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II

(Preparatory Acts)

COMMITTEE OF THE REGIONS

53RD PLENARY SESSION, 11 AND 12 FEBRUARY 2004

Opinion of the Committee of the Regions on the ‘proposal for a Council Regulation on the establishment of a regime of local border traffic at the external land borders of the Member States’ and the ‘proposal for a Council Regulation on the establishment of a regime of local border traffic at the temporary external land borders between the Member States’

(2004/C 109/01)

THE COMMITTEE OF THE REGIONS,

HAVING REGARD TO the Proposal for a Council Regulation on the establishment of a regime of local border traffic at the external land borders of the Member States and the Proposal for a Council Regulation on the establishment of a regime of local border traffic at the temporary external land borders between Member States (COM(2003) 502 final – 2003/0193 (CNS); 2003/0194 (CNS));

HAVING REGARD TO the Council’s decision of 18 September 2003 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

HAVING REGARD TO its Bureau’s decision of 19 June 2003 to instruct the CoR Commission for External Relations to draw up an opinion on this subject;

HAVING REGARD TO Articles 61 and 62 of the Treaty establishing the European Community ⁽¹⁾;

HAVING REGARD TO the Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community, integrating the Schengen acquis into the framework of the European Union;

HAVING REGARD TO the Protocol annexed to the Treaty establishing the European Community on external relations of the Member States with regard to the crossing of external borders;

HAVING REGARD TO the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (COM(2001) 386 final of 11 July 2001);

HAVING REGARD TO the Communication from the Commission on the impact of enlargement on regions bordering candidate countries (COM(2001) 437 final of 25 July 2001);

HAVING REGARD TO the Communication from the Commission: Towards integrated management of the external borders of the Member States of the European Union (COM(2002) 233 final of 7 May 2002);

HAVING REGARD TO the Communication from the Commission: Developing the acquis on local border traffic, (SEC(2002) 947 of 9 September 2002);

HAVING REGARD TO the Communication from the Commission: Wider Europe — Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours (COM(2003) 104 final of 11 March 2003);

HAVING REGARD TO the Communication from the Commission: Paving the Way for a New Neighbourhood Instrument (COM(2003) 393 final) of 1 July 2003);

HAVING REGARD TO the plan for the management of the external borders of the Member States, (European Council JAI) of 13 June 2002;

⁽¹⁾ OJ C 325, 24.12.2002, p. 57

HAVING REGARD TO its Opinion of 13 March 2002 on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (COM(2001) 386 final) – 2001/0154 (CNS)) and the Proposal for a Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months (COM(2001) 388 final – 2001/0155 (CNS), (CdR 386/2001 fin ⁽²⁾);

HAVING REGARD TO its Opinion of 16 May 2002 on immigration policy: Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration (COM(2001) 672 final); Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 final – 2001/0230 (CNS)); Communication from the Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy (COM(2001) 387 final); and on asylum policy: Proposal for a Council Directive on minimum standards for the qualifications and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection (COM(2001) 510 final) – 2001/0207(CNS)); Commission Working Document – The relationship between safeguarding internal security and complying with international protection obligations and instruments (COM(2001) 743 final); Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method (COM(2001) 710 final) (CdR 93/2002 fin ⁽³⁾);

HAVING REGARD TO its Opinion of 13 February 2003 on the document entitled Towards the enlarged Union - Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries (COM(2002) 700 final and SEC(2002)1400 – 1412) and the Report from the Commission to the Council: Explaining Europe's Enlargement (COM(2002) 281 final), (CdR 325/2002 fin ⁽⁴⁾);

HAVING REGARD TO its Opinion of 9 April 2003 on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service (COM(2002) 548 final - 2002/0242 CNS), (CdR 2/2003 fin ⁽⁵⁾);

HAVING REGARD TO its Opinion of 13 March 2002 on Strategies for promoting cross-border and inter-regional cooperation in an enlarged EU - a basic document setting out guidelines for the future (CdR 181/2000 fin ⁽⁶⁾);

HAVING REGARD TO its Opinion on the Northern Dimension – Second Action Plan 2004-2006 (COM(2003) 343 final) (CdR 102/2003 fin ⁽⁷⁾);

HAVING REGARD TO Article III-166 of the Draft Treaty establishing a Constitution for Europe which was submitted by the European Convention to the president of the European Council in Rome on 18 June 2003, CONV850/03 ⁽⁸⁾;

HAVING REGARD TO the draft opinion (CdR 277/2003 rev. 1) adopted by the CoR Commission for External Relations on 27 November 2003 (rapporteur: Mr Karsten Neumann, member of the Landtag of Mecklenburg-Western Pomerania (DE-PES));

WHEREAS:

'Cross-border reconciliation is possible, not in a Europe partitioned by walls, but only in a continent in which borders no longer divide.'(Richard von Weizsäcker, former president, Federal Republic of Germany)

1. The Committee of the Regions welcomes the proposals for the introduction of bilateral local border traffic agreements across Europe in the perspective of the forthcoming enlargement, given the high frequency and, in many cases, the regional importance of cross-border travel between the present and the future Member States on the one hand, and between the future Member States and our prospective neighbours on the other.

⁽²⁾ OJ C 192, 12.8.2002, p. 20.

⁽³⁾ OJ C 278, 14.11.2002, p. 44.

⁽⁴⁾ OJ C 128, 29.5.2003, p. 56.

⁽⁵⁾ Bulletin 6 (2003) 1.4.7

⁽⁶⁾ OJ C 192, 12.8.2002, p.37

⁽⁷⁾ OJ C 23, 27.1.2004, p. 27

⁽⁸⁾ OJ C 169, 18.7.2003, p.58.

2. The Committee of the Regions underlines that this 'flanking measure' for upcoming enlargement can ensure that the new and emerging borders between the new Member States and their neighbours do not pose an excessive barrier to trade, social and cultural interchange or regional cooperation, especially for border region residents.
3. The Committee of the Regions would stress that municipal, regional and local authorities in the border regions have always played – and will continue to play – a pioneering role in cross-border understanding and cooperation, since the difficulties and risks associated with division are first and foremost local problems that can be eliminated or at least mitigated through close local cooperation. The regional interests and difficulties involved may be highly complex, but can often be readily resolved at local level. However, they may also do lasting damage to relations between neighbouring countries and be an obstacle to good neighbourliness.
4. The Committee of the Regions is optimistic, given the wide-ranging and largely favourable experience of local border traffic in those European border regions already successfully operating regimes of this kind, in some cases for decades.
5. The Committee of the Regions welcomes the practical involvement of the accession countries to date in drafting the Commission proposal and stresses the need to continue consultations with them on the cross-border traffic regime.
6. In the interests of future European integration, and with particular reference to enlargement, it would be desirable to continue with a coherent, cross-border cooperation strategy. The proposed regulations could give an important boost to this process if the accession countries and the adjacent Member States make full use of the rules, where bilateral agreements along these lines are not already in place.

adopted the following opinion unanimously at its 53rd plenary session on 11 February 2004.

1. Views of the Committee of the Regions

The Committee of the Regions

1.1 welcomes the Commission's proposal – set out in two draft regulations, which for the sake of convenience are discussed together – to introduce, as part of a coherent visa strategy, facilities for border residents under the local border traffic regime. These facilities are to apply for an as yet undefined transitional period pending the full application of the Schengen acquis in the candidate countries joining the Union. It also welcomes the proposal that these facilities should be as flexible as possible during the transitional period so that the rules can gradually be adapted over time as progress is made in implementing the Schengen acquis in the Member States;

1.2 is pleased to note that the documents under discussion are part of a package of measures which, on the basis of the integration of the Schengen acquis into the framework of the European Union under the Amsterdam Treaty and the resultant general competence for 'measures on the crossing of the external borders of the Member States' under Article 62(2) of the EC Treaty, are deemed, under Article 61, to be 'flanking measures' designed to secure the free movement of persons pursuant to Article 14, to be adopted within a period of five years after the entry into force of the Treaty of Amsterdam;

1.3 refers to its Opinion on the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents (COM(2003) 323 final – CdR 250/2003 fin) and stresses the key importance of a well thought-out visa policy to prevent

illegal immigration and combat smuggling and the trafficking of human beings, particularly the degrading practice of trafficking in women. Such a policy must be underpinned by an effective information system and an efficient, integrated control system at the EU's external borders;

1.4 agrees with the view expressed by the Commission in its Communication Paving the Way for a New Neighbourhood Instrument that effective border controls are a key prerequisite for prosperity and security on both sides and for facilitating trade and border traffic while at the same time making the borders secure;

1.5 reiterates that local and regional authorities play a pre-eminent role in ensuring stability and security, particularly in border areas;

1.6 agrees with the Commission that, bearing in mind the long-standing social and cultural links across the external borders of the Union, it is important that the new external EU borders are not seen as a barrier to existing contact and cooperation at local level and points out that these links may, on the contrary, be turned to good account in the development of peaceful and good neighbourly relations between the EU and its new neighbours;

1.7 stresses that the regional and cross-border cooperation among municipal, local and regional authorities is vital to tackling these complex challenges in the long term, although action also needs to be taken at national level;

1.8 believes that real progress on cross-border cooperation is always more rapidly achieved when, under schemes like Interreg IIIA, ambitious financial support – which it is vital to continue – is allied to close collaboration, going beyond the actual scope of the support, between local and regional players in the border areas;

1.9 reiterates its call that special attention continue to be paid to border regions and, given their peripheral location, that they continue to be provided with appropriate resources and instruments in line with the approach set out in the Community Action for Border Regions;

1.10 is convinced that the facilities for cross-border movements under the local border traffic regime have helped make for smooth cooperation among local players in the border regions, both administrations and organisations, and can continue to do so under the proposed regulations;

1.11 therefore proposes that the successful Euregio model also be pursued at the EU's future external borders and that agreement be reached on local border traffic arrangements both there and at the temporary external borders at least for the residents of those local communities covered by specific support measures of the EU and the Member States, in order to consolidate the added value accruing from Community-funded projects and facilitate cooperation in these areas;

1.12 thus recommends examining whether it is in fact necessary or proportionate to lay down a specific geographical area, albeit only in terms of its maximum extent, in order to achieve the objectives at hand, or whether, under the subsidiarity principle, it should not be left up to Member States to determine the geographical area bilaterally, given their knowledge of specific local conditions and the economic, social and cultural links that exist in the area, particularly as there is no danger of any additional impact on other Member States' interests;

1.13 stresses that the local border traffic regime, like all measures to dismantle the internal borders between Member States under the Schengen Implementing Convention, must be structured in line with national law, taking account of the interests of all contracting parties;

1.14 for that reason, emphasises that, even allowing for the proposed facilities, all border movements must be subject to control since the territorial restrictions and time limits on unstamped visas cannot be effectively checked without border controls;

1.15 stresses that the introduction of the specific short-term 'L' visas must be subject to all the conditions that apply to the issue of short-stay visas; in contrast to short-term visas, however, 'L' visas are valid only for stays in the border area;

1.16 asks that consideration be given to the way in which, in the light of the planned specific visa and the proposal in Article 16 to dispense with entry and exit stamps, checks are to

be made on compliance with the time limits under Article 9; and to the extent to which such checks are needed to achieve the aim of the regulation and can be carried out in an appropriate way;

1.17 notes that local consular cooperation, which is governed by the Common Consular Instructions, and visa policy must also help protect the EU's external borders;

1.18 points out that the regulations are acts building on the Schengen acquis within the meaning of Article 3(1) of the Acts of Accession and thus must be taken on board fully by all the accession countries insofar as, and for as long as, they do not become directly integrated into the system on their accession to the European Union;

1.19 emphasises that the introduction of a local border traffic regime will also to a large extent be contingent on local conditions. Despite the fact that it is a matter of national responsibility, prior and ongoing consultations with the local and regional authorities in the border regions are therefore vital to the success of the proposed measures;

1.20 stresses that, in parallel with the proposed measures, a series of practical arrangements are needed to develop border crossing points in order to make external border movements smoother and more efficient and thus, at the same time, to concentrate efforts on ensuring security at the EU's external borders;

1.21 points out that, in view of the disappearance of internal border controls, such measures cannot be dispensed with even at the 'temporary external borders'; in fact they may, by closing a loophole in the regional, cross-border traffic network, create a favourable environment in which to utilise the economic, political, social and cultural opportunities of EU enlargement;

1.22 is pleased that these measures can also be applied at the border with the Kaliningrad Region and recommends that such a regime be launched without delay as a welcome adjunct to the transit arrangements between the accession countries, the EU and Russia in line with the compromises achieved;

1.23 recommends that initial steps be taken as quickly as possible to harmonise visa regulations for local border traffic with the corresponding customs arrangements, including, in particular, exemption from import duties;

1.24 notes that, having examined the issue, the Commission has dropped the idea set out in its Communication Towards integrated management of the external borders of the Member States of the European Union, i.e. the conclusion of agreements between the Community and the adjacent non-Member States; rather, the Commission leaves this to bilateral agreements to be concluded between the neighbouring countries involved, thus enabling account to be taken of the many and varied local and regional interests in the border regions, while also bearing in mind the interests of all Member States;

1.25 would welcome municipal, regional and local authority input into negotiating these bilateral agreements as a matter of course, analogous to the Committee of the Regions' involvement in the ongoing development of the European acquis in cross-border cooperation.

2. Recommendations of the Committee of the Regions

2.1 on the COUNCIL REGULATION on the establishment of a regime of local border traffic at the external land borders of the Member States (2003/0193(CNS)).

Recommendation 1

on Article 3(b)

| Text proposed by the Commission | CoR amendment |
|--|--|
| (b) 'Border area': means an area which, as the crow flies, does not extend more than 50 kilometres from the frontier. Within this area, the local administrative districts which are to be considered as part of the border area can be further specified by the concerned States. | (b) 'Border area': means an area which, as the crow flies, does not extend more than 50 kilometres from the frontier. Within this area, the concerned States can specify which local administrative districts which are to be considered as part of the border area can be further specified by the concerned States. However, as a rule, at least part of any such district is to be situated <u>no more than 50 kilometres from the frontier.</u> |

Reason

Setting a maximum limit does not appear to be necessary in order to achieve the Regulation's objective and is not, therefore, proportional. As Member States are aware of local conditions on the ground and of the areas that have economic, social and cultural ties, it should be left to them, in accordance with the principle of subsidiarity, to determine the geographical area bilaterally, so long as this does not have side effects that may jeopardise the interests of other Member States. A provision in the recommended form should be sufficient to achieve the Regulation's objective. This could be particularly useful in peripheral regions, where large communities are more than 50 kilometres from the land border, but have close economic ties with the neighbouring border area and, for example, receive support as a border area from the Commission via a Euregio, as in the case of the Pomerania Euroregion, where the island of Rügen (Germany) and the agglomeration of Stettin (Poland) are about 200 kilometres apart. At the very least, the particular case of island locations should be taken into consideration when calculating distances from land borders if '50 kilometres from the frontier' refers to the nearest land border on account of Article 1.

Recommendation 2

on Article 18(c)

| Text proposed by the Commission | CoR amendment |
|--|---|
| (c) authorise border residents to cross their border at places other than authorised border crossing points and outside the fixed hours. | (e) authorise border residents to cross their border at places other than authorised border crossing points and outside the fixed hours. |

Reason

The proposal gives the impression that it should be possible to cross external borders without any check on the special entitlement to do so. As a rule, the introduction of such a practice at internal borders without significant crime problems can be useful. However, it bears the risk of abuse if there is no border control and checks within the country cannot ensure that the restrictions on place and duration of stay are enforced. This risk cannot even be countered by more stringent rules on the issue of visas, particularly in view of the large number of visas that are expected to be issued under the local border traffic regime. Facilitations such as those provided for under (a) and (b) will already facilitate cross-border travel in a way that is in keeping with the need to fight cross-border crime and illegal immigration.

The Commission justifies this proposal by stating that this possibility is already provided for in Article 3(1) of the Schengen Implementing Convention and in point 1.3, Part I of the Common Manual, but it fails to point out that parts of the provision were deleted by Council Decision 2002/352/EC of 9 May 2002, thus leaving this possibility open since 1 June 2002 only to persons 'in respect of whom provision is made for the appropriate permits under bilateral agreements on local border traffic, known in Italy as 'local border traffic' or 'excursion traffic' and to 'seamen who go ashore in accordance with point 6.5.2.' Furthermore, given that the Executive Committee has, for good reason, never made use of this discretionary provision, there is no justification for proposing to use it now.

2.2 *On the Council Regulation on the establishment of a regime of local border traffic at the temporary external land borders between Member States (2003/0194 (CNS))*

Recommendation 3

on Article 5(2)(c)

| Text proposed by the Commission | CoR amendment |
|--|---|
| (c) authorise border residents to cross their border at places other than authorised border crossing points and outside the fixed hours. | (e) authorise border residents to cross their border at places other than authorised border crossing points and outside the fixed hours. |

Reason

See reason for Recommendation 2

Until Phase 2 of the Schengen system is implemented, what was stated in the reason for Recommendation 2 also applies here.

Brussels, 11 February 2004.

The President
of the Committee of the Regions
 Peter STRAUB

Opinion of the Committee of the Regions on the 'communication from the Commission' 'European Road Safety Action Programme halving the number of road accident victims in the European Union by 2010: a shared responsibility'

(2004/C 109/02)

THE COMMITTEE OF THE REGIONS,

Having regard to the European Commission Communication on the European Road Safety Action Programme (COM(2003) 311 final);

Having regard to the decision of the European Commission of 2 June 2003 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its Bureau of 14 May 2002 to instruct its Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to its earlier opinion on the White Paper 'European Transport Policy for 2010: time to decide' COM(2001) 370 final; CdR 54/2001 fin; ⁽¹⁾

Having regard to its earlier opinion on the communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Priorities in EU Road Safety – Progress Report and Ranking of Actions COM(2000) 125 final; CdR 166/2000 fin; ⁽²⁾

Having regard to its draft opinion (CdR 184/2003 rev.2) adopted on 3 December 2003 by the Commission for Territorial Cohesion Policy (rapporteur: Cllr. Royston Brady (Member of the Dublin Regional Authority) (IE/EA)).

Whereas:

- 1) road safety directly affects all the territory of the European Union and all its inhabitants. The financial cost of the 1.3 million accidents leading to 40,000 deaths and 1.7 m. injuries has been estimated at EUR 160 b. while the personal tragedies are incalculable;
- 2) the Treaty on European Union makes an explicit requirement that the Common Transport Policy should include measures to promote road safety;
- 3) the achievement of objectives under the Common Transport Policy and the European Road Safety Action Programme are shared competences with important roles for local and regional authorities;
- 4) the Commission has proposed that the EU should set itself the target of halving the number of road deaths by 2010.

adopted the following opinion unanimously at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 11 February):

1. The Committee of the Regions' views

1.1 The Committee of the Regions welcomes the Communication and Action Programme as an important contribution to the ongoing efforts to enhance and promote road safety.

1.2 The Committee endorses the objective of halving the number of road deaths by 2010 and welcomes the Council's endorsement of the objective. As the Communication points out, the objective is a serious collective undertaking involving responsibilities and actions at all levels of public authority. The setting of targets, the allocation of responsibilities and the integrated nature of the planning are key components for its success. However, the Committee believes that further consideration needs to be given to the target that has been set for the Action Programme. Given that the number of road deaths has

declined by 50 % over the past 30 years, the target of achieving a further reduction of 50 % by 2010 may be considered overly ambitious especially when considered in the context of the measures outlined in the Action Programme. Given the wide variation in road death and accident rates across the EU, it is also important that the targeted reduction is achieved in the Member States, bearing in mind especially a country's road accident rate and its track record in road safety, and that it is achieved for all road users and not just motorists.

1.3 Although the number of deaths and injuries suffered due to road crashes has been falling the Committee emphasises that there is no room for complacency as the situation on the Union's roads is still unacceptable.

⁽¹⁾ OJ C 192, 12.8.2002, p.8

⁽²⁾ OJ C 22, 24.1.2001, p.25

1.4 The Committee stresses that the rights of individual road users must not supersede the right to safety and security of the general community.

1.5 The success of the Action Programme will require the commitment of effort and resources by all stakeholders and the Committee of the Regions welcomes the recognition by the Commission of the key role of local and regional authorities. The Committee is also pleased that many recommendations advanced in its Opinion - Priorities in EU Road Safety - Progress Report and Ranking of Actions have been adopted by the Commission ⁽³⁾.

1.6 The Committee contends that action at Community level is especially important when dealing with rapidly-evolving technology and multi-national companies who operate in global markets, thus the Committee is open to the application of the Open Method of Co-ordination to certain aspects of improving road safety throughout the Union.

1.7 It is accepted that the failure of road users to comply with basic road safety legislation, particularly in relation to speeding, drink driving and non-use of personal safety devices is the main cause of serious accidents. The Committee underlines that particular emphasis must be placed on the implementation and enforcement of existing legislation in Member States.

1.8 The Committee welcomes the Road Safety Charter and seeks that it be actively promoted. It considers that the CoR could be a channel to further promote the Charter among the local and regional authorities throughout the EU and would encourage particular efforts to promote the Charter in the Accession States.

1.9 The Committee of the Regions welcomes the proposal for a European Road Safety Observatory as authoritative and comparable statistical data, particularly on the causes of accidents, are necessary to develop further targeted measures to make road transport safer.

1.10 The Committee encourages the development of technology such as standardised recording devices (black boxes) that could be fitted to road vehicles. Such devices if widely used could have a dramatic impact on driver behaviour and could also greatly alleviate much of the costs of enforcing safety legislation.

1.11 Within the bounds of existing Community policies, the Committee requests that fiscal incentives be provided for the development and application of safety-focused features for vehicles. The Committee emphasises however, that the development of safety features for vehicles and their occupants must not be at the expense of other road users who are already more vulnerable.

1.12 The communication notes that the European Union has the 'financial means' to support road safety initiatives. The Committee of the Regions underlines that such means be made

available to local and regional authorities to implement targeted road safety programmes. Road safety considerations should also be an eligibility criterion for transportation infrastructure funded through the Structural Funds.

1.13 The Committee considers that the Communication could have further addressed the perspective of, and issues relating to the safety of non-driving road users i.e. pedestrians and cyclists. The paucity of consideration traditionally given to such road-users has resulted in too many accidents on EU roads. The Committee is concerned that the proposed Road Safety Action Programme may reinforce this traditional bias.

2. The Committee of the Regions' recommendations

2.1 The Committee of the Regions considers that further consideration should be given to the target that is proposed for the Action Programme. This might include specifying sub-targets for individual Member States and for different categories of road users, as there are large differences in road safety within the EU. The targets set must also be realistic and provide incentives for countries with a proven track record in road safety. Sub-targets should be set in collaboration with Member States and local and regional authorities.

2.2 The Committee welcomes the current Commission - Red Cross campaign for children. The Committee underlines the importance of developing safe driving and road-use behaviour for young drivers and road users and in this regard the Committee would welcome proposals for an EU-wide Road Sense and Safe Driving Programme sponsored by the Commission aimed at secondary level students, possibly in conjunction with the YOUTH programme. The Committee suggests that local and regional authorities would be willing and able partners in helping to establish and implement such a programme.

2.3 The Committee seeks that greater consideration be given to the role of local and regional authorities in supplementing traffic law enforcement, in close co-operation with police forces, as this could greatly assist capacity towards the enforcement of existing legislation. However, legislation must not be used to make additional duties compulsory; rather they should be voluntary and focus mainly on local road safety issues.

2.4 The Committee welcomes the proposal to support the development of EuroNCAP to incorporate other passive safety aspects such as whiplash protection and the compatibility of vehicles in the event of car-on-car impact. However, the Committee considers that pedestrian accident severity risk assessment should be incorporated as standard in the EuroNCAP assessment programme.

2.5 The Committee of the Regions considers that the competent authorities must treat road safety as a prerequisite, in the design and planning of infrastructural road projects, through for instance, consultation with those responsible for road safety, for example, the police.

⁽³⁾ OJ C 22, 24.1.2001, p.25

2.6 The Committee recognises the potential contribution of improvements in road infrastructure in reducing the seriousness and frequency of road accidents. While the Action Programme sets out measures in relation to new roads infrastructure, the Committee would welcome initiatives for traffic management/road safety initiatives for application to existing roads, including urban areas. For example, general application of overtaking bans for heavy goods vehicles should be considered on high-risk sections of road.

2.7 The Committee suggests that the remit of the European Road Safety Observatory could be expanded to facilitate the collation of best practice gained in road safety enforcement and its dissemination to other practitioners. The role of the Observatory might also be extended to collect comparative data in all Member States on compliance rates with traffic/safety requirements and the probabilities of enforcement action being taken. The publication of this data, collected on a consistent basis, should provide an incentive for Member States to improve their performance in these areas.

2.8 The Committee would welcome greater consideration of the impacts of road accidents suffered by road crash victims and their families/dependants with a view towards establishing best practice relating to the provision of information and support to crash victims and their dependants. This may be a further task that could be developed by the Road Safety Observatory.

2.9 As the EU body representing local and regional levels of government, key partners in implementing the Road Safety Action Programme, the Committee seeks to be represented on the monitoring group established to review its progress.

2.10 The proposal to encourage the establishment of an information network between the national licence authorities is welcome. The Committee would also encourage consideration of some system whereby the fines outstanding from road traffic offences committed by EU citizens in a Member State where they are not resident be recovered.

2.11 The Committee reiterates its commitment to road safety by advocating improvement of methods to deter people driving without a licence or without insurance. Too many accidents happen when drivers fail to comply with licence or insurance obligations. Making roads safer means making drivers more accountable for the dangers they create, and also more accountable for fulfilling their obligations.

2.12 The Committee notes that Europe is an open space whose citizens are free to come and go as they please. Measures to reduce road accidents should not stop at borders. It is therefore necessary to step up international cooperation so that penalties imposed for road crimes and offences committed are really applied in the territory of a Member State to European and third-country nationals.

Brussels, 11 February 2004

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on 'corridors and TEN-T: a lever for growth and vector of European cohesion' and 'the development of a Euro-Mediterranean transport network'

(2004/C 109/03)

THE COMMITTEE OF THE REGIONS,

Having regard to the referral from the Council of the European Union and the letter from the president of COREPER dated 15 September 2003 requesting the Committee of the Regions' opinion on transport and links in Europe in the local and regional context, taking into account major cross-border infrastructure projects;

Having regard to the Communication from the Commission to the Council and the European Parliament on the development of a Euro-Mediterranean transport network – COM(2003) 376 final;

Having regard to its president's decision of 19 June 2003 to instruct the CoR Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to the Communication from the Commission to the Council and the European Parliament on a European initiative for growth - Investing in networks and knowledge for growth and employment – COM(2003) 579 final;

Having regard to the report of the High Level Group chaired by Mr Van Miert on priority projects for a trans-European transport network up to 2020, dated 30 June 2003;

Having regard to its opinion on Community guidelines for the development of the trans-European network (CdR 284/2001 fin) ⁽¹⁾;

Having regard to the amended 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 the trans-European transport network – COM(2003) 564 final;

Having regard to the Charter of Naples adopted by the Informal Council of Ministers of Transport of the European Union on 4 and 5 July 2003;

Having regard to its draft opinion (CdR 291/2003 rev. 1) adopted on 3 December 2003 by the Commission for Territorial Cohesion Policy (rapporteur: Mr Bernard Soulage, chairman of the Transport Committee of the Regional Council for Rhône-Alpes (FR/PES));

Whereas:

- 1) The development of transport infrastructures acts as a vital lever for building Europe, making trade easier, providing a source of economic growth, contributing to territorial cohesion and constructing a Europe which is close to the people; therefore the TEN-T and the corridors play an essential role in enabling the free movement of goods, services, capital and labour, i.e. the unimpeded operation of the single market.
- 2) Readjusting the balance between the various modes of transport is a vital condition for achieving sustainable development which respects the environment and complies with the European Union's international commitments;
- 3) For balanced development of the regions, the development of peripheral and landlocked regions should be properly taken into account, vulnerable areas protected, accessibility enhanced – especially in border areas - and a Europe close to the people established;

unanimously adopted the following opinion at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 11 February):

⁽¹⁾ OJ C 278, 14.11.2002, p. 7

1. The Committee of the Regions' views

The role of transport networks in the development of the Union

The Committee of the Regions

1.1 welcomes the initiative, since European and trans-European networks have a leverage effect on growth and employment, and underscores the need for a long-term vision of the Union's development, especially against the background of enlargement and the development of multimodal corridors beyond the Union's borders; this is particularly important in order to avoid the new member states being placed in the periphery;

1.2 underlines that, in matters of transport, the European Union's actions should not be governed by a short-term budgetary approach. It is vital to take into account the transport system's contribution to multi-centred development throughout the Union, with a view to sustainability. The infrastructures to be built for tomorrow must not be designed solely to solve today's traffic congestion or the congestion expected when Europe is enlarged. These also shape traffic flow in the future, and this – whether it involves the movement of people, services or goods – also concerns transport links in the Mediterranean, in the Baltic Sea, with the Balkans and with other neighbouring non-Member States;

1.3 considers that infrastructures generate economic development and – in the long term – help restore an economic balance between regions. We must start preparing today for the Union's development (and even for a subsequent enlargement) by strengthening the Union's links (physical and otherwise) with its neighbours to the east and to the south, in order to create a wide area of stability, integration and prosperity. It is with this in mind that an ever-stronger link must be established between trans-European transport networks (TEN-Ts) and the pan-European and Euro-Mediterranean corridors, which can be developed under the new neighbourhood policy strategy. As the High Level Group's report indicated, wise long-term planning for TENs must include close links between the priority TEN-T projects and pan-European corridors, using the instruments available to do so;

1.4 stresses, in this context, the priority nature of cross-border links and routes across natural obstacles; developing these ought to help lower barriers to trade and even out development levels throughout Europe;

1.5 supports the Commission's proposal to define clear priorities for the various trans-European transport network projects, in order to channel the available financial resources efficiently and avoid building sections of these routes in a piecemeal fashion, which would considerably delay completion and hence their impact on the development of Europe;

1.6 demonstrates, against this background, its interest in the proposals made by the High Level Group (Van Miert Group), based on specific criteria regarding the selection of priority projects, according to the European added value and the level of commitment – especially financial – of the Member States concerned; it is nevertheless concerned that the list of projects chosen remains particularly long, if projects already started but not yet completed and/or funded are taken into account. A programme should therefore be drawn up setting out projects which are ready to start up and already have funding and which can therefore be launched without delay (Quick start programme). The Committee of the Regions fully intends to be involved and contribute;

1.7 approves of the priority given to cross-border projects which encourage intermodality and the use of sustainable forms of transport, especially the concept of motorways of the sea, provided that these fit into a comprehensive sustainable transport scheme. Support measures for motorways of the sea should not create significant distortions in competition between ports or in relation to existing shipping freight services or sustainable land-based rail or inland waterway freight transportation services;

1.8 affirms the local and regional authorities' desire to be more directly involved in the project study, drafting and integration process, in particular with regard to cross-border links, where local and regional authorities are often amongst the most active parties in ensuring that these projects move forward.

Definition and implementation of the priority routes

The Committee of the Regions

1.9 appreciates that the Commission wishes to see the rate of financing from European funds increased to 30 % for projects establishing cross-border links on main routes declared to be of European interest; these projects usually mobilise the least funding from traditional sources. It urges governments to implement this recommendation without delay;

1.10 endorses the Commission's proposal to set up a procedure for the 'declaration of European interest', and to put in place 'coordinators' responsible for monitoring cross-border projects;

1.11 feels that the declaration of European interest should only be granted to projects to which the countries concerned have shown commitment, both in terms of funding and as regards the work completion dates, in order to ensure speedy, coordinated implementation by the parties involved;

1.12 would like the management of priority projects to lead to the creation of steering committees for the main routes, along the lines of those set up for the multimodal corridors, involving the local and regional authorities directly affected by these main routes;

1.13 suggests that the criteria for determining the priority routes clearly identify the objectives of the different projects as regards three main factors: their contribution to the network effect and to unblocking bottlenecks (connections between source/target regions with heavy traffic, improved transport conditions, time-saving), their sustainable development impact (environment, including local effects on the regions through which these routes pass and on vulnerable areas, measures encouraging a shift to the use of sustainable modes of transport) and their impact on spatial planning (enhanced accessibility, impact on the economy of the areas through which the routes pass). Nevertheless it proposes that more attention should be paid in the Community to developing and using innovative technologies, also from the point of view of industrial policy;

1.14 deems it vital that preliminary coordinated assessment procedures be set up which can lead to the establishment of trans-national committees of inquiry for the cross-border sections so as to ensure that decisions on priority routes are more consistent and transparent, allowing the local and regional authorities affected to be more involved;

1.15 would like the implementing arrangements for the 'motorways of the sea' to be developed so as to ensure that the regular routes planned are viable and the port infrastructures and the link-up to the hinterland infrastructures appropriate, but also taking direct account of maritime traffic safety issues and guarantees regarding the pollution risks inherent to this type of traffic. Likewise, so as to avoid distorting competition in any way between ports, it is important that regular sea routes are defined for each stretch of coastline as part of a coordinated process.

Financing arrangements for the priority routes

The Committee of the Regions

1.16 considers that a European growth initiative requires exceptionally high levels of funding. The share of transport networks in this initiative is necessarily large;

1.17 stresses the scale of the financing requirements associated with developing trans-European transport networks and is concerned about the Member States' capacity to raise the required sums, especially at a time when they are trying to cut back the share of public expenditure in their GDP with a view to complying with the stability pact;

1.18 shares the view of the Council of Ministers as regards the need for the European Investment Bank (EIB) to be more involved in financing the network, welcomes the additional

funds already committed, and urges the EIB to develop new ways of funding the network;

1.19 underlines that the proposal that the EIB play a greater role is not in itself enough to ensure implementation of the growth initiative and the TEN-Ts;

1.20 feels that recourse to public-private partnership (PPP) can provide solutions for some projects, but that in many cases the cost and traffic risks are such that, unless very costly guarantees are provided, capital injections and commercial revenue from infrastructure charges will be very limited, and will in any case have to be supplemented by public money from the EU or the Member States and from the new financial resources referred to in the following paragraphs. Here the EIB could have a stronger role to play in facilitating the involvement of private investors, especially by means of the guarantee mechanisms already used successfully in some projects;

1.21 points out that the cross-border sections do not offer enough financial return in the short term to encourage balanced partnership, and that recourse to tolls on the only sections which are of high quality is not likely to offset the current problems facing border areas, but might even aggravate them;

1.22 considers that, for all the above reasons, it is necessary to clarify what forms of funding are available for implementing the trans-European network. Even if Member States' specific contributions and public funding are drastically increased, new sources of funding will still have to be found. Prudence is by necessity called for in raising levels of taxation, particularly on fuel: the main purposes of such taxes is to cover external costs (safety issues, pollution, noise, greenhouse effect) and they must not be viewed as an easy source of funding for extending networks. Moreover, the current European legislative framework makes the use of tax revenues for a priority purpose a very uncertain undertaking. It is of course desirable that this framework should be developed, but there are only slim chances of this happening and it would take a long time to achieve. An initial step might be to allow Member States more autonomy in managing fuel taxes;

1.23 considers that, given the difficulties in using general taxation, funding for priority routes must nowadays call mainly on charges for a specific purpose, such as user charge stickers, road charges or tolls, creating redistribution mechanisms to offset the damaging effects of high charges for costly engineering work and less frequently used sections. The Committee of the Regions will be particularly attentive in monitoring the speedy and fair establishment of these mechanisms;

1.24 points out that the cross-border sections must receive considerable financial support from the EU – according to current proposals, 30 % of project costs – and also from the Member States concerned, particularly when they have to cross natural obstacles or are located in vulnerable areas;

1.25 suggests that the undertaking of the Member States concerned to pay a share of the funding for cross-border sections affecting them should constitute one of the key criteria when declaring priority routes to be of European interest and asks that governments respect the timetables proposed in the High Level Group's report;

1.26 proposes that ways of funding the various constituent sections of a priority route be sought which tie in with their main objectives: projects to ease congestion and unblock bottlenecks can more easily call on public-private partnership since there is a high volume of traffic and users are willing to pay for time saved, while projects aimed at improving the accessibility of outlying regions and the construction of cross-border sections are more suitable for financing from tax revenues or similar resources;

1.27 would like the funding mechanisms for priority projects to be examined in greater depth in order to ensure that resources are available from each of the interested parties, including the EU, so that excessive use of European funding earmarked for other purposes, such as the European Structural Funds, can be avoided;

1.28 underlines that TEN-T funding from local and regional authorities can but remain peripheral, given that heavy commitments to other infrastructures which are often vital to the smooth operation of TEN-Ts. In order to improve the regions' accessibility, competitiveness and territorial cohesion, use of the Structural Funds and the TEN-T actions should be coordinated; this should be stipulated in the Community guidelines on the TEN-T revision;

1.29 considers that, insofar as TEN-T funding can be combined with other Community funds (ERDF, Cohesion Funds), it is important to set ceilings for combined aid, according to the degree of disadvantage. To this end, an EU-wide reference classification of regions should be compiled jointly by those responsible for transport and regional policy (also involving, if necessary, those responsible for competition policy).

2. Committee of the Regions' recommendations

The Committee of the Regions

2.1 asks that a more detailed study be carried out into the list of operations selected in the Commission's proposal, as heralded by the Commission in the context of the Growth Initiative as the Quick start programme, so that a realistic list of projects can be compiled which are able to be undertaken without delay;

2.2 proposes that the declaration of European interest for priority routes in the trans-European transport network be dependent on (i) a clear commitment by the Member States concerned to making a financial contribution to building the cross-border sections of these routes and (ii) the local authorities concerned being involved;

2.3 stresses the need to define realistic priorities for building the trans-European transport network routes, especially as regards the multi-annual planning of financial resources from the EU and the Member States concerned, so that the concentration of resources can ensure efficiency and compliance with schedules; the selection criteria must take into account the suitability of the funding methods chosen (users and/or taxpayers) in terms of the main functions of the various constituent sections of the routes in question;

2.4 suggests that the local and regional authorities affected be involved in setting up steering committees for the priority routes and in the procedures for assessing and drawing up projects; this could be achieved, for example, through permanent participation in the work of the agency for major infrastructure work proposed by the Italian EU presidency at the meeting held in Naples on 4 and 5 July 2003, if this idea should come to fruition;

2.5 proposes that explicit reference be made to maritime safety and environmental protection issues in the guidelines for the motorways of the sea;

2.6 calls for the new neighbourhood strategy to confirm the importance of the pan-European and Euro-Mediterranean corridors to the creation of an area of integration and development, and to provide sufficient financial resources to achieve them; and reiterates that it is essential that stakeholder regional and local authorities should be involved in planning them.

Brussels, 11 February 2004

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the 'proposal for a Directive of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructure'

(2004/C 109/04)

THE COMMITTEE OF THE REGIONS,

Having regard to the Proposal for a Directive of the European Parliament and of the Council Amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructure COM(2003) 448 final - 2003/0175 (COD);

Having regard to the decision of the Council of 12 September 2003 to consult it on this subject, under the Article 71 and the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its President of 19 June 2003 to instruct its Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to its draft opinion (CoR 290/2003 rev. 1) adopted on 3 December 2003 by the Commission for Territorial Cohesion Policy (rapporteur: Mr Robert Neill, member of the London Assembly (UK, EPP));

Whereas:

- 1) Congestion and pollution in our cities and regions lead to increased costs to businesses, damage the effectiveness of the transport system, degrade the environment and are harmful to public health;
- 2) Infrastructure charging is only one of a range of tools which can be used to ensure a more sustainable and effective use of the transport infrastructure;
- 3) Current levels of taxes and levies on road transport are not based on a calculation of true costs, which contributes towards a distortion of competition between Member States, ignores environmental and social costs and results in difficulties with financing of infrastructure investment;
- 4) Freight transport is a vital factor in achieving European integration and furthering the economic and social development of the regions;
- 5) Authorities who are responsible for roads which suffer from heavy international freight traffic have to bear the costs at present, which can leave them with a disproportionate burden;
- 6) Article 3c of the Amsterdam Treaty obliges the EU to integrate environmental protection requirements into the definition and implementation of Community policies with a view to promoting sustainable development;
- 7) The Gothenburg European Council placed shifting the balance between modes of transport at the heart of the EU's sustainable development strategy;
- 8) Part of the package of proposals for supporting the development of Trans-European networks is the proposal for a directive on the interoperability of electronic road-toll systems in the Community which is the subject of another opinion (CoR 185/2003 fin) ⁽¹⁾.

adopted the following opinion unanimously at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 11 February).

⁽¹⁾ OJ C 73, 23.3.2004, p. 54

1) The Committee of the Regions' views

The Committee of the Regions

welcomes the revision of the common European framework on the charging of heavy goods vehicles on the use of certain roads to ensure a level-playing field with other modes of transport in the internal market for heavy goods vehicles operators;

believes that this framework should contribute towards the efficient functioning of transport systems in the internal market, by influencing road use and addressing congestion, the costs of extensive road use and infrastructure maintenance as well as the efficient provision of new infrastructure;

supports the 'polluter pays' and the territorial principle (costs are paid where they arise): there should be an equal system of payment for road use regardless of from where users come;

welcomes the revision of the charging system which would more accurately reflect local social and environmental factors but believes that the charge should be based on all external costs;

believes that better demand management of road use will contribute towards safer roads, and notes that road safety is the subject of another opinion.

1. Application of the directive

1.1 supports the limitation of the application of the European framework to heavy goods vehicles over 3.5 tonnes and the Trans-European networks and potential diversionary routes, in accordance with the principle of subsidiarity. The Committee also welcomes the fact that the Commission proposal leaves it up to the Member States whether they introduce tolls and user charges on their whole road network;

1.2 believes that local and regional authorities must be involved in the decision-making process regarding the application of charges within their area, balancing the need to avoid distortions of competition in the EU and local/regional economic, environmental and social interests. Local and regional authorities must have the freedom and flexibility to decide whether and where to charge or not, in agreement with the Member States. However, in the interests of a sustainable transport policy a harmonised minimum charge for heavy goods vehicles should be introduced throughout Europe;

1.3 welcomes the express recognition of the problem of diversionary routes, and seeks maximum flexibility to vary the structure of charging to ensure that minor routes are not used as a substitute for the main /major route;

1.4 believes that Member States should not be required to seek the Commission's assent for introducing charges on other roads, in accordance with the principle of subsidiarity;

1.5 asks the Commission to promote a technical dialogue between Commission desk officers and experts from local and regional government, during policy formulation and the drafting phase of transport policy.

2. The charging structure

2.1 agrees that a transparent charging structure is essential to ensure its acceptability amongst users;

2.2 is disappointed however, that the Commission's proposals are not in line with its original suggestion in its 2001 white paper 'European transport policy for 2010: time to decide', in that only the cost of the infrastructure and uncovered accident costs can be used as the basis for calculating the cost of infrastructure. The Committee of the Regions supported the approach outlined in the Commission's 1998 white paper 'Fair payment for infrastructure use' where the model proposed was that of charges based on marginal costs, reflecting all external costs;

2.3 calls upon the Commission to continue to seek an agreed methodology by which all relevant external costs can be quantified, ideally on a marginal cost basis, so that a proper assessment can be made of the desirability and practicality of including such costs in the charging regime, when set against any potential adverse impacts upon business and competitiveness;

2.4 agrees that costs should take account of the impact of the vehicle on the infrastructure and environment. The proposals refer to vehicle weights, axle configurations and engine types/emission levels, therefore it is possible that there will be an impact on local and regional authorities or agencies who may have to test these vehicles or undertake enforcement activity to ensure compliance with minimum standards. However, notes that not all vehicle testing agencies will currently have information relating to type approval or plating of goods vehicles;

2.5 calls on the Commission, however, to re-examine the damage class proposals as laid out in Annex III. In particular, the apparently anomalous case where a vehicle combination (articulated vehicles and road trains) of a maximum permissible laden weight of between 36-40 tonnes on 3+3 axles is classed as damage class I, the same as a two-axle motor vehicle of a maximum permissible laden weight of between 3.5 tonnes and 7.5 tonnes. The respective real strains placed on the road system produced by the abovementioned categories of vehicles bear little resemblance to the relation between the proposed level of tolls to be charged;

2.6 supports the ability to vary the charge according to local factors, which take into account in particular areas with higher population density, environmental sensitivity of the area;

2.7 calls on the Commission to clarify the definition of what is a sensitive area where mark-ups of up to 50 % would be possible; as it currently stands it is too vague and could be open to a wide interpretation by Member States; as far as the Alpine Region is concerned, the field of application of the Alpine Convention, which was also ratified by the EU, provides a criterion for defining the region;

2.8 equally supports variation according to time of day and level of congestion to ensure optimal use of the road network by freight operators;

2.9 believes that the charge should be able to vary according to the type of day as well, not only the time of day, as well as the direction of travel, provided that the applied average costs are in line with the EC guidelines;

2.10 calls on the Commission to remove the limit on the variation of the charge for the purposes of congestion management. This limit would impede the effectiveness of congestions tolls, which in some cases would have to be set at more than double the minimum level in order to achieve reasonably free movement of traffic. Authorities should be free to set the charge at an effective level, according to local circumstances. Proportionality should be the governing principle;

2.11 is concerned that since the more peripheral and less accessible areas of the EU inevitably face longer hauls for their imports and exports, charges relating to distance travelled may have a disproportionate impact on local economies. Variations should be allowed to counter this impact;

2.12 agrees that variations have to be proportionate to the objective, in order to prevent any unfair competition in the market;

2.13 welcomes the ability to off-set charges by introducing tax cuts, in particular annual vehicle tax;

2.14 questions again whether the existing Community policies in this field are adequate enough to accelerate the use of cleaner technologies and fuels. Considers that the Commission should consider more integration of policies in this field and on infrastructure charging to ensure that both policies contribute directly towards the goals of reducing congestion and lowering levels of harmful emissions;

2.15 calls on the Commission to invest in technical studies to develop the system of charging for the use of road infrastructure, in particular the calculation of marginal costs, including all external costs in the charge.

3. Using the revenues from the fees

3.1 believes that good transport infrastructure is essential in contributing to the economic and social cohesion of the regions of Europe. Given the increasing road traffic, it is important to change behaviour in relation to transport choice, to encourage sustainable means of transport, this means that useable and equally efficient and competitive alternatives are essential;

3.2 supports hypothecation of income received from charging for transport related services, as it plays a key role in ensuring the acceptability of a road user charging system; does, however, at the same time, propose that authorisation be given for the use of income from road-user charges also to compensate for losses incurred as a result of reducing vehicle taxes or fuel tax;

3.3 however, the CoR believes that, according to subsidiarity, Member States and regional and local authorities should be free to decide how to use the revenue from the proposed charging system on transport, in particular in the case of charges levied on roads for which regional and local authorities are themselves responsible;

3.4 believes that the ability to cross-finance alternative modes of transport should be expressly recognised in relation to all charges in order to promote more sustainable modes of transport and that this should not apply exclusively to sensitive areas where mark-ups are applied;

3.5 calls on Member States to improve the alternative modes of transport which will ease congestion and promote modal shift for freight transport;

3.6 believes that the establishment of a national supervisory authority in each Member State is not necessary. However, should such an authority be created, it should include representatives of local and regional authorities. It should be for the Member States and regional and local authorities to decide how they monitor and manage the revenues generated by the charge. They should adopt adequate transparent procedures to account for the charges collected, and the way in which they are spent on transport. It should be transparent for all actors involved;

3.7 notes that the financing of TENs is the subject of a separate opinion.

4. Urban Charging

4.1 notes that many local and regional authorities have, or are, seeking to introduce road charging policies, that operate both distance and time-based schemes including tolls and vignettes² respectively;

4.2 welcomes the express recognition, that in accordance with the principle of subsidiarity, that charging on other roads and urban congestion charging schemes remains a matter for Member States and its local and regional authorities and that they are not constrained by the principles of the directive, only by general Treaty law as is currently the case;

4.3 notes that the Eurovignette directive does not apply to urban or local roads, except to the extent that charges may be

imposed on diversionary routes or that they are part of the main trans-European network;

4.4 stresses, therefore, the following issues:

- the need to avoid double charging or overlap between national and urban schemes, in particular where the main road network involves urban transit sections;
- different principles of calculating the costs may apply to local congestion schemes, which are geared towards demand management. Local and regional authorities may choose to introduce charging schemes based on the marginal costs approach rather than the average costs approach adopted by the Commission in the Eurovignette directive. If the scope of the directive is extended in future to other roads and road users, then the basis of charging will have to be revisited, as other social, economic and environmental factors come into play.

5. Impact Assessment

5.1 Calls on the Commission to consider the effect of the charging system in particular in relation to:

- urban and local charging schemes;
- peripheral areas;
- small freight operators whose business is mainly domestic or localised;

when it reports to the European Parliament and the Council on the implementation and effects of the directive in 2008. This should not, however, impose undue extra administrative burdens on Member States or its regions.

2) The Committee of the Regions' recommendations

Amendments

Recommendation 1

Recitals – amendment

| Text proposed by the Commission | CoR amendment |
|---|---|
| (5) When Member States decide to introduce tolls, they should also take account of accident costs which are not covered by insurance but are borne by society as a whole. | (5) When Member States decide to introduce tolls, they should also take account of all external costs including congestion, health and environmental costs and the accident costs which are not covered by insurance but are borne by society as a whole, to the extent to which an agreed method of quantification can in future be agreed, considering also the impact upon business and competition. |

Reason

The charge should be take account of all external costs, not only accident costs, to reflect the true social, environmental and economic costs of road use.

Recommendation 2

Recitals – amendment

| Text proposed by the Commission | CoR amendment |
|--|---|
| (8). Where possible, the financial burden for the transport sector must not be increased, but distributed differently by replacing fixed taxes and charges by a system of charges related to use. When Member States introduce tolls and/or user charges, they must therefore be able to reduce in particular the rates of annual taxes on vehicles, where appropriate to below the minimum levels provided for in Annex I to Directive 1999/62/EC | (8) Fixed taxes and charges should be replaced by a system of charges related to use. When Member States introduce tolls and/or user charges, they may therefore be able to reduce the rates of annual taxes on vehicles., If vehicle tax is reduced it must not fall below the minimum levels provided for in Annex I to Directive 1999/62/EC. |

Reason

Vehicle taxes should not, as a matter of principle, be cut to a level below the minimum rates set out in Annex I of Directive 1999/62/EC. Any reduction below these minimum rates would have unacceptable drawbacks, not least the following:

- it would weaken the environmental steering effect of emission-related vehicle taxes;
- it would unduly distort the relative vehicle tax burden on private cars. Many cars might thereby be liable for a much higher rate of vehicle tax than heavy goods vehicles. That would run counter to the rationale behind the vehicle tax, which is levied - if not legally then materially - to meet infrastructure costs.

Recommendation 3

Recital 9

| Text proposed by the Commission | CoR amendment |
|--|--|
| (9) With regard to infrastructure financing, efforts to reduce congestion and complete the trans-European network infrastructure should be stepped up. Consequently, the revenue from fees must be used for maintenance of the road infrastructure and for the benefit of the transport sector, in order to contribute to the balanced development of all infrastructure in the interests of the transport network as a whole. | (9) With regard to infrastructure financing, efforts to reduce congestion and complete the trans-European network infrastructure should be stepped up. Consequently, the revenue from fees must be used for maintenance of the road infrastructure and for the benefit of the transport sector, in particular alternative sustainable means of transport, in order to contribute to the balanced development of all infrastructure in the interests of the transport network as a whole. With this aim in view, they may also be used to offset the effects of a reduction in vehicle tax. |

Reason

The ability to cross-finance alternative modes of transport should be expressly recognised in relation to all charges in order to promote more sustainable modes of transport, this should not apply exclusively to sensitive areas where mark-ups are applied.

Recommendation 4

Recitals

| Text proposed by the Commission | CoR amendment |
|---|--|
| (13) In order to ensure that the requirements of the Directive are correctly enforced, Member States must designate an independent infrastructure supervision authority. This body will have a key role in ensuring, through appropriate monitoring, balanced use of the available resources. Simple, clear rules must therefore be established regarding the possibility of promoting synergies between competing transport infrastructure modes in a single corridor. | (13) In order to ensure that the requirements of the Directive are correctly enforced, Member States must adopt transparent accounting procedures for the balanced use of the available resources. Simple, clear rules must therefore be established regarding the possibility of promoting synergies between competing transport infrastructure modes in a single corridor. |

Reason

The establishment of a national supervisory authority in each Member State is not necessary. It should be for the Member States to decide how they monitor and manage the financing. Member States should adopt adequate transparent procedures to account for the charges collected, and the way in which they are spent on transport.

Recommendation 5

Recitals

| Text proposed by the Commission | CoR amendmentInsert text |
|---|---|
| (14) Further technical progress is still needed to develop the system of charging for the use of road infrastructure. There must be a procedure allowing the Commission to adapt the requirements of Directive 1992/62/EC to technical progress following consultation of the Member States for this purpose. The measures necessary to implement this Directive must be adopted in accordance with Council Decision No 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. | (14) Further technical progress is still needed to develop the system of charging for the use of road infrastructure, in particular the calculation of marginal costs which includes all external costs. There must be a procedure allowing the Commission to adapt the requirements of Directive 1992/62/EC to technical progress following consultation of the Member States for this purpose. The measures necessary to implement this Directive must be adopted in accordance with Council Decision No. 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. |

Reason

There are many different models for calculating marginal costs which encompass all external costs, we would like to stress the need for this to be investigated further, so that a consistent pan-European approach can be adopted.

Recommendation 6

Point 3 (a) amending Article 7 paragraph 2 – partly delete

| Text proposed by the Commission | CoR amendment |
|---|--|
| 2. Tolls and user charges shall be imposed on the vehicles defined and on the trans-European road network. Member States may extend the imposition of tolls and user charges to other roads of the primary road network. Without prejudice to paragraph 6, their extension to these other roads shall be subject to the procedure referred to in Article 9c(5). | 2. Tolls and user charges shall be imposed on the vehicles defined and on the trans-European road network. Member States may extend the imposition of tolls and user charges to other roads of the primary road network. |

Reason

Member States should not be required to seek the Commission's assent for introducing charges on other roads, in accordance with the principle of subsidiarity.

Recommendation 7

Point 1(b) amending Article 2(b)

| Commission text | CoR proposal |
|--|--|
| 'construction costs' means the costs related to construction, including, where appropriate, the cost of the interest on the capital invested, of new infrastructure or of infrastructure completed not more than... [15 years before the entry into force of this Directive];' | 'construction costs' means the costs related to construction, including, where appropriate, the cost of the interest on the capital invested, of new infrastructure or of infrastructure completed not more than... [30 years before the entry into force of this Directive];' |

Reason

Restrictions on offsetting construction costs would be disadvantageous for those Member States that invested early on in expanding the high-grade road network.

Recommendation 8

Point 3(f) amending Article 7(9)

| Commission text | CoR proposal |
|--|--|
| 9. The weighted average tolls shall be related to the costs of constructing, operating, maintaining and developing the infrastructure network concerned, including any infrastructure costs designed to reduce nuisance related to noise and costs of actual payments made by infrastructure operator corresponding to objective environmental elements such as for example soil contamination, and to the direct or indirect costs of accidents which, not being covered by an insurance system, are borne by society. The weighted average tolls shall be calculated without prejudice, as regards taking into account construction costs, to rights relating to concession contracts existing at ... [date of entry into force of this directive] | 9. The weighted average tolls shall be related to the costs of constructing, operating, maintaining and developing the infrastructure network concerned, including any infrastructure costs designed to reduce nuisance related to noise and costs of actual payments made by infrastructure operator corresponding to objective environmental and health-related elements such as <u>arranging</u> , for example, <u>from</u> soil contamination, and to the direct or indirect costs of accidents which, not being covered by an insurance system, are borne by society. The weighted average tolls shall be calculated without prejudice, as regards taking into account construction costs, to rights relating to concession contracts existing at ... [date of entry into force of this directive]. |

Reason

Charges should factor in all external costs – not only the costs of accidents – so that they reflect the actual social, environmental and economic costs of infrastructure use.

Recommendation 9

Point 3(h) amending Article 7(11)

| Commission text | CoR proposal |
|---|--|
| <p>11. In exceptional cases concerning infrastructure in particularly sensitive regions, in particular mountainous regions, and after consulting the Commission in conformity with the procedure referred to in Article 9c(5), a mark-up may be added to the tolls to allow for cross-financing the investment costs of other transport infrastructures of a high European interest in the same corridor and in the same transport zone. The mark-up may not exceed 25% of the tolls. The application of this provision shall be subject to the presentation of financial plans for the infrastructure concerned and a cost/benefit analysis for the new infrastructure project. Application of this provision to new transfrontier projects shall be subject to the agreement of the Member States concerned.</p> <p>Should the Commission consider that the planned mark-up does not meet the conditions set in this paragraph, it shall seek the opinion of the Committee referred to in Article 9c(1). It may reject the plans for charges submitted by the Member State concerned in conformity with the procedure referred to in Article 9c(2).</p> <p>When the Commission informs the Member State concerned that it intends to seek the opinion of the Committee, the deadline of 30 days mentioned in Article 2 of the Council Decision referred to in Article 9c(5) shall be suspended.</p> | <p>11. In exceptional cases concerning infrastructure in particularly sensitive regions, in particular mountainous regions and the <u>Alpine region as covered by the Alpine Convention</u>, and after consulting the Commission in conformity with the procedure referred to in Article 9c(5), a mark-up may be added to the tolls to allow for cross-financing the investment costs of other transport infrastructures of a high European interest and <u>alternative measures to ease road congestion or environmental protection measures</u> in the same corridor and in the same transport zone. The mark-up may not exceed 50 % of the tolls. The application of this provision shall be subject to the presentation of financial plans for the infrastructure concerned and a cost/benefit analysis for the new infrastructure project. Application of this provision to new transfrontier projects shall be subject to the agreement of the Member States concerned.</p> <p>Should the Commission consider that the planned mark-up does not meet the conditions set in this paragraph, it shall seek the opinion of the Committee referred to in Article 9c(1). It may reject the plans for charges submitted by the Member State concerned in conformity with the procedure referred to in Article 9c(2).</p> <p>When the Commission informs the Member State concerned that it intends to seek the opinion of the Committee, the deadline of 30 days mentioned in Article 2 of the Council Decision referred to in Article 9c(5) shall be suspended.</p> |

Reason

The area covered by the Alpine Convention is a good yardstick for defining the sensitive Alpine region. Moreover, cross-financing should not only be an option for improving transport infrastructure, but also for alternative measures to ease traffic congestion or environmental protection measures. Also, the mark-up in sensitive areas should not be strictly limited to 25 % but should be higher and more flexible.

Recommendation 10

Point 3 (g) amending Article 7 paragraph 10 – amendment

| Text proposed by the Commission | CoR amendment |
|--|--|
| <p>10. Without prejudice to the weighted average tolls referred to in paragraph 9, Member States may vary the toll rates according to:</p> <p>(a) vehicle type, based on its road damage class in conformity with Annex III and its EURO emission class in accordance with Annex 0;</p> <p>(b) time of day and level of congestion on the road concerned, provided that no toll is more than 100% above the toll charged during the cheapest period of the day;</p> <p>(c) the particular road in the network, depending on the environmental sensitivity of the area, the population density or the accident risk;</p> <p>Any variation in tolls charged with respect to different types of vehicle, time of day and congestion level and the particular route taken in the road network shall be proportionate to the objective pursued.</p> <p>No later than 1 July 2008, Member States shall be required to vary the rates at which tolls are charged according to the particular route in the road network, in conformity with point (c).</p> | <p>10. Without prejudice to the weighted average tolls referred to in paragraph 9, Member States may vary the toll rates according to:</p> <p>(a) vehicle type, based on its road damage class in conformity with Annex III and its EURO emission class in accordance with Annex 0;</p> <p>(b) <u>the type of day and direction of travel;</u></p> <p>(c) <u>time of day and level of congestion on the road concerned, provided that no toll is more than 100% above the toll charged during the cheapest period of the day;</u></p> <p>(d) the particular road in the network, depending on the environmental sensitivity of the area, the population density, <u>peripherality</u> or the accident risk;</p> <p>Any variation in tolls charged with respect to different types of vehicle, time of day and congestion level and the particular route taken in the road network shall be proportionate to the objective pursued.</p> <p>No later than 1 July 2008, Member States shall be required to vary the rates at which tolls are charged according to the particular route in the road network, in conformity with point (c).</p> |

Reason

If the charges are to be used as an effective demand management tool, then account must be taken of all factors which affect road use, this includes the type of day, i.e. the day of the week or holidays. It should be possible to vary the charge according to the direction of travel at certain times of the day.

The limit on the variation of the charge for the purposes of congestion management should be removed. This limit would impede the effectiveness of congestions tolls, which in some cases would have to be set at more than double the minimum level in order to achieve reasonably free movement of traffic. Authorities should be free to set the charge at an effective level, according to local circumstances. Proportionality should be the governing principle.

The more peripheral and less accessible areas of the EU inevitably face longer hauls for their imports and exports, charges relating to distance travelled may have a disproportionate impact on local economies. Variations should be allowed to counter this impact.

Recommendation 11

Point 4 amending Article 7b – amendment

| Text proposed by the Commission | CoR amendment |
|--|---|
| 1. Without prejudice to Articles 87 and 88 of the Treaty, and subject to other provisions of Community law, Member States may, on introducing a system of tolls and/or user charges for infrastructure, provide compensation for these charges, in particular by reducing the rates of vehicle taxes, where appropriate, to a level below the minimum rates in Annex I to the Directive. | 1. Without prejudice to Articles 87 and 88 of the Treaty, and subject to other provisions of Community law, Member States may, on introducing a system of tolls and/or user charges for infrastructure, provide compensation for these charges, in particular by reducing the rates of vehicle taxes. |

Reason

Member States' ability to reduce fuel tax to off-set the road charges should be expressly recognised in the directive. Reduction in fuel tax is a more equitable system for ensuring that all road users are treated equally within the internal market regardless of their nationality.

Recommendation 12

Point (6) inserting Article 8a – partly delete and amend

| Text proposed by the Commission | CoR amendment |
|---|--|
| <p>6) Article 8a and 8b are inserted as follows:</p> <p>“Article 8a</p> <p>1. Each Member State shall ensure that an independent infrastructure supervision authority is designated.</p> <p>2. The independent infrastructure supervision authority shall monitor the system of tolls and/or user charges to ensure that it functions in a manner that guarantees transparency and non-discrimination between operators.</p> <p>3. Without prejudice of the autonomy of private concessionaries, the independent infrastructure supervision authority shall verify that the revenue from tolls and user charges are used for sustainable projects in the transport sector.</p> <p>4. The independent infrastructure supervision authority shall promote synergy in financing by coordinating the various transport infrastructure funding resources.</p> <p>5. Member States shall inform the Commission of the designation of the independent infrastructure supervision authority and of its areas of responsibility.”</p> <p>Article 8b</p> <p>Any discounts or reductions in tolls shall be limited to the actual saving in administrative costs by the infrastructure operator. In setting the level of any discount, no account may be taken of the cost savings already internalised in the tolls levied.”</p> | <p>6) Article 8a is inserted as follows:</p> <p>Any discounts or reductions in tolls shall be limited to the actual saving in administrative costs by the infrastructure operator. In setting the level of any discount, no account may be taken of the cost savings already internalised in the tolls levied.’</p> |

Reason

The establishment of a national supervisory authority in each Member State is not necessary. It should be for the Member States to decide how they monitor and manage the financing. Member States should adopt adequate transparent procedures to account for the charges collected, and the way in which they are spent on transport.

Recommendation 13

Point 6(b) amending Article 9 – amendment

| Text proposed by the Commission | CoR amendment |
|---|---|
| <p>b) paragraph 2 is replaced by the following text: '2. Without prejudice to Article 7(11), revenue from tolls and/or user charges shall be used for the maintenance of the infrastructure concerned and for the benefit of the transport sector as a whole, taking account of the balanced development of the transport networks.'</p> | <p>b) paragraph 2 is replaced by the following text: '2. Without prejudice to Article 7(11), revenue from tolls and/or user charges shall be used for the maintenance of the infrastructure concerned and for the benefit of the transport sector as a whole, <u>including sustainable alternative modes of transport</u>, taking account of the balanced development of the transport networks. <u>With this aim in view, they may also be used to offset the effects of a reduction in vehicle tax.</u>'</p> |

Reason

The ability to cross-finance alternative modes of transport should be expressly recognised in relation to all charges in order to promote more sustainable modes of transport, this should not apply exclusively to sensitive areas where mark-ups are applied.

Reference should be made to the possibility of making use of charges to finance compensatory tax reductions.

Brussels, 11 February 2004.

The President
of the Committee of the Regions
 Peter STRAUB

Opinion of the Committee of the Regions on the ‘communication on the follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for the participation and information of young people, in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field’

(2004/C 109/05)

THE COMMITTEE OF THE REGIONS,

Having regard to the Communication on the follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for the participation and information of young people, in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field, COM(2003) 184 final;

Having regard to the decision of the European Commission of 14 April 2003 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its Bureau of 1 July 2003 to instruct its Commission for Culture and Education to draw up an Opinion on this subject;

Having regard to the EU Commission’s White Paper ‘A New Impetus for European Youth’ (COM(2001) 681 final) and the CoR Opinion on the subject CdR 389/2001 fin ⁽¹⁾;

Having regard to the EU Commission’s working document analysing Member States’ replies to its questionnaire on youth participation and information;

Having regard to Article 149 of the EC Treaty;

Having regard to the Council Resolution of 27 June 2002 setting a new framework for cooperation in the youth field COM(2001) 681 final;

Having regard to the Council Resolution of 27 June 2002 on lifelong learning ⁽²⁾;

Having regard to the Council Resolution of 28. June 2001 on ‘Promoting young people’s initiative, enterprise and creativity: from exclusion to empowerment’;

Having regard to the Council Resolution approved on 30 May 2002 on European Cooperation in the Field of Youth;

Having regard to its draft opinion (CdR 309/2003 rev. 1) adopted on 5 December 2003 by its Commission for Culture and Education (Rapporteur: Mr Jens Kramer Mikkelsen, Lord Mayor of Copenhagen (DK/PES))

Whereas:

- 1) It is important for Europe’s future that the increasing alienation of young people in particular from political life, despite the higher level of education, should be combated at all levels; research has shown that the democratic behaviour of young people is closely linked to activities of direct interest to them;
- 2) Local and regional authorities play a decisive role in European youth policy, since it is these authorities that are in contact with young people, and it is at this level that young people in and out of school get their first experiences of democracy as participants in a democratic society;
- 3) Youth policy in Europe should be a cohesive policy for and with young people, involving the relevant administrations and political subject areas so as to better utilise available resources;

⁽¹⁾ OJ C 287, 22.11.2002, p.6

⁽²⁾ OJ C 163, 9.7.2003

- 4) The Council resolution dated 24 November 2003 on the future of cooperation in the field of youth (CONS 1475/03);
- 5) Article III-182 of the Convention's draft for a treaty establishing a constitution for Europe;
- 6) Youth policy in Europe should be visible at all administrative and political levels and in all countries, and be communicated through the channels and in the language that young people in Europe use;

adopted the following opinion at its 53rd plenary session, held on 11-12 February 2004 (meeting of 11 February)

1. The Committee of the Regions' views and recommendations

1.1 The CoR recognises the EU Commission's course of action in connection with its questionnaire, which covers all the Member States including the candidate countries, and welcomes the European Youth Forum's hearing and position paper⁽³⁾. The course of action is a positive follow-up to the method in the White Paper entitled 'A New Impetus for European Youth'⁽⁴⁾, in which a large proportion of the countries' young people, experts and politicians at all levels make their views heard.

1.2 The CoR has already welcomed the use of the open method of coordination and the principle of subsidiarity in relation to European youth policy, provided that this method pays full attention to involving regional and local authorities. The CoR would therefore suggest that in future it should be consulted and not merely informed when initiatives are taken in the field of youth policy.

1.3 The CoR shares the EU Commission's view that a consistent European youth policy, which takes account of the situation in individual countries and the challenges and problems facing young people in Europe today, will help to implement the strategic objective of the European Councils of Lisbon and Barcelona to make Europe 'the world's most competitive and dynamic knowledge-based economy'.

1.4 The CoR agrees with the EU Commission that non-formal and informal education and actions to promote mobility are a key factor in the personal development of young people and in making them active citizens, and that such forms of education should be given a high priority in youth policies at local, regional, national and European level. In particular, these objectives should be incorporated, at European level, into the new generation of programmes, Youth for Europe and Grundtvig, for the period 2006-2012.

Common objectives to enhance the participation of young people

1.5 The CoR agrees with the EU Commission's overall objective that 'measures to encourage young people to be active citizens should be instituted and supported and that their effective participation in democratic life should be reinforced,' but feels

⁽³⁾ Implementing Common Objectives to enhance the participation of young people and improve information for young people (25-26 April 2003).

⁽⁴⁾ COM(2001) 681 final

that it is vital to stress the importance of also involving young people in formulating the concrete objective of a youth policy, and this means all young people.

1.6 The CoR shares the EU Commission's view that young people in particular are becoming increasingly removed from political life and urges that intensive research be conducted into the reasons for this and that measures be proposed to tackle the root of the problem and involve young people more. This must be in parallel with the implementation of the common objectives regarding young people's participation in democratic life.

Greater participation by young people in the life of the community in which they live

1.7 The CoR agrees with the EU Commission and the Council of Europe's European Charter on the Participation of Young People in Local and Regional Life that local society has a major role to play and calls upon the governments of the Member States, together with local actors, to create the appropriate conditions in terms of legislation and resources for work on involving all young people in local political life.

1.8 For this reason, the CoR would encourage and support the establishment of youth councils at local level.

1.9 The CoR approves the proposed increase in involvement, but feels that strong emphasis should be placed on the equal participation of young people of both sexes and that an effort should also be made to involve groups of young people who for social or ethnic reasons, because of physical or mental disability, or for other reasons have extra difficulty in expressing themselves in political life. The CoR considers it to be imperative to champion equal access to democratic processes.

1.10 The CoR feels that if the Involvement project is to succeed, it is absolutely essential for there to be a better inter-play between private NGOs, youth and leisure clubs, associations and parents, on the one hand, and the public authorities and politicians on the other. The same principle applies to cooperation between the local, regional, national and European levels.

1.11 The CoR welcomes the involvement of youth in the European Commission's pilot projects (DG EAC 43/03) in favour of youth participation and is pleased at the great interest shown in the Commission allocating more resources to the next round of project proposals, as only a very small proportion of projects in the last round were able to be financed.

Greater participation by young people in the mechanisms of representative democracy

1.12 The CoR agrees with the need for a change in attitude and behaviour among young people, but also among politicians. Among young people this can only happen if they feel they have a concrete political influence. Dialogues with young people should therefore be organised especially in those places where the young have achieved/can achieve an enhanced possibility of taking part in political decisions, by encouraging them to get involved in the planning and management of services of relevance to them, and by experimenting with ways for young people to play an active part in community life. Initiatives in this direction should be concrete and, among other things, contain proposals for seeking out work with a view to involving young people who are not organised into associations or the like.

1.13 The CoR would stress the importance of European youth organisations and other organisations that are active in the field of youth policy being given the economic opportunities to work closer together in networks with a view to exchanging good practice in this area, and is therefore pleased with the Proposal for a European Parliament and Council Decision establishing a Community action programme to promote bodies active at European level in the field of youth ^(?).

1.14 The CoR agrees that many young people are prevented from taking part in democratic processes for social, economic, educational, ethnic, cultural, or gender-based reasons or because of physical or mental disability. It is therefore essential that, in addition to mainstream activities, resources are provided, particularly at local level, for research into the underlying reasons for the lack of participation among these young people and that, at the same time, initiatives are taken that can prevent and put right the negative factors that are discovered.

1.15 The CoR therefore strongly supports the fact that Article III-182 of the Convention's draft for a treaty establishing a constitution for Europe proposes supplementing the current treaties' provisions relating to youth policy with the objective that Union action should aim to encourage young people's participation in democratic life in Europe.

Learning to participate

1.16 The CoR agrees that education - in its various forms, be it informal (initiatives to facilitate access to education for the underprivileged sectors of the population), formal or non-formal (e.g. Second Chance Schools and similar initiatives that

support a holistic outlook) - is one of the cornerstones of developing youth involvement in the processes of democracy, and feels that it is up to national, regional and local authorities to formulate educational policies that actually aim to provide a decidedly democratic form of instruction.

1.17 The CoR agrees that it is important for young people to have some understanding and experience of representative democracy, and calls for concrete measures and initiatives to be taken, such as 'youth political days and for means of participatory democracy to be set up where young people congregate (schools, youth centres, etc.) and/or at urban level.'

1.18 The CoR considers the social heritage to be another factor of decisive importance as regards the ability and desire to participate in the processes of democracy. So, together with formal, informal and non-formal education, attention should also be paid to the effective involvement of parents and the family in the widest possible sense of the term.

1.19 The CoR agrees that there is a need for research to be carried out into the reasons why groups of young people are marginalised, not least in terms of the social heritage and the consequences of globalisation, and calls for concrete initiatives, including benchmarking, to be taken at European level.

1.20 The CoR agrees with the view that, in the main, the provision of information for young people has to target two groups: (1) young people themselves and (2) adults who come into contact with young people. It is therefore important to be aware of which group is being targeted when providing information for young people so that content, resources and other arrangements can be tailored accordingly. Information, guidance and advice service specifically geared to young people must be provided (Infoyouth).

1.21 The CoR recognises that both the Member States and local and regional authorities are responsible for providing information for young people, but would emphasise that the key actors in implementing such measures are to be found in particular at local and regional level, and so it is they who should be involved as much as possible in strategic planning.

Improving young people's access to information services

1.22 The CoR takes note of the EU Commission's conclusions when analysing the Member States' youth information services, including the remark that many of these services exhibit certain inadequacies as regards form and level, coordination between the European, national, regional and local levels, and utility, and therefore agrees that there should be a fundamental improvement in these areas, especially with respect to target groups of young people who represent the most disadvantaged, including those with physical or mental disabilities. These information services should involve actively seeking out types of information and young people themselves.

^(?) COM(2003) 272 final

1.23 The CoR agrees with the call for increased coordination of the various information services and closer vertical and horizontal cooperation in Europe, but would like a few more details on how this is to be done.

1.24 As regards information for the disadvantaged, the CoR thinks that before any efforts are made to ensure equal information opportunities for these groups, the results should be obtained of research into the factors that hamper disadvantaged young people.

Provision of quality information

1.25 The CoR welcomes the EU Commission's proposal for a code of standards in the area of information provision and counselling services for young people, including common quality criteria and quality control mechanisms, but also sees the need for a benchmarking of the effects. The European dimension will be enhanced automatically through working with a common code of standards.

1.26 The CoR agrees with the EU Commission that staff working in the field of youth information should be better trained. Such training should particularly cover the world of young people and its rapidly changing channels of communication, where new technology such as mobile phones, SMS and internet games play a decisive role.

Enhancing young people's participation in the shaping and dissemination of information

1.27 The CoR accepts the EU Commission's proposal to involve youth organisations and young people generally in the planning and implementation of youth information strategies, but would like to stress the importance of ethnic and other minorities being involved in the processes of provision, production and dissemination, especially as regards target groups of vulnerable young people.

1.28 The CoR notes with satisfaction that the EU Commission is planning to use the open coordination method for implementing and monitoring the common objectives in a flexible way and in accordance with the principle of subsidiarity.

1.29 The CoR requests that the active role of the local and regional authorities be defined and respected as regards exchanges of experiences and good practice and when taking part in the projected regular transnational meetings.

1.30 The CoR also requests the Member States to consult the local and regional authorities when preparing the national reports on the implementation of the two priorities participation and information in 2005 that the EU Commission is to use as a basis for drawing up a progress report for the Council.

Brussels, 11 February 2004.

*The President
of the Committee of the Regions
Peter STRAUB*

Opinion of the Committee of the Regions on the 'proposal for a directive of the European Parliament and of the Council on the protection of groundwater against pollution'

(2004/C 109/06)

THE COMMITTEE OF THE REGIONS,

Having regard to the EU Commission's Proposal for Directive of the European Parliament and of the Council on the Protection of groundwater against pollution (COM(2003) 550 final – 2003/0210 (COD));

Having regard to the decision of the Council of 3 October 2003 to consult it on this subject, under Article 175(1) of the Treaty establishing the European Community;

Having regard to the decision of its Bureau of 19 June 2003 to instruct its Commission for Sustainable Development to draw up an opinion on this subject;

Having regard to its opinion on the EU Commission's Proposal for a Council directive establishing a framework for Community action in the field of water policy CdR 171/97 fin ⁽¹⁾;

Having regard to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;

Having regard to its opinion on the Communication from the Commission on the sixth environment action programme of the European Community 'Environment 2000: Our future, our choice' – The Sixth Environment Action Programme and the Proposal for a Decision of the European Parliament and of the Council laying down the Community Environment Action Programme 2001-2010 CdR 36/2001 fin ⁽²⁾.

Having regard to its draft opinion (CdR 240/2003 rev. 1) adopted on 12 December 2003 by the Commission for Sustainable Development (rapporteur: Mr Johannes Flensted-Jensen, Chairman of Århus County Council (DK, PES);

Whereas:

- 1) Groundwater is a resource that is both important and at risk, and one which is of great importance to the quality of the environment in a number of wetlands and nature areas on land, for industrial and agricultural production and as a source of drinking water;
- 2) Protecting the quantity and quality of groundwater should therefore be a major political priority at both European and national level, and common European initiatives are necessary in order to harmonise rules in this area as much as possible, bearing in mind the major natural differences to be seen throughout groundwater areas in Europe;
- 3) Matters concerning the quantity of groundwater are dealt with in the Water Framework Directive, which is why the Groundwater Directive focuses on the quality of groundwater,

adopted the following opinion at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 11 February)

⁽¹⁾ OJ C 180, 11.6.1998, p. 38

⁽²⁾ OJ C 357, 14.12.2001, p. 44

1. The Committee of the Regions' views

The Committee of the Regions

1.1 considers that the EU Commission's proposal for a new groundwater directive and the Water Framework Directive (WFD), which is the mother directive, expresses a reasonable and responsible strategy both as regards the environment and the economy as a whole, with the emphasis on preventing pollution and restoring the environment;

1.2 welcomes the proposal for a new groundwater directive and considers it to be a good supplement to the WFD's provisions concerning groundwater;

1.3 approves the fact that the proposal does not contain a comprehensive list of common European standards in the form of limit values for the amount of various pollutants in groundwater, but merely includes limit values in pursuance of Community legislation that has already been approved, including the Nitrates Directive and the Plant Protection and Biocidal Products Directives;

1.4 notes with satisfaction that, instead of common European quality standards, the Member States are to draw up threshold values for relevant groundwater pollutants – both those occurring naturally and those resulting from human activity – on the basis of criteria in the directive;

1.5 supports the directive containing a minimum list of substances for which the Member States are to draw up threshold values;

1.6 considers it reasonable that the EU Commission should subsequently, in the light of the Member State's reports, be able to adopt a position on whether there is a basis for proposing common European quality standards leading to a further harmonisation of rules in this field;

1.7 assumes that the Committee of the Regions will be consulted on any amendments to Annex I of the directive, which contains common European quality standards;

1.8 considers it necessary that common European standards – both now and in the future – may be made more rigorous in Member States in order to protect surface water;

1.9 wishes, moreover, to emphasise that, when grouping together groundwater bodies and designing monitoring networks, it is necessary for the Member States to ensure that the comparison of groundwater quality is made with a homogenous material, e.g. comparable redox ratio or comparable geological conditions.

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1 recommends that it should be evident from the groundwater directive that river basin district authorities are able to impose more rigorous national threshold values if this is necessary in order to comply with the WFD's environmental quality objectives in the river basin districts concerned;

2.2 recommends that where the background levels of naturally occurring substances in groundwater are not known, background levels should be laid down in accordance with the best professional opinion until monitoring data is produced. In some cases it will still hardly be possible to find natural background levels;

2.3 recommends that the Member States ensure that comparable monitoring points are used when identifying significant and sustained upward trends in bodies of groundwater or groups of bodies;

2.4 recommends that phosphorus be included on the minimum list in part A.1 of Annex III to the proposed directive, as this is a substance that in the long term threatens the chemical quality of groundwater;

2.5 recommends that insofar as old contaminated industrial sites cannot be cleaned up in a balanced way under Article 4(4) and (5) of the Water Framework Directive, these provisions should be amended at the first opportunity. At the same time, consideration should be given to reintroducing the concept of Risk Management Zones into water management plans for catchment areas; this concept takes account of the environmental and economic aspects, as well as of practical feasibility;

2.6 recommends that it be made quite clear in Article 4(3) of the groundwater directive which committee is to be asked for an opinion before any amendments are made to Annex I;

2.7 recommends that the Committee of the Regions be consulted to the fullest possible extent over future amendments to the groundwater directive, including significant adjustments to Annexes II to IV, as the regional and local authorities often have extensive technical and administrative experience on groundwater matters, and that the Member States be called upon to make use of such experience in further work to do with the directive;

2.8 recognises that the proposed directive, as part of the Water Framework Directive, will have serious financial implications for Member States and urges that the new and existing financial schemes must address the economic burden the Member States will bear when fulfilling the environmental objectives of the Water Framework Directive;

2.9 proposes, therefore, the following concrete amendments:

Recommendation 2.1

Article 4(1)

| Commission draft proposal | Proposed CoR amendment |
|--|--|
| <p>1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, Member States shall, by 22 December 2005, establish threshold values for each of the pollutants, which within their territory have been identified as contributing to the characterisation of bodies or group of bodies of groundwater as being at risk. Member States shall as a minimum establish threshold values for the pollutants referred to in parts A.1 and A.2 of Annex III to this Directive. These threshold values shall inter alia be used for the purposes of carrying out the review of groundwater status as provided for in Article 5.2 of Directive 2000/60/EC.</p> <p>Those threshold values can be established at the national level, at the level of the river basin district or at the level of body or group of bodies of groundwater.</p> | <p>1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, Member States shall, by 22 December 2005, establish threshold values for each of the pollutants, which within their territory have been identified as contributing to the characterisation of bodies or group of bodies of groundwater as being at risk. Member States shall as a minimum establish threshold values for the pollutants referred to in parts A.1 and A.2 of Annex III to this Directive. These threshold values shall inter alia be used for the purposes of carrying out the review of groundwater status as provided for in Article 5.2 of Directive 2000/60/EC.</p> <p>Those threshold values can be established at the national level, at the level of the river basin district or at the level of body or group of bodies of groundwater.</p> <p><u>Should the Member States choose to lay down national threshold values, these may be made more rigorous by the river basin district authorities if such action is necessary in order to comply with the Water Framework Directive's environmental quality objectives in the river basin districts concerned.</u></p> |

Reason

If the Member States choose to lay down national threshold values, the river basin district authorities should have the power to impose more rigorous values in vulnerable regional and local areas in the river basin districts concerned if such action is necessary in order to comply with environmental quality objectives. Such reasoning is consistent with that in the Water Framework Directive and could beneficially be transferred to the text of the proposed groundwater directive.

Recommendation 2.2

Annex III, part B.2.2

| Commission draft proposal | Proposed CoR amendment |
|--|--|
| <p>2.2 The relationship between the threshold values and, in the case of naturally occurring substances, the observed background levels.</p> | <p>2.2 The relationship between the threshold values and, in the case of naturally occurring substances, the observed background levels. <u>Where the background levels of naturally occurring substances in groundwater are not known, background levels shall be laid down in accordance with the best professional opinion.</u></p> |

Reason

In some cases the background level will not be known until after a long period of monitoring – for some groups of groundwater bodies it may also be difficult to find bodies where the natural background level can be measured. In both cases it will be necessary to establish background levels on the basis of skilled professional opinion.

Recommendation 2.3

Annex IV, 1.2(a)

| Commission draft proposal | Proposed CoR amendment |
|---|--|
| a) the assessment shall be based on arithmetic mean values of the mean values of the individual monitoring points in each bodies or groups of bodies of groundwater bodies, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency. (sic) | a) the assessment shall be based on arithmetic mean values of the mean values of the individual monitoring points in each bodies or groups of bodies of groundwater bodies, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency. <u>It is necessary to ensure here that the monitoring points are comparable.</u> |

Reason

There are big differences in the natural chemical composition of groundwater, both within a single groundwater body and between different bodies. For instance, there is a chemical difference between the upper and lower groundwater in a body. So, for an assessment to be a true one, the monitoring points should be comparable as regards geology or the redox ratio, for example.

Recommendation 2.4

Annex III, part A.1

| Commission draft proposal | Proposed CoR amendment |
|---------------------------|------------------------|
| Ammonium | Ammonium |
| Arsenic | Arsenic |
| Cadmium | Cadmium |
| Chloride | Chloride |
| Lead | Lead |
| Mercury | Mercury |
| Sulphate | Sulphate |
| | Phosphorus |

Reason

Phosphorus is a substance that obviously threatens the chemical quality of groundwater.

Brussels, 11 February 2004.

The President
of the Committee of the Regions
 Peter STRAUB

Opinion of the Committee of the Regions on the 'proposal for a Directive of the European Parliament and of the Council on the management of waste from the extractive industries'

(2004/C 109/07)

THE COMMITTEE OF THE REGIONS,

HAVING REGARD TO the Proposal for a Directive of the European Parliament and of the Council on the management of waste from the extractive industries (COM(2003) 319 final - 2003/0107 (COD));

HAVING REGARD TO the Council's decision of 20 June 2003 to consult it on this subject, under Article 175(1) of the Treaty establishing the European Community;

HAVING REGARD TO its President's decision of 4 December 2002 to instruct the Commission for Sustainable Development to draw up an opinion on this subject;

HAVING REGARD TO the Communication from the Commission 'Safe operation of mining activities: a follow-up to recent mining accidents' (COM(2000) 664 final);

HAVING REGARD TO the Resolution of the European Parliament on the Communication from the Commission 'Safe operation of mining activities: a follow-up to recent mining accidents' (COM(2000) 664 final - C5-0013/2001-2001/2005(COS));

HAVING REGARD TO the explanatory memorandum of the Commission regarding adoption of the amendment to the Seveso II Directive (COM(2001) 624 final)

HAVING REGARD TO Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive);

HAVING REGARD TO Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community;

HAVING REGARD TO Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances;

HAVING REGARD TO Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, amended by Council Directive 97/11/EC of 3 March 1997 (EIA Directive);

HAVING REGARD TO Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC;

HAVING REGARD TO Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (IPPC Directive);

HAVING REGARD TO Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (Seveso II Directive);

HAVING REGARD TO Council Directive 75/442/EEC of 15 July 1975 on waste (Waste Framework Directive), as amended by Council Directive 91/156/EEC;

HAVING REGARD TO Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (Landfill Directive);

HAVING REGARD TO the judgments of the European Court of Justice of 18 April 2002 (C-9/00) and 11 September 2003 (C-114/01);

HAVING REGARD TO the adoption of the Council Decision on the conclusion of the Convention on the Transboundary Effects of Industrial Accidents OJ L 326 of 3.12.1998;

HAVING REGARD TO the Communication from the Commission 'Promoting sustainable development in the EU non-energy extractive industry' (COM(2000) 265 final);

HAVING REGARD TO the Commission staff working paper of 7 July 2003 'Fourth Annual Survey on the implementation and enforcement of Community environmental law 2002' (SEC(2003) 804);

HAVING REGARD TO the draft opinion adopted on 12 December 2003 by the Commission for Sustainable Development (CdR 330/2003 rev. 1) (rapporteur: Ms Sikora, Member of the North Rhine-Westphalia Landtag, DE, PES);

unanimously adopted the following opinion at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 11 February):

1. Views of the Committee of the Regions

The Committee of the Regions

1.1 welcomes in principle the Commission's proposal to establish a specific legal framework for mining waste with a directive on the management of waste from the extractive industries in the EU. It is necessary to fix uniform minimum standards for waste management for the sake of the environment and thus for the health and well-being of EU citizens, especially in view of enlargement;

1.2 is aware that the Directive creates costs for companies in the extractive industries which may have serious economic implications. The resultant social impact on citizens and regions must be taken into account;

1.3 notes that it is important to avoid excessive paperwork and ensuing costs for the authorities of the Member States, as well as companies;

1.4 considers that in the light of the above points and with a view to establishing uniform, systematic European rules and avoiding inconsistencies,

- the Directive should not contain any provisions on matters already definitively regulated at EU level,
- the definition of waste must be consistent with that set out in the Waste Framework Directive (75/442/EEC) and with ECJ judgments to date,
- the principle of sustainable development must be strictly respected,
- the mineral sector must not be placed at a disadvantage relative to other waste producers.

2. Recommendations of the Committee of the Regions

Recommendation 1

Recital 4

| Text proposed by the Commission | CoR amendment |
|--|--|
| <p>In accordance with the objectives of Community policy on the environment, it is necessary to lay down minimum requirements in order to prevent or reduce as far as possible any negative effects on the environment or on human health which are brought about as a result of the management of waste from the extractive industries, such as tailings (i.e. the solids that remain after the treatment of minerals by a number of techniques), waste rock and overburden (i.e. the material that extractive operations move during the process of accessing an ore or mineral body), and topsoil (i.e. the upper layer of the ground).</p> | <p>In accordance with the objectives of Community policy on the environment, it is necessary to lay down minimum requirements in order to prevent or reduce as far as possible any negative effects on the environment or on human health which are brought about as a result of the management of waste from the extractive industries, <u>i.e. waste resulting from prospecting, extraction, treatment and storage of raw materials, such as tailings (i.e. the solids that remain after the treatment of minerals by a number of techniques), waste rock and overburden (i.e. the material that extractive operations move during the process of accessing an ore or mineral body), and topsoil (i.e. the upper layer of the ground).</u></p> |

Reason

Listing examples of typical mining waste gives the false impression that such deposits are always waste. This contradicts the definition given in the EU Waste Framework Directive 75/442/EEC (WFD), which also applies for the purposes of the current Directive (Art. 3(1)), and the restrictive criteria established for extraction of raw materials by the ECJ in its judgments of 18 April 2002 (C-9/00) and 11 September 2003 (C-114/01). What substances or materials are to be regarded as waste in any given case can only be decided on the basis of the criteria set out in the WFD with reference to the specific circumstances of that case. According to the definition in the WFD, waste rock and overburden, and topsoil resulting from mining operations should not be classified as waste if – as is usually the case – they are re-used unaltered immediately after extraction.

Recommendation 2

Recital 5

| Text proposed by the Commission | CoR amendment |
|--|--|
| Accordingly, this Directive should cover the management of waste from land-based extractive industries. However, such provision should reflect the principles and priorities identified in Council Directive 75/442/EEC of 15 July 1975 on waste which, in accordance with Article 2(1)(b)(ii) thereof, continues to apply to any aspects of the management of waste from the extractive industries which are not covered by this Directive. | Accordingly, this Directive should cover the management of waste from land-based extractive industries. However, such provision should reflect the principles and priorities identified in Council Directive 75/442/EEC of 15 July 1975 on waste which, in accordance with Article 2(1)(b)(ii) thereof, continues to apply to any aspects of the management of waste from the extractive industries which are not covered by this Directive. This means waste from <u>the extractive industries as defined in Article 1(a) of Directive 75/442/EEC. The definition must take into account the judgments of the European Court of Justice of 18 April 2002 (C-9/00) and 11 September 2003 (C-114/01).</u> |

Reason

The added text is intended to make it clear that in principle the Directive only covers materials which meet the definition in the WFD. For reasons of legal certainty it is also necessary to mention the most recent Court of Justice judgments on the question of when rock left over from mineral extraction should be classified as waste. This is also consistent with the interpretation of the Commission, which in footnote 21 of the Explanatory Memorandum refers to the first of the above-mentioned EC judgments.

Recommendation 3

Recital 8

| Text proposed by the Commission | CoR amendment |
|---|--|
| Nor should the provisions of this Directive apply to waste resulting from the offshore extraction and treatment of mineral resources, to the deposit of unpolluted soil or to waste from the prospecting of mineral resources, while non-hazardous inert waste from the extraction and treatment of mineral resources should only be covered by a limited set of requirements due to its lower environmental risks. | Nor should the provisions of this Directive apply to waste resulting from the offshore extraction and treatment of mineral resources, to the deposit of unpolluted soil or to waste from the prospecting of mineral resources, while non-hazardous inert waste from the extraction and treatment of mineral resources should only be covered by a limited set of requirements due to its lower environmental risks. <u>They should not apply either to the activities set out in Article 11(3)(j) of the EU Water Framework Directive, which are dealt with definitively in that clause.</u> |

Reason

The sentence is added for the sake of clarification. The activities covered by Article 11(3)(j) of the EU Water Framework Directive do not fall within the scope of this Directive, because they do not concern waste disposal but re-injection into groundwater of water containing substances resulting from mining activities.

Recommendation 4

Recital 10

| Text proposed by the Commission | CoR amendment |
|--|--|
| In order to remain true to the principles and priorities identified in Directive 75/442/EEC and, in particular, in Articles 3 and 4 thereof, Member States should ensure that operators engaged in the extractive industry take all necessary measures to prevent or reduce as far as possible any negative effects, actual or potential, on the environment or on human health which are brought about as a result of the management of waste from the extractive industries. | In order to remain true to the principles and priorities identified in Directive 75/442/EEC and, in particular, in Articles 3 and 4 thereof, Member States should ensure that operators engaged in the extractive industry take all necessary measures to prevent or reduce as far as possible any negative effects, actual or potential, on the environment or on human health which are brought about as a result of the management of waste from the extractive industries, <u>subject to the requirements of sustainability.</u> |

Reason

Under EU law, the objective of the Directive set out in Recital 10 is subject to the three aspects of sustainability. This must be made explicit in the recital.

Recommendation 5

Article 2(1) (Scope)

| Text proposed by the Commission | CoR amendment |
|--|---|
| Subject to the provisions of paragraph 2, this Directive covers the management of waste from the extractive industries, hereinafter 'extractive waste', that is to say, waste resulting from the extraction, treatment and storage of mineral resources and the working of quarries. | Subject to the provisions of paragraph 2, this Directive covers the management of waste from the extractive industries, hereinafter 'extractive waste', that is to say, waste resulting from the extraction, treatment and storage of mineral resources and the working of quarries. This Directive covers the management of waste from the extractive industries, hereinafter 'extractive waste', that is to say waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries, in accordance with Article 1(a) and Article 2(1)(b)(ii) of Directive 75/442/EEC. |

Reason

The purpose is to make it clear that the concept of waste must be consistent with that set out in the Waste Framework Directive and the ECJ judgments delivered on the basis of that directive.

Recommendation 6

Article 2(2) (Scope)

| Text proposed by the Commission | CoR amendment |
|---|---|
| <p>The following shall be excluded from the scope of this Directive:</p> <p>a) waste which is generated by the extraction and treatment of mineral resources, but which does not directly result from those operations, such as food waste, waste oil, end-of-life vehicles, spent batteries and accumulators;</p> <p>b) waste resulting from the offshore extraction and treatment of mineral resources;</p> <p>c) the deposit of unpolluted soil resulting from the extraction, treatment and storage of mineral resources and the working of quarries;</p> <p>d) waste generated at an extraction or treatment site and transported to another location for the purposes of its deposit into or on to land;</p> <p>e) waste from the prospecting of mineral resources.</p> | <p>The following shall be excluded from the scope of this Directive:</p> <p>a) waste which is generated by the extraction and treatment of mineral resources, but which does not directly result from those operations, such as food waste, waste oil, end-of-life vehicles, spent batteries and accumulators;</p> <p>b) waste resulting from the offshore extraction and treatment of mineral resources;</p> <p>c) the deposit of unpolluted soil resulting from the extraction, treatment and storage of mineral resources and the working of quarries;</p> <p>d) waste generated at an extraction or treatment site and transported to another location outside the extractive industry for the purposes of its deposit into or on to land;</p> <p>e) waste from the prospecting of mineral resources.</p> |

Reason

(a) Examples should not be listed because the circumstances of each individual case determine whether or not waste is 'extractive waste'.

(c) This should be incorporated into Article 2(3) (see relevant reason).

(d) Waste that is taken to another mining site for disposal should also fall within the scope of this directive. Otherwise the customary central disposal of waste from different mining sites would unjustifiably fall under the general provisions on waste, whereas waste disposal within the same site would fall under the present directive. This is not warranted either on technical or environmental grounds.

The proposed change makes it clear that the intention of the Directive is for mining waste disposed of outside the extractive industry to fall under the general waste provisions.

(e) For the sake of legal consistency, waste from prospecting should be covered by this specific Directive, because it is explicitly excluded from the WFD.

Recommendation 7

Article 2(3) (Scope)

| Text proposed by the Commission | CoR amendment |
|--|--|
| The deposit of non-hazardous inert waste shall only be subject to the provisions of Article 5 paragraphs 1 and 2, Article 11(2) points (a) to (e) and Article 13(1) points (a) to (c) of this Directive. | <p>The deposit of non hazardous inert waste shall only be subject to the provisions of Article 5 paragraphs 1 and 2, Article 11(2) points (a) to (e) and Article 13(1) points (a) to (c) of this Directive.</p> <p><u>The disposal of unpolluted soil and non-hazardous inert waste from the extraction, treatment and storage of mineral resources and the working of quarries does not fall under the provisions of this Directive.</u></p> |

Reason

Unpolluted soil and non-hazardous inert waste are also excluded from the scope of the landfill directive (1999/31/EC). There is therefore no reason to include such waste in the provisions of the present directive. In accordance with the subsidiarity principle, such waste should be covered by national legislation.

Recommendation 8

Article 2(4) (Scope)

| Text proposed by the Commission | CoR amendment |
|---|---|
| 4. Without prejudice to other Community legislation, waste which falls within the scope of this Directive shall not be subject to Directive 1999/31/EC. | 4. Without prejudice to other Community legislation, waste which falls within the scope of this Directive, <u>or which in accordance with point 3 of this article is not covered by it,</u> shall not be subject to Directive 1999/31/EC. |

Reason

The phrase must be added because otherwise the landfill directive would cover waste referred to in point 3.

Recommendation 9

Article 3(12) (Definitions)

| Text proposed by the Commission | CoR amendment |
|--|---|
| 'leachate' means any liquid percolating through the deposited waste and emitted from or contained within a waste facility, including polluted drainage, which may adversely affect the environment if not appropriately treated; | 'leachate' means any liquid percolating through the deposited waste and emitted <u>or contained within the waste facility</u> from or contained within a waste facility, including polluted drainage, which may adversely affect the environment if not appropriately treated; |

Reason

The definition of leachate provided in Article 2(i) of the landfill directive should be used.

Recommendation 10

Article 3(13) (Definitions)

| Text proposed by the Commission | CoR amendment |
|--|---|
| 'waste facility' means any area designated for the accumulation or deposit of waste, whether in a solid or liquid state or in solution or suspension, for a period of more than one year, and being deemed to include any dam or other structure serving to contain, retain, confine or otherwise support such a facility, and also to include, but not be limited to, heaps and ponds, but excluding excavation voids into which waste is replaced after extraction of the mineral; | 'waste facility' means any area designated for the accumulation or deposit of waste, whether in a solid or liquid state or in solution or suspension, for a period of more than <u>three years</u> one year , and being deemed to include any dam or other structure serving to contain, retain, confine or otherwise support such a facility, and also to include, but not be limited to, heaps and ponds, but excluding excavation voids into which waste is replaced after extraction of the mineral; |

Reason

The proposed storage period of one year is not adequate. In the case of larger mining operations in particular, it may make sense, in terms of ensuring a sustainable re-use of mined areas, to store waste for a longer period and then use it for revegetation. The storage period for mining waste facilities must therefore be at least three years, as set out in Article 2(g) of the landfill directive with respect to treatment of waste. Otherwise the implementation of certain measures required under legal provisions or mining requirements will be unnecessarily hampered or compromised.

Recommendation 11

Article 3(14) (Definitions)

| Text proposed by the Commission | CoR amendment |
|--|--|
| 'major accident' means an occurrence on site, that seriously endangers human health or the environment, whether immediately or over time, on-site or off-site; | 'major accident' means an accident as defined in Article 3(5) of Directive 96/82/EC an occurrence on site, that seriously endangers human health or the environment, whether immediately or over time, on-site or off-site; |

Reason

This term is already defined in the Seveso II Directive.

Recommendation 12

Article 3(18) (Definitions)

| Text proposed by the Commission | CoR amendment |
|---|--|
| 'rehabilitation' means the treatment of the land affected by a waste facility in such a way as to restore the land to a satisfactory state, with particular regard to pre-working soil quality, wild life, natural habitats, freshwater systems, landscape and appropriate beneficial uses; | 'rehabilitation' means the treatment of the land affected by a waste facility in such a way as to restore the land to a satisfactory state, with particular regard to pre-working soil quality, wild life, natural habitats, freshwater systems, landscape and appropriate beneficial uses; |

Reason

It is not always possible to restore affected land to its pre-working state or turn it into a natural habitat. A better alternative is to provide for a form of subsequent use in accordance with land-use planning and individual circumstances.

Recommendation 13

Article 5(2) (Waste management plan)

| Text proposed by the Commission | CoR amendment |
|---|--|
| The objectives of the waste management plan shall be: | <u>Taking environmental, economic and social factors into account, the objectives of the waste management plan shall be:</u> |

Reason

The objectives set out in Article 5(2) must take into account the principle of sustainability, which requires that EU law give equal consideration to environmental, economic and social factors.

Recommendation 14

Article 5(2)(a)(iii) (Waste management plan)

| Text proposed by the Commission | CoR amendment |
|--|--|
| iii) placing waste back into the excavation void after extraction of the mineral, as far as is practically feasible and environmentally sound; | iii) placing waste back into the excavation void after extraction of the mineral, as far as is practically <u>technically</u> feasible, <u>financially viable</u> and environmentally sound, <u>provided this does not conflict with the public interest in respect of future land use;</u> |

Reason

It is particularly important that placing waste back into the excavation void be made conditional on the operation being technical feasible and financially viable.

The EU principle of ensuring sustainability must also be observed here.

Recommendation 15

Article 6 (Major accident prevention and information)

| Text proposed by the Commission | CoR amendment |
|--|--|
| <ol style="list-style-type: none"> <li data-bbox="240 1693 794 1814">1. The provisions of this Article shall apply to Category A waste facilities, as defined in Article 9 save for those waste facilities falling within the scope of Directive 96/82/EC. <li data-bbox="240 1814 794 2098">2. Without prejudice to other Community legislation, and in particular Council Directive 92/91/EEC and Council Directive 92/104/EEC, Member States shall ensure that major-accident hazards are identified and the necessary features are incorporated into the design, construction, operation and maintenance of the waste facility in order to prevent such accidents and to limit their adverse consequences for human health and the environment, including any transboundary impacts. | <ol style="list-style-type: none"> <li data-bbox="794 1693 1348 1814">1. The provisions of this Article shall apply to Category A waste facilities, as defined in Article 9 save for those waste facilities falling within the scope of Directive 96/82/EC. <li data-bbox="794 1814 1348 2098">2. Without prejudice to other Community legislation, and in particular Council Directive 92/91/EEC and Council Directive 92/104/EEC, Member States shall ensure that major accident hazards are identified and the necessary features are incorporated into the design, construction, operation and maintenance of the waste facility in order to prevent such accidents and to limit their adverse consequences for human health and the environment, including any transboundary impacts. |

| Text proposed by the Commission | CoR amendment |
|--|--|
| <p>3. For the purposes of the requirements under paragraph 2, each operator shall draw up a major-accident prevention policy for waste and put into effect a safety management system implementing it, in accordance with the elements set out in point 1 of Annex I. As part of that policy, the operator shall appoint a safety manager responsible for the implementation and periodic supervision of the major-accident prevention policy.</p> <p>The operator shall draw up an internal emergency plan of the measures to be taken on site in the event of an accident.</p> <p>The competent authority shall draw up an external emergency plan for the measures to be taken off site in the event of an accident. The operator shall provide the competent authority with the information necessary to enable the latter to draw up that plan.</p> | <p>3. For the purposes of the requirements under paragraph 2, each operator shall draw up a major-accident prevention policy for waste and put into effect a safety management system implementing it, in accordance with the elements set out in point 1 of Annex I. As part of that policy, the operator shall appoint a safety manager responsible for the implementation and periodic supervision of the major-accident prevention policy.</p> <p>The operator shall draw up an internal emergency plan of the measures to be taken on site in the event of an accident.</p> <p>The competent authority shall draw up an external emergency plan for the measures to be taken off site in the event of an accident. The operator shall provide the competent authority with the information necessary to enable the latter to draw up that plan.</p> |
| <p>4. The emergency plans referred to in paragraph 3 shall have the following objectives: a) to contain and control major accidents and other incidents so as to minimise their effects, and in particular to limit damage to human health or to the environment and property; b) to implement the measures necessary to protect human health, the environment and property from the effects of major accidents and other incidents; c) to communicate the necessary information to the public and to the services or authorities concerned in the area; d) to provide for the rehabilitation, restoration and clean-up of the environment following a major accident.</p> <p>Member States shall ensure that, in the event of a major accident, the operator immediately provides the competent authority with all the information required to help minimise its consequences for human health and to assess and minimise the extent, actual or potential, of the environmental damage.</p> | <p>4. The emergency plans referred to in paragraph 3 shall have the following objectives: a) to contain and control major accidents and other incidents so as to minimise their effects, and in particular to limit damage to human health or to the environment and property; b) to implement the measures necessary to protect human health, the environment and property from the effects of major accidents and other incidents; c) to communicate the necessary information to the public and to the services or authorities concerned in the area; d) to provide for the rehabilitation, restoration and clean-up of the environment following a major accident.</p> <p>Member States shall ensure that, in the event of a major accident, the operator immediately provides the competent authority with all the information required to help minimise its consequences for human health and to assess and minimise the extent, actual or potential, of the environmental damage.</p> |
| <p>5. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the preparation or review of the external emergency plan to be drawn up in accordance with paragraph 3. To that end, the public concerned shall be informed about any such proposal and relevant information shall be made available, including inter alia information about the right to participate in the decision-making process and about the competent authority to which comments and questions may be submitted.</p> <p>Member States shall ensure that the public concerned is entitled to express comments within reasonable timeframes and that, in the decision on the external emergency plan, due account is taken of these comments.</p> | <p>5. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the preparation or review of the external emergency plan to be drawn up in accordance with paragraph 3. To that end, the public concerned shall be informed about any such proposal and relevant information shall be made available, including inter alia information about the right to participate in the decision-making process and about the competent authority to which comments and questions may be submitted.</p> <p>Member States shall ensure that the public concerned is entitled to express comments within reasonable timeframes and that, in the decision on the external emergency plan, due account is taken of these comments.</p> |
| <p>6. Member States shall ensure that information on safety measures and on the action required in the event of an accident, containing at least the elements listed in point 2 of Annex I, is provided, free of charge and as a matter of course, to the public concerned.</p> <p>That information shall be reviewed every three years and, where necessary, updated.</p> | <p>6. Member States shall ensure that information on safety measures and on the action required in the event of an accident, containing at least the elements listed in point 2 of Annex I, is provided, free of charge and as a matter of course, to the public concerned.</p> <p>That information shall be reviewed every three years and, where necessary, updated.</p> <p><u>Waste management facilities are covered by the provisions of Directive 96/82/EC, in so far as they fall within the scope of that Directive.</u></p> |

Reason

Article 6 should be recast in order to avoid duplication and legal uncertainty. After long discussions in the Council and Parliament, the Seveso II Directive has been amended to include the accidents referred to in this Directive, which means that mining waste disposal sites are now included in the Seveso II Directive. This means that there is no need for new rules.

Recommendation 16

Article 8 (Public participation)

| Text proposed by the Commission | CoR amendment |
|--|--|
| <p>1. The public shall be informed, by public notices or other appropriate means, such as electronic media where available, of the following matters early in the procedure for granting a permit or, at the latest, as soon as the information can reasonably be provided:</p> <ul style="list-style-type: none"> a) the application for a permit or, as the case may be, the proposal for the updating of a permit in accordance with Article 7; b) where applicable, the fact that a decision is subject to consultation between the Member States in accordance with Article 15; c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions; d) the nature of possible decisions or, where there is one, the draft decision; e) where applicable, the details relating to a proposal for the updating of a permit or of permit conditions; f) an indication of the times and places where, or the means by which, the relevant information will be made available; g) details of the arrangements for public participation and consultation made pursuant to paragraph 5. | <p>1. The public shall be informed, by public notices or other appropriate means, such as electronic media where available, of the following matters early in the procedure for granting a permit or, at the latest, as soon as the information can reasonably be provided:</p> <ul style="list-style-type: none"> a) the application for a permit or, as the case may be, the proposal for the updating of a permit in accordance with Article 7; b) where applicable, the fact that a decision is subject to consultation between the Member States in accordance with Article 15; c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions; d) the nature of possible decisions or, where there is one, the draft decision; e) where applicable, the details relating to a proposal for the updating of a permit or of permit conditions; f) an indication of the times and places where, or the means by which, the relevant information will be made available; g) details of the arrangements for public participation and consultation made pursuant to paragraph 5. |
| <p>2. Member States shall ensure that, within appropriate time frames, the following is made available to the public concerned:</p> <ul style="list-style-type: none"> a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public were informed in accordance with paragraph 1; b) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information, any information in addition to that referred to in paragraph 1 of this Article which is relevant for the decision in accordance with Article 7 of this Directive and which only becomes available after the time the public have been informed in accordance with paragraph 1 of this Article. | <p>2. Member States shall ensure that, within appropriate time frames, the following is made available to the public concerned:</p> <ul style="list-style-type: none"> a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public were informed in accordance with paragraph 1; b) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information, any information in addition to that referred to in paragraph 1 of this Article which is relevant for the decision in accordance with Article 7 of this Directive and which only becomes available after the time the public have been informed in accordance with paragraph 1 of this Article. |
| <p>3. The public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken.</p> | <p>3. The public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken.</p> |

| Text proposed by the Commission | CoR amendment |
|--|--|
| <p>4. The results of the consultations held pursuant to this Article shall be taken into due account in the taking of a decision.</p> <p>5. The detailed arrangements for public participation under this Article shall be determined by the Member States so as to enable the public concerned to prepare and participate effectively.</p> <p>6. When a decision has been taken the competent authority shall, in accordance with the appropriate procedures, inform the public concerned and shall make the following information available to the public concerned:</p> <p>a) the content of the decision, including a copy of the permit;</p> <p>b) the reasons and considerations on which the decision is based.</p> | <p>4. The results of the consultations held pursuant to this Article shall be taken into due account in the taking of a decision.</p> <p>5. The detailed arrangements for public participation under this Article shall be determined by the Member States so as to enable the public concerned to prepare and participate effectively.</p> <p>6. When a decision has been taken the competent authority shall, in accordance with the appropriate procedures, inform the public concerned and shall make the following information available to the public concerned:</p> <p>a) the content of the decision, including a copy of the permit;</p> <p>b) the reasons and considerations on which the decision is based.</p> <p><u>Public participation in an authorisation procedure under Article 7 is governed by the provisions of Directive 2003/4/EC.</u></p> |

Reason

To avoid duplication and legal uncertainty, Article 8 should refer to the provisions of Directive 2003/4/EC on public access to environmental information, which also includes waste facilities.

Recommendation 17

Article 9 (Classification system for waste facilities)

| Text proposed by the Commission | CoR amendment |
|--|---|
| <p>For the purposes of this Directive, Member States shall classify waste facilities which are either heaps or engineered ponds in one of the following categories, depending on their hazard potential:</p> <p>(1) Category A: a waste facility whose failure or incorrect operation would present a significant accident hazard; (2) Category B: any waste facility not included in Category A.</p> <p>The criteria for determining the classification of a waste facility in Category A are set out in Annex III.</p> | <p>For the purposes of this Directive, Member States shall classify waste facilities which are either heaps or engineered ponds in one of the following categories, depending on their hazard potential:</p> <p>(1) Category A: a waste facility whose failure or incorrect operation would present a significant accident hazard; (2) Category B: any waste facility not included in Category A.</p> <p>The criteria for determining the classification of a waste facility in Category A are set out in Annex III.</p> |

Reason

The purpose of such a classification system is not clear, especially since the provision chiefly concerns prevention of major accidents, which is covered in Article 6. Moreover, it is not possible to undertake an adequate classification based on the criteria set out in Annex III. Since risk to workers can never be completely eliminated, all facilities would, on the basis of the first criterion, fall into Category A.

Recommendation 18

Article 10 (Excavation voids)

| Text proposed by the Commission | CoR amendment |
|---|--|
| <p>Member States shall ensure that the operator, when considering placing waste back into the excavation voids, takes appropriate measures in order to:</p> <p>(1) secure the stability of such waste in accordance with Article 11(2);</p> <p>(2) prevent the pollution of surface and groundwater in accordance with paragraphs 1 and 2 of Article 13;</p> <p>(3) monitor such waste in accordance with paragraphs 4 and 5 of Article 12.</p> | <p>Member States shall ensure that the operator, when considering placing waste back into the excavation voids, takes appropriate measures in order to:</p> <p>(1) secure the stability of such waste in accordance with Article 11(2);</p> <p>(2) prevent the pollution of <u>soil and surface and ground-water</u> in accordance with paragraphs 1 and 2 of Article 13;</p> <p>(3) monitor such waste in accordance with paragraphs 4 and 5 of Article 12, <u>if there is a risk of damage to the biosphere.</u></p> |

Reason

Once mining waste has been filled into excavation voids, it is generally impossible for technical reasons to monitor it, because the waste is no longer accessible once the operation has been completed. Since it requires much time and money, regular monitoring is only justified if there is a risk of damage to the biosphere.

Recommendation 19

Article 13(1)(b) (Prevention of water and soil pollution)

| Text proposed by the Commission | CoR amendment |
|---|---|
| <p>prevent leachate generation and surface water or groundwater from being contaminated by the waste;</p> | <p>prevent <u>minimise</u> leachate generation and <u>prevent soil,</u> surface water or groundwater from being contaminated by the waste;</p> |

Reason

It is generally impossible to prevent the formation of leachate in practice. Leachate is produced anyway on heaps just through natural precipitation, and can only be collected and if necessary treated.

Recommendation 20

Article 13(2) (Prevention of water and soil pollution)

| Text proposed by the Commission | CoR amendment |
|--|---|
| <p>Where, on the basis of an assessment of environmental risks, taking into account, in particular, Council Directive 76/464/EEC, Council Directive 80/68/EEC or Directive 2000/60/EC, as applicable, the competent authority has decided that collection and treatment of leachate is not necessary or it has been established that the waste facility poses no potential hazard to soil, groundwater or surface water, the requirements set out in points (b) and (c) of paragraph 1 may be reduced or waived accordingly.</p> | <p>Where, on the basis of an assessment of environmental risks, taking into account, in particular, and in accordance with Council Directive 76/464/EEC, Council Directive 80/68/EEC or Directive 2000/60/EC, as applicable, the competent authority has decided that collection and treatment of leachate is not necessary or it has been established that the waste facility poses no potential hazard to soil, groundwater or surface water, the requirements set out in points (b) and (c) of paragraph 1 <u>are not applicable</u> may be reduced or waived accordingly.</p> |

Reason

In deciding what requirements must be met by waste management facilities with respect to protection of surface waters and groundwater, the authority is bound by the provisions of the above-mentioned EU water directives. The authorities have no latitude in decision-making outside those provisions. As long as the waste facility poses no risk for soil or water, there is no objective reason for maintaining the requirements in paragraph 1(b) and (c).

Recommendation 21

Article 14(1) (Financial guarantee and environmental liability)

| Text proposed by the Commission | CoR amendment |
|---|--|
| <p>The competent authority shall, prior to the commencement of any operations involving the deposit into or onto land of waste, require a guarantee, in the form of a financial deposit or equivalent, including industry-sponsored mutual guarantee funds, so that:</p> <p>(a) all obligations under the permit issued pursuant to this Directive, including after-closure provisions, are discharged;</p> <p>(b) there are funds readily available at any given time for the rehabilitation of the land affected by the waste facility.</p> | <p>The competent authority shall, prior to the commencement of any operations involving the deposit into or onto land of waste, require a guarantee, in the form of a financial deposit or equivalent, including e.g. in the form of an industry-sponsored mutual guarantee funds, <u>or any other equivalent, on the basis of modalities to be decided by Member States, so that:</u></p> <p>(a) all obligations under the permit issued pursuant to this Directive, including after-closure provisions, are discharged;</p> <p>(b) there are funds readily available at any given time for the rehabilitation of the land affected by the waste facility.</p> |

Reason

This wording would correspond to Article 8(a)(iv) of the landfill directive (1999/31/EC), on which basis national decisions have already been taken.

Recommendation 22

Article 14(5) (Financial guarantee and environmental liability)

| Text proposed by the Commission | CoR amendment |
|---|---|
| <p>The provisions of Directive .../.../EC on environmental liability with regard to the prevention and remedying of environmental damage shall apply mutatis mutandis in respect of environmental damage caused by the operation of any extractive waste facility, as well as in respect of any imminent threat of such damage occurring by reason of the operation of any such a facility.</p> | <p>The provisions of Directive .../.../EC on environmental liability with regard to the prevention and remedying of environmental damage shall apply mutatis mutandis in respect of environmental damage caused by the operation of any extractive waste facility, as well as in respect of any imminent threat of such damage occurring by reason of the operation of any such a facility.</p> <p><u>Environmental damage caused by the operation of an extractive waste facility falling within the scope of the present directive is covered by the provisions of Directive.../.../EC on environmental liability with regard to the prevention and remedying of environmental damage.</u></p> |

Reason

Liability for environmental damage caused by waste facilities falling within the scope of the present directive should be consistent with the provisions of the future environmental liability directive, which is just awaiting publication.

Recommendation 23

Article 22 (Transitional provision)

| Text proposed by the Commission | CoR amendment |
|--|---|
| <p>Member States shall ensure that any waste facility which has been granted a permit or which is already in operation before or on [date of transposition] complies with the provisions of this Directive within four years after that date, save for those set out in Article 14(1) for which compliance must be ensured within six years after that date.</p> | <p>Member States shall ensure that any waste facility which has been granted a permit or which is already in operation before or on [date of transposition] complies with the provisions of this Directive within four years after that date, save for those set out in Article 14(1) for which compliance must be ensured within six years after that date which at the date of transposition is already in operation must comply with the provisions of this Directive within 10 years of that date, unless this is impossible for a valid reason or is unnecessary from an environmental point of view or too costly.</p> |

Reason

No retroactivity should be granted for decommissioned facilities authorised under current law. The extractive industry has existed for hundreds of years in innumerable locations, and the costs of retroactivity cannot be financed (since incorporating the new Länder, Germany for instance has already spent over EUR 10 billion on restructuring bismuth and lignite operations).

A longer transition period is needed for transposition to allow for planning and financing, especially since a substantially longer transition period is provided for in the landfill directive.

Brussels, 11 February 2004

The President
of the Committee of the Regions
 Peter STRAUB

Opinion of the Committee of the Regions on the ‘communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on immigration, integration and employment’

(2004/C 109/08)

THE COMMITTEE OF THE REGIONS,

Having regard to the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on Immigration, Integration and Employment, COM(2003) 336 final;

Having regard to the Commission Staff Working Paper on the Extended Impact Assessment on the Communication on Immigration, Integration and Employment (COM(2003) 336 final) SEC(2003) 694;

Having regard to the decision of the Commission of 3 June 2003 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its President of 19 March 2003 to instruct its Commission for Economic and Social Policy to draw up an opinion on this subject;

Having regard to the Nice European Council Conclusions of 9 December 2000;

Having regard to the Conclusions of the European Council in Seville on 21 and 22 June 2002;

Having regard to the Conclusions of the European Council in Tampere on 15 and 16 October 1999;

Having regard to the Conclusions of the Lisbon European Council on 24 March 2000;

Having regard to its Opinion on the Amended Proposal for a Council Directive on the right to family reunification (CdR 243/2002 fin) ⁽¹⁾;

Having regard to its Opinion on the Communications from the Commission on a common policy on illegal immigration (COM(2001) 672 final) and on an open method of coordination for the Community immigration policy (COM(2001) 387 final) adopted on 16 May 2002 (CdR 93/2002 fin) ⁽²⁾;

Having regard to its Opinion on a Community immigration policy and a common asylum procedure (CdR 90/2001 fin) ⁽³⁾;

Having regard to its Opinion on the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents (CdR 213/2001 fin) ⁽⁴⁾;

Having regard to its Opinion on the Proposal for a Council Directive laying down minimum standards for the reception of asylum seekers (CdR 214/2001 fin) ⁽⁵⁾;

Having regard to its Opinion on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (CdR 386/2001 fin) ⁽⁶⁾;

Having regard to its Opinion on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service (COM(2002) 548 final) (CdR 2/2003 fin) ⁽⁷⁾;

Having regard to the Communication from the Commission on integrating migration issues in the European Union's relations with third countries (COM(2002)703 final);

Having regard to its Opinion on the process of drawing up a Charter of Fundamental Rights of the European Union (CdR 327/99 fin) ⁽⁸⁾;

⁽¹⁾ OJ C 73, 26.3.2003, p. 16

⁽²⁾ OJ C 278, 14.11.2002, p. 44

⁽³⁾ OJ C 19, 22.1.2002, p. 20

⁽⁴⁾ OJ C 19, 22.1.2002, p. 26

⁽⁵⁾ OJ C 107, 3.5.2002, p. 85

⁽⁶⁾ OJ C 192, 12.8.2002, p. 20

⁽⁷⁾ OJ C 244, 10.10.2003, p. 5

⁽⁸⁾ OJ C 156, 6.6.2000, p. 1

Having regard to its opinion on the report of the Commission requested by the Stockholm European Council: Increasing labour-force participation and promoting active ageing (COM(2002) 9 final) (CdR 94/2002 fin) ⁽⁹⁾;

Having regard to the Opinion of the Economic and Social Committee on immigration, integration and the role of civil society organisations (CES 365/2002);

Having regard to Article 13 TEC and related Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation and Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

Having regard to the Council of Europe report in July 2000 on Diversity and Cohesion: new challenges for the integration of immigrants and minorities;

Having regard to its draft opinion (CdR 223/2003 rev. 2) adopted on 16 December 2003 by its Commission for Economic and Social Policy (rapporteur: Councillor Derek Boden, Leader of the North West Regional Assembly, (UK/PES));

Whereas the Nice European Council of 9 December 2000 reaffirmed that employment is the best protection against social exclusion and called for a more vigorous integration policy for third-country nationals legally resident on Union territory which should aim at granting them rights and obligations comparable to those of European Union citizens;

Whereas the Seville Council in June 2002 agreed to the need to develop a European Union common policy on immigration and to the integration of immigrants lawfully present in the Union: and the decision to adopt provisions on the status of long-term permanent residents by June 2003;

Whereas the Tampere Council in October 1999 acknowledged the need for harmonisation of national legislation on the conditions for the admission and residence of third-country nationals, to be based on a common evaluation both of economic and demographic trends within the Union and the situation in the countries of origin;

Whereas the Tampere Council in October 1999 declared that the European Union must 'enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia';

Whereas the Presidency Conclusions of the Lisbon European Council of March 2000 referred to mainstreaming the promotion of social inclusion in Member States' employment, education and training, health and housing policies;

Whereas the enlargement of the EU will change the patterns of migration in Europe, probably to the overall benefit of European labour markets, leading to greater freedom of movement between new and existing Member States, whilst recognising that integration measures also assist intra-EU migrants;

adopted the following opinion at its 53rd plenary session, held on 11 and 12 February 2004 (session of 12 February).

1. The Committee of the Regions' views

The Committee of the Regions

1.1 welcomes the opportunity for joint consideration of policy proposals on the integration of third-country nationals resident in the European Union;

1.2 welcomes, in terms of the future of European integration, and especially enlargement, the development of a comprehensive strategy on the integration of immigrants;

1.3 reinforces the value and requirement for common principles, policies and procedures in respect of immigration and integration policy on both legal and illegal immigration;

1.4 recognises Member States' sensitivities in the area of integration policy and believes that the EU could contribute added value to the action taken at national level to achieve integration primarily through supporting programmes and initiatives rather than through harmonising legislation;

1.5 welcomes the Commission's commitment to establishing a series of actions and initiatives designed to support the integration of immigrants into civil society and the European Union labour market;

1.6 calls on the Commission to apply an approach in line with the principle of subsidiarity in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved;

⁽⁹⁾ OJ C 287, 22.11.2002, p. 1

1.7 regrets the lack of recognition in the Communication and in the Extended Impact Assessment of the crucial role local and regional government play in the successful implementation of integration policies, in their capacity as direct service providers, partners with other statutory and voluntary service providers, and community leaders, at the point of service provision to immigrant communities, and the closest point of political accountability towards our respective electorates;

1.8 regrets the lack of consultation of local and regional government in drawing up the Extended Impact Assessment on the Communication on immigration, integration and employment;

1.9 emphasises the crucial role of local authorities whose responsibilities for housing, planning, education, health and the labour-market impact directly on integration and can promote social inclusion and sustainable communities;

1.10 firmly believes that a successful implementation of integration policies can only be achieved by detailed attention to local and regional agencies, particularly those with a democratic mandate, since the latter behaves them to be sensitive to their people's concerns;

1.11 welcomes that local and regional authorities are invited to contribute to the development of national action plans on social inclusion and employment. This facilitates the comparison and identification of best practice and the analysis of the real impact and the results of strategies adopted by Member States;

1.12 underlines its belief that immigration is positive for the receiving countries but that for immigrants to be able to maximise their potential, Member States need to provide a proper basis for their integration, in the framework of an appropriate policy for planning immigration flows; nevertheless at the same time expresses its support for the statement in Article III – 168 (5) of the Convention's draft, to the effect that, in the course of further European coordination, 'the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed' shall not be affected;

1.13 stresses that integration is a two-way process and that efforts are needed from the immigrant as well as from the indigenous population in order to achieve genuine social cohesion;

1.14 stresses the importance of involving immigrants and refugees themselves in the development of services delivered at local and regional level, as a means of achieving relevant and effective services and as a first step in promoting the active integration of immigrants and refugees into civic and working life in the Member States;

1.15 insists that Community migration policy should attach great importance to economic and social development in the countries of origin in order to improve the quality of life for

the citizens of those countries, removing the causes of the discomfort and hardship which lead their inhabitants to emigrate, and to limit migration to levels which are sustainable for and beneficial to both the receiving countries and the countries of origin;

1.16 points out that immigration alone will not make up for the labour shortage in the EU in the long term and draws attention to the Committee's Opinion on the contribution of older people to the labour market, and more generally to the need to develop training, retraining and vocational guidance policies, and policies to regulate the instruments for balancing supply and demand, so as to promote the full employment;

1.17 notes with concern the absence of a gender perspective in the Communication and highlights the importance of special gender focused integration measures as unemployment is often high among women immigrants;

1.18 notes that poor knowledge of the language of the receiving country constitutes a major barrier integration, in particular to finding employment, benefiting from vocational training or attaining good school results;

1.19 reaffirms that the Lisbon objectives cannot be met without a successful immigration policy, and that therefore Community structural policy instruments should promote the social integration of immigrants and refugees after 2006 by mainstreaming these issues with economic and social policies under the new Objective 2;

1.20 encourages that the Commission has retreated from the ambition, voiced in its communication on a Community immigration policy (COM(2000) 757 final), of a legal status for third-country nationals on a basis of equality with European union nationals, and which could be expanded into a form of civic citizenship, based on the EC Treaty.

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1 urges the Commission to recognise to a greater extent the role of local and regional authorities in implementing and promoting successful integration and employment initiatives, due to their role as community leaders and main service providers with on-the-spot knowledge of immigrants' problems, not least because of their direct relationship with immigrants and their delegations;

2.2 urges the recognition of the existence of a large number of illegal migrant workers and the need to establish mechanisms to enable migrants who are in breach of immigration law to have their status legalised where appropriate without undue delay, with cases being dealt with on an individual basis, provided this is done in a way compatible with the capacity for decent reception and excluding those who have committed serious offences; and insists that action should be taken to penalise those who profit from illegal employment;

2.3 calls on the Commission and the Council to develop guidelines on the recruitment of skilled labour from developing countries, which recognise our responsibility for ensuring that the countries of origin do not suffer a 'brain drain', and fully respecting migrant workers' human rights;

2.4 draws attention to the need for the introduction of active policies to prevent illegal immigration, which also supply a shameful trade in human beings. This calls for a framework of measures concerted between the EU and the Member States – particularly those more directly exposed to immigration flows – which would on the one hand give the countries of origin and transit outside the Union the responsibility – albeit accompanied by measures of help and support – for combating and nipping in the bud the illegal organisation of migrant journeys to the target countries, while on the other hand guarding the EU's frontiers to stop people entering illegally;

2.5 urges the Commission to build on local and regional authorities expertise developed in international partnership working with local and regional authorities in sending countries to further social and economic development in those countries, and to facilitate participation by local and regional authorities in the debate on the EU's migration cooperation programme with third countries;

2.6 calls on the Commission to strengthen Community programmes such as EQUAL, which aims to promote social inclusion through support to disadvantaged groups and those facing potential discrimination in access to education and employment, since they provide resources which can be drawn on by local and regional authorities to support the integration of refugees into society and the labour market;

2.7 considers that the Commission should establish activities aimed at facilitating the social integration of immigrants in the form of programmes specifically aimed at assisting regions and local authorities to provide appropriate services;

2.8 supports the teaching of national languages as foreign languages to migrant groups of all ages to ensure better integration and urges the identification and dissemination of best practice in this area;

2.9 insists that integration policies need to be accompanied by supporting strategies to tackle racism and xenophobia, in particular:

— education to foster tolerance and non-discrimination, mutual appreciation of different ethnic minority groups and cultures, and to demonstrate the damaging effects upon the whole community of racism, so as to unite the whole community in support of integration and against racism; the CoR acknowledges the important work carried out by the European Monitoring Centre on Racism and Xenophobia in this field,

— fair immigration and asylum principles, policies and practices accompanied by adequate funding for support and integration of migrants and refugees, with special attention to the needs of women who are faced with potential double discrimination,

— adequate resourcing of local authorities and non-governmental organisations to enable them to successfully deal with immigration and refugee issues,

— welcomes Article III – 168 (4) of the Convention's draft, which states: 'European laws of framework laws may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.;

2.10 calls for the future annual reports on the development of the common immigration policy to include an evaluation of funding programmes promoting the integration of non-EU nationals to identify best practice and to make policy recommendations on this basis;

2.11 urges the Commission to take account, in its debate on the future of European cohesion policy, of the efforts made by certain regions who may experience a reduction in financial support from the Structural Funds and whose immigrant populations have increased significantly in recent years;

2.12 calls for guidelines to be laid down for granting civic rights to immigrants, according to the length of their residence in an EU Member State, as a fundamental principle for their effective integration.

Brussels, 12 February 2004.

*The President
of the Committee of the Regions*
Peter STRAUB

Opinion of the Committee of the Regions on the ‘communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the activities of the European Monitoring Centre on Racism and Xenophobia, together with proposals to recast Council Regulation (EC) 1035/97 and the Proposal for a Council regulation on the European Monitoring Centre on Racism and Xenophobia (Recast version)’

(2004/C 109/09)

THE COMMITTEE OF THE REGIONS,

Having regard to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the activities of the European Monitoring Centre on Racism and Xenophobia, together with proposals to recast Council Regulation (EC) 1035/97 and the Proposal for a Council regulation on the European Monitoring Centre on Racism and Xenophobia (Recast version) (COM(2003) 483 final),

Having regard to the decision of the European Commission of 22 May 2003 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community,

Having regard to the decision of its President of 19 March 2003 to instruct its Commission for Economic and Social Policy to draw up an opinion on this subject,

Having regard to its draft opinion (CdR 313/2003 rev. 1) adopted on 16 December 2003 by the Commission for Economic and Social Policy (rapporteur: Mr Peter Moore, Councillor, Sheffield City Council (UK/ELDR)),

adopted unanimously the following opinion at its 53rd plenary session, held on 11 and 12 February 2004 (meeting of 12 February).

1. The Committee of the Regions’ views

The Committee of the Regions:

1. recognises and values the strategic role of the Monitoring Centre in combating racism and xenophobia across the European union;

2. welcomes the Communication’s commitment to add management skills to the areas of expertise required for Management Board members;

3. considers that as major employers and as providers of goods and services to residents and citizens, regional and local authorities are important in effecting, measuring and participating in anti-racism projects and in the development of good practice. National strategies must gain the support of local and regional authorities in order to maximise support and involvement and so that information is disseminated as widely as possible through local and regional media across the Member State;

4. underscores the importance of mechanisms for consultation and the maintenance of links with civil society;

5. is concerned that the deletion of national Roundtables from the EUMC’s activities will diminish the EUMC’s interactions with civil society in the Member States. National Roundtables have contributed to the building and sustaining of vital links in bilateral information flow with minority ethnic communities and key agencies in civil society.

6. With reference to the composition of the Management Board, the CoR disagrees with the proposed mandatory designation of the heads of equal treatment bodies to the Management Board;

7. recognises the Commission’s wish to optimise the effectiveness of the decision-making structures of the Centre – with particular reference to the fact that the composition of the Board should maximize the influence of the Centre with policy-makers in the Member States, while retaining the ability to guarantee its independence;

8. agrees that RAXEN be given the highest priority. The monitoring remit of the EUMC is a very salient one. Systematic collection of data and information is crucial to address the following issues with respect to racism and xenophobia: persistent under-reporting or non-reporting of incidents due to a number of reasons; identifying the development of discriminatory trends and practices and the effectiveness of measures to combat them; enhancement of the comparability of data from disparate sources via use of common formats, indicators and methodology. Monitoring by the EUMC through collection, collation, analysis and dissemination of appropriate data will provide the EU with a better overview of the location and occurrence of racism and xenophobia, better formulation of strategies and methods to improve the comparability, objectivity, consistency and reliability of data at Community level, and increased cooperation with the national university research centres, NGOs and specialist advocacy groups/centres.

9. In this regard, recognizes that increased co-operation with Member States and national authorities is crucial to improve monitoring and reporting mechanisms at the national level. The CoR concurs with the Communication that ultimately the Centre's remit is unachievable unless national authorities adopt compatible if not common classification systems. The CoR welcomes the willingness of national authorities to play a more active role in this regard in their consultations with the Commission and with the Centre. The CoR also strongly endorses the Commission's proposal to sharpen the focus of the Regulation on co-operation between the Centre and national authorities to ensure that maximum value is obtained from the Union's investment;

10. considers that EUMC reports should be clearly linked to its overall objectives thereby informing national and EU policy-making;

11. considers that the EUMC's work with monitoring and strengthening the Charter of European political parties for a non-racist society (February 1998) should continue to be encouraged and supported. Current initiatives supported by the EUMC via Round Tables, for instance work with the media, work with sports organizations such as UEFA and FIFA, and conferences, should be extended to cover the activities of political parties at local and regional authority level;

12. concerning enlargement of the EU, considers that the EUMC should acquire a clear overview of the current reality in candidate countries, and be prepared for the implications of enlargement with respect to possible increases in fears about migration, unemployment, etc. The EUMC should continue its legitimate and important work for an inclusive society.

2. The Committee of the Regions' recommendations

The Committee of the Regions:

1. with respect to co-operation with other organisations and with respect to its remit under Article 2 (1) of the Regulation, proposes that the EUMC further include regional and local authorities within the scope of its activities, such that information is both disseminated to, and collected from regional and local authorities. This could be done by:

- a) Agreements with National Focal Points being made specific to incorporate this;
- b) Annual report of the EUMC to be presented to the Committee of the Regions to promote an ongoing dialogue with regional and local authorities on activities, knowledge and information sharing, participation in research and data collection;

2. calls for a clarification of Article 3.e. and Article 2.2 (the article setting out the EUMC's objective). The role of social partners and civil society in the structures, functions and actions of the EUMC needs further clarification;

3. with reference to the Management Board and Executive Board of the EUMC, the CoR:

- a) recommends that the required skills mix for Board members needs to be further clarified, and certain threshold levels of competency identified and established. Member States should nominate and appoint in compliance with these skills profiles and competency thresholds;
- b) recommends that members of the Management Board be independent persons in a manner consistent with Article 8.1.a of the regulation;
- c) strongly recommends that there be fixed terms of office for members of the Board – a lack of term limits enhances the risk of unaccountability and instability and is contrary to established good practice;
- d) questions the additional vote on both Boards for the Commission in order to avoid undue influence on the workings of an independent agency such as the EUMC;
- e) recommends a broadening of the mandate of the Executive Board to include greater managerial control in designated areas – this will increase both the effectiveness and the efficiency of decision making in a manner consistent with both operational and strategic imperatives;
- f) recommends representation of the Committee of the Regions on the Management Board to reflect the key role played by local and regional authorities in the remit of the EUMC;

4. recommends the further clarification of the nature of 'involvement' from the Member States vis-à-vis RAXEN (as indicated in Article 3.2), while protecting the independence of the Centre as intended in the original Regulation;

5. recognises the essential link between data collection and information analysis, and therefore recommends that the EUMC's contribution to both policy making, as well as capacity building in this regard should be supported. Data collection is therefore a necessary but not a sufficient condition for the Centre to fulfil its remit as intended by the Regulation;

6. believes that the EUMC's awareness-raising activities have been integral to its remit, and recommends that they should therefore be outlined in the Regulation;

7. recommends that the EUMC be adequately prepared to meet the challenges and opportunities presented by candidate countries in the context of EU enlargement and should collaborate with the Commission in monitoring the Copenhagen criteria, including anti racism;

8. supports the proposal to enable the Management Board of the EUMC to invite independent experts from candidate countries to its meetings in order to facilitate future accession.

Brussels, 12 February 2004

The President
of the Committee of the Regions
Peter STRAUB

Resolution of the Committee of the Regions on the 'outcome of the Intergovernmental Conference'

(2004/C 109/10)

THE COMMITTEE OF THE REGIONS,

A. HAVING REGARD TO the Draft Treaty establishing a Constitution for Europe of 18 July 2003 drawn up by the European Convention;

B. HAVING REGARD TO the presidency conclusions of the European Council of 12 and 13 December 2003;

C. HAVING REGARD TO the presidency proposals to the IGC at the European Council of 12 and 13 December 2003 (CIG 60/03, CIG 60/03 Add. 1, CIG 60/03 Add. 2);

D. HAVING REGARD TO the Laeken Declaration on the Future of the European Union;

E. HAVING REGARD TO the European Parliament resolutions of 18 December 2003 on the outcome of the Intergovernmental Conference (P5-TA-PROV (2003) 0593) and of 29 January 2004 on the programme of the Irish Presidency-in-office of the Council and the European Constitution (P5-TA-PROV (2004) 0052);

F. HAVING REGARD TO the CoR's opinion of 9 October 2003 on its proposals for the Intergovernmental Conference (CdR 169/2003 fin ⁽¹⁾);

G. HAVING REGARD TO its Bureau's decision of 18 November 2003, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to draw up a resolution on the subject;

adopted the following resolution at its 53th plenary session of 11 and 12 February 2004 (meeting of 12 February).

The Committee of the Regions

1. DEPLORES the failure of the IGC at the European Council of 12 and 13 December 2003 and SUPPORTS the efforts of the Irish presidency to relaunch the intergovernmental negotiations in order to give the citizens of Europe a constitution as quickly as possible, preferably before the European elections;

2. CALLS for the talks to be held in public, with a view to improving transparency and accountability;

3. STRESSES the historic progress made by the European Convention, underpinned by a powerful democratic mandate, from the citizens of Europe;

4. REGARDS the draft submitted by the European Convention to the heads of state or government, which it endorses, as the foundation of the future Treaty establishing a Constitution for Europe and thus CONSIDERS it to be the mainstay of the ultimate IGC agreement;

⁽¹⁾ OJ C 23, 27.1.2004, p. 1

5. CALLS ON Member State governments to shoulder their responsibilities and ASKS them to put the Community interest before national interests, in order to safeguard the future of European integration, not least cohesion policy;
6. STRESSES in that connection that the inclusion of territorial cohesion as a Union objective is one of the fundamental achievements of the Convention's draft Constitution;
7. URGES the IGC to confirm the constitutional recognition of the role of local and regional authorities in the European venture and the new role given to the CoR on the monitoring of the principle of subsidiarity, as affirmed by the Convention;
8. REITERATES its recommendations to straighten out certain inconsistencies between the various sections of the Treaty without, however, undermining the institutional balance in order, on the one hand, to clarify the CoR's institutional status, firmly establish its areas of mandatory consultation within the constitutional set-up and strengthen its consultative role, and, on the other, to consolidate economic, social and territorial cohesion, among other things by establishing an explicit legal basis for interregional and cross-border cooperation;
9. CALLS ON Member State governments, to complete the Union reform process launched at the Laeken European Council;
10. INSTRUCES its president to forward this resolution to the Council of the European Union, the European Parliament, the European Commission and members of the Convention.

Brussels, 12 February 2004

*The President
of the Committee of the Regions*
Peter STRAUB

Resolution of the Committee of the Regions on the 'European Commission's work programme' and 'the Committee of the Regions' priorities for 2004'

(2004/C 109/11)

THE COMMITTEE OF THE REGIONS,

HAVING REGARD TO the Commission's legislative and work programme for 2004 (COM(2003) 645 final);

HAVING REGARD TO the European Parliament resolution on the Commission's legislative and work programme for 2004, adopted at the plenary session of 17 December 2003 (P5_TA PROV(2003)0585);

HAVING REGARD TO the Protocol governing arrangements for cooperation between the European Commission and the Committee of the Regions (DI CdR 81/2001 rev. 2);

WHEREAS local and regional authorities are responsible for implementing a large proportion of EU policies;

WHEREAS the fact that local and regional authorities help to define the EU's priorities will greatly enhance the democratic legitimacy of EU policies;

adopted the following resolution at its 53rd plenary session on 11 and 12 February 2004 (meeting of 12 February):

The Committee of the Regions

General observations

1. welcomes the strategic approach of the European Commission 2004 annual work planning;
2. considers that the priorities of the Committee of the Regions are reflected within those of the Commission. The CoR's priorities will be: to contribute to shaping the future of cohesion policy; to implement the Lisbon agenda; to complete enlargement, to prepare a new neighbourhood policy; and to strengthen the local and regional dimension of the Area of Freedom, Security and Justice;
3. reiterates its wish to be involved in the inter-institutional dialogue on the annual political strategy and the work programme and in this context is pleased that the Commission Communication on dialogue with associations of regional and local authorities on the formulation of European Union policy [COM(2003) 811] provides that 'The proposed systematic dialogue will be based upon a presentation of ... the Commission's annual work programme';
4. undertakes, especially with a view to the European elections in June 2004, to defend the achievements of the European Convention in accordance with its resolution on the results of the Intergovernmental Conference adopted on 12 February 2004;
5. considers it essential to step up consultation with the European Commission on the practical methods of evaluating respect for the principles of subsidiarity, proportionality and proximity, as well as the territorial impact of Community legislation, and recalls that in its resolution on the Commission's work programme for 2003 the CoR encouraged the Commission '... to implement forthwith the recommendation made by the Convention working group on the subsidiarity principle to attach to every legislative proposal a 'subsidiarity assessment' containing details making it possible to assess the extent to which the principle of subsidiarity is respected in it';
6. considers it necessary to continue the European Commission's trials promoting tripartite contracts in order to improve territorial cohesion, and asks the Commission to inform it about the results of these trials;
7. asks the European Commission to jointly evaluate the results of implementing the cooperation protocol with a view to revision before the end of 2004 and in the light of the new culture of consultation and cooperation and the new tasks assigned to the Committee;
8. welcomes the Council's adoption of a multiannual strategic programme for 2004-2006 [Doc. 15709/03 of 5 December 2003], which provides a useful reference for the strategic programming of the other European institutions;

The future of cohesion policy

9. undertakes to be fully involved in drawing up a new cohesion policy, drawing on its expertise and its members' in-depth knowledge of local and regional matters. Regions are not only the most appropriate level for taking cohesion policy decisions but are also the most efficient level ensuring their delivery;
 10. welcomes the initiatives related to the European Year of Education through Sports and, as local and regional authorities are deeply involved by the organisation of sport events, asks to be more involved in the events organised by the Commission within the 2004 EYES initiative;
 11. strongly supports a genuine European regional policy which promotes competitiveness in order to attain the goals of the Lisbon strategy and will reject any idea of re-nationalisation and the idea of replacing this by mere regional assistance for poorer Member States;
 12. considers the objective of earmarking 0.45 % of EU GDP for regional policy to be the minimum needed to guarantee the Union a viable regional policy and refuses to accept that regional policy should be the EU budget-balancing variable in response to calls for cuts by certain governments of Member States that are net contributors;
 13. rejects any move to make an agreement on the future financial perspectives and the amount of funding earmarked for cohesion policy conditional on alignment with the positions of the net contributors in the Intergovernmental Conference;
 14. stresses that regional cooperation is an integrating factor and provides real Community added value in regional policy, which must be a fundamental pillar of the future Structural Funds;
 15. reiterates the need to further simplify, streamline and decentralise the Structural Funds, as noted in the CoR Outlook Report and requested by grassroots interest groups during the broad consultations held on the matter;
 16. reiterates its call for practical implementation of a Community rural development policy based on an integrated approach within a single legal and policy framework, in accordance with the Cork (1996) and Salzburg (2003) declarations; calls for the current concept of rural development as just an extension of agricultural activities to be abandoned and a policy to be introduced that embraces the diverse activities of farmers, tourism, support for crafts activities, access to the information society, services to the general public and to businesses, and housing policy;
- ### Towards implementation of the Lisbon strategy objectives
17. calls for more intensive and more decentralised implementation of the Lisbon strategy, and adequate budgetary resources for achieving this;

18. welcomes the strong impetus to the Lisbon agenda given by the Commission Communication to the spring European Council and asks the spring Council to take the necessary steps to implement the reforms required to stimulate competitiveness, innovation, sustainable growth and stability; considers that local and regional authorities should be regarded as partners in the implementation of the Lisbon strategy and emphasises their contribution to realising these objectives and narrowing regional disparities;

19. considers, however, that the structural reforms needed to attain the Lisbon objectives should not be prejudicial to social cohesion and must therefore be accompanied by substantial economic, social and educational investment; in this context, the Committee of the Regions supports the need to tighten up the criteria of the Stability and Growth Pact, taking into account public investment, including infrastructure spending and measures to promote labour market and social inclusion;

20. calls for the further and stronger inclusion of environmental concerns in all policy areas in accordance with the Gothenburg strategy, taking economic efficiency into account;

21. welcomes the priority attached to promoting investment in networks and knowledge, in particular the development of the European Research Area and the implementation of the action plan to increase investment in research and development in line with the 3 % GDP objective and to attract adequate human resources in research;

22. calls for increased focus to be given to the role of education and training and investment in human resources in promoting Europe's growth and achieving the Lisbon strategy;

23. looks forward to the Commission's follow-up to: (a) the Court of Justice 'Altmark Trans' ruling on the financing of public service obligations and (b) the Green Paper on services of general interest, in which the Commission set out only a limited number of proposals for legislative or regulatory action;

24. stresses the essential role of a review and adjustment of the eEurope 2005 initiative in the enlarged Europe, in particular the development and use of a European secure broadband infrastructure, and is looking forward to the revised eEurope Action Plan 2005;

25. urges the Commission to ensure that the process of increasing concentration in the media sector does not lead to creation of an oligopoly jeopardising pluralism, cultural diversity and consumers' freedom of choice;

Enlargement of the European Union

26. expresses its concern at the insufficient involvement of local and regional authorities by the Commission and the national authorities in preparations for enlargement and asks that cohesion policy should play a vital role in the integration of the new Member States;

27. notes with satisfaction that the Commission has included further development of administrative capacity among its top priorities for the accession countries; points out that the local and regional authorities of the accession states in particular still need more support; invites the Commission to introduce urgently new innovative measures to reinforce the administrative and implementation capacity of the local and regional authorities of the accession states;

28. strongly recommends that the local and regional authorities be better involved in the ongoing and future accession negotiations; notes that the problems currently faced by the first ten accession countries are also due to lack of implementation and administrative capacity, which could have been avoided if more attention had been paid to the needs of the local and regional authorities in the enlargement process;

29. fully endorses the neighbourhood policy of the Commission and the stability element it is based on; notes again with regret that the Commission work programme still does not provide for consultation of the Committee of the Regions on most enlargement- and neighbourhood-related issues;

Neighbourhood policy

30. stresses the importance of promoting cultural diversity in an enlarged Europe; looks forward to actively pursuing its priorities to respect and promote cultural and linguistic diversity as a source of wealth to be preserved;

31. considers that development of the trans-European networks is also an indispensable means of enhancing stability at the frontiers of the EU;

32. recalls that if the Wider Europe policy is to be a success, it is absolutely necessary to distinguish two differentiated lines of action - one for the Mediterranean and the other for Russia and the NIS;

33. recommends that the Commission take full account of the experience of the new members of the Committee of the Regions from the accession countries with their Eastern and Mediterranean neighbours and involve the local and regional authorities of the EU-25 in shaping the new 'ring of friends' policy; reflecting this concern, the CoR will focus on the Eastern dimension of the Wider Europe policy by organising a seminar on this issue in Kaliningrad in the second half of 2004;

34. calls, in accordance with its resolution of 28 November 2003, for closer involvement of local and regional authorities in the Euro-Mediterranean partnership, which means setting up a body within the partnership that would represent local and regional authorities and making decentralised Euro-Mediterranean cooperation one of the pillars of the Barcelona Process, with guidelines for an interregional and transnational cooperation programme for local and regional authorities around the Mediterranean; the focus here should be on specific training programmes for administrative capacity building;

35. asks for the Thessaloniki agenda to be vigorously pursued and for the local and regional authorities of the Western Balkans to be involved in all programmes and networks of the EU which further their integration into Europe in all fields, be they economic, social or cultural;

Area of Freedom, Security and Justice

36. stresses the local and regional dimension in relation to implementing the Area of Freedom, Security and Justice; calls for this dimension to be taken into account when defining policy further to the Tampere programme, which the CoR would like to see completed within the deadlines confirmed by the European Council in Thessaloniki, and asks to be consulted on this matter;

37. notes with satisfaction the increased consultation of the CoR in the field of asylum and immigration policies; regrets however that the Commission refused to consult the CoR on

certain documents in this field which the CoR specifically asked to be consulted about;

38. points out that integration of immigrants and social cohesion are highly topical issues in most EU countries, and considers that integration should be a key issue in all relevant EU policy areas, notably the common immigration and asylum policy;

39. recommends that the Structural Funds also be used to support and develop instruments for realising the Area of Freedom, Security and Justice in sensitive regions and municipalities;

40. instructs its President to submit this resolution to the European Commission, the European Parliament, the Council, the Irish and Dutch presidencies, and the governments and parliaments of the accession countries.

Brussels, 12 February 2004

The President
of the Committee of the Regions
Peter STRAUB
