis and binding minimal framework for socially responsible behaviour by international companies.

2.5. Declarations and legal instruments of international socio-political organisations, especially those of the ILO, also provide important basic guidance. Although such declarations are intended first and foremost for governments, companies can promote the objectives contained in them within their own sphere of influence. The ILO Declaration of Fundamental Principles and Rights at Work of 18 June 1998 is a good example, expressing the commitment of the ILO member states to implement the following principles and rights considered to be fundamental in the workplace:

— freedom of association and recognition of the right to collective bargaining;

— elimination of all forms of forced or compulsory labour;

— effective abolition of the worst forms of child labour; and

— elimination of discrimination in respect of employment and occupation.

2.6. Other relevant legal instruments are the 1977 ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the 1976 OECD Guidelines for Multinational Enterprises, in particular the chapter in the latter on employment and industrial relations.

2.7. For companies to effectively practise their social commitment it is important that they be able to choose approaches which suit their particular situation and which best reflect their possibilities for dealing with business partners in developing countries. The market position of a large multinational company already gives it more leverage than an SME. In many sectors the tables are even turned, with SMEs from industrialised countries facing large market-dominating suppliers, over which they have very little influence, in the developing world.

2.8. Within the CSR framework, companies can focus on the issues that are particularly important for their sector and for the market in which they operate. Thus the textiles industry concentrates on child labour, whereas the oil industry has been particularly concerned about environmental issues. While one company will prefer external monitoring or certification, another will find internal action and monitoring more appropriate. What ultimately counts is whether the initiative is actually effective.

2.9. Some companies and sectoral associations draw up codes of conduct in which they undertake to respect or promote social and ethical standards or enter into a specific social commitment. Such codes of conduct are the expression of a particular corporate culture and philosophy and reflect the long-term social goals and priorities of the company or sector concerned. If a company or sector chooses to adopt this approach, it is important that their means of action should be realistically and credibly applied. This is the case for instance with codes of conduct that provide for progressive implementation of the desired social standards through partnership with suppliers and contractors in the developing countries.

2.10. In its Green Paper the Commission calls for companies to be answerable not only for their subsidiaries, but also for their suppliers, as far as CSR and compliance with legal requirements are concerned. Although the ESC can understand this demand, it feels that it will be difficult to enforce fully. Hardly any company can provide a guarantee that certain labour standards will be respected by their suppliers and contractors. Given the increasing complexity of relationships with suppliers — production chains sometimes extend over several continents — such a guarantee would put too much of a strain on the legal and practical capacities of a company, especially an SME. However, businesses can demonstrate their social responsibility in relation to invitations to tender and contracts. The ESC agrees with the Commission's view that corporate social responsibility has an external as well as an internal dimension. This also applies to subcontractors and suppliers in developing countries.

2.11. The ESC is nevertheless aware of the practical difficulties. Even large companies often find it impossible to require that their main suppliers, never mind subcontractors, observe internal company CSR standards. The economies of most developing countries are characterised by a plethora of small and very small companies. Major European textile companies, for example, are easily dealing with 12,000 — 15,000 main suppliers in a country like India. The number of subcontractors can only be guessed at. It is primarily the responsibility of the countries in question to ensure that their laws are respected. Cooperation with trade unions and NGOs can also help to identify failure to respect standards.

2.12. Rules of conduct and corporate social commitment must take account of the local culture, traditions and economic environment. Rigorous enforcement of excessively high social standards in developing countries could, for example, be interpreted as an attempt on the part of the industrialised world to raise local labour costs and so deprive developing countries of a part of their competitive advantage. Problems of gender discrimination and failure to respect fundamental human rights as recognised by the international community cannot be put on the same level as competitive advantage. This would substantially reduce the cooperation of those countries that is essential to improving social conditions. Businesses nevertheless can, and should, undertake to overcome these problems through their CSR activities at company level.

2.13. The principles of CSR at global level are often enshrined in ILO agreements. The ESC stresses the importance of the ILO core labour standards as minimum requirements under international law that must be respected worldwide. But since ILO agreements are addressed to governments, they are only suitable to a limited extent as guidelines and a basis for action for businesses. The agreements need to be translated' for implementation in companies. The ESC explicitly welcomes the ILO work on practical implementation of ILO agreements in companies and on the specific application of social codes of conduct in company supply chains.

2.14. In this connection the ESC welcomes the initiative of the European Commission (Communication of 18 July 2001 'Promoting core labour standards and improving social governance in the context of globalisation') in support of the ILO's efforts to improve respect for core labour standards worldwide.

2.15. The ESC notes that international institutions — especially the World Bank, the IWF and the WTO — must apply CSR. An important step in this direction would be to ensure when loans or trade concessions are granted that the companies involved respect at least the ILO core labour standards in every case. The ESC also notes that international companies are already making a noticeable effort to alert their suppliers and contractors worldwide — and especially in the developing countries — to the advantages of good working conditions, and to achieve improvements by providing incentives, encouragement and advice and by setting a good example themselves ([1]). These efforts, which have a long-term perspective, will be most effective if a favourable environment is created in the countries concerned and the companies are given the necessary scope to maximise their innovative potential.

2.16. Companies' financial behaviour is also an aspect of socially responsible behaviour (e.g. money laundering, corruption, tax havens). More specifically, as far as socially responsible investment (SRI) is concerned, the Committee recommends that more precise criteria be used in the evaluation or rating of socially responsible company behaviour. These criteria should therefore be based on comparable elements (in environmental terms, there is no point in comparing a steel company with a bank). Moreover, these criteria should not lead to companies being excluded solely on the basis of their products and/or spheres of activity (e.g. petroleum, microchips or aluminium production). Overall, the aim should be to improve the general framework for SRI, and this should involve both statutory and collective agreements at worldwide and European levels.

3. **Levels of action — European level**

3.1. In its Green Paper the European Commission raises the question of a new European framework for CSR. Companies are a part of society and operate in a social environment that is shaped by laws and collective agreements which regulate the labour market, reconcile interests on both sides and protect workers. This is accepted by all concerned and forms the basis for CSR in Europe, without the legal framework (social and environmental policy) suffering as a result.

3.2. Employee participation and representation of their interests at work are in most cases regulated by law (the Directive on European works councils and the information and consultation directive at EU level and in various ways within individual member states). The ESC calls for these existing rules to be consistently applied so that industrial change can take place in a socially acceptable way by reconciling interests on a fair basis.

3.3. In the context of existing social regulations, the main issue in Europe is to create an ethos in which CSR has a secure place. The European level is suitable as a framework for comparing notes about successful CSR initiatives and for incorporating CSR into business strategies through awareness-raising.

3.4. Corporate social responsibility is not just a task of management and employee representatives. The state, municipalities, ordinary people and civil society must also make their contribution to social responsibility. The ESC is pleased that the Commission addresses this issue in its White Paper on European governance.

3.5. Companies are constrained by the environment they find in whichever country they are operating. This means that it is not mandatory, for example, to comply with an ILO convention in a country that has not ratified that convention and incorporated it into national law. Even if companies cannot, and may not, be called upon to compensate for government failures, their social responsibility should lead them to do more than just what they are legally obliged to do. The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises provides an important frame of reference in this respect. The ESC would point out that the ILO core labour standards apply as an aspect of human rights in all ILO member states, regardless of whether or not they have been ratified. Each member state is bound through its membership of the ILO alone to ensure that the core labour standards — union rights, collective bargaining, ban on child labour, forced labour and discrimination — are observed, and is also responsible for ensuring that companies abide by the standards. The European countries have a particular duty to incorporate the ILO labour standards into their national legislation. The European Union can generally play a proactive part when international agreements are drawn up by trying to ensure they are supported by a broad consensus and signed by as many states as possible.

([1]) For concrete examples, see:
http://oracle02.ilo.org:6060/dyn/basi/vpisearch.first
http://www.csreurope.org/csr_europe/Databank/databankindex.htm
http://www.csrforum.com/csr/csrwebassist.nsf/content/a1c2a3.html
http://www.business-impact.org/bi2/case_studies_2k/

3.6. The principle that CSR measures are voluntary is particularly important in the ESC's view. Establishing detailed, binding pan-European rules would be inappropriate. Uniform, detailed CSR standards create a risk of companies, especially SMEs and companies in the social economy, being forced into a straitjacket. Companies should have the option of developing tailored, sector-specific and particularly efficient approaches that are appropriate to their specific situation. General European principles agreed by the social partners could help to promote more widely the CSR practices that many companies are already applying. The ESC therefore explicitly welcomes action by the social partners to flesh out certain aspects of CSR, e.g. in the spheres of health and industrial safety or promotion of equal opportunities. The specific EU context of CSR could be developed on the basis of joint initiatives and voluntary agreements between the social partners, as for example happens in the textiles sector. The Commission could enhance transparency, coherence and good practice in this sphere by promoting partnership between the key CSR players.

3.7. CSR has both qualitative and quantitative aspects, varying according to sector and business situation, which means that monitoring and evaluation must also be managed differently.

3.8. The ESC welcomes measures that support and promote the publicising of examples of good practice with regard to socially responsible behaviour. A large number of networks that do this already exist in the member states, such as the French 'Observatoire de la responsabilité sociétale des entreprises' (ORSE), a network to promote corporate social responsibility.

4. **Levels of action — national and local level**

4.1. The Green Paper discusses the impact of CSR measures at local level. The ESC notes that companies in the social economy (third sector) are generally SMEs or micro-businesses, which see the local dimension of CSR as their main task. Their local commitment to social and environmental responsibility is based on a long-term economic perspective in that they work for the community (e.g. neighbourhood assistance, integration measures, environmental projects). The Commission should draw more attention to this existing dimension of CSR at local level.

4.2. The ESC notes that CSR is both about encouraging a spirit of communication and about willingness to keep learning. People who can communicate with each other and are open to new knowledge are also able to live together in a socially acceptable way, so that there is no room for intolerance and discrimination based on ethnicity, disability, sexual orientation or gender. Anyone who knows something about other cultures, ways of life or philosophies will have a more open attitude towards them. This approach must be adopted in education, family policy and industry. Globalisation presents modern society with this challenge.

4.3. To be viable, companies need competent staff who can navigate the knowledge and information society freely and independently. Integration and application of new developments require that people be qualified and prepared and able to engage in lifelong learning. The ESC believes that governments, industry, the social partners and individuals have an equal responsibility here. Their roles must be clearly defined in an open dialogue.

4.4. Family policy, cultural policy and economic policy should no longer be seen in isolation. It must be made easier for families to have children; women must be able to continue working in the jobs for which they are qualified; and children must have the best possible education opportunities. Business must take account of the needs of employees who are parents and practise a family-friendly, i.e. socially responsible, strategy.

4.5. CSR requires not just a commitment on the part of managers and a socially responsible business strategy; it also requires people, employees, who are willing to apply CSR in their personal sphere of influence and to behave accordingly. The ESC therefore believes it is particularly important to invest in civic pride. Education systems can do this by inculcating in children from nursery school upwards a sense of belonging to a community, based on the principle of solidarity and the principle that each person must accept his or her responsibility. Families must be encouraged to serve the community with their children. Businesses can improve the climate for civic commitment by rewarding socially responsible behaviour and providing incentives to encourage staff to be socially committed.

4.6. The ESC welcomes the idea of social responsibility networks at local or regional level, which are already operating widely. Within such networks, businesses, social partners and the public sector cooperate with the other partners in organised civil society in order to develop and implement joint objectives for socially responsible actions. However, it is important to avoid overburdening SMEs at local level with additional red tape.

5. Conclusion

5.1. Corporate social responsibility is a key theme for the ESC, which will keep a close watch on and actively monitor its further development. The ESC hopes that the above remarks are taken into account by the European Commission when it gives further consideration to this issue. The principles of voluntary action and environmental, economic and social sustainability, together with guidance from international organisations' existing agreements are to be the European Commission's frame of reference for further initiatives in support of companies' efforts to act in a socially responsible way.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

APPENDIX

to the Opinion of the Economic and Social Committee

Amendments defeated

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

To be positioned before the General Section

'1.1. *Preamble*

Most observers of corporate behaviour would agree that companies have a huge potential for doing economic and social good for stakeholders as well as fulfilling their obligations to shareholders. Historically the raison d'être of the company is economic. By fulfilling its Corporate Economic Purpose a company also fulfils its legal and contractual responsibilities to stakeholders. In the last thirty years there has been an increasing understanding by companies, as well as politicians and observers, that some companies, on a voluntary basis, also have considerable potential to benefit stakeholders through programmes of corporate social responsibility. Such programmes need to be consistent with the Company's Economic Purpose and would generally involve business cases focussed on Company survival and success in the medium to longer term. Failure to achieve the Corporate Economic Purpose not only makes Corporate Social Responsibility impossible, it also means that stakeholders suffer immeasurable social damage. When the Corporate Economic Purpose is achieved, companies can have a considerable potential for making the world a better place. The ESC would urge the Commission to take more account of the Corporate Economic Purpose in its White Paper in due course.'

Reason

The Green Paper gives inadequate recognition to the scale of social contributions companies make when they fulfil this Corporate Economic Purpose.

Result of the vote

For: 45, against: 79, abstentions: 11.

To be positioned before the General Section

'1.2. *Corporate Economic Purpose*

1.2.1. The primary purpose of a company is economic and its principal relationships and responsibilities are legal and contractual, not voluntary. Indeed, all the elements of social cohesion — employment, community cohesion, national social cohesion, old age supported by savings and investment — can only be achieved if companies achieve their Corporate Economic Purpose.

1.2.2. Profitability is a key primary measure of a company's performance. Profit enables it to act competitively and invest in the future. The profitability of a company is continually tested by the challenge of market forces. These continually change the market environment of the company. A company fulfils its purpose if it survives these challenges and thrives. For this to be achieved a company's economic model must be sustainable in the long term.

1.2.3. Stakeholder relationships are legal and contractual, yet only by surviving and thriving can a company fulfil its obligations to maintain employment and the quality of employment, to maintain orders to suppliers and partnership relationships with suppliers, and to satisfy consumer demand and ensure customer satisfaction.

1.2.4. In the community in which it is located, a thriving company maintains employment, supporting employees and their families who in turn patronise local suppliers of goods and services; a thriving company is also itself a major customer for local suppliers of goods and services. A thriving company provides the economic lifeblood of its community and supports its social cohesion.

1.2.5. A thriving company pays taxes on its profit; it collects taxes from its employees on behalf of the government and contributes, with its employees, to social security funds. It also pays and collects VAT revenues for the government. The company is the central component of the national taxation system, which in turn funds the social model.

1.2.6. A percentage of the profits of a thriving company are paid as dividends to shareholders. Increasingly, these shareholders are pension funds and insurance companies, which manage the life savings of individuals in anticipation of old age. Such schemes rely on the profits and dividends of companies.

1.2.7. Profit is the measure of a thriving company. Declining profits hurt not only the long-term savings of private individuals, they also impact on employment, suppliers, customers and government revenues. Therefore a company should not sacrifice profit in the short term without expectation of profit in the medium to long term.'

Reason

The Green Paper fails to recognise that civic society and social cohesion are dependent on companies achieving their Corporate Economic Purpose.

Result of the vote

For: 47, against: 86, abstentions: 17.

To be positioned before the General Section

'1.3. *Corporate Social Responsibility*

1.3.1. Corporate Social Responsibility is a continually developing concept. It involves an engagement with direct stakeholders, society and the environment which should also be in the interests of shareholders, especially if it underpins the long-term sustainability of the business model.

1.3.2. Direct stakeholders are customers, suppliers and employees. Basic relationships with stakeholders are contractual and legal. Voluntary extensions to relationships with direct stakeholders may involve arrangements that demonstrate socially responsible behaviour. For example, customers can be offered products from socially responsible suppliers and contractors, employment conditions may be "affirmative" in many ways and involve extra investment in human resources.

1.3.3. Where extensions to direct stakeholder relationships are concerned, companies will normally seek to demonstrate via a business case that these actions, with the related costs, are in the interests of shareholders. This may involve long time-frames and require shareholder "education" in some cases.

1.3.4. A more complex dimension of CSR involves the community; both the local community in which the company operates and society at large. In this context, the business case may be less evident and the payback will more frequently be long term.

1.3.5. It is in the context of society at large that the overriding issue of sustainability occurs. A balance must be achieved between the sustainability of the company — its ability to survive and thrive — and sustainable development generally, with its three aspects — economic, social and environmental. The legal and regulatory framework for sustainable development may well need development to complement CSR initiatives. Indeed, CSR initiatives may well stimulate and shape such legislation or regulation.

1.3.6. By definition CSR is voluntary. Nevertheless there are existing frameworks. Companies may develop codes of conduct which define ethical and responsible conduct vis-à-vis stakeholders and the community. In addition, companies join together to combine their resources. Much business activity in the community has a philanthropic dimension.

1.3.7. On the basis of the analysis above the ESC can support the definition given in paragraph 20 of the Green Paper that CSR is "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a "voluntary basis"".'

Reason

There is no definition of Corporate Social Responsibility in the Opinion. It is useful to contrast and compare Corporate Social Responsibility and Corporate Economic Purpose.

Result of the vote

For: 40, against: 95, abstentions: 19.

Point 1.3

Insert the following sentence before the last sentence:

'Trade unions have made a key contribution to the development of this framework.'

Result of the vote

For: 59, against: 76, abstentions: 11.

Point 1.4

Change the last sentence to read as follows:

'"Above all, however, the debate between employers and trade unions should encourage …"'

Result of the vote

For: 56, against: 83, abstentions: 13.

Point 1.5, the fourth sentence

Replace 'make profits' by 'be competitive'.

Result of the vote

For: 46, against: 81, abstentions: 9.

Point 1.5

Add to the last sentence:

'"in order to give back to society and the environment what it took out when it was set up (existing housing, health services, schools and higher education institutions, transport, etc.)".'

Reason

All interests are equally important, whether those of shareholders, employees, employee representatives, customers, suppliers, local authorities, society, etc.

Result of the vote

For: 39, against: 71, abstentions: 15.

Point 1.7

Amend end of point as follows:

'"success is the sine qua non for assuming social responsibility, …"'

Reason

Self-evident.

Result of the vote

For: 61, against: 82, abstention: 10.

Point 1.8

Add the following at the end of the first sentence:

'"… a culture of lifelong learning, as well as improving access to training and investing in continuing training for all categories of workers."'

Result of the vote

For: 66, against: 67, abstention: 6.

Point 1.9

Delete the following phrase in the first sentence:

'… self-discipline, morale at work …'

Result of the vote

For: 54, against: 66, abstentions: 15.

Point 1.9

Delete

'"system of values and".'

Reason

The values of profit and of liberty should not be put on the same level, and neither should investment and mutual respect, or consumption and a dignified existence. It might be felt that they are closely linked, but they should not be grouped together indiscriminately to represent the current state of social Europe. This would give the impression that we have already eliminated all causes of poverty and exclusion from the labour market, and need only applaud our achievements.

'Form the cornerstone of our economic set-up' is already very optimistic.

Result of the vote

For: 41, against: 55, abstentions: 10.

Point 1.11

Amend the third sentence as follows:

'"Approaches that are developed inside a company are much better accepted "by management" than requirements imposed from outside."'

Reason

It remains to be proven that workers in a company are on the same level as the management or shareholders. Legislators (who make the law) and negotiators (who conclude sectoral or inter-trade framework agreements) have been legitimately elected or appointed, either by universal suffrage, or by a method of nomination based on representativeness. These democratic principles underpin the rule of law in the EU Member States, and there is no reason to suppose that they are not accepted.

Result of the vote

For: 34, against: 60, abstentions: 13.

Point 2.3

After the last sentence add:

'"At the same time, the Committee feels that CSR must bear in mind that the practice of relocating unskilled production activities and encouraging immigration of highly-skilled workers in order to meet the labour shortages faced by European companies contributes to a weakening of human resources in the countries concerned."'

Reason

There is little benefit in calling on states to make public investments in training top-level or future workers if this only encourages a brain drain. This matter is an integral part of corporate social responsibility.

Result of the vote

For: 37, against: 89, abstentions: 12.

Point 2.4

After the last sentence add:

'"However, the voluntary nature of CSR enables European companies operating in such countries to refrain from using child labour, even when local legislation allows such practice, CSR can encourage companies in these countries to pay higher wages to parents than to their children, whilst still remaining well below European salaries."'

Reason

This is a good example showing that, in this case, corporate responsibility is the same as social responsibility and that the voluntary nature of CSR can go beyond national legislation.

Result of the vote

For: 48, against: 71, abstentions: 11.

Opinion of the Economic and Social Committee on the 'Contribution of the Economic and Social Committee in respect of the broad economic policy guidelines for the Member States and the Community for 2002'

(2002/C 125/12)

On 29 November 2001, the Economic and Social Committee (ESC) decided to draw up an own-initiative opinion, in accordance with Rule 23 of its Rules of Procedure, on the 'Contribution of the European Economic and Social Committee in respect of the broad economic policy guidelines for the Member States and the Community for 2002'.

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. The rapporteur was Mrs Konitzer.

At its 389th Plenary Session, held on 20 and 21 March 2002 (meeting of 20 March), the Committee adopted the following opinion by a unanimous vote.

1. Purpose of the ESC's opinion

The purpose of this opinion is to:

— provide input in support of the formulation by the Commission and the Council of the broad guidelines of economic policy for 2002;

— make a contribution to the public debate on the coordination of economic policy at EU level and the content of such a policy;

— promote the internal debate on this matter within the organisations and socio-economic groups represented on the ESC.

2. Existing procedures for coordinating economic policy and the need to develop and streamline these procedures

2.1. *The philosophy behind the Maastricht Treaty*

The chapter on economic policy (Articles 98 to 104) set out in the EC Treaty basically leaves responsibility for economic policy in the hands of the Member States. Economic policy is however regarded as a matter of common concern. National policies are to be coordinated so as to enable them to contribute to the realisation of the objectives of the Community, as defined in Article 2 of the EC Treaty [1]. 'The broad guidelines of the economic policies of the Member States and of the Community' constitute the Community's key economic policy document. This document takes the form of a (non-binding) recommendation of the Council, drawn up on the basis of a recommendation put forward by the Commission and the conclusions of the European Council. The Council informs the European Parliament of its recommendation. An intergovernmental process has been introduced for monitoring implementation of the broad guidelines. If infringements are identified, a further recommendation may be forwarded to the Member State concerned; this recommendation may be published (by way of a sanction). Apart from the principle of ensuring an open market economy with free competition and promoting efficient allocation of resources, the only substantive economic policy objectives set out in the chapter of the EC Treaty on economic policy are the provisions relating to budgetary policy. These provisions [2] are designed to ensure that the budgetary policies remaining within the remit of the Member States do not jeopardise the monetary policy defined centrally by the European System of Central Banks (ESCB) with the aim of maintaining price stability. The Stability and Growth Pact backs up and consolidates these provisions within the framework of the European Economic and Monetary Union (EEMU).

2.2. The procedures and substantive goals set out in the Treaty have been expanded and developed in various ways:

— under the Treaty of Amsterdam a new title on employment was added to the EC Treaty; this title reintroduces the Community procedure in respect of employment policy guidelines. The Treaty of Maastricht no longer makes provision for the Community procedure in respect of the guidelines for economic policy (proposal by the Commission, which the Council may amend only by a unanimous vote but which it has to adopt by a qualified majority);

— the above measures were followed by the so-called 'processes', namely:

  — the Luxembourg Process dealing with labour market policy,

  — the Cardiff Process dealing with structural policy (in the goods and factor markets); and

  — the Cologne Process dealing with the macro-economic dialogue between decision-makers in the fields of monetary policy, budgetary policy and wage policy, aimed at improving the macro-economic policy mix in the EMU;

[1] Growth and employment are amongst the objectives listed in this article.

[2] Monetary measures may not be taken to finance government deficits: state bodies may not have privileged access to capital markets; Member States shall not be liable for the debts of other states or public bodies; excessive government deficits are to be avoided (Articles 101 to 104 of the EC Treaty).

— the above 'Processes' were backed up by the goals set out at the Lisbon European Council in respect of growth, technological progress and full employment;

— a further development has been the introduction of an opaque mix of consultations, arrangements in respect of non-mandatory opinions from the European Parliament, the ESC and the social partners, and endeavours by the Commission and the European Parliament to stimulate public debate on EU economic policy issues: cooperation between economic research institutes, Brussels Economic Forum;

— as regards government representatives, the important role played by the various committees (the Economic and Financial Committee, the Economic Policy Committee and the Employment Committee) has been further enhanced; this development has partly taken place at the expense of the role of the Commission as the body representing the interests of the Community; the impression has also been conveyed of rivalry, lack of transparency and problems over the membership of the committees;

— at Council level, an informal 'Eurogroup' has been set up to address the coordination of economic policy and the development of the policy mix in the EMU; the Eurogroup has however not been given decision-making powers under the Treaty.

2.3. *Appraisal of the treaty-based approach to general economic policy*

2.3.1. Euro notes and coins have now been introduced and a constitutional convention has been set up for the EU. Against this background and with a view to the impending enlargement of the EU, the question arises as to whether the procedure for drawing up the broad economic policy guidelines and monitoring their implementation has matched up to expectations and whether it can meet the challenges of the future.

2.3.2. On the positive side, it should be noted that it has been possible to establish the stability requirements for the successful realisation of EMU and that observance of the budgetary rules set out in the EC Treaty and the Stability and Growth Pact are helping to avoid negative spillovers affecting the fiscal policies of the partner states and the common monetary policy of the monetary union. The wages and incomes policy pursued by both sides of industry, which is not referred to in the EC Treaty, has also meshed with the stability requirements of monetary union better than many had expected. The monetary union as a whole has thus developed a policy mix which — in spite of the current cyclical weakness which is mainly the result of external factors — is more conducive to promoting growth and employment than would have been possible had the monetary union not been established.

2.3.3. Attention should, however, also be drawn to a series of negative factors. A number of key Member States have failed to take advantage of favourable economic conditions to press ahead sufficiently with budgetary consolidation to enable them to make full use of the automatic stabilisers or to pursue a forceful counter-cyclical policy when the economic situation became less favourable. This problem has been compounded by the fact in many states public investment and expenditure on training and maintaining human resources have been adversely affected by the budgetary consolidation measures; this is not only having a detrimental effect on internal demand at present but also threatens to pave the way for future bottlenecks in maintaining growth and a return to full employment. From an overall standpoint, the Community and the monetary union, have not yet managed to formulate a blueprint for an entirely consistent macro-economic policy, supported by a broad consensus, which would provide the monetary union with a policy mix of monetary, budgetary and wage-policy measures, that would — as far as possible — avoid the internal and external causes of inflationary overheating and counteract economic downturns. The aim of such a policy mix — backed up by an increase in productive capacity — would be to achieve as constant as possible growth in aggregate demand. Only against such a background can investment expand sufficiently — backed up by a high level of aggregate profitability — to make it possible for the Community to tap into its considerable potential for growth and employment in accordance with the objectives set out in Article 2 of the EC Treaty and defined by the Lisbon European Council.

2.4. *Proposals for improvement put forward by the ESC*

2.4.1. Since the establishment of monetary union, the EU has had an even greater input in determining basic economic policy data and the macro-economic policy mix. At EU level, too, economic policy is regarded as a public matter. Whilst pragmatic further development of the Maastricht approach appears to be complicated, inefficient and lacking in transparency, it does clearly demonstrate the scale of the action which needs to be carried out. The impending enlargement of the EU will escalate the need for action. The Convention set up at Laeken to address the further development of the Community could provide an opportunity to improve the provisions of the Treaty, following an in-depth debate.

2.4.2. The ESC wishes to put forward the following suggestions in connection with the formulation by the Commission of its recommendations for the 2002 broad economic policy guidelines and with a view to paving the way for the work of the Convention:

a) in order to promote transparency, the Commission should submit, in connection with the broad economic policy guidelines for 2002, a systematic survey of all the procedures and consultations involved in the formulation of the guidelines and the monitoring of their implementation. Such a survey would also appear to be necessary for enhancing the efficiency of the procedures and simplifying them;

b) the debate on the Commission's communication of 7 February 2001 on 'strengthening economic policy coordination within the euro-area' ([1]) should be intensified (see also the ESC Opinion on Economic policy coordination as a consequence of the EMU ([2]) and the European Parliament report drawn up by Mrs Pervenche Bérès ([3]);

c) an appraisal should be made, in particular, of how the coordination of economic policy could be improved through secondary legislation under Article 99(5) of the EC Treaty;

d) regarding the work of the Convention, an appraisal should also be made of the amendments which it would appear advisable to make to the chapter on economic policy in the EC Treaty. An examination of the following points would appear to be of particular interest: the Community interest could be better taken into account by restoring the Commission's right to make proposals for the formulation of the broad economic policy guidelines (Article 99(2) of the EC Treaty); the involvement of the European Parliament, the ESC and the social partners in the procedures; the role and membership of the Committees needs to be better defined and there needs to be improved coordination between the Committees and between the various Council formations; the Eurogroup should be enshrined in the EC Treaty; a number of straightforward, tangible objectives should be set out in respect of the macro-economic policy mix and structural policies.

3. **The economic situation, economic prospects and the challenges facing economic policy**

3.1. *Role of the ESC*

The EESC should put forward suggestions in areas which it considers particularly important or where it has a particular competence. The aim is not, however, to take over the task of the Commission and the Council of defining the broad guidelines for economic policy.

As regards the broad economic policy guidelines for 2002, the ESC wishes to confine its observations to the four problem areas set out below:

— an appraisal of the economic situation and prospects;

— contributions to fine-tuning and improving the macro-economic policy mix;

— proposals for tackling a number of key structural problems:

  — increasing private and public investment in the medium term as a prerequisite for growth and a return to full employment;

  — the ageing population and the challenges which it poses to economic policy in the longer term.

3.2. *Appraisal of the economic situation and economic prospects*

Whilst it is doubtless impossible to rule out mistakes when making forecasts, consideration must nonetheless be given to finding ways of:

i) improving the quality of analyses; and

ii) drawing economic policy conclusions more quickly against the background of a changing economic situation and changing economic prospects.

3.2.1. As regards point 3.2 (i), the Commission should ensure that the resources available for carrying out analyses and forecasting work are really adequate and that an in-depth and transparent dialogue takes place with the Central Bank, the Member States, international organisations (such as the OECD and the IMF) and, above all, with economic research institutes. The public debate on the economic situation and prospects and the establishment of an appropriate policy-mix in the EMU as a whole should be stepped up. This is also of considerable importance to the deliberations on wages and incomes policy of the two sides of industry, whose decisions have a considerable impact on the policy mix adopted in the EMU.

3.2.2. As regards point 3.2 (ii), it would not appear to be necessary to change the frequency with which the forecasts are issued (twice a year); a quarterly report on the development of the economic situation, for example, would, however, be beneficial. Improvements in the provision of information on short-term economic developments should not, however, trigger a fine-tuning budgetary policy. Under normal circumstances, budgetary policy should be conducted on the basis of medium-term criteria; there should, however, be sufficient room for manoeuvre to enable the automatic stabilisers to operate. The structural deficit should be reduced in accordance with the Stability and Growth Pact, whilst changes in the cyclical deficit should help to promote short-term economic stability. Monetary policy can react in a more sensitive way to changes in the overall economic situation, but account needs to be taken of the delayed impact of monetary policy instruments. The EMU is now on a learning curve as regards macro-economic policy; against this background, better research should be carried out into the experience gained in pursuing successful macro-economic management, above all as a result of the monetary policy pursued by the USA in the 1990s. This experience should be taken into account as far as possible. In addition to these questions relating to the policy mix for the monetary union as a whole, the specific economic situation of the individual Member States must of course also be taken into account. This is above all a task for those responsible for economic policy in the countries concerned, and here all areas of economic policy are involved.

([1]) COM(2001) 82 final.
([2]) OJ C 139, 11.5.2001, p. 60.
([3]) A5-0307/2001.

3.2.3. The present situation (January 2002) appears to be characterised by stagnation against a background of lack of internal demand, slightly increasing unemployment and a lack of consumer and business confidence. The expectation of lower inflation has however clearly brought about a relaxation of the policy mix and key factors, such as the aggregate internal profitability and external cost competitiveness, remain relatively favourable. As areas outside the EU are also expected to experience an economic upturn in the run-up to 2003, the ESC takes the view that a return to a 3 % growth trend in 2003 is plausible, but presupposes the necessary political ambition and drive. This rate of growth would be supported by increasing internal and external demand; the necessary productive capacity would be available to an adequate extent.

3.3. *Contributions to fine-tuning and improving the macro-economic policy mix*

As things stand at present, macro-economic policy has the task of supporting the expected upturn and transforming it into a self-sustaining process of lasting growth which would make it possible to achieve the employment and productivity objectives set out at the Lisbon European Council.

In its opinion of November 2001 [1] the ESC has already addressed the question of what form the interaction between the budgetary policies of the national governments, the wage policies of the social partners and the monetary policy of the European Central Bank should take in the monetary union in order to secure the most favourable possible policy mix for promoting growth and employment, whilst safeguarding stability. This is a matter of Community interest in the monetary union. In its capacity as representative of the Community interest, the Commission should, whilst respecting the autonomy of the individual players or groups of players concerned, define in concrete terms the contributions which should be made by the individual players in the short and medium-term. As a general rule, the better budgetary policy and wage policy take account of the conditions needed for stability and growth in the short and medium-term, the more effectively monetary policy will be able — whilst safeguarding its goal of ensuring stability — to support the general economic policy with a view to achieving growth and employment. The room for manoeuvre provided by such an approach should also be effectively exploited by monetary policy in accordance with the second sentence of Article 105(1) of the EC Treaty.

The link between (a) the macro-economic policy mix pursued in the monetary union, and (b) economic upturn and the long-term growth required for the attainment of the objectives set out at the Lisbon European Council, is an ideal subject to be addressed in the macro-economic dialogue (Cologne Process). As the body representing the Community interest, the Commission should submit a discussion paper on this matter for consideration as part of the macro-economic dialogue. The ESC, for its part, is ready to make a substantial contribution to the debate on this matter.

3.4. *Proposals put forward by the ESC for tackling a number of key structural problems*

3.4.1. Increasing private and public investment in the medium term as a prerequisite for growth and a return to full employment

If the productivity and employment goals set out at the Lisbon European Council are to be achieved, there will have to be a sharp increase in GDP (which will have to be in excess of 3 % per year) over a relatively long period (approximately 10 years). This target clearly outstrips the past trend in productivity (barely 2 % per year, as an average for the EU). Such a level of growth can only be achieved if the aggregate level of investment gradually increases by several percentage points of GDP (e.g. from the current level of approximately 21 to 22 % to approximately 25 to 26 %; the level of investment rose by some 4 percentage points of GDP in the USA in the 1990s).

The level of business investment involved here would create the productive capacities and actual jobs which are necessary to bring about inflation-free growth; such investment would also integrate technological progress (productivity) into the economic process and represent an important demand factor with a view to the achievement of self-sustaining growth. It would be useful to estimate, as part of a process of 'macro-structural benchmarking', the levels of investment required for the EU as a whole, the monetary union and the Member States. An even more important step, however, would be to define the key determining factors for bringing about such an increase in investment; these factors concern rising demand and profitability and the achievement of a healthy balance between savings and investment. It is equally important to specify the implications of these factors for the development of public budgets, wage growth and the current account balance and to discuss these factors, as part of the macro-economic dialogue, with the players who determine the policy mix.

The share of public investment [2] in aggregate investment has suffered as a result of budgetary consolidation (the EC average is as follows: 1970: 4,2 % of GDP; 1980: 3,2 %; 2001: 2,3 %). There will need to be some increase in the level of public investment if we are to ensure smooth growth in future (particularly in the field of infrastructure). (As a rule of thumb, the level of public investment as a percentage of GDP should rise to, for example, a figure of the order of the target rate of growth, namely 3 %.) As the growth process will have to continue to be marked by budgetary consolidation for some time to come, reference values covering this field should be set out in the national multi-annual stability programmes. A similar course of action could also be adopted in respect of intangible investment in the field of education.

[1] OJ C 48, 21.2.2002: Opinion on world economic changes: new economic challenges for the European Union (ECO/086), pages 4, 5 and 6.

[2] The statistical questions which arise in the case of public investment as part of public-private partnerships should be specified.

3.4.2. The ageing population and the challenges which it poses to economic policy in the longer term

Economic policy will have to contend with challenges in the longer term linked to the ageing population; the broad economic policy guidelines for 2002 should take appropriate account of these challenges. The ESC has expressed its views on this matter on several occasions in the recent past [1]. It does therefore not appear to be necessary to address the individual points once again in this opinion. Furthermore, the Committee has been requested by Commission President Prodi [2] to draw up an exploratory opinion further examining the issue of pension reform. Attention should, however, be expressly drawn to the fact that an increase in the employment rate, as foreseen under the Lisbon strategy, would largely offset the increase in the proportion of older people in the population over the next 20 years. This fact highlights the importance, for achieving balanced pension schemes, of implementing the Lisbon strategy, even though this will not resolve the long-term problem of an ageing population in the next 50 years.

4. **Conclusions**

The broad economic policy guidelines for 2002 are being formulated at a time when the EU's constitutional convention is meeting and when euro notes and coins have been successfully introduced.

There is a discrepancy between the success of the monetary union, on the one hand, and the EU's failure up to now to exploit its tremendous potential for employment and growth. Consequently, economic policy procedures and the content of economic policy need to undergo thorough reappraisal. The impending enlargement of the EU also makes it urgently necessary to reconsider the procedures for coordinating economic policy. For these reasons, the ESC has put forward, in this opinion, a number of initial suggestions covering the coordination procedures and the content of economic policy.

[1] See, for example, OJ C 48, 21.2.2002, OJ C 36, 8.2.2002, OJ C 14, 16.1.2001.

[2] In a letter dated 10 January 2002.

Brussels, 20 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on 'European Governance — a White Paper'

(COM(2001) 428 final)

(2002/C 125/13)

On 30 July 2001, the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on 'European Governance — a White Paper'.

At its Plenary Session on 12 and 13 September 2001, the Committee decided, under Rules 11(4) and 19(1) of its Rules of Procedure, to set up a sub-committee to prepare a draft opinion on the matter.

The sub-committee drew up its draft opinion on 12 March 2002. The rapporteur was Ms Engelen-Kefer and the co-rapporteur Ms Pari.

At its 389th Plenary Session (meeting of 20 March 2002), the Committee adopted the following opinion by 75 votes with four abstentions.

1. Shaping the future of Europe with improved modes of governance: two reform processes — one objective

1.1. In the framework of a wide and structured debate, the European Commission submitted its White Paper on European Governance on 25 July 2001. It thus set in motion one of the major reforms announced by Commission President Romano Prodi at the beginning of 2000. The thorough overhaul of the shape of the EU and the simplification and improvement of the European institutions' policymaking and working methods — on the basis of the present Treaty — are the aims of this reform in order to make the European Union more efficient, better understood, and to bring it closer to its citizens in a more open, coherent, transparent and responsible way.

1.2. At present the two reform processes — the debate on the European Union's future and the debate on governance — are moving forward in parallel. The European summit held in Laeken on 14-15 December 2001 fixed the composition of, and agenda for, the Convention, which is preparing the next intergovernmental conference. In setting up this Convention, the heads of state and government have given a major boost to the further development of democracy in Europe as for the first time citizens and their representatives will participate in the decision-making on the future shape of the European system of government, in the spirit of a more open and participative governance. The European Economic and Social Committee, the European social partners and the Committee of the Regions have observer status in the Convention. This is in accordance with the Committee's role as the institutionalised representative of organised civil society.

1.3. The European Economic and Social Committee welcomes the White Paper. It urges the Commission to implement the necessary reforms for good governance identified in the White Paper as this offers the chance to show the public that quick action is being taken to correct deficiencies in policy development and delivery and to better involve people in its work.

1.4. Furthermore, there is an urgency for reforms in view of the next enlargement — the magnitude of which has no precedent in the EU's history — and of the deepening of the European Union. Valuable time would be lost if the Commission and the other institutions were not to improve their working structures and methods before the next intergovernmental conference in 2004.

1.5. The European Economic and Social Committee actively pursues the issues of European governance, according to the Nice Treaty, as the institutionalised [1] representative of organised civil society. It does so under the double perspective of establishing new synergies between the institutions of the European Union and developing its role as a fundamental intermediary between the EU institutions and organised civil society. In that context, The EESC welcomes the Protocol between the Committee and the Commission of 24 September governing arrangements for cooperation in the spirit of a better European governance.

1.6. Over the past three years the Committee has organised

[1] Article 257 of the EC Treaty 'The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest'.

debates [1] and has issued a number of opinions [2] focusing more specifically on the way to ensure an effective participation of organised civil society. In previous opinions, the Committee has made a number of concrete proposals in this area. It is regrettable that several of these proposals have not been taken into account in the Commission White Paper.

1.7. In this opinion on the White Paper, the Committee will concentrate on the issues that concern it most and where it can bring added value. It focuses around three axes: the reasons and principles of better governance, the proposals for better involvement of civil society and for better regulation, and finally the role of the EESC.

2. **Why reform European Governance?**

2.1. The European Union has certainly made enormous strides yet many Europeans feel remote from its work for all the reasons very rightly mentioned in the White Paper — wrong perceptions, bad communication, inadequate involvement, and poor knowledge

2.2. Deficits in the EU's political objectives and measures have also been responsible for people's scepticism. The EU should avoid creating too high expectations, which it is not able to meet, thus generating mistrust and harming its credibility. A European identity will not emerge unless the common values shared by its citizens are translated into effective Community policies and tangible benefits across-the-board. The euro provides a clear illustration of the above argument. It is interesting to note how enthusiastically citizens embraced the new currency and participated actively in its successful introduction.

2.3. Europeans wish for a Europe that is secure, stable, with a social profile, a sound economic performance, which respects the environment, creating healthy living and working conditions and which ensures that basic goods and services are available to all members of society at a fair price. These comprehensive objectives, which also include respect for the Member States' cultures, must be recognised as common values, defined — and, if need be, extended — and pursued as such. Only then will it be possible for Europe's citizens to recognise the benefit of a common European identity and declare their support for it. The Committee will step up its efforts — especially in the light of enlargement and globalisation — to make the general public more aware of the importance of the European Union as a community of values.

2.4. Furthermore, the language used by the EU does not contribute to the understanding of the Union's work. The Committee would suggest that further publications of the Commission and Community legislation should be written in a more comprehensible language.

3. **Principles of governance in the European Union**

3.1. The Committee fully supports the five principles of good governance proposed by the Commission — openness, participation, accountability, effectiveness and coherence — as well as the analysis made. It is important that these principles are implemented in an efficient and responsible way. However, the Committee would stress that the White Paper's definition is not complete. Accountability means not only making clear the roles and responsibilities, but also to clarify to whom and in which way a person or body is accountable.

3.2. In addition to the five principles mentioned, the Committee would like to underline subsidiarity as the basic and the most important principle of good governance. It would like to reiterate that subsidiarity is not merely a principle of administrative technique and distribution of powers but the expression of a certain conception of the individual, its freedom, its responsibilities and the society it lives in. Society would work better if citizens had the feeling that the decisions concerning them are taken at the most appropriate level. The

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[1] For example:
- — Social economy and the single market – 12 October 1999
- — First Convention of civil society organised at European level — 15 and 16 October 1999
- — Choosing our future: shaping the 6th EU Environment Action programme Views from civil society — 7 March 2001
- — The Euro: can we anticipate all reactions? – 14 May 2001
- — Shaping the strategy for a sustainable European Union: views from civil society and public authorities – 26 and 27 April 2001
- — Conference on the role of organised civil society in European governance – 8 and 9 November 2001

[2] See for instance:
- — 'The role and contribution of civil society organisations in the building of Europe' — OJ C 329, 17.11.1999
- — 'The 2000 Intergovernmental Conference — The role of the European economic and Social Committee' — OJ C 117, 26.4.2000
- — 'The Commission and non-governmental organisations: building a stronger partnership' — OJ C 268, 19.9.2000
- — 'Strategic objectives 2000-2005' — OJ C 14, 16.1.2001
- — 'Organised civil society and European governance: the Committee's contribution to the White paper' — OJ C 193, 10.7.2001.

appropriate level is not only determined by territorial criteria (European, national, regional and local) but also by functional criteria according to specific expertise (public authorities, economic community, social partners and other civil society organisations). When deciding who is to be involved in decision-making 'functional (horizontal) subsidiarity' must be taken into account alongside 'territorial (vertical) subsidiarity', which both in their own right guarantee greater responsiveness to people's concerns and greater efficiency. These two levels of subsidiarity should function in tandem complementing each other. The Economic and Social Committee forms an interface between territorial and functional subsidiarity, thus adding value to better European governance.

4. **Proposals for change**

4.1. *Transparency and communication*

4.1.1. The Committee welcomes the White Paper's proposal that measures be taken to make the working methods of the European institutions more transparent and better communicated. The more open policymaking is at EU level, the easier it will be for the general public and political stakeholders in the Member States to help shape and deliver Community objectives and measures and to understand them in their entirety and assess them fairly. The Committee naturally welcomes all efforts by the Commission and other European Institutions to make every stage in policy-making and delivery clear and understandable.

4.1.2. The Committee would like to point out that both the European Commission and the European Parliament have taken this principle on board to a large extent. Both institutions are fully willing to engage in transparent and constructive cooperation. However, the Council's lack of transparency gives cause for concern.

4.1.3. The Committee for its part has taken measures to make its working process more transparent and will develop even further its communications not only at European level but also at the level of Member States and candidate countries. The Committee will do so in collaboration with the Commission as indicated in their Protocol for cooperation.

4.1.4. Accurate information, openness and proper communication of European policies are not the task of the European institutions alone. Both political and civil society stakeholders in the Member States must also be involved. Therefore the Committee strongly supports the White Paper's request to the Member States to make an effort to promote the exchange of information and views between the European and the national, regional and local authorities and the organisations of the civil society. Here again members of the EESC can help to promote understanding in their own countries at different levels for EU matters in which they are involved.

4.1.5. This will require the use of all modern information media and the development of communication channels within the framework of an interactive dialogue with civil society and their organisations. As to the means of communication, it has to be taken into account that the use of new information technologies differs from one Member State to another. The White Paper contains a number of proposals on this matter which have the Committee's support and which should be implemented urgently.

4.1.6. In informing citizens, the Committee would like to stress the importance of education, which has not be taken into account by the White Paper. Both formal (e.g. schools, universities and vocational training centres) and non-formal (e.g. civil society organisations, the workplace or trade unions) educational institutions have particularly important tasks to perform in this context. The use of participatory educational methods and organisations of informal learning is of great value. There is a need to educate all citizens, from children to adults, on the basic, elementary facts of the EU — why it exists, who are the members, how it takes decisions, which subjects are the responsibility of the European Union and which are not, how the Member States participate in the decisions. This will help European citizens not only in better understanding but also in being able to better judge the information they get.

4.2. *Involvement of civil society*

4.2.1. Grassroots involvement in all stages of policymaking is one of the main concerns of the White Paper. This influence is to be exercised, according to the White Paper, via civil society organisations acting within the framework of 'structured consultation procedures'. The Committee strongly supports this plan.

4.2.2. The White Paper lists a number of organisations, which occupy a 'special place' within civil society. It emphasises the important role played worldwide by NGOs in development policy, but omits to mention organisations active in the fields of environment, social and consumer protection, human rights and culture in the widest sense. In the Committee's view, this

seemingly arbitrary and incomplete list of a few civil society organisations does not reflect reality. It is all the more urgent to define the civil dialogue, the qualitative and quantitative criteria for representativeness and to make a clear distinction between 'civil dialogue' and 'social dialogue'. The Committee is disappointed to note that the White Paper has not taken into account its previous proposal on the subject.

4.2.3. Concerning the criteria of representativeness for the selection of organisations to take part in the civil dialogue, they should be defined in order to ensure transparency and a democratic selection procedure. In the White Paper, the Commission decided not to propose criteria as was suggested by the Committee in its opinion of 25 April 2001.

4.2.4. In that opinion, the Committee identifies eight criteria, to which it would now like to add a further criterion on transparency. In order to be eligible, a European organisation must:

— exist permanently at Community level;

— provide direct access to its members' expertise and hence rapid and constructive consultation;

— represent general concerns that tally with the interests of European society;

— comprise bodies that are recognised at Member State level as representative of particular interests;

— have member organisations in most of the EU Member States;

— provide for accountability to its members;

— have authority to represent and act at European level;

— be independent and mandatory, not bound by instructions from outside bodies;

— be transparent especially financially and in its decision-making structures.

4.2.5. The Committee proposes again to discuss these criteria with the institutions and civil society organisations as a basis for future cooperation.

4.2.6. The Committee attaches great importance to the fact that the special role of the social partners within the framework of organised civil society is made crystal-clear. It therefore welcomes the White Paper's express reference to this special role and the special influence of the social partners. The task of the social partners within the framework of the Social Dialogue is an excellent example of the effective implementation of the governance principle at European level. The European Social Dialogue is a mechanism with quasi-legislative powers according to articles 137 and 138 of the Treaty. It is clearly defined in terms of participants, powers and procedures and has quasi-constitutional status [1]. It derives its distinctiveness from the special powers and responsibilities of its participants playing their role in an autonomous way. For this reason, their role and responsibilities cannot be transferred to other policy areas or actors. Hence the Committee's repeated reminder [2] that it is vital to make a clear distinction between 'Social Dialogue' and 'Civil Dialogue'.

4.2.7. In this context, the Committee thinks that it is of fundamental importance to make it clear that the EESC is not the forum for Social Dialogue. It is in no way the task of the Committee to provide an alternative to the social partners. The Committee as the institutionalised representative of organised civil society derives its legitimacy from the fact that all its members, by virtue of their expertise, have been instructed by representative organisations from the Member States to play a constructive part in the European opinion-forming process in general. The Committee's added value is that opinion-forming within its four walls involves all civil society players, including those organisations which are not social partners.

4.2.8. However, because of its composition and the representative role which it is empowered to play under the Treaty of Nice, the Committee is very much predestined to play a key role in the definition and structuring of the civil dialogue. The Committee has been campaigning for years for a public democratic discourse at European level between the representatives of organised civil society and has — as an initial contribution to the discussion — described the essential features of this civil dialogue [3]. The Committee considers the establishment of such a civil dialogue to be an essential instrument for applying the governance principles (openness, participation, accountability, effectiveness, coherence). In addition, the civil dialogue would, as a result of its principle of providing a public arena, make a vital contribution towards enhancing transparency and creating a European public arena as a sine qua non for a European identity.

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(1) Art. 137 and 138 TEC.

(2) See for instance:
- 'The role and contribution of civil society organisations in the building of Europe' — OJ C 329, 17.11.1999
- 'The 2000 Intergovernmental Conference — The role of the European economic and Social Committee' — OJ C 117, 26.4.2000
- 'The Commission and non-governmental organisations: building a stronger partnership' — OJ C 268, 19.9.2000
- 'Strategic objectives 2000-2005' — OJ C 14, 16.1.2001
- 'Organised civil society and European governance: the Committee's contribution to the White paper' — OJ C 193, 10.7.2001.

(3) Quote opinion OJ C 268, 19.9.2000, point 5.13.

4.2.9. The Committee would also point out that the White Paper presumes that European civil society is homogeneous, despite this not being the case even within the different Member States. The situation will get even more complicated with the future enlargement. The role of Member States in appointing EESC members, therefore, is crucial to ensuring that their particular interests and their model of society are adequately represented in order to have a representative and balanced body of the economic and social components of organised civil society in Europe.

4.2.10. The Committee supports the Commission's proposal to set up an on-line database with details of civil society organisations in order to increase openness and structure their dialogue with the institutions.

4.2.11. Even though civil society is to have a considerably greater say in future in the influencing of Community policies, it is clear that responsibility for drawing up legislation must remain with the official institutions, in the framework of representative democracy. The legislative and regulatory authorities have the ultimate responsibility for reconciling the general interest with the special interests of the various civil society organisations and ensuring that this balance is preserved.

4.2.12. In the context of increasing modes and fora for consultation, clear rules and principles are needed to ensure proper coordination and to increase the coherence of EU consultation policy. This will be even more important in the context of the future enlargement. To that end, the Committee, in the interest of transparency, efficiency and accountability, insists that the Commission fulfils its promise to publish the list of the 700 ad hoc consultation bodies and fully supports the intention of the Commission to rationalise the existing consultative system based on the above bodies mentioned.

4.2.13. Furthermore, the Committee welcomes the proposal of the Commission to adopt a code of conduct with minimum standards for consultation. The principle of transparency should be extended also to the consultation process: the outcome of consultations should be made public. It also supports the intention of the Commission to make the expert advice taken available to the public.

4.2.14. When consulting on-line, the problem of representativeness and of the weight the opinions expressed should carry in the decision making process is even more acute. The Committee believes the criteria of a representative organisation should be equally applied and the conditions of transparency respected.

4.3. *Better policies, regulation and delivery*

4.3.1. The Committee supports the proposals of the White Paper to simplify and speed up the European legislative process, as Community rules are increasingly complex and sometimes tend to add to existing national regulations rather than actually simplifying and harmonising them.

4.3.2. On the other hand, the White Paper has overlooked the contradiction between greater involvement of players — including civil society — at all levels and the desire for faster and more effective policymaking. More democracy requires more time. Faster legislation could involve risks. A balance should be struck between appropriate consultation and efficiency of legislation.

4.3.3. The Committee is disappointed by the White Paper's insufficient regard for the opinions which it has delivered in several stages since October 2000 on simplifying single market legislation [1]. At the Commission's request, the Committee has also prepared an exploratory opinion [2] on the subject as an input to the preparation of the 'Action Plan for Better Regulation' announced in the White Paper. The Committee supports a well-structured programme for simplification, with clear priorities, concrete timetables and means of monitoring and control. This programme should rely on a code of conduct for EU institutions. To date only the European Economic and Social Committee has adopted such a simplification code of conduct.

4.3.4. Concerning the ways to improve regulation and combine the different policy instruments the Committee believes that the necessity of EU legislation should be assessed on a case-by-case basis, based on the principles of proportionality and subsidiarity. Regulation should only be used if there is no a better alternative. The main stakeholders affected by the measure should be consulted when the appropriate model is assessed.

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[1] Opinion of the Economic and Social Committee on simplifying rules in the single market — own-initiative opinion, Brussels, 19 October 2000 (OJ C 14, 16.1.2001), and opinion of the Economic and Social Committee on simplification (additional opinion) — Single Market Observatory, Brussels, 29 November 2001 (OJ C 48, 21.2. 2002).

[2] Opinion on the Communication from the Commission — simplifying and improving the regulatory environment (COM(2001) 726 final) of 21 March 2002.

4.3.5. A systematic and independent impact and cost-benefit analysis is necessary prior to any proposal of legislation. The Commission has been carrying out impact studies for the last fifteen years, but their effectiveness remains limited as there is no guarantee that they are prepared independently, they do not include possible alternatives to the adoption of legislative acts, and often they remain internal while they should be systematically made public together with the relevant draft piece of legislation.

4.3.6. In addition to the analysis prior to any new legislative measure and when amending an existing one, an impact analysis should be carried out on the final amended legislative act. Often the final result, as decided by the legislators, is very different from the Commission's initial proposal, sometimes ending up with complicated, over-rigid and costly legislation.

4.3.7. The Committee welcomes the suggestions in the White Paper concerning the increased use of alternative regulatory instruments to legislation. Nonetheless, the White Paper focuses mainly on co-regulation as one of the leading approaches to future regulation. The Committee advocates that all alternatives to legislative action be assessed on an equal footing and based on objective criteria of their pros and cons. A given model should not be granted greater attention unless it is the most suitable response to the policy issue concerned, to the expertise and fora available, and to the stakeholders represented.

4.3.8. The Committee wants to highlight the usefulness of instruments like self-regulation or voluntary agreements, which have proved to be effective mechanisms providing assessment, decisions and implementation. However, self-regulation should never impinge neither on fundamental rights nor on the basic principles underlying the building of the European Union.

4.3.9. The European Economic and Social Committee welcomes a greater use of the open method of coordination. This method though must not be confused with the legislative procedure and it should be made very clear that it is used in the areas where the primary responsibility rests with the Member States. Member States will rely upon commonly agreed policies implemented through national actions plans, peer reviews, exchange of best practice, benchmarking etc. This method is already being used in the area of social exclusion, employment, immigration and asylum policy as well as social security. The method, whilst fully respecting subsidiarity, means a new balance between legislative and non-legislative measures. The Committee warns, however, against any inflationary use of it and the risk of creating overlapping procedures and excessive bureaucracy.

4.3.10. The Committee also notes that the open method of coordination should be used on a case by case basis and the instruments — common guidelines, national action plans, exchange of best practices — should vary according to the particularities of the issue treated and the objectives set. However, the Committee believes that essential for the successful use of the tool is public and systematic evaluation of the progress made in the Member States.

4.3.11. The Committee must also adapt its working methods to this new institutional development and play a more important role in it. The work to be done in relation to the Council of Ministers and the European Council must be upgraded. The Committee must be given more opportunities to be heard on documents presented to the European Council and should be invited to informal Council meetings, in the framework of its competences.

4.3.12. The Committee would like to strike a note of prudence in the proliferation of autonomous European regulatory agencies. Before setting up a new agency, it should be proved that it would bring a clear added value and would not increase red tape and unjustified costs. These agencies should not add an extra layer to existing administrative structures but should become integrated into networks of expertise, exploiting the synergies between regional, national and European bodies. Furthermore, the organisation and activities of these agencies should be carefully supervised as important policies risk being shaped by them without being subject to democratic control and hence not repairing the 'democratic deficit'.

5. Role of the European Economic and Social Committee in better involving citizens

5.1. Each institution has a role to play in ensuring that Europe's citizens are really involved in the European construction. The European Economic and Social Committee, as confirmed by the Nice Treaty, is the formal consultative body composed of representatives of the economic and social elements of organised civil society. It has a key role to play in the framing of Community legislation and is an essential link between Europe and organised civil society in the Member States as it provides for a permanent and structured forum for dialogue and consultation.

5.2. The Committee would like to emphasise three characterising elements that bring real added value to a better governance of Europe:

— Firstly, the Committee is used to working in a process that promotes consensus and aims at finding the common interest within the different interests of civil society organisations represented in it, even when these sometimes conflict initially. It is a fact that each organisation involved in the consultation process has the tendency to refer to its particular interests as a general interest. The Committee opinions, based on a 'bottom-up' method of working, reflect a synthesis of views and a consensus that can help the Commission, the European Parliament and the Council in their task of ensuring the general interest whilst preparing and adopting their legislative acts.

— Secondly, the appointment of EESC members by the Member States selected for their experience and knowledge in a wide variety of relevant fields, guarantees that they have not only adequate expertise but also a strong knowledge of what is happening in their countries. This means that they are able to provide well-founded, practical and balanced opinions and estimate whether Community measures are acceptable in their countries.

— Thirdly, EESC members are able also to promote understanding for these measures in their countries and in an interactive dialogue explain to the members of the organisations they represent the relevance of the EU to their everyday lives, thus facilitating the necessary acceptance.

5.3. The Committee is the forum where civil dialogue is put on an official footing. It is willing to develop, with the cooperation of the Commission [1], its role as a forum for dialogue and consultation, as this is an efficient way of involving in its work those parts of organised civil society that are not currently represented by its members. The Committee already does so by organising public events and hearings as mentioned in the previous opinion.

5.4. The EESC, as a practical contribution to European governance, will pursue better synergies between European Institutions. It will:

— increase its efforts to implement the arrangements decided under the Protocol for cooperation with the European Commission;

— aim at creating similar mechanisms for closer cooperation with the Council, as indicated by the Spanish Minister for European Affairs during in his intervention at the Committee's Plenary Session on 17 January 2002;

— actively pursue the development of its relations with the European Parliament in accordance with the Action Plan for EESC/EP relations which the Committee's Bureau, adopted in October 2001 [2], and the European Parliament's resolution on European governance of 29 November 2001 [3].

6. **Summary**

6.1. The European Economic and Social Committee welcomes the White Paper on European governance. It urges the Commission to implement in due course the reforms for good governance necessary to strengthen European citizens' confidence in the European project, as well as to prepare for the future enlargement and deepening of the European Union.

6.2. The EESC as the institutionalised representative of organised civil society actively pursues the issues of European governance. Over the past three years, it has organised debates and has issued several opinions making a number of concrete proposals in the area. Disappointingly, a great number of these have not been taken into account in the Commission White Paper.

6.3. The EESC fully supports the five principles of good governance proposed by the Commission. In addition to these principles, the Committee would like to underline subsidiarity — both functional (horizontal) and territorial (vertical) — as the basic and the most important principle of good governance. The Committee forms an interface between territorial and functional subsidiarity, thus adding value to better European governance.

6.4. The Committee emphasises the need to make the working methods of the European Institutions, especially those of the Council, more transparent. The Institutions, together with the political and civil society stakeholders in the Member States, should offer accurate and extensive information on European policies. Here the EESC has a role to play. To do this efficiently, the use of modern communication channels and interactive dialogue are needed.

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[1] As mentioned in the Protocol.

[2] DI 149/2001.

[3] Point 12 of that resolution states that the European Parliament 'proposes, following on from suggestions made by the Commission and the Economic and Social Committee, that an interinstitutional agreement on democratic consultation be concluded committing all three Institutions to commonly agreed consultation standards and practices at Union level.'

6.5. The Committee would like to stress the importance of the thorough education of European citizens on the basic elements of the European construction by formal and non-formal educational institutes.

6.6. The Committee strongly supports the Commission's plan to involve civil society organisations in all stages of policy-making within 'structured consultation procedures', and welcomes the proposal to adopt a code of conduct for consultation. However, there is an urgent need to make a clear distinction between 'civil dialogue' and 'social dialogue' and to establish criteria of representativeness for the selection of civil society organisations to take part in civil dialogue. To that end, the Committee re-iterates its proposal for criteria of representative organisation.

6.7. As to better regulation, the EESC supports the proposal of the White Paper to simplify European legislation. However, the White Paper does not come up with concrete proposals in this area and fails to take into account the different opinions delivered by the Committee on the simplification of single market legislation. In addition to simplification, the Committee calls for a systematic and independent impact analysis mechanism and objective assessment of alternative modes of legislation. It welcomes a greater use of the open method of coordination in the areas where the primary responsibility rests with the Member States. The Committee must adapt its working methods to this new institutional development and play an important role in it.

6.8. Concerning the value added by the EESC to European governance, the Committee would like to make the following points: the Committee offers a synthesis view of the opinions of European society to help the Institutions in their decision-making; the members of the EESC, nominated by the Member States, represent a pool of expertise of their respective fields and of their home country; the EESC members promote understanding of European policies in a two-way interactive dialogue both at European and national level.

6.9. The Committee is willing to develop, in cooperation with the Commission, its role as a forum for dialogue and consultation. The EESC will increase its efforts to implement the arrangements included in the Protocol for Cooperation signed with the Commission and will strive to create similar mechanisms of closer cooperation also with the Council and the European Parliament.

Brussels, 20 March 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 traceability and labelling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC'

(COM(2001) 182 final — 2001/0180 (COD))

(2002/C 125/14)

On 15 September 2001 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2002. The rapporteur was Mr Espuny Moyano.

At its 389th Plenary Session on 20 and 21 March 2002 (meeting of 21 March), the European Economic and Social Committee adopted the following opinion by 81 votes to 10, with 21 abstentions.

1. **Introduction**

1.1. The Commission proposal sets out to establish a framework for regulating the traceability and labelling of genetically modified organisms (GMOs) and of food and feed products produced from GMOs. Its purpose is to facilitate (i) withdrawal of products if unforeseen adverse effects on public or animal health should occur (ii) targeted monitoring of possible environmental effects, and (iii) accurate and complete labelling to enable operators and consumers to exercise real freedom of choice, and the authorities to control and verify labelling claims.

1.2. The draft regulation applies to every stage in the placing on the market of products consisting of, or containing, GMOs and of foods and feed materials produced from GMOs, including additives and flavourings.

1.3. The draft regulation does not apply to medicinal products for human and veterinary use (Council Regulation (EEC) No 2309/93).

1.4. *Unique codes*

The Commission is to establish a system for the development and assignment of unique codes to GMOs by setting up a regulatory committee (under Article 10 of the draft regulation). The system may be adapted by the same procedure (Article 8).

1.5. *Traceability and labelling requirements for GMOs*

1.5.1. The labels of pre-packaged products consisting of, or containing GMOs must be marked with the words 'This product contains genetically modified organisms'.

1.5.2. Information that a product consists of, or contains, a GMO must be provided in the first stage of market placement, together with the relevant unique code.

1.5.3. This information must be transmitted to each subsequent stage.

1.5.4. The information is to be retained for five years.

1.6. *Traceability requirements for products produced from GMOs*

1.6.1. Operators placing products produced from GMOs on the market must provide operators receiving the products with an indication of each of the food ingredients, additives or flavourings, or feed materials or additives, which is produced from GMOs.

1.6.2. Operators must retain this information for five years.

1.7. *Exemptions*

1.7.1. Article 6 provides for certain exemptions: for example, operators supplying food to the ultimate consumer are not obliged to retain documentation detailing to whom products were sold.

1.8. The proposal obliges the Member States to adopt inspection and control measures and stipulates that the Commission must have developed prior technical guidance on sampling and testing.

1.9. The Member States are to lay down penalties applicable to infringements of the draft regulation.

1.10. The regulation is to enter into force on the twentieth day following its publication, although the bulk of its content is to apply from the ninetieth day following publication in the Official Journal of the European Communities of the system for development and assignment of the unique codes.

2. **General comments**

2.1. The Committee recognises the efforts made by the Commission in preparing both the present proposal for a regulation and the Proposal for a Regulation of the European Parliament and of the Council on genetically modified food and feed, which are clearly related. The EESC acknowledges that existing legislation on the placing on the market and labelling of GMOs is inconsistent and incomplete, and therefore welcomes the fact that the proposal treats food and feed products equally, which will provide greater coherence, clarity and security for operators, users and consumers. Existing legislation does not fully ensure consumers' right to be informed and make informed choices.

2.2. Nevertheless, it is a serious source of concern that certain parts of the proposal are unclear, e.g. with regard to differentiating products using GMOs in the manufacturing process from products manufactured from GMOs.

2.3. The regulation is rightly based on Article 95 of the Treaty establishing the European Community, concerning the approximation of the laws of the Member States which have as their object the functioning of the internal market and taking as a base a high level of protection in the European Union.

2.4. Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms, repealing Directive 90/220/EEC, establishes a legal framework for the deliberate release into the environment and placing on the market of genetically modified organisms which is designed to protect human and animal health and the environment. This directive makes it possible to release and place on the market products which are safe for humans, animals and the environment following rigorous scientific testing in accordance with the obligations and procedures which it lays down. Directive 2001/18/EC also introduces an obligation to implement a monitoring plan in order to trace and identify any direct or indirect, immediate, delayed or unforeseen effects on human or animal health or the environment of GMOs or products manufactured from or containing GMOs, after they have been placed on the market.

2.5. As health and the environment are already supposed to be protected by the above legislation, the proposal for a regulation under consideration must focus on regulating the traceability of GMOs and food and feed containing GMOs as a way of further enhancing the level of security and health protection provided by the directive referred to above and improving the labelling of GM food and feed.

2.5.1. However, as the Committee noted in its opinion on the White Paper on Environmental Liability [1] 'the liability regime for damage to the environment and to biodiversity urgently needs to be clarified'. There must also be clarification regarding liability for adventitious contamination with GMOs of the products of organic farming for which, at present, a 0 % threshold applies. Neither the proposal for a Regulation under review nor the proposal for a Directive which has been submitted on environmental liability clarifies the issue of liability for GMOs. This is unacceptable in the view of the ESC.

2.6. The draft regulation on the general principles of food law and the European Food Authority lays down the main obligations relating to health and food safety, including traceability. The traceability of GMOs or products derived from GMOs must be identical to that stipulated in the draft general food law regulation.

2.7. The traceability requirements would require, in addition to supporting documentation and certificates, a series of additional checks and inspections to be carried out by both economic operators and the supervisory authorities, which would entail additional costs for both raw materials and finished products. A particular problem is posed by imported products (which either contain GMOs or were produced from GMOs) where GMOs are not, however, present in the final product. The Committee is fully aware that the proposals will require commitment from international organisations, national authorities, and trading partners, and it may take some years to achieve full implementation in practice.

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[1] Opinion of the European Economic and Social Committee on the 'White Paper on Environmental Liability', OJ C 268, 19.9.2000, p. 19.

2.8. Verification and control will also be necessary, requiring the commitment of additional economic and human resources by the national authorities responsible for implementation. Appropriate additional resources should be allocated at Community and national level to ensure the effective implementation and control of the proposed legislation, so as to avoid diverting such resources from their fundamental mission: to monitor the safety of food and feed products.

2.9. For foods and feed products in which genetically modified material is no longer present but has been used, the traceability and labelling requirements are difficult to verify, which could lead to unfair practices and fraud. An instance would be highly refined oils and hydrolysed maize derived from genetically modified raw materials, which can replace products derived from non-genetically modified raw materials, as their composition, characteristics and uses are identical.

2.10. There is a risk that the introduction of new requirements will result in a higher final product cost, which will probably be passed on to the consumer. However, the Committee underlines that the costs of the new technology should fall on GM producers and products rather than on the traditional products through 'GM free' labelling.

2.11. National governments in Europe and the EU's political bodies must ensure that more stringent requirements are also brought in at international level to protect humans and the environment. They are called on to campaign in the various international bodies, and especially in the OECD and the Codex Alimentarius Commission, for the adoption of appropriate rules and regulations. Possible barriers to trade will be reduced to a minimum or abolished completely as a result.

2.12. The application of measures making it possible to distinguish GMO-free products from genetically modified products could confer a competitive advantage on firms choosing to focus on quality, which will then be able to offer the consumer a product which is both traceable and transparent in terms of its ingredients.

3. **Specific comments**

Point 7.3 of the Legislative financial statement ('Other administrative expenditure deriving from the action' appears to contain an error of calculation concerning the total allocation for missions (Title A7). Since three three-day missions at 1 000 EUR each are involved, the total cannot be 1 300 EUR as indicated in the proposal.

4. **Final considerations**

In conclusion, the Committee recognises the major effort made by the Commission to flesh out and clarify the current framework, and would make the following recommendations with regard to traceability and labelling.

4.1. The use of GMOs has led to a great debate in society, in the course of which extreme positions lacking any serious scientific foundation have frequently been adopted. The EESC therefore recommends that the Commission carry out a public information campaign publicising the advantages and risks of the use of GMOs, in relation to food for human consumption, animal feed and the environment. Information produced by independent bodies to help people make informed choices about the food they eat, including on an environmental and ethical basis, and concerning the technologies by which they are produced is essential.

4.2. The two proposed regulations for revamping and improving the labelling and traceability of products containing or consisting of GMOs at all stages in the food chain take account of the precautionary principle and enhance transparency as a prerequisite for the consumer's freedom of choice. They make it easier for the supervisory authorities to carry out their checks and make it easier to research the long-term effects for humans and the environment of genetic engineering in the food sector.

4.3. The authorisation of GMOs is based on prior rigorous initial scientific assessment, which guarantees that the authorised products pose no health risks and may circulate freely as long as consumers are fully informed through traceability and labelling in order to promote choice.

4.4. The use of GMOs is already a reality, given that in 2001 they were being grown on 52,6 million hectares of land, this being a 19 % increase over the previous year, which confirms the steady growth trend. However, surveys among European consumers show that a clear majority are opposed to genetically modified food.

4.5. Notwithstanding the above, the EESC draws the Commission's attention to the importance of carrying out comprehensive tests as a necessary preliminary to authorising the use of new GMOs, proceeding on the basis of the precautionary principle and avoiding undesired effects.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

APPENDIX

to the Opinion of the Economic and Social Committee

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

Point 2.5

Replace point with the following text:

'The draft regulation under discussion cannot focus solely on traceability rules for GMOs and food and feed obtained from GMOs, but must also consider food and feed produced using GMOs. An enzyme or any other molecule which accelerates the process of chemical change participates actively in all the chemical/molecular reactions through which the food is produced, and it is therefore in principle not possible to say that two final products, one of which has been obtained in the natural way and the other using a GMO, are substantially equivalent. Unnatural substances are being used in respect of which no experimental evidence exists proving that they can produce products which are identical to the natural product not only from an organoleptic point of view, but also in terms of wholesomeness, taste, aroma etc. Rules on the labelling and traceability of GMOs should therefore also apply to products obtained using GMOs.'

Result of the vote

For: 28, against: 51, abstentions: 14.

Point 2.7

Replace point with the following text:

'As the aim is to ensure maximum transparency, the traceability requirements proposed should be monitored, even if this requires a series of additional checks and inspections by both economic operators and the supervisory authorities. Study needs to be devoted to a system which will also guarantee consumers maximum transparency with regard to imported products (which are GMOs, contain GMOs or were produced from GMOs or using GMOs) where GMOs are not, however, present in the final product.'

Result of the vote

For: 30, against: 59, abstentions: 16.

Point 4.1

Amend the first sentence as follows:

'The use of GMOs has led to a great debate in society, that is to some extent marked by fear and indeed also by ignorance of the potential consequences.'

Result of the vote

For: 50, against: 53, abstentions: 9.

New Point 4.3.1

'The fact that meat and other animal products from animals which have been fed genetically modified feed does not have to be labelled accordingly does in the ESC's view, represent a major shortcoming which decisively detracts from the goal of giving consumers freedom of decision.'

Result of the vote

For: 43, against: 56, abstentions: 8.

Opinion of the Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports'

(COM(2002) 7 final — 2002/0013 (COD))

(2002/C 125/15)

On 30 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 proposal.

On 19 February 2002 the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the work on the subject.

At its 389th plenary session on 21 March 2002, and in view of the urgency of the matter, the Economic and Social Committee appointed Mr Tosh as rapporteur-general and adopted the following opinion unanimously.

1. Background

1.1. Article 10(3) of Council Regulation (EEC) No 95/93 [1] establishes that slots which are allocated to an air carrier shall not entitle that air carrier to the same series of slots in the next equivalent period, unless it can demonstrate that they have been operated by that air carrier for at least 80 % of the time during the period for which they have been allocated. If the 80 % usage of the series of slots cannot be demonstrated, all the slots constituting that series shall be placed in the slot pool, unless the non-utilization can be justified as set out on Article 10(5) ('use-it-or-lose-it' rule).

1.2. The terrorist attacks of 11 September 2001 and the political developments that followed those events (Afghanistan crisis) seriously affected the air transport operations of air carriers and resulted in a significant drop in demand during the remainder of the summer 2001 and winter 2001/2002 scheduling season.

1.3. In order to make sure that the non-utilisation of slots allocated for those seasons does not cause operators to lose their entitlement to those slots, it appears necessary to provide clearly and unambiguously that those scheduling seasons were adversely affected by the terrorist attacks of 11 September 2001.

1.4. Accordingly, the Commission proposes to introduce a new Article 10a into the Regulation whereby coordinators are obliged to accept that slots in both seasons (summer 2001 and winter 2001/2002) are granted grandfather status.

1.5. This will avoid lack of uniform application of the provisions of the Regulation in the Community and the different interpretation given to the current crisis in various Member States.

1.6. Finally, the proposal does not affect the Commission's proposal adopted on 20 June 2001 for a modification of the currently applicable Regulation [2] insofar as this latter proposal is wider in scope.

2. General comments and conclusions

2.1. The ESC agrees with the Commission proposal insofar as it takes into account exceptional circumstances and gives legal certainty to coordinators.

2.2. In fact, coordinators risked legal challenge unless the question of the 'use-it-or-lose-it' rule was clearly and unambiguously dealt with.

2.3. At the same time the proposal allows planning certainty for carriers.

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[1] Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p. 1) — ESC Opinion: OJ C 339, 31.12.1991, p. 41.

[2] COM(2001) 335 final, 20.6.2001, 2001/0140 (COD). EESC Opinion in preparation.

2.4. Finally, the ESC notes that the current proposal does not affect the proposal adopted on 20 June 2001. It has a wider scope, aims at ensuring that scarce capacity of slots at congested airports is managed and used efficiently, albeit without modifying fundamentally the current system of slot allocation built around the so-called 'grandfather' or 'historical slots'.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council amending Decision No 1692/96/EC on Community guidelines for the development of a trans-European transport network'

(COM(2001) 544 final — 2001/0229 (COD))

(2002/C 125/16)

On 14 November 2001, the Council decided to consult the European Economic and Social Committee, under Article 156 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2002. The rapporteur was Mr Kleemann.

At its 389th plenary session held on 20 and 21 March 2002 (meeting of 21 March) the European Economic and Social Committee adopted the following opinion by 54 votes to 0, with 5 abstentions.

1. **Introduction**

1.1. In its proposal the Commission is seeking to tighten up and modify the priorities of the trans-European network with a view to optimising network capacity by concentrating investments in areas with existing bottlenecks. Three projects have already been completed and the importance of certain rail and trans-alpine projects confirmed. Six new projects and new sections to two existing projects have been added.

1.2. The ESC has been involved in each development phase of the TEN and has from the outset fully supported the TEN blueprint and advocated clear criteria and appropriate encouragement.

2. **General comments**

2.1. The Gothenburg European Council referred to the need to shift transport from road to rail, water and public passenger transport. The Commission proposal now on the table responds to this Council mandate.

2.2. Many factors are responsible for the rise in EU traffic levels, but the growth in car traffic — both work-related and private — plays a major part in the use of transport systems. On the one hand, traffic levels have risen considerably because of the need to commute between home and work, changes in consumer behaviour and the disproportionate growth in leisure travel. On the other hand, traffic density has increased greatly in recent years, with heavy lorries in many regions and conurbations. However, the globalisation of the economy, the increased functioning of the internal market, changes in production methods and the logistics associated with this contribute, among other things, to changes in the structure of the economy and inevitably generate increased traffic across all transport modes. With the accession of the applicant countries this will increasingly affect cross-border routes which, according to the Commission, are also currently the weakest points.

2.3. The ESC is convinced that environmental protection requirements must be incorporated into transport policy, but that appropriate environmental standards ensuring equal treatment should be laid down for all modes of transport. Up until now no consideration has been given to the current absence of environmental protection standards (e.g. exhaust standards for diesel motors in locomotives and ships comparable to those applying in road haulage), especially for new acquisitions.

2.4. Simply opening up new infrastructure is not enough. Consideration also has to be given to existing infrastructure and the scope to expand it. For new construction ventures, all Member States are faced with a key issue: modern law as it relates to area planning and land use designation must take account both of interests that require protection and of necessary infrastructure projects. Hence, a balance is needed, since residential areas adjacent to infrastructure have been the source of conflicts, and such situations should be avoided in the future. As part of the Community's environmental powers, the Commission should recommend that, throughout the EU, those responsible for land-use planning at regional level should in future plan industrial areas as far as possible in the catchment area of infrastructure and take care that the burdens of these are kept within limits in residential areas.

2.5. The Commission notes that over the last 10 years the excessive use of road haulage, the spectacular growth in air traffic and the defects — particularly the infrastructure — of a railway system unsuitable for goods traffic have contributed to a considerable overloading not only of the roads, but also of the railway system and of air space. Despite all the efforts made up to now, bottlenecks continue to exist in Europe. The most severely affected are the international traffic corridors where trans-European north-south traffic is channelled, and particularly the natural obstacles such as the Alps and the Pyrenees, the fringe areas of large conurbations and some frontier regions, particularly on the borders with the acceding countries. The ESC can only agree with these statements, and the recent accidents and subsequent tunnel closures in Switzerland and Austria have made north-south traffic much more difficult, overloaded alternative routes and had a detrimental impact on economic and social conditions, particularly in Italy. Swiss transport policy, with very long planning stages laid down by law, and the geographical difficulties of building cost-effective alternatives to the existing network over/through the Alps or of expanding existing routes, have meant that projects of this kind have not been carried out. Moreover, traffic flows that have been changed because of regional circumstances (e.g. the Yugoslavia crisis) and restrictions that have been created intentionally through transport policy (driving bans, diversions, etc.) have also exacerbated bottlenecks in the alpine region.

2.6. The ESC maintains that the last few years have been marked by major changes in behaviour.

2.6.1. In addition to the splitting-up of their operations into infrastructure management and the provision of services, the national railway companies have had to learn that their supply side must be improved and that their timetables must be geared to the needs of customer demand. Thanks to the rapid rise of information technology, the dominant economic thinking in Europe has become based on a division of labour and deconcentration over numerous locations (in line with the 'profit centre' idea).

2.6.2. The use of transport across the continent has increased because of diversified consumer behaviour (due to their being better informed) the further decline of large families based in one location, large out-of-town shopping centres, and the increasing depopulation of the countryside.

2.6.3. There never has been any alternative to roads as a means of providing local and comprehensive national coverage. There is no objective justification for blaming road transport firms, as customer-oriented service providers, for this situation. Rather it is different transport policies which, against this background, have failed to persuade transport users to follow their lead and make more use of the railways. The decline of warehousing in wholesaling and in industry has led to extreme time pressure in the transport sector and given a boost to road haulage because of its greater flexibility compared with the existing rail transport system.

2.7. The ESC agrees with the Commission's call to promote investments in trans-European transport routes reserved primarily for goods transport, consisting mainly of existing routes on which priority is given to goods trains or where only goods traffic is allowed. One can only endorse the Commission's arguments and proposals here.

2.8. The ESC would point out that account should also be taken of the transport of dangerous, extra large or extra heavy goods when planning and converting railway lines to predominantly goods traffic. This applies across the board, but in particular to tunnels and bridges. Circumventing heavily built-up areas could also minimise risks.

2.9. The more links there are between individual modes of transport, the more acceptance there is of other alternatives during decision-making. The changes suggested in Article 5 only partly take into account these considerations.

3. **Specific comments**

3.1. The ESC agrees with the Commission that the possibilities of making new capacity available by extending the road system are in part very limited. Only by traffic management and information systems can optimum use be made of the existing infrastructure. But that presupposes the existence of alternatives to steer traffic on to other routes, inasmuch as these are provided for in the relevant area plans.

3.2. Through an optimum use of infrastructure, the environmental nuisances caused in some regions by road traffic can be reduced. However, the ESC thinks care should be taken here to see whether the transport of goods by road should be judged more stringently, especially if one considers that:

3.2.1. different modes of transport are subject to very different emission limits;

3.2.2. with the exception of certain regions and conurbations, the proportion of road haulage to overall traffic is, in the main, small;

3.2.3. an appropriate cost-benefit assessment of road haulage has so far been neglected;

3.2.4. a large part of road haulage is distribution, and not long-distance, cross-border or transit traffic ([1]);

3.2.5. with the establishment of the EURO 4 and 5 limits, sustainable development until 2008 at least has been ensured for lorry engine technology.

3.3. A fundamental change of mentality among road transport users is desirable in favour of multimodal transport, with the simultaneous promotion of the speed and cheapness of alternatives based on the principle of sustainability. A policy of simply raising the price of road transport is out of the question without any accompanying measures to counteract the negative economic impact, and other transport policy instruments must also be considered. Also, with such considerations, there would have to be guarantees that the fees, charges, etc. were paid by the consignor, with the consequence that such up front financial payments by the haulier would have to be set out in detail later on the invoice for the consignor.

3.4. For the ESC the basic question is whether the revision of the project list alone is sufficient, since many of the basic conditions have changed. This particularly applies to traffic to and from the applicant countries, even if a radical revision of the guidelines is planned for 2004.

3.5. The White Paper and the Commission proposal make little distinction between goods and passenger traffic. Thus there are no remarks on the fact that a rail link would enable airports to transport many goods for their own operation: not so much air freight, which must always be delivered and/or fetched by road because of the speed required, but rather fuel, spare parts, equipment, food, commercial goods, etc.

3.6. The ESC agrees with the changes and extensions in Article 10 concerning the rail network, whereby not only air transport services but also shipping and the road network would be included in the interests of an efficient infrastructure.

3.7. Intelligent traffic systems such as traffic management systems and systems for the transfer of information to the user, as well as satellite navigation and positioning systems, offer considerable possibilities for the improvement of network capacity and security. The action of the Community must therefore aim at achieving a maximum of technical interoperability of all systems. For competitive reasons therefore, firm support should be provided for systems for all modes of transport, such as Galileo (satellite and radio navigation) or the railway traffic management system (ERTMS). The ESC endorses such support.

3.8. The ESC agrees with the test criteria and methods for selecting new projects used by the Commission. This also applies to the examination of alternatives. It is recommended that the Commission set concrete goals for these new projects, such as capacity, safety and quality of service.

3.9. The ESC can also agree with the amending and adapting and/or updating of maps. However, the connections/interfaces for linking with the traffic networks of the acceding countries, which lie in the border areas of these countries, should be specified.

3.10. Basically, the ESC welcomes a strategic environmental compatibility test. It must be remembered that these tests should not prevent intended or planned projects by placing subjective individual interests above the overall social and economic benefits involved. In order to guarantee efficient application, it is necessary to establish clearly defined deadlines. Additional guides for implementation are currently being developed by the Commission.

3.11. A shift in traffic and a new balance between the different modes of transport along the lines envisaged by the Gothenburg European Council can only succeed if rail and shipping companies and operators offer high-quality, demand-led services.

([1]) EU energy and transport in figures — Statistical pocket book 2001, p. 132, distance classes per cent.

4. **Conclusions**

4.1. The revision of the guidelines essentially puts the emphasis on measures in the railway sector, and intermodal transport, which do, however, urgently require major investment. Basically, the Committee backs the measures concerned, despite the fact that other transport modes have a more important position within the transport economy. In this connection, attention is drawn to connecting Europe's islands to the TEN ([1]) and to possible infrastructure expansion.

4.2. Insofar as the Commission White Paper on European transport policy calls for an integrated approach, the ESC feels that more weight should be put in the proposal as a whole on combining measures. This particularly applies where different modes of transport can offer their services on parallel routes (coastal roads versus coastal shipping and rail traffic).

4.3. As some of the countries bordering on the Community are applying for accession, the ESC feels that account should be taken of these traffic links in Member States' spatial and project planning.

4.4. The ESC feels that bottlenecks, which continue to exist, can only be eliminated or avoided over time through joint efforts, decisions, measures and approaches. The essentials of the Commission's proposals should also be supported by the Member States as part of a common European transport and infrastructure policy.

4.5. The ESC supports the Commission's strategy, based on the guidelines laid down in Essen in 1994, of focusing on the abolition of existing bottlenecks on the major transport routes, and only implementing a limited number of new projects. Even if the Commission is planning a fundamental revision of the guidelines in 2004, the ESC thinks that links with the accession candidates should be given more consideration in the present proposal, because plans have to be made now. The expected increases in capacity must be given appropriate consideration in all modes of transport.

4.6. Since, in the last analysis, the biggest bottlenecks are to be found in terminals, which serve as transhipment areas for goods and as rail connections, public investments by the Member States to upgrade marshalling yards and transhipment facilities can play an important role in capacity development. In this connection it is important not to overlook suitable and efficient links with other modes of transport. Only then can terminals fulfil their distributor function.

4.7. The ESC wonders whether the projects should not be restructured in the light of more recent political circumstances (accession candidates). This applies in particular to Community funding for transport networks outside the EU (i.e. the candidate countries) in order to close any gaps in the future network ([2]). Our corridors only concern the current EU and offer hardly any cross connections to and over the territories of the applicant countries, which could provide diversions around problem areas like the Alps. In this respect the White Paper states that: 'The lack of efficient transport infrastructure networks to cope with this anticipated growth in movements is still greatly underestimated. And yet that infrastructure is a key element of the strategy for the economic development of the candidate countries and their integration into the internal market.' The ESC is of the same opinion, so attention should be paid to these considerations in further discussions on the guidelines.

([1]) See the ESC own-initiative opinion currently in the pipeline on 'The extension of the trans-European networks to the island regions of Europe' (TEN 086).

([2]) Commission Communication COM(2001) 437 of 25 July 2001 deals with the connection of transport networks in the applicant countries to the TEN.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on 'The economic policies of the euro-zone countries: convergences and divergences, results and lessons to be drawn'

(2002/C 125/17)

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 'The economic policies of the euro-zone countries: convergences and divergences, results and lessons to be drawn'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 25 February 2002. The rapporteur was Mr Nyberg.

At its 389th Plenary Session (meeting of 21 March) the Economic and Social Committee adopted the following opinion by 90 votes to one with three abstentions.

1. Introduction

1.1. In an opinion on economic policy [1] coordination as a consequence of the EMU [2] the Economic and Social Committee stated that such coordination is necessary, and put forward some possible rules.

— The first rule is to choose the correct direction of the economic-policy measures — expansionary or restrictive.

— The second is in what way the measures affect other euro-zone countries. Measures which have as much effect as possible should be chosen if the economies are in the same business-cycle position. A country which is out of phase with the others should choose measures with as little external effect as possible.

— After common discussions on the most favourable policy mix for each country the exact choice of measures is up to each individual country.

— If other effects of the measures are considered, e.g. effects on the tax level, this should only be as a second line of preferences — the effect on the business cycle is the primary objective.

— When positive effects on other objectives can be achieved together with the desired effect on the business cycle, such measures should of course be searched for.

1.2. The Committee has decided to draw up an additional opinion to continue the discussion on economic policy coordination. This opinion studies the separate economic policies of the 12 euro-zone countries to find out if in practice there is a convergence or perhaps divergence in some policy areas. What are the results of the chosen policies on the economic situation in each country? Are there good examples to be found already after the first years of the EMU?

1.3. This opinion can also be seen as a part of the yearly studies by the Committee on the Broad Economic Policy Guidelines (BEPG). These studies focus on the general development of the economic situation for the EU and the overall direction of the policies. There has not earlier been any possibility for more in-depth studies of the separate countries.

1.4. The figures used in this study are mainly taken from different publications from the European Commission, Economic and Financial Affairs and Employment and Social Affairs Directorate-Generals [3].

2. Policy objectives

2.1. The monetary policy objective is set by the European Central Bank (ECB); the rate of inflation is to be kept under 2 % at a medium term. The measures taken by the ECB, their rates of interests and open market operations, are not discussed in this opinion. Instead, the actual situation after the monetary policy actions is the starting point. But, of course, a low rate of inflation is one of the main objectives for all policy-makers.

2.2. The public budget objective is based on the aim to safeguard the 3 % of GDP deficit ceiling. But this earlier 'objective' has been developed into a medium term 'close to balance or in surplus' objective. Economic policy discussions in the Commission and the Council seem to consider this as an overall objective.

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(1) This opinion deals with those aspects of Economic Policy which are comprised in the term budgetary policy, both the revenue and expenditure sides of the public budgets.

(2) OJ C 139, 11.5.2001, p. 60.

(3) European Economy. Reports and studies, No 3, 2000, No 3, 2001 and Employment in Europe.

2.3. The 60 % ceiling for public debt, emanating from the Maastricht criteria, is still an objective but because of the reductions during later years it now attracts less interest. In the coming years only three of the EU countries will have a debt higher than that ceiling. An increasing interest in this objective is necessary as the demographic changes will among other things require that the interest burden be as small as possible.

2.4. Discussions on the economic situation and on economic policy choices are based on the budget balance and public debt objectives. But increasing interest seems to be given to the economic growth objective. There is no target level set for this objective. It is rather seen as a result of the economic situation and economic policy. When the outcome in a country is lower than average growth, that country's economic policy is not necessarily questioned. Although it is not an explicit objective, achieving economic growth is considered central in Commission economic studies. Sustainable economic growth should therefore be one primary objective of economic policy.

2.5. In studies dealing with economic policy, employment is often neglected as a variable, both from the perspective of keeping unemployment down and that of achieving high rates of labour force participation [1]. Apart from being a goal in itself high economic growth is also necessary for the achievement of low unemployment and a high rate of labour force participation. We do not consider the wage policy and its potential effects on employment and demand in this opinion. There are of course also important influences on employment from both the Luxembourg and the Cardiff processes as well as from the Structural Funds. Employment ought to be at the forefront as one primary objective for economic policy. The countries should be judged also according to their achievement of this objective in BEPG and SGP [2].

2.6. Achieving high levels of social welfare, according to the fundamental articles of the European Union [3] of strengthening social cohesion, is seldom found as an objective. This can also be seen as an end result of higher economic growth, in fact, the sought-for real result for all the BEPG and SGP political actions. The distribution of this welfare is often lacking as a part of the analysis as are other aspects of the social systems. Such effects of the economic policy are very much the competence of the individual Member States and, therefore, we will not include a social welfare objective in our analysis. As a part of this we will neither, as is often done, point the finger at those countries which reduce their taxes without a concomitant reduction in the social welfare payments.

2.7. The Committee will in this opinion on economic policy not directly consider the inflation rate — a central objective of monetary policy. The subject is instead the growth rate as an objective, objectives for unemployment and labour force participation rates and social welfare as an end result of growth, employment and other intermediate goals.

3. National economic policies 1999-2001 — a general perspective

3.1. The Commission considers that the SGP target of close-to-balance or in-surplus for the public budget should be respected. One reason is to enable the Member States in the future to allow the automatic stabilisers also to work in the case of an economic slowdown. But it has not been defined when a situation can be characterised as a slowdown.

3.1.1. The policy mix at the national level should not only be appropriate for the economic situation in that country but also be coherent with the overall fiscal stance for the euro area.

3.2. The Commission [4] correctly points to the need to expand the debate from merely focusing on the SGP discipline to also including the contribution of the public budget to growth and employment. This is very welcome, but it is hard to find any recommendations along this line. When they are found, it is often for countries where they can go hand in hand with budget stabilisation.

3.3. Two main features are now rightfully in the centre of the discussions — the cyclical stabilisation role of budget policy and to what extent the automatic stabilisers should be allowed to work. The next step in cyclical policy — discretionary counter-cyclical actions — is taken in some countries but seldom referred to as 'discretionary'. Here we can see another 'hand-in-hand' example. If they can be described as structural reforms, they may very well appear in the Commission economic reports.

3.3.1. The Commission in its report on public finances states that 'the budgetary outcome for 2000 should have been better, as some governments gave away part of the higher-than-expected 'growth dividend' via tax cuts or expenditure increases' [5]. But a parallel question to this could be what the growth prospects would have been for 2001 if the countries had not used that opportunity?

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(1) Labour force participation (activity rate) = employed and unemployed persons as a percentage of the potential labour force.
(2) SGP = Stability and Growth Pact.
(3) EU Treaty, Article 2.
(4) COM(2001) 355 final, p. 3.
(5) Public Finances in EMU — 2001, page 2 (European Economy. Reports and studies, No 3.2001).

3.3.2. In the same spirit it is said that automatic stabilisers can be used when there is a downside risk for the economic development, but only insofar as the country has attained the goal of close-to-balance or in-surplus. The problem becomes worse when those most in need of such an economic stimulus are the countries that have not attained that goal.

3.4. The Commission is rightly concerned about pro-cyclical behaviour. It has occurred frequently, especially during the 1990s. It was a negative side of the application of the Maastricht criteria. Currently, some countries experiencing a slowdown once again follow what can be called a pro-cyclical policy by strictly adhering to the SGP. They are not criticised. On the other hand, those who regard the downturn as a cause for concern and take corresponding measures will be criticised for not respecting the SGP. The conflict between objectives should be solved with the experience from the 90s. Adhering to just one of the objectives should not be the solution. The emphasis put on different objectives differs between the Directorates-General of the Commission. This is a matter of concern when you want to consider the policy in total.

3.4.1. The situation during 2001 with a reduced growth rate has worsened the problems. According to the Commission some countries display inflationary risks, some have not achieved the budget balance and the rest could let their automatic stabilisers work. For all but two countries possible effects from automatic stabilisers are as small as 0,1 or 0,2 percent of GDP. Some countries have taken discretionary actions. The Netherlands is reducing its surplus, which also seems recommendable in this situation. Finland, Luxembourg and Ireland are reducing their very high surpluses. That can be seen as a relative stimulus and probably not acceptable to the Commission. Nevertheless, these are small countries, not very much affecting the total inflation rate. This economic stimulus could be desirable for countries having greater problems with the growth rate. Finally, Germany increases its deficit, mainly by its tax-reduction scheme. Although Germany will be close to the limit of 3 % deficit, this is explained by the continual downward correction of growth forecasts.

3.5. The Commission in a sophisticated way tries to measure both the economic and the monetary stance, and attempts to find out if economic and monetary policies have been neutral, expansionary or contractive during the first two years of EMU. The economic policy is said to have been neutral during the first year of EMU but moving in a loosening direction. Monetary conditions started out as moderately expansionary, moving in a tightening direction. For individual euro countries, only Finland experienced a real economic tightening during 2000. In Greece monetary conditions were relaxed somewhat. Most other countries, having fairly tight monetary conditions experienced a further tightening. In Ireland monetary conditions lead to increased inflation.

3.5.1. For 2001, the situation is much more split. Finland, the Netherlands, Germany and Ireland have a loosening fiscal policy. Tightening monetary conditions occur as often as changes in a loosening direction. If this is seen in the light of capacity utilisation, only Germany in 2001 still possesses unused capacity to any significant degree according to the Commission spring calculations. A change has occurred inter alia due to the acts of terror on 11 September 2001 with reduced demand and increased unused capacity in most countries as well as responses to this, e.g. interest-rate reductions.

4. **Economic impact**

4.1. *Overall economic impact*

4.1.1. Assessing economic policies in terms of their impact on economic growth is a multi-tiered process. An assessment based on an individual measure, even if it is a dominant one, is not permissible. The composition and reciprocal effect of the entire package of measures must be analysed and evaluated. A definitive judgment is only possible if the time at which the measures take effect is also covered in the analysis. The Commission has attempted to make calculations from such considerations. It has found that expenditure side changes in the public budgets have a faster impact than actions on the tax side.

4.1.2. Actions aiming at the demand side of the economy will result in changes quicker than those aiming at the supply side. As tax cuts can have both demand and supply effects this explains some of the slower response to tax changes.

4.1.3. All these aspects have to be considered to find a well-composed economic policy. As an example a tax cut might not give the wanted response for the employment rate. Likewise a reduction in child-care fees or improved availability of child-care facilities might not have as large effect as expected. These two actions in combination, on the other hand, might have larger effects than the sum of their separate effects.

4.1.4. Another aspect that complicates the design and measurement of economic policy is the difference between the general public budget including all levels of government and the central government budget. The government and parliament normally have direct influence only over the central government budget. In some countries agreements have been concluded for an alignment of budgets at other levels with the central government budget. This problem is of course more complex in federal states. For the ECB and the Commission the concern is with the general budgets.

4.1.5. It is often said that a heavier burden is put on economic policy when monetary policy is given. Differences in economic situation now have to be addressed solely by economic policy. But, on the other hand, before the common monetary policy of the EMU there was more spill-over from an economic policy measure. Not only could the effects disappear through trade and higher inflation, but also through higher interest rates and through volatile exchange rates. The common monetary policy can, therefore, be said not only to broaden the scope for economic policy but also to make it more efficient.

4.2. *Growth and economic achievements*

4.2.1. Assessing the impact of an economic measure is tricky, as there are two determining factors – the actual political measures and the economic situation, mainly growth, with in turn partly depends on consumers' and producers' confidence. This is not a big problem if the economic growth forecast of the coming year turns out to be accurate. Then it is possible in advance, after assessing the effects of that growth rate, to decide upon an expansionary, neutral or contractive economic policy. During 1999 and 2000 governments tended to underestimate economic growth. In a situation where performance is assessed according to the improvement of the budget balance and the reduction in public debt, this will place the governments in a more favourable light than they would deserve according to the governmental actions. During a year like 2001 when the growth rate in most countries will be lower than expected, policies might be judged as appropriate or turn out to be too contractive.

4.2.2. Furthermore, the growth rate very much depends on actual policies. A policy that takes away purchasing power will reduce consumption and, in the end, growth. Such interdependencies really make assessment of the policies very difficult.

4.2.2.1. The Commission makes bold efforts to separate the effects of growth from the effects of political measures. The faster than expected overall reduction in deficit was mainly a result of faster than expected growth. Furthermore, effects resulting from lower public interest payments and effects of automatic stabilisers are separated from the effects of discretionary measures. The effects of the discretionary measures then turn out to be only 0,1% of GDP. The measuring problems are overwhelming if we were to attempt to measure the effect of each action separately. The social contribution rebate in Spain for example corresponded to only 0,1% of GDP. How could the effect on GDP from this change be assessed separately when it was taken together with a lot of other measures?

4.2.3. Furthermore, different political conclusions can be drawn from the figures. The Commission finds that the three countries with persistent large deficits did not improve their positions during years of good growth. But they do not explicitly comment that the same countries had among the lowest growth rates and therefore were in a situation where economic stimulation could seem justified. If they had not used the possibilities to stimulate their economies during these years they would today have a worse economic situation but on the other hand a better possibility to counteract that. Assessment of policies is more difficult if both the nature and timing of measures are considered.

4.2.4. Most countries have reduced their public debts during the last years. But considering the high growth rates this was not an especially glorious achievement. We can take Belgium as an example, with a reduction of 5,5 percentage points during 2000. Of this, 4,5 percentage points can be attributed to the mathematical change of the value of the debt as a percentage of GDP when the growth rate is higher. There are no figures on how much of the debt reduction in the euro countries which in fact was real payments of debt. The Commission comments on the Spanish debt ratio reduction during 2000, of which 2,5 of 2,7 percentage points was attributed to the growth rate, but we would like the Commission to provide us with such figures for all countries.

4.3. *Automatic stabilisers*

4.3.1. When the budget deficit is lower than 3 % of GDP (or rather when budget balance is achieved) the question arises whether the automatic stabilisers can be allowed to work freely. But how much of the cyclical stabilisation can come from the automatic stabilisers? Can they be improved?

4.3.2. There is a general view that automatic stabilisers [1] have the greatest impact when the structural problem (shock) is on the demand side. For example, some progressive taxes and unemployment benefits have a smoothing effect both in an economic downturn and in recovery counteracting the effects on personal income. They are most efficient for shocks affecting consumption and less efficient for shocks related to investments or external demand. Shocks on the supply side are said to have effects on inflation and output in opposite directions. A higher oil price e.g. will raise inflation and lower output. An automatic stabiliser is hard to find when it, in that case, should be both expansionary and contractive.

4.3.3. There are also large differences between countries as to the sensitivity of the public budget to cyclical changes. An economy where the public sector is highly affected by cyclical changes via the automatic stabilisers also has a possibility to achieve more through its economic-policy changes. The sensitivity goes both ways — from the business cycle and from the political actions. These countries often have advanced social security systems.

4.3.4. This leads us to the statement that it is impossible to have any general opinion on the use of automatic stabilisers. The Commission has made calculations to find appropriate target levels of budget deficits/surpluses to aim at over the cycles which differs between the countries. The more volatile the economy, the higher the surplus which is required. After the fixing of such minimum levels, new target levels have been set which would allow for automatic stabilisers to operate freely.

4.4. *Investments*

4.4.1. Many kinds of public spending can have positive effects on both growth and employment. This is the case for 'traditional' expenditures, e.g. on education, health, regional transfers and social policy. Their quantity and quality provide the foundation for a modern growing economy. Despite their importance, most attention is given to research and private as well as public investments. The Lisbon conclusions, followed up in Stockholm, outlined the political ambition to improve these policies. Too short a time has elapsed not only for the results on growth and employment to be evident, but also for all proper actions to have been taken. The search for relevant indicators of these actions is a first step, not yet fulfilled.

4.4.2. There are large differences between the euro states concerning both research and development expenditures and investment. In spite of these differences, it can hardly be opposed that all countries should pursue policies which increase the share of GDP for these expenditures. Although we cannot judge the impact of recent measures, earlier experiences provide clear evidence of the efficiency of measures in these areas. The high expenditures on information technology (training, networks, usage) and research in this area e.g. in the USA and the Nordic countries are concomitant with increased growth rates and levels of employment.

4.4.3. There is a statistical dilemma as statistics of investments only take account of physical investments. Statistics should be developed so as to include investments in human capital. There is a huge problem of measurement, as we then have to find a dividing line between 'ordinary' education expenditures and education and training expenditures that increase the production power. One possibility would treat all education and training costs incurred by the companies (although it can partly be paid for publicly) as human capital investment.

4.4.4. The bulk of investments are private and these are the main determinants of growth. But turning to public physical investments, also important for growth and as a complement to private investments, there is a complication with the construction of the SGP. A country with a high percentage of GDP going to public investments, which is recommendable, will have a greater problem finding a budget balance as the reductions in other public expenditures will be larger to counteract the 'extra' public investment expenditures, insofar as these are not financed from outside the budget and are not therefore subject to the assessment of the SGP. In such a case the EMU convergence criteria may reduce public investments. During the 1990s, reductions in public physical investments accounted for as much as one third of the reduction in public budget deficits, thereby reducing their share of GDP from 2,9% (1991) to only 2,3% (1999) [2]. This is economically even more absurd as such expenditures would increase the growth rate and in the end make it easier to fulfil the objectives of the SGP.

4.5. *Tax system changes*

4.5.1. The positive effects from research and investments are hardly questioned, but results for growth and employment from changes in the tax systems are not always generally accepted. The taxation system has effects on the willingness to work, save and invest. The effects do not only come from the level of taxation but also from its composition. Some examples are given below but, as the Commission states, the results have

(1) For a discussion on automatic stabilisers, see the ESC opinion in OJ C 139, 11.5.2001, p. 60.

(2) Gross fixed capital formation of General Government EU15, Eurostat.

so far been mixed. Generally it can be said that it takes a long time — a couple of years — for the effects to appear and the changes have to be quite substantial to affect our behaviour.

4.5.2. Furthermore, changes in the taxation systems must be seen in a broader sense where also the benefit systems are included. The interaction between taxes and benefits has to be seen as a whole when the impact on employment and growth is examined. Moreover, a search for increased employment through changes in tax and benefit systems requires a concomitant change from passive to active labour-market measures to make possible an increase in labour-force participation.

4.5.3. We cannot consider the whole problem of the ageing population in this opinion but we would like to stress the increased emphasis on debt reduction that it entails. In some countries this can be said to have made it more difficult in a downturn to achieve a shift to more of counter-cyclical policies.

4.5.4. During the years before the third phase of EMU, tightening of economic policy was very pronounced. The tight policy has continued but the pace has slowed down since the need diminishes when budgets are almost balanced and since the reforms are starting to bear fruit. In most countries the changes have involved both expenditure cuts and tax cuts, thereby reducing the relative size of the public sector. In some countries the tax changes have taken the form of changes in the tax collection system or in tax bases so that tax revenues have increased without tax rates being raised. The fairness of tax systems has thereby increased.

4.6. *Employment*

4.6.1. To find statistics on employment trends we have to turn to publications like 'Employment in Europe'. This in itself is a sign that the inclusion of employment in summit conclusions has not found its way into all the Commission services. Employment effects are not really considered when the economic policies of the euro countries are judged.

4.6.2. Spain, Belgium and Ireland experienced a fall of unemployment of more than 1 percentage point per annum during the two-year period 1999/2000. Belgium and Ireland achieved this although they did not start from an especially high level of unemployment. Eight of the 12 countries fell short of a possible goal of -1 percentage point per annum and three (Austria, Luxembourg and Portugal) only came halfway but they already had the lowest unemployment levels [1].

4.6.3. Instead, looking at the development of the labour force participation rate the fastest increase occurred in the Netherlands, Ireland, Luxembourg and Spain. The smallest increases can be found in Austria, Germany and France. There is no clear relationship between the changes in the activity rate during these years and the starting point for this rate. More factors must be sought for to explain the differing performances.

4.6.4. Spain appears to be the best performing during these years although starting from the highest unemployment and a low activity rate. Austria has the poorest performance but starting from a low unemployment and high activity rate [1]. There may be differing reasons for the different trends but there seem to be a convergence for these aspects of the labour markets.

4.6.5. Looking for the reasons for the differences, the growth rate is a natural explanation. We can also see that high growth rates are strongly correlated to favourable employment developments.

4.6.6. But the sometimes contradictory developments for the national labour markets call for deeper studies of the reasons for good and bad performances on the labour markets. Some of the explanations can be found in the discretionary economic policy measures of the 12 countries. A supporting document drawn up by the study group describing economic policies country by country led to the conclusion that these seem to be special for each country.

5. **Inconsistent recommendations**

5.1. If other policy areas are considered, and not only BEPG, the recommendations in 2001 for some countries are not consistent with the expansionary policy which the lower growth rates would justify. In its general assessment of the economic situation (monetary and cyclical) the Commission is mainly concerned about the countries that experience overheating and inflationary pressure. For the countries with an inadequate demand for an acceptable economic growth to evolve there is no outspoken corresponding concern. This goes for most governments as well. Economic policy can in general be said to support the common monetary policy in high growth periods, but there is a risk for conflicts between them in periods of low growth. This gives us great concerns about the current economic situation and the corresponding economic policy recommendations.

[1] Luxembourg is a special case where a good development in the labour market to a great extent affects the neighbouring countries.

5.2. There is seldom any consideration of the effects of one country's policy on the other countries, only on the general situation for the euro area. And it seems to be more of a mathematical relation, summing up the national figures for inflation etc., than an economic calculation of the factual relations between the 12 economies. This can be illustrated by the Irish example. The Ecofin recommendation to Ireland to pursue a less expansionary policy, can well be defended when one considers the Irish economy itself. But the effects on the euro area from that over-expansion are negligible. The Irish economy is so small that it will not in any recognisable way influence the inflation target. Irish trade is very much directed to countries outside the euro area (e.g. the UK) so the trade impact on its euro partners is also negligible.

5.3. During years of high growth, good results for unemployment and employment rates are easily achieved, as they go hand in hand with the growth rates. In a situation of low growth, it is much more complicated. With growth under 3 %, employment will not automatically increase and with continued emphasis on the budget balance there is a clear risk that the policy chosen can lead to higher unemployment. Therefore, growth rates and employment development must also be in the centre of economic policy discussions. Actual economic tendencies are now so clear that this change has to be reflected in documents from the Commission and decisions of the Council.

5.4. Since parts of the objectives of the SGP are included in the treaty, recommendations emanating from them carry a greater weight than objectives which are merely adopted at Council meetings. This difference in legal base should not have such an impact on actual policy recommendations. Recommended policy actions ought to be based more on economic arguments than political considerations.

6. **A new frame for the objectives**

6.1. The Commission reports and Council decisions clearly gives the impression that price stability, budget balance and debt reduction are the main objectives. In order to draw a general lesson from the first years of the euro we find it important to try to fulfil the set of objectives in the SGP to be able to build a policy-mix which takes all economic policy objectives into consideration.

6.2. The effect from growth on these objectives is carefully calculated. What is missing is the impact of economic policy on growth and employment. That seems to be the main reason why our recommendations often tend to be more on the expansionary side. A reduced budget surplus or an increased deficit might very well be recommended if one's consideration is for both the fiscal stance and the growth and employment. Therefore a medium-term objective of at least 3% growth stated in summit conclusions could also be included in the BEPG and the SGP.

6.3. At Lisbon, a long-term objective for employment was set — reduce unemployment so as to achieve full employment. For the employment rate the long-term objectives were set to 70 % for men and 60 % for women. These long-term objectives should be reflected in SGP as medium-term objectives with the purpose to stimulate policies which aim at achieving the long-term objectives.

6.4. With some years of practical experience of the SGP there can now be time to assess experiences so far and refine this foundation for economic policy in the euro-zone countries. In addition to the proposals above, the Committee would like to underline some principles of flexibility for the year-by-year policy recommendations:

— the objectives should be considered as medium-term objectives so that the outcome for each separate year should be judged accordingly;

— business-cycle considerations should always be taken into account;

— short-term assessments for each Member State should always depend on how close it is to the long-term objectives;

— they should, as well, be considered in relation to the demographic development of each Member State.

7. **Concluding remarks**

7.1. Some general remarks are that there is a strong need for a more coordinated economic policy, including a strengthening of the macro-economic dialogue, and also a need for more flexibility in the policy recommendations in the SGP process. But we also want to point at some good national examples, which at the same time fulfil the requirements for budget balance, debt reduction, inflation rate and growth and employment targets. And the search for a consistent policy should also include targets for reforming pensions' systems so as to allow for the ageing population and financing public investments in key areas according to the Lisbon summit.

7.2. One obvious implication is that measures to keep the growth rate high might be more efficient for debt reduction than measures to actually pay the debt by running up large budget surpluses. A policy for high growth rates, therefore, is the best debt-reduction policy.

7.3. Some of the examples can be classified as structural reforms, with a long-run effect while others are rather counter-cyclical measures. In Greece the measure to combat tax fraud e.g. with a negative income tax, seems to have been efficient. The tax cuts in Germany, both the income tax and the company tax, can be considered as good examples of counter-cyclical actions, although that was not their primary purpose. In Belgium the expenditure ceilings and the agreement with regional and local authorities had a great effect on the budget balance. The Dutch formula for distribution of growth effects on the public budget between tax reductions and public debt reductions is interesting to follow. Although perhaps fair from a distribution perspective it might be questionable as a stability measure for the business cycle. On the whole, the Finnish budgetary policy seems well calibrated to keep the tight policy needed, despite sharp changes in revenues and expenditures, in a situation of easy monetary conditions and high growth.

7.3.1. Some countries have introduced changes in the taxation systems to reduce tax evasion and to increase the tax bases. These measures have not only turned out to be efficient, but they have also meant a convergence in the construction of taxation systems. These kinds of changes are very important and ought to continue.

7.3.2. Several countries have introduced reductions in different tax rates. Because of the high growth rates they have not resulted in reductions in tax receipts. The receipts have instead continued to rise. With lower growth rates such increases will hardly continue and will probably turn into reductions. The demand effect of these tax-rate reductions might have been realised already but the searched-for supply effects take some time to materialise. They might unfortunately appear in an economic setting when it is the demand side that ought to be supported. This highlights the severe timing problems of tax changes.

7.3.3. Along with the probable convergence in tax bases and reduced possibilities for tax evasion there now seems to be an actual shift from taxes on labour and income to other taxes. There is a small but evident tendency to tax systems convergence both in the constructions of the systems and in the rates.

7.4. Some countries have introduced expenditure ceilings in one form or other. They can solve some problems, e.g. help to reduce the tendency for public expenditure to be increased routinely when greater public resources become available. The system can be said to be 'election-proof' as the ceilings often are decided upon in advance and by unanimity. At the same time they can create other possible problems such as always using changes on the revenue side when counter-cyclical actions are needed, as the expenditure side is fixed beforehand for several years. It is also more inflexible when some fundamentals behind the ceilings change.

7.5. These are a few of the 'good examples' that can be found - some specific for a certain country, some quite general. It must be stressed that although good in one country, they are not necessarily good in all the others. The economic situation for one country might differ so much that what is efficient there might be inefficient or undesirable in another. Therefore, the examples of policies in this opinion and the comments for their use in one or several countries are worth discussing in all euro-zone countries but their actual application must depend on the situation in each country.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the European Economic and Social Committee on 'The Future of the CAP'

(2002/C 125/18)

On 31 May 2001 the Economic and Social Committee decided to draw up an opinion, under Rule 23(3) of its Rules of Procedure, on 'the Future of the CAP'. On 4 September 2001 the European Parliament decided to consult the Economic and Social Committee, under the final paragraph of Article 262 of the Treaty establishing the European Community, on the mid-term review of the CAP under Agenda 2000.

In the light of these two decisions, 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 March 2002. The rapporteur was Mr Ribbe, the co-rapporteur Mr Geraads.

At its 389th plenary session (meeting of 21 March 2002), the Committee adopted the following opinion with 91 votes in favour and six abstentions.

1. **Preliminary remarks**

1.1. The European Council's Laeken declaration of 15 December 2001 expressly refers to the European Union as a success story — starting with the coal and steel community, and then with the common agricultural policy (CAP). The Committee would stress that the common agricultural policy is the only policy conducted and managed at Community level. It is thus a key component of the European venture. At the same time, the Laeken declaration makes it clear that Europe today faces fresh challenges requiring fresh approaches.

1.2. The decisions taken under Agenda 2000, which was adopted at the Berlin summit in March 1999, cover the period to the end of 2006. The mid-term-review in 2002 and 2003 can make only minor adjustments to the existing regulations. A dependable framework is thus in place for the agricultural sector until the end of 2006.

1.3. After 2006, however, changes may have to be made to the Community's common agricultural policy (CAP). The need to act is already becoming clear today, and is due among other things, to:

— upcoming EU enlargement;

— forthcoming WTO negotiations (with growing pressure for liberalisation);

— still-unresolved economic, social, environmental and regional difficulties;

— the sustainable development debate and application of European agricultural model, and

— the need to meet the changing demands placed on agriculture.

1.4. A critical debate — of unprecedented intensity and taking in more sections of society than ever before — has been sparked off not least by the events of 2000 and 2001 (the BSE crisis, the dioxin scandal and the tragic pictures which the public saw of the fight against foot-and-mouth disease). This debate has covered the running of both agriculture and agricultural policy.

1.5. The Eurobarometer poll conducted in spring 2001, and the European Commission's flash poll of November 2000 clearly show that European consumer confidence in the common agricultural policy has been damaged. The crisis of confidence among European consumers could for the most part not be blamed directly on farmers, but, for instance, had its origins further upstream and particularly in the feed sector. Nonetheless, it is farmers who bear the brunt of the growing criticism. Farmers are increasingly under threat of social marginalisation.

1.6. Urgent action is needed to stem the tide, for the preservation and ongoing development within the Union of multicultural agriculture run along 'traditional' lines [1] in line with the principles of sustainability (the 'European agricultural model' [2]) is the key to (i) high-quality, regionally varied food production on a sufficient scale, (ii) diverse, species-rich cultural landscapes in Europe and (iii) rural development.

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[1] The term used by the rapporteur (bäuerlich) does not refer to farm size, but describes how the farmer works and thinks. It denotes an approach that (i) is geared towards preserving the farm and maintaining multi-skilled jobs (ii) considers the needs of future generations, (iii) ties in closely with the local and regional community, (iv) operates within interconnected and mutually reinforcing 'cycles' as close to the farm as possible and (v) takes responsibility for the natural environment and animal welfare.

[2] Economic and Social Committee opinion on a policy to consolidate the European agricultural model, OJ C 368, 20.12.1999, pp. 76-86.

1.7. The need for reform is the result not only of the political exigencies outlined above but also of discussions within society. The Committee is therefore particularly keen to turn this need to good account and to work out a policy that can take us forward into the future, and thus offer worthwhile prospects to farmers, to all agricultural players and to those affected by farming. It is vital to profit from the growing interest shown by many individuals and groups in how agricultural production operates in order to secure lasting political safeguards for the European agricultural model, which is a sine qua non of multifunctionality.

1.8. The various demands made on agriculture must therefore be linked up as quickly as possible so that the European farming sector is not again repeatedly faced with renewed reform discussions at relatively short intervals. Never-ending reform discussions are harmful and inevitably lead to irritation, ill feeling and uncertainty both among farmers and in society as a whole.

1.9. As the representative of organised civil society, the Economic and Social Committee, like virtually no other body, has to address both the various demands made on agriculture and the debate about the farming sector. The Committee has therefore decided to make a technical contribution in the form of an own-initiative opinion at this stage, prior to the upcoming reform discussion. This opinion — which will have to be built on in further opinions (e.g. on the WTO, enlargement or specific market organisations) — focuses mainly on reform after Agenda 2000 expires, rather than on the upcoming mid-term review.

1.10. This opinion also comes in response to the European Parliament's request that the Committee set out its views on the CAP generally and on the workings of Agenda 2000.

2. **Changing times: 45 years of the CAP**

2.1. *The CAP's foundations in the Treaty*

2.1.1. The objectives of the common agricultural policy at that time were set out in what was then Article 39 of the Treaty establishing the European Community, namely

— to increase agricultural productivity;

— thus to ensure a fair standard of living for the agricultural community;

— to stabilise markets;

— to ensure the availability of supplies; and

— to ensure that supplies reach consumers at reasonable prices.

2.1.2. Many times over the years, circumstances — mainly financial and market-related — have pointed to the need to adjust the CAP, and each time, policy has reacted to this.

2.1.3. Other European treaty articles are also particularly important for the CAP, including, at least, the following:

— Article 6 (integrating environmental protection requirements into Community policies, in particular with a view to promoting sustainable development);

— Article 152 (ensuring a high level of health protection in the definition and implementation of all Community policies);

— Article 153 (ensuring a high level of consumer protection);

— Article 158 (reducing disparities between the levels of development within the Community);

— Article 174 (Community policy on the environment, the objectives of which include preserving, protecting and improving the quality of the environment and which is based inter alia on the precautionary principle and on the principles that preventive action should be taken and that the polluter should pay).

2.2. *The different stages of the CAP and the different demands made on it*

2.2.1. At the CAP's inception, agriculture policy — and its mechanisms — focused on raising productivity and production levels. At that time, the main concern was to provide adequate food production, to foster the structural changes that were required for economic reasons and to free up workers for both the expanding industrial sector and for the service sector as well. It was possible relatively quickly to eliminate undersupply in key agricultural goods in what was then the EEC.

2.2.2. The main EU policy tools used to achieve this were (i) support for certain internal producer prices and (ii) protection against cheap imports (via import duties) ([1]).

([1]) At national level, operational investment incentives and changes in the structure of agriculture were often also introduced to optimise production (e.g. land consolidation).

2.2.3. Once the aim of providing adequate supplies at reasonable prices [1] had been achieved in some sectors, these had to face the question of how to deal with the increasing quantities that could no longer be sold in the common market. Surplus production was caused by (i) the expansion of European production and (ii) loss of market share as a result of imports. Since the growth potential of EU consumption was limited, the focus increasingly shifted to exports. Given that prices were generally substantially higher than world market levels, most exports were possible only with support. Export refunds, together with intervention in the form of storage measures, became a key agricultural policy tool.

2.2.4. A number of negative factors (not least the build-up of excessively large internal stocks and overly high costs) led to further changes and reforms to the policy tools. For instance, supply management emerged in certain areas through the introduction of quota systems (e.g. for milk and sugar).

2.2.5. Social and environmental issues increasingly entered the CAP debate by the mid-1980s at the very latest and a number of initial specific policy moves followed.

2.2.6. However, neither the voluntary set-aside schemes nor the other extensification measures adopted at that time (such as the promotion of environmentally-friendly farming) were able to resolve the increasingly apparent environmental difficulties or the escalating costs of the market regulations. Nonetheless, these may be deemed forerunners of the first measures designed to link economic and environmental objectives. Thus, the CAP did start, even some fifteen years ago, to take on board some issues that today are becoming ever more important against the backdrop of sustainability. Apart from the productivity gains within European farming, world market developments — particularly competition from heavily subsidised American producers — and the emergence on the international scene of new exporting countries such as Brazil and Argentina have also been responsible for the European Union continuing to run up surpluses in some production fields. This has further tempered the desired success of extensification measures.

2.2.7. These at the time relatively modest schemes did trigger some key developments. For instance, environmentally-friendly farming evolved in leaps and bounds after the EU gave it financial support and, thanks to the eco-regulation, an important framework in which to operate. The number of environmentally-friendly farms rose from 9 521 in 1988 and 28 868 in 1993 to 124 462 in 2000 [2].

2.2.8. At least two issues marked the debate on the social and environmental impact of the CAP, viz.:

— whether ongoing structural change would have an adverse impact on regional viability and on the environment and if so, what form would that take;

— whether the funding provided by Brussels would reach the 'right' targets.

2.2.9. There was a growing awareness that the productivity trend set in motion and successfully pursued using traditional CAP tools, not only has economic limitations but is also constrained by biological, environmental and social factors, and that it has a regional impact and raises consumer issues, too. It became clear that the development criteria applicable to agriculture — which is tied to a specific area and handles 'live' production factors — have to differ from those applicable to industry.

2.2.10. It is clear that

— many of the changes made to agricultural policy did succeed in their stated objectives; the CAP became to some extent the engine of European integration — especially in the case of southern enlargement;

— all moves for reform have been accompanied by vigorous political debate about reshaping the CAP; and

— new 'problem areas' have continually emerged — and still emerge — to trigger new discussions about reform. For instance, interest is now focused in addition on the issue of sustainable development and on eastward enlargement. It must be noted that, in some fields, adoption of the CAP by the candidate countries may lead to difficulties that are not easy to resolve.

2.3. *The 1992 reform*

2.3.1. The 1992 reform was an important turning point in the CAP. The decisions taken must be seen in the context of the GATT round that was then under way and which was subsequently completed.

2.3.2. The measures adopted in 1992 related mainly to:

— cuts in guaranteed producer prices [3];

— the offsetting of these cuts by direct price compensation payments;

(1) The Committee would emphasise that 'reasonable prices' must not be taken to mean 'cheap'.

(2) These are figures for the EU 15. Some Member States have seen much higher than average increases.

(3) Although production costs have fallen, this has not led to lower consumer prices.

— the introduction of mandatory set-aside; and

— lower export refunds (volumes and budget) and reduced external protection (with an eye to GATT).

2.3.3. Given the key factors behind the reform, the 1992 measures may be deemed a success:

— Surpluses of butter, milk powder, cereals, fruit and vegetables which could be utilised only at great expense (and the measures undertaken to destroy them) are now largely a thing of the past and EU agricultural produce is now increasingly being exported to non-EU markets without export refunds ([1]).

— Over the following years, it was possible to slash high intervention costs ([2]) and the share of export refunds ([3]) as part of total expenditure ([4]). Henceforth, farmers' incomes were to be safeguarded less by the traditional policy tools, than by the newly introduced price compensation payments ([5]).

2.3.4. At the same 'flanking' measures were introduced, including the agri-environment schemes. However, this part of the 1992 reform, designed specifically to extensify production, was limited to just a 5 % share of EAGGF guarantee expenditure.

2.3.5. Looking back on the discussions held in the run-up to the 1992 reform, it is, however, also clear that other issues were already raised in the debate at that time that were never put into practice. The then Agriculture Commissioner, Ray MacSharry, set out the new aims of agriculture policy as follows:

— the retention of an adequate number of farmers, in order to protect the environment, preserve the cultural landscape and maintain the 'traditional' farming model;

— recognition of farmers' two key remits: production and environmental services, in conjunction with rural development;

— the development of rural areas along these lines and also including the promotion of other, non-farming economic activities.

([1]) A total of 70 % in 2001.
([2]) In the crop sector, which today accounts for some 40 % of all EAGGF expenditure, from 63.4 % of total expenditure in 1991 to 5.1 % in 1999.
([3]) In the crop sector, from 38.9 % of total expenditure in 1991 to 4.9 % in 1999.
([4]) In 1991, 91 % of EAGGF guarantee expenditure still went on refunds and storage measures; in 2001, only 21 % went on the traditional market support measures.
([5]) In the crop sector, the share of price compensation payments (including set-aside) rose from 0.8 % in 1991 to 89.3 % in 1999.

2.3.6. Under the Commission's proposals at the time, market regulations were to be revamped to foster extensification and environmentally sound production methods ([6]). Direct income support, which had been introduced, was to be differentiated to reflect social and regional conditions, and the same was to apply to all other quantity-based provisions such as quotas and set-aside. Arable crop payments were to be conditional on the use of environmentally-sound production methods.

2.3.7. As we know, at that time, no differentiation was made and no corresponding conditions were attached to the newly introduced direct income support.

2.4. *Agenda 2000*

2.4.1. It became necessary to consider and launch new reform moves more quickly than expected after the 1992 reform.

2.4.2. Considerations focused inter alia on

— a more extensive market-led approach to agricultural production and enhanced competitiveness on international markets by bringing EU prices closer into line with prices on the world market;

— a stronger EU position in the new WTO negotiations to be achieved among other things by cuts in export refunds and the further switch from market support to direct payments;

— preparations for EU enlargement;

— wider inclusion of environmental objectives in the CAP;

— merging various agricultural structural measures and support schemes in moves towards an integrated rural development policy (second pillar of the CAP).

2.4.3. The Agenda 2000 reforms are consistent with the Marrakech agreements. They have several objectives:

— to maintain Community preference for the major agricultural products, despite reduced customs duties;

— to win back market shares in our internal market, e.g. for cereals in animal feed;

— to exploit opportunities on world markets which would are not expected to fall between 2000 and 2007;

— to incorporate environmental objectives into the CAP;

— to put together a rural development policy on the basis of a second pillar.

([6]) Direct aid was calculated on the basis of each country's productivity in the past.

2.4.4. In the run-up to the reform, criticism was again voiced about arrangements for the distribution of EAGGF resources. 'The Commission acknowledged ... that the ... support system ... was devoted, in large part, to a small minority of farms' ([1]). This again sparked internal deliberations within the Commission about redirecting resource distribution to farmers and regions on the basis of actual need.

2.4.5. Thus, the negotiations again included some of the basic points of the 1992 reform relating to the incorporation of new social and environmental aspects — albeit some in a modified form ... One example was the proposal to introduce ceilings for direct payments. The Commission plans also included mandatory 'modulation' to reflect the prosperity of the farm and/or its workforce in order to secure a 'fairer' distribution of support. And the mandatory linkage of direct support to environmental constraints was planned, too.

2.4.6. The Agenda 2000 negotiations also included unprecedented discussion about all three 'sustainability' pillars, in that equal consideration was given to economic, environmental and social aspects. After many rounds of negotiations, the Council eventually agreed on a raft of measures to reshape many market regulations ('economic pillar'), but considerable differences remained on social and environmental issues ([2]).

2.4.7. For example, the Council failed to endorse the Commission proposal for mandatory modulation or retention of the 90 head of cattle limit per holding in respect of the special premium for male bovine animals. The same is true of the Commission proposal to scrap the silage maize premium ([3]). As a result, other fodder plants such as alfalfa and clover remain at a disadvantage, even although, for environmental reasons, much would be gained from promoting them.

3. **Changes in agricultural policy over the last ten years: an assessment**

3.1. Among other things, the reforms undertaken in 1992 and as part of Agenda 2000 made European agriculture more competitive internationally. The problem of surpluses was substantially eased, on the one hand, by world market access becoming simpler and, on the other hand, by the use of European cereals for animal feed becoming economically more attractive. Many of the market difficulties that arose in the past have been greatly mitigated by the adoption of first-pillar measures.

3.2. The further dismantling of price support under Agenda 2000 was only partially offset by an increase in first-pillar direct payments (price compensation payments). Economic pressure on many 'traditional' farmers has continued to grow apace. There has been growing tension between the new demands made by society on agricultural production (sustainability, multifunctionality) and the economic exigencies that farmers have to contend with as a result of ever-sharper competition.

3.3. Direct payments to farms now play a key role. They require much more funding than traditional agricultural policy tools such as export refunds, interventions and storage measures, and, generally speaking, direct payments to farmers are probably more socially acceptable than indirect aid via the old mechanisms. In all, there are now three different kinds of direct payments to farmers, i.e.

— price compensation payments (first pillar)

— compensatory allowances in less-favoured areas (second pillar) and

— direct payments to farmers for specific services provided as part of the agri-environmental schemes (also from the second pillar).

3.3.1. The system of first-pillar direct payments based on acreage or livestock numbers ties in closely with the former price support arrangements. Its purpose is to offset the losses incurred by farmers as a result of changes to the old price support system.

3.3.2. By extension, the beneficiaries of this mechanism are, quite understandably, first and foremost the same farms and regions that benefited most from the previous price support system. This state of affairs often leads to public criticism that a large share of direct payments goes to a relatively small number of farms or has resulted in the concentration on certain crops ([4]). However, it must be remembered that Member States would have an opportunity to influence the distribution of these direct payments, for instance through modulation or by setting limits for male bovine animals.

3.3.3. The Committee feels that very careful consideration must be given to whether the existing mechanism does in fact best serve the issues society sees as vital for the future — sustainability, multifunctionality and the maintenance of a broad-based agricultural sector — and whether, in the long run, this can be squared with WTO rules.

([1]) 1996 annual report of the European Court of Auditors, OJ C 348, 18.11.1997, point 3.30.

([2]) It makes no difference that the second pillar, which makes up some 10 % of agricultural expenditure, gave a boost to rural development.

([3]) The European Court of Auditors has criticised this support scheme on environmental grounds — see European Court of Auditors' special report No. 3/98 concerning the implementation by the Commission of EU policy and action as regards water pollution, OJ C 191, 18.6.1998.

([4]) In the crop sector, around 40 % of all direct payments go to just 3 % of farms.

3.3.4. Second-pillar direct payments, are a different matter. These involve financial compensation for actual natural disadvantages and/or payment for the performance of specific environmental services. Such payments are thus a key element — but also an element with room for improvement — for incorporating environmental protection into the CAP.

3.3.4.1. On the down side, these direct payments offset only disadvantages and/or extra burdens, but often offer no genuine direct incentives to give priority to more extensive, rather than more intensive, production methods or to apply key elements of consumer protection as part of the European agricultural model (such as the promotion of food safety, traceability and quality assurance).

3.3.4.2. Environmental schemes have failed to provide many farmers with an adequate incentive to shift to more extensive production procedures in all but a few Member States. A Commission study concludes that agro-environmental schemes mainly have an impact in areas beset with production problems and have virtually no effect in intensive farming regions, where the financial incentives for farmers are so poor.

3.4. The first-pillar direct payment scheme continues to place the cultivation of many crops that are of key importance for the environment and for regional economies — e.g. fodder crops or grassland farming — at a disadvantage compared with earlier price-supported crops, since they are not eligible for direct payments.

3.5. Over the past few years, it has become clear that conflicts may arise between, on the one hand, productivity trends that make economic sense and are necessary under given conditions and, on the other, the requirements of the regional economy, the environment, animal protection and welfare, and consumer protection. The CAP has not yet acted to resolve these conflicts, i.e. it has not yet been possible to find a genuine balance between the three sustainability pillars.

3.6. Nor has this yet been achieved by Agenda 2000, despite the fact that the flanking measures introduced under the 1992 reform (forestry, early retirement and agri-environmental schemes) were expanded and combined with other, sometimes existing Structural Fund support measures to form — under the heading of 'rural development policy' — the CAP's second pillar. This may have heralded a new era for the CAP, but the question is whether measures now coming under the first pillar are, as yet, tailored to be an ideal adjunct to the regional policy, environmental and social objectives that are to be specifically achieved with the aid of second-pillar measures.

The Committee has, in principle, consistently welcomed the higher political profile given to rural development, despite the fact that, so far, this second pillar makes up only 10 % of the overall agricultural budget and currently enjoys no better financial provision than the former flanking measures taken together with Objective 5a and 5b support from the Structural Funds in the late 1990s. Integrated rural development policy must be broadly expanded as a useful adjunct to a number of first-pillar tools that, while essential, may be in need of revision, since such a policy is becoming ever-more important for a multifunctional agricultural sector. The Committee would stress that first-pillar measures and rural development tools must help maintain and promote multifunctionality, and must be consistent with the three sustainability pillars (economic, social and environmental). Neither the first nor the second CAP pillar should focus on one facet of sustainability alone.

3.7. The upcoming mid-term review of Agenda 2000 must not only consider whether the objectives of the individual market regulations have actually been met in terms of market and budget stability. In the Committee's view, the focus should be more on resolving a range of other issues in order to determine how to take account of the new demands being made on the CAP. These issues are of fundamental importance for the CAP's continued development beyond 2006. In the Committee's view, they include the following questions:

— Has it been possible to improve the incomes of the majority of the farmers?

— Have the reforms managed to halt job losses in the farming sector [1] and rural areas and, if so, to what extent? Is this the purpose of the CAP at all?

— Have the reforms changed the distribution of aid to farmers and, if so, how?

— How far has use been made in the Member States of Article 3 (Environmental protection requirements — cross compliance) and Article 4 (Modulation) of Regulation (EC) No 1259/1999, and what has been the outcome?

— How far have the new demands made on agricultural production been met? Are the criteria attached to the allocation of expenditure consistent with what is required under European agricultural model and the exigencies of the sustainability debate?

[1] In the EU-15, one farming job is currently lost approximately every two minutes.

— What has been achieved in resolving existing environmental and nature conservation problems and overcoming regional disparities?

— Is there a balanced distribution of expenditure between the first and second pillars and between the sectors within the first pillar (1)?

— Is there a sufficient balance between regions and between producers?

— Is there scope for additional measures to better exploit the special features of many agricultural products, their quality and their importance for the environment, for animal welfare and for the region concerned (2)?

— Are second-pillar resources really used effectively to promote rural development? How effective were the individual elements of the programme in practice? For instance, do early retirement schemes help foster rural development? Is it not the case that some reafforestation measures conflict with efforts to keep the countryside open?

— How could compensatory allowances for less-favoured areas — which are proving to be a key policy tool — be developed further?

— Why are there such different take-up rates both between Member States and between individual regions within Member States of, for instance, second-pillar resources and agri-environmental measures (3)?

4. **The demands made on agriculture now and in the future**

4.1. Despite the fact that the CAP is changing constantly and that many challenges have been overcome in the past, it is clear that key tasks remain to be tackled. These concern both policymakers and individual consumers, whose behaviour often conflicts with the demands for, for example, for a more regionally-based or a more environmentally-sound approach.

4.2. A change has taken place in what society expects and demands of farming.

4.3. Today, politics and society take a different view of agricultural production. Over the past fifteen years or so, there have been ever-increasing calls — arising out of the sustainability debate and from issues relating to regional development, jobs and the quality of employment, animal welfare and consumer protection — to factor environmental considerations into the CAP. Across Europe, more importance is now attached to the quality of the countryside and of production processes. European farming's remit is not merely to produce, but also to play a multifunctional role in rural areas.

4.4. Today's farmers face additional tasks that in the first place cost them money, without — so far — earning them any, since market prices for agricultural products do not include services performed by the farming sector as part of its multifunctional remit.

4.5. As for farmers' incomes, it must generally be recognised today that there is a wide discrepancy between producer and consumer price trends and that the gap is continuing to widen. Yet even within the farming sector, there are major income differentials that cannot be simply attributed to different skills levels, hard work or entrepreneurial spirit. Some marketing chains have encouraged disastrous price trends by offering foodstuffs at dumping prices. Market prices that are sometimes below cost price greatly limit farmers' room for manoeuvre and their ability to take decisions that foster more sustainability and multifunctionality. In many regions and agricultural sectors, farmers' incomes no longer bear any relationship to the work they actually perform.

4.6. Given the difficult economic climate, farmers are forced to take part as far as possible in every conceivable move (within the law) to increase productivity in order to compensate for real or de facto falls in (producer) prices and simultaneous increases in input costs.

4.7. The situation is exacerbated not only by the competition between European farmers, operating on sometimes over-saturated markets, but also by relentless pressure from the WTO to liberalise global trade in agricultural products. EU production requirements and constraints differ from those in other regions. Outside Europe, agricultural goods are often produced more cheaply, inter alia because:

— the climatic conditions are sometimes more favourable or farming systems enjoy greater structural advantages;

— some production methods fail to comply with European values (lower environmental, animal welfare, consumer and social standards, use of production-boosting substances banned in Europe);

— world market prices are often greatly influenced — and distorted downward — as a result of export subsidies, guarantees or securities.

(1) For example, 40 % of EAGGF guarantee expenditure goes to field crops, 4 % to fruit and vegetables.

(2) For example, would it not be appropriate in future to reward regional producers who join forces to devote their efforts to particular species that, while less 'productive', are suited to the region concerned?

(3) For example, almost half of all resources awarded to the Austrian and Finnish farming sectors from the EU agriculture budget come under the second pillar. In Belgium and the Netherlands, that figure is less than 5 %. In Germany, there are considerable north-south disparities in the application of the rural development schemes.

4.8. Hence the growing conflict between, on the one hand, the need for farms to increase productivity and, on the other, environmental, animal welfare and consumer considerations (i.e. multifunctionality).

4.9. The hard struggle involved in the various reform negotiations and the incessant discussion about the next steps that are required clearly show that the aims being pursued by the EU are in fact in permanent conflict and that it is not possible to square the circle. It is illusory — and will in future remain illusory:

— to want to have an agricultural sector which can produce under (often distorted) world market conditions (as far as possible without financial support);

— and, which at the same time, meets all the production expectations (in terms of quality, safety, protection of natural resources, animal welfare etc.) and copes with European costs ([1]);

— and also to secure a modern and attractive labour market that helps protect employees and is marked by high standards of employment, safety, and basic and further training.

4.10. All stakeholders must be aware of this as yet unresolved conflict of aims when assessing the CAP reforms to date and considering how to reshape the policy. Even many political decision-makers seem to be insufficiently aware of the complex, interrelated issues involved.

4.11. The key task for the future is thus to seek new ways of helping the concepts of agricultural sustainability and multifunctionality to achieve a breakthrough. The European agricultural model can only function if a new balance is struck between the economic, social and environmental pillars of sustainability.

4.12. There also has to be a way of offering farmers — and young, next-generation farmers in particular — attractive and economically stable prospects. In this connection, the Committee would point to the guidelines set out in its recently adopted opinion ([2]) and its backing for the joint declaration on young farmers issued by the European Parliament, the Committee of the Regions and the Economic and Social Committee on 6 December 2001.

4.13. The Committee stresses how important it is to maintain these different functions of European agriculture. In theory, a possible option might be to introduce liberalisation, with food needs being supplied from outside Europe because this would apparently be 'more economical' even though it would of course run counter to the principle of security of supply. However, farming culture, stewardship of the land and job provision — all the elements of multifunctionality — cannot be imported.

4.14. Maintaining the European agricultural model and extending it to the new Member States will cost a lot of money, probably more money than currently estimated in the agricultural guideline. Given that money is tight and that many finance ministers are seeking to cut public expenditure, the question of whether the transfer of public funds to farming is warranted will play a key role. The issue of the future — sustainability — may be the key to society's continuing acceptance of long-term financial transfers to agriculture.

5. **Reflections on the future development of the CAP**

5.1. *Reflections on fundamental issues*

5.1.1. The EU has decided to promote a 'multifunctional agriculture'. The services to be provided by EU farmers in this context include:

— producing adequate levels ([3]) of high-quality, safe foodstuffs;

— producing within an agricultural structure that fits in with the countryside and respects regional exigencies;

— producing in accordance with environmental requirements (environmental protection);

— preventing rural exodus;

— maintaining employment;

— rearing livestock without the use of hormones and antibiotics;

— heeding animal welfare;

— preserving rural culture and rural cultural heritage;

— providing valuable cultural landscapes;

— maintaining biodiversity.

([1]) A Brazilian farmhand earns perhaps 50 EUR a month.

([2]) Opinion of the Economic and Social Committee on New economy, knowledge society and rural development: what prospects for young farmers? OJ C 36, 8.2.2002, p. 29.

([3]) The Committee would, for instance, draw attention to its opinion on New impetus for a plan for plant protein crops in the Community OJ C 80, 3.4.2002.

5.1.2. These services involve very much more than simply producing food and to this extent agriculture is not directly comparable with other economic sectors.

5.1.3. There are only two ways of paying for such quality production and the services involved, i.e. of covering the attendant costs for farmers, namely:

— through the price charged for the product or

— through direct state transfer payments (or a combination of the two).

5.1.4. As long as consumer prices do not cover the (external) costs involved in taking account of multifunctionality, it will be necessary to provide transfer payments for farmers who meet the multifunctionality criteria that still have to be determined.

5.1.5. In this context it has to be borne in mind that the volume of transfer payments would show a further increase if:

— the additional constraints imposed on farmers were stepped up, and if

— producer prices were to fall further, inter alia under pressure from a distorted global market or from the marketing sector.

5.1.6. Compensation — in the form of direct payments — for the concrete additional services which farming is expected to provide might form the socially acceptable basis for income-support measures for EU farmers. EU farmers would no longer be offered support simply to produce food cheaply and reliably (product-based aid) but because competitive disadvantages arise on the liberalised world market as a result of society wanting agriculture to have a sustainable, multifunctional role in rural areas and because they make key social and regional contributions (maintaining jobs, farming of less productive peripheral areas) (rewards for using the desired production model). The aim should be to maintain broad-based, environmentally compatible production that is focused on quality — something which may require particular efforts and measures in certain production sectors.

5.1.7. European society would thus recognise the unique role of farmers as: producers of healthy and safe food; custodians of the countryside; guardians of cultural heritage; and committed supporters of natural and regional diversity.

5.1.8. This means of course that, in the context of the debate on the future of the CAP, all existing agricultural policy instruments will have to be reviewed to see that they fit in with this new approach and are thus compatible with the 'European agricultural model'. New instruments and models will also need to be considered.

5.1.9. CAP instruments of proven value must, as a general rule, also continue to be applied in future; such instruments will, of course, have to be further developed and brought into line with the new conditions.

5.2. *Direct payments*

5.2.1. Direct payments will play an increasingly important role as long as the 'external' costs associated with multifunctionality are not reflected in the price formation but have to be met by society.

5.2.2. The Committee expressly endorses the principle of linking direct payments to specific tasks and providing long-term safeguards for this increasingly important CAP tool. This does not in any way conflict with the requirement that if any kind of direct payment is to be generally accepted, there must be adequate justification.

5.2.3. This therefore raises the question of how far changes might need to be made to current direct payment arrangements. Doubtless, key sections of society will in future increasingly question the current direction of, and justification for, direct payments under the first pillar, with calls to tie such payments to multifunctional requirements. Policymakers will have to address this debate.

5.2.4. For the future, therefore, the establishment of a link between the awarding of direct payments and the provision of multifunctional services by agriculture might be a key issue in the discussion. As things stand, a right to public aid cannot, as a matter of principle, be derived from compliance with existing legislation. However, consideration must be given to whether, in the light of differences in production standards and conditions across the world, it is necessary to deviate from this principle in order to safeguard the multifunctionality of European agriculture.

5.2.5. The Committee stresses that multifunctionality not only means meeting environmental requirements and demands. It also means, among other things, sustainability, upkeep of the countryside, management of less-favoured areas, the use or non-use of certain production techniques, animal welfare and compliance with quality and safety requirements.

5.2.6. The Committee would ask the Commission to consider whether, in future,

a) a multi-tiered and varied system of direct payments is feasible:

— which is directed at active farmers who produce to harmonised European environmental and animal welfare standards that have been laid down uniformly and go beyond what is practiced outside Europe, in other words in compensation for the competitive disadvantages resulting from higher European standards;

— which, at a second level, is designed for farmers who meet additional, mandatory multifunctional criteria [1] that go beyond good agricultural practice and take account of factors such as stocking densities or the preservation of features of the countryside; and

— which, like the current agri-environmental schemes, is designed not only to cover payment for the performance of specific services, but also offers real incentives to be multifunctional.

and whether

b) the first pillar of the CAP could be enhanced with new forms of support which enable each Member State (in a framework of subsidiarity and within limits which avoid distortions of competition) to strengthen its support for those farms which accept additional commitments with regard to quality improvement, environmental protection and the safeguarding of jobs.

5.2.7. The Committee recognises that potentially tying all direct payments to particular (environmental, social and area-specific) responsibilities represents a decisive change for farmers, particularly since this would be likely to mean a significant redistribution of funds among farms, regions and even Member States. The Committee feels, however, that making such a linkage provides the social justification for the retention of transfer payments on a permanent basis.

5.2.8. The examination should clarify how useful it would be if, in future, entitlement to assistance were not confined solely to enterprises whose products used to be, or continue to be, subject to a market organisation and if these payments by society were to be awarded on a general basis in compensation for multifunctional production methods. All agricultural areas would therefore be covered [2].

5.2.9. One way to do this, which has been mooted by various parties, could be to make a direct payment — in the form of a standard per hectare premium to all farmers fulfilling multifunctional criteria [3], that will have to be defined, irrespective of the crop produced. The Committee asks the Commission to give closer consideration to whether this is feasible. It may be useful here to draw on the Commission's experience with the transposition of Regulation 1244/2001 (simplifying rules for the payment of direct support to small producers). At the same time, consideration must be given to the special features of particular crops such as olive oil.

5.2.10. In addition to responding to the questions raised in points 3.7 and 5.2.6, an assessment should be carried out into how the current system for the distribution of direct payments would change if a standard per hectare premium were in place, and what impact that would have on the individual sectors, regions and farms.

5.2.11. Consideration should also be given to whether:

— greater political and social acceptance can in fact be expected;

— this is a better way to secure multifunctionality in European agriculture in every region and

— the administration itself can be simplified.

5.2.12. In order to resolve the existing conflict between the claims of nature conservation, on the one hand, and those of agriculture, on the other, the Commission should also consider whether a possible basic premium should also be paid in respect of areas that, in economic terms, are either non-productive or of limited productivity (e.g. designated Flora-Fauna-Habitat (FFH) areas, hedgerows, boundary strips, etc.).

5.2.13. Direct payments currently come under both the first and second pillars. Second-pillar measures must be cofinanced by Member States. The Committee recommends that, in the upcoming reform debate, consideration be given to whether more acceptance and coherence could be attained if this different type of financing were to be abandoned — at least in part — and/or what other options are available to resolve the difficulties arising in cofinancing the second pillar.

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(1) In some European regions, stocks are kept independently of per-hectare limits in line with 'good agricultural practice'. The bull premium still remains limited at 2 livestock units (LU) per hectare of forage area. Thus, support for such farms is already reduced to 2 LU; (in 2002 to 1.9 and later even to 1.8 LU/ha) generally speaking, however, such farms, which certainly cannot be described as 'multifunctional', are not thereby excluded from support.

(2) This could possibly solve the problem of the current system penalising grassland farming, for example, or the cultivation of 'cleaning crops', e.g. pulses and grass-clover.

(3) Examples of such criteria are: stock-keeping in accordance with per hectare limits (maximum 2 livestock units (LU) per hectare), observance of a set crop-rotation, maintenance/establishment of landscape features or the presentation of a particular percentage area (to be specified) of landscape elements or 'extensive' forms of cultivation, as defined on a regional basis.

5.3. *The future of rural development (second pillar of the CAP)*

5.3.1. Rural areas not only have key functions to perform as areas of land but above all also have a fundamental, existential role to play for the people in economic, social and cultural terms,

5.3.2. Rural areas derive their distinctive features and originality from the diversity of regional resources. Sustainability arising out of a feeling of responsibility for future generations is a top priority and must be complemented by action based specifically on subsidiarity. Rural areas and agriculture have close functional links. Rural policy therefore requires the dovetailing of a range of different approaches. In future, therefore, second-pillar tools must be backed up by measures that go beyond the farming sector. These must cover, in particular the technical and social infrastructure, which is vital and indeed a sine qua non if rural areas are to fulfil their widely-ranging tasks.

5.3.3. Under the influence of extensive market liberalisation, there is a move towards concentration. This not only has an adverse impact on structurally weak regions but would also call into question key aspects of the European agricultural model (e.g. regional closed-circuits). The European Commission's White Paper on Commerce [1] states: 'There is a long-term risk of extreme concentration of distribution in Europe, resulting in a mere handful of big chains dominating the entire retail market. […] In the distribution sector, concentration of this kind could ultimately lead to a reduction in the range of products on offer, the variety of selling systems and the number of shops — particularly in city centres and rural areas and it would alter the relationship between small producers and retailers.' Over the past few years, major commercial chains have come to wield a great deal of market power. This has led to major concentration in the processing industry, which purchases agricultural raw materials in ever-greater quantities from whatever the source and requires that the products it buys be suitable for further processing. The result is often standardisation, which undermines the agricultural and regional diversity found in the past.

5.3.4. The CAP and regional policy must actively counter this trend in order to prevent a full-blown exodus from structurally weak rural areas. In particular, they must have a lasting impact on rural jobs. In structurally weak regions, the sustainable use of regional resources in line with endogenous development strategies must be supplemented by solidarity-based regional compensation arrangements.

5.3.5. The second pillar of the CAP is designed (i) to pay for the various services provided by the agricultural industry within the framework of multifunctionality by means of a coordinated package of compensation payments, (ii) to support the diversification of farming activities in order to broaden the income base and (iii) to use investment aid to foster regional competitiveness. Because of the specific functions of the various rural development tools (second pillar), these cannot replace CAP tools, but they must be a substantive and essential adjunct to them. EU environmental, health and animal welfare standards — especially those brought in under the most recent agricultural policy reform — require EU-wide coordination and coherence in order to ensure equivalent conditions and a level playing field. However, these standards must also be examined to check whether all the measures taken, some of which have proved to have a dampening effect on certain sectors, are in fact necessary.

5.3.6. The EAGGF rural development programme undoubtedly has a key role. However, the Committee would stress that in order to bring about overall progress in rural areas, Structural Fund measures must also be applied. Forward-looking rural strategies also require sweeping innovation. It is therefore essential to continue to develop the EU Community initiatives, especially Leader+ and Interreg, and to reflect these experiences in rural policy.

5.4. *Supply-side management/market organisation*

5.4.1. Opinions on supply-side management sometimes differ very considerably, as has been shown in the debate on the rules governing milk quotas. In the context of globalisation — and, in particular in connection with EU enlargement — quantity regulation measures are regarded as having a detrimental effect and are being called into question not only by agricultural economists, individual governments and EU Member States but also by some farmers.

5.4.2. Relatively stable markets are an essential prerequisite for ensuring that agricultural enterprises can also meet production criteria to a satisfactory degree. An agricultural sector geared solely to meeting competition will certainly not be able to fulfil its multifunctional role.

5.4.3. As agricultural markets are intrinsically unstable and extremely susceptible to price fluctuations, and bearing in mind that farmers have little influence on the market in bringing about quantitative adjustments, supply-side restrictions or incentives, in the form of quantity-regulation measures, clearly have an important role to play in bringing about sustained, stable agricultural production.

[1] OJ C 279, 1.10.1999, p. 74.

5.4.4. This is particularly obvious if we take the example of milk production. If the milk quota provisions were to expire and not be replaced — as some Member State governments are demanding — this would doubtless result in the concentration of milk production in favourable locations, with the attendant consequences not only for the environment, but also for the economic clout of regions with unfavourable conditions. Grasslands, in particular, which are especially valuable to nature conservation, need to be grazed on an ongoing basis by ruminants.

5.4.5. If the quota provisions were to expire without replacement, this could be in blatant contradiction to all the observations made with regard to the multifunctional role of agriculture, the European Agricultural Model and broad-based farming.

5.4.6. To facilitate an informed discussion during the mid-term review, the Committee therefore considers it essential that research be conducted into (i) the impact of the abolition of milk quotas and other quota systems on regional economies, (ii) possible compensation (with what justification acceptable to society?), (iii) how expensive that would be and (iv) generally how to maintain broad-based grassland farming in the long term.

5.5. *External protection/exports*

5.5.1. The EU is the world's leading importer of agricultural products. Although the EU's share of the overall world population is about 6 %, it accounts for some 20 % of overall imports of agricultural products (excluding intra-Community trade).

5.5.2. The Committee recognises that in the forthcoming WTO negotiations the EU will have to face demands by a number of individual states and groups of states for the EU's import duties to be substantially reduced or completely abolished and for its borders to be fully opened up to imports.

5.5.3. Under the current conditions prevailing upon the world market, it is not possible to guarantee the continued existence of an agricultural sector based on family-run farms and with a multifunctional role, as desired by every sector of society.

5.5.4. In principle, the Committee therefore expects that world trade policy must enable societies or economic areas to protect their producers and customers against products which were either not produced in accordance with the sustainable production rules recognised and practised in their areas or which do not meet imposed standards (e.g. meat containing hormones, battery farming, genetically modified products and BST in milk production).

5.5.5. The Committee would point out that corresponding rules are accepted in other sectors of the economy as a matter of course; no one would propose, for example, to allow motor vehicles without exhaust systems including catalytic converters to be imported into the EU.

5.5.6. It is essential that this form of external protection, which also safeguards 'Community preference' in the case of products deemed 'sensitive' for the EU agricultural sector, forms part of the underlying provisions of the CAP. The removal of such protection as a result of WTO obligations or de facto removal as a result of free trade area rules would have the overall effect of calling into question vital elements of the CAP and therefore, in the final analysis, also challenging the multifunctional role of European agriculture.

5.5.7. The Committee therefore calls for:

— negotiations to be entered into not only on the question of further reductions in external protection but also, with a view to establishing fair conditions of competition, on the introduction of binding minimum environmental standards and labour law standards in all WTO member states;

— a differentiated approach to be adopted, reflecting the different situations and requirements of the respective product areas, when further market liberalisation measures are undertaken;

— 'non-trade concerns' to be covered by the WTO negotiations, as demanded by the EU with a view to safeguarding the multifunctional role of agriculture;

— steps to be taken to ensure that WTO rules cannot be used to make it obligatory to grant market access to products which give rise to justified doubts to their safety (it is therefore essential to include a corresponding clarification in the Sanitary and Phytosanitary (SPS) Agreement);

— negotiations to be held on the introduction of provisions to prevent strict EU rules, in fields such as the new green technology (genetic engineering) or animal welfare, from being rendered absurd by the introduction of products from non-EU states which do not have correspondingly strict rules. The danger of confusing and possibly misleading consumers should be avoided through the use of clear definitions and the application of clear labelling provisions.

5.5.8. US Agriculture Secretary Ann Venemann has said, 'The Doha agreement closed the door on the use of (European) environmental measures as unfair trade practices and we kept the precautionary principle at bay.' These comments highlight the fundamental nature of the differences not only in how Doha is assessed, but also in the overall approach to the issue. This points to difficult negotiations. The Committee however expects the Commission to take a consistent negotiating position, not least because culture and the countryside — as products of the European agricultural model — are not tradable goods but part of society's heritage that policymakers have to defend. This heritage must be protected at least as vigorously as, for instance, the USA protects the export interests of its major companies such as Microsoft.

5.6. *Export refunds*

5.6.1. In its opinion on the strengthening of the European Agricultural Model, the Committee has already set out a number of fundamental observations on the question of agricultural exports; these observations do, of course, remain valid.

5.6.2. The Committee emphasised, in particular, that the aim should be to make the greatest possible reductions in all forms of export support. The Committee made it clear that the export credits and export credit guarantees, employed, in particular, by the USA, should also be regarded as export support measures, in accordance with Article 10(2) of the WTO Agreement on Agriculture; no rules had, however, been set out in this respect. This represents a fundamental problem for the international competitiveness of EU agriculture and a solution needs to be found.

5.6.3. EU farmers, who in future are even more assiduous in producing their products in accordance with the principles of a sustainable, multifunctional agricultural sector, will of course not only come under pressure as a result of the potential importing of products which do not meet the above-mentioned criteria but will, as a result, clearly have to contend with additional difficulties in particular sectors in selling their more expensive products on the world markets.

5.6.4. It must at the same time be clearly recognised that (good) returns can be made by selling quality products (e.g. cheese, wine, etc.) on the world markets, too, even without export refunds.

5.6.5. Every farmer is, and continues to be, free to decide how and what he produces and which markets he targets, within the framework of the existing laws and rules. But the growing shortage of funds, together with the WTO rules which are likely to be introduced in future, will undoubtedly make it necessary to review EU policy on agricultural exports at a later stage. The tapping of 'markets for quality products' (without the use of export support measures) rather than markets for mass-produced products (e.g. the sale of cut-price cereals to China on the back of export support schemes), will play an increasingly important role in this respect and this is likely to have an impact on all aid and other provisions of agricultural policy.

Brussels, 21 March 2002.

The President

of the European Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on a 'European Company Statute for SMEs'

(2002/C 125/19)

On 26 April 2001, the European Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an own-initiative opinion on a 'European Company Statute for SMEs'.

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 4 February 2002. The rapporteur was Mr Malosse.

At its 389th plenary session of 20 and 21 March 2002 (meeting of 21 March) the European Economic and Social Committee adopted the following opinion by 81 votes to 0, with 2 abstentions.

1. **The needs of SMEs**

1.1. *An observation*

1.1.1. For decades, the interest of lawyers and of the European authorities has been concerned almost exclusively with large companies, which appeared to be the essential actors of EU integration. Nowadays, everyone recognises that small and medium-sized enterprises (SMEs) play a fundamental role in the European economy, where they account for more than 90 % of all firms and $^2/_3$ of the jobs. It is therefore illogical that, at a time when a European company statute has been adopted, only the form most suitable for large companies has been retained: the company which can call upon the savings of the general public. Neither would it be justified, at the very moment that the European Commission is planning to end double taxation by means of a single basis for the assessment of corporation tax, to have a situation where, once again, it should be large and medium-sized firms that benefit from such arrangements through the European Company Statute (SE).

1.1.2. From now on it is important to encourage co-operation between SMEs in Europe, as the Feira European Council requested in adopting a 'European Small Business Charter'. A study published in October 1997 by the EU Commission and covering the period 1989-1995 (Business Law Research Centre of the Chamber of Commerce and Industry of Paris — CREDA —: 'Propositions pour une société fermée européenne', under the direction of J. Boucourechliev, Office for Official Publications of the European Communities, 1997. See in particular in this work, S. Urban, U. Mayrhofer and P. Nanopoulos 'Analyse des rapprochements d'entreprises en Europe', p. 11 et seq.) notes that joint ventures are proportionally more common between SMEs than between large firms. However, this movement is hampered by the existence of numerous barriers and long and expensive procedures, which mainly penalise SMEs.

1.2. *The need to set up a suitable tool for SMEs*

1.2.1. The only supranational European legal structure which existed up until now was the European Economic Interest Grouping (EEIG); this can provide specific services to some SMEs, but it is only a partial solution.

1.2.2. The European Company, the statutes of which have finally just been adopted ([1]), is strongly influenced by the rules on public limited companies and was designed for big companies. Although it is undoubtedly a step forward the SE, which goes back more than thirty years, is based on an old concept, and its foundations clearly show the symptoms of this: it is cumbersome and complex, unsuited to SMEs' needs, and has difficulty in incorporating social advances. In its report on the last Draft Council Regulation on the SE, the European Parliament stresses that the draft 'does not take enough account of SMEs, when the European SME is the engine of a major part of the European economy' (H.P. Mayer report).

1.2.3. Moreover, harmonisation efforts mainly concern public limited companies. The legislation applying to private limited companies or one-man businesses is still very marked by national law.

1.2.4. The European Commission itself is aware of this situation, since on 4 September 2001 it instructed a working party of experts in company law to look into 'the pan-European rules on take-overs initially, then the key priorities for modernising company law', including 'the possible need for new legal forms (for example, a European private company, which would be of particular interest to small and medium-sized enterprises)'.

([1]) OJ L 294, 10.11.2001.

1.2.5. In recent opinions, the European Economic and Social Committee has also emphasised the need for a European legal form for SMEs. In its own-initiative opinion 'The social economy and the single market' of 2 March 2000 ([1]), the Committee noted: 'It should also be possible for individuals and small businesses to establish such European legal forms, should they wish to be involved in cross-border co-operation in order to strengthen their competitiveness.' Similarly, the additional own-initiative opinion on the European charter for small enterprises ([2]), adopted on 28 November 2001, calls for a 'study on a European Private Company Statute'.

1.2.6. Finally, this idea has already been advocated by several European employers' associations, and a working party made up of lawyers of various nationalities, experts and academics has drafted a very detailed draft paper on the European private company. (See the CREDA study referred to above and published by the Office for Official Publications of the European Communities. This study has been extended by the work of the Paris Chamber of Commerce and Industry and the French Enterprise Movement, MEDEF, within a group of experts and representatives of business heads of different nationalities: 'La société privée européenne: une société de partenaires', September 1998).

1.2.7. It has therefore become necessary to think about a European company statute that is accessible to SMEs, with a view to facilitating their trading within the single market, enabling firms from different countries to pool their resources and giving a European scale from the outset to the creation of a new company or changes in company statutes. Such a single statute appears all the more necessary since enlargement will further increase the differences between national laws.

1.2.8. With this in mind, the European Economic and Social Committee held a public hearing on 22 October 2001, in which more than 20 European organisations concerned with the subject as well as experts and lawyers took part. The feeling emerged from this hearing that there was a real need for a statute for SMEs, in particular to encourage cross-border co-operation, but also to avoid any new discrimination against SMEs, which could not benefit from a European statute designed more for big companies. Participants expressed ideas about the methods of such a project, particularly urging simplicity and stressing the need to make the statute attractive by providing access to real facilities and opening it up to all forms of businesses. They emphasised the advantages of this as follows:

1.2.8.1. political advantage: the development of transnational and cross-border economic co-operation would encourage European integration;

1.2.8.2. advantage, through simplification: among other things, the very existence of a single European statute, easier administrative formalities, option of a single tax return;

1.2.8.3. economic advantage: SMEs who opted for the statute would be more competitive and better known, by having a European 'label'. Moreover such a statute could attract foreign investment to Europe.

2. **For a European SME statute**

2.1. SMEs are discriminated against today because — unlike large companies — they will generally be unable to benefit from a European statute. Moreover, it would be unrealistic to hope for a rapid harmonisation of national laws, particularly in view of the very great differences between them and the impending enlargement of the EU. The setting-up of a single simplified instrument as a complement to the SE therefore seems to be the most effective way of removing the obstacles to the development of transnational activity by SMEs.

2.2. It seems appropriate that the European Economic and Social Committee (EESC), as the spokesman of the economic and social players concerned, should open the debate at institutional level. This own-initiative opinion proposes some ideas on the development of a European statute adapted to SMEs, and indicates guidelines which the EESC feels should govern the detailed work that will have to be undertaken at a later date.

3. **Basic aims**

3.1. A European statute for SMEs should promote entrepreneurship and the creation of new activities, and be an incentive to cross-border partnership within the single market. The system that should be set up to achieve this must satisfy the following basic aims:

3.1.1. It should be open and easily accessible to both natural and legal persons.

3.1.2. It should be simple, flexible and able to be tailored to the various wishes of the partners.

([1]) OJ C 117, 26.4.2000.
([2]) OJ C 48, 21.2.2002.

3.1.3. It should be capable of evolving to adapt to changes in the company's structure and in its environment.

3.1.4. It should be a really European business structure, i.e. it should not be linked to national company law. However, it should not claim any privileges or preferential treatment.

3.2. The European small business project would represent a complementary approach to the SE.

3.2.1. By its European dimension: the statute would be intended for activities which had a European aspect in the broad sense, i.e. either involving two partners from at least two Member States or simply an existing or planned economic activity at European level, i.e. involving more than just one Member State. In both cases, and unlike mergers between large companies, co-operation between SMEs is almost always in response to a project for some sort of extension or development, or even creation of new activities.

3.2.2. By its very nature: it would not be a quoted company that could not make public calls for funds.

3.2.3. By its conception: the new company would be based on contractual freedom; it would be a company with a strong affectio societatis. The partners would be allowed maximum flexibility in organising their relations and, more generally, the running of the company. Model statutes could be usefully proposed by way of an example and guide.

3.2.4. By its legal status: this would be a genuine company under European law and references to national laws would be limited and specific.

3.2.5. By its users: in the interests of flexibility, it seems inadvisable to fix a maximum number of employees for firms wishing to benefit from a European SME statute. Obviously the companies targeted would be small and medium-sized businesses, within the meaning of the Commission recommendation of 1996, which is currently being revised. The statute would be adapted to very small companies or one-man companies.

3.2.6. By the social dimension: the regulation would in general refer to the principles of the law of the place where employees carried out their work. In addition, in order to involve employees, the following guidelines would have to be established:

3.2.6.1. As regards informing and consulting across borders, the statute should be based on the European directive currently being adopted [1] and so provide for an arrangement above the threshold of 50 employees.

3.2.6.2. As regards cross-border participation in the management of the company, the EESC suggests adopting a realistic and pragmatic approach which, while taking into consideration the rules drawn up in this area for the European Company, aims at maintaining acquired rights while avoiding an excessively cumbersome system.

3.2.6.3. Such a step will come under continuing the dynamics generated by the Green Paper entitled Promoting a European framework for Corporate Social Responsibility adopted on 18 July 2001 [2]. Moreover, the arrangements for involving employees will be perceived as a positive result of European integration, which can only enhance the European label provided by the new statute.

3.2.7. By its tax status: no permanent advantages can be envisaged a priori. On the other hand, under the strategy proposed by the European Commission in its communication Towards an Internal Market without tax obstacles [3], companies opting for the European statute could be the first beneficiaries of the machinery for a single consolidated basis for tax assessment, which would be a simplification tool for avoiding multiple taxation. In fact the European Commission is envisaging a pilot phase for the benefit of SMEs and/or firms that have opted for European Company status. The EESC will shortly be issuing an opinion on this communication.

4. **Possible procedures for a European statute for SMEs**

The project could operate along the following lines, which will have to be the subject of a detailed examination in co-operation with the circles concerned:

4.1. *Applicable law*

The project would clearly delimit the terms of reference of the various sources of law: the regulation, statutes and national law.

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(1) Proposal for a Directive establishing a general framework for informing and consulting employees in the European Community (common position adopted by the Council on 23 July 2001, OJ C 307, 31.10.2001)

(2) COM(2001) 366 final.

(3) COM(2001) 582 final.

4.1.1. In the areas that it would regulate (such as methods of formation, capital, registered office, registration, directors' responsibility), the regulation should be complete and remain independent of national laws, which could not be invoked even on a subsidiary basis. This is very important in order to ensure the unitary — and therefore European — character of the text, clarity and the security that the company model should provide for partners and third parties.

4.1.2. The regulation should also preserve the contractual freedom of the partners, and explicitly define its scope (in particular, organisation and operation of the company and the rules governing securities). Certain matters should really be covered by the statutes. To avoid the risks of omissions, the authority in charge of registration would check that all the specifications that should be in the statutes appear in them.

4.1.3. Of course, the European company for SMEs — like national companies — would remain subject to the general rules of the Member States: accountancy law, tax law, penal law and the procedures governing insolvency and suspension of payments.

4.2. *General provisions*

Simplicity and great operational flexibility would be the two watchwords of the draft.

4.2.1. The company could be formed by one or more natural or legal persons, who may or may not be nationals of a Member State. The minimum capital could be set at 15 000 EUR. and be divided into shares, though other possibilities would not be excluded. Each partner would be committed only up to the amount of his or her capital contribution.

4.2.2. The area covered by contractual freedom would be large, although the rights of minority stakeholders and third parties would be protected in the regulation. The statutes would lay down partners' rights, the organisation and operation of the company, the powers of its internal bodies and the conditions for transferring securities. However, there would be some minimum obligations laid down by the regulation, such as the list of matters subject to a collective decision of the partners.

4.2.3. The rules on representation of the company in dealings with third parties would be based on those in the First European Company Law Directive.

4.2.4. The registered office would be located inside the European Union and would be in the same place as the central administration of the company. It could be transferred to another Member State without the need for winding-up or the creation of a new legal entity.

4.2.5. Forced divestiture and the removal of a partner would be possible and should be regulated by the statutes, as should the repurchase or transfer price of securities. The statutes could also lay down that partners' cash and non-cash entitlements need not be proportional to the amount of capital subscribed, or that securities should be temporarily inalienable. The social pact could, in these areas, be modified only by a unanimous vote.

5. **Flanking arrangements to be provided for**

While it is inconceivable to envisage privileges in relation to national statutes, because of the risk of distorting competition, it could be interesting to make provision for the following, in order to make the formula more attractive:

5.1. setting-up formalities that were simplified, standardised, fast and cheap (perhaps even free registration);

5.2. special information and technical and financial support arrangements (e.g. with the help of Euro Info Centres, European venture capital networks, 'business angels'…);

5.3. access, in the event of new jobs being created, to various European or national support machinery (such as the JEV procedure, which can grant aid for a feasibility study and for investment, or the European Social Fund).

6. **Looking at other business set-ups**

6.1. It is worth looking at other business set-ups, particularly co-operatives and associations.

6.2. The EESC is in favour of the quickest possible adoption of the European co-operative society (SCE) project, which was the subject in 1993 of an amended proposal for a Regulation of the Council and European Parliament and which to a large extent addresses the concerns of the various sectors concerned.

6.3. However, like the European Company (SE), the draft statute for a European co-operative society (SCE) may prove less attractive for small firms, especially as regards the minimum capital required, or for new forms of socially-oriented businesses wishing to develop their activities at EU level.

6.4. So, in parallel with the advisability of having a European statute for SMEs, the EESC also supports the idea of thinking about European legal instruments likely to fulfil the needs associated with the emergence of these forms of 'entrepreneurship'.

7. **Conclusions**

7.1. An analysis of needs confirms the necessity for a European company project for SMEs, above all so that they can be treated on an equal footing with bigger companies — which are more concerned by the European Company statute — and to offer them a European label to facilitate their activities in the internal market.

7.2. To make it attractive, the new statute will have to remove the risk of multiple taxation and provide considerable legal flexibility, as well as facilities regarding setting-up formalities, advice and support for enterprise partnerships.

7.3. The EESC would set this project in the context of the conclusions of the European Council in Lisbon, i.e. improving European competitiveness and entrepreneurship and creating new activities and jobs. It must also promote employee participation at European level, a factor on which the success of integration depends.

7.4. The EESC therefore calls for the rapid setting-up of a simplified European statute for SMEs, as a complement to the European Company Statute.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Request by the European Commission for the Committee to draw up an exploratory Opinion on the Communication from the Commission — simplifying and improving the regulatory environment'

(COM(2001) 726 final)

(2002/C 125/20)

On 10 January 2002, the President of the European Commission, Mr Romano Prodi, requested the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an exploratory opinion on the 'Communication from the Commission — simplifying and improving the regulatory environment'.

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 1 March 2002. The rapporteur was Mr Kenneth Walker.

At its 389th plenary session on 20 and 21 March 2002 (meeting of 21 March) the Economic and Social Committee adopted the following opinion by 56 votes in favour, one vote against, with one abstention.

1. **Introduction**

1.1. Regulation plays an important role in achieving the objectives of the European Union included those embodied in the European social model. It creates many benefits for the Public and Business. Regulations are needed to improve public health and safety, to protect the environment, to meet social objectives, to ensure the universal provision of essential public services and to safeguard consumers. They also assist in promoting competition, establishing a 'level playing-field' between businesses, avoiding market distortions and creating a climate of legislative certainty in which public administrations, businesses and consumers can operate. Regulation also has a role to play in reconciling the sometimes conflicting interests of different stakeholders.

1.1.1. However, such benefits come at a price. The latest survey of business opinion, undertaken for the European Commission (European Commission, Internal Market Scoreboard No 9, November 2001, http://europa.eu.int/comm/internal_market) estimates that European companies could save at least EUR 50 billion with better quality regulation. This is equivalent to a reduction of 15 % in the compliance costs incurred by companies. By extrapolation, that puts the total compliance costs for Business at more than EUR 330 billion per annum. Moreover, these estimated savings are based on the *status quo*. As the Commission itself says, 'A higher quality regulatory environment will most likely unleash a new economic dynamism whose benefits will undoubtedly be even higher.'

1.1.1.1. These costs for companies represent, in effect, an additional burden that they are required to bear. As with any other impost, it is inevitably passed on to the consumer in the form of higher prices. Citizens need to be assured that they are getting value for money. At present, that is patently not the case.

1.2. Moreover, this is only half the story; the figures quoted above do not take account of the effect of the costs of regulation on public administrations or the costs of economic inefficiencies arising from poor regulation, e.g. higher prices and lower-quality products and services resulting from reduced competition and less innovation. On this basis, the Commission has estimated that the cost to society of poor-quality regulation could be of the order of 10 % of GDP. Small wonder that the Commission describes an improved regulatory environment as being, 'a prize well worth claiming'. High quality regulation would also assist in restoring confidence in government and institutions in general.

2. **Progress to date**

2.1. The Edinburgh European Council of December 1992 made the task of simplifying and improving the regulatory environment one of the Community's main priorities. At the Lisbon European Council of March 2000 the European Union set itself the mission of becoming the most competitive and dynamic knowledge-based economy in the world, capable of sustaining economic growth with more and better jobs and greater social cohesion. There, and at Santa Maria de Feira in June 2000, the important role that better regulation must play in achieving this was clearly established. The call for a strategy for further co-ordinated action to simplify the regulatory environment was subsequently confirmed and extended by the European Councils of Stockholm and Gothenburg.

2.1.1. The Lisbon Council specifically asked for the issue of simplification, both at the European level and in Member States, to be addressed in 2001. So far, the results of this exercise have been disappointing. There is little evidence of any substantive progress in the Member States and the Commission is twelve months behind schedule. These delays are particularly unfortunate in view of the imminence of enlargement, the present timescale for which envisages the admission of ten candidate countries in time for the 2004 elections to the European Parliament.

2.2. In the interval between the Edinburgh and Lisbon summits, little was achieved in the way of improving the regulatory environment. In 1995, the Molitor Report set out eighteen general recommendations. The Committee endorses these proposals and regrets that so little has been done in the intervening period to implement them.

2.3. In May 1996, the SLIM (Simpler Legislation for the Internal Market) initiative was launched, with the objective of identifying ways in which internal market legislation could be simplified, but the results have been extremely limited. Its application has been haphazard and ineffective and its impact has been muted. One reason for this is that the Council and the Parliament have frequently failed to follow through on Commission proposals to amend legislative instruments. Too often, the necessary follow-up action by the Member States has not been implemented. A recent report on the outcome of the fifth phase of the SLIM initiative (European Commission Staff Working Paper, Simpler Legislation for the Internal Market, SEC(2001) indicated that only five Member States had taken initiatives to simplify national legislation based on the Community Regulations/Directives reviewed during the fifth phase and in most of these cases it had not been possible to identify or quantify the cost savings to users. This is clear evidence of the need to improve the methodology of *post hoc* assessments.

2.4. Since the Lisbon Council there have been several moves to step up the pace of simplification. The European Economic and Social Committee issued an own-initiative Opinion on the subject in October 2000 ([1]) and a follow-up Opinion in November 2001 ([2]). In November 2000, a high-level advisory group was set up by the ministers for the national civil services to advise on all aspects of this problem; this group delivered its report, the Mandelkern Report, in November 2001. In December 2001, the Commission issued a Communication ([3]) to the Laeken Council on simplifying and improving the regulatory environment.

2.5. The Communication from the Commission to the Spring European Council in Barcelona ([4]) includes a recommendation that the European Council should endorse ongoing action to finalise by June 2002 an action plan for improving and simplifying the regulatory environment.

3. The Commission Communication to the Laeken Council

4. The Mandelkern Report

5. The Economic and Social Committee's Opinions

5.1. The Committee's Opinion of October 2000 ([4]) stressed 'the urgent need to embark on a process of simplifying regulations in the single market, whilst also improving the quality of their provisions, their incorporation into national law and the freedoms and responsibilities of the civil society players.'

5.1.1. It called upon the Stockholm European Council to adopt, on a proposal from the Commission, a multi-annual simplification plan, setting out objectives, priorities and methods, and earmarking budgets and resources for monitoring and follow-up action; the implementation of this plan should be reassessed each year at the Spring European Council on the basis of a Commission report.

5.1.2. The Opinion proposed that this plan provide for the adoption of codes of conduct by the EU institutions, ensuring that they help to promote the simplification of rules rather than making them more complex. The Commission should set an example and Member States and their administrations should be encouraged to adopt their own codes of conduct. The Committee led the way by setting out its own Code of Conduct in the opinion.

([1]) OJ C 14, 16.1.2001, p. 1.
([2]) OJ C 48, 21.2.2002.
([3]) COM(2001) 726 final, 5.12.2001.
([4]) COM(2002) 14 final.

5.1.3. The Opinion also recommended that the Commission should entrust the impact assessments to an external body having the requisite qualifications and meeting the necessary criteria of independence.

5.2. The Committee's Opinion of November 2001 [1] developed this idea of an independent expert body to review the regulatory process. The Opinion made the following concrete proposals for the improvement of the existing regulatory environment:

— A Regulatory Review body should be set up to monitor the review of existing legislation and set out the guidelines for introducing new legislation. It should also conduct ex-post evaluations of the effects of legislation. This body should comprise representatives of the Commission, the national agencies and Business.

— Specific targets should be set for achieved reductions in the volume of legislation, e.g. to reduce the total volume of regulations and directives by 20 % over five years.

— All new regulations, and all existing regulations which are renewed, should be given a finite life, at the end of which they would automatically expire unless further renewed.

— SMEs, and particularly micro-businesses, should be exempted from some regulations or from certain parts of some regulations. This exemption could be on a sliding scale, with more comprehensive exemption for micro-businesses employing less than ten people.

— The *acquis communautaire* should be streamlined by producing a 'core *acquis*' and bringing about some semblance of external order and rationalisation by the introduction of a codification process on the Swedish model.

— The accessibility of the *acquis* should be improved by reviewing the Official Journal and making the *acquis* available on-line.

— Alternatives to regulation should be sought, wherever possible.

— The 'public-interest test' should be applied to all legislative proposals.

— Full use should be made of advances in information technology and communications to reduce the compliance cost of regulations.

— In future, impact assessments made by the Commission on legislative proposals should include a report on their examination of alternative, non-legislative possibilities.

5.2.1. The Committee now reiterates these proposals and feels that they should form the basis of a systematic and comprehensive approach to achieving better regulation at all levels.

5.3. The Opinion established that there is a legislative hierarchy of European Regulations and Directives, transposed Community legislation in national law, national laws and government ordinances, agency regulations, regional and local regulations and collective agreements. The lower one goes in this hierarchy, the more the volume of legislation increases, the more its transparency diminishes, the more its accountability declines and the greater the extent to which it becomes complex, conflicting and arbitrary.

5.4. The Opinion also pointed out that framework legislation is inherently more flexible and gives businesses greater freedom within predetermined limits but there is the risk that it will simply shift the regulatory process to a lower level and create greater divergences between the regulatory climates of different Member States. The same dangers attach to the application of the principle of subsidiarity.

5.5. The Opinion argued that, 'the simplification process needs to be speeded up dramatically in order to facilitate the enlargement of the Union'. The Committee would wish to emphasise the importance of this issue. By the time that an action plan for improving and simplifying the regulatory environment has been finalised in June 2002, assuming that this deadline will be met, barely two years will remain before the planned admission of the first tranche of new Member States.

6. **General comments**

6.1. The Committee agrees with the Commission that the task of simplifying the regulatory environment requires a multi-agency approach and close cooperation and coordination between all the actors involved at the EU and Member State levels.

6.1.1. Despite the commendable intention of the Commission to tackle this problem effectively, the Committee seriously doubts whether the political will exists at all levels to enable this to be carried through with the necessary degree of determination. The history of cooperation, or lack of it, between Member State administrations in other areas, such as tax fraud, does not auger well for the success of this venture unless it is driven by a strong unifying force.

[1] COM(2002) 14 final.

6.1.1.1. The Commission is correct in saying that there is a need to inculcate new habits and working methods and to develop a new administrative and political culture. This will be difficult enough at the European level but will become increasingly difficult as one descends through the legislative hierarchy. In particular, the practice of some Member State administrations permitting anonymous, and largely unaccountable, agencies to assume regulatory powers would have to be discouraged.

6.2. The Committee approves the Commission's plan to simplify and reduce the volume of the *acquis communautaire*, which is in accord with the recommendations made by the Committee in its two Opinions. The Committee particularly welcomes the Commission's intention to achieve a reduction of 25 % in the volume of the existing texts by the end of its current mandate. It considers that a target date should be set for completing this process by the end of the following mandate in 2010. This should serve to improve the quality of the texts as well as reducing their volume, a consideration which is of equal, if not greater, importance. The Committee also agrees with the plan to withdraw proposals which have not been legislated on and which are no longer of topical interest. It would welcome a similar initiative on the part of Member States.

6.2.1. The Committee considers that the process of simplification requires the application of criteria on which decisions can be based, e.g. social and environmental standards or concerns. These criteria should be agreed by a process involving all the relevant actors.

6.3. The Committee welcomes the Commission's commitment to strengthen and intensify the consultation process. It believes that this can best be done by extending the consultations to as wide a constituency as possible. In particular, it considers that procedures should be put in place to widen the consultation process with the representatives of small businesses and other sections of society which are currently under-represented. In addition to the formal consultation process with selected interlocutors, the Commission should invite submissions from any interested party; consultation should, in effect, be at the option of the consultee. This process should be carried out prior to publishing the legislative proposal and clear deadlines should be set for the submission of representations.

6.3.1. The transparency of the consultation process would be greatly enhanced if, at the time of producing the legislative proposal, the Commission were to publish a statement of the representations that it had received and the extent to which they had been taken into account.

6.4. The Committee agrees with the Commission that Co-regulation, properly applied, is a way of achieving flexibility and greater effectiveness and accepts the Commission's contention that it does not constitute an attempt to by-pass the legislator's prerogative or to evade regulation. This was also the conclusion of a hearing on co-regulation, which the Committee's Single Market Observatory organised in May 2001.

6.5. The Committee approves the Commission's intention to set up an internal legislative network to promote good practice and accepts that it would be necessary to set up a parallel inter-institutional network to monitor the legislative quality of texts. The Committee feels that, in future, its Opinions should also comment on the legislative quality of the Commission's proposals.

6.6. The Committee agrees with the Commission on the need for Member States to ensure that Community acts are transposed into national legislation correctly and within the set deadlines. The Commission's Internal Market Scoreboard (No 9, November 2001) highlights the extent to which this is not taking place. The Committee attaches considerable importance to improving performance in this area.

6.7. The Committee broadly endorses the recommendations of the Mandelkern Report.

7. **Regulatory Impact Analysis**

7.1. The Committee notes that the Commission proposes to undertake pre-assessments of its draft proposals in order to determine which of them should be subjected to detailed impact analysis. The Committee feels that there are weaknesses in the current system of impact assessments and agrees with the European Policy Centre ('Regulatory Impact Analysis: improving the quality of EU regulatory activity', EPC, September 2001) that any regulatory or legislative activity by the Commission, the Council or the European Parliament should be the subject of Regulatory Impact Analysis (RIA).

7.2. RIA encompasses a range of methods aimed at systematically assessing the negative and positive impacts of proposed and existing regulation. It is not the same as cost-benefit analysis nor is it a substitute for decision-making by policy-makers or elected officials. It is based on the principles of risk analysis but operates within a framework which recognises that there are no 'risk-free' options.

7.2.1. RIA leaves the sovereignty of the political decision-makers intact, whilst improving the flow of relevant information to the regulatory policy-makers. RIA would not, in any way, change the balance between the European institutions.

7.3. Conceptually, it is based on six pillars:

— Justification: the clear identification of a specific problem and a convincing justification of the value and likely effectiveness of regulatory intervention.

— Consultation: extensive and transparent consultation with all stakeholders to identify the costs and benefits of regulatory proposals.

— Analysis: a systematic, empirical analysis of costs, benefits and alternatives that takes account of the 'real world' impact of regulatory strategy.

— Maximising overall net benefits: a focus on achieving regulatory solutions that maximise the overall net welfare of all citizens and stakeholders.

— Consistency: the use of common, standard, practical operating procedures that ensure consistency of analysis throughout all parts of government.

— Accountability: clear, structured communication to decision-makers of the consequences of choosing specific regulatory goals or strategies.

7.4. The Committee believes that many of the proposals set out in the Commission's Communication [1] should be implemented in the context of establishing an integrated decision support process based on the principles of RIA.

7.5. The EU's regulatory management policy is not set out in a clear or simple way. It is embodied in the Regulatory Policy Guidelines issued in 1996 by the President of the European Commission. These are not mandatory and there is currently no legal basis for undertaking RIAs at European level, nor is there any legal requirement to undertake comprehensive RIAs. The Committee feels that RIA should be an integral part of the policy-making process at both EU and national level.

7.5.1. The RIA must be designed to follow the whole legislative process from the Commission proposal to the Council decision (and the EP's second reading, where applicable), constantly assessing all amendments and compromises.

7.5.1.1. In principle, the competent DG should attach pre-assessments to all legislative proposals, in order that the Committee may have the opportunity to express its opinion on them.

7.5.2. The Committee considers that the Member States should also adopt RIA for their legislative procedures. Each Member state should be required to complete an RIA whenever it transposes an EU Directive into national law and whenever it notifies the Commission of its intention to legislate in technical areas not yet covered by the provisions of the Single Market. This should not be made a pretext for extending the period required for transposition.

7.6. The Committee therefore agrees with the European Policy Centre that:

— there should be a simplified legal base for the establishment of an effective future system of RIA at the level of the European Union;

— there should be a statement of guiding principles;

— there should be a long-term vision of the future system of RIA at the Community level.

7.7. The Committee also approves the European Policy Centre's other recommendations for a short-term Action Plan.

8. **Some further regulatory issues**

8.1. Apart from any other considerations (e.g. sustainable development, living and working conditions, etc.), regulation is a Single Market issue. The different regulatory regimes created in the Member States by variations in the timing and incidence of transposing Community legislation into national law, by national interpretations of EU legal instruments, by the 'filling-in' of EU framework legislation at national level and by the existence of subsidiary legislation created by national agencies, regional governments and local authorities, are fragmenting the Single Market and creating serious distortions of competition.

8.1.1. In the context of the Single Market, there is a strong case for a greater proportion of Community legislation to be effected through Regulations, which require uniformity of application in the Member States, rather than by means of Directives, which need to be transposed into national law, with all the delays and variations which that implies.

8.2. There is also a need for a centralising influence, which would help to reduce the disparities between the regulatory regimes of the Member States. In the USA, regulation is coordinated and supervised by the Office of Regulatory Affairs. While this organisation is part of the White House Office of Management & Budget and is not, therefore, independent of the President (to whom it reports), it is independent of all other branches of government and of the national regulatory agencies. It has considerable powers to intervene in the activities of all regulatory bodies. Draft legislative proposals have to be submitted to this office in the first instance and deadlines are set for it to give its approval; in doing so, it can require such amendments to the wording or substance of the proposal as it sees fit.

[1] COM(2002) 14 final.

8.2.1. At present, there is no comparable organisation within the European regulatory framework. The Commission has proposed the creation of an internal legislative network and an inter-institutional network and these bodies might undertake a similar role at European level but, given that some 90 % of legislation emanates from the Member States, it would be necessary, in accordance with the principle of subsidiarity, to replicate these bodies in each of the Member States. It would also be desirable to coordinate the work of these bodies at European and national level and this might require the creation of a joint body comprising representatives of the networks in the Member States, the Commission and the European institutions.

8.2.2. Alternatively, a Regulatory Assessment Office, modelled on the Office of Regulatory Affairs in the USA, could be set up outside the Commission. The creation of a mechanism for establishing RIA and monitoring its application should be a short-term priority.

8.3. Another feature of the regulatory system in the United States is the fact that regulatory agencies conduct 'peer reviews' of each other's work. Legislative instruments issued by one authority are submitted to the other agencies for examination and constructive criticism. This not only serves as an additional review process but also encourages the development of a common approach to the formulation of legislative instruments. The introduction of peer review procedures in Europe could be expected to provide similar benefits. In addition to the national agencies conducting peer reviews within each Member State and the institutions conducting peer reviews at the European level, it might be instructive for each Member State to conduct peer reviews on the work of the other Member States.

8.4. Consolidation is another issue that needs to be addressed. Consolidation is the grouping together in a single non-binding text of a regulatory act and its subsequent amendments. Again, there are substantial differences between the Member States and the European Union in the way in which this is effected; there are also wide variations in the time taken to produce consolidations; in general, the timescale appears to be too extended in most cases to meet the needs of users of the legislation, who require a concise, coherent and simple, but comprehensive, text as quickly as possible.

8.4.1. However, even in the relatively few instances where this is forthcoming, consolidation has the drawback that the text is not legally binding and cannot therefore be relied upon by businesses or citizens wishing to know where they stand before the law. Codification and recasting are preferable. An inter-institutional agreement was concluded in December 1994 on setting up a fast-track method of working with regard to the official codification of legislative texts but does not appear to have had much impact to date. An inter-institutional agreement was recently concluded for a more structured use of the recasting technique for legal acts and should make it easier to apply this method, provided that there is sufficient impetus to make it work effectively in practice.

8.5. In addition to the principle of proportionality, it is important that regulations should pass the test of practicality. Legislators need to focus on the practical effects that proposed legislation would have on the day-to-day operation of businesses and on the daily lives of citizens. Above all, it is necessary to be aware of the 'Law of Unintended Consequences'.

8.6. In this age of rapid technological development, it is particularly important that regulations should be technology-neutral. There is a need to ensure that competition is not distorted by framing legislation in such a way that it favours or discriminates against one technical process more than another, unless it is clearly established that this can be justified in the public interest. There is also a need to draft legislation in terms which will prevent it from being rendered obsolete by technological advances.

8.7. In order for the simplification process to succeed it is necessary that someone should 'own' it. Experience has shown that, in order to overcome the forces of inertia and resistance to change, as well as the protection of what are seen to be national interests, there needs to be a driving force at a high political level, dedicated to the achievement of stated objectives within a specified timescale.

8.8. It is important for the credibility of the simplification process that it should be seen to deliver tangible and measurable benefits within a reasonable time-frame. The fact that the process was effectively started nearly ten years ago and has made such limited impact to date is a cause for concern. The example of France, where a codification process has been in place for around fifty years and has so far dealt with little more than half of the regulations currently in force, is not encouraging. 'Progress' on that scale can only serve to bring the entire enterprise into disrepute.

8.9. Simplification at the EU level is pointless without a commensurate activity at Member State level. Nevertheless, in order to give impetus to the project, a start must be made at the European level without waiting for the Member States to act; it is devoutly to be hoped that they will elect to follow suit in short order. The success of the simplification process depends on the closest possible co-operation and co-ordination between the Commission and the responsible organisations in the Member States. It also needs the political commitment and active participation of the Member States' Governments.

9. **Conclusions**

9.1. The burden of poor legislation falls directly upon the citizens of Europe. The principle obstacles to making real progress in the area of simplification and regulatory improvement are the resistance to change which is inherent in any large bureaucracy such as the European Union and the insistence of Member States in adhering to national customs, traditions and practices. These forces can only be overcome by inculcating an entirely new culture at European and national level. To do so will require a level of cooperation between national and European institutions that has not yet been exhibited. This, in turn, can only be achieved by a high level of political commitment, both in the European Union and the Member States.

9.2. The policy of simplification must be aimed at a high level of harmonisation and coordination between the regulatory regimes in the Member States and the European Union. Although the Commission is the driving force for political change in Europe, some 90 % of legislation still originates in the Member States. Simplification can never be a reality unless they work together.

9.2.1. Progress in simplification also requires the confidence of citizens in the methodology and the goals of simplification; if citizens can clearly see the advantages and benefits, and if they are convinced that changes in regulations are aimed at improving their living and working conditions, they will be more inclined to view the process favourably. This, in turn, would have a positive influence on the level of political commitment.

9.3. Time is not on Europe's side in this matter. Simplification and regulatory improvement are essential steps which Europe must take in order to prepare itself for enlargement. Immediate action is called for at both the European and Member State level if anything effective is to be achieved in this rapidly diminishing time-frame.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on 'Immigration, integration and the role of civil society organisations'

(2002/C 125/21)

On 31 May 2001 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 'Immigration, integration and the role of civil society organisations'.

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 Pariza Castaños and the co-rapporteur was Mr Melícias.

At its 389th plenary session of 20 and 21 March 2002 (meeting of 21 March), the Economic and Social Committee adopted the following opinion unanimously.

1. Integration and citizenship

1.1. During the 1960s and '70s, when immigration was promoted by European host countries, the prevalent thinking was that the immigrants then arriving in Europe would stay only temporarily. But now that immigrant populations have clearly become permanently established, the public authorities have come round to the idea that the majority of immigrants are bound to be integrated into our society. New immigration [1] policies [2] must embrace this concept wholeheartedly.

1.2. The Communication from the Commission on a Community immigration policy argued that Europe's economic prospects and demographic trends made immigration a necessity and a key factor in our development. Public policy must therefore reflect the fact that large numbers of immigrants are a feature of present-day and future European society; in consequence, clear and effective policies for the social integration of the immigrant population are required. This means the entire immigrant population, not only immigrant workers: it includes their families, as well as refugees and people receiving other forms of humanitarian protection.

1.3. The concept of integration must be clearly defined if it is to be of use in all the EU countries, since the way social integration — not only of immigrants and refugees — is understood varies according to custom and cultural tradition.

1.4. The concept of integration put forward in the present opinion is defined as 'civic integration', and is based on bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment. The EU Charter of Fundamental Rights represents a reliable and useful platform for guiding new European legislation as well as national legislation.

1.5. The main benchmark of the civic integration proposed here is not how cultural aspects should be dealt with, but rather the concept of citizenship. Cultural diversity will be approached in a different way in each country, in accordance with the model in use, but this must not impact upon the principle of equality of rights and duties. In other words, whatever immigrants' cultural patterns may be, they do not detract from their status as persons who must have the same rights and duties as everyone else.

1.6. Cultural diversity cannot serve as a pretext for questioning the rights of immigrants. The Committee utterly rejects any denial of rights to immigrants on account of cultural differences. Religious freedom, for example, is a right which applies to immigrants as much as to all other citizens. All the basic personal rights, together with all rights guaranteed by law, also apply to immigrants, regardless of their cultural characteristics. In the same way as for rights, there can be no avoiding duties under the law on cultural grounds. Immigrants cannot refuse to obey laws or to accept the democratic norms of society for cultural reasons. Immigrants must respect the democratic values of European societies, and achieve social integration through democratic channels.

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[1] The concept of immigration, as used in the present opinion, in some cases also extends to ethnic minorities.

[2] See the Communication from the Commission COM(2000) 757 final.

1.7. Cultural aspects are of great importance. Cultural diversity is a characteristic feature of democratic, pluralist Europe. Immigration from third countries amplifies this diversity of ours, culturally enriching our societies. Culture must not be seen as something static, but rather as constantly evolving and being enriched by a wide range of contributions. The cultural contribution made by immigrants must be seen against this dynamic view of our cultural development.

1.8. The Committee therefore wishes to emphasise immigration's positive contribution to Europe's cultural development, and roundly rejects any fundamentalist approach couched in terms of the 'risk of cultural contamination' or 'defending the essence of European culture from alien cultural traits'. Thinking of this kind runs counter to the principles of democratic pluralism and is detrimental to social and cultural progress in Europe.

1.9. Social integration is closely tied in with immigration and asylum policies. The process of social integration must begin the moment an immigrant arrives: the way in which entry takes place, and the rights granted to immigrants or asylum-seekers from the outset are therefore crucial. Illegal immigration and work in the black economy are barriers to social integration. It is therefore important to devise immigration policies which open paths to legal entry and define the rights of immigrants in generous terms. The Commission has prepared draft directives [1] on these questions, to which the Committee has responded in its opinions [2].

1.10. Immigrants should adopt a positive, pro-integration attitude: to this end, they should be familiar with the language, laws and customs of the country in which they now live.

1.11. Knowledge of host country languages is a crucial factor for integrating immigrants. They should therefore be given the opportunity to learn them.

2. Work to date by the European institutions on policies for the social integration of immigrants

2.1. The European Commission is engaged in intense political activity under the provisions of the Treaty on European Union and within the political framework established at the Tampere European Council, adopting a range of legislative initiatives which the Committee welcomes. However, the Committee has observed that progress is very slow at the Council, where an overly restrictive policy approach prevails. The Laeken European Council undertook to adopt a new approach giving greater impetus to common asylum and immigration policy. The Committee hopes that this undertaking will produce concrete progress within the Council and vigorous support for the Commission's initiatives.

2.2. Over recent decades, public bodies in the EU's Member States have introduced policies for the social integration of immigrant populations. The initial assumptions made about the temporary nature of immigration held up such policies significantly.

2.3. The Community institutions have also for many years been implementing policies for the social integration of immigrants. They have resulted in initiatives to facilitate integration into the employment market, education, etc., and in policies combating racism, xenophobia and discrimination.

2.4. As far back as 1994 a Commission communication on immigration and asylum policies [3] argued that social integration should be one of the three key elements of immigration policy (the other two being cooperation with the countries of origin and control of flows). The proposals put forward by the Communication on a new immigration policy [4] regarding the social integration of third-country nationals are based on offering equal rights, extending free movement and implementing measures to enhance immigrants' economic and socio-cultural position and against xenophobia and racial discrimination.

2.5. A wide range of Community initiatives has been pursued in this field: actions worthy of mention include the Integra programme, aimed at integrating groups vulnerable to exclusion into the labour market, which has enabled a large number of immigration-related projects to be implemented, and the current Equal [5] programme, which pursues similar objectives. Mention should also be made of the European Employment Strategy, as defined at the 1997 Luxembourg summit, on account of its approach to combating discrimination in employment.

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[1] See the proposal for a Directive on conditions of entry and residence in OJ C 332 E, 27.11.2001, and the Directive on refugee status in OJ C 62 E, 27.2.2001.

[2] See the opinion adopted by the ESC on 16.1.2002 and the ESC opinion in OJ C 193, 10.7.2001.

[3] See the Communication from the Commission COM(94) 23 final, and the ESC opinion in OJ C 393, 31.12.1994.

[4] See the Communication from the Commission COM(2001) 757 final, and the ESC opinion in OJ C 260, 17.9.2001.

[5] See the ESC opinion in OJ C 75, 15.3.2000.

2.6. Measures to combat racism and discrimination, an aspect of enormous significance to social integration, have been put in motion by the Community institutions, especially since the Treaty of Amsterdam came into force. Two directives — one on equal treatment of persons irrespective of ethnic origin, the other on equal treatment in employment — and an action programme for their implementation are already in force, laying down a solid base for pursuing anti-discrimination policies. The Committee however is concerned at the present unjustifiable delays in implementing the directives in national law in some Member States.

2.7. The creation in 1997 of the European Monitoring Centre on Racism and Xenophobia equipped the European Union with a powerful tool for carrying out studies and putting forward proposals to combat racism and other forms of discrimination more effectively throughout the Community.

2.8. Although public bodies have made a clear choice in favour of social integration, it is no less clear that the policies conducted so far have proved inadequate. This is amply illustrated by the discrimination which immigrants continue to suffer, reflected in key areas such as their relative disadvantage in terms of access to employment, spatial segregation in urban areas and other aspects of social life, the social frictions visible in various parts of Europe and so on.

2.9. Social integration policies must be vigorously backed by all institutions — European, national, regional and local. Organised civil society should also be involved in providing this backing, as the only means of lending such policies the necessary degree of effectiveness. The Economic and Social Committee restates its willingness to make a decisive contribution to implementing new social integration policies and associating European civil society with them.

3. **Integration policies**

3.1. Integration policies must be implemented by public and private institutions, with the broadly-based and active involvement of social organisations. Policies must seek to remove the obstacles encountered by immigrants in gaining access to goods, services and means of participation in our society; job-seeking, housing, and basic, vocational and higher education, etc.

3.2. These integration policies must also focus on the host society, in order to change discriminatory attitudes, foster communication and compromise between immigrants and the host society, and encourage social interchange, mutual knowledge and involvement in the broadest possible range of social forums. Integration policies must therefore include actions targeted at both immigrant and host communities.

3.3. Policies for the social integration of immigrants should not lead to a social focus on immigrants in isolation. Some action must concern immigrants in particular, but most initiatives must lead to immigrants using general channels and services and enjoying access to what society has to offer on an equal footing with the rest of the population.

3.4. The political impetus required to integrate immigrants must be reflected in increased public authority budgets. Action plans for integration must be drawn up at EU, Member State, regional and local level. There must be an acknowledgement that what has been achieved to date has been insufficient: the present levels of integration of immigrant populations cannot be considered satisfactory. The call for the Member States to make greater efforts on integration policy extends to the countries applying for European Union membership.

3.5. The Committee is drawing up an opinion [1] on an open method of coordination for immigration policy.

3.6. *A Community framework programme*

3.6.1. A wide-ranging European initiative, fitting in with other Community policies, is required as speedily as possible to promote new social integration policies. Within the Community, the European Commission must take the initiative and prepare a wide-ranging Community framework programme to promote the social integration of immigrants and refugees. The programme should spur the other institutions to step up their integration policies at all levels. The framework programme must be actively backed by civil society organisations and the European Economic and Social Committee can play an important role here.

3.6.2. Public policy must address the complete range of issues, beginning with immigrants' initial reception and culminating in their full and practical acquisition of the same rights and duties as other citizens. This means launching initiatives in many areas. This opinion cannot cover them all, but will indicate a number of those which seem most important.

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[1] See the ESC opinion on an open method of coordination for immigration and asylum policy.

3.6.3. Sufficient resources should be available for initial reception to ensure that immigrants arriving anywhere in Europe do so under conditions conducive to integration. The Committee has drawn up an opinion [1] on the draft Directive on the conditions of entry and residence of economic immigrants, proposing favourable conditions for economic migration. The Committee has also examined the conditions under which asylum seekers are received [2]. In its opinions, the Committee has proposed backing for measures to ensure decent accommodation, advisory services for legal matters involving third-country nationals, multi-lingual information services, language courses available to all recent arrivals, employment guidance services, etc.

3.6.4. Employment integration is unarguably one of the main vectors of social integration, since in its absence integration in many other areas of social life will not take place. Employment policies must take account of the new immigration policy and facilitate access to employment for immigrants [3].

3.6.5. Housing and the urban environment lay bare the real level of social integration or exclusion. In many areas, housing and the urban environment present alarming indicators of the extent of the disadvantages and social exclusion suffered by immigrant populations — long-term residents as well as recent arrivals.

3.6.6. Full access to education, of high quality and delivered in a non-discriminatory environment, is another aspect of vital importance to the present and future social integration of immigrants. Using appropriate European machinery, the relevant authorities should recognise academic titles and vocational qualifications obtained in the countries of origin, avoiding any form of discrimination.

3.6.7. Health and other public social services must be accessible to immigrants under the same conditions as for everyone else. This means abolishing any form of discrimination and shaping services and provision of care in such a way as to ensure equality.

3.6.8. Action programmes are necessary at all levels to protect immigrants from racism, violence and all forms of discrimination. The public authorities, businesses, private bodies, the social partners and civil society as a whole must involve themselves in these programmes on a preventive basis. Foreseeing social problems of this kind is unquestionably the best way of nipping them in the bud.

3.6.9. Public institutions and civil society organisations must take on the task of fostering communication among Europeans, reaching across different cultures and highlighting the positive values of cultural pluralism. Cultural integration of immigrants and their descendants should be achieved in a way which acknowledges the diversity of their values and cultural traditions, the aim being for the intercultural approach to be the form of cultural development normally accepted by the host society.

3.6.10. Public participation must be able to rely on proper channels which open it up to immigrants. Involvement in associations, cultural life and active citizenship in general must be accessible to immigrants under the same conditions as for the rest of the population. This objective needs to be approached from a number of angles. Firstly, immigrants must be welcomed into existing associations in the host society: they must participate in neighbourhood and educational associations, employers' bodies and trade unions, political parties and movements, sports and professional bodies, NGOs etc. This means that associations themselves must root out any discriminatory attitudes and promote action in favour of equal participation on the part of immigrants.

3.6.11. Popular activities, whether cultural, religious, sports or leisure related, should be shaped to reflect the actual make-up of the population of our communities, so that immigrants can easily fit into them.

3.6.12. Social economy bodies are particularly helpful in integrating immigrants. Equal participation with other citizens facilitates dialogue and interaction between all people.

3.6.13. Integrating immigrants requires policies and initiatives which are sustained over time, if the types of exclusion and social segregation which presently occur in many parts of Europe, affecting the descendants of immigrant families, are to be avoided. People who are Member State nationals and second- or third-generation descendants of immigrant families are sometimes subject to racial discrimination.

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(1) See the opinion adopted by the ESC on 16.1.2002.
(2) See the ESC opinion in OJ C 48, 21.2.2002.
(3) See the ESC opinion on the 2002 employment guidelines in OJ C 36, 8.2.2002.

3.7. *Monitoring and assessment system*

3.7.1. Alongside the Community framework programme, there should be a monitoring system under which the results of on-going social integration policies could be assessed. The system, which should be equipped with qualitative and quantitative indicators to analyse results, would have the task of defining specific objectives and laying down practical action plans. Recommendations would be submitted to public bodies and civil society at both Community and Member State level.

3.7.2. The monitoring and assessment system proposed should be a part of the open coordination method which the Council is to adopt on European immigration policy.

3.7.3. The proposed system should include the active involvement of civil society organisations, and of the European Economic and Social Committee in particular.

4. **The role of civil society in social integration**

4.1. *Employment and labour relations*

4.1.1. It is essential for people to have adequate economic resources to ensure they do not become socially excluded. Work is the means by which economic resources are obtained and vocational skills developed. Work also represents a fundamental link in interpersonal social relations; this applies to both the self-employed and employees.

4.1.2. Providing immigrants with access to vocational training, work and the accompanying social benefits is fundamental to achieving social integration. But labour integration is meaningless if immigrants are subjected to discriminatory behaviour.

4.1.3. In general terms, immigrants experience greater difficulty than host country nationals in setting up and running businesses, or in entering the labour market on an equal footing and securing high-quality employment. This is, of course, a difficulty encountered by many social groups and individuals, but it is greater still for immigrants whether unskilled or highly qualified. Vocational bodies must act to encourage immigrants to take up vocations under conditions of equality and without fear of discrimination.

4.1.4. Public employment services should, in cooperation with the social partners, adopt criteria contributing to the proper management of migratory flows. Immigrant job-seekers must register with the relevant public services, and to do so they must be provided with the right information. Trade unions and other social bodies can play a key part in transmitting this information. Where immigrants experience particular problems in gaining employment, the public employment services must formulate specific policies helping all individuals, without discrimination, to enter the labour market.

4.1.5. The social partners, who largely run the labour market and are basic pillars of economic and social life in Europe, have a significant role to play in fostering the integration of immigrants. Experience shows, however, that on the labour market and in the workplace many immigrants are subjected to conditions which infringe labour and social standards or to an unacceptable degree of discrimination.

4.1.6. In the context of collective bargaining and labour relations, the social partners must shoulder their responsibilities for the integration of immigrants. To this end, they should strive to eliminate any direct or indirect forms of discrimination from collective agreements and labour standards and practices. Discrimination can occur on the grounds of gender, ethnic or national origin, culture, religion, age and so on: immigrants often accumulate a number of these factors.

4.1.7. The Economic and Social Committee proposes that the Community's social partners, acting fully independently within the framework of the social dialogue, give consideration to promoting social accords and other initiatives in order to foster the integration of immigrants through better labour relations and working conditions, and eradicate discrimination.

4.1.8. Account must always be taken of the different systems for collective bargaining, labour relations and social security in the Member States; in all of them, however, there is a need for the social partners at national, regional, sectoral and company level to act as a means of assessment and negotiation to help immigrants integrate at work.

4.1.9. On-going training is a basic tool for promoting real equality between persons on the employment market. The social partners must step up their efforts, so that immigrants have access to such training under the same conditions as nationals. Immigrants who do not know the language of the society in which they are living suffer additional difficulties in securing on-going training and employment. For this reason, specific on-going training initiatives for immigrants not speaking the host society language are required.

4.1.10. Many people encounter additional problems in developing their careers simply because they are immigrants. The social partners must therefore strive, in a number of different settings, to foster real equality in career development and remuneration, free of any discrimination.

4.1.11. The Community framework programme proposed with the aim of enhancing the integration of immigrants must embrace goals and initiatives specially targeting the social partners, who should be drawn into the programme.

4.1.12. The employment guidelines [1], drawn up yearly through the open method of coordination, must incorporate criteria for managing migratory flows, together with goals and initiatives to encourage the integration of immigrants through employment.

4.2. *Local communities*

4.2.1. Immigrants sometimes live in run-down urban ghettos which have been abandoned by the public authorities. This form of social exclusion is unfortunately common in Europe, and is often a source of conflict. The word 'ghetto' is justified in cases of a high concentration of persons of a single national or cultural origin, frequently combined with negligence by the authorities and urban and social decline. Ghettos are not created by this concentration, but rather by the lack of interest by the authorities and discrimination in access to public goods and services, and to the social and civic life of the community.

4.2.2. People living under such conditions suffer an extreme form of inequality and discrimination. The social integration of immigrants into the local community must however be a priority objective of European civil society and of the public authorities.

4.2.3. Immigrants must be officially counted as inhabitants of the areas they live in, as from this administrative acknowledgement flow a series of specific civic rights and duties constituting a first step towards integration.

4.2.4. In most parts of Europe, a range of civic associations work in cooperation with the local authorities to improve the quality of life and promote good neighbourhood relations. Such associations have different features in keeping with the traditions of each country, but they all fulfil an important function as locally-based civil society organisations.

4.2.5. These associations must open their doors to immigrants, in order to build their concerns, problems and views into programmes and activities. The objective should be for all, including immigrants, to form an active part of their local community on an equal footing. Voluntary work, in which immigrants are involved alongside other citizens, is a highly valuable means of social integration.

4.2.6. In many places immigrants experience huge difficulties in obtaining decent housing, sometimes having to live in overcrowded, sub-standard accommodation, or being concentrated in outlying and run-down areas. The primary responsibility of the public authorities, especially local authorities, is to help such people find proper housing. To this end, it is essential that local authorities be able to offer social housing and public rent support for those in need (whether of local or immigrant origin), on equal terms with no discrimination. Sound urban management and efficient housing policy remain a necessary instrument for social integration.

4.2.7. Landlords sometimes refuse to let to immigrants: this is a clear instance of racism which cannot be tolerated. Local authorities must act decisively to stamp out such behaviour, which makes it all the harder for immigrants to find decent housing.

4.2.8. For immigrants to be integrated, they must be properly received by the local community. Sometimes, however, they are greeted with reserve, suspicion, or even naked racism and rejection. Many human rights associations are working to facilitate immigrants' insertion into local communities, providing much-needed solidarity and fostering social integration. Such associations also launch locally-based information campaigns so that residents can themselves root out any minority racist attitudes which may emerge. They also brief immigrants on their rights and obligations in their new host society.

4.2.9. These representative civil society organisations should be consulted by the public authorities when devising or assessing integration programmes; by the same token, their work should be backed up.

[1] See the ESC opinion in OJ C 36, 8.2.2002.

4.3. *The education system*

4.3.1. In our societies, children acquire knowledge and skills through the education system, which also serves as a forum in which to initiate the process of socialisation and citizenship and pass on social and cultural values. It is also of the utmost political significance, being a key means of bringing about equal opportunities.

4.3.2. Guaranteeing equal access to the educational system, from the pre-school stage onward, for the children of immigrants is a priority in moving social integration forward. But these children may encounter a range of practical problems in gaining access to and continuing their education under equal conditions, and suffer clear instances of discrimination in poor quality schools, with texts and materials which have no relevance to them, sometimes becoming the targets of discriminatory treatment by staff and fellow pupils. The political authorities should draw up policies designed to prevent such situations, which are unacceptable in European democracies. The educational community and its member organisations and associations also have a crucial role to play here.

4.3.3. Special attention must be given to training for woman immigrants. Language learning, awareness of human, civic and social rights in the host society, and vocational training are all essential tools for integrating women immigrants and their families, given the multiplier effect of women's training.

4.3.4. Teachers' trade unions and professional associations, employers and 'social initiative' groups must take responsibility for promoting equal opportunities for all children within the educational system, regardless of origin, ethnic group, religion, language or culture; together with the public authorities, they must also strive to ensure that the educational system serves as a conduit for the values of tolerance and plurality.

4.3.5. The content of textbooks and other educational material needs to be looked at in order to weed out any negative attitudes towards immigrants or any other element which is directly or indirectly racist or xenophobic, even if unconsciously, together with negative value-judgments about different cultures.

4.3.6. Parents' associations have a very important part to play in school society. They can fulfil a most valuable function in integrating the children of immigrants and ensuring they are treated equally in schools. They must welcome participation by immigrants, so that their concerns, and their children's problems, are properly aired.

4.3.7. One of the greatest educational problems facing the children of immigrants is that of moving on to vocational or higher education. The public authorities and civil society organisations must involve themselves in removing all existing obstacles and implementing policies to secure real equality within the educational system.

4.3.8. Structured adult education has a major part to play in social integration policies. The public authorities, human rights bodies and organisations working within the education system must work together closely to extend training at all levels to the immigrant population.

4.3.9. Immigrants' mother tongues represent a cultural value for those speaking them and for the host society: the public authorities should promote the learning and use of such languages in the educational system. Agreements with the governments of the countries of origin for the promotion of their language and culture are a positive factor.

4.4. *Health and other public social services*

4.4.1. In the European Union, the right of all individuals to health care and certain social services and benefits is part of a shared heritage: the public authorities are committed to providing them within the bounds of each Member State's health and welfare system. Immigrants must be entitled to use public health services and other social services and benefits on the same footing as nationals, without discrimination. Excluding people from the health system and preventing them obtaining the social services they need means discrimination and social exclusion.

4.4.2. Associations representing public service workers and users, as well as NGOs, have a very important part to play in removing the discriminatory barriers which often prevent immigrants from making use of these services.

4.4.3. Many immigrants are unaware of their entitlement to public services, and are unfamiliar with how they work. National, regional and local authorities should launch information campaigns, in the appropriate languages, to familiarise immigrants with the public health services and other social services. Immigrant associations, NGOs and civil society organisations working in the health and social sectors should join with the authorities in such campaigns.

4.4.4. Many associations, religious communities and NGOs in the Member States work to promote health and other social services. The membership of such bodies must include immigrants and they must implement programmes to facilitate immigrants' access to public services. They must also make sure that these services have staff specially qualified to deal with immigrants when required. In some cases, it will be necessary to run health training campaigns specially aimed at immigrant communities.

4.4.5. These associations and NGOs should promote activities to ensure that the public authorities take account of the specific needs of immigrants in their management of health and other social services, and adjust them accordingly when necessary, especially to resolve language problems in communication between service providers and users. They should also make allowance for cultural and religious aspects.

4.4.6. Public service trade unions and occupational organisations must be actively involved in programmes to bring health and other social services into closer contact with immigrants. Those working in the sector must step up their training so they can help immigrants use the services available.

4.4.7. The public authorities and civil society organisations should conduct ambitious information campaigns to familiarise immigrant communities with health and social services and enable them to use them on an equal footing with the rest of the population.

4.5. *Religious institutions and organisations*

4.5.1. Religions do not only represent bodies of specific beliefs and shared practices: they also promote morals and codes of conduct, which largely guide individual lives, especially the lives of those belonging to particular religious communities. Most bodies of religious origin promote humanitarian and welfare activities and values, and encourage civic engagement and attitudes conducive to integrating immigrants.

4.5.2. Under certain circumstances, extremist and intolerant religious positions can breed racism and exclusion. Europe's own history offers examples of this which must not be forgotten. Institutions and organisations of religious origin must root out any such manifestations of racism, particularly if religiously-based.

4.5.3. A wide range of humanitarian and educational organisations and institutions supported by various religions and denominations operate in different areas of social life. They are carrying out important work in favour of the social integration of immigrants.

4.5.4. These bodies can launch campaigns among their congregations and work with the authorities and other civil society organisations to foster coexistence between people of different religious and cultural backgrounds. They can also encourage interfaith cooperation, drawing in different churches or faiths.

4.6. *Sports bodies*

4.6.1. Sport is nowadays more than a purely personal activity. Mass-appeal sports in particular can create a collective identity and provide role models for children and young people.

4.6.2. Although violent racist groups — which must be combated — sometimes shelter among large numbers of sports fans, the reality is that in today's Europe, sport fulfils an important task in fostering ethnic and cultural equality and promoting social integration.

4.6.3. Associations, bodies and sponsors involved in the major sports must clamp down on racist behaviour in order to rid themselves of extremist groups and encourage social disapproval of such conduct, acting dynamically to promote a clear message of equality between human beings. The huge social impact of their activities means they must act responsibly.

4.6.4. Above and beyond obeying the law, the leading sports institutions and associations should draw up a code of conduct at European level to weed out attitudes and groups which deny personal dignity, and should foster humanitarian patterns of behaviour favourable to integration.

4.6.5. Sports associations and clubs must ensure that immigrants or people from ethnic minorities can take part without any form of discrimination, and that they are not in any way excluded from their activities.

4.7. *Human rights and civil rights organisations*

4.7.1. Numerous associations and institutions operate in the Member States to defend the human and civil rights of all. Many of them are highly experienced in the struggle for social equality and civil rights.

4.7.2. In European society, human and civil rights problems are affecting immigrants ever more seriously. As a result, the relevant associations and NGOs have long devoted much thought and work to the issue.

4.7.3. Anti-racist organisations are particularly beneficial. They perform an important task in denouncing violations of human rights, providing information and mobilising society. Their work to prevent this type of behaviour occurring in the first place should be highlighted. The fact that second or third generation descendants of immigrants are also affected by racism shows how seriously integration policies have failed.

4.7.4. Representative associations working in this field must be consulted by the public authorities when integration policies are being framed, and must be involved in the ensuing programmes.

4.8. *Immigrant associations*

4.8.1. Immigrants themselves often set up associations of widely differing types — to greet new arrivals, cultural or religious bodies, etc. — which are of great significance to individuals' social identity and in facilitating their social integration.

4.8.2. The public authorities and civil society organisations should forge cooperative links with immigrant associations: they play an important role in social mediation and represent an ideal means of transmitting information to immigrants.

4.8.3. The objectives of immigrant associations should include the social integration of their members and the establishment of cooperation networks.

4.9. *Women's groups*

4.9.1. Women's groups striving to achieve equality between individuals are of special significance. Woman immigrants frequently encounter specific problems regarding access to employment, training, recourse to social services and enjoyment of fundamental rights. Women's groups merit special attention and targeted support from the public authorities.

4.9.2. Women play a special role in social integration processes on account both of their need to see the specific obstacles in their path removed, and of their ability to pass on to future generations values which must reconcile social integration with the continuation of specific aspects of their own original culture.

4.10. *The media*

4.10.1. In today's society, the mass media represent the main channel not only of information, but also of social values and patterns of behaviour and moral and political attitudes. Their approach to immigration issues is sometimes sensationalist, inaccurate and irresponsible.

4.10.2. Many of the media and many journalists do their job properly, informing public opinion with positive messages about integration. Others, however, stir up feelings of fear and concern, providing a breeding ground for racism.

4.10.3. While fully upholding the principles of freedom of expression and information which are inseparable from the democratic system, the mass media should agree on a course of action against racism and in support of integrating immigrants.

4.10.4. The principal media must work with the public authorities to carry out campaigns inculcating the values of tolerance, cultural diversity and human equality among the general public.

4.11. *Political parties*

4.11.1. Consensus between the different political currents on supporting equal rights for immigrants and their integration into society is of enormous importance for bringing society as a whole round to this point of view. The message conveyed by political parties, especially at election time, must be a pro-integration one.

4.11.2. The accord signed between European political parties in Utrecht to prevent racism and xenophobia provides a model to be followed at national, regional and local level.

4.11.3. Immigrants and members of ethnic minorities should join and be active in political parties and movements, which in turn must stamp out any form of discrimination in their own structures. Political parties should adopt affirmative action measures to encourage minorities to engage in politics and stand as candidates at all levels, and especially in local elections.

5. **Equal rights, equal duties: citizenship and voting rights**

5.1. It is crucial to the development of the European Union as an area of freedom, security and justice, as agreed at Tampere [1], to guarantee that third-country nationals living legally in the Member States are treated fairly. To do so, an integration policy aimed at granting them rights and duties comparable to those of other EU citizens is essential.

5.2. It is unacceptable in a democratic system for large numbers of immigrants to live permanently with a lower level of rights. It is reasonable for the acquisition of the same rights and fulfilment of the same obligations as other citizens to come about progressively, matching the individual's length of stay in the Member State of residence; however, after a certain period of time, equality should be complete.

5.3. The directive proposed by the European Commission concerning the status of third-country nationals who are long-term residents [2] marks an important step in this direction. This status would be acquired after five years' residence, and would entail rights comparable to those of EU citizens, including the right of free movement and establishment through the European Union. The Economic and Social Committee has drawn up an opinion [3] endorsing these aspects of the draft directive, while suggesting some changes. Although adoption of the directive will represent major progress, equal rights will still not have been achieved.

5.4. Access to the nationality and citizenship of the country of residence offers full equality of rights and duties. It is therefore of the greatest importance that national laws should facilitate the granting of nationality and citizenship to immigrants who request it, and that the procedures involved should be transparent. Over the last decade, some countries have taken steps in this direction, but in most Member States the process still takes too long and is bound up in red tape. The laws governing access to nationality fall within the remit of the Member States and, in keeping with the principle of subsidiarity, should continue to do so, but a degree of harmonisation of such legislation would be highly desirable, as would easy access throughout the European Union to nationality and citizenship for those who want it. Member State legislation allowing for dual nationality for those who voluntarily seek it is a positive factor for integration.

5.5. Equality of rights and duties should not, however, depend exclusively on the opportunity to obtain the nationality of the country of residence. Many people would not wish to seek this option, as it might involve loss of their original nationality, or for some other reason. Another path to equality must be available, and this can only be provided by long-term resident status. There should be only minimal differences in status between long-term third-country residents and Community residents, and these should in any case not affect critical aspects of social and civic life. To this end, progress must be made on issues such as citizenship and voting rights.

5.6. *European citizenship*

5.6.1. Articles 17 to 22 of the Treaty establishing the European Community define Union citizenship as complementing and not replacing national citizenship, which is a matter for each individual Member State. The Charter of Fundamental Rights moves towards 'civic citizenship' in the EU for residents of third country nationality, as indicated by the Commission in its communication [4].

5.6.2. A citizens' Europe cannot contain another, non-citizens' Europe in its midst. Those living on a stable basis in the European Union must be treated in the same way and be recognised as having the same rights and duties at Community level as Member State nationals.

5.6.3. The Convention has launched a process geared to reforming the treaties and forging a new model for the European Union. The Convention will examine the concept of European citizenship and the role of the Charter of Fundamental Rights.

5.6.4. 'Civic citizenship', based on the Charter of fundamental rights, as proposed by the Commission in its communication of November 2000 on a Community immigration policy, is one possible means of bringing European citizenship closer to long-term residents, but cannot become effective because the Treaty does not provide an adequate legal basis.

(1) See the Presidency Conclusions of the Tampere European Council.
(2) See the proposal for a Directive in OJ C 240 E, 28.8.2001.
(3) See the ESC opinion in OJ C 36, 8.2.2002.
(4) COM(2000) 757 final.

5.6.5. The Committee proposes that the Convention for the reform of the Treaties give consideration to granting EU citizenship to third-country nationals having long-term resident status.

5.7. *Voting rights*

5.7.1. No comprehensive proposal for equal rights and duties and for social integration would be complete without including the right to vote. This is a supremely important right for social integration, since it clearly signals who belongs, and who does not belong to a community. Being part of a community entails having the ability to take part in electing its representatives, and being elected as such. A part of the population from which the right to vote is withheld is, in a sense, being told that it does not belong to that society — which does nothing to facilitate social integration.

5.7.2. Some Member States have already allowed third-country nationals to vote in local elections. Similarly, the nationals of any Member State may also vote in European Parliament elections even if living in a Member State other than that of their nationality.

5.7.3. The Committee proposes that the Convention for the reform of the Treaties give consideration to granting the right to vote in local and European Parliament elections to third-country nationals having long-term resident status.

6. **The European Economic and Social Committee**

6.1. As a body representing organised civil society, the European Economic and Social Committee can play a key role in preparing and evaluating European legislative initiatives facilitating the social integration of immigrants. By the same token, the economic and social councils and similar institutions of the Member States can play an important part at national level.

6.2. The Economic and Social Committee expects to be actively involved in all forums and conferences on immigration-related issues held by the other European institutions. The Committee wishes to be actively associated with the Commission, Council and Parliament throughout the legislative process on immigration and asylum.

6.3. In 2002, the European Economic and Social Committee plans to hold a conference in conjunction with the Commission on immigration and social integration to be attended by the Member States' economic and social councils, the social partners, other bodies representing organised civil society, and leading NGOs involved in social integration. The conference will also be attended by the other European institutions and bodies. The proceedings of the conference will make a positive contribution to the preparation of the Community framework programme to promote the social integration of immigrants.

Brussels, 21 March 2002.

The President

of the Economic and Social Committee

Göke FRERICHS