

Official Journal

of the European Union

C 120

Volume 48

English edition

Information and Notices

20 May 2005

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I <i>Information</i>	
	
	II <i>Preparatory Acts</i>	
	European Economic and Social Committee	
	412th plenary session of 27/28 October 2004	
2005/C 120/01	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC' (COM(2004) 273 final – 2004/0097 (COD))	1
2005/C 120/02	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of toluene and trichlorobenzene (twenty-eighth amendment of Council Directive 76/769/EEC)' (COM(2004) 320 final - 2004/0111 (COD))	6
2005/C 120/03	Opinion of the European Economic and Social Committee on the 'Ability of SMEs and social economy enterprises to adapt to changes imposed by economic growth'	10
2005/C 120/04	Opinion of the European Economic and Social Committee on 'Pan-European transport corridors'	17
2005/C 120/05	Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Connecting Europe at high speed: recent developments in the sector of electronic communications' (COM(2004) 61 final)	22

EN

Price:
26 EUR

(Continued overleaf)

<u>Notice No</u>	Contents (continued)	Page
2005/C 120/06	Opinion of the European Economic and Social Committee on the 'Amended proposal for a Directive of the European Parliament and of the Council on enhancing port security' (COM(2004) 393 <i>final</i> - 2004/0031 (COD))	28
2005/C 120/07	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons in extender oils and tyres (twenty-seventh amendment of Council Directive 76/769/EEC)' (COM(2004) 98 <i>final</i> - 2004/0036 (COD))	30
2005/C 120/08	Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation amending Regulation (EC) No 2702/1999 on measures to provide information on, and to promote, agricultural products in third countries, and Regulation (EC) No 2826/2000 on information and promotion actions for agricultural products on the internal market' (COM(2004) 233 <i>final</i> - 2004/0073 (CNS))	34
2005/C 120/09	Opinion of the European Economic and Social Committee on 'Industrial change and State aid in the steel sector'	37
2005/C 120/10	Opinion of the European Economic and Social Committee on 'Health safety: a collective obligation and a new right'	47
2005/C 120/11	Opinion of the European Economic and Social Committee on the 'Communication from the Commission: Follow-up to the high level reflection process on patient mobility and healthcare developments in the European Union' (COM(2004) 301 <i>final</i>)	54
2005/C 120/12	Opinion of the European Economic and Social Committee on the: — 'Proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research' — 'Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community' — 'Proposal for a Council Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research' (COM(2004) 178 <i>final</i> - 2004/0061 (CNS))	60
2005/C 120/13	Opinion of the European Economic and Social Committee on 'Training and productivity'	64
2005/C 120/14	Opinion of the European Economic and Social Committee on the 'Proposal for a Council decision amending Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)' (COM(2004) 384 <i>final</i> - 2004/0122 (CNS))	76
2005/C 120/15	Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation on the European Monitoring Centre for Drugs and Drug Addiction' (COM(2003) 808 <i>final</i> - 2003/0311 (CNS))	78
2005/C 120/16	Opinion of the European Economic and Social Committee on 'Improving the implementation of the Lisbon Strategy'	79
2005/C 120/17	Opinion of the European Economic and Social Committee on 'European business competitiveness'	89
2005/C 120/18	Opinion of the European Economic and Social Committee on the 'Green Paper on public-private partnerships and Community law on public contracts and concessions' (COM(2004) 327 <i>final</i>)	103



<u>Notice No</u>	Contents (continued)	Page
2005/C 120/19	Opinion of the European Economic and Social Committee on the 'Proposal for a Council directive amending Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products' (COM(2004) 227 <i>final</i>)	111
2005/C 120/20	Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive amending Directive 77/388/EC by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia' (COM(2004) 295 <i>final</i>)	114
2005/C 120/21	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on energy end-use efficiency and energy services' (COM(2003) 739 <i>final</i> — 2003/0300 (COD))	115
2005/C 120/22	Opinion of the European Economic and Social Committee on a 'Proposal for a Directive of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment' (COM(2003) 740 <i>final</i> — 2003/0301 (COD))	119
2005/C 120/23	Opinion of the European Economic and Social Committee on the 'Treaty establishing a Constitution for Europe'	123
2005/C 120/24	Opinion of the European Economic and Social Committee on 'The environment as an economic opportunity'	128
2005/C 120/25	Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the open method of coordination' (COM(2004) 304 <i>final</i>)	135



II

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

412th PLENARY SESSION OF 27/28 OCTOBER 2004

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC'

(COM(2004) 273 final – 2004/0097 (COD))

(2005/C 120/01)

On 10 June 2004 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 October 2004. The rapporteur was Mr von Fürstenwerth.

At its 412th plenary session of 27/28 October 2004 (meeting of 27 October) the European Economic and Social Committee adopted the following opinion 158 votes to four with three abstentions:

1. Introduction

1.1 There is currently no harmonised framework for the supervision of reinsurance undertakings in the EU. As a result, reinsurance supervision regimes vary widely from one Member State to another.

1.2 On 21 April 2004, therefore, the Commission submitted a proposal for a Directive on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC. Its key features are as follows:

- a supervisory approach based on harmonisation and mutual recognition and underpinned by current direct supervision rules;
- a fast-track approach by a directive based on current direct supervision rules;
- a mandatory licensing system;
- solvency margin requirements in line with those for direct insurance, with, however, the possibility of increasing this margin through comitology.

2. The Commission proposals

2.1 The purpose of the directive is to establish a harmonised supervisory framework for reinsurance undertakings and captives⁽¹⁾ in the European Union.

2.2 The proposal lays down the minimum conditions necessary to obtain official authorisation. Among other things, these conditions stipulate that the undertaking in question must have a specific legal form. It must submit a scheme of operations and must also hold a minimum guarantee fund. Business is limited to reinsurance and related operations and the qualifying shareholders and management of the undertaking are also subject to checks. An authorisation, once granted, is valid for the entire Community.

2.3 The directive seeks to prohibit reinsurers from depositing security with primary insurers, where this is required under Member States' national law. Contractual deposits remain

⁽¹⁾ A reinsurance captive is a reinsurer belonging to a company or a group of companies where that company or group of companies is not engaged in primary insurance or reinsurance. A captive operates only to offer reinsurance protection to the company or group of companies in question.

unaffected. In addition to establishing a functioning single market, the Commission is also seeking to lay down an international benchmark to alleviate worldwide the constraints placed on European reinsurers as a result of the deposit of security.

2.4 Under the solvency provisions for undertakings, the solvency requirements that apply to primary non-life insurance companies are also to apply to the non-life reinsurance business. These requirements may be increased by up to 50 % through the comitology procedure. The solvency provisions for life reinsurance undertakings are to be based on those that apply to primary life insurance undertakings. Where an undertaking conducts life and non-life reinsurance business simultaneously, the total sum must be covered by its own funds. Like primary insurance undertakings, reinsurance undertakings will also be required to maintain a minimum guarantee fund of not less than EUR 3 million. For captive reinsurance undertakings, that figure may be reduced to EUR 1 million.

2.5 The proposed directive lays down specific supervisory powers in cases where a company's financial situation deteriorates, where no adequate technical provisions are in place or where there is insufficient solvency. These powers match those in the primary insurance sector and provide scope to require the submission of a plan for the restoration of a sound financial situation, a finance scheme and a financial recovery plan, and to withdraw authorisation.

2.6 Reinsurance undertakings which were entitled or authorised to conduct reinsurance business before the date of implementation of the directive may continue to do so without requesting authorisation. They are subject to the substantive provisions of the directive, although the Member States may grant an additional transitional period of two years.

2.7 The proposal gives the Commission implementing powers to make technical adjustments to the directive ('comitology').

2.8 The life, non-life and insurance groups directives are also to be adapted in line with the supervision rules for reinsurance undertakings. Thus,

- the supervisory authority may not refuse a reinsurance contract on the grounds directly related to the financial soundness of an EU insurance or reinsurance undertaking;
- there must be no provision for a system of gross reserving which requires the pledging of assets to cover unearned

premiums and outstanding claims provisions (prohibition of deposit of security);

- primary insurance undertakings that also offer reinsurance are subject to the same solvency requirements as reinsurance undertakings;
- the insurance groups directive is being amended to place reinsurance undertakings on the same footing as primary insurance undertakings.

3. General comments

3.1 The Committee welcomes the Commission's proposal which will help consolidate Europe's position as a financial centre by ensuring that reinsurance undertakings and captives have adequate capital at their disposal to meet their obligations. This will give a lasting boost to the position of European reinsurance undertakings on the international insurance markets.

3.2 The Committee would expressly point out the importance of the reinsurance industry for Europe's position as a financial centre. In 2002, the total reinsurance premium of the 40 largest reinsurers amounted to USD 138 601 200 000, of which USD 58 544 000 000 stemmed from EU reinsurers.

3.3 The reinsurance business is concerned mainly with the relationship between primary insurers and reinsurers. However, the loss of one or more reinsurers may have an impact on consumers if, as a result, a primary insurer is no longer able to meet its obligations. The Committee therefore recognises that the proposed directive also indirectly boosts EU consumer protection. The Committee also draws attention to the benefit to consumers of adequate reinsurance cover. That in turn requires the availability on the European market of sufficient reinsurance capacity at reasonable premiums.

3.4 The Committee welcomes the Commission's fast-track approach, i.e. that the reinsurance supervision rules are adopted on the basis of the current primary insurance supervision rules. This is the right approach, not least in the light of the ongoing Solvency II project.

3.5 A key fact about reinsurance is that it is a global market. In the ongoing consultations on the directive, therefore, the Committee would ask the European Parliament, the Council and the Commission to pay particular attention to the international competitiveness of the European reinsurance industry.

3.6 The Committee recognises that the European reinsurance industry in particular proved its financial soundness in the wake of the 11 September 2001 attacks. Thus, any new burden placed on the European reinsurance industry should be subject to a rigorous cost-benefit analysis.

3.7 The Committee acknowledges that, up to now, different supervision regimes have been in operation in the EU, involving a mix of solvency, capital investment and deposit-related rules. Under the Commission proposal, the current rules for deposits in particular are set to disappear. It is vital to ensure that the supervisory authorities concerned develop sufficient trust in the future supervisory mechanisms and their uniform application across the EU.

4. Solvency requirements for life reinsurance activities (Article 38)

4.1 Under the proposed directive, the provisions for calculating the solvency margin of primary life insurance undertakings are also to apply to life reinsurance undertakings. For life reinsurance, the Commission proposes the adoption – unchanged – of the solvency rules of the primary insurance sector. The solvency calculation comprises two elements: 3% of the sum at risk and 4 % of the mathematical provisions. The Committee feels that this places a disproportionate burden on European life reinsurance undertakings. The Commission's proposal:

- fails to reflect the business and risk profile of life reinsurance activities and results in a disproportionate overcapitalisation of life reinsurers;
- puts European life reinsurers at a substantial disadvantage compared with their international competitors (cf. appendix) and raises fears of a further depletion of reinsurance capacity;
- makes reinsurance cover considerably more expensive;
- may contribute to the destabilisation of the financial markets if increased costs mean that primary insurance undertakings do not buy the requisite reinsurance cover;
- places a considerable additional cost burden on private funded pension schemes.

4.2 In Europe, the risk structure of primary life insurance undertakings and life reinsurers differs considerably. In the life reinsurance business, the capital investment risk generally remains with the primary insurer. That difference alone shows that the solvency formula for primary life insurance cannot adequately reflect the risk structure in the life reinsurance business.

4.3 It is clear from a comparison with the calculation methods used by rating agencies that the proposed EU requirements would seem excessive. US solvency requirements for instance, while based on the amount at risk, also include a variable factor contingent on the size of the relevant portfolio (0.8% on holdings over EUR 25 billion – see appendix). The Canadian supervisory authorities and rating agencies take a similar approach.

4.4 While the primary insurance business between insurer and client still bears national hallmarks, reinsurance has always been an international operation, not least because of the need for international risk diversification. It is therefore necessary to establish a level playing field between providers within the Union and international competitors in the USA, Bermuda and Switzerland.

4.5 The fear for European reinsurers competing globally is that they would be placed at a serious disadvantage compared with their rivals outside Europe, where capital requirements are lower. Much of the reinsurance business could well shift to non-European reinsurance centres such as Bermuda or the USA. Any shift in reinsurance capacity would considerably weaken Europe's position as a financial centre. The excessive requirements would inevitably deplete reinsurance capacity and/or make reinsurance more expensive. Such price hikes for reinsurance will inevitably be reflected in the cost of primary insurers' products and thus filter down to consumers too. In turn higher prices will inevitably also have an adverse impact on the establishment of private funded pension schemes that is so urgently needed.

4.6 The Committee feels that none of these developments are conducive to promoting the European single market. The new EU Member States in particular are keen to have a properly working single European market in reinsurance and would be particularly affected by any adverse changes in the structure of reinsurance provision.

4.7 The Committee therefore concludes that the method for calculating the solvency margin for life reinsurance activities proposed in the draft directive could damage European reinsurers' competitiveness. It thus feels that significant changes are needed to the Commission's proposed solvency provisions of life reinsurance undertakings.

4.8 Building on that, the Committee proposes that the solvency calculation for non-life reinsurers should also be taken as a guide for the life reinsurance sector.

4.8.1 In terms of risk and competition, the solvency calculation method for non-life insurers is more than adequate. The non-life solvency formula is broadly consistent with comparable international solvency requirements so that there is little chance of European reinsurers being placed at a competitive disadvantage.

4.8.2 The non-life formula adequately meets the needs of the life reinsurance sector. Because of its overwhelming reliance on existing calculations of mortality risk, the life reinsurance business has more in common with the primary non-life insurance and the non-life reinsurance sectors than with the primary life insurance business.

4.8.3 Individual risks not reflected in the non-life formula can easily be incorporated under the Solvency II project.

4.8.4 From a legislative standpoint, the non-life formula is easy to implement as the Commission has already submitted a finished text in its draft proposal for a directive (revision 3).

4.8.5 By using the non-life formula, life reinsurance undertakings are able to determine their solvency requirements quickly since companies already have the requisite data which does not therefore need to be collected. The non-life formula is especially useful given the lack of information in international business.

4.8.6 The non-life solvency formula is particularly well suited to a fast-track approach. It is easy to apply as it needs no further adjustment in cases where, for instance, contractual deposits are placed.

5. Solvency provisions for non-life reinsurance activities (Articles 37 and 55)

5.1 The proposed directive applies the provisions for calculating the solvency margin of primary non-life insurance activities to the non-life reinsurance business as well. The proposal also allows for the possibility of increasing the solvency requirements for non-life reinsurance by up to 50 % under the Lamfalussy procedure.

5.2 The Committee feels that, under the fast-track procedure, it is appropriate to transfer, unchanged, the solvency rules for primary non-life insurers to non-life reinsurers. However, the Committee has considerable misgivings about extending the Lamfalussy procedure in the area of solvency requirements.

5.3 The proposed directive was conceived as a fast-track project, not as a framework directive within the Lamfalussy procedure. The solvency requirements should only be amended as part of the more far-reaching Solvency II project.

5.4 Nor is there any material case for applying the Lamfalussy procedure. Capital requirements for reinsurance undertakings are not in any sense implementing measures under the terms of the Lamfalussy procedure. As is readily clear from the protracted Basle II negotiations in the banking sector, capital requirements are the very core of the future supervisory system and not some downstream detail.

5.5 The Committee feels that the specific capital requirements should be made clear in the directive itself and not in downstream Community legislation. This distinction is also backed up by the current Convention draft, which requires that substantive provisions be incorporated into the directive itself. The Commission's reference to extensive consultation of the relevant stakeholders does not therefore go far enough.

6. Reinsurance and retrocession factors (Articles 37 and 38)

6.1 Under the proposed directive, retrocession to other reinsurers may be taken into account in solvency calculations only up to a ceiling of 50 % of the gross amount of claims. This is in line with the current rules for primary insurers in the life and non-life sectors. The draft directive on the supervision of reinsurance undertakings is designed to make a substantial contribution to boosting the financial soundness of the reinsurance sector within the European Union. The Committee therefore feels that full recognition of cessions of primary insurers and retrocessions of reinsurers is warranted, provided the ceding or retroceding undertaking concerned is subject to supervision within the EU.

6.2 The Committee would recommend increasing the reinsurance and retrocession factors, not least given the increased demands made on the insurance industry to resolve issues facing society as a whole. Because of the low reinsurance and retrocession factor, it has not always been possible to offer economical solutions, e.g. in response to the calls made in the wake of the 11 September 2001 attacks to cover industry and the aviation sector against terrorist risks. In some Member States, the low retrocession factor has so far prevented the development of insurance cover for terrorist risks.

7. Investment rules (Article 34)

7.1 The Committee accepts the qualitative prudential rules provided for in Article 34 (the 'prudent person principle'). Given the special features and, in particular, the international nature of the reinsurance business, such an approach is more appropriate than a rigid quantitative one. The EU is thus pursuing a modern approach that is also recommended by the International Association of Insurance Supervisors (IAIS). At the same time, however, the Committee recognises that a qualitative approach is not a blank cheque, but requires undertakings to continuously monitor and improve the capital investment process.

7.2 As the directive restricts or repeals existing prudential rules (as regards depositing security for instance), the Committee recommends that the directive should give Member States the option of requiring the application of additional quantitative investment rules for reinsurers established in their territory. Any such rules must, however, be justified under the 'prudent person principle' and the obligations entered into.

8. Transitional periods (Article 51)

As things stand, reinsurance undertakings are not subject to any uniform EU legal framework. The Committee would therefore recommend that the Commission examine closely whether additional transitional arrangements are required. Such arrange-

ments could, for example, affect capital instruments currently used by reinsurers, which are not recognised under the capital requirements for primary insurers.

9. Conclusions

9.1 The Committee backs the Commission's Proposal for a Directive of the European Parliament and of the Council on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC subject to the reservations set out above. It considers that the proposal covers almost all areas relating to the supervision of reinsurance undertakings. The full implementation of the directive will go a considerable way to meeting the Commission's objective of strengthening and stabilising the reinsurance markets in the European Union.

9.2 Having examined the Commission document, the Committee has addressed selected aspects of the proposal for a directive in order, among other things, to give the Commission practical pointers and suggestions for further deliberations and analysis. The Committee proposes that the solvency calculation for non-life reinsurers should be taken as a basis for the life reinsurance sector as well. The solvency requirements should remain outside the scope of Lamfalussy procedure. The Committee considers this to be a key directive and therefore calls for a rapid legislative process.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of toluene and trichlorobenzene (twenty-eighth amendment of Council Directive 76/769/EEC)'

(COM(2004) 320 final - 2004/0111 (COD))

(2005/C 120/02)

On 11 May 2004, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 October 2004. The rapporteur was Mr Sears.

At its plenary session of 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 165 votes to 1, with 5 abstentions:

1. Introduction

1.1 'Existing' substances are substances deemed to have been on the European Community market between 1 January 1971 and 18 September 1981. 100,195 such substances were identified and listed in the European Inventory of Existing Commercial Chemical Substances (EINECS) published in the Official Journal in 1990⁽¹⁾. Substances placed on the market after 18 September 1981 are defined to be 'new' and require pre-marketing notification under the relevant European Union legislation.

1.2 Risks to human health and the environment of these existing substances have been routinely assessed under Council Regulation (EEC) 793/93⁽²⁾. To date, four priority lists for assessment have been established, for implementation by the competent authorities in Member States. The last of these was dated 25 October 2000⁽³⁾. These identified 141 substances where some risk might be expected either due to their specific structures and known or anticipated biochemical interactions, or where their high production volumes (HPV) gave rise to concern.

1.3 Member States assess each substance at all stages of manufacture and use for both hazard and exposure to determine whether or not there are indeed risks to health and the environment and if there are, what risk reduction measures might be required. If it is determined that, despite being on a priority list for assessment, there are no or very low risks in any actual or planned use, control measures are either not required or are likely to be low in both impact and benefit.

1.4 Completed Risk Assessment Reports (RARs) from the Member States have in turn been evaluated by the Scientific Committee on Toxicity, Ecotoxicity and the Environment

(CSTEE). If the CSTEE agrees with the conclusions and supports the overall assessment process, risk reduction measures, if required, can be proposed as amendments to Annex 1 of the Council Directive on the marketing and use of certain dangerous substances and preparations 76/769/EEC⁽⁴⁾. The present proposal is the twenty-eighth such amendment.

1.5 The two substances (toluene and trichlorobenzene) referred to in the proposal have been assessed in accordance with the above procedure. Both were included in the second list of priority substances published as Commission Regulation EC 2268/95 of 27 September 1995⁽⁵⁾. Both were awarded to Denmark for the process of assessment. The CSTEE substantially agreed with and supported the subsequent RARs in Opinions delivered at its 24th and 25th plenary meetings on 12 June 2001 and 20 July 2001 respectively.

1.6 This proposal sets out risk reduction measures for the two substances to be implemented by Member States within eighteen months of the entry into force of the Directive. The Commission published the proposal on 28 April 2004. After following due procedures, and if agreement can be reached on any changes required, it should take effect in Member States by no later than June 2006.

2. Summary of the Commission's proposal

2.1 The proposal seeks to protect human health and the environment, as well as establishing (or preserving) the Internal Market for these two substances. It is believed that this can be done at little or no cost as uses in the specified applications have already declined and alternative products are believed to be readily available.

⁽¹⁾ OJ C 146A of 15.6.1990

⁽²⁾ OJ L 84 of 5.4.1993

⁽³⁾ OJ L 273 of 26.10.2000

⁽⁴⁾ OJ L 262 of 27.9.1976

⁽⁵⁾ OJ L 231 of 28.9.1995

2.2 In the case of toluene, recognised as a versatile HPV substance used as an essential raw material for chemical synthesis and as a solvent in many industrial and consumer applications, restrictions are to be placed on any use above 0,1 % by mass in adhesives and spray paints for sale to the general public. This does not apply to any industrial applications and is intended to protect consumer health.

2.3 In the case of trichlorobenzene, with a more limited use as an intermediate for certain herbicides and as a process solvent in closed systems, restrictions are to be placed on any use above 0,1 % by mass in any use except as an intermediate. This restricts any possible sales to the general public and provides additional protection to health in the work place.

2.4 The two products to which this amendment applies are defined by their CAS Numbers 108-88-3 120-82-1 in the Annex to the proposal. Restrictions on usage will be added to Annex 1 of Directive 76/769/EEC.

2.5 Member States will have one year to publish laws necessary to comply with this Directive, with the controls to be effective within a further six months. This will be from the date of entry into force of this proposal, after consulting, as required by Article 95 of the Treaty, the European Economic and Social Committee (EESC) and following the Co-decision Procedure with the European Parliament.

3. General comments

3.1 As with the twenty-sixth amendment of Council Directive 76/769/EEC (restrictions on the marketing and use of nonylphenol, nonylphenol ethoxylates and cement) ⁽¹⁾, on which the EESC delivered its Opinion in March 2003 ⁽²⁾, this proposal deals with unrelated substances which, for clarity, will be discussed separately. (The intervening twenty-seventh amendment on polycyclic aromatic hydrocarbons in extender oils and tyres has been published but is still under review.)

4. Toluene

4.1 Toluene is a clear colourless liquid with a distinctive smell. Also known as methyl benzene, it has the second, after benzene, most simple aromatic structure – a six-member carbon ring with a one member (alkyl) carbon chain attached. It occurs naturally in crude oil, in some plants and trees, and in

emissions from volcanoes and forest fires, and can be deliberately manufactured in very large quantities from coal or crude oil.

4.2 According to industry sources, worldwide capacity and production levels for deliberately produced toluene in 2002 were 20 million tonnes and 14 million tonnes respectively. 75 % of this capacity is located in the US, Asia and Japan. The CSTEE Opinion quotes EU production in 1995 at 2,6 million tonnes. Much larger quantities result from the routine manufacture of gasoline and contribute to overall exposures; these are not included in these totals ⁽³⁾.

4.3 Toluene is used primarily as the raw material in closed systems for the deliberate manufacture of benzene, urethane foams and other chemical products, and, in much smaller quantities, as a solvent carrier in paints, inks, adhesives, pharmaceutical products and cosmetics. Its effects on human health and the environment have been widely studied and generally accepted by all those concerned. There is a clear need to minimise any unnecessary actual or theoretical uncontrolled exposure, in particular where alternative products, with similar solvating power, exist.

4.4 The two end uses specified in this proposal fall into this latter category. The usage of toluene as the solvent for adhesives and spray paints for sale to the general public is neither necessary nor supported by its manufacturers in Europe. Actual sales are currently believed to be low or nil to these two end uses. This is therefore a largely precautionary measure, with little anticipated effect on manufacturers' costs or on consumers' choice or health.

4.5 The EESC recognises that the prime requirement is to ensure that toluene can be safely handled in large quantities in closed systems in the work place. This proposal ensures that members of the general public, outside of a controlled work environment, will be adequately protected, both now and in the future, from unnecessary exposure. The EESC therefore supports this part of the proposal.

5. Trichlorobenzene

5.1 The situation for trichlorobenzene differs significantly from the above and some amendments and clarifications are required to the proposal.

⁽¹⁾ OJ L 178 of 17.7.2003
⁽²⁾ OJ C 133 of 6.6.2003

⁽³⁾ Data from the APA (Aromatics Producers Association), a member of CEFIC (European Chemical Industry Council)

5.2 'Trichlorobenzene' is a deliberately made chemical which does not occur in nature, other than by the degradation of other chlorinated aromatic compounds. There are three different isomers, depending on the location of the chlorine atoms around the six-member carbon ring. Each has (marginally) different physical properties and biochemical interactions, for instance as measured by their LD50 values. Each has a different CAS and EINECS Number. In addition there is an entry in both CAS and EINECS registers for 'trichlorobenzene' in general. All are commercially available in the US and elsewhere. 1,3,5-Trichlorobenzene is no longer believed to be manufactured in Europe. Details of the listings are as follows (1):

EINECS Number	201-757-1	204-428-0	203-686-6	234-413-4
CAS Number	87-61-6	120-82-1	108-70-3	12002-48-1
Isomer	1,2,3-	1,2,4-	1,3,5-	-
Form	White flakes	Clear liquid	White flakes	Clear liquid
Melting Point ° C	52-55	17	63-65	-
Oral, rat LD50 mg/kg	1830	756	800	-
UN Number	2811	2321	2811	-

5.3 The RAR and CSTEE Opinion refer specifically to 1,2,4-Trichlorobenzene, with EINECS and CAS Numbers as above. The present proposal confirms this single CAS Number (and therefore the one isomer that has been studied) in the Annex – but not in the title or text.

5.4 The different isomers are manufactured to high degrees of purity as intermediates in closed systems for the synthesis of certain herbicides, pesticides, dyes and other specialist chemicals. Where the specific isomeric structure is less important, a mixture of isomers can be used in closed systems as a solvent carrier for dyes or as process regulators or heat transfer media, in sprays as a corrosion inhibitor and in metal working fluids.

5.5 In the EU (and elsewhere) the prime usage is of 1,2,4-Trichlorobenzene (1,2,4-TCB), in varying degrees of purity. Production is believed to have declined steadily since the 1980s. Data presented to the OSPAR Commission for the protection of the marine environment estimated 1994 production of 1,2,4-TCB as being between 7-10 thousand tonnes; 1,2,3-TCB as less than 2 thousand tonnes; and 1,3,5-TCB as less than 200 tonnes (2). In June 2000 OSPAR added all three isomers as individual entries to its list of Hazardous Substances for Priority Action. The CSTEE Opinion of July 2001 also quotes 7 thousand tonnes production in Europe in 1994/95. Production levels have continued to decline and are currently believed to be around half these levels, with the greater part being for export (3).

5.6 At present there is believed to be only one remaining producer in the EU/OSPAR region. Sales are said to be

restricted to the isomers 1,2,4-TCB and 1,2,3-TCB for use only as intermediates, with this being confirmed in pre-delivery written use statements from each customer.

5.7 A limited number of other closed system uses are known and recognised by the Commission and CSTEE, for instance as process solvents with no release to the external environment. As this proposal is intended to allow essential manufacture but severely restrict emissions due to open use, it would seem reasonable to add this to the permitted uses in the Annex to this proposal.

5.8 The EESC believes that, subject to the specific points made above, this proposal should provide increased protection in the work place and remove altogether any risks of exposure outside the work place. Manufacturers and users of trichlorobenzene and of competing products seem to have largely anticipated this proposal. There should, therefore, be only minor impacts on manufacturers' and users' costs. The EESC therefore supports this part of the proposal.

6. Specific comments

6.1 The EESC notes, as above, that this proposal has to be based on the relevant RAR and CSTEE Opinion and therefore has to refer solely to 1,2,4-TCB. This should be made clear in the title and text. Happily the effect of the restrictions on usage will remain the same, as this isomer is the principal constituent of mixed-isomer TCBs previously sold for use in solvents or sprays.

(1) European Chemicals Bureau Website (<http://ecb.jrc.it>)

(2) Data from Eurochlor, a member of CEFIC.

(3) CSTEE opinions are available at the DG SANCO website.

6.2 Other closed system uses should be permitted, by the addition of the words 'or in other closed systems where no release to the environment is possible' at the conclusion of the relevant restriction.

6.3 As with previous amendments to Council Directive 76/769/EEC, the EESC regrets the linking of unrelated products in a single text which may require specific and continuing amendments to match external realities. This does not support good, timely and effective governance. If it follows from resource limitations during this final and critical stage of agreeing specific risk reduction measures, these limitations should be overcome as quickly as possible.

6.4 The EESC notes that the last list of priority substances for assessment was published in October 2000. The EESC regrets that this approach seems to have been abandoned long before other procedures such as REACH can be implemented. This loss of momentum is regretted.

6.5 The EESC notes the key role played by the CSTEE in the past and trusts that adequate provision has been made for continuing this role in the future, despite the recently announced changes to the structure and responsibilities of the scientific committees.

6.6 The EESC shares the generally expressed concerns over the time taken to evaluate substances under the present system. For these two products close to 11 years will have elapsed before the legislation comes into effect. Five years of this will be after the CSTEE pronounced the RARs to be satisfactory. When the legislation does come into force, there will be virtually no costs – or measurable health or environmental benefits – for anyone concerned. In the absence of further information, it is impossible to say whether this is good (i.e., the market has adapted under pressure of the continuing risk assessments) or bad (the process has achieved very little, at considerable cost to all concerned) – or how to make any desired improvements.

6.7 The EESC therefore believes that, as a complement to other proposals such as REACH and to ensure that they will indeed improve rather than detract from the existing processes, reasons for the slow progress should be evaluated without further delay. This should be in parallel with other studies now in progress to measure impacts, costs and benefits for all the stakeholders in these processes designed to benefit health and the environment, within the framework of a successful and competitive knowledge-based European economy.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Ability of SMEs and social economy enterprises to adapt to changes imposed by economic growth'

(2005/C 120/03)

On 27 April 2004, Ms Loyola de Palacio, Vice-president of the European Commission, asked the European Economic and Social Committee, on behalf of the European Commission, to draw up an exploratory opinion on the 'Ability of SMEs and social economy enterprises to adapt to changes imposed by economic growth'.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 October 2004. The rapporteur was Ms Fusco.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by a majority of 169 votes to two, with five abstentions.

Preliminary remarks

In line with the European Commission's request, the object of the present opinion is to examine the subject from the perspective of existing and potential interaction between SMEs, including micro-enterprises, on the one hand, and social economy enterprises (SEEs) on the other, and to examine different SEE models and tools that have made, or are likely to make, a substantial impact on the ability of SMEs and SEEs to adapt.

1. Objectives and regulatory framework

1.1 Believing that the role of SMEs and SEEs is of particular relevance to the Lisbon Strategy, the European Commission asked the EESC to deliver an exploratory opinion on the above-mentioned subject. Furthermore, it proposed that the Committee should identify those factors which should make up the regulatory and support framework required by these operators.

1.2 This request followed the publication of an EESC own initiative opinion on the role of SMEs and social economy enterprises in economic diversification in accession countries, which was adopted unanimously on 1 April 2004. This opinion dealt jointly with both types of operators, defining them and referring to their importance in the EU as a whole, in the light of their contribution to the economy, employment and social cohesion, and their deep interactions and synergies. It further specified that the difference between the concepts of economic change is substantially broader and more dynamic than the concept of restructuring. It alluded to the Gyllenhammar report delivered by the high-level expert group on *Managing Change* set up by the European Commission, which stresses the need for job creation whilst recognising the validity of an approach built on benchmarking, innovation and social

cohesion. It recommended an integrated ten-point programme for the promotion of SMEs and SEEs in the economic diversification of accession countries, a programme largely inspired by several examples of SEE good practice in the EU.

1.3 SEE good practice in the EU could form the basis for interaction and synergy between SEEs and SMEs, opening new avenues for the spirit of cooperation, innovation and the growth of SEEs and their considerable potential use by SMEs. In this way, they would contribute real added value to the growth of SMEs, fostering, by their very structure, cooperation, representativeness and mutual confidence they need.

1.4 The European Council of March 2000 put forward the Lisbon Strategy with the intention of making Europe the most dynamic and competitive knowledge-based economy in the world, whilst stressing the need for 'creating a friendly environment for starting up and developing innovative businesses, especially SMEs' and adding that 'the competitiveness and dynamism of businesses are directly dependent on a regulatory climate conducive to investment, innovation, and entrepreneurship' ⁽¹⁾. Basing itself on this premise, the Feira European Council of 19 and 20 June 2000 adopted the European Charter for Small Enterprises, which states that 'Small enterprises are the backbone of the European economy [and] are a key source of jobs and a breeding ground for business ideas' ⁽²⁾. Furthermore, the Lisbon Strategy also states that economic growth is a key factor for ensuring social cohesion in Europe. The Commission subsequently argued that the challenges presented by the implementation of the Lisbon agenda were the need to create employment, and increase the rate of employment, improve technical know-how, and ensure an ordered flow from agriculture and industry to services without generating increasing regional disparities in the countries themselves ⁽³⁾.

⁽¹⁾ Presidency Conclusions – Lisbon European Council, 23 and 24 March 2000, point 14.

⁽²⁾ The European Charter for Small Enterprises, Luxembourg Office for the Official Publication of the European Communities 2002. The Commission states that the Charter was endorsed at Maribor on 23 April 2002 (see http://europa.eu.int/comm/enterprise/enterprise_policy/sme-package/index.htm). The Committee joins the European Parliament in strongly recommending that the Charter should acquire legal value and that it be formally included in the industry chapter of the European Convention.

⁽³⁾ A strategy for full employment and better jobs for all COM(2003) 006 final.

1.5 SMEs, a term, which also includes micro-enterprises with their special features, are enterprises corresponding to precise numerical criteria defined by the European Commission as follows ⁽¹⁾.

Category of enterprise	Number of workers	Turnover	or	Balance-sheet total
Medium-sized	< 250	≤ EUR 50 million		≤ EUR 43 million
Small	< 50	≤ EUR 10 million		≤ EUR 10 million
Micro	< 10	≤ EUR 2 million		≤ EUR 2 million

1.6 SEEs fall into four categories: cooperatives, mutual societies, associations and foundations. They are characterised by the primacy of their social objectives, rather than the need for maximum returns - this often gives rise to a link with their local area and local development. Their basic values are: solidarity, social cohesion, social responsibility, democratic management, participation and autonomy ⁽²⁾.

1.7 Most SEEs are included in the EU's standard definition of SMEs ⁽³⁾. Those which do not match that definition, because of their size, generally have certain characteristics in common with SMEs, such as a low level of external investment, no stock exchange listing, proximity of owner-shareholders, and a close link with the local social fabric.

1.8 The European institutions have established a regulatory framework for SMEs. Until 2005, one main binding measure will apply to SMEs, namely Council Decision 2000/819/EC on a multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) 2001-2005. This programme, which is also used to advance the implementation of the European Charter for Small Enterprises, seeks to:

- enhance the growth and competitiveness of business;
- promote a spirit of enterprise;
- simplify the administrative and regulatory framework;

⁽¹⁾ Recommendation 2003/361/EC, replacing Recommendation 96/280/EC (OJ L 124 of 20.5.2003, p. 36), which will come into force on 1.1.2005. From the current Recommendation to the new one, these definitions remain the same. Only the turnover figures or the balance-sheet total change.

⁽²⁾ B. Roelants (coord): Preparatory Dossier for the First European Social Economy Conference in Central and Eastern Europe, 2002, p. 31. Common denominators drawn up on the basis of definitions put forward by the EU Commission, the Committee of the Regions, the CEP-CMAF (European Conference of Cooperatives, Mutual Societies, Associations and Foundations) and the FONDA (linked to organisations that gave rise to the social economy concept).

⁽³⁾ McIntyre et al.: Small and medium enterprises in transitional economies, Houndmills: Macmillan, p. 10.

— improve the financial atmosphere for business;

— give business easier access to Community support, services programmes and networks.

1.9 On 21 January 2003, the Communication from the Commission COM(2003) 26 final summarised five reports: two reports on the implementation of the European Charter on Small Enterprises in the EU and in the accession countries; a report on EU activities for SMEs; a report by the SME Envoy; and the Green Paper on entrepreneurship. Amongst the challenges it refers to, the report on EU activities demonstrates the EU's commitment, particularly in terms of Structural Funds, and the multiannual programme already mentioned in the Sixth Framework Programme. Finally, a Community action plan (2006-2010) that promotes entrepreneurial spirit and competitiveness was drafted on the basis of the Green Paper.

1.10 The European Commission also put forward a regulatory framework for social economy enterprises. Cooperatives, the most significant of social economy enterprises, were the subject of the *Communication on the promotion of cooperative societies in Europe* of 23 February 2004. The Communication proposes to raise the profile and improve understanding of this type of enterprise, and to facilitate consistency between national laws in EU countries ⁽⁴⁾. It includes the fundamental characteristics of this type of enterprise as defined by the ILO's *Recommendations for the promotion of cooperatives*, adopted in June 2002 at international level, and in particular, by the representatives of the 25 EU Member States and the majority of national employer and employee associations. This recommendation also makes reference to the main international labour laws, specifying that they apply fully to the employees of cooperatives. Furthermore, the European Commission recently published a consultation document on *Mutual societies in an enlarged Europe* on 3 October 2003, defining the fundamental characteristics of this type of SEE ⁽⁵⁾.

2. Socio-economic framework

2.1 The Commission has acknowledged that SMEs are the bedrock of the European economy, providing 66 % of all jobs and 60 % of the EU's total added value, excluding the agricultural sector. Regions with a high concentration of SMEs, such as Emilia Romagna, Baden-Württemberg and Jutland are amongst those regions with the highest employment and per capita GDP rates ⁽⁶⁾.

⁽⁴⁾ Particularly within the framework of application of the Resolution on a European Cooperative Society. See Council Regulation EC/1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE).

⁽⁵⁾ European Commission Consultation Document – Mutual Societies in an Enlarged Europe, 3.10.2003, p. 5.

⁽⁶⁾ European Commission 2004: A new partnership for cohesion convergence competitiveness, cooperation - Third report on economic and social cohesion, pp. 5 and 8.

2.2 In its opinion on the *Social Economy and the Single Market* ⁽¹⁾, the EESC underlines the socio-economic importance of SEEs, stating that the latter are fundamental to entrepreneurial plurality and economic diversity ⁽²⁾. The Commission also recognised this point in its *Communication on the promotion of cooperative societies in Europe* and in its consultation document, *Mutual societies in an enlarged Europe*, referred to in point 1.10 (above). In the EU, the social and economic importance of social economy enterprises and organisations is growing. With about 9 million direct workers (full-time equivalent), they account for 7,9 % of civilian waged employment ⁽³⁾. Moreover, they involve a considerable proportion of civil society. According to the European Commission, cooperatives have 140 million members and mutual societies 120 million. It is estimated that more than 25 % of EU citizens are members of SEEs as producers, consumers, savers, householders, policy-holders, students, volunteers etc. SEEs are developing in all sectors and particularly in a number of public utility or public interest sectors ⁽⁴⁾ such as health, the environment, social services and education ⁽⁵⁾. Thus they play an essential role in the creation of social capital, the capacity to employ disadvantaged people, social welfare, revitalising local economies, and modernising local management models. Some of them have perfected social and environmental impact assessment systems.

2.3 In the context of ongoing industrial change, SMEs and SEEs play an important part in employment and re-employment in all sectors, from declining sectors and sectors that are cutting down on their workforce in traditional sectors (crafts and trades), and in others which are expanding, such as services to enterprises, the new information and communication technologies, high-technology sectors, construction and public works, proximity services (including health) and tourism.

2.4 Nevertheless, SMEs and SEEs are faced with specific challenges. The European Charter for Small Enterprises acknowledges that the latter are more sensitive to change in the business environment. The European Commission's Green Paper on Entrepreneurship states that SEEs, because they have to apply 'business principles and efficiency to achieving social and societal objectives, ... face particular challenges in accessing finance, management training and advice.' ⁽⁶⁾

⁽¹⁾ EESC opinion CES 242/2000, OJ C 117 of 26.4.2000.

⁽²⁾ In a recent report the OECD stated that the 'social economy is a broader concept than the non-profit sector because it is less strictly bound to non-distribution constraints, according to which, organisations may not legally redistribute their surplus to their owners' (OECD 2003, *The non-profit sector in a changing economy*, Paris p 299).

⁽³⁾ This does not include indirect employment, such as casual agricultural workers, or SMEs that are members of cooperatives. CIRIEC 2000: *The enterprises and organisations of the third system: strategic challenge for employment*, University of Liège.

⁽⁴⁾ Tang et al. 2002, p 44.

⁽⁵⁾ See the Charter of the CEP-CMAF (European Standing Conference of cooperatives, mutual societies, associations and foundations).

⁽⁶⁾ European Commission: Green Paper – Entrepreneurship in Europe, COM(2003) 27 final, point III.C.ii.

2.5 There are various ways in which SMEs and SEEs can play an important role in the process of socio-economic change. There are many examples of good practice: through the employment of people who have just entered the labour market; by supporting the innovative capacity of micro-enterprises and small enterprises; by reemploying people made redundant by businesses that had to cut down on staff or shut down; by setting up social welfare mutual societies; by creating new businesses in the growing sectors; by developing services and sub-contracting; by transferring enterprises in crisis to their workers; by supporting new micro-enterprises and self-employment; and through qualitative transformation within the same sector. In addition, SEEs can make certain specific contributions to this process of change both through their capacity to train entrepreneurs, which has already been demonstrated, and through the values they promote, such as socially responsible entrepreneurship, democracy and citizen participation, involvement (including financial) of workers in the enterprise, social inclusion, and interest in local and sustainable development.

2.6 There is a considerable degree of interaction between conventional SMEs and SEEs, which has the potential for further development. Interaction takes place in the following three ways.

a) SMEs make extensive use of external SEE services. Thus cooperative banks often support the start-up or development projects of conventional SMEs.

b) SMEs sometimes share SEE structures amongst themselves in order to set up business systems (networks, groups, common support structures), or to achieve economies of scale (SME purchasing and marketing cooperatives), as well as to set up mutual guarantee schemes for bank loans, etc. Such structures enable them to substantially enhance their competitive edge.

c) SEE models (mutual funds, public interest service providers, fair trade networks etc.) could be a source of inspiration for the development of SMEs.

3. Useful forms of good practice to inspire public policies, and which require deeper analysis

3.1 General Comments

3.1.1 The Commission has published examples of good practice in various documents relating to Best projects within the framework of the multiannual programme 'that is, practice that appears to illustrate an approach to a current development in business support that deserves the attention and interest of practitioners' ⁽¹⁾. This does not necessarily imply 'best practice' but seeks to inspire change and 'better practice' that will result in guidelines for EU policies.

3.1.2 The EESC is aware that, in recent years, considerable work has already been undertaken towards the development of good practice models for SMEs (c.f. above-mentioned Best projects). The good practice models below concern existing or potential interaction between SMEs and SEEs, exclusively. They are illustrated in the appended documents by concrete examples that also demonstrate the adaptability of these models and the way they can change to cope with economic growth in the context of the single market and globalisation.

3.1.3 It is useful to extrapolate according to type in order to develop public policy proposals that could strengthen SME and SEE growth, in the light of the Lisbon Strategy. Examples are given of good practice amongst SEEs that could be adopted by SMEs, and interaction between SMEs and SEEs, where SEEs are used directly by SMEs, and could be even more so.

3.1.4 The working hypothesis, which has already been partially demonstrated in some cases, is that each of these models offers substantial opportunity cost ⁽²⁾, or even net gains for medium-term public expenditure.

3.2 Types of good practice

3.2.1 *Creating or saving jobs by starting up or restructuring businesses.* SEE experience in various EU countries tends to show

⁽¹⁾ DG Enterprise (2002): Helping business grow – A 'good practice guide' for business support organisations, p 11.

⁽²⁾ Opportunity cost is 'the income or benefit foregone as the result of carrying out a particular decision, when resources are limited or when mutually exclusive projects are involved. For example, the opportunity cost of building a factory on a piece of land is the income foregone by not constructing an office block on this particular site. Similarly, the income foregone by not constructing a factory if an office block is constructed represents the opportunity cost of an office block. Opportunity cost is an important factor in decision making, although it represents costs that are not recorded in the accounts of the relevant organization' (Oxford Dictionary of Finance and Banking ; Oxford : Oxford University Press, 1997, p. 252).

that finance systems, combined with adequate support for redundant workers who wish to take over their failing enterprise or create a new one, can not only create or save jobs and help create or sustain economic activity, but can also enable the State or other investors to recover funding within a relatively short period, and possibly, make a profit ⁽³⁾.

3.2.2 *Systems and business clusters for development, innovation and competitiveness.* Some SEEs, notably in northern Italy and the Spanish Basque Country, formed regional clusters, which then went on to become horizontal or joint systems or groups, thus transforming these enterprises (small or medium-sized, for the most part) into leading economic operators in their own regions, and creating state-of-the-art technological and managerial innovation centres.

3.2.3 *Pooling resources to achieve economies of scale.* In several European countries, a considerable percentage of conventional SMEs in certain sectors, including micro-enterprises and the self-employed, (such as retailers in Italy, hairdressers and butchers in France, bakers in Germany) form groupings, usually cooperatives, to bulk buy and pool their efforts in marketing and services. Each SME remains completely independent, whilst retaining the ability to boost its competitiveness, maintain and extend its market, avoid sub-contracting and middlemen, and achieve economies of scale. This system provides the community with sustained employment and local development ⁽⁴⁾.

3.2.4 *Access to finance and risk reduction.* Mutual guarantees enable SMEs, including micro-enterprises and the self-employed, that lack sufficient guarantees to access credit. The mutual guarantee society (which often takes the form of a mutual society) undertakes to act as guarantor to the exclusive benefit of the lender. In case of non-repayment, the society will assume ultimate responsibility by drawing on the guarantee fund made up of associate SME contributions. The joint funds of SEEs have been used to leverage bank loans by fostering the banks' trust ⁽⁵⁾ for the purposes of business creation, reconversion, and development projects.

⁽³⁾ For example, the Spanish 'single payment' system, whereby 2 years' unemployment benefit can be paid in one lump sum to workers who decide to set up a cooperative or workers-owned company (sociedad laboral) or who decide to be worker-members in these firms, as long as they have worked there for at least 12 months.

⁽⁴⁾ See the website of the French Federation of Cooperatives and Craftsmen's Groupings <http://www.ffcga.coop>, and the Italian National Association of Retailer Cooperatives, <http://www.ancd.it/>.

⁽⁵⁾ For example, the SOCODEN funds of French production cooperatives, see <http://www.scop-entreprises.com/outils.htm>.

3.2.5 *Services provided to the community.* SEEs have proved to be important operators in the social, health, educational and cultural sectors, particularly in the context of privatisation, by combining an entrepreneurial spirit with respect for the public interest, which is at the heart of such services. These enterprises have often been known to provide better quality services at a lower cost than the State. In some cases, these services are local public-private partnerships between SEEs and local governments for public utility services such as employment agencies, healthcare centres, home-helps, etc.

3.2.6 *Ethical and quality production and marketing.* Some SEEs have specialised in marketing quality assured products that also comply with ethical production principles (non-exploitation, compliance with labour laws, fair remuneration, etc.).

4. Recommendations for an action-research programme defining long-term policies for the promotion of SMEs and SEEs through their reciprocal interaction

4.1 General comments

4.1.1 The combined importance of SMEs and SEEs for the European economy, the implementation of the Lisbon Strategy, and the potential for positive interaction between these two types of operators through the application of SEE models and structures, argue in favour of renewing combined efforts to support them at EU level.

4.1.2 The EESC takes note of existing support programmes for SMEs in particular, but also notes that existing support structures for SEEs are inadequate, as are structures for promoting initiatives fostering interaction between SMEs and SEEs.

4.1.3 It further notes the lack of concrete, exhaustive, trans-European and multidisciplinary studies estimating the opportunity cost of good practice that strengthen SMEs and SEEs and their reciprocal interaction.

4.1.4 Such a deficiency seriously limits the development of public policies to promote the reciprocal interaction of SMEs and SEEs. In order to define policies, continued assessment and cost-benefit analysis are essential.

4.2 Specific recommendations

4.2.1 Creating a European Observatory for social economy enterprises and launching a multi-annual research programme on SEE-SME and SME-SEE interaction

4.2.1.1 The EESC recommends the establishment of a European Observatory of social economy enterprises to carry out research not only into SEEs themselves but also into existing and potential interaction between SMEs and SEEs, and how such interaction could be fundamental to the economic development of SMEs and SEEs, and the promotion of corporate social responsibility and the fight against exclusion.

4.2.1.2 This Observatory will be supported by the European Commission and the governments of the 25 EU Member States. It will involve SEEs and university-level SEE research centres. They will coordinate closely with the Observatory and SMEs.

4.2.1.3 The EESC also suggests launching, through this Observatory, a three-year multidisciplinary and inter-European research project, in order to identify good practice involving SEE systems that directly develop SMEs or with the potential to develop SMEs, particularly in the areas mentioned in section 3.

4.2.1.4 Such research will aim to demonstrate the opportunity cost by concentrating on the following calculations:

- direct micro-economic cost-benefits;
- upstream and downstream cost-benefits along the economic chain;
- the value of intangible goods;
- social cost-benefits, by means of a social audit;
- multiplier effects;
- the cost differential in the hypothetical event that the model in question did not exist. For instance, the 'non-cooperative cost' is the additional cost that would be incurred by the State and the community in the event that cooperatives suddenly ceased to exist.

4.2.1.5 The European SEE Observatory's research results should be made public through the intensive communication efforts of the European institutions, Member State governments, and the general public.

4.2.1.6 The EESC will ensure the good progress of the research carried out by the Observatory for social economy enterprises, and will assess the Observatory's conclusions at the end of the three-year period by studying the possible impact of these conclusions on the European Commission's policies for SMEs and SEEs.

— to improve access to finance for SMEs and SEEs at a time when the Basle criteria for bank loans are about to become more stringent for under-capitalised or risk ventures;

— to promote partnerships and cluster networks between SMEs and SEEs;

— to update and continually integrate empirical data on the situation of SMEs and SEEs;

4.2.2 Full participation of SMEs and SEEs in European business support programmes

— to reduce world trade barriers for SMEs and SEEs, especially excessive administrative burdens and legal obstacles;

4.2.2.1 The EESC calls on the Commission to ensure that SEEs are able to participate, on equal terms, in the Multiannual Programme for Enterprise and Entrepreneurship (2006-2010), and to promote initiatives that encourage interaction between SMEs and SEEs, particularly the involvement of SEEs in cooperation between SMEs.

— to prevent business crises and bankruptcies, and to rescue businesses in crisis;

— to promote the education and development of human resources;

4.2.2.2 The EESC further calls for the level of participation of SMEs and SEEs in EU programmes for access to research, innovation, and world markets to be made a top priority for European policies.

— to promote information and communication technologies ⁽¹⁾.

4.2.2.3 The EESC considers that the number of Structural Fund projects for SMEs should be maintained, and that the number of projects for SEEs and interaction between SEEs and SMEs should be increased, especially when they are likely to create jobs and enhance rural development. Access to the Structural Funds must not be made dependent upon the sector in which the enterprise concerned operates.

4.2.4 Enhancing social dialogue at sub-national, national and Community levels

4.2.4.1 In several EU countries, and especially in some new Member States, SMEs are not adequately represented in national social dialogue forums. The EESC believes that SME representation should be increased, if only to enhance the effectiveness of public policies for the promotion and regulation of these enterprises. Large enterprises and SMEs should also be able to set out their views on an equal footing.

4.2.3 Integrating the conclusions of the Istanbul OECD Conference of ministers responsible for small and medium-sized enterprises, and extending them to SEEs

4.2.4.2 SEEs are not included in social dialogue in most Member States or at European level. The EESC recommends that the organisations that represent SEEs at EU or national level should be more structured and further strengthened. They should be included in social dialogue at Community and national levels. Their opinions should be granted greater consideration when regulations that affect enterprises are being drawn up ⁽²⁾.

4.2.3.1 The EESC further recommends that the Commission extend application of the policy conclusions reached at the OECD Conference of ministers in Istanbul to SEEs. It therefore calls for an approach that is better suited to the needs and characteristics of SMEs and SEEs. In particular the aim should be:

⁽¹⁾ See Cordis Focus No 247, 14 June 2004 p. 14

⁽²⁾ Legal norms, accounting standards etc.

4.2.5 Research into methods for promoting worker participation in the decision-making processes and capital of enterprises

4.2.5.1 SEEs have developed know-how that is specific to worker participation in their own enterprise's decision-making process and capital. More specifically, some cooperatives have developed cooperative worker ownership⁽¹⁾, according to which all or the majority of the members are workers and vice versa. All members have a voice in the decision-making process, irrespective of their financial stake in the enterprise. Financial stakes are nominal and non-transferable. This form of association is one of the main factors underlying the success of many of the examples of best practice. It encourages direct worker responsibility for the enterprise's future and enables workers to participate on an equal footing in the enterprise's development strategy. In seeking to attain the objectives of the knowledge-based economy proposed by the Lisbon Strategy, we are growing increasingly aware that an enterprise's most fundamental resource is its human resources, and therefore this type of association is gradually revealing itself to be modern and innovative.

4.2.5.2 The EESC recommends that the Commission examine, in the above-mentioned Observatory and in the

thematic seminars that it organises, this specific form of association from the following angles:

- opportunity cost, to establish the extent and forms in which it might be useful and applicable to conventional SMEs;
- the legal and regulatory framework.

5. Conclusions

5.1 SMEs are the backbone of the economy and employment in Europe, and consequently offer the primary tools for the implementation of the Lisbon objectives. SEEs play an increasingly important role in social cohesion and local development. The scope for interaction between SMEs and SEEs, particularly with regard to SMEs making extensive use of SEEs in the interest of both types of enterprise, has thus far been greatly under-exploited.

5.2 As a consequence, the EESC recommends that the Commission should re-examine existing and potential interaction between SMEs and SEEs, and help demonstrate that this interaction is beneficial to the development of both types of enterprise, within the context of the profound changes brought on by economic growth, and particularly, in regional development, social cohesion and innovation policies.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ The basic principles of the system of Cooperative worker ownership are laid down in the World Declaration of Cooperative Worker Ownership (February 2004) of the International Organisation of Industrial, Artisan, Service and Social Producers' Cooperatives – CICOPA. It is the fruit of 18 months of consultation amongst its members worldwide. These principles are specific to worker cooperatives and complement CICOPA's Statement on the Cooperative Identity and the International Labour Organisation's Recommendation 193/2002 on the Promotion of Cooperatives.

Opinion of the European Economic and Social Committee on 'Pan-European transport corridors'

(2005/C 120/04)

On 23 January 2003 the European Economic and Social Committee decided to draw up an opinion, under Rule 29(2) of its Rules of Procedure, on: 'Pan-European transport corridors'.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 5 October 2004. The rapporteur was **Ms Alleweldt**.

At its 412th plenary session (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 164 votes to two, with nine abstentions:

1. Introduction

1.1 The permanent study group resumed its work in January 2003 when its remit⁽¹⁾ was extended to cover all matters relating to the development of the pan-European transport corridors. In December 2002 the Plenary Assembly had taken note of and emphatically approved the activities of the previous term of office. In addition to the continuation and development of corridor-related activities, the European Commission also made significant new decisions in 2003 and 2004 on the development of the trans-European transport networks (TEN-T), which also relate to work in the ten Helsinki corridors. EU enlargement in May 2004 and the prospects for accession of south-east European countries also change the general framework for joint infrastructure policy and cooperation in the corridors.

1.2 The purpose of this own-initiative opinion is not only to report on the activities and views of the European Economic and Social Committee on the pan-European transport corridors over the past two years, but also to indicate what further steps should be taken by the parties concerned and how the Committee can be of help.

2. New general framework in the pan-European transport infrastructure policy

2.1 The Commission began to revise the TEN-T in mid-2003 with the **report from the High Level Group chaired by Karel van Miert**. As a result, the 1996 list of priority projects was extended and new EU financing options, and a new kind of improved coordination, were put forward⁽²⁾. Plans were also made to enshrine the concept of transport corridors in EU infrastructure policy, with the intention of concentrating

in future on priorities along certain trunk routes instead of general network-related policy. The van Miert Group's approach failed to secure support.

2.2 The EESC discussed *the future of TEN-T* in detail at a section meeting in Rome in September 2003 with the Italian Economic and Labour Council's (CNEL) Commission V on large-scale infrastructure projects and networks. A joint statement⁽³⁾ was issued calling for more commitment to achieve an integrated transport network that effectively integrates the new Member States and goes beyond this. Intermodality and sustainability would have to come to the fore and financing would have to be jointly reinforced and possibly assisted by European funding for the trans-European transport network.

2.3 The Italian presidency asked the EESC to draft an own-initiative opinion to build on the discussion begun in Rome. The Committee outlined its current key positions on the European transport infrastructure policy in the document: **Preparing transport infrastructure for the future: planning and neighbouring countries - sustainable mobility - financing**⁽⁴⁾. The EESC suggested trying out new ways and means of financing in the future, giving greater priority to environmental protection and social and environmental sustainability and in the planning and implementation of a pan-European transport network, continuing the established work in the Helsinki corridors, and responding in new ways to new challenges.

2.4 The European Union has made the peaceful reconstruction of the **south-east Europe region** a key priority and has pressed ahead consistently with the development of a fully functional transport infrastructure. A transport concept has been developed for south-east Europe in addition to the existing corridors related to the region (X, V, VII, IV and VIII),

⁽¹⁾ Bureau Decision of 23 October 2002

⁽²⁾ For further information see EESC opinion OJ C 10 of 14.1.2004, p 70

⁽³⁾ CESE 1043/2003 fin – available from the TEN section secretariat

⁽⁴⁾ OJ C 108, 30.4.2004, p. 35

and based on the 1997 Helsinki Declaration and TINA⁽⁵⁾ experiences. It consists of an intermodal infrastructure network, the so-called South East Europe Core Regional Transport Network, which should be implemented through a joint, coordinated course of action. The states involved⁽⁶⁾ have prepared a Memorandum of Understanding (MoU), which, inter alia, explicitly refers to cooperation with the region's socio-economic interest groups and the permanent EESC study group.

2.5 The **coordination of the steering committees' work** in the ten Helsinki corridors⁽⁷⁾ and four transport areas (PETRAS)⁽⁸⁾ has been given a new look. About once a year the Commission invites presidents and heads of the corridor secretariats and other representatives of European or EU institutions to discuss the progress of the work and its prospects. The former G-24 transport working group should be replaced by a smaller, more efficient structure. It is also clear to those responsible in the Commission, that it alone can provide certain aspects of coordination and technical and organisational support. The most recent meetings took place in June 2003 and on 15 March 2004. The most important points discussed are taken up in sections 3 and 4 below.

2.6 EU enlargement and the *new neighbourhood policy* also have some bearing on future transport policy planning in Europe and beyond. A joint Commission-European Parliament strategy meeting was held in June, which representatives of the European transport sector, including from the EU's new neighbouring states, were invited to attend. It was decided to set up a high-level group, with the task of preparing the ground for agreements on the expansion of trans-European trunk routes, particularly in the direction of eastern neighbours, the Russian Federation, the Black Sea region, and the Balkans. For the Mediterranean, a project was launched for the creation of a Euro-Mediterranean transport network. Investigations are currently under way into transport infrastructure needs in Turkey.

3. Organising the work of the permanent study group

3.1 *New developments and ongoing tasks: information and transparency*

3.1.1 Despite seven years of implementing the Helsinki Declaration and consolidating cooperation through steering committees, and despite, in overall terms, input from the European Commission, there has been scant improvement in the transparency and enhanced networking of the various planning processes. The new TEN-T guidelines, the corridors and transport areas, the SEE Core Regional Transport Network, the work of ECMT and UN-ECE, and various regional reinforced coopera-

⁽⁵⁾ Transport-Infrastructure-Needs-Assessment (TINA), infrastructure planning in the applicant countries in the second half of the 1990s

⁽⁶⁾ Albania, Bosnia-Herzegovina, Croatia, Serbia-Montenegro, FYROM

⁽⁷⁾ A detailed map of the corridors is available from the TEN section secretariat

⁽⁸⁾ PETRAS: four transport areas according to the 1997 Helsinki Declaration: Barents-Euro-Arctic – Black Sea basin – Mediterranean basin – Adriatic/Ionian Seas

tion initiatives are still the domain of just a small group of experts.

3.1.2 The lack of transparency is amplified at the level of organised civil society. One of the key roles of the permanent study group has been and continues to be to act as an interface for information both within official bodies, and to civil society organisations.

3.1.3 The Commission is working on an information system (GIS), which is to be available across the board for planning and evaluating results. At present this information system is only available for internal use, but it could be expanded to include socio-economic data, which would also make it more useful for the EESC. This matter should be discussed with the Commission.

3.2 *Making use of consultation: 'European' transport routes call for a 'European consensus'*

3.2.1 The van Miert group results highlight the difficulties that cause a gap to emerge between ambitious European planning and actually putting those plans into practice. This gap is also hard to influence. It has been rightly pointed out that more cross-border planning procedures and closer involvement of civil society interest groups will be needed for better results in the future. These concerns are also reflected in the new TEN guidelines.

3.2.2 Involvement of civil society organisations is the key to balanced development, taking account of local and regional interests and bringing life to the operation and use of the roads. Infrastructure projects with European implications only fulfil their function if they are in the interests of sustainability. This requires the involvement of business associations, transport companies, trade unions, and environmental and consumer organisations working across borders at European level. The impetus for implementing 'European' transport routes can only be sustained by a socially-rooted appreciation of 'Europe' and a consensus which takes account of economic and social realities.

3.2.3 The EESC has repeatedly offered to help build this consensus. Hearings must be used systematically at European level to achieve this. However, the EESC advises against carrying this out as a mandatory act without considering the results. Despite meeting with considerable interest and producing clear conclusions, the 1998 hearing on the TINA process organised by the EESC in conjunction with the Commission was completely ignored in the final report.

3.3 From consultation to cooperation on ideas and practical work

3.3.1 The EESC has spent many years working on pan-European transport policy, and for a long time, the basic call was for consultation and involvement. To a large extent, this concern has now been taken on board by actors throughout Europe, and the EESC has established good working contacts. The Committee therefore has a legitimate claim to participate in the work of steering committees and other bodies, both by contributing ideas and through practical forms of collaboration.

3.3.2 The recent own-initiative opinion on *Preparing transport infrastructure for the future*, which explicitly defines what the Committee considers to be the basic principles of European transport policy is, in particular, a substantive basis for contributing ideas. The objective of sustainability, ways of improving financing, and gearing transport infrastructure to pan-European needs are three key issues. The opinion also lays down priorities for action in the development of the transport corridors. Given their relevance as guidelines for the work of the permanent study group, they are briefly summarised below ⁽⁹⁾:

- Better links between economic centres should be assessed.
- Intermodality must be increased on the basis of comprehensible criteria.
- Links to inland waterways must be improved.
- Short sea shipping should also be included.
- Cooperation on railway transport has already achieved a certain degree of success and should be further reinforced.
- Greater attention should be paid to links between regional and local transport networks and main transport routes.
- Work on the corridors must systematically incorporate qualitative, operational development objectives (safety, consumer interests, social concerns [particularly for road transport], service quality, environmental impact).
- To a large extent, the corridor approach should be maintained and extended to a wider area.

3.3.3 The Commission has taken some of these objectives on board in the revised TEN guidelines. The main concern now is to push ahead in a practical and coherent way with their implementation through cross-border cooperation. The EESC is

well placed to contribute to this process through specific action which takes practical concerns into account.

3.4 Creation of a corridor network and regional cooperation

3.4.1 Work in the steering committees is now proceeding at about the same rate in all corridors. At the same time regional connections can be observed, which means that today we are dealing with a corridor network rather than individual trunk routes. A regional component of cooperation is increasingly being developed in approaches for the transport areas, for example in Corridors IV, V, VII and X in south-east Europe, and Corridors I and IX in the Baltic area. By contrast, there is little activity in the officially designated transport areas (PETRAs).

3.4.2 Both approaches – the establishment of trunk routes and the extensive development of regional connections – are mutually reinforcing. In future, the permanent study group should focus more closely on regional development issues. The EESC makes a substantial contribution across its various sections by bringing together transport policy, regional development, and the central themes of its external relations work (eastern neighbours, the Northern Dimension, south-east Europe).

3.5 An objective for the future: establishing new connections

3.5.1 The strategic meeting of the Commission and the European Parliament in June 2004 was a welcome move as the EESC has always held that the EU's role in initiating implementation of European transport connections should not be weakened as a result of enlargement. A letter from the Commission to the EESC describes the meeting as a starting point for a more open and broad-based coordination process to which all actors can contribute. Achieving this is crucial for the success and sustainability of new transport planning at European level.

3.5.2 It is vital for new planning to draw on past experience, not least the work of the steering committees. The specific contribution of the EESC described in this opinion, which is the outcome of many years of practical experience, could now be used at an early stage of infrastructure planning. It is important to make use of this opportunity.

⁽⁹⁾ OJ C 108, 30.4.2004, p. 35, points 1.8.1 - 1.8.8

4. Activities of the permanent study group in the transport corridors

4.1 A trade union working party has now been set up in **Corridor II** ⁽¹⁰⁾. The first meeting took place in Moscow on 10 and 11 April 2003. The EESC also took part in the official meeting of the steering committee on 15 and 16 May 2003 in Berlin. Both meetings signal a promising outlook for our work. The problem in Corridor II is caused by difficult cooperation with Belarus. Meanwhile a trend has set in, whereby Belarus – and with it a large, very well developed part of the corridor – is circumvented to the north due to border difficulties. Cooperation with rail companies is currently being increased. Extension of the corridor to Ekaterinburg was recently proposed. It is particularly important to find better ways of dealing with road traffic problems and border procedures, and to take up the EESC's help in this regard.

4.2 Involvement in **Corridor IV** ⁽¹¹⁾ work has gone from strength to strength. At the meeting of the steering committee in Sopron (Hungary) on 20 and 21 May 2003, representatives of the rail companies and the railway trade unions in Corridor IV also came together for a productive discussion – which is to be continued – on the promotion of rail transport. This occurred at the last session on 10 and 11 November 2003 in Dortmund. Technical and organisational obstacles and proposed solutions for border crossings were identified as the main theme for further discussions. To ensure continuity, a representative of the trade-union-based cooperation involving railway workers will take part in the steering committees as an observer. The economic and social situation and technical and organisational aspects in the road freight transport in Corridor IV could now be addressed.

4.3 The EESC is particularly keen to promote **Corridor X** ⁽¹²⁾. To that end, contacts with the appropriate steering committee have been stepped up. More specific moves were made on possible EESC activities at the steering committee meeting in Slovenia on 18 and 19 July 2003. On 3 November 2003 the EESC held a very successful dialogue conference in Belgrade and issued a joint statement ⁽¹³⁾. This set in motion further steps to increase rail transport in particular. Working relations in Sarajevo and cooperation with the SEE Core Networks steering group are further topics to be covered by this work. With an eye to securing a balanced policy for seaports and their incorporation into hinterland transport systems, **Corridor V** ⁽¹⁴⁾ is an important trunk route.

⁽¹⁰⁾ Germany – Poland – Belarus – Russia.

⁽¹¹⁾ Germany – Czech Republic – Austria – Slovakia – Hungary – Romania – Bulgaria – Greece – Turkey.

⁽¹²⁾ Austria – Croatia – Serbia – FYROM – Slovenia – Hungary – Serbia – Bulgaria.

⁽¹³⁾ See Appendix.

⁽¹⁴⁾ Italy – Slovenia – Hungary – Ukraine – Slovakia – Croatia – Bosnia-Herzegovina.

4.3.1 A joint event to promote better rail services is planned for early November 2004, to be held in conjunction with the ARGE Corridor XLine, railways syndicate. This will include a demonstration train and events in Villach (Austria), Zagreb (Croatia), and Sarajevo (Bosnia-Herzegovina). ⁽¹⁵⁾

4.4 The EESC has drawn up a series of proposals ⁽¹⁶⁾ to support inland waterway transport and **Corridor VII** ⁽¹⁷⁾ (the Danube). The most recent steering committee meeting was held in July 2004. Discussions are continuing under the auspices of the permanent study group, and these are focussing on current obstacles to the growth of shipping in Corridor VII, and on suitable provisions to overcome them. Also under discussion are options and investment needs for closer integration into a multimodal transport system. ⁽¹⁸⁾

4.4.1 In its opinion on *Preparing transport infrastructure for the future* adopted on 28 January 2004 ⁽¹⁹⁾ the EESC mentioned the necessity of 'promoting the inland waterway Corridor VII, the Danube, links to rail routes and appropriate technical and social regulations governing cross-border inland waterways transport'.

4.4.2 Moreover, the Joint Consultative Committee EU/Romania (Bucharest, 23-24/5/02) proposed that, in order to optimise the role of the Danube as a pan-European transport corridor, measures be taken and greater financial assistance provided to improve its navigability and its connection with the Black Sea.

4.5 Since the 2001 dialogue conference on **Corridors III** ⁽²⁰⁾ and **VI** ⁽²¹⁾ in Katowice, the EESC has not engaged in any activities of its own in relation to these corridors. However, a letter was sent by the Corridor III secretariat in August 2004, inviting contributions for further development in the form of proposals for the 2004/2005 work programme.

4.6 The EESC has received particular support over the past year or two from the new trade-union-based cooperation, organised by the European Transport Workers' Federation (ETF) and involving transport workers along the corridors and across Europe. The ETF project has made a substantial contribution both in terms of ideas and practical activities to the success of the EESC's work across all transport sectors, and is set to step up its cooperation in the future.

⁽¹⁵⁾ In view of the fact that individual events are in the course of preparation, detailed information has not been included in this opinion, but can be obtained from the TEN section secretariat

⁽¹⁶⁾ Towards a pan-European system of inland waterway transport, OJ C 10, 14.1.2004, p 49.

⁽¹⁷⁾ Germany – Austria – Slovakia – Hungary – Croatia – Serbia – Bulgaria – Moldavia – Ukraine – Romania.

⁽¹⁸⁾ For more on this, see **Mr Levaux's** working document, which can be obtained from the TEN section secretariat

⁽¹⁹⁾ See footnote 4.

⁽²⁰⁾ Germany – Poland – Ukraine.

⁽²¹⁾ Poland – Slovakia – Czech Republic.

4.7 Finally, it should be noted that the president of the permanent study group, in cooperation with the TEN Section secretariat and with the support of the relevant European Commission departments, has prepared information sheets with brief descriptions of each of the corridors. ⁽²²⁾

5. Recommendations for future activity

5.1 The permanent study group has taken on board the new objectives of pan-European transport policy, as described above, and incorporated them into its regional, practical and conceptual planning. More than ever, the EESC's strength is its ability to reconcile interests and to make practical suggestions. The emphasis must be on action and presence on the ground.

5.2 Interested parties from inside and outside the EESC can use the Committee's permanent study group as a clearing house for information and contacts. The permanent study group's main remit is to lead and coordinate the EESC's activities and to disseminate information on them. It also has a responsible role in overall coordination at European level. The study group can draw on 13 years of active EESC involvement in helping shape pan-European transport policy.

5.3 Over the next two years the emphasis of EESC activities should shift to practical cooperation and involvement of civil society organisations on the ground. The aim is to enable the relevant civil society organisations to contribute to achieving the transport policy objectives listed in point 3.3.2 by offering

evaluations, criticisms and suggestions for improvement in relation to individual corridors, regions or infrastructure projects.

5.4 EESC cooperation with the corridor steering committees and the European Commission should be stepped up. The permanent study group needs to take on a new role in helping to establish the 'South East Europe Core Regional Transport Network' (see point 2.4).

5.5 The permanent study group needs to look into ways and means of ensuring that operational aspects of the transport business are taken into account more closely when setting up the pan-European transport corridors. In particular, it should be possible to define specific aspects of corridor policy relating to intermodality, environmental protection, security, social conditions and efficiency.

5.6 In the context of European Neighbourhood Policy (ENP) new corridors are currently being planned. The permanent study group should contribute by responding to the European Commission's call for openness in this process.

5.7 The work of the European Commission and the steering committees in corridors and transport areas should be more closely interconnected. The European Commission has an important role to play as a coordinator and provider of technical and organisational support. It would be good to have more scope for joint coordination, involving all parties, of the various activities at European level, and closer involvement of the European Parliament.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽²²⁾ See Appendix 2 – data are unofficial and subject to change.

Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Connecting Europe at high speed: recent developments in the sector of electronic communications'

(COM(2004) 61 final)

(2005/C 120/05)

On 29 March 2004 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned communication.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2004. The rapporteur was Mr McDonogh.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October) the European Economic and Social Committee adopted the following opinion by 163 votes to one with three abstentions:

1. Introduction

1.1 The Committee welcomes the analysis and recommendations in COM(2004) 61 final 'Connecting Europe at high speed: recent developments in the sector of electronic communications' communication from the Commission. It is an astute and timely report that combines strategic acuity with executive will to guide the European electronic communications sector through its next stage of growth.

1.2 While providing support for the analysis and thrust of the communication, this opinion also emphasises areas of specific concern to the Committee.

2. Background

2.1 On 3 February 2004, the Commission adopted its communication 'Connecting Europe at high speed: Recent developments in the sector of electronic communications'. This communication responds to the request of the 2003 spring European Council for a report on developments in the sector ahead of its spring 2004 meeting. It is a summary report on the electronic communications sector in Europe as it affects the Lisbon strategy, including an analysis of the key issues affecting future growth. It is also a call for political support of the actions necessary to support the further development of the sector.

2.2 The Lisbon Strategy recognises that information and communication technologies (ICT) are a key drivers of growth, improvements in productivity and competitiveness. They help to improve both economic performance and social cohesion. The Communication underlines the importance of the electronic communication sector – which includes both a service segment and an equipment segment – for the health of the European economy and its key role in boosting productivity. The sector plays such a role because of its size, dynamism and impact on nearly all other economic activities. Recent evidence

shows that it has been the largest contributor to European labour productivity growth.

2.3 In spite of vigorous growth in the early 1990s and the ambitions of the Lisbon strategy, Europe has fallen behind the USA and some Asian countries with the pace of production and use of information and communications technologies (ICT) and this shortfall in ICT investment hurts European competitiveness⁽¹⁾. Progress in the sector of electronic communications over the next 18 months is critical to the success of the eEurope 2005 Action Plan, and to the longer-term goals of the Lisbon strategy. This sector grew fast in the late nineties, but underwent a sharp downturn in 2000 and 2001 which led the Council and the Commission to closely monitor the situation in the electronic communications sector and to report ahead of the 2003 Spring European Council meeting.

2.4 After two years of consolidation the conditions now seem right for a return to higher rates of growth. According to the Commission, these conditions include improved financial conditions for operators, and continued growth in revenue from services. However, sustainable growth in this sector can be achieved only through a revival in capital spending and further deployment of new innovative services.

2.5 Since the burst of the Internet bubble, telecom operators have been reducing capital expenditure as part of their consolidation plans. A return to renewed growth for the whole sector requires a revival in capital spending. The rate of investment will be affected by what public policy makers do: the implementation of the new regulatory framework will provide greater legal certainty for investment; the implementation of national broadband strategies will increase access to service; the encouragement of new services and the availability of innovative content will stimulate demand; and the removal of regulatory and technical barriers will facilitate the roll-out of 3G networks.

⁽¹⁾ Van Ark, B. and Mahony, O. (2003), *EU Productivity and Competitiveness: An Industry Perspective*, http://europa.eu.int/comm/enterprise/enterprise_policy/competitiveness/doc/eu_competitiveness_a_sectoral_perspective.pdf.

This is why four priority areas for action are identified in the communication:

- a) *Addressing regulatory challenges.* Late or incorrect transposition by Member States of the new regulatory framework for electronic communications is holding back competition and creating uncertainty. Infringement proceedings are underway against a number of Member States who have failed to transpose the new measures. Securing full and effective implementation of these rules by both existing and the new Member States remains a top priority for 2004. In addition, the new rules must be applied consistently by national regulatory authorities. The common guidelines due later this year on the remedies that may be imposed on operators with significant market power will be of particular importance. They should help regulators to provide the right investment incentives and to ensure that emerging markets are not subject to inappropriate obligations.
- b) *Increasing broadband coverage in underserved areas.* In accordance with the eEurope Action Plan, Member States agreed to publish national broadband strategies and all of the EU15, plus a number of the new accession countries, have now done so. A particular focus should be identifying areas that risk being placed in the slow lane of the information society because of insufficient demand – under operator's profitability criteria - to justify the roll out of broadband services. EU funding may play a role alongside action at a national, regional or local level. Guidelines exist on how structural funds can be used in such areas. The exchange of best practice and innovative solutions will be helped by the creation of a Forum on the Digital Divide later this year. The Commission will report on the national strategies this summer.
- c) *Stimulating demand.* While the majority of households in the EU can access broadband, only a fraction of them have chosen to do so. Use rather than roll out is becoming the biggest issue for the broadband market. Experience of countries with the highest levels of broadband take-up show the importance of effective network-based competition to drive down prices and promote innovative on-line services. In addition, action by Member States to stimulate demand can also play a role. They are promoting the use of ICT within more and more key services – local and national government, health and education - and shifting them on-line. This must be accompanied by further steps to address security, digital rights' management and the inter-operability of different services and devices. The mid-term review of the eEurope 2005 Action Plan, due to be completed by the summer, provides an opportunity for further supportive action.
- d) *Successfully launching third-generation mobile communications (3G).* The report of the Mobile Communications and Technology Platform (comprised of key sector players) set-out a strategic vision for the future of mobile services, highlighting a range of commercial and regulatory challenges.

This converged, data-driven 3G world will be more complex than the voice-based world of GSM. If mastered, this can offer exciting new services and a significant boost to productivity in the Union. The Commission has outlined its approach to the mobile communications sector in its Communication of 30 June ⁽¹⁾ and will continue to work with stakeholders to define strategic research priorities in the mobile communications area.

2.6 At the European Telecom Council meeting, which took place on 8–9 March 2004 in Brussels, the Council underlined the political commitment to the Lisbon Strategy goals of sustainable growth, jobs and social cohesion by endorsing the calls to action in the communication [COM(2004) 61 final], and the *e-Europe Mid-Term Review* communication [COM(2004) 108 final].

Comments

3. General remarks

3.1 The communication deals with a wide and complex domain of critical importance to the Lisbon vision – the electronic communications industry. Over the years the Committee has adopted many opinions dealing with aspects of policy concerning the sector ⁽²⁾. We now welcome the opportunity to comment on the general development of the electronic communications industry, the provision of Broadband, the development of the mobile communications sector and the new regulatory framework for the industry.

3.2 The Commission has done an excellent job in supporting the development and execution of policy to support the growth of the electronic communications sector. With the vigorous efforts of commercial and social interests pursuing their own goals, aided by the strong political support of the Council of Ministers, national governments and regional authorities, this is a very fast moving and rapidly evolving domain.

⁽¹⁾ COM(2004) 447 final *Mobile Broadband Services*.

⁽²⁾ See OJ C 169 of 16/6/1999, p. 30; OJ C 368 of 20/12/1999, p. 51; OJ C 14 of 16/1/2001, p. 35; OJ C 123 of 25/4/2001, p. 61; OJ C 123 of 25/4/2001, p. 36; OJ C 139 of 11/5/2001, p. 15; OJ C 311 of 7/2/2001, p. 19; OJ C 48 of 21/2/2002, p. 33; OJ C 48 of 21/2/2002, p. 27; OJ C 221 of 17/9/2002, p. 22; OJ C 241 of 7/10/2002, p. 119; OJ C 61 of 14/3/2003, p. 32; OJ C 61 of 14/3/2003, p. 184; OJ C 220 of 16/9/2003, p. 33; OJ C 220 of 16/9/2003, p. 36; OJ C 80 of 30/3/2004, p. 66 and others.

3.3 Given the complex dynamic character of this topic and its importance to the economic and social development of the Union, the Committee believes it is important for all interested parties to regularly have their say so that a more complete and integrated policy can be implemented. The Committee supports the Commission's intention to continue working with stakeholders to inform policy in areas such as Intellectual Property Rights, Digital Rights Management, trust and security issues, interoperability and standardisation, spectrum management and coverage of remote and rural areas. The Committee will continue to take an active interest in the sector and all these issues.

3.4 We particularly support the emphasis the Commission has put on the need for interoperability and openness at various levels of the technology and services: device to network; device to device; network to network; and between content and/or applications. Without appropriate interoperability and platform openness, the development of a mass market for the new technologies will be severely hampered.

3.5 As stated at 1.1 above, the Committee is supportive of the communication and congratulates the Commission on the excellent work it is doing in this area. We note that extensive research and consultation has gone into the understanding of the electronic communications sector and the development of policy to foster strong and sustained growth: we are strongly supportive of the eEurope 2005 Action Plan and support the actions recommended in the communication COM(2004) 61 final.

3.6 For the sake of emphasis, we would like to stress the Committee's particular interest in a few areas:

3.6.1 Regulatory framework

3.6.1.1 The Committee welcomes the new Regulatory Framework for electronic communications which provides greater predictability, coherence and a more harmonised approach to the way markets operate across the Union. The greater certainty and transparency provided by the framework will encourage investment in the electronic communications sector and speed-up the pace of competition, and the introduction of new innovative services.

3.6.1.2 We agree with the Commission that a technology-neutral, open-standards, coordinated approach to the development of facilities-based competition on the supply-side of the electronic communications sector is critical to the creation of a vibrant and competitive market. The Committee is pleased that the new framework encourages fair competition between diverse access technologies (broadband, 3G, digital TV etc.).

Such an approach will lower network costs and the prices for services, and it will increase the ease of use and mobility for customers. A technology-neutral, open-platform approach to the sector will also greatly stimulate the demand for services.

3.6.1.3 Thus we welcome the technology-neutral approach taken by the new regulatory framework to reflect the convergence between fixed and mobile services, on-line and broadcast content and a whole range of different delivery platforms. We want the Commission to ensure that interoperable platforms are implemented in accordance with the Framework Directive 2002/21/EC.

3.6.1.4 A truly competitive market for services depends on competitive pricing for the connection to the customer's home or premises (the local loop). At present, in most markets, the introduction of new services and lower prices is hampered by control of the local loop by the dominant operators. The Commission should keep under review whether the regulatory framework is adequate to un-bundle the local loop from the dominant operators' control in every market.

3.6.1.5 The Committee deplores the fact that it was necessary for the Commission to take infringement proceedings in the European Court of Justice against Member States for failing to implement the new regulatory framework. We ask that the Commission continues to prosecute the full implementation of the framework in all States, including the new entrants.

3.6.1.6 We support the recent agreement among the European Regulators Group on a Common Position on how they apply remedies to address competition problems in the newly opened markets for electronic communications⁽¹⁾. Recognising that the purpose of the regulatory framework is to roll-back regulation and promote competition, the Committee asks the Commission to ensure the framework is implemented in a way that stimulates the emerging markets and services, and does not hinder their development. We ask the Commission to scrutinise the adequacy of remedies for infringement and their consistent application in the Member States.

3.6.2 Broadband roll-out

3.6.2.1 A widespread, secure broadband infrastructure is essential for the development and delivery of services and applications such as eHealth, eBusiness, eGovernment and eLearning, making broadband vital to European growth and quality of life in the years ahead. Broadband access is a public good, a utility that should be available to all EU citizens as a right. We recommend that the Commission consider the inclusion of broadband in the list of Universal Services.

⁽¹⁾ http://erg.eu.int/doc/whatsnew/erg_0330rev1_remedies_common_position.pdf.

3.6.2.2 The eEurope 2005 Action Plan calls for widespread broadband availability and use in the European Union by 2005, but we are lagging behind our ambitious targets. Unless the pace of broadband roll-out increases, particularly outside urban centres, the Union will not achieve the Barcelona objective ⁽¹⁾.

3.6.2.3 The Committee welcomes the submission of national broadband roll-out strategies by the EU15 Member States and notes that the new Member States will table their strategies before the end of 2004. We note the positive first assessment of the plans by the Commission ⁽²⁾ and we look forward to a more detailed report on the strategies in June.

3.6.2.4 However, we dislike the wide definition of 'broadband' used in various studies and reports (for example, access capacity as low as 144kbs is considered 'broadband' by the COCOM04-20 FINAL report referenced below, and the same report includes 3G connections in Italy's total of broadband access lines but not for other Member States). This lack of precise definition greatly reduces the transparency and usefulness of the term 'broadband' in all deliberations. We call on the Commission to legislate for a precise and demanding definition of the term 'broadband' for use in the Union.

3.6.2.5 We also dislike that the broadband coverage statistics do not deal with the quality of access available. We call on the Commission to include a minimum standard of connection quality in its precise definition of 'broadband'. Only then will broadband statistics be meaningful.

3.6.2.6 The Committee is strongly aware of the need to aggressively bridge the digital divide opening-up across Europe, which hurts the less advantaged and e-Inclusiveness. Although we note that the Council of Ministers has endorsed a shift in policy emphasis from connectivity to the development and the effective use of innovative services, we are concerned about the momentum and coverage of the roll-out of broadband. We are particularly concerned about the disparity between certain countries and regions in the latest broadband penetration statistics from the Communications Committee of the Commission ⁽³⁾. Within the EU15, 20 % of the European population is currently excluded from broadband access because network coverage is insufficient. We welcome the Commission's focus

in the communication on the need to roll-out broadband to underserved areas. And, in the detailed review of the national broadband strategies, we ask the Commission to emphasise the need for broadband networks to be extended to cover the whole of the Union in a timely fashion and to highlight network gaps in future reports.

3.6.2.7 We support the Quick-Start initiatives and the availability of structural funds to provide access in the rural and commercially less attractive areas of the Union, however we want the Commission to maintain close scrutiny of the implementation of the National Broadband Strategies of the member states and to focus on problems of pace, coverage and quality.

3.6.2.8 The Committee regrets that the Communication from the Commission deals only with the geographical digital divide (underserved areas) and does not deal with the financial digital divide (inability to afford network access). The Commission's argument that high-speed services improve living conditions by reducing distances and by facilitating access to health-care, education and public services applies not only to geographically isolated citizens but also to the poorest.

3.6.2.9 The Committee believes that the Commission's assertion that any government intervention to counter the digital divide must be carried out in accordance with the principles of and laws on competition is a fallacy: the digital divide exists because the market is not interested in the target population. There is therefore a need for a statutory public service remit setting out the precise nature of the public service obligations.

3.6.3 Roll-out and development of 3G

3.6.3.1 The Committee welcomes the setting-up of the Mobile Communications & Technology Platform by the Commission, last October, to bring together leading players from among mobile operators, equipment and component manufacturers and content providers. We also welcome the first report of this group ⁽⁴⁾ which set-out 20 recommendations on steps needed to support and sustain the roll-out of mobile networks and services across Europe – including action on research, standards, content, security, spectrum, international co-operation and regulation.

⁽¹⁾ COM(2002) 263 final *eEurope 2005: An information society for all*.

⁽²⁾ IP/04/626 *Connecting Europe at high speed: Commission takes stock of national broadband strategies*.

⁽³⁾ COCOM04-20 FINAL Communications Committee Working Document *Broadband Access in the EU: Situation at 1 January 2004*.

⁽⁴⁾ IP/04/23 *3rd Wave Mobile for Europe*.

3.6.3.2 We are pleased that in the Mobile Platform report, and in statements from the Commission, the emphasis for 3G is on providing a customer-focused, secure, environment to support 'anytime', any place access to high-speed data and entertainment services on the move through a range of broadband-enabled devices.

3.6.3.3 The Committee fully endorses the views expressed by all parties that open, interconnected networks and interoperability in applications and services is the goal and we welcome the commitment of the Mobile Platform to preparing a strategic research agenda for a future Wireless World within the 7th Research Framework Programme.

3.6.3.4 The Committee would like the Commission to bring-to-bear whatever pressure it can to make it easier and more cost effective to roll out the new 3G networks. In particular, the Member States must help to quickly resolve the planning and environmental impact problems that are holding-up the roll-out of this important new platform.

3.6.3.5 We are concerned about the high level of payments made by network operators for 3G licences in some Member States, and the negative effect this might have on future strategy. We would like the Commission to share its detailed views on this issue and advise measures to ameliorate any adverse affects on Union strategy for ICT deployment and use.

3.6.3.6 In the interests of consumers and the efficient use of resources in the EU, we would like the Commission to consider legislating for facility sharing among 3G operators, where this is practical. Such a policy would speed-up availability of access, reduce negative environmental concerns, reduce the cost of providing service. We note the Commission's advice that some major operators are against facility sharing for competitive reasons, but we believe that the best interests of the Union as a whole should prevail over the narrow commercial motives of a few operators.

3.6.3.7 We note that the Mobile Platform believes that a new overall policy framework is needed to address the 3G issues coherently. The group is meeting again in June and we look forward to the communication promised by the Commission in response to the outcome of the June meeting.

3.6.4 New services and the stimulation of demand

3.6.4.1 The Commission advises that even in areas where there is 90 % availability of broadband access, take-up is low (average of 12 %) and decelerating. The reasons for this are high prices, poor quality and lack of relevant content – consumers do not have sufficient interest in acquiring broadband service.

3.6.4.2 Developing content and services to stimulate the take-up of broadband connections is viewed as vital to the take-up of ICT, and hence to competitiveness, productivity growth and employment across the European Union. In this regard, the Committee welcomes the recent proposal from the Commission for an eContentplus programme (2005-2008) ⁽¹⁾ which aims to create conditions for broader access to and use of digital content.

3.6.4.3 The Committee recognises that demand stimulation on deployed broadband and 3G networks, the need for new, innovative services, competition and the roll-out of networks are all interrelated. Each development helps the other. Having dealt with the supply-side issues above, we welcome any initiatives taken by the Commission to encourage the development of new and innovative services that will boost consumer demand and leverage the power of the new technologies and networks.

3.6.4.4 The Committee believes that interoperability between networks, platforms and devices will provide a big stimulus to service adoption and growth. We encourage the Commission to push for interoperability within the regulatory framework, and in its dealings with all stakeholders in the electronic communications sector.

3.6.4.5 We support the Commission's call on Member States to maintain the momentum behind the roll-out of government e-services (including eHealth, eLearning etc.) and recognise the public sector to be a major driver of demand in the early stages of development of these new information services.

⁽¹⁾ COM(2004) 96 final, *Proposal for a Decision of the European Parliament and of the Council: establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable*. EESC Opinion: OJ C 117 of 30/4/2004, p. 49.

3.6.4.6 In particular, we welcome the Commission's commitment to work with industry to address the identified issues hampering the development of new services – Digital Rights Management (DRM) systems, interoperability, micro-payments, m-payments etc. In this regard, we welcome the recent communication ⁽¹⁾ and consultative process dealing with Intellectual Property Rights and we call the attention of the Commission to the Opinion of the Committee in 2003 on IPR ⁽²⁾.

3.6.4.7 The Committee stresses the importance of security issues to the take-up of new services by consumers. Consumer confidence in new technologies and services will depend on assurances re the protection of consumers' interests.

3.6.4.8 The Committee asks the Commission to continue its workshops with operators, internet service providers, content providers, broadcasters and the entertainment industry, on how they can adapt their activities through new forms of partnerships to create new business models and services for a convergent, mobile Union.

Brussels, 27 October 2004.

3.6.4.9 We also welcome the support given to R&D under the 6th Research and Development Framework Programme. In the electronic communications technology sector, as in all other areas of technology development, we stress the need for Europe to invest in R&D and innovation, in line with the targets we set ourselves under the Lisbon strategy. Recognising that this sector has undergone a period of consolidation and retrenchment of investment, the Committee now calls on all parties – the EU, Member States and the private sector – to demonstrate renewed commitment to investment in the future of electronic communications by significantly increasing the scale and rate of R&D activities.

3.7 Concluding remarks

Finally, the Committee further welcomes the publication of the *eEurope 2005 Action Plan: Mid-term review* [COM(2004) 108 final], and the confirmation that the eEurope 2005 targets remain valid in the context of the enlargement of the EU to 25 members. We look forward to reviewing the adjusted eEurope 2005 Action Plan and the comments on it by the June Council.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ COM(2004) 261 final *The Management of Copyright and Related Rights in the Internal Market*.

⁽²⁾ COM(2003) 46 final *Proposal for a directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights*. EESC Opinion: OJ C 32 of 5/2/2004, p. 15.

Opinion of the European Economic and Social Committee on the 'Amended proposal for a Directive of the European Parliament and of the Council on enhancing port security'

(COM(2004) 393 final - 2004/0031 (COD))

(2005/C 120/06)

On 11 June 2004 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2004. The rapporteur was Dr Bredima-Savopoulou.

At its 412th plenary session on 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 169 votes in favour and 6 abstentions.

1. Introduction

1.1 Since the 11 September 2001 and the 11 March 2004 terrorist attacks, the world has discovered that the war on terrorism is bound to last for a long time. The EESC was prompted at an early stage by Commissioner De Palacio to deliver an exploratory Opinion on Transport Security. The EESC gave a set of yardsticks⁽¹⁾ regarding a future EU policy on transport security and is pleased to note that they have been adopted by the Commission.

1.2 Following an EU Communication on Enhancing Maritime Transport Security and a Regulation on Enhancing Ship and Port Facility Security, the EESC delivered an opinion⁽²⁾ which refers to security of port terminals.

1.3 On 30 June 2004, the EESC adopted a further opinion⁽³⁾ referring to the proposed Directive on enhancing port security. The proposed Directive complements the security measures introduced by the Regulation on enhancing the security of ship and port facilities by ensuring that the entire port is covered by a security regime.

2. The Commission's proposal

2.1 Following discussions in Council on the draft Directive on enhancing port security, the Commission proposes⁽⁴⁾ a modification in Article 7 whereby the port security plan will ensure that, on the basis of risk assessments, adequate security controls are carried out by competent national authorities on cars and goods vehicles set for embarkation on vessels which also carry passengers.

⁽¹⁾ OJ C 61 of 14.3.2003, p. 174.

⁽²⁾ COM(2003) 229 final, OJ C 32 of 5.2.2004, p. 21.

⁽³⁾ COM(2004) 76 final, OJ C 241 of 28.9.2004.

⁽⁴⁾ COM(2004) 393 final.

2.2 The proposal applies to roll-on roll-off vessels on domestic and international routes. In the latter case, the Member States concerned will cooperate in the risk assessment.

3. General comments

3.1 The EESC firmly supports a balanced approach safeguarding security without impeding the free flow of trade. It understands, therefore, the concern of the Commission as expressed in the new eighth recital of the proposed Directive.

3.2 In line with its previous opinions, the EESC fully agrees with the proposed modification to the draft Directive on enhancing port security. Although absolute security can never be achieved, the EESC reiterates that the entire logistic transport chain has to be covered by security measures making sure that no weak links exist. Priority should be given to passenger transport where the consequences of a terrorist act would be the heaviest with regard to the human lives at stake.

3.2.1 Ro-Ro vessels are particularly vulnerable to terrorist actions especially if they carry passengers. Indeed, cars loaded on board Ro-Ro vessels may become modern 'Trojan horses' in terms of security.

3.2.2 Adequate measures should be taken to ensure that the cars and goods vehicles on board Ro-Ro vessels will not cause a risk. The measures should be taken in the port or at the port's confines prior to loading of the vessel and in a way impeding as little as possible the fluidity of the operations.

3.2.3 Security inspections of cars/goods vehicles to be loaded on Ro-Ro passenger ferries present difficulties due to the nature of cargoes loaded on the vehicles. Longstanding experience indicates that the most adequate control of the contents of these vehicles should take place prior to embarkation in the port area in order to make use of sophisticated security devices as well as of properly trained personnel.

3.3 The EESC wishes to draw attention to the liability issues arising from the inspections. Obviously, liability from security controls of cars and goods vehicles should rest with the relevant national authorities involved and not with the ship on which these vehicles are subsequently loaded.

3.4 Regarding the identification of seafarers and port personnel involved in security controls, requirements should be applied in a practical way in order not to obstruct unduly commercial operations.

3.5 The EESC notes that as a result of the proposed modification the Commission, in cooperation with the national

authorities, will start inspections to verify the means of monitoring implementation of the national plans adopted pursuant to the Directive, six months after the date of application of the proposed Directive. It emphasises the need for immediate preparedness on the part of EU ports as well as ports of non EU Member States in relation to the new security measures (ISPS Code) for port terminals which entered into force internationally on 1 July 2004.

3.6 Finally, the EESC takes the opportunity to urge that the economic dimension of port security should be addressed promptly at EU level and a harmonised approach should be developed to avoid distortion of competition among ports and among modes of transport, especially to the detriment of roll-on roll-off transport. The Commission is invited to draw up an overall impact study about the financial effects of port security and to devise an EU scheme for financing, where necessary, the implementation measures.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council relating to restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons in extender oils and tyres (twenty-seventh amendment of Council Directive 76/769/EEC)'

(COM(2004) 98 final – 2004/0036 (COD))

(2005/C 120/07)

On 22 March 2004, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 September 2004. The rapporteur was Mr Sears.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 154 votes to three, with seven abstentions.

1. Introduction

1.1 Polycyclic aromatic hydrocarbons (PAHs) are naturally-occurring substances formed whenever carbon-containing compounds are burned at low temperatures in uncontrolled conditions. This happens in forest fires and volcanoes; in human activities such as smoking; in home heating, power generation and driving using fossil fuels; in cooking food and burning waste materials; and in a number of industrial processes. PAHs occur naturally in crude oil and coal and, being easily formed and stable, accumulate during the early stages of cracking and distillation.

1.2 This process of partial oxidation results in a mixture of compounds with linked unsaturated five and six-member carbon rings which can repeat in virtually any direction. Around 600 structures have been identified; only a few have been characterised or isolated for use as intermediates. None have been deliberately produced in significant quantities. Further oxidation results in the formation of soot (i.e., impure particles of carbon) with which PAHs are frequently associated.

1.3 As they always occur in undifferentiated groups, the individual characteristics of PAHs cannot be easily determined (and, for the same reason, are largely irrelevant). However, as some can be shown to be carcinogenic to animals, it is reasonable to classify the mixtures as likely to cause cancer in humans. Oils and some other preparations known to contain PAHs therefore require risk and safety labelling and appropriate handling to ensure safety in the work place. Processes likely to release PAHs into the environment should, where possible, be controlled or avoided.

1.4 One such process is the use of extender oils in tyres for cars, goods vehicles, motorcycles, racing cars and aircraft.

These oils, which may make up as much as 28 % of the tread, confer the essential characteristic of grip which is not required in the carcass. If the tread does not work as intended, or does not remain coherent in use, then safety and performance are compromised, with obvious consequences for the drivers of the vehicles.

1.5 Technically the oils must be capable of dissolving the natural and synthetic rubbers and other materials used in tyres, must be long-lasting and stable, must distribute well and remain bound in the rubber matrix, must function in different conditions of temperature and humidity, and must be safe to handle in manufacture and use. The oils must also be available in large quantities, manufactured to globally agreed specifications, from a number of competing suppliers, at costs below that of the rubber to reduce the overall cost of the tyres.

1.6 Highly aromatic oils meeting these specifications have traditionally been supplied by leading oil producers under the title of distillate aromatic extracts (DAEs). The required solvating power depends on the total aromaticity of the oils which in turn depends on the presence of significant levels of PAHs. As the tread of a tyre wears away, it must be assumed that these PAHs are released to the environment. Whether or not these releases are significant compared to other releases is in dispute. However the process of change to other oils is under way in Europe and needs to be brought to a satisfactory conclusion.

1.7 This is especially important as the world-wide supply of DAEs is also becoming limited, with refinery upgrades now focusing on the production of higher value fully hydrogenated (i.e. low aromatic and reduced solvating power) products and on 'clean' gasoline and fuel products.

1.8 Given that around 300 million tyres are produced each year in Europe and the world market for extender and process oils for the tyre industry is close to 1 million tonnes, to bring this about in a cost-effective manner, whilst maintaining the drive for safety and high performance at low or acceptable cost, is a major challenge for oil suppliers, tyre manufacturers and regulators alike.

1.9 So far, two formulations for non-carcinogenic oils have been proposed, requiring varying degrees of investment by the oil suppliers and different reformulations by the tyre companies. These are known as mild extraction solvate (MES) and treated distillate aromatic extract (TDAE) respectively. Other oils may be developed by other suppliers outside Europe.

1.10 As far as can be determined (as details are not publicly available in the extremely competitive tyre market), some substitution has already taken place – for instance in winter and truck tyres where wet traction for tread is less important. However it is generally accepted that conversion of higher performance summer tyres, let alone tyres for racing cars and aircraft, will take much longer. Also there is a shortage of installed capacity for MES and TDAE, in addition to the limitations on DAE availability already mentioned.

1.11 In order to bring about the desired changes, in a timely manner and consistent with other EU legislation on both competition and health and safety, representatives of the industry sectors (CONCAWE, IISRP and BLIC) have worked with the Commission and other regulatory bodies to agree the appropriate manufacturing approach and regulatory framework. Still outstanding in this are tests to define which oils are acceptable for use in Europe, and tests for all tyres placed on the market, whether manufactured in or outside of the EU, to demonstrate that acceptable low-PAH oils are incorporated in the finished articles.

2. Summary of the Commission's proposal

2.1 In July 2003 the Commission proposed a general restriction on heavy metals and PAHs in ambient air. The EESC gave its Opinion on this first proposal in February 2004. The current proposal, also published in February 2004, seeks to establish an Internal Market as well as providing a high level of protection to human health and the environment by adding certain PAHs to Annex 1 of Directive 76/769/EEC. The PAHs

listed are not high production volume (HPV) substances and have not appeared on any of the four priority lists for the assessment of existing substances. They are however regarded as a group as being Persistent Organic Pollutants (POPs) under the relevant UN ECE Protocol and Convention.

2.2 One specific PAH, benzo(a)pyrene (BaP, CAS number 50-32-8) is classified in the framework of Directive 67/548/EEC as being carcinogenic, mutagenic and reprotoxic Category 2, and is proposed here as a qualitative and quantitative marker for the presence of other PAHs.

2.3 Extender oils may not be placed on the market and used for the production of tyres if they contain more than 1mg/kg BaP or more than 10mg/kg of the sum of all the listed PAHs.

2.4 The Commission recognises that a number of technical problems still need to be overcome, therefore the date of general application is set at 1 January 2009. Racing car tyres would be covered from 1 January 2012 and aircraft tyres at some date in the future to be determined. The absence of relevant harmonised test methods for the content of PAHs in extender oils and tyres, e.g., from CEN or ISO, should not delay the entry into force of the Directive.

2.5 The Commission notes that it has consulted the Scientific Committee on Toxicity, Ecotoxicity and the Environment (CSTEE) with respect to the scientific findings on the adverse health effects of PAHs.

2.6 Member States will have one year to publish laws necessary to comply with this Directive. This will be from the date of entry into force of this proposal, after consulting, as required by Article 95 of the Treaty, the European Economic and Social Committee (EESC) and following the Co-decision Procedure with the European Parliament.

3. General comments

3.1 This proposal, which supplements other controls on PAHs, is based on reports on the alleged health and environmental effects of tyre debris from the German Umweltbundesamt (UBV) dated 18 March 2003 and the Swedish National Chemicals Inspectorate (KEMI) dated 27 March 2003. These were reviewed by the CSTEE, as reported in an Opinion adopted at its 40th plenary session of 12-13 November 2003.

3.2 THE CSTEE agreed, for the reasons given above, that PAHs, as a group, should be considered as likely carcinogens for man and that PAHs are emitted to the environment as a result of tyre wear. It however gave only partial support to the use of BaP as a qualitative and quantitative marker for other PAHs and severely questioned the overall impact of this emission route.

3.3 In summary, PAH emissions from tyre wear contribute less than 2 % to total human exposure, with the sources mentioned in 1.1 contributing the remaining 98+ %. This is consistent with repeated WHO assessments that the primary causes of air pollution and associated diseases, including cancer, are smoking and wood and coal burning for heat and food preparation. The CSTEE therefore concluded that 'a limitation of PAHs in tyres will not considerably affect the PAHs concentrations in ambient air and sediments'.

3.4 It follows that the routine statement that the Directive 'will yield benefits in terms of providing a high level of protection to human health and the environment' does not apply strongly in this case. The extender oils are already labelled and can be handled safely in the work place under existing legislation on Dangerous Substances. This proposal will therefore bring no benefits in the work place and minimal benefits to the environment.

3.5 It should be also noted that this proposal, as with the twenty-sixth amendment of Council Directive 76/769/EEC in its attempt to limit concentrations of naturally occurring chromium VI in cement, on which the EESC delivered its Opinion in March 2003, stretches the scope of the Directive to, or past, its intended limits. PAHs are neither deliberately manufactured nor placed on the market as such. This is recognised in the Annex – where the limitations are, correctly, on products containing PAHs – but not in the title, which should therefore be amended.

3.6 The title and the text are also confusing in the references to 'certain PAHs' as a specific and meaningful group. Given that, as the CSTEE notes, very few PAHs have been characterised, and of these even fewer shown to be unlikely to be carcinogens, it must be concluded that the entire class presents risks where human exposures are possible. The restrictions on marketing and use should therefore be on 'oils rich in PAHs used in the manufacture of tyres, and on tyres containing these oils'.

3.7 Given the above, and the overlap with the earlier Commission proposal on heavy metals and PAHs in ambient air, it has been argued that this Directive is unnecessary and should be withdrawn. The market has become fragmented, with at least two products needed to replace the one previously used. There is insufficient installed capacity to meet demands. There are still concerns over the safety of the replacement formulations; if treads made with low-PAH oils fail in use, real deaths will replace the hypothetical deaths used to justify precautionary action.

3.8 The EESC understands these concerns however feels strongly that the Directive must proceed, in close consultation with the affected industries, to bring about a successful transition to the world-wide use of low-PAH extender oils in the manufacture of tyres. These replacement oils must clearly meet the same minimum standards of performance in all matters relating to safety. The establishment of an effective, competitive and reliable Internal Market in Europe in these new products is therefore a sufficient and proper driving force for this proposal.

3.9 Crucial to this in terms of timing is agreement on the tests to be used to determine which oils will be acceptable in use. The present Annex suggests testing for the presence of individual PAHs. This is inappropriate to continuous running large scale refinery operations where the actual chemical constituents of specific streams vary with the crude oils being processed. Other tests such as IP-346 from the Institute of Petroleum (which controls total PAH content by measuring the quantity of three to seven-member ring PAHs extractable by the solvent DMSO) are already in use in the oil industry as an acceptable measure of carcinogenicity under Directive 67/548/EEC. Studies by CONCAWE for the oil industry support the CSTEE Opinion that the single measurement of BaP gives a poor correlation with overall potential carcinogenicity. The use of IP-346 for defining and testing the different extender oils is therefore strongly recommended.

3.10 In order to protect the tyre industry in Europe – and the environment if such benefits exist – there must be a similar test for the oils used in imported tyres. A draft standard from the International Standards Organisation (ISO TC 45/SC 3 N dated 29 October 2003) proposes, for review and comment, a test method for the determination of oil type in rubber compounds. This work should be brought to a satisfactory conclusion before this Directive is implemented.

3.11 Given the above, it should be possible to resolve the current supply restrictions, in particular for TDAE which requires higher levels of investment than MES. All of this however takes time and the current requirement for the change to be completed for all general purpose tyres by 1 January 2009 looks increasingly unrealistic. Given that the benefits of this proposal are likely to be minimal, and the costs and risks of unsuccessful reformulations are considerable, the EESC proposes that this initial deadline should be extended by 12 months to 1 January 2010. Even this will entail considerable negotiation between the various competing stakeholders. The Commission will continue to have a key role in facilitating this process within the constraints of EU law and eventually bringing it to a successful conclusion.

4. Specific comments

4.1 In the light of the above, the title of this proposal and subsequent wording should be consistent with the overall aim of introducing restrictions on the marketing and use of 'oils rich in PAHs used in the manufacture of tyres, and on tyres containing these oils'.

4.2 This should be reflected in the Annex with limitations imposed on the marketing and use of oils used in the manufacture of tyres having greater than 3 % DMSO extractables under IP-346 and therefore classified as carcinogenic under Directive 67/548/EEC. All references to BaP as a marker and to other individual PAHs should be deleted.

4.3 An international standard test method should be developed for the characterisation of oils in rubber compounds, in particular tyres, and incorporated in this Directive.

4.4 Appropriate time should be given to the rubber and tyre industries to complete the reformulation work under way, and to the oil industry to invest in and supply the required raw materials. At present it is believed that all the parties could meet such requirements by 1 January 2010 and this date should therefore be incorporated as the initial deadline in the proposal. Derogations for tyres for racing cars, aircraft and other high performance end uses should be agreed with the stakeholders; in the light of the above, it is difficult to see any measurable benefits from these changes compared to the obvious risks of non-performance to all concerned.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation amending Regulation (EC) No 2702/1999 on measures to provide information on, and to promote, agricultural products in third countries, and Regulation (EC) No 2826/2000 on information and promotion actions for agricultural products on the internal market'

(COM(2004) 233 final – 2004/0073 (CNS))

(2005/C 120/08)

On 21 April 2004, the Council of the European Union decided to consult the European Economic and Social Committee, under Articles 36 and 37 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 September 2004. The rapporteur was **Mr Leif E. Nielsen**.

At its 412th plenary session on 27 and 28 October 2004 (meeting of 27 October 2004) the European Economic and Social Committee adopted the following opinion by 171 votes to one, with six abstentions.

1. Background

1.1 Until 1999, the EU co-financed information campaigns and promotional activities for agricultural products both inside and outside the EU as part of the individual market organisations. Subsequently, under Regulations (EC) No 2702/1999 and (EC) No 2826/2000 relating to third countries and the internal market, these sectoral provisions were replaced by a more horizontal strategy designed to support Member States' and businesses' own promotional activities. Unless it is extended, the first of these regulations expires at the end of 2004. As required by the regulations, the Commission submitted a detailed report on their application in March 2004, together with proposals for simplification and improvements.

1.2 In the EU, problems such as BSE, dioxin and listeria have increased the need for European food initiatives and information about monitoring arrangements to secure quality and traceability. The focus is therefore on information about legislation relating to quality, safety, labelling, traceability, protected geographical indications, designations of origin, certificates of specific character and organic and integrated production, with the aim of upgrading the image of European products in consumers' eyes.

1.3 In third countries, the schemes also seek to provide information about: (a) the EU's efforts to guarantee quality and safety, including the characteristics of products linked to specific regions, and (b) requirements to safeguard organic products. Tools used both inside and outside the EU include information campaigns, PR measures, promotional activities, advertising, and participation in trade fairs and exhibitions, which may prepare the ground for national and private campaigns designed to increase the market share of their own products.

1.4 As a rule, the Community contributes 50 % to promotion programmes. The relevant professional and interprofessional organisations contribute 30 %, the Member States 20 % – in both cases with the option of using parafiscal taxes. Member States' expenditure is regarded as intervention and is refunded by the Commission.

1.5 The European or national organisations involved must themselves initiate the programmes, while the Member States are responsible for management, control and payment. To safeguard the European dimension, priority is given to programmes presented jointly by two or more Member States and professional organisations. However, these programmes face a range of practical difficulties as a result of different administrative rules and procedures and a lack of commitment on the part of certain Member States. Moreover, proposers are, on the whole, required to spend an inordinate amount of time and resources on coordination, monitoring and administration.

1.6 The purpose of the proposals is to mitigate the disadvantages of complicated rules and red tape. This is discussed in greater detail in the Commission's report. The changes are also designed to ensure that the programmes are, in substance, of much more genuinely European interest.

2. General comments

2.1 The changes to the common agricultural policy, along with stiffer market competition confirm the need for the scheme. Competing countries' support for information campaigns and promotion actions on export markets also warrant a continuation of the EU system both inside and outside the Union.

2.1.1 There is, however, a considerable need for simplification and improvement. Having consulted the professional organisations and other parties concerned, the Commission has drawn up a comprehensive report on the upcoming revision with a view to simplifying administrative procedures, and ensuring that the system operates as efficiently as possible.

2.2 As the Commission points out, however, it is too early to judge the results of the new regime. Gradual implementation only started in 2001 for third countries and in 2002 for the internal market. 2003 was the first year in which the system was fully operative. It would therefore be useful, as the Commission proposes, to draw up a second report by the end of 2006, analysing the operation of the regime following revision. This would also make it possible to evaluate its implementation in the new EU Member States.

2.3 Hence, many organisations are only now familiarising themselves with the regime's provisions and administrative requirements. As the Commission points out, however, some of the proposed programmes have been of limited European interest. Greater emphasis should therefore be placed on programmes that have sufficient scope to be significant within the EU context, and on securing synergies between national and EU activities.

2.4 Especially after enlargement, the EU should seek, overall, to frame rules that are as simple and as clear as possible. Although the internal and external programmes do vary in terms of objectives and content, the breakdown into two regulations is historically-based. In a bid to secure further simplification, the two regulations should be merged at the earliest opportunity into a common set of more user-friendly rules. Most of the provisions are identical and the differences that do exist are generally without foundation. The proposed changes to the regulations are also the same in terms of presentation of proposals, decision-making and monitoring.

2.5 Support for information, promotion and advertising activities for agricultural products and foodstuffs is also granted under rural development provisions that differ from the rules of the present regime. Leaving aside recent moves to make a clearer distinction between the systems' different areas of application, the Commission should, even at this stage, assess what might be done to eliminate the overlap. Hence, there is no reason to put off this discussion until a later date, as the Commission proposes.

2.6 EU co-financing should continue in its present form and the budget resources should be increased to take account of enlargement and future requirements. The system can thus help integrate and establish the single market in the various produc-

tion areas with due regard for variety and gastronomic diversity. The European professional organisations should therefore be more involved in implementing information campaigns that provide details of product quality and variations in consumer preferences within the EU. Third-country markets should also be given higher priority – at the same time as the gradual phase-out of export refunds – bearing in mind the realistic possibilities for implementing effective programmes.

2.7 The scheme's limited use on third-country markets is due not least to the requirement that the programmes apply solely to generic campaigns. As a result, the member companies of the professional organisations are in many cases reluctant to act and unwilling to become involved in programme funding. Support for brand labels – and thus for individual companies – is out of the question but if the measures are to have any perceptible impact on export markets, the Commission must show some flexibility in campaigns and similar ventures in accepting a balanced number of brand labels as an integral part of the generic campaign. This makes it possible to establish a link between the campaign message and the products on the market endeavouring to combine the generic with the specific to create common synergies. That in itself will not affect the campaign message but it will help ensure that buyers and customers can in practice find the products included in any campaign. More attention is also being paid to product origin across the EU. If, however, a market is already brand-dominated, EU promotion action is of limited added value, as, in such cases, private brands will usually engage in intense competition and use sizeable advertising budgets to boost their market share.

2.8 There is no reason to change the co-financing rates between Member States and professional organisations. The problem is that certain Member States show a lack of commitment or find it impossible to meet the co-financing requirement. This means that the professional organisations concerned are precluded from taking up the schemes unless funding is provided through parafiscal taxes. For reasons of administrative simplification, the current degressive co-financing rates for multi-annual programmes should be eliminated and EU co-financing should be set at 50 %.

2.9 The acceptance of parafiscal taxes as a source of financing already implies that *de facto*, certain organisations cover 50 %. This option should be retained. This means, however, that the rules on the mandatory Member State share of 20 % should be relaxed so that the Member States can decide case-by-case on the share of financing they allocate to a programme. That said, a minimum contribution of, say, 20 % from the organisation in question should be obligatory.

2.10 The Committee feels that it should be possible to support measures to promote flowers and plants on third-country markets in the same way as on the internal market.

2.11 It is an administrative burden and serves no objective purpose to subject Member States' financial contributions under this scheme to the Treaty rules on state aid. Thus, as in regional development measures, the proposed exemption from the notification procedure should apply from the outset.

2.12 Given the administrative burden involved and the considerable number of smaller programmes that have no impact on the markets in question, a good option is to set a minimum and a maximum budget for the selected programmes. Preference must be given to programmes whose duration and budget are sufficient to secure a more effective impact.

2.13 With regard to organic products in the EU, the national and private certification and monitoring arrangements must as far as possible be incorporated into the Union's common regime for such products. This process is well under way and should as far as possible be backed up by information campaigns so as to establish a genuine internal market in organic products to replace the national and private systems. Information campaigns in third countries for EU organic products have had only a limited impact to date. Establishing the internal market in organic products is a prerequisite for marketing such products in third countries. Up to now, difficulties have arisen with regard to the mutual recognition of the different schemes, for instance between the EU and the USA.

3. Specific comments

3.1 Consideration must be given to the possibility of more radical action than that set out in the proposal with regard to the internal division of remit and responsibility between the Member States and the Commission. The same goes for the need for simplification and a clearer division of responsibilities, given the large number of committees and bodies involved in drawing up the rules and in the process of selection, implementation, follow-up and monitoring. As a further measure, therefore, the proposal is to set up *ad hoc* working groups of representatives from the Member States and/or experts with particular expertise in promotion and publicity matters who can usefully advise the Commission in developing the strategy and implementing measures of the regime.

3.2 The proposed change in the selection of implementing organisations represents a substantial simplification. Depending on the nature of the campaign, there is also a need for the relevant organisations themselves to carry out certain activities as part of a programme, and the implementing body may be selected after the proposal has been adopted by the Commission.

3.3 The proposed changes go some way towards meeting the criticisms that have been voiced, among other things, about the length of time involved from the presentation of proposals to the final decision, the level of detail required at this early stage, and the lack of transparency in the decisions. At the same time, however, it is also important to consider relaxing the onerous reporting requirements.

3.4 The proposed flexibility, allowing the Commission itself to initiate information campaigns and promotion actions in a bid to secure a fairer distribution across the various production areas is a welcome move, given the preponderance of applications in the fruit and vegetable sectors, while other sectors have received little or no attention. However, practical implementation raises a range of questions, such as the restrictions contained in the Annexes which limit the countries and products that can be promoted by the EU.

3.5 The EU's organic logo should appear clearly in any information and promotion activities so as to raise awareness of the EU's certification and monitoring regime and to promote the harmonisation of the national systems. The logo depicts the twelve stars and symbolises the EU. Hence, the requirement to have the EU flag visible on campaign material should, under certain specific conditions, be toned down. The current requirements result in different EU symbols being used in the same promotional material. There are also national environmental logos and logos depicting the place of origin, with the result that the message becomes blurred. Campaigns to support the LIFE programme thus carry the LIFE logo, which also depicts the twelve stars, and not the EU flag.

3.6 The current requirement that national environmental logos are only admissible if more far-reaching national rules are involved is discriminatory and runs counter to harmonisation. The draft of the European environmental action plan ⁽¹⁾ therefore proposes that national logos be used alongside the EU logo.

⁽¹⁾ Communication from the Commission to the Council and the European Parliament: European action plan for organic food and farming, COM(2004) 415 final.

3.7 The EESC calls upon the Commission to draw up a procedural guide for operators that would help both them and the authorities in their supervisory role, and thus benefit this new Community promotional policy as a whole.

3.8 The implementation of these regulations is recent, but some basic requirements are beginning to emerge which must be considered for the future. The Commission should take care to coordinate actions in different markets so as to avoid over-

lapping or mixed messages, which only detract from the effectiveness of promotion.

4. Conclusion

4.1 The Commission proposal should be adopted, bearing in mind the above comments on the need for further simplification.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on 'Industrial change and State aid in the steel sector'

(2005/C 120/09)

On 29 January 2004, the European Economic and Social Committee decided to draw up an opinion, under Rule 29(2) of its Rules of Procedure, on 'Industrial change and State aid in the steel sector'.

The Consultative Commission on Industrial Change, which was responsible for the Committee's work on the subject, adopted its opinion on 9 September 2004. The rapporteur was **Mr Lagerholm** and the co-rapporteur was **Mr Kormann**.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 154 votes to 3 with 11 abstentions:

1. Introduction to the opinion and the aims and scope of the opinion; definition of terms used

1.1 This own-initiative opinion focuses on the link between industrial change and State aid, as illustrated by the example of the steel sector.

1.2 The authors of this own-initiative opinion understand the term 'industrial change' to mean the normal and ongoing process, within an industrial sector, of reacting proactively to dynamic trends within a branch of the economy in order to remain competitive and to create opportunities for growth.

1.3 Europe cannot remain aloof from ongoing industrial change. In view of the fact that markets are, to an increasing extent, becoming global markets, economic structures have to be brought into line, sooner or later, with events taking place on the world market. In this context the European Union must endeavour to play an active role in defining the basic international conditions.

1.4 This own-initiative opinion has been triggered by:

- the expiry of the ECSC Treaty in 2002;
- the privatisation and restructuring of the steel industry in the central and eastern European countries (CEEC), linked to the EU accession process;
- the OECD negotiations on an international steel subsidy agreement (SSA);
- the latest edition of the EU's State Aid Scoreboard;
- the communication from the European Commission entitled *Fostering structural change: an industrial policy for an enlarged Europe* (COM(2004) 274 final) of April 2004; and
- the report from the Commission to the Council and the European Parliament entitled: *First monitoring report on steel restructuring in the Czech Republic and Poland* (COM(2004) 443 final) of 7 July 2004.

Taking the steel industry as an example, this own-initiative opinion analyses how State aid can have an impact on necessary structural change.

1.5 Companies which do not receive State aid to safeguard their competitiveness are often disadvantaged compared to competitors which do; the adverse effects on the development of such companies can be serious, and they may even be forced out of the market. In spite of this experience gained over several decades of restructuring, the European steel industry case demonstrates that political decision-makers often find it hard to desist from authorising the payment of subsidies to major enterprises employing correspondingly large workforces which are threatened with closure. In general, this means that over-capacity and uneconomic activities are maintained beyond the withdrawal date determined by the market. Essential adjustment processes are only hesitantly set in train.

1.6 Despite this, there is now general agreement, in the world of politics, in the economy, and also within trade unions, both on the unavoidability of industrial change and the need to shape such change through international framework agreements (e.g. WTO, OECD, ILO, etc.). This understanding also derives from the decades of industrial change which the coal and steel industry has already experienced. Restructuring and consolidation together with the accompanying social dialogue are now generally recognised both as prerequisites and the context for ensuring the competitiveness of European enterprises on markets which are becoming increasingly integrated.

1.7 In the communication on industrial policy which it issued at the end of April 2004 ⁽¹⁾ the European Commission drew attention to the fact that industrial change must not be equated with out-and-out de-industrialisation. The latter phenomenon is characterised by a simultaneous decline in employment, production and growth in productivity. Out-and-out de-industrialisation results in the loss of low-productivity jobs to developing countries and newly industrialised countries where labour costs are lower. The principal cause of this transfer of jobs is that comparative cost structures have become more favourable in non-EU states.

1.8 In its analysis of the industrial policy, the European Commission does, however, come to the conclusion that de-industrialisation is currently taking place in the mining industry and only a small number of other sectors (textiles, clothing, leather goods, shipbuilding, coking plants, oil-refining and the manufacture and processing of nuclear fuel and fertile material). Whilst structural change is undoubtedly painful for individual regions, it is, however, beneficial from an overall economic standpoint, provided that such change is properly foreseen, identified and backed up.

⁽¹⁾ COM(2004) 274: this communication is currently being analysed in opinion CCMI 017, rapporteur: **Mr van Iersel**, and in the own-initiative opinion CCMI 014 on *company relocations*, rapporteur: **Mr Rodriguez Garcia-Caro**.

1.9 The proportional decline in the share of overall economic activity made up by industry reflects a long-term structural process. Whilst most sectors of industry, such as the iron and steel sector, have considerably reduced their workforces over the last few decades, they have, at the same time witnessed a clear increase in the added value of their products and their labour productivity.

1.10 The increase in the social importance of the service sector is often regarded by the public as proof of a process of structural change at the expense of industry. This shift does, however, need to be put into perspective in view of the increasing interlinking between these two sectors. Over the last few decades processing industries have outsourced various activities (transport, logistics, data processing, etc.) to external service-providers. Care and considerable caution therefore need to be exercised when interpreting statistics on industrial change. Incorrect conclusions, based on superficial analyses or politically-motivated half-truths can quickly trigger dire industrial consequences.

1.11 In a knowledge-based European Union added value produced by industry remains essential. Bearing in mind all the added value generated for industry in other sectors of the economy, it is clear that, since the beginning of the 1990s, industry has continued to be of major importance to the EU. In Germany, for example, taking account of this combined input, industry continues to account for a good 40 % of gross value added.

1.12 In the light of – sometimes very painful – experience, with privatisation and restructuring dating back almost 30 years, the European Commission now proposes that future structural measures (taken in the CEEC in the steel sector and other sectors) should be based on the experience acquired by the EU steel sector in applying adjustment measures.

1.13 In recent decades there have been considerable changes in the political, technical and economic environment in which the EU steel sector operates. The oil crises, the establishment of the EU's internal market, EU enlargement and also globalisation have had a deep impact on this commodity sector, which is important to other sectors of industry. Despite all the cyclical and structural fluctuations since the first crisis year of 1975, the level of steel production in the EU has, however, remained virtually stable. Steel is, still today, produced in virtually all the EU-15 Member States. Today, however, due to technological progress only approximately one third of the 1975 workforce is required to produce this steel. The percentage of steel enterprises in EU-15 in which the State has a dominant interest has fallen from 53 % in 1985 to less than 10 % today. Moreover, State-controlled and private steel enterprises are now exposed to similar economic conditions.

1.14 Against this background, the European Economic and Social Committee's Consultative Commission on Industrial Change (CCIC) is attracted by the task of examining the role which State aid plays in general in the context of structural change and the role which they have played, in particular, with regard to the European steel industry. For the purposes of this own-initiative opinion, the term 'steel sector' is taken to mean all industrial activities linked to the production and marketing of steel and the key role it plays with regard to the steel-using sectors in the EU.

2. State aids and their general impact

2.1 State aids are selective benefits which State bodies grant to selected branches of manufacturing and, ultimately, to particular groups. In order to determine whether measures constitute State aid, a distinction has to be drawn between measures which are intended to provide support for certain undertakings or the production of certain goods, in accordance with Article 87(1) of the EC Treaty, and general measures which are likewise applied in the Member States but which are intended to benefit the economy as a whole. Measures which fall into the latter category do not represent State aid in accordance with Article 87(1), but are general economic policy measures which are equally applicable to all companies (e.g. general tax incentives for investment allowances).

2.2 It should, however, be borne in mind that in market economies economic activities are determined by supply and demand and coordinated via the price mechanism. Any measures which jeopardise the role of the price factor in providing information, direction and stimulus therefore risk, in principle, being harmful.

2.3 State aid may jeopardise free competition on a lasting basis, prevent the efficient allocation of resources and constitute a threat to the EU internal market. The European Union therefore recognises that safeguarding free and undistorted competition is one of the basic principles of the Community.

2.4 Specific allocations of State aids (financial aid or tax concessions) can only be justified if the market is not fully operational and if there is a realistic chance that the granting of subsidies will provide a better economic outcome. In the event of a failure of the market, State intervention, in the form of the provision of financial aid, may help to avoid misallocations. The State, however, rarely possesses the knowledge which it needs to ensure that in cases of market failure, the right extent of public funding is injected. Enterprises which are fighting for State aid are not always a reliable source of information.

2.5 A further difficulty is that market conditions are constantly changing. A State aid which was originally justified

may, over time, prove to be no longer economically necessary but it nonetheless remains in place because of the slowness of the political process or as a result of the influence exercised by regional or sectoral interest groups.

2.6 The granting of State aid also frequently brings about changes in patterns of behaviour on the part of market players. When they receive subsidies, this reduces their readiness to carry out adjustments which are required in order to retain or re-establish the competitiveness of enterprises; subsidized enterprises may also develop a 'subsidy mentality'.

2.7 At least in the medium term, State aid may also increase the tax burden. Reductions in State aid are not only vital as a means of achieving lasting budgetary consolidation but are also necessary for economic and regulatory reasons. Structural change is held back if the wrong approach is adopted to subsidies.

2.8 With a view to bringing about the necessary reduction in the overall volume of State aid, calls were made, in the conclusions set out following various meetings of the EU Council of Ministers, for a shift in emphasis away from providing support for individual enterprises or branches of the economy towards achieving horizontal goals of common interest, including cohesion objectives. State aid granted for the purposes of achieving horizontal objectives is usually intended to compensate for a failure on the part of the market and it normally brings about fewer distortions in competition than do sectoral aid and aid granted for specific purposes. The bulk of the latter form of aid is granted for the purposes of rescuing or restructuring enterprises which are in difficulties.

2.9 The main horizontal objectives which the provision of State funding seeks to pursue include the following:

- research and development,
- environmental conservation,
- energy savings,
- support for SMEs,
- the creation of jobs,
- the promotion of training.

State influence in the European steel industry

2.10 The State has traditionally exercised a considerable influence on the steel industry; military and security considerations have, not least, played a decisive role in this respect. In order to illustrate the extent of State influence, attention is drawn to the fact that in 1980 some 60 % of the world's steel output was still produced by enterprises which were under direct, or indirect State control.

2.11 When steel-producing enterprises are owned by the State this generally results in losses largely being written off by the State, thereby providing undertakings with a virtual guarantee of survival. From the standpoint of achieving efficient competition, such a situation is just as damaging as the granting of State aid to strengthen the competitive position of enterprises or the introduction of measures to prevent the impending closure of enterprises not directly owned by the State. Economic measures taken to prevent such closures are also backed up by political measures. As a result, the burden of carrying out adjustments may be transferred to more competitive enterprises. Such measures can also trigger a spiral of intervention.

2.12 Apart from aid granted to enterprises which cease operations, the only aid which can therefore still be granted to the European steel industry is horizontal aid. In view of the fact that the process of structural change proceeded at only a woefully slow pace until the late 1990s, the European steel industry finally accepted the need to shift from sectoral and ad hoc aid to horizontal aid. In its aid regime the European steel industry has now gone so far as to give up regional aid, too⁽¹⁾.

2.13 In the European Union, considerable importance is attached to the monitoring of all national expenditure. The European Commission must ensure that its EU aid policy is founded upon transparent monitoring and use of State aid, as is already the case in the steel sector.

2.14 The European Commission is currently continuing its review of the general guidelines and basic provisions governing State aid. These measures need to be drafted in a simpler and clearer way. Discrepancies should be removed. The Commission will give priority to the following measures: reviewing the provisions governing aid granted for the purposes of rescuing and restructuring enterprises which are in difficulties; the reform of the EU provisions governing regional aid following EU enlargement; the elaboration of new basic provisions governing the assessment of what constitutes relatively small sums of aid; and clarifications in respect of the field of services of general economic interest.

2.15 The forthcoming development of the general EU aid regime over the next few years needs to take account of the international context and, in particular, of multilateral commitments. Aid in respect of non-agricultural goods and products is subject to the WTO Agreement on Subsidies and Countervailing Measures.

⁽¹⁾ The last derogation from the general ban on State aid was for regional investment subsidies for Greek steel manufacturers, which expired in 2000.

3. EU aid policy and its importance for industrial change in the steel sector

The general ECSC ban on aid is circumvented

3.1 The 1952 European Coal and Steel Community Treaty contained clear rules on whether or not it was permissible for Member States to grant aid to companies in the coal and steel industry: 'The following (is) recognised as incompatible with the common market for coal and steel and shall ... (be) prohibited within the Community, as provided in this Treaty: ... subsidies or aids granted by States ... in any form whatsoever'. This ban on all support for companies from individual States, set out in Article 4c, was a logical consequence of the removal of all national protection measures within the Common Market.

3.2 Following the establishment of the common market it soon became apparent, however, that without State support it would not be possible to secure Europe's energy supplies or iron and steel production from internal sources of coal. The search for a solution that would not require changes to the ECSC Treaty led policy-makers to propose that certain kinds of State aid could be reinterpreted as Community aid, which was in principle permissible. Article 95, the provision adopted to cover unforeseen circumstances once the treaty had been signed, was used as the basis for this. It allowed for Community intervention where this was necessary to achieve one or more of the Treaty's aims.

3.3 Keeping the coal mining industry going, in particular the jobs associated with it, was one such aim. From then on, aid which Member States paid out to their coal mining companies in return for secure energy supplies and steel production was viewed as Community aid.

3.4 In the 1970s many Member States did not even bother to use this loop hole for the aid they gave to steel companies. Instead they paid out billions, largely without any objections being raised, initially to foster expansion in the steel sector, and later to keep these companies going, the majority of them being State owned. Even in the early 1980s, the then Director-General for Competition at the Commission openly referred to the ECSC Treaty's ban on aid as being obsolete.

3.5 From 1978 onwards private steel companies, which had suffered considerably from distortions in competition as a result of the 'aid race', met with increasing success in their attempts to bring the subsidy ban back into force.

3.6 The steel subsidy codes, based on Article 95, stipulated from 1980 onwards that aid to steel companies could only be granted under strictly defined circumstances. However, the types of aid still permitted initially included almost all the aid which Member States were already paying out to their companies anyway. Thus, for the most part, the first subsidy code only served to legalise existing practices. It was only gradually that the kinds of aid most damaging to competition, such as rescue, operating and investment aid, were banned completely.

3.7 From the second half of the 1980s onwards, only research and development, environmental and closure aid were still permitted under the subsidy code. Despite this, some State-owned steel companies still received State funds up to the mid 1990s for debt repayment and restructuring purposes, based on further derogations under Article 95.

3.8 Eventually, the granting of any further 'Community aid' was made contingent upon fundamental reductions in production capacity. At last a consensus was reached between EU Member States, according to which no further exceptions would be allowed to the ban on subsidies other than those permitted in the subsidy code.

3.9 This strict legislation on steel aid, which the founding fathers of the ECSC Treaty had already had in mind and responsibility for which the EU-Commission took over when the treaty expired in 2002, was not least achieved thanks to continued political efforts and legal actions brought by the steel industry. Even if the cases brought before the European Court of Justice did not always lead to a withdrawal of the aid authorisation which was being contested, they did, however, help ensure that the legal boundaries for exceptions to the steel aid ban were precisely defined and further restricted.

3.10 The total amount of money channelled to ECSC steel companies has been considerable: over EUR 70 billion from 1975 onwards! This can be broken down as follows:

- between 1975 and 1980, when the aid code came into force, around EUR 12 billion in State aid were paid out in the EU;
- between 1980 and 1985 – that is to say, in the period when subsidy payments were permitted with no major restrictions in return for capacity reduction the European Commission granted authorisations for the release of around EUR 41 billion in State aid;
- between 1986 and 1995, a further EUR 17 billion were granted, of which EUR 7 billion were awarded in 1994

alone following a 'first time, last time' decision based on Article 95.

3.11 According to the most recent European Commission aid scoreboard, the steel industry's share of all EU aid today amounts to less than 2 thousandths of the total. This aid is almost entirely for environmental protection measures. Today's steel aid legislation and practices are clearly tougher than the EC aid arrangements in other industrial sectors.

How did the State aid mentality develop in the steel sector in the 1970s?

3.12 In the 1960s and the first half of the 1970s, world steel consumption showed strong, steady growth, averaging more than 5 % per year. In 1974 raw steel production in the then European Community of Nine reached record heights at almost 156 million tons with a capacity utilisation of 87 %.

3.13 However, one year later, in 1975 the oil price crisis caused a sharp drop in steel production, and as a consequence, within a year production in the EC had shrunk by 30 million tons (19 %). The corresponding slump in steel prices outstripped the decline in production. At the same time ECSC steel companies faced a market increase in imports, accompanied by an equally clear drop in their own exports. The decline in steel use in the single market was exacerbated by the fact that steel stocks were run down.

3.14 Initially it looked as though this was just a particularly acute cyclical downturn. All of the experts therefore believed that it would soon be followed by an upturn. The economic institutes questioned by the European Commission confirmed that the recovery would be particularly powerful and long lasting. The Commission's long-term forecast, *General Objectives 1985*, drawn up in conjunction with producers, consumers and traders, predicted that steel production would reach no less than 188 million tons in the nine EC countries in 1985. However, only 120 million tons were actually produced. Steel companies' medium- and long-term investment planning was therefore based on completely incorrect parameters; surplus capacity was generated and supply and demand drifted further and further apart.

3.15 Steel consumers' investment activity has been drastically cut back due to the worldwide slow-down in economic growth, and this has impacted particularly negatively on steel consumption, since approximately two thirds of steel consumption in the highly developed industrialised countries is associated with investment activity.

3.16 Another key reason for the stagnant worldwide demand for steel since 1975 lies in the fact that less steel is being used for specific purposes, because it is now being used more efficiently. The constant shift from quantitative to qualitative growth and the expansion of the tertiary sector have also led to a slump in the demand for steel in Europe.

3.17 Despite stagnating steel consumption since 1975, steel capacity was again increased significantly. The nominal world raw steel capacity rose by 150 million tons between 1974 and 1983 alone, while the global demand for steel fell by 44 million tons during the same period. At the same time, capacity in the 'new' steel countries and Eastern Bloc countries rose particularly sharply. Compared to actual steel consumption, the nominal capacity surplus in 1974 amounted to 130 million tons worldwide, and almost tripled within ten years (343 million tons).

3.18 Since the collapse in demand at that time was still regarded as a purely cyclical phenomenon, capacity was maintained despite crisis measures. These measures did not succeed in holding back supply-side pressure, preventing price wars on the European steel market or lowering down the slump in prices. Companies with high production costs and little reserves faced increasing hardships. They called for State support and usually received this from their national governments. The problems faced by individual companies therefore became the problems of the whole sector. The system of voluntary restrictions adopted by the members of the newly founded European trade association for the steel industry, 'Eurofer', finally collapsed when none of the major companies were participating any longer.

Forced regulation of the market (1980-1985)

3.19 After the collapse of the voluntary system, in autumn 1980 the Commission was forced to declare that there was a clear crisis and introduce a mandatory system of production quotas (obligatory quota regulation) for all plants in the EC. Thereafter production quotas were laid down by the Commission on a quarterly basis. The system provided for the possibility of sanctions in the event of non-compliance. Moreover, special minimum prices were set for specific products. In addition, price stabilisation and socially and regionally bearable capacity reductions constituted focal points of the approach adopted. Production quotas and quotas for supplies to the common market were stipulated for each steel-producing company in the EC. Voluntary restraint agreements were also concluded with 15 importing countries. In view of the low world market prices for steel products it was important to avoid losses on exports that would have required additional subsidies from the EC under the terms of the crisis system.

About 70 % of European steel production was subject to the quota system in the early 1980s.

3.20 However, the political aim of a gradual reduction in capacity was not initially achieved. The hopes of the companies involved for an upturn in demand and the elimination of competitors, as well as for State aid and controlled supply, hampered the reduction in capacity by the least competitive companies. The capacity reduction only gradually got under way with the second subsidy code, which stipulated that the implementation of a restructuring programme would be a condition for the granting of aid. The obligatory quota regulation, which was initially only supposed to be in force until 1981, had to be extended again and again for reasons of competition.

3.21 The Commission chose State aid prohibited under the ECSC Treaty as a means of applying pressure and decided to legalise the previously illegal practice with the subsidy code introduced at the same time, in order to implement the unavoidable capacity reduction; but it simultaneously called for a licensing regime which it tied in with the reduction in capacity requirements. This phase in steel policy lasted until the end of 1985. As a countermove to the State aid approval, capacity equivalent to about 44 million tons of raw steel and 32 million tons of hot rolled steel was dismantled under the inventory protection of the quota system.

The gradual liberalisation of the market (from 1985)

3.22 Between 1983 and 1985 alone, around EUR 15 billion was allocated in State aid for steel companies. Instead of harmonising competition rules, the political decision-makers made too little use of the opportunity to impose adequate capacity closedown on financially strong companies. As a result they delayed the adjustment of superfluous capacity long called for by the market.

3.23 In 1985, with the affirmation that the clear crisis had passed, the European Commission finally called for a radical reorientation of EC steel market policy. Shortly after the release of State aids amounting to EUR 15 billion. As part of moves to make the quota system more flexible and then totally liberalise the market, there should have been a market-driven cutback in surplus capacity, something that could obviously not be achieved with interventionist measures from Brussels. However, during its sudden change of direction, the Commission ignored the fact that the billions it had granted in aid up to the end of 1985 would contribute to competitiveness only in the following years. By the end of 1986 it had drastically cut back the share of regulated products.

3.24 Despite a capacity adjustment of around 40 million tons and the shedding of tens of thousands of jobs, an excess production potential of around 25 million tons still put pressure on the market at that time.

3.25 A short-term increase in demand after 1987 in the end supported the Commission's argument that the steel industry should no longer be deemed to be in crisis. Regulating measures such as production certificates and compulsory registration for supplies were abolished. The pressure on national governments and the Commission increased, so the third (1985), fourth (1989) and fifth (1992) subsidy codes were issued to put a permanent lid on the Community's subsidy barrel. Aid should in future only be granted in EU Member States for research and development, environmental protection and special closure aid. (1) Nearly all of this aid came from the ECSC Fund, financed by contributions from the coal and steel industry.

3.26 After a short-lived high in 1990, steel demand sank again; steel prices also fell back by about 20 %. In 1992 there were renewed, increasingly frequent calls for further Commission intervention. Specifically, they called for quarterly production and supply estimates for individual products, the simplification of mergers, import protection in relation to Eastern Europe and restructuring aid. In order to reduce overcapacity they proposed a structural crisis cartel, a system for sharing the burden between companies and a 20 % definitive reduction in capacity by the end of 1996, laying off 50 000 employees.

3.27 However the Commission rejected the idea of a structural crisis cartel and a new production quota system; in 1993 it presented its own proposal consisting only of indirect measures. The measures provided for the pre-financing of capacity shut-down by the Commission, the promotion of mergers and production cooperation, temporary protection for the steel market against imports from Eastern Europe, an increase in market transparency through information about production and supply to the EU and accompanying social measures as an incentive to cut back capacity. A restructuring process was introduced, during which production capacity was reduced by a further 19 million tons and about 100 000 people were laid off in the EC iron and steel industry. The model for pre-financing, which had already been approved by the Council of Ministers, was not used.

3.28 In December 1993, despite the fifth subsidy code, the EU Council of Ministers unanimously approved further State aids amounting to nearly EUR 7 billion for various European steel producers, following a proposal by the Commission, in exchange for a reduction in capacity. At the same time, it was made clear that this aid was only to be granted on a one-off basis.

(1) Apart from these, there were also a few isolated cases of regional investment aid, confined to Portugal, Greece, and the territory of the former GDR.

In short:

3.29 The ECSC Treaty introduced a strict ban on State aid in its Article 4c. However, only to a limited extent did the ban on aid keep the EC Member States from supporting their steel industries, with full approval at the highest European level. Over EUR 70 billion of tax-payers' money, paid out until the ECSC Treaty expired, delayed the necessary adjustments to industrial change, but could not prevent them from being made in the end. The European Commission also kept up the tried and tested basic approach of State aid approvals in exchange for capacity reduction in the 1990s, also for restructuring the CEEC steel industries as part of preparations for EU accession.

3.30 In 1982 the EU Member States – circumventing the market principle - reached a political agreement on sharing the necessary capacity reduction equally. This was in contravention of Article 2 of the ECSC Treaty, according to which steel should be manufactured wherever production costs are most favourable. Instead of promoting uneconomic companies' elimination from the market while acting to cushion the social consequences, and thus enabling equilibrium between supply and demand to be restored quickly, the EU Member States and the European Commission made use of the instruments envisaged by the ECSC Treaty for crisis situations, which was not necessarily advantageous for the steel industry as a whole. For reasons of social, regional and distribution policy, unprofitable capacity was supported, while profitable capacity - usually in the private sector - was lost, together with jobs which should have been comparatively safe.

3.31 Nevertheless, it cannot be denied that the EU steel industry was, after a fashion, able to survive the crisis period. Ultimately, steel producers succeeded in making themselves sufficiently competitive by international standards. This process, which could only be brought to a conclusion through intensive dialogue between the two sides of industry, was extremely costly, with over 550 000 lay-offs, even though on the whole unacceptable social consequences were avoided.

Research and development aid promote competitiveness

3.32 Many of the technical innovations that transformed the European steel industry were launched or developed in much greater depth under the ECSC research programme, which was self-financed through contributions from the coal and steel industry. The ECSC Treaty intended to make research resources available for Community research in order to promote the competitiveness of industry in general and improve job security.

3.33 The first ECSC research programme started as early as 1955. From that time on, researchers and engineers at the cutting edge of technological innovation geared their work more and more to a European approach based on cooperation. The steel industry, and with it European society, benefited from this type of cooperative research, where endeavours are coordinated, joint efforts undertaken and results made available to all concerned. Industrial innovation therefore quickly progressed through constant improvements.

3.34 ECSC research was also able to obtain significant results in the field of the environment, which is so important for society. Sulphur dioxide emissions were cut by 70 % and soot emissions by 60 %. Carbon dioxide output was halved compared with the beginning of the 1980s. European steel manufacturers today use 40 % less energy per ton of steel produced than 20 years ago.

3.35 Only €7 million per year were initially allocated for Community research under the 1955 ECSC budget. In the 1990s in the EU15, this figure climbed to approximately €50 million a year. The ECSC research programme supported research activities in its Community projects to improve procedures, materials and the environment by 60 %. As of 1983, an additional 40 % research aid was allocated to pilot and research projects.

3.36 In this way, each and every euro invested in ECSC research yielded on average EUR 13. Against this background, it is therefore not surprising that with the expiry of the ECSC Treaty, the EU Member States unanimously agreed to use the remaining resources, raised from coal and steel companies' contributions, exclusively to continue sectoral research in the coal and steel industry. The guidelines adopted aim to use the annual post-ECSC interest of approximately €60 million exclusively for coal and steel research, and in particular for the following areas (in the case of steel):

- New and further development of production and processing methods,
- Material development and use,
- Improving the use of resources,
- Environmental protection and,
- Health and safety in the workplace.

The achievement of a competitive steel industry at the beginning of the 21st century

3.37 At this point in time, in the context of European enlargement, the steel industry in the EU is well equipped to meet global competition. Over the last few years, the European steel

industry has strengthened its position, not only in technical and economic terms, but also in environmental terms. Some former State companies have made targeted use of the financial support which they have received, and, with the help of technological adaptation and more streamlined structures have advanced to the position of leaders on the global market.

3.38 The steel industry has succeeded in bringing itself into line with globalisation and sustainable development demands. Clearly the European steel industry has learnt its lessons from the steel crises of the 1970s, the 1980s and the 1990s. The steel sector is now so competitive that even in economically difficult times it is mainly able to remain in the black.

3.39 The strong demand for steel on the internal market of the EU underlines the major efforts made by EU steel producers, who are endeavouring to be cost-effective whilst, at the same time, improving the quality of their products and forging close links with customers. By means of mergers and takeovers and by increasing efficiency and cutting costs, EU steel producers have laid the foundations for a competitive steel industry in the 21st century. The terms 'rescue and restructuring aid' have disappeared from the vocabulary of steel producers. In making their clear plea for the retention of strict rules governing State aid, even after the expiry of the ECSC Treaty, steel-producing enterprises in the EU have underlined the fact that they want the era of the subsidy mentality and distortions in competition to be regarded as definitively over.

3.40 The processes of consolidation and industrial change are, however, not yet by any means, over. Some enterprises are already seeking to achieve trans-continental mergers. The rise of China as an industrial player is currently having a considerable impact on the competitiveness of enterprises. The rapidly growing demand for steel in China is exacerbating the situation as regards demand on the international commodity markets. Chinese imports of, for example, iron ore and scrap metal are causing shortages on world markets and resulting in exploding prices for raw materials and freight rates.

3.41 The pace of structural change in the steel industries of the new Member States is currently also being stepped up. The challenges facing these States over the restructuring of their steel industries are more or less comparable to the situation experienced in western Europe 25 years ago, even though the markets have become considerably more globalised since then. This being the case, it is essential that partners in eastern and central Europe also benefit from the experience of restructuring the steel industry in western Europe and of the role played by social dialogue in this process.

3.42 In return for receiving special aid (during the grace period), the CEEC were required by the Europe Agreements of the early 1990s to carry out effective restructuring measures and an extensive reduction in excess capacity and to demonstrate that the enterprises receiving aid had become more viable. In order to ensure free and fair competition in the market for steel in the EU also after EU enlargement, the new Member States are obliged, under the accession treaties, to observe the existing EU provisions (e.g. Directives and framework Decisions in the fields of competition and State aid, taxes, the environment, social policy, etc.). The European Commission must strictly monitor the situation to ensure that the State aid provided by the national governments of the CEEC is in conformity with the agreed rigorous EU aid regime and also ensure that, bearing in mind the actual level of demand, inefficient production capacity really is reduced, as planned.

4. The current EU aid regime for the steel sector – a model for international aid agreements?

4.1 The consequences in the United States of the difficult situation on the world market for steel caused the US Administration to introduce temporary import duties in March 2002, under Article 201 of the US Trade Act, to protect the domestic steel market, thereby contravening WTO provisions. Against the background of a highly volatile trade in steel, brought about by the existence of inefficient, surplus capacity throughout the world, the Bush Administration also announced that it was ready to support international negotiations on the removal of inefficient production capacities and the worldwide curbing of State aid to the steel industry.

4.2 The EU Member States and the European Commission give their backing to all endeavours to introduce greater discipline with regard to the granting of aid to the steel industry throughout the world. The start of the multinational negotiations under the aegis of the OECD in Paris in December 2002 provided the EU with the opportunity to propose that its tried and tested aid regime for the steel industry serve as the basis for an international Steel Subsidy Agreement (SSA).

4.3 The European Economic and Social Committee supports the action of the European Commission despite the fact that the EU steel industry seems to have considerable doubts as to the serious intent of other States and regions when it comes to cutting steel subsidies and consequently adding their signatures to an effective SSA involving compulsory notification and sanctions. The Committee is also concerned that the issues of aid and capacity are not being discussed at the same time as the

issue of trade defence instruments, which are often used with no justification, resulting in distortions of competition.

4.4 EU steel producers go further than most national representatives at the OECD on the issue of the scope of a possible SSA. At the OECD negotiations, EU steel producers are united in calling for all State aids which help to bring about an increase in capacity or to maintain uneconomic capacity to be banned under the SSA. This demand, therefore, does not only cover specific aid restricted to selected steel producers but also applies to non-specific or generic aid.

4.5 The European Economic and Social Committee shares the view of EU steel producers that State aid should only be authorised as long as it does not have a harmful influence on the development of production capacity, fair competition and trade flows. This being the case, the Committee gives its backing to the following exemptions in the negotiations at the OECD:

- Aid for definitive closures. This includes aid for dismantling, land rehabilitation, and the softening of the social impact of closures.
- Limited and closely-defined aid for research and development and for environmental protection including energy/ecotax rebates. With regard to aid for environmental protection, it needs to be made clear that State aid to conform with mandatory environmental standards is not to be allowed; nor does the EU steel industry require such aid. However, limited aid can be granted for voluntary investments, so as to give companies an incentive to go significantly beyond compliance with minimum EU environmental standards in their business activities.

4.6 In connection with a subsidy agreement, it should also be recognised that at least some developing economies have already a fully competitive steel industry. Steel producers in developing or emerging countries benefit from competitive advantages such as low labour costs, access to raw materials, lower environmental standards, and the protection of high import duties. Therefore, State aid for steel enterprises in these economies can only be envisaged on condition that the relevant State aid:

- is granted on a case-by-case basis, depending on the situation of the company and the country; use of funding must be monitored, with the relevant objectives in mind;
- is subject to strict expiry dates;

- is applied in the context of an approved restructuring plan ensuring the long term viability of the companies concerned;
- results in a reduction of production capacity under normal circumstances and does not lead to increased capacity under any circumstances.

5. Conclusions

5.1 Past experience with the restructuring of the European steel industry shows that State aid to companies is a two-edged sword: it only benefits particular companies and results in misallocation, as uneconomic production capacity is kept in business over the medium term. However, if it is part of a negotiated restructuring programme, State aid can alleviate social hardship and thus promote the acceptability and consequences of industrial change. The control of this process through social dialogue has been vindicated.

5.2 The question also arises of whether no better use could be found, e.g. in training or research for the enormous sums of taxpayers' money spent.

5.3 Another problem was that during the crisis years in the steel industry, although the legal position (Article 4c, ECSC Treaty) with regard to State aid seemed clear (all State aids were prohibited), various subsidies codes, Council of Ministers'

decisions and court rulings softened the line taken and made it unpredictable. Steel producers felt the lack of security in planning and general terms of reference.

5.4 In the context of the accession of ten or twelve new Member States, it is all the more important to insist on strict compliance with the clear rules on aid for the steel industry, with action in response to all infringements, as in the case of USS Kosice.

5.5 The mistakes which were made in the EU-15 must not be repeated.

5.6 Negotiations within the OECD (which are currently on hold) are only worthwhile if they lead to a sustainable improvement on the current situation, i.e.:

- no excessive concessions to developing, emerging and transition countries such as China,
- no ban within the EU on necessary regulation on research and development, on environmental measures (e.g. ceilings on compliance costs of companies to prevent environmental measures from leading to distortion of competition) and on the closure of uneconomic capacity, and
- no countervailing duties on steel exports due to such dispensations.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on 'Health safety: a collective obligation and a new right'

(2005/C 120/10)

Procedure

On 28 January 2004, in accordance with Rule 29(2) of the Rules of Procedure, the European Economic and Social Committee decided to draft an opinion on: 'Health safety: a collective obligation and a new right'.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was **Mr Bedossa**.

At its 412th plenary session of 27 and 28 October (meeting of 27 October 2004), the European Economic and Social Committee adopted this opinion by 164 votes to 3, with 7 abstentions.

1. Introduction

1.1 For the citizens of Europe, medical safety - which is one of the basic aspects of public health - means that they have an enhanced right to care from the competent authorities (even on occasions when bio-terrorism is involved) and that, on this basis, they exercise their new right to be kept informed in a transparent way of the decisions taken by these authorities.

1.2 Safety and healthcare systems are two terms that people normally associate with each other, albeit subconsciously, even though the concept of public health is still exposed to downward sociological pressures and to medical customs geared to performing diagnoses and individual therapy.

1.3 At a time when the upheavals experienced in Europe clearly show that health risks are no longer a purely medical matter but have erupted into the social and political arena, defining a safe health strategy has become the responsibility of all, particularly political leaders: from now on, citizens must be certain of having such guarantees.

1.4 Health safety does not start from nothing, it enriches and complements the traditional areas of public health, particularly epidemiology, it draws its support from reflection and systems developed to monitor drugs, and achieves dominance as the iatrogenic effects of all medical practices are discovered.

1.5 A health safety-based approach is no different from a medical approach. It proceeds by stages, it is a series of choices based on probabilities at a given moment, dictated by an assessment of the cost/benefits ratio and the risks involved. The quality of health safety mirrors the quality of the healthcare system.

1.6 Health safety is based on a medical approach and on the urgent need for a health safety methodology and a genuine commitment to public action. The field of health safety is, of course, much broader because it goes hand in hand with constant medical innovation.

1.7 The concept of health safety has to evolve, especially when acts of bio-terrorism are to be feared, for example; it cannot stand still: a balance has to be struck between striving for absolute safety, which is unobtainable, and negligence or positive abstention. The growing effectiveness of the health system prompts the need for health safety, though one should not forget to draw comparisons with the poorest countries, whose only current problem is first to acquire the basics of a public health system.

1.8 In the EU, which is richer and well versed in spreading risks, the thing to do now is to get health safety taken into account on an institutional basis. To discuss health decisions and make them public it is necessary to use all the means available, so as to offer the EU's citizens other alternatives than panic or dissimulation; this is how the EU will become a mature democracy as regards public health.

2. Historical background to the EU's approach

2.1 Before the Maastricht Treaty of 7 February 1992 on the European Union, references to health policies in Community texts were only peripheral. The Treaty of 25 March 1957 establishing the European Atomic Energy Community (Euratom) contained specific provisions on protecting the health of the population against the dangers of ionising radiation.

2.2 However, in the Treaty of Rome of 25 March 1957, 'health protection' appeared only in Article 36, which stated:

2.2.1 'The provisions of Articles 30 to 34 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.'

2.3 The insertion of an Article 118A into the Single European Act in 1986 extended the powers of the Community institutions by enabling the European Commission to make proposals in the field of health, based on the need for a 'high level of protection.'

2.4 Another indirect reference to health protection could be found in Article 130R of the Treaty of Rome, added by the Single European Act, which stipulated that action by the Community relating to the environment should aim, among other things, to 'contribute towards protecting human health.'

2.5 The Treaty on European Union radically changed the prospects for European integration as regards health, since it introduced a Title X entitled 'Public Health', under which 'The Community shall contribute towards ensuring a high level of human health protection.' Under Article 129(4) the Council, to achieve its objectives, may adopt either incentive measures, provided for in Article 189B, or recommendations.

2.6 Similarly, the concept of health protection appears in other articles of the Treaty on European Union, since Article 129A, concerning consumer protection, mentions measures to protect the health and safety of consumers.

2.7 A precise legal framework, which would be improved in Article 179 of the draft Treaty establishing a Constitution for Europe, will allow the European institutions to deploy their activities as regards public health:

- '1. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.
2. Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover:

- (a) *the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education ...*'.

2.8 The new structures set up (e.g. the European Agency for the Evaluation of Medicinal Products) can have an even greater impact if the European institutions are engaged in a policy of increased cooperation with non-EU countries and the major international organisations, particularly the World Health Organisation, the Council of Europe, the Organisation for Economic Cooperation and Development, the International Atomic Energy Agency for radiation protection, the Office of the United Nations for Drug Control and Crime Prevention for drug addiction. This cooperation must be continued.

3. The principles of health safety

3.1 *The health decision*

3.1.1 Medical decisions are taken against a background of uncertainty: uncertainty about pathology, the effects of treatments and their respective risks; imperfect medical information for the patient about the options for further examinations and health equipment; a lack of precision in medical questioning dominated by emotion or concern; and clinical examinations that by their nature are only approximate.

3.1.2 A medical act is often the result of a series of decisions based on probability and taken in a situation of uncertainty: the more choices and decisions are involved in a diagnosis or treatment, the greater the risk, or even the probability, of making an error, although such an error may not necessarily be culpable.

3.1.3 In each medical act or decision there is an element of the imponderable, a hazard that cannot be controlled in the present state of scientific knowledge, an unavoidable statistical risk which is part and parcel of medical science.

3.1.4 The lack of health safety has human causes: a mistake or non-culpable error by the practitioner, and factual causes: risks that are known but are statistically inevitable, given the state of scientific knowledge, and unknown risks, which are always possible.

3.1.5 It is impossible to talk about health safety without mentioning these basic features of medical decisions. When health or life is at stake, it is often difficult to agree to ask only for the possible. However, there is no medical activity without risks, because life is not without risks.

3.2 Risk/benefit ratio

3.2.1 The same observations apply to health safety decisions as to medical decisions, and inaction is a decision in the same way that action is; failure to do anything can be reprehensible.

3.2.2 It is a question of weighing the therapeutic risk against the risks of spontaneous evolution. The irrational denial that risk exists in health-related matters is just as irresponsible as negligence.

3.2.3 The culture of the risk/benefit ratio is far removed from the concerns of a European society which has managed to substantially reduce natural risks.

3.2.4 In order to assess the health safety of an act or product, it is important to use a risk scale that makes it possible to determine the minimum risk rather than zero risk. Five criteria should be applied in this risk/benefit ratio:

- degree;
- reality of the situation;
- frequency;
- duration;
- necessity.

3.2.5 It is therefore up to the public authorities, exposed to converging or contradictory pressures of public opinion and producers of health care, to decide, in conditions of uncertainty, whether to adopt the most pessimistic – and hence the most conservative – hypothesis in terms of public health or to opt for the most plausible estimate.

3.2.6 Moreover, health decisions sometimes have to be taken in a crisis situation. The authorities then have to deal simultaneously with a spate of problems, the malfunctioning of certain systems and deeply divergent views on the decisions to be taken.

3.2.7 To avoid having to improvise when faced with an urgent situation, it must be possible to count on tried and tested procedures for evaluation, monitoring and intervention. This requires analysis of previous crises and a health safety methodology.

3.2.8 Regardless of the scientific and medical safeguards, ultimately the assessment of the risk/benefit ratio frequently involves a deep conviction.

4. Medical factors of health safety

Five key factors are involved here.

4.1 Health monitoring

4.1.1 As epidemiologic monitoring is an essential component of public health protection, it is necessary to establish specific arrangements for health monitoring through a European centre in order to ensure health safety (see point 6.3).

4.1.2 The purpose of health monitoring is to identify medical accidents and iatrogenic pathologies, to determine the unforeseen or undesirable effects of the use of therapeutic protocols, to carry out checks and analyse the findings and to evaluate the effectiveness of health intervention procedures; in short, all the activities necessary for health safety.

4.1.3 At international level, efforts have been made to advance health monitoring by establishing information exchange and alert procedures under the auspices of the WHO and the European Union.

4.1.4 Multilateral texts exist on organising cooperation at all levels, in all areas of specialisation and on all continents. They enable the rapid implementation of health measures designed to ensure the maximum level of health safety.

4.2 Choice of therapeutic strategies

4.2.1 The quality and safety of the choice of the therapeutic strategy depend primarily on the current state of science, and therefore on practitioners' knowledge of it.

— The first factor as regards improving this knowledge is obviously medical and pharmaceutical research and the advances in therapeutics or diagnostics which result from it.

— Initial medical training is the second key factor for health safety as regards the choice of strategy, initial training which is adapted to advances in science and in the organisation of the health system.

— The third aspect is continuing medical training: the assimilation of the latest data is, as in all high-tech risk sectors, one of the determinants of safety.

— The final element contributing to the safety of therapeutic choices is medical evaluation, which has become the link between research, training and the day-to-day work of members of the health professions.

— Medical evaluation can be defined as the body of quality control procedures in the health system.

- The evaluation of diagnostic and therapeutic techniques and strategies involves ensuring the evaluation of the tools placed at the disposal of health professionals: medical technologies, diagnostic methods, medicines and a package of procedures and services.
- The WHO defines this evaluation of quality, and consequently of the quality of this care, as follows:

‘A process which makes it possible to guarantee each patient the range of diagnostic and therapeutic acts whereby he can achieve the best possible results in terms of health, in accordance with the current state of medical science, at the most cost-effective price for an equivalent result, with the least iatrogenic risk and with a view to the greatest satisfaction in terms of procedures, outcome and human contacts within the health system.’
- Finally, the evaluation must define benchmarks, i.e. draw up recommendations based on a more or less broad consensus within a college of physicians or associations of experts (‘consensus conferences’) so as to arrive at some guidelines.

4.3 *Performance of health care and medical acts*

4.3.1 Compliance with obligations is monitored by all the authorities concerned and there is a large and uniform body of case law which specifies the obligations of health professionals and defines the concept of conscientious, attentive health care that conforms with current scientific knowledge.

4.3.2 Clearly, the performance of medical acts depends on health safety arrangements, which vary considerably according to the nature of the acts and the existence of ‘natural’ risks.

4.3.3 Comparing the difficulties inherent in the performance of acts, i.e. leaving aside statistically avoidable – albeit marginal – risks, is the only way to establish the health safety conditions to be observed. This is a kind of a risk/benefit analysis which makes it possible to set a standard health safety level which is both accepted and expected.

4.4 *Organisation and operation of healthcare structures*

- Health safety is largely determined by the quality of the organisation and operation of the healthcare system.
- Health safety imposes an obligation of resources on all public or private establishments, resources which are provided for by regulations and subject to special authorisation. The healthcare system must be able to meet the needs

of the people and provide health services under the best safety conditions.

4.5 *Use of health products*

4.5.1 Health products used for prevention, diagnosis and treatment are subject to strict laws and regulations, known as ‘topical regulations’ and governing:

- medicines;
- medical devices;
- products of human origin;
- laboratory agents;
- legal basis of human body products and elements used for therapeutic purposes.

4.5.2 The health regulations applicable to these products provide a genuine safety chain.

5. **Proposals – EESC recommendations**

5.1 *The administrative aspects of health safety*

5.1.1 The public health institutions of the EU Member States have yet to take account of health safety principles.

5.1.2 Health safety is not the result of some equation or formula; it is based on the spirit of precaution and contradiction.

5.1.3 Health safety calls for cross-border awareness campaigns and initiatives. We must resist the illusion of some Maginot line that can effortlessly seal off the next epidemic. Health risks are unpredictable, infinitely varied, and generally appear unexpectedly. Behaviour towards the illness changes, viruses mutate, infectious agents renew themselves or hide.

5.2 *Clearly recognised powers*

5.2.1 Given the lack of any specific legal instruments for public health protection, some European Union countries have tended to skirt around the problem, sometimes employing dubious practices, often involving improper use of social security regulations, because this enables them to mix up health and economic issues in the same debate. While it is legitimate to appreciate the cost of healthcare and to make the most rational use of the limited resources available, it is nevertheless dangerous to confuse the two issues.

5.2.2 It is one thing to acknowledge the effectiveness, quality and safety of a product or a therapy; it is quite another to decide that it is to be made available under national health-care schemes. The problems involved in public health decision-making are compounded by the fact that there are several competing authorities.

5.2.3 Establishing the areas of competence means establishing responsibilities and, consequently, establishing the health authority that will take up the moral, administrative and/or legal burden. This responsibility can only be fully exercised as long as there are no shortcomings or ambiguities in the relevant texts that might lead to disagreement or action that could distort the choices that need to be made.

5.3 *A recognised health administration*

5.3.1 At European level, public health administration is inadequate and has very weak legal support. It also lacks medical legitimacy, owing to the scarcity of resources. All that must be improved.

5.3.2 The public sector can only be effective if it has real legitimacy, and a health administration can only fully exercise its health safety role if it is endowed with this dual legitimacy, i.e. it must be recognised by the official authorities of every EU country, and of course by the general public, i.e. consumers.

5.3.3 For the sake of scientific, medical and technical credibility, more resources and first-rate technical staff are needed, as is cooperation between all the European and national institutions.

5.3.4 Five basic tasks have been identified. These involve recommending, supervising, checking, appraising and evaluating.

5.3.5 The establishment of a European public health network is evidence of the willingness of all European authorities to pool public health players and make existing national health vigilance instruments more consistent and effective.

5.4 *The need for expertise from outside the administration*

5.4.1 Regardless of the technical and scientific excellence of health safety services, the traditional and respected principle of the contradictory must, of necessity, be applied to health safety efforts.

5.4.2 Involving independent experts fulfils the objective of making the most eminent specialists available to the European authorities, thus making it possible, through dialogue, to refine

and supplement information upstream of the decision-making process.

5.4.3 In the most sensitive or technical areas, it would even seem essential to call on third-country experts of international repute. By opening up to international experts, a consensus could be achieved in all the countries concerned, thus avoiding any time lags that might be universally detrimental (i.e. to patients and stakeholders of all kinds).

5.4.4 This could enable the debate to rise above any particularities of national healthcare culture or practitioner training methods.

5.5 *Separate roles for experts, decision-makers and managers*

5.5.1 Health policing powers, which are, in fact, the prerogative of decision-makers (whether to authorise, whether to ban) can only be legitimately exercised if all the information relating to the public health problem in question is taken on board.

5.5.2 This always involves an appraisal of the benefit/risk ratio. This cannot be solely scientific, and it must not be imposed by the manager or by a stakeholder who has some material or intellectual interest in its being disseminated.

5.5.3 Clarification of the roles of expert and decision-maker ensures transparent links between experts and managers. A strict code of conduct must be declared and respected. This is not always taken as read, particularly when the problem is very technical; in such cases there are very few experts and they have often established links with the relevant institutions or companies.

5.5.4 Transparency, which must be the hallmark of health safety decision-making, requires each expert to declare to the health authorities any links he might have with agencies, companies or individuals affected by his professional opinions.

5.5.5 The European Community has started to outline these procedures: rolling out transparency procedures, as called for by the experts themselves, ensures that the experts' opinions are as objective as possible.

5.6 *Transparent decisional procedures*

5.6.1 As with innovation in general, new health risks tend to upset accepted ideas and habits.

5.6.2 The intellectual approach must be the same, i.e. 'to listen to the silence'.

5.6.3 Regardless of the quality of the vigilance system established, the risk of collective blindness cannot be ignored.

5.6.4 Public debate is crucial. Patients and doctors from beyond the panel of experts should be able to make their voices heard, ask the questions that worry them, and sound the alarm.

5.6.5 The debate must be organised properly, so as not to give unnecessary cause for alarm.

5.6.6 This 'health pluralism', which is crucial to improving our chances of avoiding new tragedies, will require more transparent decision-making procedures. Without prejudice to medical or industrial confidentiality, the experts' findings and reasons for health decisions must be made public.

5.7 *A code of conduct for health safety communication*

5.7.1 Despite being made available to a wide audience, there are some basic aspects of public health communication that are even more evident in the field of health safety.

5.7.2 Communicating about these issues often means communicating about illness or death. Transparency and restraint must be the key words when organising this delicate task of the health system.

5.7.3 Transparency is essential to ensure confidence and to avoid the distress that would be caused by revealing information that might seem sensational because it appeared to be surrounded in secrecy.

5.7.4 Health authorities and institutions must comply with this, just as a doctor has to inform his patient. Given the risks involved for everyone's health, the 'duty of truth' is essential.

5.7.5 However, this moral obligation is accompanied by a duty of restraint. Since it is often released in a hurry, information must be comprehensible and scientific, and must take care not to be conflicting, sensational or alarmist. It requires common working rules for the media, health professionals, patients' associations and the public authorities. Causing panic or cover-ups are not alternatives.

5.8 *Routine communication*

5.8.1 Patients are always inclined to scrutinise health information particularly closely.

5.8.2 There is a distinction to be drawn between the type of information intended for doctors and that intended for the general public.

5.8.3 The former benefits from the scientific background of its target group, which has its own channels: courses, conferences, symposia, and professional and industry associations.

5.8.4 On the other hand, communication intended for the general public cannot assume –without risking being misunderstood or causing panic – that the public has the medical knowledge needed to grasp the scope of the information provided. It has to find a balance between, on the one hand, the need for information about new or traditional therapies, and on the other, the risks connected with misinterpreting the information.

5.8.5 The information thus released could lead to unnecessary or exaggerated public panic or, conversely, unfounded hopes of new therapies. It is part and parcel of public health education, which contributes directly to the effectiveness of health policies, risk prevention, and a pro-active healthcare system.

5.9 *The communication crisis*

5.9.1 In a health emergency or serious danger to public health, communication has to deal with three requirements:

- First of all, the amount of information released must be proportionate to the health risk.
- Secondly, it should be remembered that information is not just intended to increase public awareness, but also to secure behavioural change. Information therefore needs to achieve its goal, i.e. prevent or contain the accident without giving undue cause for alarm and ensure that the public know what is going on and that the press avoid printing alarmist and sensationalist stories.
- And thirdly, crucial information must be given with the different target audiences in mind, and the order in which they need to be informed.

5.9.2 Whatever the scenario, the press plays a decisive role in the success of crisis communication. The media must sometimes accept the fact that they cannot release information to the general public until health professionals have been fully informed. So, there is also a need to provide training for specialist journalists who are capable of understanding what is happening and communicating correctly on health safety matters.

5.9.3 This is difficult since, for example, calculating undesirable effects, their origin, the impact of the media on the notification rate and overall risk assessment involves difficult, complex analyses, whereas the public expects to be informed immediately in simple, emotional language.

6. Conclusion

6.1 Through becoming aware of the successive public health crises which have shaken the world over the past two decades (AIDS, contaminated blood, SARS, legionnaires' disease, bio-terrorism through the threat of anthrax), the EESC proposes to hold regular high level European congresses on public health.

6.2 The aim of these conferences will be to discuss what collective measures should be taken, provide precise information on these crises, produce coordinated responses, assess the threats of risks from outside, help speed up diagnoses and provide adequate responses.

6.3 The EESC recommends that the future European health monitoring centre in Stockholm be given as of now an extensive and reinforced mandate to draw up targeted and regular reports on public health and have the necessary measures taken

by the EU countries, in accordance with the subsidiarity principle.

6.4 The EESC considers that it is the ideal place for alerting and raising the awareness of European civil society.

6.5 The EESC asks that all the parties concerned adopt an active attitude towards public health: an overall view of the crises in public health should enable all experiences to be shared at a time when such crises are global issues.

6.6 The EESC considers that a grand information policy must be promoted at European level, involving specific training for all the actors and organs of the press that have a particular stake in the matter.

6.7 The EESC would point out that its recommendations are interlinked and require a strong commitment by the EU countries to implement them; they include:

- boosting administrative capacities, with cross-border linkage and administration recognised and allowed everywhere;
- legal powers and the instruments to support them;
- transparent decision-making procedures and stricter ethics, shared by all, regarding communications on health safety;
- more cooperation and worldwide networking between all surveillance and monitoring bodies (the European Union, the World Health Organisation, the Organisation for Economic Cooperation and Development, the Council of Europe, and large national organisations such as the USA's Centres for Disease Control and Prevention in Atlanta).

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Communication from the Commission: Follow-up to the high level reflection process on patient mobility and healthcare developments in the European Union'

(COM(2004) 301 final)

(2005/C 120/11)

Procedure

On 20 April 2004 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was Mr Bedossa.

At its 412th plenary session on 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 170 votes to 3, with 6 abstentions.

1. Introduction

Health systems and policies in the EU Member States are becoming increasingly interconnected; and when national authorities engage in benchmarking against existing systems, European or non-European, before taking decisions, they do so inadequately and unfortunately without pointing this out.

1.1 There are many interrelated reasons for these trends.

- firstly, the expectations of the general public are increasing across, and also beyond, Europe;
- the recent enlargement of the European Union is going to oblige the new members to provide their citizens with increasingly modern health systems;
- major technological innovations are introducing new therapeutic practices and approaches which are making it possible to provide an improving quality of care;
- new information techniques available to EU citizens are enabling them to make almost instant comparisons of diagnostic procedures and healthcare provision in the different countries of the European Union, which for respectable and understandable reasons may result in pressure on resources to achieve optimum results.

1.2 This will necessarily cause problems in health policy, whether with respect to the quality or accessibility of cross-border healthcare, or to the information needs of patients, health professionals and policy-makers.

1.3 These factors are already making it necessary to evaluate national policies, which must take all these needs into account,

in the light of European commitments that are gradually growing and giving new rights to Europe's citizens.

1.4 This new situation now guides the debate between those who maintain that this freedom of choice will produce a harmful destabilisation of current healthcare systems, on the grounds that limiting patient mobility makes it easier to control systems in terms of cost or priorities, and those who advocate patient mobility because it allows interoperability of systems, use of the same indicators, exchange of best practice and a more intelligent pooling of resources. The aim should not doubt be to follow the second school of thought, whilst drawing all the requisite conclusions in terms of harmonising national systems.

2. Background

2.1 In its own-initiative opinion of 16 July 2003⁽¹⁾, the European Economic and Social Committee defined health as 'a fundamental asset for society', which 'is equally applicable to each individual citizen, family, and nation'. The Committee concluded that it 'intends to make healthcare issues an area for action, whilst respecting the existing Community political and legal framework.'

2.2 In that opinion, the European Economic and Social Committee put forward arguments and proposed work approaches and methods of analysis which have been taken up in two recent communications of the European Commission (of 20 April 2004) addressed to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions.

⁽¹⁾ Own-initiative opinion on *healthcare*. Rapporteur: Mr Bedossa, OJ C 234 of 30.9.2003

2.3 The communication in question was needed because of the recent publication (on 9 February) of the latest proposal for a Directive on services. Unfortunately, its treatment of social and health services provoked much criticism because the wording is too open to interpretation. Therefore more precise definitions are required in these sections of the directive so that adequate account is taken of the special nature of these services, which has to do with citizens' safety and equal treatment.

2.4 The Commission also published the two communications concomitantly because, starting with the Kohll ruling on 28 April 1998 and continuing through to the Leichtle ruling on 18 March 2004, the Court of Justice has established a whole body of case law that now allows European Union citizens to use healthcare facilities in other countries of the Union, as well as clarifying the conditions for reimbursing the costs of healthcare.

2.5 Since 1 June 2004, Europe's citizens can prove their entitlement with a future European health-insurance card⁽¹⁾, which replaces the E111 form.

2.6 The different healthcare conditions and environments in different EU countries may encourage people to seek the most effective systems, producing sudden bottlenecks or incapacitating European centres of reference. There is also a risk of exploiting social protection systems, which are unable to respond to erratic movements of patients from other countries. In this context, the new Regulation 1408/71 might contribute to creating new and problematic situations.

2.7 The challenge is therefore to develop a European policy that allows the most constructive goals to be set, even if this entails modifying the prerogatives of national healthcare systems where absolutely necessary.

2.8 A close look at the own-initiative opinion adopted by the European Economic and Social Committee on 16 July 2003 shows that it covers much the same ground as the high level reflection process initiated by the European Commission, and the points covered in its recommendations are raised and analysed in this draft opinion: European cooperation, information for patients, professionals and policy-makers, access to high-quality care, reconciling national health policies with European obligations, etc.

⁽¹⁾ See EESC opinion on *the introduction of a European health-insurance card*. Rapporteur: Mr Dantin, OJ C 220 of 16.9.2003

3. General comments

3.1 The communication on patient mobility contains a set of concrete proposals covering many areas. Thanks to these proposals the Treaty's objective of ensuring a high level of human health protection will be able to be incorporated into Community policy.

3.2 Community law entitles citizens to seek healthcare in other Member States and receive reimbursement. Court of Justice case law and the proposal for a directive on services in the internal market effectively clarify the terms of reimbursement for healthcare provided in a Member State other than that in which the patient is insured. However, in practice it is often not always easy to exercise these rights.

3.3 It therefore seems necessary to develop a European strategy to:

3.3.1 promote European cooperation to allow better use of resources:

- rights and duties of patients: the European Commission will take measures to explore further the possibility of reaching a common understanding of patients' rights and duties, both individual and social, at European level;
- sharing spare capacity and trans-national healthcare: the European Commission will provide funding for evaluation of existing cross-border healthcare projects, in particular *Euregio*, and will consider how to promote networking between those projects with a view to sharing best practice.

3.3.2 In order to establish a clear and transparent framework for the purchase of healthcare, which the relevant authorities of the Member States would be able to use when entering into agreements with each other, the European Commission will ask them to provide information on existing arrangements and will present appropriate proposals.

— Health professionals: the European Commission calls on the Member States to provide up-to-date and complete statistics on the movement of health professionals through the structures governing recognition of professional qualifications. The Commission will also continue work with the Council and Parliament to ensure simple and transparent recognition procedures.

— The Commission will also continue preparatory work with the Member States to ensure sufficiently confidential exchange of information on the free movement of health professionals.

- The Commission will ask Member States to consider issues related to current and future shortages of health professionals in the Union.
- European centres of reference: the European Commission will issue a call for tender under the public health programme in order to draw up a list of reference centres, before making proposals.
- Health technology assessment: the Commission will introduce a coordinating mechanism for the evaluation of health technologies, and will present separate specific proposals to this end.
- improving the integration of health objectives into all European policies and activities: the European Commission will collaborate with the Member States to gather information on how the various routes of access to healthcare in other Member States operate in their country, and on their impact, especially with respect to access routes arising from European rules;
- the Commission will also build on ongoing projects regarding health impact assessment to ensure that the effects of future Commission proposals on health and healthcare are taken into account in their overall assessment;

3.3.3 Meeting the information requirements of patients, professionals and policy-makers:

- health systems information strategy: the European Commission will develop a framework for health information at Union level based on the results of the public health programme, by identifying the different information needs of policy-makers, patients and professionals, and the means of providing information, taking account of work done in this area by the World Health Organisation and the Organisation for Economic Cooperation and Development;
- motivation for and scope of cross-border care: with the aim of establishing the reasons which prompt patients to seek healthcare in other countries, together with the specialist areas concerned and the nature of bilateral agreements, etc., the European Commission plans to carry out a specific study as part of the public health programme. This issue will also be addressed in the 'Europe for patients' research project;
- data protection: the European Commission will collaborate with Member States and national data protection authorities in order to raise awareness of the data protection rules relating to healthcare;
- e-health: having been asked to consider establishing European principles on the competence and responsibilities of all those involved in providing e-health services, the European Commission will address this question in the context of its overall action plan for e-health, as set out in the Communication on *E-health – making healthcare better for European citizens: an action plan for a European e-health area*.
- establishing a mechanism to support cooperation on health services and medical care: in response to a request to establish a permanent mechanism at EU level to support European cooperation in the field of health care and to monitor the impact of the EU on health systems, the European Commission has set up a High Level Group on Health Services and Medical Care.

3.3.5 Responding to enlargement by expanding investment in health and health infrastructure.

3.3.5.1 The reflection process invited the Commission, the Member States and the acceding countries to consider how to facilitate the inclusion of investment in health, health infrastructure development and skills development as priority areas for funding under existing Community financial instruments, in particular in Objective 1 areas. In fact, the Union already supports investment in health in the existing Member States, where this has been identified as a priority by the countries and regions concerned. Taking forward this recommendation therefore depends on the regions and countries concerned identifying investment in health and health infrastructure as a priority for European support. The Commission will work with the Member States through the High Level Group on Health Services and Medical Care and through the appropriate structures for the financial instruments concerned to ensure that health is given the necessary weight in the development of overall plans. The need for European investment in health infrastructure should also be addressed in connection with developing the new financial perspectives for the Union from 2006.

3.3.4 Strengthening the Union's role in achieving healthcare objectives:

4. Specific comments

4.1 The free movement of patients in the Member States raises several issues whose implications must be estimated, evaluated, analysed and taken into account. The first of these is to fully understand the various existing social protection systems, and ideally this means enumerating the criteria governing their establishment as part of a dynamic process, i.e. in the light of current and future trends.

4.2 Prevention is undoubtedly a priority objective, since it can and must make it possible to achieve appreciable savings, and is the best way to approach health policy; the value of good preventive policies with respect to traffic accidents, the spread of AIDS or tobacco use is obvious. The overall impact of prevention in these areas is very impressive.

4.3 To this admittedly incomplete list can be added preventive policies that are currently attracting the attention of all stakeholders - health professionals, the media and political decision-makers - and concern abuse of intoxicants (drugs, alcohol, medicines), promotion of healthy lifestyles (exercise, nutrition, rest), accidents in the workplace and occupational diseases, etc.

4.4 Evaluating these individual, social and family risk factors gives an indication of the incidence of premature avoidable deaths and the associated costs.

4.5 Technological progress in the sphere of medicines or investigative techniques must lead to effective replacement of old techniques by new ones.

4.6 Above all, greater efficiency must be achieved, even if social, cultural and/or corporate interests act as a constraint on necessary changes. In the final analysis, this is more economical for society as a whole.

4.6.1 The idea should be to encourage the search for more specific and more effective measures, which must stimulate initiatives by socio-occupational stakeholders to improve common health policies.

4.7 If patient mobility has been correctly anticipated, the European Union must be able to guarantee that people seeking healthcare abroad can use centres of excellence for health and hospital care, and that these are not only concentrated in the richer countries which have invested heavily in their healthcare systems. To this end, the European Union must support the

development of systems of evaluation, certification and approval for new technologies and therapies; the effectiveness of hospital systems or any type of healthcare institution must be based on approval or certification procedures.

4.8 This quality campaign should enable the European Union to establish an EU-wide network of institutions that are host to both the scientists and highly qualified professionals who are so crucial to the existence of the centres of reference; and it is not unreasonable to hope that such centres will soon appear in certain countries of the enlarged European Union of 25, especially if the Union develops a mechanism for monitoring, analysing and exchanging information on national policies, while respecting the fundamental principles of our treaties, including subsidiarity and national remits.

4.9 By the same token, it is important not to forget the harmonisation of public health indicators. Harmonisation is useful in improving information about the health objectives of the European Union - the key indices of mortality, avoidable mortality, morbidity and avoidable morbidity - which are not necessarily equally accepted in all the EU Member States.

4.10 Differences show that results can be improved by raising healthcare to the level of the best-performing country. At the moment the five-year survival rate for lung cancer is not the same in France and Poland. Treatment of blood disorders such as leukaemia is not equally effective in the United Kingdom and France, depending on the treatment protocols used.

4.11 Information for patients, professionals and policy-makers is a key objective of the European Commission's policy.

4.12 With respect to patient information, health education refines European citizens' understanding of health, e.g. with respect to expectations and behaviour. Good health can now be seen as an absolute asset and right and in any event is a state which must be protected by the competent authorities. Meeting these expectations entails an increase in the resources allocated to pursuing health objectives involving treatment, and frequently also an increase in prevention and in attention given to environmental factors; otherwise social protection systems will be disrupted.

4.13 Health safety has become a right and a new power acquired by European Union citizens⁽¹⁾.

⁽¹⁾ Own-initiative opinion in the course of being prepared on *health safety: a collective obligation and a new right*. Rapporteur: Mr Bedossa (SOC/171)

4.14 Technology, privacy, shared medical records, freedom of information and data protection are all matters that must be discussed, as transparently as possible, so that all stakeholders can be sensitised. The discussion must be ongoing, because the pace of development is rapid and decisions are difficult and/or must be taken promptly. Each of these factors is a major issue for the three sets of players in the healthcare triangle.

4.15 Reconciling national objectives with European obligations: the comparative analysis of healthcare systems raises difficult strategic issues which it must be possible to use to promote European cooperation in the healthcare sphere and to monitor the impact of the European Union on healthcare systems. For example, it is necessary to take a closer look at horizontal issues that may have serious implications, such as: good practice and efficacy in the health sector, ageing and healthcare, health in the new EU Member States, and evaluation of the impact of different health factors.

4.16 It is also urgently necessary to look at ways of ensuring legal certainty, thereby upholding patients' right to enjoy high-quality medical treatment in any EU Member State; appropriate proposals must be made by the EU in this area (to clarify the application of case law, simplify rules for coordinating social security systems, and facilitate intra-European cooperation).

4.17 The most unexpected but valuable news announced by the Commission in its communication is the use of the EU Cohesion Fund and the Structural Funds to promote investment in the sphere of health and develop health infrastructure and medical skills, which have become priority targets for support from Community financial instruments.

4.18 The European Economic and Social Committee strongly endorses this decision: a new field of action is opening up for the development and success of the European Union, especially in the context of the Lisbon Strategy.

4.19 Finally, the European Economic and Social Committee in principle supports the Commission's approach towards the health professions. The development of health systems depends on professional skills and knowledge moving forward. Healthcare requires a trained, highly-qualified workforce and continuing, life-long training.

4.20 It is the task of the European Economic and Social Committee to promote awareness of these critical healthcare issues affecting the European Union, its cohesion and its ability to become a knowledge-based economy.

4.21 The problems must be analysed and pre-empted in order to encourage professional mobility, but without destabilising national systems. The European Economic and Social Committee trusts in this connection that the directive due to be adopted on qualifications and skills, is a crucial and valuable document and one that is necessary for the completion of the internal market.

4.22 The arrangements provided for are practical and well-conceived. In addition, the European Economic and Social Committee believes that it will also be very useful to harmonise codes of conduct for all healthcare professionals and that it will be well received.

4.23 All these measures have been taken in anticipation of the shortages of healthcare professionals expected over the coming years. Investment in the healthcare professions is rewarding, profitable and expedient if the intention is to provide EU citizens with high-quality care.

4.23.1 Improving health and healthcare with the help of information and communication technologies.

4.24 The European Economic and Social Committee believes that it is from this area that the strongest arguments will come for reforming healthcare systems and improving quality in the European Union. Several components are already on the table.

— With electronic, shared medical records every citizen can be given a right to social protection, a right to health and a better understanding of their health. In addition, this system provides a way to avoid abuse, the trend towards superfluous spending, drug incompatibilities and 'medical nomadism', as well as facilitating all patient information, reception and registration procedures.

— E-medicine promises to be extremely effective for remote consultation of specialists and all healthcare stakeholders, and provision of information to which patients are justly entitled.

— Health-insurance cards can be used to check immediately a patient's entitlement or situation with regard to social insurance cover.

— Plus all the current and future applications that can be used to improve management of systems, develop health and public health strategies, create effective databases, evaluate the productivity of providers and obtain detailed information on consumption patterns.

4.25 Information networks are now in place, fulfilling the demands of patient organisations. However, care must be taken to ensure the protection of professional secrecy when the patient-doctor relationship is at stake.

5. Proposals of the European Economic and Social Committee

5.1 In its opinion of 16 July 2003, the European Economic and Social Committee recognised the key importance of these policies and made proposals which appear to have already been taken up by the European Commission, whose arguments are underpinned by a guiding principle.

5.2 Cooperation between the Member States must pinpoint joint objectives that lead to national plans, and the choice of appropriate indicators will make it possible to carefully monitor the development of healthcare policies pursued in each of the European Union countries.

5.3 The Committee notes that one tool will be indispensable: an observatory or agency should be set up to collect comments, analyses and exchanges of opinion on national health policy - in strict compliance with existing treaties, and the principles of subsidiarity and national remits - with special regard to the process of improving quality of care, the efforts of public authorities and managers to enhance the efficacy of all healthcare providers, public or private, and the creation of centres of excellence and their networking across the European Union, in both rich and poor regions.

5.4 A vigorous and sustained employment policy must be pursued to pre-empt anticipated manpower shortages, without waiting until there is a demand.

5.5 A health information policy must be promoted by drawing on the results of healthcare programmes, identifying the information needs of stakeholders in the system - patients, professionals and public authorities - and also taking account of sources such as the World Health Organisation and the Organisation for Economic Cooperation and Development.

5.6 The European Economic and Social Committee can only welcome the Commission's intention to use the open method

of coordination (see EESC opinion of July 2003), detailing its modus operandi and specifications in advance. This would cover key issues such as:

- exchange of good practice (accreditation), quality standards, equivalence of qualifications, mutual recognition of practices whose cost-reducing impact should be specified, given the wide disparity between national systems;
- relevant indicators of structures and practices;
- improving the availability of health products, taking account of innovation needs, the fight against public health epidemics such as AIDS, tuberculosis or malaria in the poorest countries, and efforts to reduce waste;
- coordination of national systems to avoid any dumping effect due to skills being lost to other countries;
- the necessary completion of the single market in medicines.

6. Conclusion

6.1 The European Economic and Social Committee is very aware that the last three Commission communications are the fruit of discussion between the five Directorates-General concerned.

6.2 This demonstrates that the European Commission has understood the implications of health policies in the context of completing the internal market and enlargement.

6.3 This is one of the first instances of five Directorates-General of the European Commission pooling their political will, skills and resources in order to achieve an objective, in this case that of giving the different countries of Europe the means to coordinate their health and social protection policies for the benefit of all EU citizens.

6.4 The European Economic and Social Committee therefore would like a lightweight but permanent task force to be set up to monitor these policies and enable the Committee to contribute its insights, expertise and experience on this matter that is so sensitive and important for all EU citizens.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the:

- ‘Proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research’
- ‘Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community’
- ‘Proposal for a Council Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research’

(COM(2004) 178 final – 2004/0061 (CNS))

(2005/C 120/12)

On 7 April 2004, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposals.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was **Mrs King**.

At its 412th plenary session on 27-28 October 2004 (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 181 votes to one with three abstentions.

1. Gist of the Commission document

1.1 The subject of this Communication is a proposal for a directive and two proposals for recommendations on the admission of third-country nationals to carry out scientific research in the European Community.

1.2 These proposals are part of the Lisbon strategic objective for the European Union to develop research to become the most competitive and dynamic knowledge economy in the world by 2010. To achieve this aim it has been calculated that the European Union will need 700 000 additional researchers. The following interlocking measures have been identified:

- to make science attractive to young people at school;
- to improve the career prospects for researchers in the European Union; and
- to extend the opportunities for training and mobility.

1.3 Although the target of 700 000 extra researchers will mainly include EU nationals, it is recognised that in order to meet this target researchers from third countries will be needed. Therefore this Communication by the Commission focuses specifically on the admission of high-quality research talent from third countries to Europe by:

- facilitating the entry and residence of researchers from third countries; and
- removing the obstacles to their mobility in Europe.

1.4 The Commission also recognises the need to boost the mobility of European researchers to other parts of the world, as

their mobility is a key element in the acquisition and transfer of knowledge.

2. General comments

2.1 The EESC welcomes this Communication on the admission of third-country nationals to carry out scientific research in the European Community.

2.2 As the Commission's target of 700 000 extra researchers by 2010 will mainly involve EU nationals, the EESC wants to refer the Commission to its earlier Opinion ⁽¹⁾ in response to the Commission's communication on the problems facing career researchers on the European Research Area and the proposals and initiatives to address these ⁽²⁾.

2.3 With regard to the interlocking measures 'to make science attractive to young people at school', this opinion highlights that the importance of science is insufficiently reflected in the school curricula and recommends that greater weight be given to the teaching of science, technology and mathematics in schools and stresses the importance of presenting these subjects in an attractive way to students. It is also important to target girls as they tend to be under-represented in these subject areas. There is considerable evidence to indicate that those seeking entry to higher education are now doing so in non-scientific subjects so that ability of the Community to achieve a high number of researchers is going to be undermined without urgent and detailed consideration.

⁽¹⁾ OJ C 110 of 30.4.2004, p. 3, rapporteur: Mr Wolf.

⁽²⁾ COM(2003) 436 final.

2.4 For the second interlocking measure 'to improve the career prospects for researchers in the European Union' this earlier opinion discusses the dilemma facing researchers working in academia or publicly funded research institutions who are usually paid in accordance with public-sector pay scales but with no job security or other benefits given to other public sector careers such as civil servants or teachers. In fact researchers face little or no job security as they are often given a series of temporary contracts, following every change of job or career move.

2.5 The final reference to the earlier opinion the EESC wants to make is about the mobility of European researchers. The EESC recognises that a career in Research in the European Area necessitates mobility and flexibility within the EU. However this should not be at the expense of personal and family living conditions and social benefits. In addition, the Commission needs to act against a possible one-way brain drain, with the best young researchers leaving the EU, especially for the USA. Current problems relating to the obtaining of visas in the USA are likely to be of short-term nature and higher education groups in the USA are already mounting pressure on the USA Government to speed up entry requirements so that they can recruit more non-USA nationals.

2.6 Returning to the current Commission's communication on the admission of third-country nationals to carry out scientific research in the European Community, the Committee agrees that removing the obstacles to the mobility of third-country researchers is vital if the European Union is to become more attractive to researchers throughout the world especially if it is to compete successfully against global competition for those researchers of the highest ability.

2.7 The Committee agrees with the Commission's statement that the globalisation of the economy, which is more and more knowledge-based, is constantly increasing the international dimension of science. However, the EESC feels that globalisation should have been made more explicit in the Communication by including comparative data on the level of resources which countries like Japan and the USA allocate to support the training, mobility and career development of researchers.

2.8 The EESC is also very concerned about the age structure of the existing researchers in the EU. Many persons in this category are now reaching possible retirement age with few new entrants being sufficiently attracted or encouraged to replace them. Without recognition of this fact and action taken urgently the EU's target will not be met. This is also the result

of the current situation in Europe where the population is ageing and the birth rate is reducing. Also in a number of EU states the population is projected to begin to decline after 2010. This makes the target of 700 000 extra researchers by 2010 a very ambitious one even with a top-up of researchers from third countries.

2.9 The EESC does understand that this communication focuses solely on admissions and therefore researchers from third countries who are already in the European Union, some of which are leaders in their field, will not come under the proposed directive and recommendations. However, it suggests that a future directive is needed to address the specific problem of access of this group to highly qualified jobs as this would help with reaching the target of 700 000 extra researchers. Some of these researchers have refugee status in the EU and their talents and contribution are sadly under-utilised at present. There is no systematic provision to help such researchers in the EU other than by grants given by voluntary or charitable bodies. If modest funding is provided to support such persons it is likely that the number of researchers in the EU will increase by at least 40 000 ⁽¹⁾. The Committee therefore strongly recommends that the Commission set up a process so that these researchers can be identified and considered as researchers and have easier access to research jobs.

2.10 The Committee notes the definition of researcher provided by the Commission. Again it wants to refer to the definition recommended in its earlier opinion 305/2004, point 5.1.1.7: '*Experts engaged in the conception or creation of new knowledge, products, processes, methods and systems, and in the management of the projects concerned, for which they are qualified by virtue of their training and experience*'. This definition has the advantage of recognising any management skills that the researcher has.

3. Specific comments

3.1 *Proposals in line with the European Research Policy*

3.1.1 The EESC believes that creating a specific residence permit for third-country researchers, is not the only issue to be addressed. Other issues include the immigration status of the researcher as well as the status of the researchers within the EU as discussed in the EESC opinion 305/2004. The Committee is also of the view that a key area will be movement of researchers within the Community. Researchers will need to be able to seek employment irrespective of their immigration status.

⁽¹⁾ This figure is based on an estimate of current statistical information available.

3.1.2 The Committee notes that researchers' residence permits would supersede the need for a work permit and welcomes this attempt to streamline this process.

3.2 *Proposals to complement Community immigration policy instruments*

3.2.1 The Commission's recommendation, for the controlled re-opening of legal immigration channels according to specific parameters and category of migrants, is welcomed. However, the Committee requires that these be unambiguous and specific. Some of those admitted may well be in need of refuge and protection under the Geneva Convention 1951. As well as being afforded the opportunity of becoming migrants, they may at the same time wish to apply for refugee status once they have arrived. The Committee appreciates that it is not possible for the Commission to give a clear view on these issues at this time but would welcome their resolution in the near future.

3.2.2 The EESC agrees with the recommendations of the short-term visa for free movement of third-country researchers around the Schengen area. It also agrees that long-term residents from third countries, who have been legally resident in an EU Member State for five years, should have the right of residence throughout the EU.

3.2.3 The EESC is pleased that the Commission recognises that third-country researchers being permitted to bring members of their family to join them is an essential aspect of the problem of mobility.

3.2.4 The EESC notes that this issue is dealt with in the separate Directive 2003/86 of 22 September 2003 on the right to family reunification and that this Communication supplements the proposal COM(2002) 548 on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service.

3.3 *Central Role of Research Organisations*

3.3.1 The EESC understands that the hosting agreement is inspired by the hosting protocol in France. The Committee notes that the division of roles between the research organisation and the Member States' immigration authorities would on the one hand make it easier for highly skilled third-country nationals to enter the EU while at the same time satisfy the security measures of EU Member States.

3.3.2 Also as Member States have the power to check whether a hosting agreement satisfies the requirement of Arti-

cles 5(2), this step is welcomed by EESC as it should prevent abuses.

3.4 *Assumption of responsibility by research organisations*

3.4.1 The Committee believes that the Commission's definition of a 'Research organisation' is incomplete. It should be expanded to include public or private organisations that allocate grants for research as well as those organisations, that conduct research.

3.4.2 The EESC is pleased to see the reiteration of the Barcelona European Council commitment to increase investment in research and technological development to 3 % of GDP by 2010, with two-thirds of that investment coming from the private sector.

3.4.3 The Committee strongly recommends that the Commission consults the private sector on this proposal in general and specifically on the task being recommended that the research establishment produces the hosting agreement that triggers the admission of a researcher to a Member State.

3.5 *A broad interpretation of the concept of researcher, adapted to the needs of the European Union*

3.5.1 The EESC agrees with the Commission's recommendation, not to restrict the procedure to persons who already have the status of researcher in their country of origin.

3.5.2 However the EESC does not concur with the restriction with regards to the purpose of admission. This is because there are cases where persons meet the minimum requirements for a researcher, as set out in the directive, but their original purpose of admission to a Member State is not to carry out a research project. Such researchers may have obtained a qualification in the EU and may wish to seek a corresponding position.

3.5.3 The EESC is pleased that the requirements with regards to the qualifications of persons for whom admission is sought and the scientific value of the research planned are clear and unambiguous. Although not part of the remit of this communication, the EESC feels it is necessary, to have some scope for qualities of researchers to be assessed, so that the EU is responsive to changes within research requirements as they develop. This is because new technologies are being developed all the time and the EU must aim to recruit researchers that can develop and extend such techniques.

3.5.4 The Committee draws the Commission's attention to an earlier opinion ⁽¹⁾ that highlights a further obstacle to mobility, namely the lack of transparency in qualifications and competences. This has resulted in numerous examples of qualifications not being accepted, particularly from developing countries. Researchers are made to requalify or take post-doctoral qualifications again in order to become a researcher in the EU. The Committee suggests that the Commission's Action Plan ⁽²⁾ to facilitate mobility within the EU; namely the implementation and development of instruments supporting the transparency and transferability of qualifications and the establishment of a one-stop European Mobility Information site, should be used to address this issue.

3.6 *A resident permit not linked to the status of the researcher*

3.6.1 The EESC welcomes the proposal to provide third-country researchers with a uniform status throughout the EU.

3.6.2 It also welcomes the recommendation that researchers admitted on the basis of an employment contract will not need to obtain a work permit in Member States.

3.7 *The mobility of researchers in the European Union*

3.7.1 The EESC is pleased with the Commission's recommendation to simplify the admission procedure to promote mobility so that third-country nationals can pursue a research project in several different Member States without encountering admission difficulties.

3.7.2 It also notes that this will apply to third-country nationals who are long-term residents.

3.8 *Choice of legal base for the proposed directive*

3.8.1 The EESC agrees with the legal base chosen, but regrets that the directive is not binding on Denmark and the United Kingdom. It notes Ireland's decision to opt-in to this directive and hopes that the United Kingdom decides to do the same. It is strongly of the view that this matter be re-examined as the research base, especially in the UK, is such that the EU efforts to attract such researchers in the number required will be severely hampered without their participation.

3.9 *Other matters*

3.9.1 The EESC believes that the issue of attracting potential researchers to the EU has to be recognised and that the issue of the 'brain drain' from some third countries needs to be examined in great detail. These are not unrelated. The issue of training researchers in the UK warrants very particular consideration. Some potential researchers may need some further course work or period of study. In numerous cases they could quickly apply for a research position in the EU once such work has been completed. The directive needs to be considered with this in mind.

3.9.2 The Committee is very concerned about the consequences of a 'brain drain' from certain developing countries and believes a detailed debate on how the quantum of researchers throughout the world may be increased. It should be noticed that some governments encourage researchers to go abroad and gain experience of benefit to the country of origin. It is noted that the Dutch Presidency is hosting a conference in The Hague entitled 'Brain Gain The Instruments'. The issue of the impact to developing countries of the brain drain or brain gain is being addressed at the conference and the Commission is producing a report on this subject by the end of the year. The EESC believes this is a start in addressing a very serious issue.

3.9.3 One of the topics from the previous Commission's Communication on researchers –COM(2003) 436 final - that the Committee wants to highlight is gender. The under-representation of women researchers especially in management and leadership roles needs to be highlighted. This is especially the case with third country researchers. The Committee wants to reiterate the Commission's recommendation for a code of conduct for the recruitment of researchers based on best practice, especially in the area of equality of opportunity. The Committee strongly believes that there is gross inequality in the treatment of female researchers in that not nearly sufficient female researchers are offering themselves for appointment and that when they do they are required to take up less senior positions than they are qualified to undertake. There is a need to improve the transparency of the recruitment process and increase the proportion of female applicants.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ EESC Opinion 658/2004 of 28 April 2004, rapporteur: Mr Dantin.

⁽²⁾ COM(2002) 72 final.

Opinion of the European Economic and Social Committee on 'Training and productivity'

(2005/C 120/13)

By means of a letter of 22 April 2004 from the Minister for European Affairs, Mr Atzo Nicolai, the Dutch Presidency asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on 'Training and productivity'.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was Mr Koryfidis.

At its 412th plenary session (meeting of 28 October 2004) the European Economic and Social Committee adopted the following opinion by 81 votes to 1 with 1 abstention.

1. Background to the opinion

1.1 In response to the request from the Dutch Presidency to the EESC, the content of this exploratory opinion is determined by the following:

- the Dutch Presidency's programme, in particular its chapter on *Social Europe and its openness to change* ⁽¹⁾;
- the decision of the Brussels European Council ⁽²⁾ (25 and 26 March 2004) to meet the Lisbon challenge, in particular its invitation to the EESC 'to examine ways and means for more effective implementation of the Lisbon Strategy' ⁽³⁾;
- the search for agreement, during the second half of 2004, between the 25 Member States concerning the new Social Policy Agenda (2006-2010) ⁽⁴⁾;
- the discussion and inclusion of the Lisbon and Gothenburg objectives in this agreement ⁽⁵⁾;
- the search for and the identification and presentation of the causes of the problems relating to the implementation of lifelong learning policies and of ways to improve the effectiveness of continuing training policies.

1.1.1 The overall context of the social policy and employment issues proposed by the Dutch Presidency will be discussed at a high-level conference on *More People at Work: policies to activate Europe's labour potential* which will take place in Amsterdam on 25 and 26 October 2004.

⁽¹⁾ See the Dutch Presidency's programme.

⁽²⁾ See Presidency conclusions – chapter III.

⁽³⁾ See point 45 of these conclusions.

⁽⁴⁾ The new Social Agenda will be presented by the Commission in the first half of 2005.

⁽⁵⁾ A mid-term assessment on the Lisbon Strategy is expected during the spring European Council (March 2005).

1.1.2 The objective of this conference is to discuss the structural changes that need to be made in four policy areas ⁽⁶⁾, while at the same time stepping up participation and maintaining social cohesion.

1.1.3 Finally, the Dutch Presidency has asked the EESC to focus on the following points:

- What are the main obstacles to implementing national and Community policies on continuing training in each Member State and in the EU as a whole, and how can these obstacles be overcome?
- What are the most effective ways of boosting continuing training?
- How does the way in which responsibilities are allocated between the different players involved in training (e.g. government, social partners as well as employees and employers) affect the organisation and success of continuing training? What is the most effective way of allocating roles and responsibilities and how can this be achieved?

2. Introduction

2.1 The EESC attaches considerable importance to the Dutch Presidency's request for this opinion to be drafted, in particular its content and scope, which reflect the broader objectives of, and the major problems facing, the EU in the area of sustainable development and, more specifically, employment, productivity and economic growth.

⁽⁶⁾ The Dutch Presidency has called for structural changes in four policy areas: an effective redefinition of the relationship between working life and social/family life, the activation of the social security system and the promotion of changes at work, **training and productivity**.

2.2 Without losing sight of its obligation to focus on the questions posed by the Dutch Presidency, the EESC believes it is important to make this focus part of a more general framework⁽¹⁾ that examines all the issues relating to the EU's overall progress in the sectors concerned in the context of specific circumstances.

3. Definition of concepts⁽²⁾

3.1 The term (vocational) **training** means 'The acquisition, refreshing or updating (by an individual) of mainly technical knowledge and skills'.

3.2 **Initial education and training** relates to the stage of acquisition of initial basic knowledge and skills connected with the trade which the person will follow. Initial education and training is backed up in many Member States by **apprenticeship**, which links various forms of learning with company-related work experience.

3.3 **Continuing vocational education and training/continuing professional development** relates to learning relevant to the labour market or the company, based on already acquired skills and experience, in order to update and broaden knowledge and competence and acquire skills for other or new fields of work and operational tasks. Continuing vocational education and training is aimed first and foremost at citizens who are in active working life, i.e. who have an initial education and training, in some cases as semiskilled employees without a formal educational qualification, and are either in an employment situation or registered as unemployed (and in this connection take part in continuing vocational training promotion schemes or retraining courses). In addition it is open to all to take part in the many kinds of general and work-related training schemes on offer, which are available publicly or privately and in the most varied forms of learning.

3.4 European vocational training systems vary considerably from one Member State to another and show marked differences within each country, as they are constantly being adapted to the requirements of the professional and working world. It is a continuing challenge to find a precise and directly applicable definition of vocational training in terms of both interpretation

⁽¹⁾ This approach to problems – i.e. integrating the particular into the general – is moreover characteristic of the EESC's work. Recent opinions OJ C 110 of 30.4.2004 (Hornung-Draus-Greif) and OJ C 117 of 30.4.2004 (Ribbe-Ehnmark) are good examples of this.

⁽²⁾ CEDEFOP publications provide more detailed information on the definitions in the field of vocational education and training; cf. in particular the CEDEFOP Glossary as well as the reports on vocational training research and vocational training policy (www.cedefop.eu.int and www.trainingvillage.gr). The appendix to opinion supplements these.

and language. However, a generally important aspect is the composition of the vocational training on offer as between training establishments and company-based learning environments. The weighting can turn out differently in both initial and continuing vocational education and training depending on skills level, industrial sector and branch of work. The same applies to the type of training on offer, which can include seminars, modules and courses of varying duration as well as extended work-related study courses. In addition, the vocational training and qualification systems, and finally also training establishments and employers, recognise non-formal and informal learning processes⁽³⁾.

3.5 The term **lifelong learning** means 'all learning activity undertaken throughout life, with the aim of improving knowledge, skills and competences within a personal, civic, social and/or employment-related perspective'⁽⁴⁾. As a result of the Lisbon Council conclusions, lifelong learning has acquired outstanding political significance as a key concept to meet the universally recognised need for a fundamental renewal of the European training model as part of the transition to a knowledge-based economy and society⁽⁵⁾. A corresponding, consistent further development/transformation of the structures, operation and teaching and learning methods of the present general and vocational education and training systems assumes a key significance for achieving the Lisbon objectives. In consequence, the new generation of Community action programmes for general and vocational education and training will be combined from 2007 under the overall heading of lifelong learning⁽⁶⁾.

3.5.1 A practical, comprehensive realisation of lifelong learning remains in many respects still to be achieved, in terms of supply structures, access possibilities and social demand, as well as of percentage of population participating in its overall composition. The European agencies CEDEFOP and ETF have done a great deal to make it possible for the Member States in general and more specifically for the various interested parties and the appropriate players in the training field to exchange ideas, information and experience⁽⁷⁾. In practice, however, a number of important questions remain, including:

— how lifelong learning can become an 'umbrella' for all learning processes (formal and informal);

⁽³⁾ On the definition see SEC(2000) 1832 (Memorandum on lifelong learning) and COM(2001) 678 final (Making a European area of lifelong learning a reality).

⁽⁴⁾ COM (2001) 678 final.

⁽⁵⁾ On the definition see SEC(2000) 1832 and the Communication from the European Commission (1997) 'Towards a Europe of knowledge'.

⁽⁶⁾ COM(2004) 156 final.

⁽⁷⁾ Cf. relevant CEDEFOP publications under the general heading 'Getting to work on lifelong learning' (www.trainingvillage.gr) and relevant ETF studies and reports on the situation in the new Member States and candidate states (www.etf.eu.int).

- how it can be linked with the building of a knowledge-based society and economy;
- how it can be linked with sustainable development and the contemporary challenges of globalisation;
- more particularly, how it can become an instrument of local productive, social and cultural development;
- how a European area of lifelong learning can be developed;
- how its various results can be capitalised on and validated;
- finally, how it can be financed.

3.5.2 In the context of attempts to legislate for lifelong learning, as presented above, there is an effort to define a new division of roles and responsibilities, and a new framework for cooperation at all levels - particularly at local level where, with a view to achieving the Lisbon goals, there is a clear need for vigorous cooperation between the public authorities, the social partners and civil society in general.

3.6 In formal terms, according to the Commission, **productivity of work** ⁽¹⁾ signifies the amount of work needed for the production of a specific unit. From a macro-economic standpoint, productivity of work is measured by the Gross Domestic Product (GDP) of a country per active member of the population ⁽²⁾. Increasing productivity is the most important source of economic growth ⁽³⁾.

4. The vocational training policy of the European Union

4.1 The Union 'shall implement a vocational training policy which shall support and complement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational

⁽¹⁾ See SCADPlus: Productivity: the key to the competitiveness of European economies and enterprises. Apart from the term 'productivity of work' other relevant terms are also used, with slightly different meanings. They include: productivity of the economy, productivity of the enterprise, national productivity, individual productivity, productivity of capital etc.

⁽²⁾ See COM(2002) 262 final (Summary) and SCADPlus: Productivity: the key to the competitiveness of European economies and enterprises.

⁽³⁾ Cf. COM(2002) 262 final (Summary) and SCADPlus: Productivity: the key to the competitiveness of European economies and enterprises.

training' ⁽⁴⁾. The Copenhagen decisions of 2002 mark a qualitative forward step in the further development of this policy, which also works towards consistency and synergy with the Lisbon agenda on general education and vocational training by 2010 ⁽⁵⁾. The Joint interim report of the Council and the Commission on the implementation of the detailed work programme on the follow-up of the objectives of education and training systems in Europe (April 2004) ⁽⁶⁾ is another step in the same positive direction.

4.1.1 The European agencies CEDEFOP and ETF support the development of vocational education and training in a specific way. In particular they contribute to the implementation of European vocational training policy guidelines by outlining, disseminating and exchanging information, experience and examples of good practice, through commissioned studies and reports and through the preparation and analysis of relevant research work and accounts of practical experience. The European information network Eurydice ⁽⁷⁾ links up the systems and players of the general education systems in a similar way. These three organisations work together in constructive cooperation, the extent of which is constantly increasing with the growing importance of lifelong learning, which brings with it increasing cooperation and integration between general and vocational education and training.

4.1.2 The Leonardo da Vinci programme ⁽⁸⁾ is intended to implement the Union's policy in the field of vocational training. It contributes 'to the promotion of a Europe of knowledge by developing a European area of cooperation in the field of education and vocational training' and supports 'Member States' policies on lifelong learning and the building up of the knowledge and skills and competences likely to foster active citizenship and employability' ⁽⁹⁾. The Member States are responsible for carrying out the programme.

4.1.3 In the context of the development and implementation of lifelong learning, special attention should also be paid to the 'Grundtvig' action in the current Socrates II programme, concerned with promoting an integrated educational approach over the whole spectrum of adult education ⁽¹⁰⁾.

⁽⁴⁾ Article III-183 of the Draft Constitution. The Union's responsibilities with regard to vocational training are determined by the phrase 'The Union shall implement a vocational training policy'. With regard to education, they are determined by the phrase 'The Union shall contribute to the development of quality education ...'.

⁽⁵⁾ http://europa.eu.int/comm/education/copenhagen/copenhagen_declaration_en.pdf

⁽⁶⁾ See 'Education and training 2010: KEY MESSAGES FROM THE COUNCIL AND THE COMMISSION TO THE EUROPEAN COUNCIL' (2004/C 104/01).

⁽⁷⁾ www.eurydice.org

⁽⁸⁾ Earlier vocational training programmes were Comett (1986-1989 and 1990-1994), Iris (1988-1993 and 1994-1998), Petra (1988-1991 and 1992-1994), Eurotecnet and Force.

⁽⁹⁾ Article 1(3) of the Council Decision on a European Community vocational training action programme (Leonardo da Vinci programme).

⁽¹⁰⁾ http://europa.eu.int/comm/education/programmes/socrates/grundtvig/overview_en.html

4.2 The national general and vocational education and training systems were structured and developed essentially to meet the specific needs created over time and on a case-by-case basis by the labour market. As a result their development followed cycles of intensification and slowing corresponding to those of that market. For the same reason, there are significant differences among them. These differences are now giving rise to problems of coordination, assimilation of relevant best practice and mutual comprehension of the terms and concepts used in each case.

4.3 The expenditure of the European Union on vocational training amounts in 2004 to EUR 194 533 900, of which EUR 163 million for the Leonardo da Vinci programme. In comparison, the expenditure on culture of all kinds and levels except education and training amounts to EUR 268 848 500; the total budget of the Directorate-General for Education and Culture is EUR 783 770 054, out of a total Community budget of EUR 92 370 071 153 ⁽¹⁾.

4.3.1 This modest budget allocation in comparison with the economic and political importance of vocational education and training is reflected at Member State level. There is general agreement among the leading players at all levels of decision-making that the total funds available for the education and training sector are inadequate for achieving the objectives set.

4.4 Moreover, it should be pointed out that the average percentage of EU citizens undergoing continuing vocational training is low (8,4 %) ⁽²⁾. The Union's objective for 2010 is to raise this percentage to 12,5 % of the potential active population (25-64 age group) ⁽³⁾.

4.5 Efficient, forward-looking continuing vocational training is an integral part of the successful practical implementation of

⁽¹⁾ The budget of the Directorate-General for Education and Culture amounts to 0,85 % of the Union's total budget. The amounts allocated for training account for 0,25 % of the budget of the Directorate-General for Education and Culture and for 0,002 % (0,003 for education of all other types and levels) of the Union's total budget (all the figures are derived from or based on the General Budget of the Union for 2004).

⁽²⁾ In a relevant Eurostat survey (CVTS 2/Data 1999/EDITION 2002) extremely important comments are made on the quantitative and qualitative elements of training at sectoral level in a sample of Member States.

⁽³⁾ The original Commission proposal read as follows: 'By 2010, the EU average level of participation in lifelong learning should be at least 15 % of the adult working age population (25-64 age group) and in no country should it be lower than 10 %.' This proposal was finally amended by the Council on 5 May 2003 as described above (source: <http://europa.eu.int/scadplus/leg/en/cha/c11064.htm>).

lifelong learning. It is clear that the present systems, together with their learning processes and results, do not meet the requirements either quantitatively or qualitatively. This overall judgment does not exclude the possibility of exceptions in specific branches and contexts where there are high-quality, effective continuing vocational training opportunities. One example could be courses organised within a specific enterprise to cover its specific needs; another could be sectoral training opportunities ⁽⁴⁾, which have been developed by the European social partners or in cooperation with them.

5. The European Union's policy on raising productivity

5.1 All the data from relevant European Commission studies in recent years show that developments in the field of productivity are negative for the Union. 'During the second half of the 1990s, and following a period of substantial slowdown, the United States saw an acceleration in both labour productivity growth (from an average of 1,2 % in the period 1990-95 to 1,9 % in the period 1995-2001) and in employment growth (from 0,9 % to 1,3 %). In the EU, growth in labour productivity slowed down (from an average of 1,9 % in the first half of the decade to 1,2 % in the period 1995-2001) but employment growth picked up considerably (from a decline of 0,6 % in the first half of the decade to 1,2 % in the period 1995-2001)' ⁽⁵⁾.

5.2 It is clear that there are considerable differences between the productivity rates of individual EU Member States. The European Commission, in its Communication entitled *Productivity: the key to the competitiveness of European economies and enterprises* ⁽⁶⁾, endeavours to show the causes and effects which this situation can have on the Lisbon objectives. After identifying and explaining the considerable differences between Member States in this respect, the Communication points out that: 'Economic growth will increase only if productivity rises. Improvements in enterprise productivity depend heavily on progress in ICT and innovation, and a labour force better adapted to the needs of industry' ⁽⁷⁾.

⁽⁴⁾ Training at sectoral level appears to be of particular importance for acquiring international skills and competences. The players at this level are close to the problems and challenges arising from globalisation and the development of new technologies, and are in a good position to propose and develop solutions (Leonardo da Vinci – EAC/11/04, III).

⁽⁵⁾ COM(2002) 262 final, point 2 (second paragraph)

⁽⁶⁾ COM (2002) 262 final

⁽⁷⁾ Cf. <http://europa.eu.int/scadplus/leg/en/lvb/n26027.htm> (Conclusions).

5.3 The EESC believes that greater productivity in the Union is the key to its overall future. It also considers that all attempts to increase productivity must take place within the framework and with the support of the European social model. Such efforts must be directed towards, and embraced by, all European citizens, they must be geared to medium- and long-term development, be systematic and be determined by a knowledge-based policy and action mix. Lastly, the Committee is convinced that cooperation between the social partners and, more widely, civil society and the public authorities – especially at local level – has a vital role to play in carrying out these measures.

6. The relationship between training and productivity

6.1 More generally, in the EESC's view, the following must be clarified with regard to the particular issue in question:

- Productivity is influenced decisively, albeit in part, by knowledge: *'Issues such as level of investments, workplace organisation, participation policies, the creation of innovation-stimulating working milieus, new forms for university-enterprise cooperation, new forms for making available risk capital should be part of a wider approach towards productivity growth in the European Union.'* ⁽¹⁾. Productivity growth is therefore not achieved simply by improving the training system.
- In today's circumstances, training can effectively influence productivity – and hence competitiveness and the achievement of the Lisbon objectives - to the extent that it is part of a wider and general framework of education policy ⁽²⁾. This wider framework must include a basic but nonetheless operational internal communication system (at regional, national and Community level), must consider all forms of education and training as sub-components of lifelong learning and, finally, in terms of objectives and content, must be structured and geared towards an environment characterised by a high degree of multi-dimensional mobility ⁽³⁾.
- Productivity and training must be examined and linked at all levels including the workplace level where most of the decisions on financing and access to CVT are taken. They

⁽¹⁾ See point 4.4 of opinion OJ C 85 of 8.4.2003 (**Sirkeinen-Ehmark**).

⁽²⁾ See OJ C 311 of 7.11.2001 – in particular point 3.4.1. (Koryfidis – Rodríguez García Caro – Rupp).

⁽³⁾ The main problem of European vocational education and training systems today is that they do not reflect the current climate: while the latter is extremely mobile, the former operate as a rule as if in conditions of dead calm.

must also be examined and linked collectively, even if at first sight problems seem to be individual.

- In any case, support from the Union for those of its regions which are lagging behind in developing modern forms of training, and in particular for the new Member States, is highly important.

6.2 Against this backdrop, the systems and initiatives of initial vocational education and training, and even more continuing vocational education and training/professional development, should be developed to operate more efficiently than in today's circumstances ⁽⁴⁾.

6.2.1 The creation today of a modern system for updating knowledge, skills and qualifications requires an unprecedented combination of guidelines, knowledge, targets, operational framework and incentives. More specifically, the following are necessary:

- familiarisation with the new global dimensions (including planning, economic, technological, cultural and demographic aspects);
- sound general and specialist knowledge geared to the rationale and way of working of the global market and the new forms of global political and economic governance;
- sensitivity to the needs and demands of society and the knowledge-based economy, through the development of innovative, attractive and flexible programmes;
- awareness of the new fault lines revealed by the new global production system and the need to develop counter-measures to overcome them;
- redefinition of the form and structure of competition as a path to mobility and innovation both within and beyond the Union;
- redefinition of the incentives to take part in training, in particular by specifying how the added value generated by training should be distributed;
- awareness of the three dimensions of the concept of sustainability and its advancement in personal and collective life. ⁽⁵⁾

⁽⁴⁾ For further details, see: Eurostat, Continuing vocational training survey (CVTS2) **Data 1999**. See also the data in the Joint interim report of the Council and the Commission on the implementation of the detailed work programme on the follow-up of the objectives of education and training systems in Europe (2004/C 104/01).

⁽⁵⁾ See point 7.2.3.

6.2.2 The conditions mentioned above cannot be met in all forms and types of vocational training, whether continuing or not. They form a part of systematic education measures ⁽¹⁾, influenced by several aspects and designed (learning + teaching) to lead in the longer term to a culture of education (socialisation) in which knowledge appears as a driving force of progress and synergy appears as an effective force for sustainable development.

6.3 In the Committee's view, a reasonable response to the first two questions posed by the Dutch Presidency would be the following:

6.3.1 With the present nature and mode of operation, European vocational training systems at the initial stage and continuing training have difficulties meeting the requirements of the knowledge society and sustainable economic development. Some of the particular problems these systems face include:

- **General orientation:** these systems have been and continue to be largely geared to resolving particular problems of an economic environment with little mobility.
- **Level of action:** in view of this general orientation, European vocational education and training systems must better integrate the particular into the general as part of a vision of the whole, as the globalisation of the economy now requires.
- **System mobility:** the orientation and level of action of these systems partially hampers all types of mobility, either internal or external, in terms of circulating new ideas, developing networks, fostering innovation and shaping policies responding to real problems.
- **Contact with contemporary knowledge:** regardless of the receptiveness and flexibility of individual training staff, the aforementioned systems continue as a rule to be exempt from any obligation to take on board developments in the scientific, technological, productive or any other field.
- **Contact with developments in the labour market:** education and training systems fail to meet the needs of the labour market as they rarely include certain of the newly-

emerging specialities or broader social and interpersonal skills.

- **Coordination:** coordination of systems, in many Member States, encounters problems. This means that each distinct continuing vocational education and training system operates in isolation from the rest of the education system, from its counterparts in the European Union and, of course, in complete isolation from the surrounding economic and social situation.

6.3.2 Moreover, there are a number of gaps in strategic aims, means and educational practices which paralyse European educational and training systems. More specifically, these are:

- the practical implementation of lifelong learning should be pursued without delay, at all responsible levels of policy and practice;
- stronger social cohesion and more mobility are prime European educational goals and should be given corresponding priority in practical implementation by the responsible bodies and players;
- in many training courses the practical application is lacking, and employability suffers as a result;
- the content of training courses is often geared too closely to short-term market situations and hence leads in the long term to mistakes concerning labour market requirements;
- very serious barriers to mobility between the Member States persist because of incompatible training certificates and qualifications and insufficient knowledge of foreign languages.

7. Problems and assessments in the struggle for European productivity

7.1 These observations lead to the very serious assessment that efforts for productivity in Europe have concentrated on the wrong area and timescale. They should have focused on basic education and training, for the acquisition of *key competences* ⁽²⁾ while maintaining similar emphasis on lifelong learning ⁽³⁾, as defined above (point 3.5).

⁽²⁾ *Key/core competences:* the sets of skills which are complementary to basic and generic skills and which enable individuals to acquire new qualifications more easily, to adapt to changing technological or organisational contexts, and/or to achieve mobility on the labour market, including by means of career development (source: Second report on vocational training research in Europe – executive summary – CEDEFOP publication)

⁽³⁾ The European Council of 25/26 March 2004 includes the following in its Conclusions (point 39): 'It also recognises that life long learning has positive effects on productivity and labour supply; it supports the adoption of an integrated EU programme during 2005 and the putting in place of national strategies in all Member States by 2006.'

⁽¹⁾ See opinion – Appendix.

7.2 The following proposals consequently refer to educational activities in their entirety – regardless of where responsibility for them lies – and form part of a single approach, requiring a major coordinated campaign to bring all European general and vocational educational and training systems into line with present-day European and worldwide conditions as quickly as possible. More specifically, the following are proposed:

7.2.1 A more all-embracing and critical new approach to the structures and interrelation of European general and vocational educational and training systems. This new approach will favour the development of a better level of communication and cooperation between the sub-systems of the various forms of education so that they can respond effectively to the challenges of globalisation and the mobility which it generates. It will be determined by an awareness of Europe's role as a global partner in the new forms of global political and economic governance.

7.2.1.1 It is strongly emphasised that the new approach must not damage the classical humanist dimension of the European educational and cultural identity. On the contrary, it must cultivate and promote that dimension.

7.2.1.2 In the context of this critical new approach, vocational training should neither acquire independent importance nor, of course, be dealt with in isolation. Like the related training fields, non-formal and informal learning processes, it will need to be embedded in an integrated lifelong learning network. This would be a system which meets citizens' need and demand for general and vocational education and training and is directly and unrestrictedly linked with the great aim of sustainable development.

7.2.2 The EESC has a second position regarding the European perspective and participation in the above process of critical review of the new structures and interrelation of European general and vocational education and training systems.

7.2.2.1 The EESC considers that the scale of the problems, their urgency and, in particular, the considerable cost of resolving them, require immediate steps and research at European level.

7.2.2.2 The aim of such steps and research should certainly not be any type of Union intervention concerning existing structures in European general and vocational education and training systems: their diversity is a source of inestimable richness which should be boosted.

7.2.2.3 What they can offer is alternative forms and best practices for familiarising European general and vocational education and training systems with the new conditions and, in particular, pilot applications and innovative schemes to gear educational systems to the Lisbon objectives, to other major Union aims, and to methods for approaching, seeking, highlighting and exploiting the new, valid global knowledge.

7.2.2.4 In this context, and in particular with regard to productivity and what flows from it, the Union has a role, as always on the basis of the *acquis communautaire* – a role which it must emphasise and promote, especially at local and regional level.

7.2.2.5 There is a further and highly significant dimension to the Union's participation in the critical review of the new structures and interrelation of European general and vocational education and training systems. It can substantially reduce the economic costs involved by seeking, identifying and promoting relevant new and best practices, on behalf of and in cooperation with the Member States. Lastly, by using the open method of coordination, it can also inject greater mobility and dynamism into the entire effort in order to achieve the common goals.

7.2.3 The EESC's third position concerns the way in which the learning process, of whatever type, can be tied in with the sustainability of economic, social and environmental policies. This EESC position is the most complex and at the same time the most tangible. It is underpinned by relevant experience and can be considered as best practice ⁽¹⁾.

7.2.3.1 This position is based on the principle that difficult problems, such as survival and sustainable development, productivity, competitiveness or the realisation of the knowledge society cannot be resolved at a distance from everyday reality, with isolated steps or choices from above. Nor can they be settled as individual problems with fragmentary actions. They are to be resolved by society, through integrated approaches and committed individual and collective involvement. This is why the EESC's central proposal on the 'how' of productivity points beyond the European, national and sectoral level to the local level, integrated policies for sustainable development and vigorous reinforcement of all forms of cooperation between the social partners ⁽²⁾ and, more broadly, between organised civil society and local authorities, in order to achieve common objectives ⁽³⁾.

⁽¹⁾ For further details, see the attached action plan for a local multi-purpose centre for learning, sustainable development and education.

⁽²⁾ A typical positive example is the priorities set by the social partners at European level in March 2002, in the context of their efforts to promote the lifelong development of skills and qualifications, which should be supported.

⁽³⁾ The European Council of 25/26 March 2004 includes the following in its Conclusions (point 43): 'Support and advocacy for change must reach beyond Governments. In order to generate this support, the European Council calls on Member States to build Reform Partnerships involving the social partners, civil society and the public authorities, in accordance with national arrangements and traditions.'

7.2.3.2 The proposal highlights knowledge, know-how and innovation as a coherent subject for cooperation and for joint objectives, representing an aim of central importance.

7.2.3.3 The incentives of individual and corporate sustainability, familiarity with current activities at world level and, very importantly, mutual support for individual and collective developmental efforts, are suggested as a driving force to ensure that the proposal is workable.

7.2.3.4 The ideal tool for developing the proposal would be the establishment of lifelong learning – an institution which can be developed outside the existing rigidities of national education and training systems, and free of any polarisations of the kind created by the very nature of the internal competitive productive system.

7.2.3.5 In any case, and regardless of the services which lifelong learning may offer now or in the future as a comprehensive learning and educational system, a system of pressures and incentives (political and social) must be created immediately so that European educational and training systems can go on⁽¹⁾ to bring their own objectives into line with the Lisbon objectives. These objectives should, in particular, be geared to the following:

- the needs of the knowledge-based economy, the new economy and a globalised market;
- the needs of the labour market, as determined and developed under the influence of the sciences and technological options;
- the need to foster enterprise, a productive collective spirit, and social acceptance and accomplishment of innovation in general, and innovative productive activities in particular.

7.2.3.6 These above incentives should create a favourable and attractive climate for training and lifelong learning. A climate produced with the specific support of cooperation between educational institutions and, most of all, between educational institutions, companies, civil society and local authorities in promoting procedures and actions matching the Lisbon objectives.

⁽¹⁾ For more details, see a relevant study by the Federation of Greek Industries on the requirements of enterprises for the 2005-2007 period, which was unveiled in June (<http://www.fgi.org.gr>).

8. Allocation of responsibilities and the question of financing

8.1 The **allocation of responsibilities** as part of a multilateral process to achieve common objectives – especially in the context of globalisation – is a complex issue involving both objective and subjective factors. These include:

- the recognition and acceptance by the parties involved of the operational framework;
- the recognition and acceptance of the common objectives and the need to achieve them;
- conditions affecting progress to achievement and balance in the process;
- incentives for achieving the specific objectives;
- the chances of the success of the entire project.

8.1.1 Against this backdrop, the participation of individuals, groups of individuals, enterprises or local communities in a process of initial or continuing vocational education and training – and even more of lifelong learning – depends on clarification of aims, means and incentives. The ensuing responsibilities do not therefore fall only to the players in the field of education and training. They also have political and social repercussions, and may be allocated as follows:

8.1.1.1 The **political responsibilities** concern in principle the creation of a smooth and transparent operating framework with regard to the conditions and limits of economic, social or any other form of operation. The development of relevant preventive policies, the reinforcement of selected forms of political and economic governance and the financing of such policies fall within the scope of political responsibilities.

8.1.1.2 The responsibilities of **civil society**, the **social partners** and **local and regional authorities** in promoting a comprehensive policy of lifelong learning, are also considerable. This basically concerns responsibilities regarding the popularisation of aims, ways and means for the creation of a learning environment. It also concerns responsibilities for devising specific types of cooperation and the necessary all-embracing actions. Lastly, it concerns responsibilities for formulating and ensuring incentives for participation in selected policies and actions, jointly agreed on a case-by-case basis.

8.1.1.3 **Corporate** responsibilities have an economic and a social aspect. It is the task of companies to define the conditions and limits of their feasibility. Companies should also constantly weigh up their requirements in terms of skills and knowledge by conducting specialised training programmes, both individually and in cooperation with other nearby producers. This applies of course in particular to SMEs, who enjoy a closer link with their operating environment and are obliged to seek the advice and support of the social and economic environment in which they operate, since it is difficult for them to carry out complete educational actions by themselves. This point also illustrates the corporate social responsibility aspect. This dimension is all the more important in the context of economic globalisation, in terms of both the viability of companies themselves and of their social environment.

8.1.1.4 Lastly, **individuals** bear a range of responsibilities regarding their involvement in a lifelong learning process. They affect changes in points of view, ways of looking at present events and facts, in links with learning and knowledge and changes to the way of life as a whole and to the way free time is organised and used. In consequence, and particularly in the case of older working people, the responsibilities for them to take part in lifelong learning processes must be accompanied by specific obligations and more substantial incentives. This combination of obligations certainly includes the use by individuals of their free time, as well as their share of the added value created by innovation and the new technologies.

8.2 The **question of financing** of training and, most of all, the financing of lifelong learning is also complex.

8.2.1 Under Article 14 of the European Union's Charter of Fundamental Rights, every citizen of the Union has 'the right to education and to have access to vocational continuing training'. It must therefore be a public task – for all levels and bodies collectively – to create the preconditions for safeguarding these rights. Guaranteeing the necessary funds is an essential part of this task.

8.2.2 However, beyond this state obligation, the driving force for viability will in general come fundamentally from the competitiveness of the economy – especially towards the exterior – and from the cooperation built up in this connection.

8.2.2.1 Public responsibility for the funding of education in no way excludes the joint responsibility of employers and companies. This joint responsibility does not relate generally to the field of vocational training, nor to qualification and continuing training courses, but to training courses offered within

the company with the aim of providing skills specifically useful to that enterprise. Companies need to provide continuous training for their workers so that they can meet the challenge of technological and organisational modernisation and the need for expansion. To this end, both the companies and the workers must be helped and strengthened through incentives agreed and proposed by the social partners. Such incentives have already been referred to by the social partners in the 2004 second joint report on follow-up, in the context of efforts to promote lifelong development of skills and qualifications. The second point of the first chapter of that report reads: 'National reports illustrate the variety of instruments used by social partners in order to mobilise resources to promote efficient investment in the lifelong competence development. Some instruments are put in place in cooperation with public authorities, be they European or national (use of EU funds, tax incentives, creation of new funds, etc.). Some instruments are more specifically geared towards individual resourcing of competence development'.

8.2.2.2 At all events, investments in competition-related learning and knowledge acquisition should be seen in the context of long-term productive partnerships between local, regional, national and sectoral players and bodies. Such investments are not confined to support for public spending, but bring in a range of resources of varied origin. Taken together all resource applications, expenditure and activities contribute to the long-term process of improving skills.

8.2.3 The fundamental public education task, which also applies in the vocational training field, also calls for a differentiated, case-by-case approach. First of all, certain EU regions and population groups need special economic support, and secondly certain sectors and industrial branches – not least SMEs – deserve special attention.

8.2.3.1 Bodies which fund training at all levels should regard it as important to favour innovation and to develop a heightened sensitivity to operational realities – particularly where SMEs are concerned.

8.2.3.2 Such a case-by-case approach to the funding of lifelong learning in practice should of course respect transparency and start at the right level, i.e. with the cooperation and consent of the social partners and civil society.

8.2.4 The EESC emphasises the urgent need for more rational distribution of resources in connection with the financing of training and lifelong learning. This applies both to the way such resources are allocated and to their impact as investments.

8.2.4.1 The EESC proposes that a high-level report be drawn up, based on relevant research, and including:

- a list of financial resources and means for training and life-long learning at all levels;
- an assessment of their level of quality;
- an assessment of how they tie in with official school systems;
- analyses and comparisons of their impact as investments.

8.2.4.2 This research would also serve to reveal issues which are at present hidden. It would also certainly reveal instances of good practice, which could lead to a roadmap of general guidelines for the development of training from now on, with the consistent aim of a comprehensive system of lifelong learning.

9. An example of best practice: a comprehensive process of sustainable development at local level

9.1 ADEDY – a third-level trade union of Greek civil servants – recently conducted a programme on lifelong learning, entitled *'Lifelong learning as an individual right in the context of the European social model for the 21st century'*. The programme, which was co-funded by DG Education and Culture, took place over a two-year period and was completed in January 2004, and was implemented across a sample of three geographically diverse regional administrations in Greece (Kozani, Kalamata/Messinia and Khalkida/Evvia).

9.2 The initiative set out to increase the awareness of regional trade union officials and, more generally, of regional members of civil society organisations and local authorities, regarding the need to forge local forms of cooperation in working towards the Lisbon objectives, with lifelong learning as the means for bringing this about.

9.3 Regarding the results of the initiative, common frameworks for action⁽¹⁾ were decided unanimously in all three cases, with the following main features:

- Recognition of the new political, technological, social and cultural operating framework being forged day-by-day by

⁽¹⁾ The last framework for action, from the Evvia (Khalkida) region, appears in appendix (available in Greek and English only). The other two frameworks are of similar content.

economic globalisation and contemporary technological progress;

- Acceptance of cooperation at local level between local administrations and organised civil society as the basis for tackling the operational problems thrown up by new conditions and for the joint achievement of agreed specific and realistic objectives for sustainable development;
- Use of the institution of lifelong learning as a tool for sustainable development (in economic, social and environmental terms), and as an instrument for creating and acquiring reliable global knowledge;
- To this end, the foundation and operation of a Multifunctional Centre for Learning, Sustainable Development and Education, in appropriate cases.

10. Recommendations

10.1 The EESC, in the context of its more general view of the essence of the productivity problem today, its understanding of the limits of education and training, but also its awareness of what is feasible at present, would point out the following to the Dutch Presidency with regard to continuing training:

10.1.1 In theory continuing training is intended for adults. Up to only a few years ago it successfully covered the needs for simple skills, at times and in sectors where related technological developments were taking place. This explains why this form of training has developed more in the secondary sector of production.

10.1.2 In the present economic situation technological and other developments are moving at a faster pace, clearly have greater scope, and above all are more all-encompassing. Monitoring and assimilating them require not just skills, but *capacities*⁽²⁾. As a result continuing training as provided today is an inadequate and perhaps ineffectual enterprise. It attempts something inappropriate to it and which cannot be satisfactory.

⁽²⁾ Capacity: the proven ability of a person to make the most of his or her know-how, skills, qualifications or knowledge so as to manage successfully both familiar and new vocational situations and requirements (source: Second report on vocational training research in Europe – executive summary – CEDEFOP publication)

10.1.3 In parallel with the pace of technological developments, their scope has created training requirements of a modern nature for workers of a much broader age range and in all production sectors. There has been an attempt to meet these requirements in part through training practices of earlier times, but without much result because they did not satisfy objective modern needs. An exception to this has been certain efforts by the social partners at sectoral level.

10.1.4 This, then, is the point reached with continuing training in Europe at present: a point where it is in great need of development and where this need cannot be met for reasons of infrastructure, culture and/or lack of relevant best practice and experience.

10.1.5 Tackling the above situation presupposes a new approach to:

- what continuing training means today;
- whom it concerns (age groups and sectors);
- how it can be developed more effectively;
- how it can be financed.

10.1.5.1 The replies to the first two questions are of a theoretical kind and have already been answered in the context of the Lisbon Agenda, lifelong learning and the objective of a knowledge-based society and economy. However, the third question has not yet been answered. The European Council ⁽¹⁾ repeatedly took decisions intended to create the necessary mobilisation to fulfil the relevant – in some cases detailed – commitments, but without significant results.

10.1.6 The Europe-wide networking of many enterprises and the mobility of workers call for a European dimension in vocational policy. Despite all the differences in their educational systems, the EU Member States must regard themselves as forming a 'training area'. The following points are of particular importance to the EESC:

- *inclusion of continuing training as a post-school learning procedure in an integrated EU programme of lifelong learning for immediate application ⁽²⁾, against the background of the formulation of European training objectives, which while respecting*

⁽¹⁾ A typical sentence is found in point 10 of the Conclusions of the 25 and 26 March 2004 meeting: 'The European Council agrees that the critical issue now is the need for better implementation of commitments already made.'

⁽²⁾ The Conclusions of the same European Council meeting include this position: 'It also recognises that life long learning has positive effects on productivity and labour supply; it supports the adoption of an integrated EU programme during 2005 and the putting in place of national strategies in all Member States by 2006.'

responsibilities can make suggestions for forward-looking reforms of national vocational training systems, taking into account the promotion of employability; a central aim of the above programme must be to support the European dimension of lifelong learning and to link basic vocational education with the need for constant updating of knowledge;

- operational and creative linkage and inclusion of the said programme in the pursuit of the major objective of sustainable development;
- making this link as decentralised and individualised as possible, in the context of European guidelines, relevant national strategies and, above all, of cooperation between civil society and the public authorities as well as with the whole educational world;
- making the greatest possible use, to this end, of the social partners and especially of the relevant cooperation agreements between them at the European, national, local and sectoral level;
- strengthening and making the most of relevant cooperation, at the essentially local level, between the public authorities and civil society;
- gearing the content of training courses both to assumed labour market requirements and to making the training content is as broad as possible;
- making lifelong learning easier by defining the educational objective of learning qualifications; these are the best guarantee of employability;
- greater communication of economic knowledge as early as the secondary schooling level, and education producing well-rounded personalities, and especially in personal responsibility, critical faculty and self-reliance;
- enhancing employability through apprenticeship (practically relevant learning e.g. in enterprises);
- the learning of foreign languages to facilitate mobility and exchange between Member States should be intensified at all levels;

- the specific training of human resources staff, especially of older staff, with a view to good leadership of the firm and workers by setting up initial and continuing training plans in the firm;
- greater efforts to harmonise, and ensure mutual recognition of, vocational training certificates and vocational qualifications.

10.1.7 The above perspective of strengthened European educational cooperation to deal in an overall and unified way with the delay which exists in the approach to the Lisbon goals presupposes the following specific political choices:

- sufficient resources to cover the range of different workers and the depth of the training that would be involved;
- finding the necessary teaching staff on a European scale;
- shaping a modern learning framework and environment;
- awareness, active presence and participation of administrations at all levels, the social partners and civil society in general;
- clearer definition of the roles and responsibilities attaching to any beneficiaries of educational initiatives, their suppliers, and the arrangements for monitoring all initiatives at local, national and European level;
- and lastly, intensive mobilisation to promote the whole initiative and the implications of its content and objectives.

Brussels, 28 October 2004.

10.1.8 In the EESC's view the more difficult problems in implementing the above proposal concern funding and making the local forces (public authorities and civil society) operationally available.

10.1.8.1 In an earlier opinion, the EESC stated that *'Investments of European interest designed to achieve the objectives set in Lisbon should be excluded from the calculation of the public deficit'* ⁽¹⁾. In the above context, the funds allocated for lifelong learning would in the EESC's view have a positive effect both on the construction of a knowledge-based Europe and on the promotion of sustainable development.

10.1.8.2 Transferring the focal point of lifelong learning and sustainable development to the local level would liberate new energies, create greater mobilisation and make the whole process more transparent.

10.1.8.3 A more concerted, comprehensive and effective procedure for shaping, promoting and monitoring the implementation and effectiveness of European decisions on education would pave the way for dramatic progress in making up the ground the Union has lost in terms of productivity and in achieving the Lisbon objectives.

10.1.8.4 Lastly, greater use and better coordination of the conventional arenas of educational activity – family, school and work – would boost such progress. A boost of this kind is absolutely essential to attaining the major challenge of making the Union the most dynamic knowledge-based economy in the world by 2010.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ See point 5 of opinion OJ C 110 of 30.4.2004 (rapporteur: **Ms Florio**).

Opinion of the European Economic and Social Committee on the 'Proposal for a Council decision amending Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)'

(COM(2004) 384 final - 2004/0122 (CNS))

(2005/C 120/14)

On 10 June 2004, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was Mr Pariza Castaños.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 172 votes to two with five abstentions.

1. Introduction

1.1 The Treaty of Amsterdam incorporated a new pillar of Community policy based on establishing a European area of freedom, security and justice; this includes Community policies on external borders, visas, asylum and immigration.

1.2 In October 1999, the Tampere European Council drew up various proposals for a common EU migration and asylum policy.

1.3 One of the Tampere proposals was for closer co-operation and mutual technical assistance between the Member States' border control services and this proposal was reiterated at the Seville (2002) and Thessaloniki (2003) Councils.

2. Commission proposal

2.1 The ARGO programme promotes administrative cooperation in the fields of external borders, visas, asylum and immigration. It was adopted by the Council on 13 June 2002, the same day on which the Council adopted a Plan for the management of the external borders of the Member States of the EU.

2.2 The aims of this programme are to promote cooperation, to promote the uniform application of Community law, to improve the implementation of Community rules, to ensure that proper account is taken of the Community dimension in the organisation of national agencies, and to encourage transparency of the actions taken by these agencies.

2.3 In order to achieve these aims, four specific areas of activity were set out: external borders, visa policies, asylum policy and immigration policy.

2.4 Borders: the aim is to carry out controls in accordance with the provisions of EU law, in particular the Schengen *acquis*; to provide an equivalent level of surveillance and protec-

tion at borders; and to reinforce the effectiveness of the instruments in place.

2.5 Visas: the aim is to ensure that issuing procedures comply with the provisions of EU law and to ensure that there is an equivalent level of control and security when issuing visas; to harmonise the examination of visa applications; visa requirements and exceptions to the general visa system, whilst pressing ahead with enhancing consular cooperation.

2.6 Asylum: the intention is to promote a common system, leading to a uniform status for refugees; to establish, by means of an appropriate process, a system for determining which country is responsible for examining a request for asylum; and to harmonise national legislation, establishing minimum standards for asylum procedures.

2.7 Immigration: the aim is to draw up common rules for entry and residence conditions for third-country nationals and to draw up a European long-term resident's statute. Legal channels for economic immigration must be opened and illegal immigration must be combated.

2.8 The Seville European Council invited the Commission to examine the issues related to the sharing of the financial burden for the management of the external borders. The Commission considers that an adequate solution for burden sharing will have to wait for the post-2006 financial perspective. It therefore believes that the proposal to amend ARGO constitutes only a short-term measure, to be used until the budgetary framework for the future is adopted.

2.9 In its assessment of the ARGO programme's first operating year (2003), the Commission noted that it is underperforming. Less than 50 % of available funds have been spent, due to the difficulties experienced by national administrations in working together with the other Member States on drawing up the projects to be promoted and funded by the programme.

2.10 The intention behind this amendment of the ARGO programme is to provide financial support for **national projects** in the area of external borders, addressing specific structural weaknesses, at strategic border points, identified on the basis of objective criteria (risk assessment) that will be set out in the annual work programme drawn up by the Commission in conjunction with the ARGO Committee.

2.11 The ARGO Committee will have a budget of EUR 46,1 million until 2006, with EUR 21,3 million being concentrated in 2004.

2.12 The Community interest is guaranteed under Articles 62, 63 and 66 of the Treaty and by the Schengen *acquis*. The United Kingdom and Ireland will adopt the corresponding decision in accordance with the Treaty.

3. Comments

3.1 The EESC considers that this amendment of the ARGO programme should ensure that financial support under the programme goes to national external border projects, but wishes to emphasise that the strategic nature of the projects must be agreed on by the ARGO Committee, acting on the Commission's proposal, by means of a risk assessment on the basis of objective criteria agreed on by a majority of Member States.

3.2 The difficulties experienced by the national administrations in cooperating amongst themselves under the ARGO programme have highlighted the lack of cooperation between Member States in managing the external borders.

3.3 The EESC considers that in future we will have to go beyond administrative cooperation and create a system of Community solidarity in the fields of external borders, visas, asylum and immigration, under a common policy. The financial perspectives for 2007 will have to take account of this approach.

3.4 The EESC cannot understand why the Council should have experienced so many delays and problems in setting up the proposed European Agency for the management of operational cooperation at the external borders ⁽¹⁾.

3.5 The EESC calls for the authorities to ensure that under the administrative cooperation in the fields of external borders, visas, asylum and immigration, all individuals are always treated with humanity and dignity, in accordance with the EU Charter of Fundamental Rights and with international conventions on human rights.

3.6 The EESC opinion ⁽²⁾ on the Rules of Procedure of the proposed European Agency for the management of operational cooperation at the external borders contained the following observations that are included in this opinion:

3.6.1 The EESC wishes to stress that effective border controls must not jeopardise the right to asylum. Many people needing international protection arrive at the external borders through illegal channels. The authorities must ensure that these people can apply for protection and that their application is assessed in accordance with international conventions and Community and national legislation. Until the administrative and judicial procedures governing asylum seekers are resolved, these people cannot be removed and must be given the corresponding protection.

3.6.2 The lack of effective controls at external borders is often exploited by criminal networks that traffic in human beings and have no qualms about putting people's lives at serious risk in order to increase their illegal profits. In its opinion on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings ⁽³⁾ the EESC pointed out that the authorities must protect victims, in particular the most vulnerable, such as children, and victims of trafficking for sexual exploitation, with the same energy with which they combat criminal networks that traffic in and exploit human beings.

3.6.3 The EESC has already stated in earlier opinions that effective management of the external borders requires close cooperation between the border authorities in the Member States, and between authorities in the countries of origin and countries of transit, through liaison officers.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ COM(2003) 687 final – 2003/0273 (CNS).

⁽²⁾ See the EESC opinion on the Proposal for a Council Regulation establishing a European Agency for the Management of Operational Co-operation at the External Borders of 29 January 2004 (OJ C 108 of 30.4.2004 - Rapporteur: Mr Pariza Castaños).

⁽³⁾ See OJ C 221 of 17.9.2004 – Rapporteur: Mr Pariza Castaños

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation on the European Monitoring Centre for Drugs and Drug Addiction'

(COM(2003) 808 final – 2003/0311 (CNS))

(2005/C 120/15)

On 23 September 2004 the Council decided to consult the European Economic and Social Committee, under Article 152 of the Treaty establishing the European Community, on the abovementioned proposal.

The Committee decided to appoint Jan Olsson as rapporteur-general.

At its 412th plenary session of 27-28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion with 159 votes in favour and one abstention:

1. Gist of the Commission proposal

1.1 The Commission is proposing a recast of Council Regulation (EEC) No 302/93 of 8 February 1993 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

1.2 The proposed amendments include the following:

- those designed to boost the Centre's role, in particular to take account of new drug use patterns, especially among young people, who increasingly tend to combine unlawful substances with lawful substances such as alcohol, and to enable the Centre to devise indicators for evaluating drugs policies and strategies implemented in the European Union;
- those designed to take account of enlargement. The Regulation sets up a Steering Committee to assist the EMCDDA Management Board. A review of the composition of the Centre's Scientific Committee is also proposed;
- those designed to remove a number of uncertainties which emerged when the initial Regulation was applied. In particular, this concerns the reference to the REITOX focal points, instead of the specialised centres.

2. General comments

2.1 The European Economic and Social Committee regrets the very short deadline the Council has set for the Committee to deliver its opinion on a proposal for a Regulation that the Commission had already submitted in December 2003.

2.2 The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is intended to provide the Community and its Member States with objective, reliable information that is comparable at European level on drugs and drug addiction and the consequences thereof.

2.3 The Committee therefore welcomes the proposed Regulation, which aims to extend the role of the Centre, to adapt the operation of its constituent bodies and to remove a number of uncertainties arising from the implementation of the initial Regulation. This reflects the thinking already expressed in previous EESC opinions on the prevention and reduction of the risks associated with drug addiction ⁽¹⁾.

3. Specific comments

3.1 The EESC insists that stakeholder civil society organisations be involved in the work of the EMCDDA. To this end, the Committee fully endorses the proposal in Article 5(5) of the draft Regulation, which states that the Centre '*... may have recourse to additional expertise and sources of information, especially transnational networks working in the field of drugs and drug addiction.*'

3.2 The EESC proposes that the Centre be provided with a Liaison Committee comprising representatives of the European networks that are active in this field and able to provide information in addition to that supplied by the national focal points ⁽²⁾.

⁽¹⁾ — Opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on a European Action Plan to Combat Drugs (2000-2004), rapporteur: Ms Hassett-van Turnhout. OJ C 51 of 23.2.2000.

— Opinion on the Proposal for a Council Recommendation on the prevention and reduction of risks associated with drug dependence, rapporteur: Ms Le Nouail-Marlière. OJ C 61 of 14.3.2003.

⁽²⁾ The national focal points are part of the European Monitoring Centre for Drugs and Drug Addiction (REITOX), which is at the Centre's disposal.

3.3 In view of the Community's financial contribution to the national focal points, the Committee calls for:

- closer Member State harmonisation when collating statistical data, so that the information will be more reliable and comparable, as is the case with Eurostat. Article 5(2) of the draft Regulation must therefore be strengthened in this direction;

- the national civil society networks active in the sector to be closely involved in the work of the national focal points.

3.4 The Committee will examine closely the new European Union action plan to combat drugs, which is expected to be published in early 2005.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on 'Improving the implementation of the Lisbon Strategy'

(2005/C 120/16)

On 25/26 March 2004, in its (Presidency) conclusions, the European Council invited the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to examine ways and means for 'Improving the implementation of the Lisbon Strategy'.

The Section for Economic and Monetary Union, Economic and Social Cohesion, on the basis of the work carried out by a Lisbon Strategy Steering Group, adopted its opinion on 7 October 2004. The rapporteur was Mr Vever; the co-rapporteurs were Mr Ehnmark and Mr Simpson.

At its 412th plenary session on 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 169 votes for, 4 against and 8 abstentions.

1. Preface

1.1 The European Economic and Social Committee welcomes the fact that the European Council of 25 and 26 March 2004 invited it to examine ways and means for more effective implementation of the Lisbon Strategy, which is now at the halfway point.

1.2 The Committee recalls that from the outset, the Lisbon mandate of 24 March 2000:

- emphasised the need to actively involve the social partners and civil society with the strategy, using variable forms of partnership;

- specified that its success depends primarily on private sector and public-private partnerships;

- aimed at a balanced development of its three strands, i.e. economic growth, social cohesion and environmental sustainability, by stimulating European competitiveness and job creation whilst at the same time building on appropriate environmental policies.

1.3 Throughout its debates, hearings and opinions over recent years, the Committee has consistently underlined the importance of the Lisbon Strategy for the economic and social future of the Union, and called upon all the socio-occupational players to play an active part in it. In particular, the Committee has recently adopted opinions on European business competitiveness, the sustainable development strategy ⁽¹⁾, better economic governance and employment support measures ⁽²⁾. The Committee has continuously underlined that the Lisbon Strategy objectives will not be achieved without the full involvement of civil society.

⁽¹⁾ OJ 117 of 30.4.2004.

⁽²⁾ OJ 110 of 3.4.2004.

1.4 In response to the European Council's invitation, the Committee, while referring to its recent positions regarding the Lisbon Strategy, has:

- involved all its specialised sections in this task;
- sought the views of the economic and social councils of the Member States and of major European organisations representing organised civil society;
- held a hearing in Brussels on 9 and 10 September for this purpose.

2. Overall appreciation

2.1 The Lisbon Strategy is best known, in a reductive manner, as a commitment to make Europe into the world's most dynamic competitive, knowledge-based, economy.

2.2 This abbreviated description of the Lisbon Strategy has been repeated frequently but not always with an understanding of the scope and the full implications.

2.3 The Lisbon Strategy is a very ambitious vision for the whole of the society of the European Union. The formulation of the strategy is a restatement of the fundamental objectives of the Union, now on the larger scale of a Union of 25 Member States.

2.4 The Lisbon Strategy is not:

- a concept only for professional economists;
- an ambition for the 'Brussels establishment' working alone;
- a narrow perspective relating only to economic change;
- an ambition that can be viewed as inconsistent with sustainable development;
- a concept that ignores the social effects of economic growth.

2.5 The Lisbon Strategy, when properly presented and understood, is:

- a method of shaping the future of Europe;
- a strategy to maintain and enhance the quality of life for the citizens of Europe;
- needed to exploit the new opportunities of the knowledge-based economy;
- a recognition that maintaining employment and improving living standards on the one hand, and competitiveness on the other, calls for a new dynamic;
- a strategy to promote synergies between economic, social and environmental measures;

— a strategy to build on the past success of the European Union;

— capable of sustainable economic growth with more and better jobs and greater social cohesion.

2.6 In the evolution of the Lisbon Strategy, the search for competitiveness and growth is a critical feature in generating improved economic well being, creating employment, protecting the quality of lifestyles as well as improving them. In turn, better quality of life, social improvements and environmental sustainability may also create growth. In consonance with economic progress achieved through Lisbon, it will be possible to improve the support offered to those sections of the European population that are below the poverty line, broadening the application of social inclusion, and taking account of the sustainability of these achievements for later generations.

2.7 To argue that the Lisbon Strategy is only about competitiveness is to misunderstand the thesis.

2.8 The Committee would firstly note that the Lisbon Strategy has already enabled a number of positive developments to begin emerging over the last five years, including:

- an awareness of the need for reform that goes beyond traditional divisions;
- accelerated expansion of information technologies and innovation processes;
- increased support for starting up businesses and financing SMEs;
- greater concern for sustainable development designed to lower public deficits, restore stability to the social protection budget and protect the environment;
- initiatives on the part of social partners in social reform;
- measures to simplify legal and administrative procedures, albeit of limited scope.

2.9 Despite these positive points, the main observation is that the last five years have been disappointing when viewed against the ambitions voiced at Lisbon. Europe, caught between its great industrialised competitors and emerging low production cost economies that are making greater use of new technologies, is facing ever increasing competitive challenges. Several indicators give cause for concern, such as:

- weak domestic demand, low investment and flagging growth in the European Union, at around 1 % per annum on average between 2001 and 2003;

- the failure to achieve employment targets, declining quality of employment and loss of job security;
- accelerating closures and relocations of European production sites;
- a significant exodus to third countries of researchers and young people who have completed their studies;
- continuing or even worsening public deficits in several Member States;
- widely disparate taxation rules and tax rates for businesses;
- the growing cost of social protection and accelerated demographic ageing and increasing vulnerability of some groups;
- the trend towards specialising in products which does not correspond to what would normally be expected from a knowledge economy.

2.10 At the same time, the Lisbon Strategy reforms are lagging behind:

2.10.1 At European level, the 25 Member States undertook to complete the single market in several areas (energy, services, public procurement, trans-European networks, adaptation of public services), but balk at implementing the necessary measures within the timeframe.

2.10.2 At national level, results vary, with shortcomings concerning mostly:

- the structural complexity of regulations and administrative procedures;
- a persistent mismatch between labour supply and demand;
- excessively high rate of early retirement, in spite of commitments;
- educational systems;
- insufficient provision of lifelong learning possibilities;
- research spending that has generally diminished further, rather than increasing to the Lisbon target of 3 % of GDP;
- insufficient attention to the societal problems raised by the need for innovation.

2.10.3 The new Member States must often overcome additional handicaps due to a development gap, for example in employment, technologies or the environment, although these handicaps are sometimes also offset by renewal measures which are more radical than in the EU-15. Among the latter, the northern countries have in general made greater progress in their reforms than their southern counterparts. The same

general observation applies to Member States that have managed to bring their budgets into balance, compared with those that have allowed the deficit to grow. Even the more advanced Member States are experiencing certain delays in some areas in comparison to more high-performing third countries. The object of reform is not simply to do better than before but to do better than elsewhere.

2.11 The Lisbon Strategy is therefore caught in a vicious circle: low growth complicates the implementation of reform whilst delays in reform further inhibit growth and employment. The reforms implemented thus far have been mainly concerned with the supply side of the economy. They have not been successful since they have not been matched by sufficient demand.

2.12 At the Spring Summits, the Member States have seemed to favour new debates on the objectives already set at Lisbon – even if it means adding yet more recommendations – rather than a rigorous assessment of the state of play on reforms that are actually under way, and a clear commitment by means of deadlines on outstanding actions. All too often, they fail to explain clearly in Brussels what they are doing at home, or in which areas they have failed to reach targets agreed in Brussels. Multiplying reform aims, commitments and participating states, have been matched by an equivalent number of shortcomings as regards co-responsibility, implementation, and coordination and a corresponding economic impact and impact on jobs.

2.13 There is therefore the risk of failing to apply sufficient determination to the necessary reforms, whilst believing that the strategy can be delivered. Such a Lisbon bubble would be unlikely to wait until 2010 to burst.

2.14 The objective set at Lisbon of improving competitiveness by means of carefully targeted reforms and coupling this with sustainable, employment-generating economic growth and a strengthening of social solidarity remains relevant to Europe, which is now at a crossroads:

- on the one hand, it is the world's leading exporter and the world's largest internal market (in terms of GDP) and its ability to carry forward a dynamic project as demonstrated by the euro and enlargement;
- on the other, it is lagging behind in economic growth, is weakened by business relocations and feels disoriented and threatened by setbacks it is experiencing through reduced competitiveness in the global market.

2.15 The Lisbon objective is a balanced one, reconciling the economic aim of competitiveness with social requirements (employment, training, social cohesion, living and working conditions) and, as emphasised at the Göteborg Summit, environmental demands, in a proportionate and interactive way.

2.16 The Lisbon Strategy methods remain valid, being based on:

- a multi-annual timetable, spread over a number of distinct stages up to 2010, in which to complete the single market;
- joint evaluation each year at the Spring summit;
- an open method of coordination with the Member States on common objectives, favouring best practice, which can usefully complement the Community method in areas which are of national scope;
- emphasis on the central role of the private sector, public-private partnerships, the involvement of civil society by the public authorities and dialogue between the social partners.

2.17 Thus far, cooperation under the open method of coordination has been an intergovernmental affair. There has been a general lack of democratic consolidation in national parliaments. A serious national parliamentary debate on Lisbon Strategy issues must be launched in the Member States.

2.18 The crucial involvement and support of civil society players has been largely lacking in many of the Member States. This major failure is a great disappointment in the implementation of the Lisbon Strategy, and goes a long way to explaining the concerns raised and the shortcomings experienced. The persistent failings of communication and partnership bear witness to this.

2.18.1 The communication shortfall is obvious. Neither the Member States nor the media are communicating with public opinion on the question of the Lisbon Strategy, in spite of the ongoing national debates on employment, training, social protection, business relocations and technological competition. When informed of the competitiveness objective set at Lisbon, most European citizens fail to understand either its purpose or its scope. Many believe that to become the 'most competitive (...) economy in the world' is either unrealistic or spells the end of the European social model, by levelling down to the less advanced countries in this area. These reactions show that the objective needs to be explained, making it clear that the aim is to take on world competition successfully by diminishing some of our handicaps and offsetting others through better use of our assets.

2.18.2 Many people in Europe are discovering that, while social entitlements are being called into question, the benefits they stand to gain in exchange – in terms of employment and sustainable social protection – remain unclear. People are profoundly concerned by:

- the growing number of relocations to rival countries with low production costs;
- growing pressure on employment and working conditions, and loss of job security;
- redevelopment difficulties in the regions and sectors that are most affected by unemployment;
- weakened social protection systems (unemployment, illness, old age).

2.18.3 Too many people in Europe also feel they have no say in reforms that nonetheless directly affect them and which, generally speaking, jeopardise previously acquired safeguards and benefits. Moreover, reports from the Commission and the Member States by and large provide little information about arrangements for consulting and involving civil society or about partnerships with the various civil society players (the role of the private sector, the role of the social partners, public-private partnerships, NGOs etc.), despite the fact that these were considered to be of key importance under the Lisbon remit.

3. Improving competitiveness

3.1 The emphasis on competitiveness acknowledges the need to achieve sustainable competitiveness in an open and global economy by enhancing our use of new technologies, identifying more effective vocational training, ensuring employees are well qualified and improving productivity. The concept of quality (quality of goods, services, regulation, governance, employment, social relations and the environment) is central to the strategy.

3.2 These objectives would best be achieved with a fairer and more efficient international framework for trade and payments.

3.3 In addition to new rules at an international level, the European economy currently needs to simplify its internal regulations at both Community and national levels. Excessive red tape discourages the taking of initiatives that are needed in order to compete.

3.4 Unlike the Commission and the Council, the EESC thinks that only by changing the basic thrust of economic policies and, in particular, macroeconomic policies will it be possible to eliminate within Europe the obstacles which are thwarting a sustained and more far-reaching economic recovery. The EU has to act from within if it is to steer the European economy back on the road to growth and full employment. This will require a balanced macroeconomic policy with the declared aim of: achieving the objectives of the Lisbon Strategy, in particular full employment; strengthening competitiveness; and giving real consideration to the obligation to pursue sustainable development, in line with the conclusions of the Gothenburg Summit.

3.5 The aim of monetary policy at all events should be to strike a balance between price stability, economic growth and employment. However, the policy-mix recommended by the Council fails to include a clear call to the ECB to also assume its responsibilities in relation to the real economy (growth and employment). It would make sense to urge the ECB to target stability in the wider sense, i.e. not only price stability but also stability in terms of growth, full employment and social cohesion. The European Economic and Social Committee has itself already demanded on several occasions that monetary policy should help to achieve the goal of growth and full employment (see, for example, the Committee's resolution of 19 September 2002 addressed to the European Convention).

3.6 Policies to assist businesses to start up and develop should be intensified including, inter alia, quicker, lower-cost startups, measures to improve access to risk capital, more entrepreneurial training programmes and a denser network of support services for small enterprises.

3.7 Lifelong training should be available to all citizens, of all ages, in all Member States and people should be encouraged to take advantage of it.

3.8 The potential of the Single Market should be unleashed. The European Union should now have the advantages of a market that is bigger than that of the USA or China but

- too many directives have not been fully transposed into national legislation;
- inadequate progress has been made in securing standardisation and mutual recognition for the supply of services;
- delays have taken place in liberalizing markets, including those in the public sector;

- difficulties have arisen in agreeing workable European intellectual property rights;
- distortions are caused by forms of fiscal differences.

3.9 Community aid should be made contingent on improvements in Member States where 'structural' deficiencies inhibit transposition.

3.10 Trade and payments should be facilitated through strengthened administrative cooperation between the Commission and Member States in a number of areas such as customs procedures, public sector contracts and trans-national public services.

3.11 In addition, the Member States are lagging in the following sectors:

- interconnecting and modernising transport infrastructure, which has affected the completion of trans-European network projects;
- access to risk capital for SMEs;
- public deficits in some countries;
- research spending, which has generally diminished rather than increased in relation to GDP (1,9 % of GDP as opposed to 2,6 % in the USA), has stagnated at well below the 3 % target;
- high rate of early retirement, despite the Barcelona 2002 commitments;
- educational systems remain out of touch with economic realities and future employment prospects.

3.12 For their part, European businesses are behind in the following areas:

- Research and development: in 2002, the private sector spent EUR 100 billion more on research and development in the United States than it did in Europe. The Lisbon European Council set the goal of devoting 3 % of GDP to R&D, two thirds of which must come from the private sector. Currently it is contributing just 56 %.
- Lifelong learning: since the Lisbon Strategy was launched, the level of adult participation in lifelong learning has increased by just half of one percentage point to 8,5 %. This trend would indicate that the target of 12,5 % by 2010 set at Lisbon is unlikely to be attained.

4. Integrating the social dimension

4.1 An explicit strategy to encourage competitiveness and also to maintain social cohesion is needed: this could be a new deal for social policy. The framework should be developed by the social partners in cooperation with the Commission and the governments of the Member States. The social dimension of the Lisbon Strategy should be fully recognised as a key factor for achieving welfare, productivity, and social inclusion and will have to be updated in the coming five years of the Lisbon Strategy.

4.2 The EESC urges the governments of Member States to register progress on the measures needed to make progress on Lisbon in an effort to stimulate the desired economic development. This is highly desirable so that a New Deal for European Society can be worked out. This should centre around four areas that require special attention. The four areas are:

- more, better, and safer jobs!
- the elderly in work life;
- a more active social inclusion policy;
- healthcare and the relation between health and environment.

4.3 A combined effort, involving social partners, NGOs and governments, is also needed to develop forms and financing of further qualified training at a substantially higher level than at present for a much larger proportion of those seeking employment particularly in sectors where more advanced knowledge-based skills are in evidence.

4.4 The social partners need to explore joint efforts to improve the work environment and the organisation of work to link improved productivity and higher value added per employee. To alleviate some of the problems of an ageing labour force (and a decreasing number of young people entering the labour market) these demographic features will need to be addressed by Governments, businesses and labour organisations.

4.5 Since there are particular issues affecting people disadvantaged by the processes of change, guidelines will be needed to establish a more active social inclusion policy.

4.6 The overall objectives defined for social policy within the Lisbon Strategy are still valid, with only some small modifications. On the other hand, the nature and size of the global challenges have changed considerably in the past four years. The appearance of the rapidly growing economies of China

and India has direct implications for the Lisbon Strategy: more and more high-tech products and services are being launched at very attractive prices. The sustained high growth of productivity in the United States means that the Lisbon Strategy is chasing rapidly moving objectives. Europe's outperformance of the US in terms of productivity (per hour) gains in the 1990s appears to have come to an end.

4.7 A positive and challenging factor is the enlargement of the European Union. The new Member States represent a tremendously important growth of the Internal Market, of purchasing power, and of qualified human resources. However, the new Member States also represent new challenges to social inclusion. In relation to human resources, the education and training available will have to be advanced in areas of high-tech – as is the case also in the fifteen Member States.

4.8 The EESC has considered the merits of a possible Sustainable Social Development Charter covering the above fields of social policy and setting out the relevant fundamental rights of citizens. The EESC proposes, on the basis of these considerations, that a Sustainable Social Development Charter be included in the work programme in the social policy field. A charter would have to be accompanied by an EU action programme, aiming at coordinating the various actions, and assist Member States in focusing priority areas.

5. Sustainable development

5.1 The EU strategy for sustainable development is being reviewed, and a decision on the outcome is expected at the European Council meeting in March, 2005. The strategy for sustainable development includes actions in the economic, social and environmental fields, implemented in mutual support.

5.1.1 The Lisbon Strategy, as it appeared after the European Council meetings in the Spring of 2002, includes parallel actions in the economic, social and environmental fields. The environmental dimension was added by decision at the Göteborg European Council.

5.2 It would be a mistake to see the Lisbon Strategy and the principle underlying the strategy for sustainable development as conflicting ambitions. The Lisbon Strategy has a clear timeframe, up to the year 2010. The strategy for sustainable development has an unlimited timeframe; it covers intergenerational issues.

5.3 Bearing in mind the intentions of the European Council to review at the same time, in March 2005, both strategies, it is essential to recognise three aspects:

- The Lisbon Strategy, with only five years remaining, will have to start approaching issues with a timeframe beyond 2010. For such issues and actions, it is necessary that assessments are made according to the criteria applied in the strategy for sustainable development. With this approach, the Lisbon Strategy offers a possibility to start in concrete terms projects that as well can be characterised as actions within sustainable development.
- It is essential that the reviewed strategy for sustainable development, in defining long-term objectives and actions, recognises the functions of the Lisbon Strategy and coordinates whenever relevant actions and programmes.
- The Lisbon Strategy may have a certain multitude of objectives and actions, but the strategy for sustainable development will, by definition, have an even wider set-up of objectives and actions. However, they will appear only step-by-step. In both cases, it is essential that the national and local levels can play a decisive role. Neither of the two strategies can function if it is mainly top-down; both will have to be bottom-up strategies.

6. Partnerships

6.1 There are various themes expressed in the ambitious proposals for the more dynamic implementation of the Lisbon process. Whilst no single policy or action plan will be the key essential feature, one theme does stand out. An effective implementation of the Lisbon Strategy does demand a Community-wide recognition of the interaction of many people, governments, agencies, organisations and the European institutions.

6.2 In positive format, a renewed dynamic depends on a multi-tiered 'partnership for change'. The partnership concept can illustrate that Lisbon goals are neither top-down nor remote from the issues affecting the day-to-day lives of citizens.

6.3 The Committee underlines that a major weak spot in the implementation of the Lisbon Strategy is the failure to adequately involve civil society players – despite the express insistence on this point in the Lisbon remit. This weak spot could prove fatal to the strategy's success. The Committee is pleased that, on 24 March 2004, the European Council advocated a solution to this problem through partnerships for reform. The Committee has agreed to play its part in this process by submitting an action plan.

6.4 The Committee intends to work with Member States' economic and social councils and all the socio-occupational

partners who wish to be involved in establishing a network of civil society initiatives to promote the success of the reforms.

6.5 This will be an interactive, decentralised network, bringing together participants' websites so as:

- to set out the socio-occupational initiatives – both up and running and in the pipeline – that help drive forward the Lisbon Strategy reforms at European, national or regional level;
- to highlight best practices in these areas, including on cross-border issues;
- to share the appropriate experiences and analyses of civil society players;
- to organise consultative forums and debates about the reforms.

6.6 A code of conduct will be drawn up to promote such initiatives and will be applied by those involved in the network.

6.7 An annual conference will be staged with the network partners in the run-up to the Spring summit in order to take stock of the civil society initiatives.

6.8 The Committee intends to serve as a European-level forum for dialogue on 'partnerships for reform' drawing on national and European experience.

6.9 This linkage with national representative bodies would bring well established experience so that the EESC could contribute more effectively to the annual reviews at the Spring meetings of the Council.

7. The preconditions for an effective implementation of the Lisbon Strategy

7.1 While highlighting the need to reconcile the Lisbon reforms with European civil society, the Committee considers that the revision process necessary to implement the Lisbon Strategy must meet four requirements:

7.2 First of all, implementation of the Lisbon Strategy cannot be put off to tomorrow. International competition is growing every day. As a result, industry is relocating – a phenomenon affecting an increasing number of regions and sectors as they compete against low-wage emerging economies with low production costs and, often, the most cutting-edge and innovative technologies. Effective, long-term measures to restore Europe's competitiveness as a business location can brook no delay.

7.3 The Lisbon Strategy is a strategic concept. In that sense it is comparable to earlier strategic concepts which led to radical advances in integration. In those cases the planning involved a time limit and a strictly controlled series of stages, with close cooperation between the Commission and the Member States. At the end of the 1960s this applied in the case of the customs union, which was enshrined in the Treaty. The success of 'Europe '92' was also the result of similar planning. Monetary Union is another successful example. In these cases, either the Community method was successfully followed, as with the customs union and 'Europe '92', or positive cooperation between the Member States gave them an urgently needed result, namely participation in the EMU. The problem is that neither of these two approaches applies at present. Satisfactory progress now really depends entirely on political will.

7.4 Secondly, the Lisbon Strategy cannot succeed without international rules. European employers and workers have no desire to grapple with unbridled competition and become mired in an uncontrolled cost-cutting spiral without regard for health, safety, social and environmental progress and balanced and sustainable development. Hence, the Lisbon reforms can only succeed if the Union exerts parallel pressure within the ambit of the WTO, the IMF, the WIPO, the ILO and other international organisations to establish a framework for globalisation through fairer, more effective rules. It is essential to put in place an internationally recognised frame of reference for competitiveness, comprising minimum rules on competition, safety, quality standards, social rights, protection of children, environmental protection and intellectual property. It would be unrealistic to try to enlist the support of the European public without such assurances.

7.5 Thirdly, the implementation of the Lisbon Strategy must not run counter to the EU social model – at the risk of killing off the patient it is supposed to be curing.

7.5.1 It is vital to assuage fears about the scale and social cost of the reforms. People must be made aware that these reforms are essential to the sustainability of the European development model as part of an open economy. The key goal of the Lisbon Strategy must be to ensure the continued viability of the European social model to which our citizens are so attached, as expressed in the Charter of Fundamental Rights, and at the same time to reconcile that model with the demands of competitiveness.

7.5.2 The Lisbon Strategy must also take environmental concerns fully on board. The commitments entered into in Gothenburg in 2001 clearly confirm and amplify the desire expressed in Lisbon to reconcile a competitive economy with a good quality of life.

7.6 Fourthly, it is clear that the success of the Lisbon Strategy is contingent on stronger European, national and regional partnerships, both between States and with representatives of socio-occupational interest groups and the social partners. In the first few years of implementing the Lisbon Strategy, too many states failed to fully involve the social partners in framing and implementing the reforms, barely consulting them and giving them scant mention in the annual progress reports. In the five years left to attain the Lisbon objective, such failures must not be repeated. The objective will not be achieved without civil society being informed, alerted, involved and indeed mobilised.

8. Eight priority proposals from the EESC to improve the implementation of the Lisbon Strategy

On the base of the analysis, and of the extensive consultations carried out, the EESC would like to respond to the European Council's invitation with the following proposals:

8.1 Member States to take greater ownership of the Strategy

8.1.1 The governments of Member States should take a clear and more active responsibility for implementing the work agenda of the Lisbon Strategy. It is essential that the Strategy is 'owned' by the Member States' governments and national parliaments. Member States should prepare clear plans with time-frames for the actions they propose to take in order to achieve the Lisbon targets in the follow-up summit meetings.

8.1.2 The Lisbon Strategy must be recognised for what it is: a very ambitious agenda for building a European society of prosperity, welfare, competitiveness, social inclusion and a high awareness of the environmental dimension. On this basis, it is essential to communicate more actively with social partners and organised civil society. The Lisbon Strategy has been too much identified as only an economic agenda.

8.1.3 The Open Method of Coordination must be given more teeth: the annual comparative analysis must be more detailed, and Member States will have to demonstrate more clearly if there are structural or other obstacles to reaching the jointly decided objectives.

8.2 Reinforcing growth and cohesion

8.2.1 The Stability and Growth Pact must be developed into an instrument for growth and improving productivity, focussing stability objectives over whole economic cycles instead of individual years. A tension-free macro-economic policy mix is necessary for supporting demand.

8.2.2 The ECB should take more account of the wider economic impact of its decisions and, subject to the constraints of controlling inflation, should act supportively of the Lisbon goals.

8.2.3 In coordination of economic policies between (and within) Member States governments should set performance targets and monitor the key indicators to demonstrate outcomes.

8.2.4 Cohesion policies must be designed to actively reinforce improvements in competitiveness, which, in turn, will help to reduce the scale of income differences across the Community. As an aspect of cohesion policies, a code of acceptable practice on the use of State Aids should be adopted.

8.3 *Implementing the internal market more efficiently*

8.3.1 The agenda for implementing the Internal Market, now enlarged to 25 Member States, has to be given particular attention. The European Commission should include a detailed report on the outstanding implementation issues in the annual assessments of the Lisbon Strategy.

8.3.2 Several measures for the single market are long overdue and need to be adopted immediately: the regulation abolishing double taxation within the single market; the immediate availability of a simple, effective, and reasonably priced Community patent; the relaunch of the completion of a genuine internal market in services on a balanced basis.

8.4 *Promoting innovation and quality*

8.4.1 The EIB and the EIF should intensify their activities in identifying, prioritising and structuring innovation investment projects and programmes, by both public and private sector promoters, cooperating with the Commission and with Member States. The EIF should continue to address the need of high growth and innovative SMEs through its operation of venture capital and SME mandates and by greater promotion of the possibilities open for EIB financing.

8.4.2 The concept of quality (quality of goods, services, regulation, governance, employment, social relations and environment) is essential to the implementation of the Strategy, and should be an integral element of the annual evaluations of progress made at national and EU level.

8.5 *Revamping social policy*

8.5.1 Social policy must be recognised as a prerequisite for competitiveness and productivity and vice-versa. A revamped

social policy agenda has to be developed for the enlarged European Union. This should take the form of a Sustainable Social Development Charter covering the key fields of social policy and the fundamental rights of citizens.

8.5.2 Four areas of social policy are particularly essential for promoting competitiveness: employment policies, the elderly in working life, more active social inclusion policies and health-care including the relation between health, social protection and the environment. There is a need for new initiatives in all these fields, combined with close consultation between the EU, national governments and the social partners.

8.5.3 Building a knowledge-intensive society requires high levels of resources for both basic and continued education and training. Life-long learning, although expanding in all Member States, has to be developed further, including also life-long learning at advanced levels. The European Commission should, in consultation with the social partners, explore the possibilities for reaching a Europe-wide Charter on life-long learning, including alternative financial options.

8.5.4 The EU must adopt a more active common immigration policy, as recommended at the Tampere and Thessaloniki European Councils. For demographic, economic and social reasons, immigration in Europe will remain a key issue over the next few years. The Lisbon Strategy calls for transparent legislation for the admission of legal immigrants, good coordination between immigration policy and the employment strategy, as well as new policies for integration and combating discrimination

8.6 *Promoting private-public partnership for research*

8.6.1 Research, both basic and applied, constitutes a major pillar of the knowledge-intensive society. Enterprises in the EU are falling behind rather than reaching the targets for more spending on research. The same applies to governments. More resources can be generated by private-public partnership for research. Europe must have active policies for attracting foreign researchers and encouraging the return of European researchers working elsewhere.

8.6.2 The European Commission should present a plan for increasing research investments, for better coordinating the EU and national programmes and for creating a European Research Council.

8.6.3 Transfer of knowledge from research to industrial application is inefficient and slow in the European Union, compared with the United States. The European Commission should present a concrete plan for measures to promote the transfer of knowledge to industrial application.

8.6.4 Small and medium-sized enterprises are in particular need of access to research and of support for introducing advanced technical solutions. The EIB should, together with the European Commission, develop ways and means for further promoting this transfer of knowledge.

8.7 *Protecting environment more actively*

8.7.1 The Lisbon Strategy is also based on a third pillar, the environmental dimension. The development of environmental-friendly technologies has to be promoted more actively. Joint public-private efforts should be expanded in the areas of energy supply and transport. In a longer perspective, important synergy effects can be reached through the environmental sector.

8.7.2 Sustainable development is necessarily an integral part of the Lisbon Strategy for the next five years, but with time perspectives reaching far beyond the Lisbon Strategy. The revised strategy for sustainable development should include concrete measures that are compatible with the second half of the Lisbon Strategy.

8.8 *Gaining the support of the citizens*

8.8.1 Take the Lisbon Strategy back to the citizens of Europe! Organised civil society and the social partners must play a more clear and encompassing role in the implementation of the Lisbon Strategy. The EESC expresses its full support of the statements made in this context by the European Council.

8.8.2 If the Lisbon objectives are to become realistically attainable, the European Union must offer a coherent, dynamic and progressive approach both in terms of objectives for the Union and in terms of institutional dynamics. As possibly the

most important representation of these goals, the new European Constitutional Treaty needs to be explained persuasively, adopted by Member States, and gain the support of the citizens of Europe.

8.8.3 Thus the EESC would argue that a 'new style' Lisbon process should borrow from the successful methods of 'Europe '92'. Building on existing practice, this would mean that the reports on policy guidelines, the internal market, employment and the Lisbon Strategy would be summarised in a clear plan with stages and a timetable, within which it would be made clear what action would be expected from whom (Commission, Council, or Member States), on the basis of what decision and within what sort of timescale.

8.8.4 At national level, the economic and social councils can play a very important role, together with the social partners and various civil society organisations. The implementation of the Lisbon Strategy can give the councils a very particular role.

8.8.5 At EU level, the EESC is ready to take an active responsibility for supporting the implementation and follow-up of the Lisbon Strategy, working in close contact with the social partners and with civil society organisations at European level.

8.8.6 Inform the citizens of Europe about the Lisbon Strategy! Emphasise the ultimate objectives of the Strategy: to build a prosperous and welfare Europe with high competitiveness, and with awareness of the environmental issues. There will never be a successful implementation of the Strategy without the active involvement of citizens. The EESC intends to make active contributions to this information effort.

8.8.7 Implementation of the Lisbon Strategy requires a clear policy coherence at both EU and national level. The three pillars of the Strategy provide unique chances for synergy effects, both in economic, social and environmental terms. Reactivate the process of the Lisbon Strategy – with the three pillars in joint policy coherent terms.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on 'European business competitiveness'

(2005/C 120/17)

On 20 February 2004, the EU Commission president, **Mr Prodi**, on behalf of the Commission, asked the European Economic and Social Committee for an exploratory opinion on 'European business competitiveness'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, responsible for preparing the Committee's work on the subject, adopted its opinion on 20 September 2004. The rapporteur was Mr Vever and the co-rapporteur was Ms Florio.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 105 votes to 3, with 2 abstentions.

1. Summary

1.1 Europe is facing increased challenges to its competitiveness and is caught in a squeeze between its large industrialised partners and the low-cost emergent economies. This situation is accompanied by a comparative growth deficit and a major shortfall of investment in training, research and the new technologies, while the relocation of European companies is increasing in the face of international competition.

1.2 However, with its model of society that places value on social relations, Europe is not lacking in assets for its business competitiveness:

- its international trade bears witness to its strong involvement in globalisation;
- its enlarged domestic market is now the world's biggest;
- its monetary union, despite its persisting limitations, is a step forward that has no equivalent elsewhere;
- its current Lisbon programme consists of economic, social and environmental reforms that aim, among other things, to renew its competitiveness in a sustainable manner.

1.3 While some of these assets are still more ongoing processes than firm acquisitions, Europe also has handicaps, which penalise its companies and contribute to its current sluggish performances on the growth and jobs front. For instance:

- the legal and administrative environment in Europe does not provide enough support for entrepreneurship;
- the single market is still incomplete and too many obstacles persist;
- despite monetary union, there is still no genuine economic union;

— delays are also mounting up in implementing the Lisbon strategy on competitiveness.

1.4 The EESC feels that four things, all interlinked, are vital to regaining business competitiveness in Europe:

1.4.1 The first priority is to restore the confidence of economic actors, with:

- a clearer vision of the European project in its overall environment;
- less red tape at European and national level, with more being done through socio-occupational self-regulation and co-regulation;
- measures to facilitate the setting-up and development of businesses, e.g. venture capital, training for entrepreneurs, SME support services;
- more support for innovatory European initiatives for businesses and the active involvement of other socio-occupational players;
- more skill-acquisition, training and re-training programmes, especially for older workers.

1.4.2 Another priority is to complete the basics of the single market. This should no longer be put off to after the deadline of 2010 fixed in Lisbon — although fine-tuning will be needed later, which will mean:

- more rigour in transposing EU directives, with governments made more aware of their obligations in this field; if necessary, EU aid for laggard states may be refocused on making up transposition delays;

- taking decisions, too long awaited by businesses, to abolish double taxation, simplify the EU rules on VAT, create a simplified European company statute open to SMEs, and sort out the EU patent;
- making trade safer and more fluid by boosting administrative cooperation, introducing EU inspections of the single market, unifying customs checks at the EU's external borders, greater efficiency and mutual co-operation in the public services, which in certain cases could also justify consideration being given to the development of general interest services on a European scale.

1.4.3 Making EU firms competitive also means developing a dynamic economic union around the euro using an approach geared to the deadline of 2010, aiming to boost growth and jobs with the support of an adequate monetary policy and involving:

- the gradual, but not unduly slow extension of monetary union to the new Member States;
- the requirement of *a priori* and not *a posteriori* EU vetting of Member States' draft laws concerning finance;
- an alignment of taxation under conditions compatible with an economy open to trade and both attractive to investors and aware of its social cohesion, if necessary by boosting cooperation;
- measures that directly support economic activity and growth in Europe: development of public/private partnerships to finance new trans-European infrastructures for the enlarged EU, statement of an EU industrial approach to help channel investments into the new technologies, research and training and guide competition and commercial policy, mobilisation of EU technological resources in major projects of common strategic interest, including the security field;
- a strengthened and redeployed EU budget, corresponding to the priorities of this common economic policy.

1.4.4 The structural reforms of the Lisbon strategy, finally, need to be implemented with more determination and consistency:

- a clearer assessment is needed of the real comparative state of reforms concerning the economy and investments (opening-up of markets, access to funding, boosting research), social affairs (training, labour market, social welfare, investment by enterprises in human resources), administrative matters (reduction of public sector deficits, less red tape) and the environment;
- reforms need to be better coordinated with the aim of, *inter alia*, competitiveness, with more involvement of the EU institutions and simpler coordination processes;
- the role of the social partners in designing, implementing and managing reforms needs to be developed and investments have to be made more attractive.

1.5 In conclusion, the EESC notes that the competitive shortcomings of EU businesses represent the heavy price being paid today for a Europe which is not enterprising enough, which is slow to take decisions and adapt to international changes, which is still unfinished in many areas, which is lagging behind with its reforms and whose exploitation of its trump cards is highly inadequate, often faint-hearted, sometimes incoherent, and therefore counter-productive. Action is needed to put matters right. To succeed, it will require an approach more focused on growth, boosting the economic factors of both supply and demand within a more fluid and efficient single European market. The EESC particularly supports the invitation at the last spring summit to promote new partnerships for reform, both at national and European level, which involve the social partners more closely. The EESC stresses the need to keep our eyes firmly fixed on the 2010 deadline, which must include both implementation of the Lisbon reforms and completion of the single market and a genuine, competitive economic union, making full use of monetary union, while taking full account of the demands of sustainable development.

2. Introduction

2.1 This opinion is being drawn up following an exploratory referral from the president of the EU Commission, Romano Prodi, who asked the Economic and Social Committee on 20 February 2004 to submit to him its analysis of and recommendations concerning the competitiveness problems of European businesses. This was to involve, in particular, identifying the most significant difficulties for companies, the obstacles created by the environment in which they work, and the alternative proposals for putting things right, against the backdrop of our model of society.

2.2 A number of recent analyses, such as the Sapir report of July 2003, highlight a growing competitive challenge for Europe, caught in a squeeze between its large industrialised partners — such as the USA and Japan — and the low-cost emergent economies, such as China and India, which are making increasing use of the new technologies and investing in training, education and infrastructure. The figures (e.g. in respect of exports, the current account balance and the trend in company profits) show that the EU economy and the overwhelming majority of European enterprises are highly competitive. Many indicators are, nonetheless, alarming: low growth, an unsatisfactory level of both investment and demand, fewer and, at times, lower-quality jobs, closures of European production sites, an exodus of research workers, worsening government deficits, the growing cost of the social security system and an accelerated ageing of the population are all giving rise to growing financing problems.

2.3 In order to offset Europe's high costs (labour, taxes, regulations), many companies opt for automation (production, management) or for more or less partial and large-scale relocation to cheaper and less regulated non-EU countries, particularly the emergent economies.

2.4 It would certainly be ridiculous to try and use authoritarian measures to counter these strategies of international redeployment. The European economy is an inseparable part of an increasingly globalised economy. The process is irreversible and actually contributes both to the development of the various countries involved in it and to international stability, if it is sufficiently managed to generate real economic and social progress.

2.5 In view of these general conditions, the following are clearly required:

2.5.1 More than ever, globalisation must be subject to more effective and fairer international rules. The competitiveness issue should in no way become like an uncontrolled cost-cutting spiral, with no consideration for health conditions, safety and social progress, balanced and sustainable development and environmental protection. On the contrary, it must be placed within an internationally recognised reference framework including minimum rules on competition, safety, quality, labour rights and the environment. This means the active involvement of international regulation and development bodies such as the World Trade Organisation, the International Monetary Fund, the World Bank and International Labour Organisation, which are still too ineffective and walled-off from each

other and, in the opinion of some, allow insufficient insight into and participation in their operational procedures. With this in mind the EESC called for, then supported, the WTO's Doha agenda, even though today it is very concerned about the difficult progress of the talks.

2.5.2 It is also becoming urgent for Europe to be made more competitive under conditions ensuring its economic and social development, its cohesion, its jobs and its environment. This means, as part of the European model for labour relations, making better use of European companies' trump cards, and correcting their disabilities, or offsetting them by better quality and higher productivity when they appear structurally incurable (such as labour cost differentials between Europe and the developing countries).

2.5.3 It is neither realistic nor desirable for the EU to endeavour to compete on price and costs with clearly less developed economies when it cannot offset the differential through higher productivity. The European economy therefore has no other choice but to upgrade itself continuously and to compete, above all, by boosting productivity in terms of both quality and quantity and through innovation. This means a proportional increase in human, technological, industrial and financial investments.

3. The competitive trump cards of European companies

3.1 *Strong involvement in globalisation*

3.1.1 Europe is today a central trading partner in the world, the world's number one importer and exporter. Its companies maintain their export competitiveness in the teeth of international competition by boosting productivity to optimise their costs, including wages, by ensuring the quality of their products and services and by innovating in order to adapt better to markets. They thus manage to be present in most economic sectors, particularly:

- agriculture and food, where they are in the forefront of trade;
- the main industries, such as cars, aerospace, chemicals, construction, public works and telecommunications, where the performances of European companies are also among the best;
- energy production and distribution — oil, nuclear power, gas, alternative energies — and environmental technologies;

— services, where European companies are often world leaders, e.g. commerce, finance, insurance, transport, engineering, computer software, tourism and the health sector.

3.1.2 European companies also invest a great deal in the world, contributing to the growth of a number of world regions, such as the emergent economies in Asia. While these may compete with Europe in various sectors, they are also industrial and commercial partners that are essential to the European economy and its companies as suppliers, partners, distributors, sub-contractors and customers.

3.1.3 Because of the very important role that they play in the developing countries, European companies should set an example for the development of labour standards in these countries, particularly in the implementation of the basic labour rights defined by the ILO. The EESC will continue to get involved and participate in any initiatives that are needed to raise the profile of social issues in international trade.

3.1.4 The international trading and investments of European companies are supported by the European Union, which has organised itself, through the European Commission, to defend their interests with one voice at international negotiations, such as those at the WTO.

3.2 *The single continent-wide market*

3.2.1 The single market is the first trump card of European companies, built on common rules with a general principle of mutual recognition, supplemented by numerous cases of harmonisation through some 1 500 directives, 300 regulations and almost 20 000 common standards. The vast majority of the legislation affecting companies' activities finds its source there. Its economic and employment advantages, which were already highlighted by the Cecchini report at the end of the 1980s, are still of relevance today, even if the projections of that report could not be fully confirmed by the 1992 deadline because the economic situation was in a disturbed state and the Community programme was not completed.

3.2.2 This single European market is now the biggest in the world, with 25 Member States, the close association of other European countries, such as Switzerland and Norway, and the prospect of further enlargement. More than half a billion Europeans are thus assembled in the same single internal market, of greater weight than either the American or the Chinese market. This highly significant fact should be made more widely known to Europeans.

3.2.3 While helping cohesion in Europe, such freedoms have enabled companies to develop their trade, cooperation, restructuring and mergers, giving many of them an international dimension. SMEs have also benefited from European sub-contracting operations, such as the removal of intra-Community formalities. Infrastructures have developed with trans-European transport, energy and telecommunications networks. Major industrial programmes (e.g. Airbus, the Space Agency) have stimulated research and innovation in companies of all sizes. As well as jobs, the single market has encouraged the mobility of assets, of research workers and students — one million have benefited from the Erasmus programme.

3.2.4 Mention should also be made of the opening-up of the former public sector monopolies in the single market that has been accomplished or is going on following several directives on such areas as transport, energy and the postal services. While doing this, the Commission is also taking good care not to jeopardise the concept of general interest services, which plays a fundamental part in European economic and social development over and above the liberalisation necessary in the interests of the single market.

3.3 *Monetary union*

3.3.1 The move to the euro has been the most striking stage of the single market and a big step forward for the competitiveness of EU businesses. By creating a single currency for twelve Member States and 300 million Europeans already, the euro has eliminated any exchange-rate risk in the eurozone, neutralised transaction costs in trade and ensured permanent transparency of economic data. It is also a currency with an international dimension. And if its current overvaluation in relation to the dollar penalises exports — while facilitating imports, particularly of oil and raw materials — the terms of trade which were the reverse a few years ago will continue to evolve anew in the future.

3.3.2 This monetary union, which today has no equivalent in the world, has also shown that the EU is capable of carrying out a big innovative and motivating project having a major impact on its citizens and companies. It has considerably enhanced the external visibility of the EU and consolidated its international negotiating position, for the benefit of its companies.

3.3.3 The growth and stability pact accompanying the euro aims at a minimum of economic convergence, with rules limiting public sector deficits and inflation. It makes it easier for companies to look ahead in a stable environment that favours competitiveness. It is also the first step towards a truly integrated economic union. Obviously, there cannot be a sustainable monetary union without progress in complementary areas, including business competitiveness, which form a major part of the Lisbon strategy.

3.4 *Lisbon: the ambition for reform*

3.4.1 The Lisbon European Council in March 2000 decided to undertake a vast programme of economic, social and administrative reform at both national and European level, with the aim of making Europe the most dynamic and competitive knowledge-based economy in the world by 2010, capable of ensuring sustainable economic growth with more and better jobs and greater social cohesion. This strategy is the European economy's roadmap for uniting its forces in the face of globalisation, in a more competitive Europe.

3.4.2 The reforms are relevant as they are bound up with the main issues of EU business competitiveness. Their aims are:

- easier access to funding, including venture capital, particularly for SMEs and innovatory companies;
- reduction of the tax burden on labour, particularly unskilled and low-paid work, so as to make its costs less dissuasive;
- reduction of public sector deficits, which is linked to price stability and tax moderation;
- stimulation of innovation, on which the technological capacity of EU firms depends;
- adjustments to education and training, in particular to respond better to new economic, professional and technological conditions;
- modernisation of the labour market, thus making it easier to match job supply and demand, boost the employment rate, improve the quality of jobs and working conditions

and make more intensive use of equipment, thereby boosting productivity;

- efficient and sustainable social welfare, in the face of the problems posed by increased spending, especially with an ageing population;
- simpler regulations, both at national and EU level;
- and, following the June 2001 Gothenburg summit, better integration of environmental protection and the requirements of sustainable development.

3.4.3 The methods of the Lisbon strategy are also relevant, with:

- a new timetable for completing the single market, with intermediate stages;
- an annual assessment at a European spring summit;
- an 'open coordination method' on common objectives, highlighting good practices;
- a priority role for the private sector and partnerships between the public authorities and civil society;
- an emphasis on dialogue between social partners.

3.4.4 This Lisbon strategy has already had some initial positive results:

- an awareness of the need for reforms, transcending traditional division;
- a faster spread of information technology and innovation;
- more support for company start-ups and SME funding;
- more concern about sustainable development, with measures to make public services more efficient while reducing public-sector deficits, consolidate social security while balancing its budget, bring in legal measures and introduce energy and industrial technologies that protect the environment better;
- involvement of the social partners in social reforms;
- less legal and administrative red tape, even if limited in scope.

3.4.5 The Lisbon strategy's competitive ambition would be unrealistic without renovation of the EU institutions. Such has been the mission of the European Convention, whose innovative membership has brought together representatives of the EU's states and institutions, the applicant countries, the national parliaments, and observers from civil society. The Convention has proposed a re-casting of the treaties to allow for a more modern and simplified institutional framework, better adapted to enlargement on a large scale, more readable and more attractive to public opinion. There is also the question of incorporating into the Treaty the intrinsic merits of the European model of society, where the search for competitiveness goes hand in hand with the upgrading of jobs and social progress. Among the EU's objectives, the new Treaty adopted by the 25 in June 2004 quotes that of a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. The EESC supports this need for overall consistency, combining competitiveness with other aims of higher quality and social progress, while noting that it is still far from being the case today, owing to several handicaps that continue to affect Europe's competitiveness.

4. Competitive handicaps of European businesses

4.1 *Insufficient support for entrepreneurship*

4.1.1 While some of the EU's competitive assets are still more ongoing processes than firm acquisitions, handicaps penalise the competitiveness of European companies and contribute to the current sluggish performances on the growth and jobs front.

4.1.2 The recent debates on entrepreneurship following the Commission's Green Paper have confirmed that in the majority of the European countries companies of all sizes declare that they are confronted with problems daily owing to:

- the excessive complexity of regulations, both national and European;
- the generally high level of tax and welfare charges;
- the frequent difficulty of finding funding;
- insufficient support for risk takers — including the frequent lack of a second chance when an initial business project has been unsuccessful;
- mismatches between job vacancies in firms and professional skills.

4.1.3 Also worth mentioning is the relatively high unemployment rate in Europe, especially when compared with the USA. This situation has negative effects on Europe's competitiveness, its high overall tax burden and on the equilibrium of social welfare schemes.

4.1.4 Finally, many entrepreneurs feel that the EU tends more to just pile up analysis reports on Europe's competitive backwardness rather than to undertake really operational measures leading to verifiable results — like our main competitors, from the USA to China.

4.1.5 The EESC notes that the social partners themselves are well placed to take such operational action in support of competitiveness and entrepreneurship. Many examples confirm that they often play a very important role here. This locomotive role of the social partners should have been emphasised in the Commission's Green Paper.

4.1.6 The EESC would also underline that entities working within the so-called social economy very often face the same barriers as those mentioned above concerning both taxation and other matters, such as public procurement and competition rules. The EESC believes that applying specific solutions to these problems would make a substantial contribution towards improving the EU economy and the employment situation.

4.2 *Persistent technical and other barriers*

4.2.1 Despite its achievements, the single market has made insufficient progress in several areas. This is particularly the case with services, which account for 70 % of economic activity, but where the level of mutual recognition and harmonisation still falls far short of requirements. Numerous delays also persist in opening up the public sector:

- obstacles concerning sectors, in certain countries, where public-sector monopolies have continued to persist, such as transport, energy, the post and, though to a lesser extent today, telecommunications;
- 'separation' of public procurement contracts (barely 10 % of these concluded with non-national companies);
- administrative separation, when management of the single market requires increased cooperation in many fields (e.g. taxation, customs, police, justice, competition, fraud prevention and the environment).

4.2.2 In addition to the liberalisation that has been carried out, is in progress or is planned, and also the delays that can sometimes be noted in these areas, the question of the status of services of general interest within the single market still needs to be clarified. The specific role of general interest services, which was already covered in several directives opening up individual sectors, was dealt with overall in the Amsterdam and Nice treaties. The Commission itself is preparing a cross-sector instrument for spelling out the role of general interest services in the single market. However, so far the debate has remained confined to the role of national public services in dealing with the European single market, without in any way considering if and how services of general interest can be developed in a targeted manner on a European scale. However, such a question should not be ruled out today in any real debate on the future of the enlarged single market and the competitiveness of European businesses.

4.2.3 In addition to the development of EU rules, the Member States themselves continue to regulate under conditions which may complicate or even hamper the single market for businesses. A procedure of prior notification to the Commission has been set up (Directive 83/189), but the latter, weighed down by its many tasks, can only react effectively in the most blatant cases, and enlargement will complicate its task.

4.2.4 There are still too few directives transposed into law by all the Member States; usually 10 % are not fully implemented, and even 25 % in some sectors. Violations are also too frequent, with around 1 500 cases currently under investigation by the Commission.

4.2.5 Tax convergence within the single market remains woefully inadequate, not least because of the need for unanimity in the Council. In particular, all cases of double taxation must be abolished, a harmonised corporate tax base developed, and the intra-Community arrangements for VAT simplified.

4.2.6 The complexity and cost of obtaining European intellectual protection are also a handicap for EU companies, as confirmed by the persistent delay (thirty years!) and the foreseeable cost of the Community patent.

4.2.7 There are also delays on various trans-European network projects in the enlarged Europe, for which the public, private or mixed funding still remains to be found.

4.2.8 The delays in completing the single market have contributed directly to the highly unsatisfactory state of employment and the labour market. The enlargement of the

European Union from 15 to 25 Member States still raises some big questions about how to improve the various aspects of employment (training, occupational and geographical mobility, quality of employment, reconversions, etc).

4.2.9 Lastly, the principle of freedom of movement and free establishment within the single market has been temporarily limited with enlargement, because of the exemptions of up to seven years decided with respect to nationals of the new Member States. These restrictions run counter to a free operation of the labour market in the enlarged Europe and may penalise the vocational training and retraining efforts that have been made in these new states. Barriers are also faced by individuals from the new Member States who wish to start in self employment in the EU-15.

4.3 *The lack of economic union*

4.3.1 Monetary union has not resulted in the dynamic economic growth that it should have encouraged. One basic reason for this is that it has still not yet been accompanied by true economic union. The start made by the growth and stability pact has itself posed problems recently. It is not respected by several states, including France and Germany, which have exceeded the 3 % ceiling for the public sector deficit. In addition, questions have arisen on the effects of the pact (whose stability component is a lot clearer than the growth component) on the sluggish economy. To compensate for the limits as well as the constraints of the pact, a more integrated economic approach should be developed, which is hardly the case at present with the still minimal level of coordination of the broad economic policy guidelines (BEPG).

4.3.2 The Eurogroup, comprising the states of the eurozone, has to date remained unstructured, understated and, basically, intergovernmental compared with a European Central Bank organised on federal lines. We are a long way from the start of a European economic government.

4.3.3 The Economic and Financial Council is itself far from being an economic government of the EU, with members happy to stick to their national interests, boosted by the widespread use of unanimity. There is a lack of tax harmonisation in Europe.

4.3.4 Finally, the Council on Competitiveness set up in recent years does not have any special link with the Economic and Financial Council, and has difficulty in actually carrying out a necessarily multi-sided mission concerning all the forms of the Council.

4.3.5 It is also regrettable that the draft Constitutional Treaty has shown a lack of development and innovation as regards deepening the economic union, in contrast to a number of its provisions in other fields. It would have been more relevant for the cohesion and competitive convergence of the European economy to grant the Commission a real brief to propose, and not merely recommend, concerning both the BEPG and public sector deficits.

4.4 *The structural reforms deficit*

4.4.1 At the spring summits, the Member States have appeared to give priority to new debates on the objectives already set in Lisbon, even if it has meant piling up new prescriptions, instead of making a comparative assessment of national reforms. Too many Member States have also neglected to involve the social partners fully in defining and implementing reforms, and have hardly consulted or mentioned them in reports on the state of progress.

4.4.2 The discretion of the Member States on the state of reforms is on a par with the delays:

4.4.2.1 At EU level, the 25 have agreed to complete the single market in several areas (e.g. energy, services, public purchasing, trans-European networks, adaptation of public services), but balk at adopting the necessary measures within the time limits.

4.4.2.2 At national level, results vary. Even the Member States that are most advanced on reforms are behind in some areas compared with more efficient non-EU countries, and Europe as a whole is still handicapped as regards competitiveness. Now, the reforms are not only about doing better than before, but above all about doing better than elsewhere. The following are particularly worth noting:

4.4.2.2.1 As regards the opening-up of markets, significant progress has been achieved in telecommunications and, to a lesser degree, energy (gas and electricity) where prices are still often too high. The opening-up of the postal sector is only making slow progress in certain countries, with a still partial objective to be achieved in stages up until 2009. Interconnection and modernisation delays persist in transport infrastructure, which is particularly affecting the implementation of trans-European network projects.

4.4.2.2.2 As regards access to funding, integration of the EU financial market is in progress, supported by the setting-up of the euro. Various measures have been taken to facilitate the fund of start-ups and SMEs. But access to venture capital

remains insufficient. In addition, the unification of the financial market remains over-dependent on rules; socio-occupational co-regulation, as defined and regulated by the agreement concluded between the EU institutions on 16 December 2003, would have been worth encouraging.

4.4.2.2.3 As regards public-sector deficits, situations vary greatly depending on the country concerned: some states have a public-sector financial surplus (e.g. Denmark, Finland, Luxembourg and Sweden), while others have reached or exceeded the limits of the stability pact (e.g. Germany, France, Italy and Portugal). Those countries with an excessive deficit are also those which are most behind in implementing structural reforms.

4.4.2.2.4 As regards encouraging innovation, research spending remains inadequate. It represents 1,9 % of GDP, compared with 2,6 % in the USA, and investments by enterprises are twice as high in the USA as in the EU of 15. This is far below the objective fixed at Lisbon of 3 % of GDP to be spent on R&D, with two-thirds coming from the private sector. Spending here is also insufficiently coordinated between countries and with the EU framework programme for research. The lack of a common policy for the EU in strategic areas affects its technological investments. The number of patents registered in the EU, especially for new technologies, is still well below that in the USA or Japan, not least because of the continuing absence of a cheap and effective EU patent.

4.4.2.2.5 As regards improving the labour market, situations vary from country to country: some have a high overall employment level while others have structural under-employment. Major reforms are in hand to improve the operation of the labour market, its flexibility and the matching of vacancies to job applications. However, if Europeans are to subscribe to the Lisbon strategy it is imperative that these reforms quickly lead to sustainable quantitative and qualitative progress as regards lifelong training and jobs, with proper application of the law or collective agreements. In particular, there is still a lack of investment in training geared to producing high quality jobs and vocational qualifications that are competitive. Consultations with the social partners, and negotiations with and between them, must aim in particular to ensure that the new arrangements actually improve jobs and working conditions when faced with the issues of international competitiveness. The Kok report has also stressed the priorities which still have to be implemented if things are to be put right in a sustainable manner.

4.4.2.2.6 As regards the solvency of social security, many reforms are underway to restore its financial balance in the face of the growing ageing of the population throughout Europe. This involves in particular adapting the duration of contributions to growing life expectancy and encouraging the use of supplementary insurance schemes and pension funds. Despite their growth, these reforms are encountering major delays as regards social protection provided by supplementary schemes, as well as problems of implementation and effectiveness, particularly too many early retirements despite the pledges made in 2002 in Barcelona. In particular, there is a need to see that social security reforms are carried out fairly and avoid creating new situations of exclusion, which would have negative social and economic effects on the European economy.

4.4.2.2.7 As regards education and training, most of the EU countries have, on the whole, efficient and well-developed educational systems, though sometimes they are too divorced from economic realities and provide inadequate job prospects, access to them is often too selective and they are not properly geared to ensuring effective lifelong support. Exchange programmes to intensify these links and develop apprenticeship schemes are growing. Generalised Internet access also helps to improve training.

4.4.2.2.8 As regards simplifying red tape and improving quality and efficiency, there is a need common to all EU countries, even if some have started sooner than others on programmes to put things right. Priority is generally given to simplifying procedures for setting up companies and small enterprises because of their impact on economic activity and jobs. A focus should also be given to supporting companies in developing and running operational procedures. These reduce inefficiencies and support productivity growth creating greater competitiveness.

4.4.2.2.9 As regards sustainable development, national measures for implementing the Kyoto agreements are developing, with variable results. Environmental protection is traditionally more enshrined in the northern countries, but new measures are being taken in the others, and exchanges of good practices have enabled successful experiments to be taken as a starting point (e.g. voluntary codes, charters, labels, distribution of emission licences). It is essential to see that the EU's competitiveness strategy is subservient to environmental protection policy and the pledges made in this area, and in no way constitutes an obstacle to this policy.

4.4.3 On balance, the overall impact of reforms is still mixed. Despite the plethora of reports on worsening competitiveness and the accumulation of 'processes' or strategies to improve it (e.g. Luxembourg, Cardiff, Cologne, Lisbon, Gothenburg, Barcelona, etc), the EU has trouble implementing each of

its declared choices (single market, financial area, knowledge-based economy, environmental excellence, etc.).

4.4.4 At the same time the economic and jobs situation in Europe has got steadily worse since the favourable economic situation at the Lisbon Summit in 2000. This has been due to a lack of investment and demand, resulting from, among other things, restrictive monetary and financial policies, and to various other reasons connected with the climate of insecurity generated by the terrorist attempts, international tensions, financial and stock market disturbances and the oil price, which have all combined to have a negative impact on business activity and confidence. Growth rates have fallen from 3,5 % in 2000 to 1,6 % in 2001, and barely 1 % since 2002, and unemployment has risen to over 8 %. This worsening of the economic and social situation in Europe contrasts with the current dynamic growth in the USA (nearly 5 %), even this is based on highly specific conditions (e.g. dollar exchange rate, budget deficit, and military spending).

4.4.5 The Lisbon strategy is in a vicious circle: the lack of growth complicates the adoption of reforms, and the delays themselves hamper the return to more growth and jobs. Faced with an inflation of reform aims, commitments and participating states, we see as many deficits in co-responsibility, implementation, coordination and therefore economic and jobs impact. There is a risk of becoming an illusion, of not undertaking the reforms required with the necessary determination, while pretending that the strategy is progressing. Such a 'Lisbon bubble' would not wait until 2010 to burst.

5. The EESC's recommendations

5.1 *Revive the confidence of those involved in economic life*

5.1.1 Europe's competitiveness must form part of an overall project that is political, economic and social, able to attract wide support from and the involvement of social and occupational stakeholders. The new treaty will have to contribute towards meeting these expectations.

5.1.2 It is particularly important for this European project to be better regarded, with respect to its overall environment, in its relations with both its neighbours and with its various international partners. The question of Europe's attractiveness and its adjustment to structural change should be discussed and set out in detail better, particularly as regards international investments, setting up in Europe and relocation to other regions of the world. The EESC expects the current WTO negotiations in particular to contribute towards framing better international rules for managing trade and investments on a world-wide scale.

5.1.3 Just as new rules are needed at international level, where they are clearly inadequate at present, there has to be less red tape in Europe, which has to cope with too many administrative procedures and rules. This could be done through:

- reforming the preliminary impact analysis, with guarantees of autonomous analysis, systematic tests to examine alternatives to traditional regulation, checks on the effect of the project on simplification and competitiveness, systematic publication of the analysis with the draft rules;
- arranging to justify all amendments that might oppose compliance with the impact analysis;
- involving businesses and other users in simplification upstream from regulation (SLIM committees *a priori* rather than *a posteriori*);
- encouraging socio-professional self-regulation and co-regulation on a European scale, especially in services;
- pushing states to parallel national simplification, plus a euro-compatibility test.

5.1.4 Policies should be pursued aimed at providing more focused support for business start-ups and development, with better access to venture capital — which would justify extending intervention by the European Investment Bank in this area — more training programmes for entrepreneurs by other entrepreneurs and a denser network of support services for small firms in all the Member States, with coordination at European level.

5.1.5 In addition, on a general level, businesses, professional associations and the various players in civil society should be encouraged to take more initiatives on a European scale, by making greater use of the new freedoms to cooperate and trade that have been given to them by the progress of European integration. Their initiatives on the ground, as well as the new measures expected from the EU institutions or the Member States, will play a key role in ensuring that the steps to recover competitiveness that are being taken in Europe have a real impact and positive results, and that the various barriers and obstacles which continue to hamper it are finally removed. At the end of the day, achieving a more efficient and competitive Europe will above all depend on the multiplication and mutual strengthening of such initiatives by firms and associations, which the European, national and regional authorities will have to facilitate and manage, above all, by providing a favourable competitive environment.

5.2 Finish completing the single market

5.2.1 It is high time to ensure the rapid completion of the essential provisions of the single market, which has now grown from 15 to 25 Member States. This should not be postponed beyond the deadline of 2010 fixed in Lisbon. Such an objective is now essential, though one should not overlook the need later on for constant maintenance and for adjustments.

5.2.2 The first thing is to ensure that directives are transposed more rigorously into national laws, and that the time limits set are actually respected, in accordance with the pledge given at the European summit. This means making governments more aware of their responsibilities here, if necessary with EU aid to laggard countries being tied to improved compliance with deadlines. In addition, instead of the preponderance of directives, transposition would be easier if more use were made of regulations, which are of direct and uniform application.

5.2.3 Harmonisation priorities of interest to competitiveness include:

- a regulation eliminating double taxation within the single market, which would replace the present impenetrable and incomplete myriad of bilateral conventions between Member States;
- a simplified European company statute open to SMEs — which the EESC has called for several times — which would offer them new possibilities for development, cooperation and sub-contracting on a European scale, starting with the border areas;
- the rapid provision of a simple, effective and cheap Community patent, since the persistent delays in adoption here are giving the impression that Europe is structurally incapable of keeping its pledges on competitiveness;
- the completion of a genuine internal market in services, with the active involvement of the professions concerned (!).

5.2.4 The abolition of administrative compartmentalisation is also essential if the single market is to be strengthened, and the EU should provide more direct support here than is currently the case. It should involve:

- better cooperation in Europe between national administrations, which are now required to co-manage a single market of 25 Member States;
- Community inspections in the Member States, with reports highlighting any malfunctioning and suggesting remedies;

(!) An EESC opinion is being prepared on the draft directive.

- standardised customs at the external borders, following enlargement, starting with a common training base and more intensive training periods and European exchanges of customs officials;
- the publication of European comparisons of actually concluded public contracts;
- better transnational coordination of public services, which could, if necessary, pave the way for the emergence of such services on a European scale in appropriate areas.

5.3 Developing economic union

5.3.1 Having a more real economic union is the key to making European businesses more competitive, and vital to ensuring the full viability of monetary union. In particular, Europe should have a more adequate and stable macro-economic response to the vagaries of the international economic situation as regards policies to support both supply and demand. It is essential to develop this common economic policy in line with the competitiveness pledge for 2010 given in Lisbon. This means:

- extending the eurozone into the new EU states as soon as they are able to respect the criteria for doing so in a sustainable fashion;
- developing the advantages of the Community method (e.g. Commission proposals and reports, majority votes in the Council) on all questions of truly common interest in economic matters;
- enforcing the stability and growth pact in conditions that also take account of competitiveness issues, i.e. by encouraging the conditions for investment rather than administrative spending.

5.3.2 Among the measures which would boost progress towards economic union are:

- issuing a Community opinion beforehand, and not *a posteriori*, on national finance bills, to ensure they comply with the broad economic policy guidelines (BEPG);
- better linkage between the employment guidelines and the BEPG, rather than just juxtaposing them;
- speeding up organisation of the European financial area, including socio-professional self-regulation and co-regulation.

5.3.3 One condition for economic union is to bring tax systems closer together, especially the bases for assessment, under conditions that are compatible with an economy that is open to trade and attractive to investors. Freedom of rates could be regulated in areas concerning the single market directly. Concerted tax relief would be necessary on jobs. In the absence of unanimity, increased cooperation between states eager to progress along this road would already enable some initial progress to be achieved.

5.3.4 The goals of a better coordinated economic policy should aim at:

- developing a policy of growth to boost economic activity and jobs, as the most recent European summits have recognised: this means, in addition to more interventions from the EIB, whose impact, without being negligible, will remain limited, giving a new dimension to public/private partnerships, in particular to finance new trans-European infrastructures for the enlarged EU;
- stating a more active industrial approach, clarifying the EU's interests, with a compatible competition policy, a commercial policy more focused on defending of those interests, support for major joint projects and support from the EU budget;
- ensuring the necessary development of innovatory investments and research by businesses so as to boost European competitiveness in terms of quality;
- ensuring, in particular, Europe's autonomy in areas of technology that are essential to its security (where necessary by increased cooperation, with preference being given to opening up the corresponding public purchasing contracts);
- focusing the common R&D policy on joint projects, with euro-compatible national approaches.

5.3.5 The new budget agenda for 2007-2013 should focus on this issue of Europe's competitiveness. To do this, it should:

- anticipate economic, industrial, regional and social changes more, and promote adaptations upstream;
- continue the reform of agricultural policy with the circles concerned, aiming at a competitive European agri-food industry, environmental and consumer safety targets, and balanced rural development;

- strengthen the EU's international presence, by making development aid more effective, developing partnerships and supporting European business investments in non-EU markets with high growth potential;
- adapt EU aid procedures, i.e. make aid more conditional, (particularly as regards economic convergence and the transposing of EU directives), obtain more reciprocity from beneficiary states (competitive environment for businesses, less red tape, removal of obstacles), check the compatibility of EU aid with the competition rules, as with state aid (keep a lookout for harmful distortions and disturbances that might arise from artificial relocations) and make more use of loans, under improved conditions, rather than have aid based mainly on subsidies.
- ensure the interconnection of telecommunications, energy and transport networks, under optimal conditions in terms of cost, quality and security;
- speed up integration of the EU financial market under conditions that reconcile fluidity, harmonisation, security, competition and self-regulation;
- make progress on productivity both directly in firms, e.g. organisation of work, use of IT and new technologies, and through a greater economic and social effectiveness of public transfers, including by economies of scale — opening up the public sector, European cooperation of public services — facilitating the absorption of public-sector deficits;

5.4 Ensuring more consistent implementation of structural reforms

5.4.1 The Lisbon mandate must be made credible in the eyes of Europeans. Fears over its meaning and its social cost must be disarmed. These reforms will determine the future of our development in an open economy. It is a question of ensuring the sustainability of the European model of society to which Europeans are attached, and as expressed in the Charter of Fundamental Rights, while reconciling it with the objective of competitiveness.

5.4.2 This objective of competitiveness would also gain from being explained better. For the EESC, it is not a question of being the most competitive in the world by squeezing costs to the maximum in all areas: such an objective would be both illusory and impractical, and in several respects harmful and unsustainable because of its qualitative, social and environmental costs. For the EESC, it is more a question of giving ourselves all the means to be fully and sustainably competitive in an open and globalised economy, particularly through the mastery of new technologies and a more innovatory organisation of work and productivity, while constantly taking care to preserve and consolidate our model for social development in Europe.

5.4.3 A start should be made on improving coordination between the economic, social, administrative and environmental reforms, on the one hand, and between the Member States on the other. Comparability and mutual reinforcement should be ensured. In view of the current situation of structural reforms in the Member States, it is particularly necessary to:

- ensure that research budgets are in line with the objective set by the EU of 3 % of GDP, with two-thirds of the research budget having to be financed by the private sector, and that national programmes are in phase with each other and with the FRDP;
- stimulate apprenticeship and sandwich courses, make them more accessible and develop European exchange programmes even further;
- help make job seekers more employable through training programmes and personalised support for integration into the labour market;
- encourage job seekers, both men and women, young and old, to develop a self-employed economic activity by facilitating administrative procedures and not penalising them from the social security point of view;
- ensure the solvency of social security, which will guarantee its sustainability, bearing in mind the ageing of the population in Europe, while at the same time discouraging and stamping out illegal, undeclared work;
- simplify regulations and procedures, especially for SMEs, while taking, as mentioned previously, more effective measures to combat the underground economy;
- giving priority to business start-ups and encouraging entrepreneurship, by reforming tax and administrative provisions;
- consolidate sustainable development and promote new technologies in this area — which will open up new markets worldwide to European companies — with more exchanges of good practices, which could usefully be incorporated into a database.

5.4.4 At European level, this coordination of reforms should be backed up by:

- giving the EU Commission president, in liaison with all his colleagues, special responsibility for taking account of EU competitiveness issues, justifying specific initiatives for this purpose in Commission policy — a member of the Commission could be designated by the president to assist him in this task;
- beefing up the scoreboard of implementation of the Lisbon reforms, stressing the role not only of the public authorities, but also of civil society;
- gearing EU aid more to the aims of Lisbon, and assessing this consistency in annual reports.

5.4.5 A key requirement today is to make Europeans more motivated about European integration and the goal of competitiveness that it has set itself. This means having a clearer vision of the aims and features of the Europe now being built, and of the overall economic and social framework for the structural reforms. This involves in particular having a better perception of what the European model of social relations should become.

5.4.6 Improving European business competitiveness means improving such things as employees' job skills, encouraging their involvement in the organisation of work and strengthening social cohesion in companies through closer and more modern labour relations.

5.4.6.1 The human investment in firms is crucial: the labour force of a business, its human capital, is essential to productivity. It is on this investment, especially in training, that the motivation of employees and their productive capacity depends.

5.4.6.2 While lifelong education and training has become a central plank of EU employment policy, the percentage of the labour force taking part in education and training is worrying. This declines with age from 14 %, on average, for the 25-29 age group to around 5 % for 55-64-year-olds.

5.4.6.3 In a production system where jobs require more and more technical knowledge and know-how, such a situation gives ever-increasing grounds for concern about EU competitiveness. It is desirable, if not essential, that this situation be corrected. To do this, firms must incorporate training into their strategy as a medium and long-term investment, not as something requiring a rapid, if not immediate, return on investment.

5.4.6.4 However, vocational training and lifelong education and training must not be considered in isolation. They must be the foundation on which employees' career management is built. Training must ensure motivation in all age groups by placing value on skills and making career paths more dynamic. From this point of view, the assessment of skills and validation of acquired knowledge are tools that must be developed as part of individual career plans that interlock with a company's own business plan.

5.4.7 The EESC also wishes to underline the role of the social economy, which has been the subject of several of its opinions. The EESC would point out that the social economy can provide a model for increased competitiveness, based on cooperation between individuals and companies and on its capacity to respond to the needs of individuals and develop human capital.

5.4.8 Apart from businesses and their employees, the social partners have a key role in redefining these labour relations. The Lisbon mandate originally assigned an essential responsibility for making a success of the reforms to the private sector, the social partners and civil society. The EESC deeply regrets that this reference was undervalued at the first spring summits, both in the reports of the Member States and in the debates and conclusions of the European Council.

5.4.9 This situation started to improve with the meetings of the social partners with the presidency of the Council and the Commission on the eve of the spring summits. The multiannual social dialogue agenda for 2003-2005 agreed by the social partners (UNICE, CEEP, UEAPME and ETUC) also helped consolidate their involvement in the implementation of the reforms strategy. With its three focal points of jobs, the social aspects of enlargement and mobility, this agenda for consultation and joint initiatives places particular emphasis on improving vocational training and skills. It thus helps to define a European model of society combining better business competitiveness and improved social measures.

5.4.10 These social partners have already undertaken key reforms in the Member States in training, the labour market and social welfare. It is essential to encourage their joint responsibility in the reforms, by highlighting their initiatives and agreements in the reports at the spring summits, and by including them in the exchanges of good practices. The EESC is ready to disseminate, in a database, information on the involvement of the socio-economic actors in the reforms.

6. Conclusions

6.1 The EESC concludes that the competitive shortcomings of EU businesses are the heavy price to be paid for a Europe which is not enterprising enough, which is still unfinished in many areas, which is lagging behind with its reforms and whose exploitation of its trump cards is highly inadequate, often faint-hearted, sometimes incoherent, and therefore counter-productive. This observation is confirmed through four major malfunctions:

- insufficient promotion of entrepreneurship, despite European freedoms;
- an internal market that remains unfinished, despite enlargement;
- an economic union that is still absent, despite monetary union;
- structural reforms that are still badly implemented, despite being planned.

6.2 Remedying these malfunctions is a collective responsibility, in order to ensure greater consistency between Europe and its states based on their complementary roles. The EESC is pleased that the last European spring summit:

- called upon the Member States to promote partnerships for reform involving the social partners, civil society and the public authorities;

- supported the wish of the European social partners to consolidate their commitment with a new European partnership for change.

6.3 The EESC considers that such partnerships, both at European and national level, should show greater urgency in creating the conditions for success in rectifying Europe's competitive position, and in particular help to:

- speed up the optimum organisation of the internal market;
- develop economic union up to the level of monetary union;
- involve all the interests concerned in the reforms;
- undertake new initiatives to achieve this, involving the public and private sectors and associations;
- assess the progress of this partnership at the next spring summits.

6.4 The EESC stresses the need to keep our eyes firmly fixed on the 2010 deadline, which should include both implementation of the Lisbon reforms and completion of the single market and a genuine, competitive economic union, making full use of monetary union, while taking full account of the demands of sustainable development.

6.5 Finally, the EESC notes that strong economic growth would make it a lot easier to speed up the necessary reforms. The European Union should take steps without delay to reinforce the single market by stimulating supply and demand, and thus create sustainable conditions for boosting investments, trade, consumption and jobs.

Brussels, 27 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Green Paper on public-private partnerships and Community law on public contracts and concessions'

(COM(2004) 327 final)

(2005/C 120/18)

On 30 April 2004, in accordance with Article 262 of the Treaty establishing the European Community, the Commission decided to consult the European Economic and Social Committee on the 'Green Paper on public-private partnerships and Community law on public contracts and concessions'.

The Section for the Single Market, Production and Consumption, responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2004. The rapporteur was **Mr Levaux**.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 27 October), the European Economic and Social Committee adopted the following opinion by 96 votes to 2, with 2 abstentions.

1. Introduction

1.1 On 30 April 2004 the Commission published a Green Paper on public/private partnerships (PPP). Its aim is to launch a debate on the application of Community law on concessions and PPP.

1.2 In its own-initiative opinion of October 2000 ⁽¹⁾, the EESC made recommendations that are still relevant today. The PPP phenomenon is growing and remains a strategic question for an enlarged EU after the adoption of the new directives of 30 April last ⁽²⁾.

1.3 In the meantime experience has also been gained with PPP projects in a number of countries. The results have been mixed. It would therefore be advisable to assess such experience systematically in terms of a variety of criteria such as costs, access to services, service quality, impact on employment, etc. Points to examine in particular are whether and how PPPs can help maintain Europe's competitiveness vis-à-vis the rest of the world and what their advantages and disadvantages are in relation to conventional ways of providing services.

2. National laws and PPP use have developed greatly in Europe

2.1 All European countries have used or are currently using the system of PPPs and concessions. But so far the Commission has not been able to draw up an inventory. The EIB has incomplete statistics on a hundred or so projects. Let us not forget that the 'first Europe' of Roman times two thousand years ago was already using a system of concessions. During the nine-

teenth century the European railway network was built using concession contracts. These were very widely used not only on the railways but also for municipal public services such as water, gas, electricity, rubbish disposal and telephones.

2.2 Overall contracts have long been used throughout the world to cover the funding, design, construction and management over time not only of motorways and car parks but also of such projects as water-supply networks, museums, airports, trams, underground railways, urban redevelopment and the modernisation of schools and hospitals.

2.3 **Countries with new legislation on PPP.** *The descriptions that follow are based only on facts noted in a small number of countries: Italy, Spain, Great Britain and France.*

2.3.1 In Italy

2.3.1.1 The framework law of 1994 (the Merloni Act) defines **construction and management concessions**. In this type of concession the concession holder carries out a project using his own resources, recovering the capital invested through **the economic exploitation** of the project when completed (Article 19(2) of Law 109/94) ⁽³⁾.

The aim of the infrastructure recovery programme is to carry out 220 projects considered to be of strategic importance:

- from 2002 to 2011 investment is estimated at EUR 125 billion;
- half is to come from the state and the other from private funding.

⁽¹⁾ OJ C 14 of 16.1.2001.

⁽²⁾ OJ L 134 of 30.4.2004.

⁽³⁾ Framework law L 109/94 (G.U. n°41 of 19.2.1994) modified by the Law of 2.6.1995 n. 216 (G.U. n°127 of 2.6.1995).

The law has created specially adapted legal frameworks: the general contractor, the concession holder, farming-out and the promoter.

To avoid delivery delays and make construction more efficient, a new law of 2001 has created the '**general contractor**'. He delivers the turnkey project and is responsible for maintenance. He is also responsible for the advance funding of the project.

2.3.1.2 The concession holder

A construction and management concession is the alternative to having a general contractor: lack of funding generally leads to the use of this arrangement based on total or partial payment by the user, because with a 'general contractor' the public authority has to stagger payments.

2.3.1.3 Farming out or management concessions

Concessions are also used for managing existing projects, such as hospitals, schools and prisons. A recommendation from the Treasury has to enable management to be refocused on essential tasks and to benefit from innovations in the private sector.

2.3.1.4 The promoter's contract

This allows a bid for carrying out a project to be made by anyone under the three-year investment programme of the local authority concerned. The public authority is free to accept or reject the idea proposed and if it accepts, a call for tenders is organised. The promoter has a right of pre-emption and writes the contract.

There has been a big increase in the number of projects using a promoter in this country:

- 1 163 projects submitted in three and a half years (January 2000-June 2003);
- 660 from promoters (concessions resulting from private-sector initiatives, including 302 in 2003!);
- 503 from concessions resulting from public-sector initiatives.

2.3.2 In Spain

2.3.2.1 In Spain, Law 13/2003 of 23 May regulates contracts for public works concessions. This Law has amended the Law on State Contracts, a consolidated text adopted by Royal Decree-Law 2/2000 of 16 June, giving a new title to the

regulation of the different types of administrative contracts — The public works concession contract — which provides the legal basis for this contract, which is now commonplace, and focuses on its unusual features and on upholding Spanish legal traditions.

2.3.2.2 The new definition of the contract covers four fundamental issues that characterise this type of contract: 'public works', 'risk to the concession holder', 'economic balance in the concession' and 'diversification of financing'.

2.3.3 In Great Britain

2.3.3.1 In 1993-1994 the government launched a wide-ranging policy of farming out public services and public works known as the 'Private Finance Initiative'. This enabled private companies to be given responsibility for public works projects, including: 'design, finance, construction, management and maintenance'. Since its introduction the PFI has been used for:

- more than 650 PPP projects started, including 45 hospitals and more than 200 schools;
- 400 projects underway;
- commitments worth GBP 48 billion (EUR 60 billion);
- one programme still to come;
- around 12 % of the national annual capital investment budget.

2.3.3.2 The British Treasury has used two principles to govern use of the PFI: 'the private sector must really take on the risk' and 'the public sector must obtain services at the best price by applying the best-value-for-money principle'. The aim of this is to optimise the costs of using the facilities that have been built, because since the manufacturer himself is responsible for exploiting the facilities, it is in his interest to design and build a work of quality that will be cheaper to run and have a longer lifetime.

2.3.3.3 Current contracts cover all areas: water, sanitation, public transport, the army, hospitals, schools, public buildings, roads and motorways ...

2.3.3.4 Due to the high number of PPP projects in the United Kingdom, a considerable amount of experience has been obtained there, which has given rise to very mixed results. A systematic analysis and assessment of this experience should be carried out and used in further developments.

2.3.4 In France

2.3.4.1 The right to draw up concession contracts with payment by the user was organised by the so-called 'Sapin Law' of 29 January 1993, and use of these contracts is widespread:

- for urban services such as water, waste disposal and public transport,
- for major infrastructures such as motorways, bridges, stadiums and tunnels.

2.3.4.2 PPP contracts with public sector payment are spreading fast in France.

2.3.4.2.1 Since the Law of 5 January 1988, France has had long-term contracts for public spending: administrative long leases (known as *Baux Emphytéotiques Administratifs* or BEAs). These contracts are used for public buildings, especially schools, as a variant of the leasing used by the French state⁽¹⁾. The state has also developed the practice of lease options in the buildings and infrastructure sector (laws of 29 August 2002 for 'the police' and the beginning of 2003 for 'the army').

2.3.4.2.2 Finally, a law of 2 July 2003 has made provision for the adoption of orders for long-term contracts including 'design, construction, financing and management using public funds'. A first order for the hospital sector was published in September 2003, and another has been adopted by the French state and local authorities. This is the *ordonnance sur les contrats de partenariat du 17 juin 2004*⁽²⁾.

2.3.5 In Germany

2.3.5.1 As in the other Member States, Germany has detailed legal provisions governing public procurement (works contracts) in which public and private undertakings and PPPs can take part on a non-discriminatory basis.

2.3.5.2 A basic distinction must be made between that and the procedure for securing services of general interest. German local authorities often opt for public-private partnerships to provide such services of general economic interest (SGEI) in fields such as supply and disposal, i.e. energy provision, water/waste water and waste removal. That is done using all manner of contracts. In addition to widespread service concessions, public contracts are also found in fields such as electricity supply, and institutionalised PPPs are also in place in local

authorities. These PPPs help safeguard regional jobs and the regional economy.

2.3.5.3 Such PPPs are underpinned by local authorities' constitutionally guaranteed powers to decide for themselves the nature of concession-based SGEI provision in their respective areas and how that should be organised. They can choose to set up their own companies, to conduct PPPs with appropriate partners or to award the SGEIs to private operators. PPPs of this kind are not subject to procurement law.

2.4 Comments on the promoter's contract

2.4.1 The system comes from the tradition of concessions in Europe. It is growing fast in Europe and it raises the question of whether or not it should have a harmonised framework or be covered by European law.

2.4.2 France and Spain are adopting it after Italy, where the law in this area is very meticulous. In Italy the authority organises a call for tenders referring to the preliminary draft of the promoter, possibly modified by itself, and to its financial plan (proposed duration, price required, etc.).

2.4.3 It awards the concession after a negotiated procedure either to the promoter or to one of the two best offers submitted during the call for tenders. The promoter and bidders have to provide a guarantee of 2.5 % of the total value of the investment.

2.4.4 If the authority does not keep the promoter, he receives the amount of the guarantee from the successful bidder as compensation for his expenditure including intellectual property. If the promoter is awarded the contract, his guarantee of 2.5 % is paid to the other two bidders (60 % to the best one and 40 % to the second best).

2.4.5 In the same way as contracts may be reserved for organisations where most of the workers are handicapped persons, as in Article 19 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of the procedures for the award of public works contracts, public supply contracts and public service contracts, the EESC thinks that certain social criteria should mitigate in favour of the promoter, or of one of the contractors, when setting up this type of public-private partnership.

⁽¹⁾ Some of the construction of the Ministry of Finance at Bercy (Paris) was carried out using this financial tool.

⁽²⁾ *Ordonnance sur les contrats de partenariats n° 2004-559*, published in the *Journal Officiel* of 19 June 2004.

2.5 Countries where the use of PPP and concessions is rare. *The descriptions that follow are based only on facts noted in a limited number of countries.*

2.5.1 In Belgium

2.5.1.1 A concession is defined in Articles 24 and 25 of the Law of 24 December 1993 and in Articles 123 *et seq.* of the Royal Decree of 8 January 1996 ⁽¹⁾. In addition to the execution and possible design of work, these articles provide for exploitation of the work by the concession holder. **However, the promotion contract in Belgian law does not seem to be very common.**

2.5.1.2 The promotion contract ⁽²⁾ covers the funding, execution and, sometimes, the design of a work for which the contracting authority will be the user in return for the payment of rents ⁽³⁾.

2.5.2 In Portugal

2.5.2.1 To improve its road network this country has set up the SCUT contract, a delegation scheme enabling a private builder to receive a public sector licence fee. The SCUT is modelled on the 'shadow toll' system set up on British roads. Calls for tenders relating to these SCUT contracts were made in 1997. They seem less used today.

2.5.3 In Hungary

2.5.3.1 There is no specific law governing PPP projects, although the rules governing financial commitments by the state described in Decision No. 2098/2003 (V29).

2.5.3.2 In 1997, the country took the initiative of launching a programme in partnership with the private sector concerning the development of industrial parks, the number of which had reached 165 at the beginning of 2004.

3. How to define a concession or PPP?

3.1 European law has not been able to give realistic and useful definitions of PPPs and concessions. The concepts of

⁽¹⁾ Law of 24.12.1993 – Public works contracts – Moniteur Belge of 22.1.1994, Royal Decrees of 8 and 10.1.1996 – Moniteur Belge of 26.1.1996 Royal Decree on public works supply and services contracts and concessions.

⁽²⁾ *Idem.*

⁽³⁾ Law of 24.12.1993 (Article 9) - Royal Decree of 8.1.1996 (Article 21) - Royal Decree of 26.9.1996 Maurice-André Flamme, The Law of 24.12.1993 Journal des Tribunaux 1994, Rules covering construction.

public works and public service PPPs and concessions in European law are either non-existent or flawed. Criticism of the current concept covers:

- treating concessions as public works contract (point 3.1.1);
- the lack of differentiation between long-term and short-term contracts, which is the dividing line for funding from outside the administrative authority and therefore the support of the delegation (point 3.1.2);
- the lack of machinery for dealing with proposals for concessions made at the initiative of the private sector (point 3.1.3).

3.1.1 Treating PPPs and concessions as public works contracts

3.1.1.1 The question of concessions is rooted in Community law on the one hand, in the principles and rules of the Treaty and, on the other hand, in the directives which implement these principles.

3.1.1.2 The directives drawn up by the EU aim to ensure transparency of competition in all areas relating to public contracts and their scope is **sometimes** confused when complex concession or PPP contracts are involved.

3.1.1.3 Only Directive 93/37 ⁽⁴⁾ coordinating the procedures for awarding public works contracts defined public works concession contracts in its Article 1(d). Unfortunately, it did so by referring to ordinary public works contracts ⁽⁵⁾. **Directive 92/50** ⁽⁶⁾ on public service contracts did not include any definition of a concession. Finally, **Directive 93/38** ⁽⁷⁾ dealt with neither the definition nor the awarding of concessions, and simply regulated the awarding of all contracts through concession-holders in so-called 'special' sectors, thus replacing other directives. The EESC regrets such a laconic and unrealistic approach, which has unfortunately been retained in Directives 2004/17 and 2004/18 ⁽⁸⁾.

⁽⁴⁾ OJ L 199 of 9.8.1993.

⁽⁵⁾ A 'public works concession' is a contract possessing the same features as those referred to in point a), except for the fact that the *quid pro quo* for the work consists only of the right to exploit the work or of this right accompanied by a price.

⁽⁶⁾ OJ L 209 of 24.7.1992.

⁽⁷⁾ OJ L 199 of 9.8.1993.

⁽⁸⁾ OJ L 134 of 30.4.2004.

3.1.1.4 The Commission, aware of the increasing use of PPP, published **an interpretative Commission communication on concessions under Community public contracts law** in April 2000 ⁽¹⁾. This communication aimed to remove the fundamental legal ambiguity connected with the absence of a correct definition of concessions and PPP in the directives on public contracts. It should be remembered that the current treatment of concessions and PPP under national laws varies enormously.

3.1.1.5 **The EESC considers that there is a lack of definitions that clearly lay down the content and scope of concessions and PPP or delegation contracts.** Concessions and delegation generally cannot be summed up by one feature: risk or payment, as considered by Directive 93/37 and then the interpretative communication; it is defined by a whole series of factors.

3.1.1.6 How to come up with a better definition for a concession or a PPP?

3.1.1.6.1 The contract, or unilateral act by which a public authority confers specific rights to an outside organisation to 'design, construct, finance, maintain and manage' an infrastructure or service for a long and pre-determined period:

- is called a concession when a company is paid by a price paid in the main by users;
- is called a public/private partnership contract when payment is made in the main by a public authority.

3.1.1.6.2 From these definitions, we need to focus on two criteria connected with these types of contract:

- the need for a **transfer of liability** from the public authority to the contract holder;
- the concept of the **globality of the contract**, which includes a number of functions (construction, financing, exploitation, maintenance, etc.) over a long period (averaging from 10 to 75 years).

3.1.1.6.3 The EESC feels that there is no reason to do as the interpretative communication of April 2000 does and just consider that the (concession) contract boils down to simply assuming the exploitation risk; this would be too partial and restrictive a view of this type of contract.

⁽¹⁾ OJ C 121 of 29.4.2000.

3.1.2 The need to differentiate between short and long-term contracts

3.1.2.1 Following the Green Paper published by the European Commission in November 1996 ⁽²⁾, the EESC adopted an opinion on 28 May 1997 ⁽³⁾, in which it asked the Commission to review its approach to concessions with a view to making them more autonomous with respect to the definition of a public works contract: *'The question of concessions should be examined in depth, given that their award must be transparent and subject to objective criteria. There are fundamental differences between a concession and a contract: object, duration, terms for financing, management methods and the extent of liability. To encourage the spread of such contracts the EU Commission could study what form of legal tool should be used for their implementation.'* ⁽⁴⁾

3.1.2.2 The EESC thinks that if one is to consider the nature of contracts and their classification, one needs to recognise what job they are intended to do.

3.1.2.3 A concession or PPP contract cannot be summed up as a transfer of exploitation risk, without any mention of duration, when what it involves, above all, is a transfer of the design, construction, financing and management-maintenance of a work or service to the candidate selected.

3.1.3 **As regards the promoters' contracts mentioned earlier**, several countries have set up a specific branch of law recognising the possibility of private sector operators proposing a project to the responsible public authorities. This practice, which is now quite normal in Italy, should be made available in other Member States which currently do not have similar procedures.

3.2 *Different applications of European law giving rise to legal differences*

3.2.1 There is no one concept of public contracts in Europe; in one country they will be considered as an agreement and in another as a concession. The same contract will therefore be subject to two types of awarding procedures depending on the country where it is drawn up. The United Kingdom, which is less sensitive to the classification of contracts than countries with a Roman tradition and system of administrative law, has always considered PPPs to be simply public works contracts, when they could have been considered as public works concessions.

⁽²⁾ COM (96) 583 final.

⁽³⁾ OJ C 287, 22.9.1997.

⁽⁴⁾ Other points in the opinion are also worth quoting:

'The use of long-term contracts to provide private financing for public works is growing in several countries. These are not the same as public procurement contracts.'

'The ESC desires that concessions be the subject of a specific regime, especially as regards trans-European networks.'

'The ESC proposes that the EU Commission encourage the promotion of new contractual arrangements based on private investment in public infrastructures.'

3.2.2 The emergence, in several states, of a specific branch of law relating to PPPs shows that these types of arrangement on the borderline between contracts and administrative management are of a specific nature that makes any *a priori* regulation difficult.

3.3 *Can European law be satisfied with classifying contracts solely in terms of their conclusion, while leaving the delegation of public service in the institutional sense of the term in the shade? Are the rules covering conclusion of the contract so important?*

3.3.1 The scope of the directives far exceeds harmonisation of the drawing-up of public works contracts. The definitions adopted by the directives have been incorporated in their entirety into several national laws involving an establishment of common contractual concepts in several countries in Europe.

3.3.2 But directives 2004/17 and 2004/18 leave the legal arrangements governing national contracts up to the national laws on contract performance. The question then arises of the place granted to the private sector in public sector management.

3.4 *On the basis of the market economy principle, the order of precedence of standards attaches particular importance to services of general interest and to safeguarding social concerns*

3.4.1 The EESC reaffirms that:

- in line with the future constitution adopted by the Council, these objectives include sustainable development on the basis of balanced economic growth and price stability, together with a highly competitive social market economy, which targets full employment and social protection, as well as a high degree of environmental protection and a better quality of the environment;
- if they are used, PPPs must contribute to achieving the Union's goals;
- the strategy adopted at the Lisbon summit endorsed the principle of an open market economy by supplementing it with a goal of strong growth while respecting the social dimension of Europe (education, training, jobs etc., ...).

3.4.2 While respecting the principle of subsidiarity in order to achieve this objective of an open market economy, the competent public authority must take account of the possibilities for competition and decide on the most appropriate solution.

3.4.3 Any contractual solution for attributing the management of public sector facilities is based on compliance with the social obligations of the country concerned and with the performance obligations set out in the contract. In the event of non-compliance with such social or performance obligations, termination of contract clauses will have to apply.

4. **Proposals to improve and clarify the law regarding PPPs and concessions**

4.1 If a harmonised framework is to be created at European level, the EESC considers it desirable that the development of such contracts should be accompanied by one or more inter-pretative communications which would track the diversity and complexity of the phenomenon over time, rather than rush out a directive immediately which could soon turn out to be inadequate.

4.2 In addition, the EESC calls upon the Commission to consider the issue of PPPs in an overall context and, within the framework of its communications, (after a survey among the Member States) draw up a list of criteria that the public authorities could take into consideration for the social and environmental aspects. The public authorities could then use these criteria to amplify existing legislation and thus prepare a code covering the performance of contracts.

4.3 The EESC considers that:

- the PPP is a flexible and dynamic economic tool which can be used as a catalyst for the integration of certain economic, social and environmental objectives, such as sustainable development, employment and social integration;
- the PPP enables the respective cultures of the public and private sector partners to be improved.

4.4 Directive 2004/18 settles several major questions concerning the conclusion of public contracts which could be adapted to PPPs and concessions, namely: criteria, the competitive dialogue procedure and the confidentiality of bids. It seems worthwhile to clarify the following points:

4.4.1 Maintaining the open approach for concessions

4.4.1.1 The open approach in the wording of Directive 2004/18 should be maintained, especially as not all the Member States use the concessions procedure.

4.4.2 Providing a harmonised legal definition of concessions and PPP in Europe

4.4.2.1 There should be a unified definition of these two contracts in the Member States. The one proposed above by the EESC (see point 3.1.1.6) may make it possible to confirm the special place that these contracts have on the borderline between the concept of a market and that of public administration.

4.4.3 Respect for innovation

4.4.3.1 Community legislation on works concessions imposes no obligation on the licensor to specify in the public works concession notice if he accepts innovative alternatives.

4.4.3.2 The EESC considers it desirable that alternatives of any kind should be accepted whenever there are consultations on these types of contract, with encouragement being given to innovation.

4.4.3.3 Indeed, the answer of a candidate being sounded out for a concession may have an original character comprising major and essential innovations in all technical, financial or commercial fields, which can be used for economic and social improvements to the living and working conditions of the consumers and employees concerned.

4.4.3.4 Such an incentive to candidates to invest a considerable amount of intellectual energy in consultations enabling such innovations is consistent with the spirit of the Lisbon strategy. It is therefore necessary to prevent the intellectual property of original proposals from such candidates from being made available to other competitors. This is a question of ethics and of providing incentives for innovation, which should be transposed into Member States' national laws under the new PPP-linked 'competitive dialogue' procedure.

4.4.4 Negotiated procedure

4.4.4.1 A proposal for a concession contract has to obey the service objective defined by the licensor, but the greatest possible freedom must be allowed in choosing the ways of achieving this goal: design, scheduling of work, assumption of technical risks, etc. After one or more candidates have submitted proposals, the EESC wishes to see a dialogue between the licensor and potential concession holders aimed at finalising the concession or PPP contract according to the choices proposed for fulfilling the needs of the public authority. The old Directive 94/37 reserved the negotiated procedure for exceptional cases. From now on, the competitive dialogue has adopted the principle of negotiation for so-called complex contracts.

4.4.4.2 The competitive dialogue procedure adopted should therefore:

- clearly specify that cases of opening-up (difficulty of assessing replies from the private sector or the exact nature of the needs or the financial arrangements) are to be understood in a very broad and liberal sense;
- state that each firm can make its own proposal, with the intellectual property of each contender being safeguarded.

4.4.4.3 Finally, it must be pointed out that the conclusion of a contract between the contracting public authority and the concession holder is mandatory by establishing the responsibilities of each of the parties in line with what is proposed by the law of the countries concerned.

4.4.5 Statement of overall principles

4.4.5.1 It is particularly important that a legal framework which is properly adapted to concessions and PPPs be embodied in the adoption of principles relating to the implementation of such contracts.

4.4.5.2 The possibility of concluding partnership contracts depends basically on the possibility of achieving a contractual balance and respecting it over a period of time.

4.4.5.3 The EESC recommends that the Commission draw up an interpretative communication encouraging a balanced distribution of risks between licensor and concession holder by allowing each state to choose the means to be used, which may evolve over time. To this end, several ideas should be included among the principles in such a communication:

- the risks of an infrastructure or PPP concession must be identified, quantified and clearly assigned to the party best able to assume them;
- an appropriate contractual agreement on sharing the risks involved should be concluded at the outset between the licensor and the concession holder in the event of an exceptional risk: an unforeseeable event which increases the cost of the contract (unexpected modification of public constraints, unforeseeable technical conditions during construction, short-term changes in consumer behaviour, etc.);
- compensation must be provided by concession holders who do not respect the clauses of the contract;
- the concession holder providing funding must be able to assume, as when concluding any civil law contract, that legal and tax changes by legislators will not affect contracts currently in application;

- provision must be made for the holder of the contract to receive immediate compensation when the contract is modified following a new requirement imposed by the licensor without there being any modification of the initial conditions of the contract;
- the concession holder must be allowed sufficient flexibility to carry out the task assigned to him by the licensor, with the latter handling all regulatory or public order questions.

4.4.5.4 The successful introduction of a system of concessions, as a form of efficient partnership between private management and funding with public investment for the provision of services of general interest, requires an appropriate legal and accounting framework, geared to the particular nature of concessions. The substantial investments and expenditure shouldered by the private business in the initial years in order to set up the infrastructure and launch the service must be spread over the duration of the concession period. The proposal to harmonise European accounting rules in its present form makes the award of concessions unviable. Spanish accounting rules, and the way they treat new concessions, could be an example worth considering if we wish to achieve forms of public-private partnership for construction and/or service projects in the European Union.

5. Clarify appreciably the rules of competition between public or quasi-public entities and private entities

5.1 Concessions or special or exclusive rights are often awarded directly to joint ventures, who may in certain cases extend their field of activity outside their core area by simply modifying their articles of association. As a result, any competition that does occur is sometimes distorted. *In this case they must keep separate accounts, so that checks may be performed to ensure that they do not practise cross-subsidies which would distort competition.*

5.2 *The EESC recommends that the rules be clarified as follows:*

5.2.1 Before a joint entity is set up, the competent authority must take account of the possibilities of competition in the marketplace and decide on the most appropriate solution.

5.2.2 In the interests of transparency and efficiency, the procedures for setting up joint entities must be announced before calls for tenders and clearly call upon private competitors to be able, if necessary, to participate in the setting-up of quasi-public companies. Finally, when a public authority puts

out a new project for tender by a local joint entity, it must ensure, when doing so, that:

- this entity is obliged, if it goes outside its original area, to keep separate accounts, so that checks may be performed to ensure that it is not practising cross-subsidies which would distort competition;
- Community procedures are respected, including those relating to state aid;
- checks are made to ensure that the terms of competition with the private sector are fair (tax status and operating costs of the joint venture).

6. Conclusions

The EESC considers that in many states a specific body of law on PPPs is now emerging and that, on the basis of present experience, it is preferable to:

- allow PPPs to evolve in various forms for several years;
- get the Member States to issue systematic communications on the various types of PPP and the difficulties encountered (advantages and disadvantages compared with conventional forms);
- set up an observatory for studying the evolution of PPPs, with representatives from the Member States, the Commission and civil society, including the EESC (to assess experiences in relation to a variety of criteria such as costs, access to services, the impact on employment, competitiveness, the environment etc.);
- stress that European publication thresholds (e.g. on labour and services) apply for PPPs and concessions; below these European thresholds each Member State will apply its own rules so as to avoid unnecessary red tape,
- publish a interpretative communication before 2007 clarifying:
 - the definition of concessions and PPPs,
 - the competitive position of joint or quasi-public entities,
 - the procedure for competitive dialogue and publication,
 - the treatment of 'promoters' who facilitate innovation,
 - the relevance of state aid for joint or quasi-public entities.

Brussels, 27 October 2004

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the 'Proposal for a Council directive amending Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products'

(COM(2004) 227 final)

(2005/C 120/19)

On 24 May 2004, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 October 2004. The rapporteur was Mr Wilkinson.

At its 412th plenary session (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 84 votes in favour and 11 votes against, with 5 abstentions.

1. Introduction

1.1 Before the Internal Market came into operation there were wide differences in the systems and rates applied to excisable goods resulting from historical and cultural differences between Member States. Directive 92/12/EEC agreed to harmonise the general arrangements for products subject to excise duty ⁽¹⁾ and on the holding, movement and monitoring of such products ⁽²⁾.

1.2 Article 27 of this Directive required that before 1 January 1997 the Council should re-examine the provision of Articles 7, 8, 9 and 10 and adopt any necessary amendments ⁽³⁾. This deadline of 1 January 1997 proved to be too early to give a valid verdict on the difficulties that had been experienced, and continue to be experienced, in applying these Articles.

1.3 Since the directive came into force the interest in moving those excisable products on which tax had already been paid, which are regulated by Articles 7 to 10 of the Directive, has grown considerably. This led, at the request of traders,

⁽¹⁾ The goods are manufactured tobacco, mineral oils and alcoholic beverages.

⁽²⁾ Generally excisable products moving within the EU do so under 'duty suspension' between 'tax warehouses' in the Member States under cover of agreed documentation. Excise duty is paid in the Member States where the products are in due course released for consumption.

⁽³⁾ Excisable goods already released for consumption in a Member State, and thus on which excise duty has been paid in that Member State, may also be moved within the EU. It is movements of this type that are regulated by the provisions of Articles 7 to 10.

to the introduction by some Member States of some simplified procedures. Also there have been many complaints from the public in the way in which the Articles concerned have been applied.

1.4 The Commission considers that there is now enough understanding of the problems that exist in the various categories of movement that are involved ⁽⁴⁾ to propose necessary amendments.

2. General comments

2.1 The operation of the single market with respect to goods subject to excise duty has been complicated in its details, with a consequent uncertainty on how the regulations should be applied in some cases, and has imposed significant administrative burdens on the businesses involved. The Commission proposals cover commercial transactions, sales to private individuals and distance sales and aim to clarify, simplify and harmonise existing rules on intra-EU movements on which excise tax has already been paid in a Member State for the products concerned and to liberalise such movements so that EU consumers can enjoy more benefits from the Internal Market. The Committee welcomes both these objectives.

2.2 Because of the value of Member States' revenues from excise duties ⁽⁵⁾, and because of the differences in the ways in which Member States enforce the regulations, it has been difficult for the Commission to agree amendments with Member

⁽⁴⁾ The categories are products moved between Member States for commercial purposes (other than 'distance sales'), which are defined as all purposes other than personal use by private individuals, products purchased directly by private individuals for their own use, and distance sales.

⁽⁵⁾ The total value to Member States EU GDP in 2001 (15 MS) was in excess of EUR 8,8 billion and the average EU excise revenues as a percentage of GDP was 2,72 %.

States. It is noted that the 10 'new' Member States were not involved in the discussions with the Commission that led to the proposals. The Committee recognises the need for Member States to use excise duties as part of their revenues raising, but doubts that these proposals will change consumer habits to the extent that they will affect overall revenues substantially.

2.3 For goods subject to excise duty, consumer prices are often affected greatly by the tax rates applied. This is particularly true for manufactured tobacco products and for alcoholic beverages⁽¹⁾. There has been some reduction in the differences between excise duty rates applied in Member States since the start of the single market; but until the rates applied are subject to at least a significant measure of harmonisation the motive to seek better bargains in this area will persist and organised criminal activities will also continue in the area.

2.4 EU citizens expect to benefit from the single market in all sorts of ways, but the right to purchase any products wherever they wish in the EU at the local prices is an important benefit. To deny citizens this right does not encourage them to see the EU in a positive light.

2.5 As the Commission points out, the type of duty paid movement covered by the Articles in question mainly involved private individuals or small traders, who do not have substantial financial resources or commercial infrastructure. It is important that all measures agreed should be clear, simple to understand and, so far as possible, simple to apply. They must also be realistic and enforceable.

2.6 In a true internal market the rules on tobacco products should also be liberalised. However, the Committee recognises that in deciding what goods to include in the amended directive Member States will have to consider all the implications fully and that this might lead them to exclude some products.

2.7 It also notes that mineral oils are seldom moved other than commercially. It is thus clear that the proposals as formulated would mainly affect movements of alcoholic drinks.

⁽¹⁾ For manufactured tobacco products shop prices are about 3,7 times greater in the highest taxed Member State than in the lowest taxed. Excise duty rates applied to alcoholic beverages vary between highest and lowest taxing Member State by 15,9 times for beer and 'intermediate products' and by 9,2 times for spirit drinks. No such comparison can be given for wine products, since wine is not taxed at all in 12 of the 25 Member States and a minimal tax of 2 euro-cents per bottle is applied in 2 further Member States.

2.8 The Committee greatly welcomes the fact that many of the proposals are based on advice and requests from the business organisations involved in these matters and that they take cognisance of the effects on smaller enterprises.

3. Specific comments

3.1 **Article 7.** This essentially covers who should pay excise duties under various circumstances, administrative formalities, sales to passengers on intra EU journeys by ship or aircraft and the way in which losses of duty paid goods occurring on intra EU journeys should be handled.

3.1.1 The Committee welcomes the clarifications and harmonisation that the Commission's proposals will bring. It also greatly welcomes the recognition that the massive amount of administrative work required to comply fully under the existing rules needs to be reduced. The Committee supports the Commission's call for Member States to permit simplified procedures to be introduced by simple bilateral administrative agreements between Member States.

3.2 **Article 8.** This Article concerns products acquired by a private individual for their own use. The major point of issue here is the need for the goods concerned to be carried personally by the individual concerned.

3.2.1 The Committee welcomes the Commission's proposal to liberalise the system currently applied to distance purchases by private individuals so that the individual would no longer need to transport the goods purchased personally.

3.2.2 The Committee understands that the new proposal that the individual would personally have to make arrangements for the goods to be delivered to another Member State (and that these arrangements could not be made by the vendor) accords with the current general rules on VAT applied to distance purchases. However, it is hard to see how it could be enforced. For example, presumably the vendors could recommend a local agent who would arrange the transport, thus meeting the legal need not to make the arrangements themselves; but the effect would be the same. It should be made clear that this sort of advice under the amended directive would not be against the rules.

3.3 The proposal to abolish the 'indicative limits' ⁽¹⁾ as possible evidence on whether goods are for private or commercial use is welcomed by the Committee. The public generally take these figures as quantitative limits and too often the limits have been interpreted very narrowly in some Member States. The Committee recognises that removing these limits may make it harder to combat smuggling activities, but the limits have never been intended as more than one indication of whether a movement was for commercial rather than personal use; nor are they of themselves sufficient evidence legally.

3.3.1 However, the Committee suggests that it would not be inappropriate to apply some sort of quantitative restrictions to distance purchases (i.e. when the goods are not transported by the individuals concerned themselves).

Brussels, 27 October 2004.

3.4 **Article 9.** The proposals covering the movement for personal use of mineral oils are most unlikely to cause significant problems.

3.5 **Article 10.** The Committee welcomes the proposed clarification of where excise duty is payable.

4. Summary

4.1 The Committee welcomes the proposals made by the Commission in this complex and sensitive area.

4.2 The proposals are realistic; the clarifications and simplifications are most welcome, the harmonisation is necessary and the liberalisation will be warmly welcomed by EU citizens since the benefits of the single market will be reinforced.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ Indicative limits are now 800 cigarettes, 10 litres of spirits, 90 litres of wine and 110 litres of beer.

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive amending Directive 77/388/EC by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia'

(COM(2004) 295 final)

(2005/C 120/20)

On 30 June 2004 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

In view of the urgency of the work, the European Economic and Social Committee decided at its 412th plenary session of 27 and 28 October 2004 to appoint **Mr Pezzini** as rapporteur-general and adopted the following opinion by 121 votes for, none against and three abstentions.

1. Introduction

1.1 As part of the 'Vienna Strategy for Europe', the Vienna European Council of 11 and 12 December 1998 recommended that Member States which so wished should be allowed on an experimental basis to apply a reduced VAT rate to labour-intensive services so as to test the impact of such reductions on job creation and action to curb the underground economy ⁽¹⁾.

1.2 Following the recommendation, the Council adopted an ad hoc Directive (1999/85/EC) on 22 October 1999, to be valid for the four-year period 2000-2003. Nine Member States — Belgium, Greece, Spain, France, Italy, Luxemburg, the Netherlands, Portugal and the United Kingdom — made use of the possibility.

1.3 In response to reports evaluating the impact of the measures, the Commission presented a proposal for a directive for simplifying and rationalising the reduced VAT rates ⁽²⁾. Because of numerous divergences, the Council has not yet been able to adopt the draft directive. In this area, unfortunately, adoption still requires unanimity.

1.4 Consequently, and given the risk of legal uncertainty in the Member States applying the reduced rates, the Commission, in agreement with the Council, has proposed extending the validity of Directive 1999/85/EC until 31 December 2005.

2. General comments

2.1 The EESC has on several previous occasions endorsed the principle of allowing reduced VAT rates to be applied to labour-intensive services ⁽³⁾.

2.2 In its opinions, the EESC has taken a positive view of these measures' impact in terms of creating jobs and curbing undeclared work.

2.3 The EESC has also made many suggestions for extending the VAT reductions to other sectors such as restaurant services or restoration of historic and religious buildings and buildings of private cultural and architectural heritage.

2.4 The EESC therefore endorses the principle of allowing those new Member States who so request to apply the reduced rate of VAT to labour-intensive services, under Directive 1999/85/EC, until 31 December 2005.

2.5 The EESC nonetheless regrets that the Council was unable to agree on the European Commission's proposal for a directive to simplify and rationalise the system.

2.6 The EESC has repeatedly stated its conviction that unanimity in many aspects of tax affairs is a real obstacle to the Union's progress.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ Unemployment in the EU at the time was close to 10 %. The extraordinary Luxemburg European Council (1997) had focused on unemployment. Research by the European Academy of Avignon had revealed levels of undeclared work in the EU of up to 28 %. See also the EESC opinion on undeclared work (OJ C 101 of 12.4.1999, p. 30)

⁽²⁾ COM(2003) 397 final of 23 July 2003

⁽³⁾ OJ C 209 of 22.7.1999
OJ C 32 of 5.2.2004

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on energy end-use efficiency and energy services'

(COM(2003) 739 *final* — 2003/0300 (COD))

(2005/C 120/21)

On 23 January 2004 the Council decided to consult the European Economic and Social Committee, under Articles 175(1) of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2004. The rapporteur was Mrs Sirkeinen.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 28 October 2004), the European Economic and Social Committee adopted the following opinion by 117 votes to 10 with 14 abstentions.

1. Background

1.1 EU energy policy has during recent years followed three main lines:

- creating effective open markets for electricity and gas,
- ensuring security of energy supply, and
- reaching stringent environmental targets and in particular combating climate change.

Key legislation adopted in these areas includes the revised electricity and gas-market Directives, which open markets for non-household users in mid-2004 and all consumers in 2007. On security of electricity supply a Green Paper was published in 2001, highlighting demand-side management as one key action for both security of supply and combating climate change.

1.2 A reliable energy supply at reasonable prices is an important precondition for economic growth and welfare of the citizens of Europe. Consequently, the EESC has in its opinions supported the Commission's objectives and approach.

1.3 The proposal for a Directive on end-use efficiency and energy services was presented by the Commission as a part of a package of proposals dealing with energy infrastructure and security of supply. The Commission points out that in this context the question of supply-demand balance cannot be neglected. An underlying cause of the increased stress on networks is demand growth, which can partly be counteracted by demand-side management.

1.4 Efficiency of energy end-use, or energy conservation, has for long been recognized as a powerful element of the energy market. Less use of energy saves money and contributes directly to both security of supply and often to reducing greenhouse gases by decreasing the need for generation and for investments in new production, transmission and distribution.

1.5 There is much potential for better energy efficiency. The Communication refers to studies that on average show that final energy consumption in the EU could be reduced by at least 20 % without reducing comfort and at no extra cost. The efficiency potential for electricity use is generally lower than this total figure, and higher for other forms of energy.

1.6 In a Communication accompanying the energy package the Commission states that future growth in electricity demand will be taken care of by demand-side management. Some new investment is, however, seen to be needed simply to renew plants that have reached the end of their life. Much of this the Commission expects to take the form of renewables and distributed small scale combined heat and power generation.

1.6.1 The Committee cannot agree with this description of future trends and needs in the electricity sector. In a Communication on security of supply, much clearer and realistic information on future trends and potentials is to be expected. In particular when much better quantified information and scenarios are available, including material produced by the Commission itself. Nobody is served by avoiding clear and realistic — be it for many unpopular — baseline information.

1.6.2 A very rough calculation can provide an idea of the magnitude of the problem and options to solve it. Electricity demand grows presently at a rate of 1-2 % per annum in the EU. The EU target for increasing electricity generation from renewable energy sources means a yearly increase of less than 1 %. The target proposed for energy efficiency would cut yearly growth by 1 %. Renewables and efficiency could thus compensate the growth in demand, and in addition possibly substitute existing capacity by much less than 1 % per annum. Power plants run for 30-50 years, which means theoretically that substitution needs to take place at a yearly average rate of 3 %. The International Energy Agency (IEA) notes a need for new power plants in the EU of over 200 000 MW over the next 20 years.

2. The Commission proposal

2.1 The goal of the Commission proposal is to ensure that every year 1 % more of the energy previously used in each Member State is saved through increased energy efficiency. The 1 % of energy to be saved is calculated on the average yearly energy use of the past five years in the Member State. This will lead to around 6 % energy savings in the year 2012. Member States would be obliged to report and verify, in accordance with the Directive's provisions that this amount of energy has been saved each year up to 2012. Energy use in the Member State can still grow, but at a lower rate than without the measures.

2.2 The draft Directive boosts energy-efficiency measures and aims at promoting the market for energy services such as lighting, heating, hot water, ventilation, etc. Member States would be obliged to respect two energy savings targets and to ensure that suppliers of energy offer energy services for the period 2006 to 2012.

2.3 The general energy end-use savings target of 1 % per year means 1 % of the average amount of energy distributed or sold to final customers the previous five years. These savings will have to be registered from the following sectors: households, agriculture, commercial and public sectors, transport and the industry. Air and maritime transport are excluded for measurement reasons. Excluded also are energy-intensive industries, which are already covered by the emissions trading Directive and the IPPC Directive. All types of energy will be taken into account: from electricity and natural gas to district heating and cooling, heating fuel, coal and lignite, forestry and agricultural energy products and transport fuels.

2.4 A sectoral target is set for Member State public sectors, which need to save at least 1.5 % energy a year, notably thanks to energy-efficient public procurement. These savings would also contribute to the general yearly savings target of 1 %.

2.5 A supply-side obligation is set for the sale of energy services. Energy distributors and/or retail supply companies would have to integrate energy services into their distribution and sales of energy until a 5 % share of their customers has been covered. Alternatively, energy audits would be offered.

2.6 A method of calculation allows credit for measures taken earlier. Member States may measure and verify the continued impact of already existing energy services and efficiency measures which were not introduced before 1991. Energy taxes and energy saving information campaigns can be taken into account provided their impacts are also measurable and verifiable.

2.7 Member States will decide which sectors should be addressed and how much each sector should contribute to reaching the national target, although all eligible customers should be offered some form of energy service or energy-efficiency programme or measures.

2.8 Savings will be calculated as the sum of the measured or estimated reductions in final energy consumption attributable to energy services, energy-efficiency programmes and other eligible measures. Member States will report regularly on their success in meeting targets. Examples of eligible energy services and energy-efficiency guidelines for measuring and verifying energy savings are set forth in the proposal.

3. General comments

3.1 The EESC has on several previous occasions stressed the importance of energy saving and enhanced end-use energy efficiency in order to meet the goal of sustainable development and, in particular, to combat climate change. The Commission's initiative to focus serious attention on this issue is welcomed. The EESC supports strongly the objective of energy efficiency and some of the proposals in the draft Directive, but also has proposals for changes.

3.2 In many Member States action has been taken in this area, which today features a large variety of policy measures, practical experiences and results. Perhaps the most widespread form of activity in this area, also with some sectoral EU-wide examples, is voluntary action, in unorganised forms or based on agreements.

3.3 At EU level there are requirements for labelling household and other appliances and a Directive on energy use in buildings. Other measures, like the Directive on design of energy-using products, are in the pipeline. Many other parts of EU policies support also end-use energy efficiency, like the IPPC ⁽¹⁾ and energy-tax directives. Unfortunately these policies, to a large extent, include measures that considerably increase the cost of energy. This can be seen as supportive of saving energy, but damages caused by higher costs to households and the competitiveness of industries can outweigh the positive effects.

3.4 Relevant actions to enhance energy efficiency vary widely because of different local circumstances and actions so far. The effects of these actions on the internal market seem limited. Against this background it is important, in line with the subsidiarity principle, that additional actions at EU level give genuine added value.

3.5 In its proposal the Commission seems to try to take account of the differences and varieties of actions. But given all existing national and EU regulations and, in particular, all voluntary activities, the proposal needs, in the view of the EESC, some adjustments in order to add optimal value to existing measures. Also the coherence with other, related requirements, such as those laid down in the building directive, should be clarified.

3.6 The potential of better energy efficiency has been subject to many studies. The EESC broadly agrees with the Commission on the figures it presents. The potential is large, but some of it has to be viewed critically by taking better account of economic realities. The profitability of efficiency investments has been calculated against a pay-back period of the lifespan of the investment, which is often not viable in practical life. For example, if the extra cost of a more efficient heating system in a family house has a pay-back period of the lifespan of the appliance, that is tens of years, the owner would hardly see this as a profitable investment. Similarly in a small business with a limited investment budget, the manager would not put the replacement of a machine which is still operational by one using less energy higher on his list of priorities than a project that increases total output and turnover.

(¹) Integrated Pollution Prevention and Control.

3.7 Against this background the target set in the Directive of 1 % yearly efficiency gains is ambitious, but not unrealistic overall. The target of 1,5 % in the public sector, which relates mainly to energy use in buildings, can in some Member States be very difficult and expensive to reach in the proposed time-frame.

3.8 The main argument in support of setting a mandatory target is that targets are strong motivators. But there are many arguments against a binding target.

3.8.1 Differences in past and present actions are such that a single target would imply different costs to energy users in different Member States. Individual targets for Member States are not feasible because of lack of comparable information as a calculation base.

3.8.2 Another argument is that a target would be seen as a 'stick' instead of a carrot and this would give the wrong message. The potentials and the benefits of enhancing better energy efficiency should be communicated and enhanced in a positive, stimulating fashion.

3.8.3 The information base on present energy use, energy efficiency situation and effects of present measures is poor in many Member States. The calculation methods for savings presented in the draft Directive are not well defined. Flexibility on this point can be welcomed, but results are comparable and reliable vis-à-vis the target only when both the baseline information and the calculation methods are reliable and comparable.

3.8.4 The EESC is also concerned that sub-optimisation, in this case of energy efficiency by setting binding targets, does not serve well the optimisation in relation to overall objectives, such as total efficiency of the economy or decreasing greenhouse gas emissions in a cost effective way.

3.9 For the above mentioned reasons the EESC does not support the setting of a binding target for the Member States. A minimum requirement for setting a target is that fully satisfactory and feasible calculation methods are defined.

3.9.1 Instead of optimal national binding targets the EESC proposes that Member States should be obliged to establish or update existing programmes for energy efficiency, including monitoring. The targets of 1 % and 1,5 % for the public sector should be set for the average of the Member States.

3.10 Member States must be free to decide on how to direct targets and actions to different sectors and forms of energy. It is, however, important that all sectors and fuels are included and participate in relation to their potentials.

3.11 The provisions of the draft Directive on documentation, verification and monitoring (Article 4.5) mean a workload that can be out of proportion to expected resulting benefit. The quality of proof of this work remains questionable as it is difficult to clearly connect a specific measure with a particular amount of energy saved. A much more simple and clear but reliable approach is needed.

3.12 The same results as with these mandatory actions can better be achieved by tackling the underlying problems of information and financing more directly. Actions in this direction are the provisions in Article 8 on establishing appropriate qualification, accreditation and/or certification systems for energy services. These provisions should be further developed and broadened. Innovative financing methods, like loans with low interest rates, need also to be developed, to help in cases of long pay back periods, as the examples mentioned in 3.6.

3.13 Measures to support and develop existing and proven voluntary actions should also be added. In accordance with Article 12, information and easy availability of energy audits, developing energy audit applications suitable for SMEs or a particular branch of activity and support for further training of people to be able to act as energy managers are examples of measures that have shown good results and should be enhanced by the Commission.

3.14 Instead of dealing with massive reporting, the Commission could support Member States in their efforts for better energy efficiency by helping them to create a better information base, both in the Member States and for itself. A thorough analysis of existing barriers to better energy efficiency is needed. The Commission could also enhance co-operation and exchange of best practices between Member States.

3.15 A proposal like this, with implications on markets and costs to consumers, must be subjected to a proper impact assessment. As this has not been done in the preparatory stage, the EESC calls for an assessment to be immediately executed, before decisions are made in the Council and Parliament.

3.16 The Commission presents the idea of possibly introducing at a later stage a system of so called white certificates.

Such a system could only work if binding obligations for energy conservation or efficiency are introduced. The EESC does not support the introduction of binding obligations for this purpose and cannot therefore support the introduction of white certificates either. In addition, the functioning of both emissions trading and trade with green certificates should be carefully monitored and evaluated before even thinking of introducing new schemes to an already complicated energy-related market.

4. Detailed comments

4.1 In Article 3, Definitions, the concept of energy services should be more clearly defined. Also the threshold of 50 GWh in the definition of 'Small distributors and retail energy sales companies' should be re-evaluated — it may be impractically low.

4.2 Article 4 should be revised according to the General Comments of this Opinion.

4.3 Article 6(a) and 10(b): A growing supply of energy services is desirable. But the EESC does not agree with the Commission approach that these should be supplied by energy distributors and retail supply companies only, and the cost integrated into their distribution and sales prices until a certain market penetration has taken place. Already now energy services are supplied by others, too — like house-maintenance companies, consultants and ESCO companies — and the market for these must be open to everyone on equal terms. The proposal of offering a share of 5 % of customer services with no charge, at the cost of all customers, is not fair to customers and discriminates against other suppliers.

4.4 The concept of 'eligible customer' in Article 7 needs to be clarified.

4.5 Article 10(a): It is hard to see how transmission tariffs can be set so as to specifically enhance energy efficiency. It is not easy to understand the relevant mechanisms of the examples given in the paragraph.

4.6 The metering requirements in Article 13 can prove very costly, and it will always be the consumer who carries the costs, in the end. Measures on metering should therefore be approached carefully.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on a 'Proposal for a Directive of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment'

(COM(2003) 740 final — 2003/0301 (COD))

(2005/C 120/22)

On 23 January 2004 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2004. The rapporteur was **Mrs Sirkeinen**.

At its 412th plenary session of 27 and 28 October 2004 (meeting of 28 October 2004), the European Economic and Social Committee adopted the following opinion by 134 votes to 7 with 14 abstentions.

1. Background

1.1 EU energy policy has during recent years followed three main lines:

- creating effective open markets for electricity and gas;
- ensuring security of energy supply; and
- reaching stringent environmental targets and in particular combating climate change.

Key legislation adopted in these areas includes the revised electricity and gas-market Directives, which open markets for non-household users in mid 2004 and all consumers in 2007. On security of electricity supply a Green Paper was published in 2001, highlighting demand-side management as one key action for both security of supply and combating climate change.

1.2 A reliable energy supply at reasonable prices is an important precondition for economic growth and welfare of the citizens of Europe. Consequently, the EESC has in its opinions supported the Commissions' objectives and approach.

1.3 The EU energy markets do not yet work in delivering the above-mentioned objectives. This is perhaps not even to be expected while key legislation is only approaching its implementation stage. According to the Commission the present draft legislation is a supplement to existing legislation aiming at improving present or future deficiencies.

1.4 A strong motivation for presenting the regulatory package was the electricity black-out in Italy in September 2003, as well as other incidents in Europe and the United States. The black-out was caused by a series of operational failures following a collapse in a heavily overloaded line in Switzerland. It also showed problems in the coordination between

transmission-system operators. The unfortunate incident provides important lessons to be learned. Open markets will increase transmission and potentially problems linked to it.

1.5 It is surprising that the Commission merely mentions the most profound, underlying reason for blackouts. Some areas or countries have an undersupply of electricity generation and are continually in need of large amounts of electricity imports from neighbouring and even more distant regions with oversupply. Cross-border trade in the common electricity market is beneficial for effectively dealing with variations in supply and demand, and adds thereby to security of supply and enhances competition. But it cannot and should not compensate for insufficient generation capacity in some parts of the market.

1.6 According to the Commission, in a healthy market, when demand increases but supply does not, prices increase. In theory consumers react to higher prices by cutting use, but in electricity markets price elasticity is known to be weak for several reasons. At a certain price level investment in more supply becomes profitable, and so a continuing price increase is stopped. If sufficient investments do not occur, prices continue to grow creating, at least in the short and medium term, severe problems to consumers and industrial competitiveness, and thereby whole economies. A particular problem concerning investments in electricity generation is that price signals cannot be quickly responded to, as investment projects from planning through licensing to construction take a long time to execute. Although in certain cases, forward and future markets can alleviate this problem to some extent, these practices are recent for their viability to be assured.

1.7 The EU has decided to open its electricity and gas markets for competition. There is, however, concern about whether sufficient investment will take place in the open market, in particular in peak capacity. The electricity market Directive requires Member States to establish a system for monitoring the supply and demand balance and to put into place a tendering procedure for more power capacity when deemed necessary. Member States are responsible for the general structure of their energy supply and their choice of energy sources, and the draft Constitutional Treaty does not change this.

1.8 Reasons for insufficient investments may be both market failures (taking insufficiently into account long-term needs, environmental factors and regional and local circumstances etc.) and are not solely inefficient competition, lack of a stable regulatory framework, prohibitive permit procedures and/or public opposition. The requirement to make the network an independent economic entity (unbundling) means it will be managed without ambition, since innovation and added value are found in customer services. Thus, the network is caught between toll charges fixed by the regulators, and charges and investment imposed by the client operators, so it has no opportunity, or clear view of the need, for development.

1.9 Efficiency of energy end use, or energy saving, has for long been recognized as a powerful element of the energy market. Less use of energy saves money and contributes directly to both security of supply and often to reducing greenhouse gases by decreasing the need for generation and for investments in new production and transmission. New technologies can have much to offer here, and measures need to be taken to enhance their development and market introduction.

1.10 The Commission points out that the question of supply-demand balance cannot be neglected. An underlying cause of the increased stress on networks is demand growth, which can partly be counteracted by demand-side management. But appropriate incentives to invest in networks and electricity generation are also necessary.

1.11 According to the Commission, future growth in electricity demand will be taken care of by demand-side management. Some new investment is, however, seen to be needed simply to renew plants that have reached the end of their life. Much of this the Commission expects to take the form of renewables and distributed small scale combined heat and power generation.

1.11.1 The Committee strongly disagrees with this description of future trends and needs in the electricity sector. In a Communication on investments in infrastructure, much clearer and realistic information on future trends and potentials is to be expected. In particular when much better quantified information and scenarios are available, including material produced by the Commission itself. Nobody is served by avoiding clear and realistic — be it for many unpopular — baseline information.

1.11.2 A very rough calculation can provide an idea of the magnitude of the problem and options to solve it: Electricity demand grows presently at a rate of 1-2 % per annum in the EU. The EU target for increasing electricity generation from renewable energy sources means a yearly increase of less than 1 %. The target proposed for energy efficiency would cut yearly growth by 1 %. Renewables and efficiency could thus compensate the growth in demand, and in addition possibly substitute existing capacity by much less than 1 % per annum. Power plants run for 30-50 years, which means theoretically that substitution needs to take place at a yearly average rate of 3 %. The International Energy Agency (IEA) notes a need for new power plants in the EU of over 200 000 MW over the next 20 years.

2. The Commission proposal

2.1 The objective of the proposed directive is to promote investment in the European energy sector to both strengthen competition and help prevent the recurrence of blackouts. It emphasises the need of a clear EU legislative framework for the proper functioning of a competitive internal market for electricity, by safeguarding security of electricity supply and ensuring an adequate level of interconnection between Member States, through general, transparent and non-discriminatory policies.

2.2 The draft directive requires Member States to:

- have a clearly defined policy towards the supply-demand balance which allows for targets for reserve capacity to be set or alternatives such as demand-side measures; and to
- have defined standards to be met relating to the security of the transmission and distribution networks.

2.3 Transmission system operators are required to submit a (multi)annual investment strategy to its national regulator. The regulator can add important cross-border projects to the list.

2.4 National regulators are required to submit a summary of these investment programmes to the Commission for consultation with the European regulators group on electricity and gas and with account having been taken of the Trans-European energy networks axes of priority European interest.

2.5 National regulators obtain a right to intervene to accelerate the completion of projects and, where necessary, to issue a call for tender on certain projects in the event that the Transmission System Operator is unable or unwilling to complete the projects concerned.

3. General comments

3.1 The Electricity Market Directive and the Regulation on Cross-border Trade form the framework for a liberalised internal market for electricity. Their implementation starts on 1 July 2004. In order to provide investors and other actors in the market with regulatory stability, which is crucial for the right climate for investments, any changes to this framework should be approached with serious caution.

3.2 The Commission itself refers, more or less clearly, to the underlying reasons for concerns regarding security of supply, and for presenting the draft directive. The proposed directive does not, however, directly address these reasons.

3.3 The first reason is lack of sufficient generation capacity in some parts/Member States of the Union, due to the orientation of energy policy. The Commission describes this problem vis-à-vis reserve capacity, but the problem exists for base-load generation, too.

3.4 The second reason is lack of competition, due to political unwillingness by some Member States to act on incumbent monopolies, oligopolies or dominant market positions. The Commission notes this and refers to the limitations of its capacities to do much about it. The option chosen is to enhance competition from operators in other Member States by trying to ensure sufficient interconnection capacity.

3.5 A third reason is unwillingness or a lack of capability by some transmission system operators to implement existing guidelines to cross-border exchanges, even if these guidelines have been voluntarily agreed by transmission-system operators in their own organisations. A question is, whether one reason

behind this could be insufficient unbundling of energy and network activities.

3.6 The most serious obstacle to investments in transmission networks is political and public resistance to such transmission projects. In some Member States almost any form of generation is not wanted. The right of people to be heard on projects that have influence on them is an important basic right. But planning and decision-making processes tend to get very cumbersome and prolonged, thus putting even the most urgent and necessary projects at risk.

3.7 The very relevant question that the directive addresses and needs a solution at EU level is to ensure, in one way or another, that sufficient investment in interconnectors takes place in a market-based manner.

3.8 The draft Directive provides for the regulator the right to interfere by altering the TSO's investment plan and require a certain investment to be made and finally introduces a tendering procedure. The present proposal goes further than the electricity market Directive, which provides for monitoring the supply and demand balance and, when needed, a tendering procedure for more power capacity. In order to avoid too frequent regulatory changes and overregulation, legislation should not be altered on this point before sufficient experience of the functioning of the present provisions have been gained.

3.9 Part of the contents of the draft directive, like the general provisions in Article 3, are relevant features of any good national energy policy and widely implemented. Presenting them as provisions in a directive may lead to confusion of responsibilities.

3.10 One issue that may have deserved the attention of the Commission is demand management. Enhancing the possibilities of energy users, in particular medium-sized energy users, to react to the price fluctuation of the wholesale price of electricity could contribute to cutting peak demand.

4. Detailed comments

4.1 Article 4: The EESC agrees on these provisions, given that the first subparagraph means that all TSOs have to sign up to the guidelines of ETSO.

4.2 Article 5: The EESC finds the approach of the article somewhat confusing as regards responsibilities of the EU and Member States. In principle, taken out of context, the EESC agrees with most of the measures mentioned in the article as being part of a sound national energy policy.

4.3 It remains unclear what is meant by 'reserve capacity' in the second paragraph of Article 5.1. The article should deal only with short-term technical reserves, needed for system reliability.

4.4 Article 6: It is difficult to find the sense in connecting network investments with demand-side management, even less in the way these are connected in Article 6(1). For 6(2), these requirements would primarily be taken into account, if possible, when setting the methodology for network-access tariffs. Concerning Article 6(2), actions are needed for interconnectors, as mentioned in point 3.7.

4.5 Article 7: The EESC is not in favour of the measures proposed in this article for reasons mentioned in point 3.8.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

APPENDIX

to the opinion of the European Economic and Social Committee

The following Section opinion text was rejected in favour of amendments adopted by the assembly but obtained at least one-quarter of the votes cast:

Point 1.8, last phrase:

'Frequently added new legislation and in particular legislation allowing public interference in the markets do not create the necessary stable regulatory framework but, on the contrary, increases the investor's risk, delays investment and thereby increases prices.'

Outcome:

78 votes for deleting the phrase, 67 against and 9 abstentions.

Opinion of the European Economic and Social Committee on the 'Treaty establishing a Constitution for Europe'

(2005/C 120/23)

On 29 September 2004, the European Parliament decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the 'Treaty establishing a Constitution for Europe'.

In view of the urgent nature of the work, the EESC decided, at its 411th plenary session held on 15 and 16 September 2004, to appoint Mr Malosse as rapporteur-general. At its 412th plenary session on 27 and 28 October 2004 (meeting of 28 October 2004), the EESC adopted the following opinion by 166 votes to 4, with 6 abstentions:

1. Introduction

1.1 The EESC expressed its support for the draft Constitutional Treaty in its opinion of 24 September 2003 ⁽¹⁾. In this opinion, the EESC pointed out that once agreement had, hopefully, been reached between the Member States, the key task would be to secure the support of the people and civil society bodies in the EU Member States.

1.2 We have now reached this stage as the debate on the ratification of the Treaty has been set in train in each of the EU Member States, irrespective of the method of ratification which has been selected (ratification by Parliament or through a referendum).

1.3 At this crucial time for the future of the European venture, everyone must be encouraged to look beyond their own interests, be they personal, sectorial, professional, local or national interests. The draft Treaty has to be scrutinised from the standpoint of its overall political importance in the context of the process launched over 50 years ago by the founding fathers of the European Communities.

1.4 Against this background, the EESC welcomes the action taken by the European Parliament's Committee on Constitutional Affairs in asking the EESC for an opinion on the Constitutional Treaty. The EESC intends to avail itself to the full of this opportunity to set out:

- **clear messages** addressed to civil society organisations in the EU on the content and scope of the Constitutional Treaty and
- **recommendations** on the communication strategy to be adopted with a view to rallying civil society behind the Constitutional Treaty.

2. Clear messages

2.1 *Use of the instrument of the 'Convention': a step forward in the process of democratising the European venture*

2.1.1 The Constitutional Treaty was drafted by a Convention, most of whose members were national MPs or MEPs. This method of drawing up the Constitutional Treaty does, in itself, represent a step forward which deserves to be drawn to public attention. The efforts to involve civil society organisations, by

means of hearings and consultations and through the participation of observers selected by the social partners and the EESC, marked a real step forward, also vis-à-vis the constitutional practices pursued in the majority of the Member States. In its abovementioned opinion of 24 September 2003 ⁽²⁾, the EESC also put forward proposals for strengthening the process of involving civil society in the future.

2.1.2 Although there was a number of setbacks, the IGC did not substantially change the text proposed by the Convention. The Constitutional Treaty is based on a consensus between all the political groupings and is the fruit of a genuine democratic debate.

2.1.3 Even though the Convention was not given constituent power, in view of the dual nature of the EU, as a union of states and peoples, the establishment of the Convention represented a genuine break with earlier practices, which completely disregarded the representation of parliaments and civil society.

2.1.4 Abandonment of the Constitutional Treaty would constitute a defeat for the method of drafting which was adopted. It is therefore essential to plead the cause of using this method on a permanent basis (as stipulated in the Constitutional Treaty itself).

2.1.5 For this reason, the EESC, which participated in the work of the Convention, endorses the legitimacy of the Treaty and calls upon all the members of the Convention and observers who signed the draft Treaty to follow its example.

2.2 *The establishment of a Constitution, a 'revolutionary' step in the history of the European venture*

2.2.1 The Constitution provides a new framework of operation for the Union. The Constitution comprises three main parts, the first two of which represent complete innovations. Part I defines the principles and values underlying the Union; Part II sets out the fundamental rights of the citizens of the Union; and Part III defines and updates the Community policies set out in the earlier treaties.

⁽¹⁾ Cf. Official Journal C 10 of 14.1.2004, p. 43.

⁽²⁾ Cf. footnote 1.

2.2.2 The Constitution provides a means of replacing the existing treaties by a single, comprehensive document, thereby making the way in which the EU operates more readily understandable and more accessible to all.

2.2.3 The Constitution does not replace national constitutions but coexists alongside these constitutions. It will apply to all of the territory of the European Union.

2.2.4 Although the substance of the Constitution is not, strictly speaking, 'revolutionary', the fact that the new Treaty takes the form of a constitution is bound to mark a new chapter in the collective awareness of the people of the European Union by focusing on a joint ambition and a common destiny. The EESC is duty bound to promote public awareness of this step forward in the building of Europe.

2.3 *A more democratic Union which recognises that the interests of the people are paramount in the building of Europe (Part I of the Treaty)*

2.3.1 The objective of the Constitutional Treaty is abundantly clear: to establish a political union on behalf of the citizens and States of Europe.

2.3.2 The Union's ambitions focus on the principal aspirations of the citizens of the Union. The Constitutional Treaty explicitly mentions 'full employment, a highly competitive social market economy and a high level of protection and improvement of the quality of the environment', when listing the aims of the Union. The Union also seeks to promote 'economic, social and territorial cohesion and solidarity among Member States' and to provide 'an area of freedom, security and justice' for its citizens.

2.3.3 There has been a distinct improvement in the democratic legitimacy of the decision-making process:

2.3.3.1 The powers of the European Parliament, as the joint legislative body, have been increased. This development could help to strengthen public perception of the importance of the European Parliament.

2.3.3.2 The new role assigned to the national parliaments safeguards against any over-regulation at EU level. The Commission is obliged to inform national parliaments of any new initiatives and the 'early warning mechanism' enables them to monitor compliance with the principle of subsidiarity.

2.3.4 In future, citizens can be informed of the positions adopted by their respective governments at the Council, since the latter body will be bound to act in a transparent way in its capacity as a legislative body.

2.3.5 For the first time, participatory democracy has been recognised as a principle underlying the operation of the Union and providing a vital counterpart to representative democracy.

2.3.5.1 By maintaining an open and regular dialogue with representative civil society associations, EU Institutions should act in a more coherent and transparent way. By consulting the parties concerned, it should be possible, for example, to avoid nitpicking rules and rules which cannot be applied in practice. Under the Constitutional Treaty the Commission would also be obliged to carry out a more effective assessment of the economic and social impact of its proposals, including the impact at regional and local level.

2.3.5.2 One of the major innovations of the Constitutional Treaty is the establishment of a right of popular initiative. Provided that each request is supported by at least one million citizens coming from a significant number of Member States, EU citizens may in future invite the European Commission to submit proposals for legislation which meet their aspirations.

2.3.6 The Constitutional Treaty confirms the role played by the social partners as a key component of democratic life in the Union, whilst respecting the autonomy of the social dialogue.

2.3.7 The introduction of this new part (Part I) of the proposed Constitution for Europe should make it possible to reduce the democratic deficit in an expanding Union.

2.4 *A Union which affords better protection of the fundamental rights of European citizens (Part II of the Treaty)*

2.4.1 The Charter of Fundamental Rights was drawn up by a Convention whose democratic legitimacy was widely recognised. Contributions from civil society organisations played an important role in the drafting of the Charter.

2.4.2 The Charter of Fundamental Rights is seen as marking a step forward as it incorporates, without breaking them down into separate categories, all types of individual and collective rights (civil and political rights and social and economic rights). It also adopts an innovative approach by recognising more 'contemporary' civil rights (linked to sustainable development, consumer protection, gender equality, bioethics, the protection of personal data, etc.).

2.4.3 The fundamental rights of Union citizens form an integral part of the Constitutional Treaty, rather than taking the form of a preamble.

2.4.4 The incorporation of the European Charter of Fundamental Rights into the Treaty, as demanded by a large number of European civil society organisations, is of significant importance as these rights will henceforth be legally binding.

2.4.5 This progressive measure will, in practice, mean that citizens will benefit from better legal protection. They will, in future, be able to invoke the provisions of the Charter in any national courts when challenging decisions taken by the European Institutions and by Member States in implementing Community law.

2.4.6 *The EESC, which was involved in the drawing-up of the European Charter of Fundamental Rights, takes the view that its incorporation into the Treaty represents a significant step forward in the protection of the rights of natural and legal persons.*

2.5 *A Union which is capable of meeting the aspirations of its citizens by virtue of the Community method and Community policies (Part III of the Treaty)*

2.5.1 The existing Treaties and, in particular, the Community method, have demonstrated their effectiveness to a considerable degree. Part III of the Constitutional Treaty therefore sets out the main provisions of the existing treaties with regard to the EU's common policies, whilst extending qualified majority voting to approximately 20 areas hitherto subject to unanimous voting. Furthermore, it gives official recognition to the co-decision procedure as 'ordinary legislative procedure', thereby strengthening the powers of the European Parliament. Most of the decisions taken by the Union relating to the common policies can therefore be adopted more effectively and more democratically.

2.5.2 Part III of the draft Constitution sets out the general principles underlying the fields in which the EU Member States have decided either to pool their resources or to cooperate. The content of the policies in these areas is not, however, cast in stone; it depends on the decisions taken by EU governments and by majority votes in the European Parliament and therefore reflects the will of these bodies.

2.5.3 One example of this is social policy, with the insertion of a general provision ('social clause') stipulating that the Union must take into account, when defining and implementing its policies, 'the requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health'. Further examples include combating all forms of discrimination and exclusion and the recognition of the role of services of general interest in the promotion of the social and territorial cohesion of the Union or, as already enshrined in the Treaty, catering for the environmental dimension and the requirements of consumer protection.

2.5.4 The difficulty encountered in securing popular involvement in the draft Constitutional Treaty may be attributed to the very fact that, whilst the public is used to being consulted on specific actions or proposed policies, it is not used to being consulted on operating frameworks. In order to mobilise public opinion, we have to launch a debate on what course of action the public and the Member States wish to pursue, now that the principles, values, objectives and operating rules have been clearly set out in the draft Constitution.

2.5.5 For this reason, the EESC would, at this stage, like to establish a link between the Constitutional Treaty and the Lisbon Strategy, which will shortly be the subject of a mid-term review. The subject of the Lisbon Strategy should be introduced into the debate since it maps out a vision of the future for all citizens of the EU marked by: competitiveness, full employment; shared knowledge; investment in human resources; and growth, whilst preserving the living environment and the quality of life through sustainable development. This strategy has now broken down as the implementing instruments are not up to the task and there is a chronic lack of public involvement and involvement of civil society. At this stage, there is therefore a vital need for a fresh impulse and new Community initiatives in order to make the Union's economic and social project credible.

2.5.6 In the opinion which it submitted to the European Council ⁽³⁾, the EESC called for the mid-term review to place responsibility for implementing the Lisbon Strategy in the hands of public and civil society players. The forthcoming mid-term review must be seen as providing an opportunity, which cannot be missed, to pass on to the public and civil society a clear political message spelling out the content of the EU's project.

2.5.7 *EU citizens need to be made aware of the fact that the democratic progress achieved by the draft Constitution offers them the wherewithal to decide themselves on the content of the policies and actions to be pursued in practice by the Union in order to meet their aspirations. Rejection of the Constitutional Treaty would therefore be tantamount to freezing the Treaties in their present form.*

2.6 *Rallying European civil society behind the achievements of the Constitutional Treaty in order to overcome its shortcomings*

2.6.1 This does not mean that we should keep quiet about the shortcomings of the Constitutional Treaty in its current form. A large number of the demands of civil society could not be taken into account by the Convention and still fewer by the IGC. In its opinion of 24 September 2003 ⁽⁴⁾, the EESC noted a whole series of weaknesses in the Constitutional Treaty, including the following:

2.6.1.1 The lack of adequate operational provisions for implementing the principle of participatory democracy. As a result, the role of the EESC was not strengthened to the extent necessary to ensure effective civil dialogue.

2.6.1.2 The absence of provisions acknowledging the role played by organised civil society in implementing the subsidiarity principle (including functional subsidiarity) in the protocol on the application of this principle.

⁽³⁾ Opinion submitted by the European Economic and Social Committee to the European Council on the mid-term review of the Lisbon Strategy (1438/2004).

⁽⁴⁾ Cf. footnote 1.

2.6.1.3 The weakness of EU governance as regards economic and employment policy and the absence of rules providing for consultation of the European Parliament and the EESC in these areas, which concern civil society players most of all.

2.6.1.4 The lack of any requirement for mandatory consultation of the EESC on application of the non-discrimination principle, the common asylum and immigration policy or culture, despite the Committee's expertise in these fields.

2.6.2 Does this mean then that the Treaty should be rejected? The EESC believes that this would only make things worse and send a negative signal regarding the European venture, both within the Union and outside, where hostile or competing forces would certainly take delight in such a setback. On the contrary, the Committee feels that it is possible to build on the proposed institutional framework and improve it through operational measures:

2.6.2.1 The provisions on participatory democracy should be made the subject of a series of communications defining the consultation procedures and the role of the EESC.

2.6.2.2 Civil society should be consulted on the content of the European law defining the procedures for implementing the right of citizens' initiative. The EESC could be asked to deliver an exploratory opinion on this subject. It could also lend its support to civil society initiatives.

2.6.2.3 The principle of participatory democracy should be applied to the EU's key strategies for promoting growth, employment and sustainable development.

2.6.3 Moreover, and still within the framework of the Constitutional Treaty as it has been adopted, it is also important to inform the public about how flexibility could be introduced and progress could be achieved without the need to revise the Treaty:

2.6.3.1 Member States wishing to advance further down the road of European integration will find it easier to establish enhanced cooperation between themselves.

2.6.3.2 If all the Member States express the political will to do so, it will be possible to deepen integration in sensitive areas where unanimity is still required, such as taxation or social policy, for example. A 'bridging clause' allows qualified majority voting to be extended to these areas.

2.6.4 By opting for a committed, critical and constructive approach, organised civil society will help to ensure that citizens are well informed and will keep up the pressure on governments. The worst thing would be if politicians were to be confirmed in the - unfortunately widely held - view that citizens are not interested in the European venture. This view is totally false because people actually expect much from Europe, in particular that it will bring improvements in their everyday life by providing a vision of their future.

2.6.5 *The EESC believes that the adoption of the Constitutional Treaty is not an end in itself. Rather, it opens the way towards a strengthening of participatory democracy. To reject the Treaty would be to give up the progress achieved through the Convention method.*

3. Effective communication

The EESC believes that the quality of the communication strategy will be a determining factor for the adoption of the Constitutional Treaty by the people of Europe. A pragmatic and professional approach is therefore needed to ensure that the strategy is effective. The EESC recommends that the communication strategy be built around action in the following four areas:

3.1 Provision of resources: information tools and funding

3.1.1 The complexity of the Constitutional Treaty calls for the development of information tools that could be used, upstream of the communication process, to launch campaigns or organise debates.

3.1.2 It would be up to the Member States, with the support of the information offices of the European Parliament and the Commission representations in the Member States, to devise information tools and make them accessible.

3.1.3 These tools could take the form of interpretive guides to the Constitutional Treaty, geared to the concerns of different population groups in each Member State. The more customised these tools are, the easier it would be for them to be used effectively by the media, civil society organisations, political groups and local and regional authorities in disseminating information and rallying public support.

3.1.4 The provision of adequate financial resources is necessary for the implementation of a communication strategy that meets citizens' expectations.

3.2 *Launching of public communication campaigns using the media and grassroots communication channels*

3.2.1 Once the requisite resources have been placed at their disposal, the media, local and regional authorities, political groups and civil society organisations will have the means to act as a conduit for information. They will be able to convey clear messages on the implications of the Constitutional Treaty that are attuned to the concerns of their local audience.

3.2.2 Initially, it would be useful to find out, in each Member State, how the Constitutional Treaty is perceived by different population groups in order to reflect on the content of the messages to be conveyed. Drawing on the conclusions reached, the aim of the messages would be to overcome people's fears and respond to their expectations.

3.2.3 In addition, the message-bearers and communication media will have to be chosen carefully. The involvement of a wide variety of players is essential to guarantee the pluralist nature of the campaign. Moreover, their closeness to citizens will be a key factor enhancing the credibility and acceptance of the messages conveyed, hence the importance of action taken at local and regional level.

3.2.4 The EESC recommends to the European Parliament that working parties be set up with institutional communication professionals in each Member State with a view to making practical proposals to governments regarding the measures and resources necessary to embark upon an effective communication campaign in the Member States. The EESC is prepared to make available its expertise in this field and to offer the support of its contacts in the Member States, national ESCs and similar institutions.

3.3 *Organising debates that are open to all members of the public with a view to fostering the exchange of ideas and convincing people*

3.3.1 The communication campaigns should lead to the opening of genuine dialogue with the public. It is essential that people be offered the opportunity to ask questions and hear different arguments so that they can make and express their own judgements.

3.3.2 Such dialogue will only be possible in the context of decentralised debates. The closer the interface with citizens, the better the information provided will be able to respond to their

expectations, answer their questions and guarantee the democratic character of the debates.

3.3.3 National and European institutions must provide logistical support for these initiatives. National economic and social councils and similar institutions could coordinate the debates at national level by establishing a calendar of events and liaising with the EESC, which could provide them with documentation and put them in touch with speakers.

3.3.4 In order to ensure a degree of consistency between the initiatives, the EESC requests the European Parliament and the European Commission to ensure that initiatives by representatives of organised civil society enjoy the same support as those by elected and other representatives of European, national, regional and local bodies under the 1000 debates on Europe initiative. Civil society cannot be kept on the sidelines.

3.3.5 The EESC requests the European Parliament to allocate a significant proportion of the EU communication budget to the debates on the Constitutional Treaty to complement the resources of national and local public authorities and the resources at the disposal of civil society organisations.

3.4 *Giving the debates and ratification a European dimension*

3.4.1 It is essential to make sure that the adoption of the Constitutional Treaty by the people of Europe is not determined solely by domestic policy issues.

3.4.2 Therefore the EESC recommends that the debates and the ratification of the Constitutional Treaty be given a truly transnational dimension:

3.4.2.1 On the one hand, the European Institutions should help to coordinate the communication activities of political groups, local and regional authorities and civil society organisations by encouraging the exchange of good practice in this field and the pooling of efforts. For example, the EESC could promote the exchange of good practice (and know-how) at European level between civil society organisations involved in communication activities. It could also establish feedback arrangements for evaluating, at European level, proposals, criticisms and recommendations put forward by members of the public during debates organised by civil society. Finally, the EESC stands ready to support cross-border or multi-national initiatives.

3.4.2.2 Furthermore, the EESC endorses the proposal by the European Parliament's Committee on Constitutional Affairs to hold the ratifications on or around a symbolic date (such as 8 or 9 May), insofar as is possible.

3.4.3 Therefore the EESC calls for active involvement by the European Institutions in the drawing up and implementation of the communication strategy on the Constitutional Treaty. It is

important to work alongside the Member States and to send out a strong and positive signal to citizens about Europe.

3.4.4 For its part, the EESC undertakes to convey clear messages to European civil society about the democratic achievements of the Constitutional Treaty, in terms of, inter alia, citizenship and participation.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on 'The environment as an economic opportunity'

(2005/C 120/24)

In a letter from Mr Atzo Nicolai, Minister for European Affairs, the future Netherlands presidency of the Council requested the European Economic and Social Committee on 22 April 2004, in accordance with Article 262 of the Treaty establishing the European Community, to draw up an opinion on: 'The environment as an economic opportunity'.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 September 2004. The rapporteur was Mr Buffetaut.

At its 412th plenary session (meeting of 28 October 2004), the European Economic and Social Committee adopted the following opinion by 130 votes to two with two abstentions.

1. Introduction

1.1 In a letter of April 2004, the future Netherlands presidency asked the EESC to draw up an exploratory opinion on the environment as an economic opportunity. The Netherlands presidency would like to focus on win-win opportunities where progress in environmental technology and environmental protection could help to achieve the economic and social objectives of the Lisbon Strategy.

1.2 When setting the European Union the very ambitious objective of becoming 'the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion', the European Council made little mention of environmental aspects. Only the term sustainable could be interpreted as a reference to the concept of sustainable development.

1.3 Not until two years later did the European Council take the decisions which led to the formulation of a strategy for sustainable development, thus adding to the Lisbon Strategy.

1.4 However, is environmental protection really a mainstream issue for the Lisbon Strategy? The stagnation which has afflicted some European economies has resulted in economic growth and job creation becoming the top priority, with environmental protection taking second place on the Roman principle of 'primum vivere, deinde philosophare'. But, given that the environment is of such fundamental importance to our lives, could it not be argued that it is of concern to everyone, and not only to experts?

1.5 In this context, major European economic sectors have been concerned that the determination of the European Union, and the Commission in particular, to set exemplary international environmental standards incurs the risk of them going it alone.

1.6 For example, the determination to apply the Kyoto Protocol regardless of whether it is ratified by our major competitors has aroused a strong reaction from some European industries, where this determination is seen as reflecting a dangerously naive approach which threatens the competitiveness of the European economy, faced with the pressures of fierce global competition. In other quarters, the Kyoto objectives are seen as making a potential contribution a) to increasing the efficiency of manufacturing processes, cutting costs and reducing the pressure on supplies of raw materials and energy and, as a result, b) to making the European economy more competitive. A debate is therefore underway on the subject, which should be underpinned with specific examples.

1.7 Similarly, industries using chemicals are concerned about the proposal concerning the registration, evaluation, authorisation and restrictions of chemicals (REACH), and the Commission impact study for the proposal was very heavily criticised.

1.8 These concerns and criticisms cannot simply be brushed aside. They are not directed against principles or politics. Rather, they reflect the belief that there is a conflict between, on the one hand, current practices, with their emphasis on the demands of economic growth and job creation, and, on the other, environmental concerns reflected in excessive regulation, which ignore the reality of economic competition. The problems appear to arise from underestimation and mismanagement of tools, procedures and implementation strategies.

1.9 However, at the same time, certain companies, including some very large companies, and even entire economic sectors, have made the concept of sustainable development a key element of their strategy. For example, the chairman of the French Veolia Environnement Group stated at a government seminar that: 'The performance of a company measured in terms of sustainable development has become not only an element of legitimacy in the eyes of civil society, but also an increasingly valued asset in global competition and for attracting investors.' This attitude is becoming increasingly widespread in economic circles.

1.10 There is thus an ongoing debate on the subject, a debate which is intense and reflects the whole social spectrum, particularly economic and social stakeholders and environmental organisations. The issue is clear: does taking the environment into account merely hinder companies from competing effectively, or does it offer opportunities for developing new types of jobs, new markets, and new technologies?

1.11 For public opinion, governments, trade unionists, economic decision-makers, consumers and environmentalists, theoretical discussions which are full of good intentions but do not lead to practical results are no longer enough. For them, exact analysis and specific examples are needed now, given that politics is the art of the real, even if such a pragmatic approach should be informed by some kind of a vision to give it

purpose. A good example of such an approach is that of the European paper industry and its sustainable development strategy.

2. Can the environment be an economic opportunity?

2.1 To answer this question we first need to ask ourselves (i) whether the development of certain economic sectors is dependent on the existence of a high-quality environment in which both nature and cultural heritage are conserved, and (ii) whether environmental technologies are capable of making a genuine contribution to the objectives for social and economic development set by the Lisbon Strategy. It also means honestly trying to determine whether environmental standards and restrictions are merely an obstacle to economic growth, to competitiveness, and consequently to employment.

2.2 Obviously, the tourism and leisure sectors depend on the quality of the environment. Entire European regions and even countries are heavily dependent on tourism for their social and economic development. In these countries and regions, protection of the environment is an essential precondition for social stability. The economic consequences of the visual pollution of the countryside, of cities ravaged by unbridled property speculation, of a degraded natural environment and polluted seas, would be severe and irreversible. Sectors such as agriculture, fishing, and even hunting, would also be affected. As for environmental technologies, their role in promoting growth and innovation should be evaluated, and their development and use should be encouraged without delay, though without any unwarranted distortion of competition.

2.3 Faced with the legitimate aspiration of the inhabitants of developing countries to achieve lifestyles comparable to ours, and given the pressures on natural resources and the environment which would arise if this were to happen under the current technological and economic conditions, there is a need for a real technological revolution. Peripheral innovations will not be sufficient to deal with the problem. The challenge we are facing is that 80 % of the world's population is aspiring to the same living standards as those of the top 20 %. We cannot afford to continue living as at present since this would have catastrophic results, though at the same time it is important to refrain from making overly pessimistic predictions. Some phenomena (such as melting glaciers, threats to biodiversity, deforestation, flooding, etc.), do, when taken together, signal a global environmental change, arising from a combination of natural causes and human activity. Action taken to remedy adverse environmental effects, for example minimising acid rain through sulphur scrubbing techniques, has significantly contributed to preventing the demise of European forests. Timely warnings from environmentalists, though sometimes overstated, have often had the effect of obliging both the public and the authorities to react. All stakeholders must have an interest in working towards balanced solutions in preventive environmental protection.

2.4 Although it is natural to think of industrial manufacture in this context, it is important to remember that agricultural production techniques, transport and energy production also have a significant impact on the environment and public health. These key economic sectors can also benefit from innovation and environmental technologies.

2.5 Scientific and technological progress and innovation inevitably have social consequences. The same principle applies to environmental technologies as to all other innovation, particularly if they are intended to replace conventional, tried-and-tested — but not particularly environmentally friendly — technologies. It is important to prepare in advance for such changes, which should be accompanied by new basic training and vocational training measures. Provided it is based on sound and well-designed strategies and processes, environmental protection should not be seen to entail increased unemployment and de-industrialisation. It is therefore essential for environmental legislators to engage in ongoing dialogue with representatives of social and economic interest groups, so that the impact of planned measures on economic activity and employment, including any possible problems, can be anticipated and measured.

2.6 We are therefore faced with a major technological challenge. Given the political will, Europe could use its scientific and technological capacity to act as a trailblazer in the development of profound environmental innovations. While it is true that environmental protection has an economic cost, action is less costly than failure to act.

3. What is meant by environmental technologies?

3.1 In practice, it is possible to distinguish between two types of environmental technologies:

- environmental technologies intended to improve technical processes or production methods, in order to make them cleaner and more environmentally friendly. Examples of these are catalytic converters, filtration systems on factory chimneys, technologies for more efficient use of energy, etc.;
- technological innovations which were specifically conceived with the environment and sustainable development in mind, for example, wind energy, cogeneration of heat and power, fuel cells, new-generation electric bulbs (LED), etc.

3.1.1 It is not always easy to distinguish between prevention and cure in technological innovations. The highly relevant, useful principles set out in the integrated product policies (IPPs) ⁽¹⁾ and the Directive on integrated pollution prevention

and control (IPPC) ⁽¹⁾ reflect both a concern to solve existing problems and an attempt to prevent them in the first place, which fits in perfectly with a strategy for sustainable development. Clearly, product design which takes that product's full life cycle into account leads to the development of technologies more compatible with a desire to secure sustainable development.

3.2 It should be emphasised that both these types of technology have a beneficial impact on the environment, and both can stimulate economic activity and job creation.

3.3 Incidentally, the EESC has repeatedly emphasised the importance of considering the 'eco-industry' as a whole and of keeping sight of the fact that part of the challenge is to gradually improve all production methods and all products, from the perspective of both the environment and resources ⁽²⁾.

3.4 Four kinds of environmental technologies can be identified: end-of-process technologies, integrated technologies, evolving technologies and radical innovations (for example, chlorine-free chemical processes). Integrated and radical technologies are often deemed to confer potential long-term competitive advantages. The problem is that in very competitive markets, companies do not always have the option of making long-term choices. They are more inclined to favour gradual processes which still ensure that environmental improvements are adopted extensively within their regular investment cycles.

3.5 In practice, the progress in environmental efficiency which industrial and service sectors have already achieved and are continuing to achieve has enabled continuous improvement of the environment. However, particularly in emerging economies, the pace of economic growth is such that the pressure on the environment and on natural resources is constantly increasing, in spite of technological progress.

4. Are environmental demands an obstacle to economic development?

4.1 Over the last thirty years, a period during which the factors determining economic growth have become more complex than during the so-called golden years following the Second World War, the ability of a company to innovate and to guarantee the quality of its products and production methods for clients, for the environment and for employees has become the best guarantee of the future for a company and consequently of the interests of its shareholders.

⁽¹⁾ OJ C 80 of 30.3.2004.

⁽²⁾ OJ C 32 of 5.2.2004.

4.2 Even before any legislation in this field, an increasing number of companies have committed themselves to sustainable development and have resolved to publicly account for their actions and outcomes in this sphere, while coming under ever closer scrutiny from their clients, civil society, the markets and public opinion.

4.3 In the context of fierce competition arising from economic globalisation, the quality of the environment and social balance have also become decisive factors in attracting and retaining human resources and capital, which WTO negotiations should take into account.

4.4 It is for this reason that, as stated earlier, the performance of a company in terms of sustainable development has increasingly been considered as an asset in global competition and attracting investors.

4.5 Therefore, the glib statement that environmental demands impair competitiveness and economic development is not generally true. The market has already taken on board numerous challenges posed by environmental legislation, for example requirements for waste management and water quality. In these two sectors, environmental technologies are constantly evolving. In providing an economic response to these challenges, environmental service companies have created and preserved jobs. For example, an estimated 300 000 jobs have been created by the waste management industry in France.

4.6 The concern to save natural resources has led to technical innovations tending to favour thrifty management and reduce costs. For example, the paper industry has cut back on water consumption considerably in recent years: whereas production of one ton of paper required almost one hundred cubic metres of water fifteen years ago, on average only 48 cubic metres are needed now. In addition, discharge of pollutants has been reduced by almost 90 %. The benefits are both economic and environmental.

4.7 As already mentioned, the tourism and leisure sectors are heavily dependent on the quality of both the natural and built environment. Far from hindering economic development and competitiveness, environmental protection is an essential pre-condition, especially in view of the fact that tourism is a vital economic sector in many EU countries. For example, in 2003 tourism earnings amounted to \$41,7 billion in Spain, \$36,6 billion in France, \$31,3 billion in Italy, \$23 billion in Germany, \$19,4 billion in the United Kingdom, \$13,6 billion in Austria, and \$10,7 billion in Greece. It should be borne in mind that environmental objectives may conflict with one another. For example, wind farms can have a negative impact on the environment and the appearance of the countryside.

Besides, in many Member States tourism, which by its very nature is tied to particular locations, helps to create jobs and maintain balance of payments' equilibrium.

4.8 However, it is vital that environmental regulations comply with the proportionality rule; in other words, the economic costs of legislation must not outweigh the expected social and environmental benefits. But the EESC is well aware of the difficulty of making calculations of this kind: how for instance, do we evaluate the cost of human health? It is clear that a balance must be struck between the cost and benefits of an environmental measure. At the same time, the procedures for implementing legislation should be manageable for all concerned. Failure to take these aspects into account could result in the opposite of the intended effect: a situation where it is difficult to apply the law for economic and social reasons, and because of resistance on the part of consumers.

4.8.1 Companies in the automotive sector, which have to operate in a very restricted environment with little room for manoeuvre due to intense competitive pressure and the behaviour of consumers, who are less interested in environmental aspects than in considerations such as price, comfort, and safety, are an interesting example. Under conditions such as these, environmental technologies are introduced gradually, more through gradual improvements than revolutionary technological changes which are still too costly to find a proper market. However, the petrol-electric hybrid car, the Toyota Prius, is a good example of changing consumer attitudes, where output has recently had to be increased by 50 % to meet worldwide demand. Although this still only represents a small proportion of global production, it is an encouraging development.

4.8.2 An interesting example is that of particle filters. Diesel engines produce 25 % less CO₂ than petrol engines, but the particles which they emit are a health hazard. A particle filter costs about EUR 500 extra (5-10 % of the cost of a small car). As long as particle filters are not required by law car manufacturers have the choice between offering them as an optional extra or including them as standard and cutting their profit margins, since market conditions make it difficult to raise prices. In practice, whereas 90 % of German customers would opt for a particle filter, the equivalent figure for the rest of Europe would be a mere 5%! Some manufacturers (!) have therefore decided to phase in particle filters for their vehicles gradually and reduce profit margins, but it is clear that this situation cannot continue indefinitely, especially against the backdrop of fierce international competition. The natural tendency will be for particle filters to become more widespread, but the pace at which this happens will depend on customers' purchasing power, particularly in the case of small cars.

(!) e.g. PSA and Opel.

This example clearly shows how environmental technology markets come into being: either because of growing awareness among consumers that they or their environment stand to gain from the investment, or as a result of legislative measures. Much of the environmental protection success achieved to date is the result of appropriate legislation. The motor vehicle sector in particular is a good case in point (including, among other things, the introduction of the three-way catalytic converter.

4.8.3 There are other options for environmentally friendly technological innovations in this sector: for example, vehicles with electrical starting, improved recycling procedures, reduced noise pollution, and increased safety. The cost of new technology continues to be the key issue.

4.8.4 The example of the car-manufacturing sector shows that environmental technologies will not be widely used unless they are economically viable, and that for them to be effective, they have to be adopted in mass production. Practice shows that in a highly competitive market, environmental technologies are adopted gradually and continuously. It follows that what are needed are sound, well-documented impact studies which take into consideration not only the environmental and market situation in the European Union, but also international factors.

4.8.5 The proportionality rule also applies to the challenges faced by processing industries, such as pulp and paper, metallurgical, and chemical industries. These industries work under fierce global competition and have a particularly close interaction with the environment. Comparative studies have shown that production units of these industries located in the EU are usually very eco-efficient, that is, their use of raw materials and energy as well as their emissions are as low as technologically possible. The environmental legislation which applies to them is the strictest in the world. Better environmental results can be achieved gradually by investing in more modern and efficient technologies, but at the same time companies need to remain competitive in global markets. Requirements for better environmental performance must be synchronised with the technological development and investment cycles of each sector. If standards are raised too quickly, the additional cost burden on the non-availability of viable technology can undermine competitiveness, and thus put continuing operation of European industries at risk.

5. How should innovative environmental technologies be developed?

5.1 If innovative environmental technologies are understood as technologies which are specifically conceived with the needs of the environment and less heavy use of resources in mind, as opposed to those which merely deal with the effects of

pollution, it has to be acknowledged that many of them are still in the launch or even testing stage.

5.2 Indeed, the results achieved by such technologies vary enormously. Technologies to harness wind energy and cogeneration of heat and power have already proved their worth and have reached the stage of industrial development, thanks to market support from very favourable legislation; however, they are still only marginal energy sources. New-generation LED lights have only just arrived on the market, but if technological development continues, their future looks promising. For example, they are being used to illuminate the Shanghai Oriental Pearl Tower (480m) at night — a project which was managed by a European SME ⁽¹⁾ using banks of LED lights manufactured by a Chinese company ⁽²⁾. Membrane water purification systems are still at the research stage. Other technologies, despite being useful, have found only limited application.

5.3 This wide range of outcomes calls for strategies which are sufficiently flexible in terms of funding, information exchange and networking, and legal and fiscal tools. It is also important to bear in mind the necessity for a selective approach in order to identify genuinely promising environmental technologies, so as not to waste funding.

5.4 There is a close correlation between the range of possible funding, taxation, and regulatory strategies and the various stages of implementing innovative environmental technologies:

- subsidies for research, feasibility studies, and business incubators;
- venture capital for the launch phase;
- subsidised or conventional loans for the development phase;
- financial incentives for market consolidation;
- environmental taxes to discourage use of non-environmentally-friendly technologies where alternative technologies exist, and to contribute to environmental research.

For example, the development of fuels of agricultural origin (such as diester) in France has reached a standstill due to the fact that they are subject to the same heavy taxation as petroleum products, which are cheaper to produce. In order to promote their production and use, tax incentives could be applied, or it could be made compulsory to add a certain proportion of such fuels to conventional fuels. In this case, a balance has to be struck between the economic cost and the environmental and other benefits.

⁽¹⁾ Citélum.

⁽²⁾ Shanghai Communication Technology Developments Co. Ltd.

5.5 Networks for the exchange of information on best practice and new technologies should also be developed. This is particularly relevant both to businesses and to government officials, who need reliable and effective resources in order to help them make informed choices between conventional, tried-and-tested technologies, and new technologies which are more environmentally friendly but also less familiar and less extensively tested.

5.6 This is all the more important if public procurement is to serve as a means of disseminating and developing environmental technologies. While close attention needs to be paid to public procurement, the private sector, which is more flexible and responsive, also need to be taken into consideration. Some companies have already made sustainable development a criterion for selecting suppliers, adopting standard clauses linked to sustainable development and gradually incorporating these into their contracts with suppliers, and improved training in sustainable development for their buyers.

5.7 Environmental labelling and various pricing and reward systems should be used to develop and promote environmental technology.

5.7.1 At the initiative of the Finnish presidency in 1999, a debate was launched on the development of a European vision for quality, which continued under the Portuguese and French presidencies throughout 2000. This debate gave rise to the publication of an important document under the aegis of the European Organisation for Quality. Some of the points raised then could be relevant to environmental technologies.

6. An issue which affects everybody

6.1 It is not only up to environmental specialists to turn protection of the environment into a real economic opportunity. Environmental activity is already a key factor in the economically important tourism and leisure sectors. In the case of environmental technologies, success is dependent on the creation of a genuine market and the capability of business to respond. There is also a need to do more to build on voluntary initiatives in environmental protection and technological innovation by companies and industries.

6.2 It is clear that if environmental technologies permit production costs to be cut as a result of reduced consumption of energy and raw materials, enhance the image of companies and their products, boost sales and lower environmental costs, then companies will be interested in them and will ensure their

development. However, companies still need to be made aware of such technologies so that they can appreciate the benefits of using them, and therefore it is essential to set up an effective network for the exchange of information on best practice and environmental technology, which might involve public authorities, trade associations, technical centres, and research centres.

6.3 It is essential to gain the support of the industries concerned. Clients and consumers also need to be won over, because without them there can be no market. Environmental technologies must be perceived by the general public as effective both in terms of environmental protection and of production, otherwise they will remain a well-intentioned sideshow to economic development, which will continue independently of them.

6.3.1 It is vital for environmental policies to take economic implications into consideration, just as economic policies need to take environmental needs into account. One way or another there must be an interplay between economic and environmental considerations, as policies which lose sight of economic viability and positive environmental effects cannot be successful.

6.3.2 At the same time, the social impact of environmental standards and the introduction of environmental technologies should be anticipated as far ahead as possible, and vocational training should be provided so that the employees can implement them as efficiently as possible, and without their jobs being put at risk.

6.4 Large-scale development of effective environmental technologies is crucial to the modernisation and economic growth of densely populated, dynamic countries. This is a new model of economic, social and environmental development which requires specific planning and implementation. Thanks to its expertise in the field of environmental technology, the European Union could become the first-choice partner of emerging economies and benefit from the opening-up of new markets.

6.5 Research and development in the field of environmental technology already represent an economic asset and have the potential to make even more of a contribution, as is illustrated by concrete examples of the application of progressive, integrated and even radical technologies. Indeed, they are a necessity since it is the future of our world that is at stake. No-one can, in good conscience, afford to look away. We are responsible for the world which our children will inherit.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendment was defeated but obtained at least a quarter of the votes cast:

Amend point 1.8. as follows:

The concerns and criticisms voiced in some quarters cannot simply be brushed aside. ~~They are not directed against principles or politics. Rather~~ They reflect the belief amongst some economic players that there is a conflict between, on the one hand, current practices, with their emphasis on the demands of economic growth and job creation, and, on the other, environmental concerns reflected in excessive regulation, which ignore the reality of economic competition. The problems appear to arise from underestimation and mismanagement of tools, procedures and implementation strategies.

Result of vote

For: 46

Against: 71

Abstentions: 9

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the open method of coordination’

(COM(2004) 304 final)

(2005/C 120/25)

On 20 April 2004, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 22 September 2004. The rapporteur was Mr Braghin.

At its 412th plenary session of 28 October 2004, the European Economic and Social Committee adopted the following opinion with 104 votes in favour and three abstentions.

1. Gist of the Communication

1.1 The aim of this Communication, as announced in the Spring Report 2004 ⁽¹⁾, is to define a common framework to support Member States in the reform and development of health care and long-term care using the ‘open method of coordination’.

1.2 The Commission identified three principles ⁽²⁾, approved by the Barcelona European Council in March 2002, that could serve as a basis for reform: accessibility of care for all based on fairness and solidarity; high-quality care; long-term financial sustainability of this care, aiming to make the system as efficient as possible.

1.3 The definition of health care as a service, within the meaning of the Treaty, persistent inequalities and problems of access, sometimes inadequate service quality and financial imbalances have highlighted the need to intensify the coordination of national policies so as to ensure the modernisation and development of the sector, whilst taking account of the impact on social cohesion and employment of the complex consequences of demographic ageing.

1.4 In order to meet these challenges, social protection systems must be reformed in an integrated and coordinated manner. Health and long-term care is one sector where the

coordination of social protection must be streamlined ⁽³⁾. The open method of coordination is ideally suited to this context because it is a flexible tool that respects the specific circumstances and competences of each state ⁽⁴⁾.

1.5 The Communication identifies the following steps:

- Reaching an agreement on joint objectives in 2004. Member States should present preliminary reports on the challenges facing their respective national systems at the next Spring Summit.
- Drafting an initial series of development and reform strategies in health care and long-term care for the period 2006-2009 which will be presented by the Commission in the joint report on social protection and social inclusion in 2007.
- Setting up a high-level group on health services and medical care to create a work programme in coordination with other high-level groups in related fields.
- Identifying indicators for these objectives. The interim reports due in spring 2005 will contribute by facilitating the preparation of an initial comparison table of the different national situations and permitting the assessment of progress vis-à-vis the stated objectives.

⁽¹⁾ Delivering Lisbon - Reforms for the enlarged Union, COM(2004) 29 final.

⁽²⁾ COM(2001) 723 final.

⁽³⁾ The EESC issued an opinion in favour of streamlining in OJ C 32 of 5.2.2004 – rapporteur: Mr Beirnaert.

⁽⁴⁾ Communication from the Commission - Strengthening the social dimension of the Lisbon strategy: Streamlining open coordination in the field of social protection COM(2003) 261 final

2. General comments

be carefully analysed for every restructuring scheme in the health-care system.

2.1 Socio-economic and demographic factors

2.1.1 The EESC reiterates its full support, already expressed in previous opinions, for the common objectives for the development of health-care systems. In particular:

- Ensuring access to high quality health care based on the principles of universal access, fairness and solidarity; and providing a safety net against poverty or social exclusion associated with ill-health, accident, disability or old age, for both the beneficiaries of care and their families.
- Promoting high quality health care in order to improve people's state of health and quality of life.
- Ensuring the long-term financial sustainability of high quality care that is accessible to all.

The EESC agrees that these objectives are all important and mutually dependent and that their development and streamlining require effective governance, based on involving and giving responsibility to the players concerned, as the social partners and civil society as a whole must contribute to the reform effort.

2.1.2 Furthermore, the EESC argued, in a recent own-initiative opinion, that the ability of national health-care systems to fulfil these objectives depends on a number of socio-economic and demographic factors that require deeper analysis if we are to achieve a better understanding of the complexity of the problem, and anticipate potentially disruptive trends ⁽¹⁾.

2.1.3 Such factors influence present and future needs and available resources. Achieving efficiency in the health-care system is also vital because health care interacts with other components of the welfare system. Its funding requirements therefore compete with the requirements of other areas of social protection, whilst its problems impact upon them, and vice versa.

2.1.4 Similar competition for financial resources and interactive mechanisms operate within the health-care sector itself. For instance, when allocating funds, streamlining one sector may produce the opposite of the desired effect in another sector. Moving staff from one sector to another could result in an unforeseen deterioration in quality. Such measures should

2.1.5 The EESC considers that addressing one aspect of a problem without considering the repercussions for other sectors, or failing to monitor inter-connected trends within different sectors, could create distortions or prevent the desired objectives from being fulfilled. For this reason it is essential to share a global vision of the problems and their interdependence, and to find viable solutions through common strategies.

2.1.6 There is an important social and psychological aspect to health care. When facing illness, suffering, or death, people expect the best care and do not stop to think about cost-effectiveness and sustainability. This poses a delicate political problem. Public sector decision-makers have to prioritise and provide cost-effective sustainable health services. However, such choices often come up against sectoral interests and the subjective perceptions that sometimes make it difficult to apply the necessary restructuring measures to the demand and supply of services.

2.1.7 People's needs and expectations regarding their own health — this implies not only a desire for quality of life but also for a life worth living — should be taken into proper consideration when assessing cost-benefit ratios and financial sustainability in order to guarantee that all restructuring measures in the health sector lead to better streamlining and are viable in the long-term. This should also facilitate public sector decision-making that takes into account the real needs of the population as a whole, as well as the needs of patients and people with specific health needs.

2.1.8 The EESC believes that health care is a right and a priority in Community policy. However, it maintains that in order to safeguard this right in the long term, we need to identify effective tools to ensure a fair level of care that is accessible to all and compatible with available resources. As a consequence, it is essential to carry out in-depth research to find out which of the population's health-care needs and expectations are justified. It is also necessary to identify tools to promote responsibility that will encourage the appropriate use of resources and the efficiency of the health system, thereby making the system financially sustainable.

⁽¹⁾ EESC opinion on Health care – OJ C 234 of 30.09.2003 – rapporteur: Mr Bedossa.

2.2 Demographic ageing and new epidemiology

2.2.1 Demographic ageing means more than a mere rise in the percentage of the population over 65, and an even sharper rise in the number of over-eighties, often, but not necessarily, accompanied by an increase in the number of patients with multiple illnesses, a phenomenon which may in turn result not so much in a proliferation of medical treatment as in a more holistic approach to treatment. Demographic ageing results in certain problems that are sometimes neglected but should be faced:

- Changes in the demographic pyramid without adjustments to the retirement age will lead to a more unfavourable ratio between contributors (the population of working age) and beneficiaries (the elderly population, in particular), not only in the health system but also in other services. It is therefore a top priority to identify new ways of re-allocating and building up specific resources for services provided to the dependent population⁽¹⁾ (predominantly, the elderly), without withdrawing resources from other social services.
- Demographic ageing alters not only the incidence but also the type of disease occurring. Age-related illnesses are often incurable but may be controlled in the medium to long term through palliative medical or surgical treatment that will, however, never restore the patient to his previous state of health. This implies a different approach to medical care that can integrate treatment and care, and that affects research, pharmaceuticals, diagnostic tools, and technological interventions. This further requires a shift in emphasis from the 'acute' to the 'chronic' (i.e. the successful long-term management of medical problems that cannot, themselves, be resolved).
- In epidemiological terms, there has been a steady increase in the incidence of chronic or long-term disease, which is partly due to the success of medical treatments that, whilst falling short of a total cure, substantially prolong life expectancy. As a result, there has been a rise in the incidence of physical and mental disability, particularly in the field of trauma and neuro-degenerative disease, that can only be dealt with through a higher level of integration of medical and social services, and requires a substantial commitment from family carers⁽²⁾.

⁽¹⁾ WHO terminology would define a dependent person as a person who is partially or totally unable to perform functions independently at an organic, cognitive, behavioural or interpersonal level, or to interact with the environment (see International Classification of Functioning, Disability and Health, 2001 (ICF)).

⁽²⁾ The most recent statistics show that Europe has a dependent population of some 60 million, which is expected to have risen to 75 million in 2003 (information source: EUROSTAT, The social situation in the European Union 2003, European Commission, DG Employment and Social Affairs, 2003)

- The concept of 'health' should not be restricted to its physical aspects but should also include its psychological and social aspects, as is apparent from the WHO definition⁽³⁾. This definition presupposes the need to assess an elderly person's social context so as to meet other needs such as safety, social circumstances and relationships, self-esteem and self-realisation etc.

2.2.2 The social net, which came into being under different demographic circumstances and needs, must be rethought in order to counter the inflexibility and resistance to change inherent in organisations, employment sectors, and cultural mind-sets. The EESC believes that this can be accomplished by assessing the population's state of health and needs, which vary considerably within and amongst Member States, and by anticipating demographic changes. These changes have already begun and are likely to intensify, though in a fairly predictable manner.

2.2.3 Moreover, solutions should be found to improve the management of supply and demand for services, improving access to care, meeting demand, helping the more vulnerable to benefit fully from the services provided, ensuring integrated assessment of needs and personalised care programmes, continuity of care and the systematic assessment of results. The open method of coordination should also include these aspects and, therefore, promote more homogeneous approaches and strengthened social cohesion mechanisms.

2.2.4 The second aspect of demographic change cited in the Communication, i.e. changes in family life and a higher female employment rate, reduces the family's ability to provide informal care. This fact, in turn, implies that home care needs to be rethought since it cannot be left entirely to professional carers, due to the cost and difficulty of recruiting staff, the risk of losing 24-hour care, and in many cases, the need to take into consideration the patient's other human needs. It is therefore necessary to consider new social support policies for family care, including the possibility of providing some form of remuneration for the family carer, ensuring appropriate living conditions, transport facilities, and similar support services.

⁽³⁾ International Classification of Functioning, Disability and Health 2001 (ICF)

2.2.5 At present, domiciliary health care is provided in many different forms by national and local authorities, national health services and insurance schemes, and non-profit organisations and associations providing social services to people. In general, it has been observed that it is not sufficiently developed in some countries. It needs to be improved in order to take into account the changing needs that result from the higher epidemiological incidence of dementia, neurovascular disease, and more generally, polyopathy resulting in loss of independence, which affects over 30 % of the population over 75.

2.2.6 The EESC recommends that ongoing support initiatives for informal carers in Member States be compared and analysed in depth. These might include tax advantages, pension and social insurance for care givers, the right to leave from employment to care for a relative, provision of substitute carers during rest periods, and provision of day-care centres, etc. ⁽¹⁾

2.2.7 Solutions of this type promise to be more economical for the service provider and more satisfying for elderly beneficiaries in so far as they combine professional resources and informal resources, offering solidarity with the elderly whilst substantially reducing the cost of care. In other words, a win-win situation is created since costs would be considerably higher if the equivalent level of care were provided exclusively in residential homes, and informal care, which is in any case provided, is safeguarded.

2.3 Employment

2.3.1 The health care and long-term care sector employs a significant percentage of the work force in the European Union. It is the second largest creator of employment. Between 1997 and 2002, 1,7 million jobs were created in EU-15. Nevertheless, it is feared that the ageing of the health-care workforce and difficulties in ensuring quality services could lead to a serious crisis in the sector.

2.3.2 Vocational and lifelong training must be restructured in order to meet emerging needs, maintain quality services, and ensure that employees remain professionally active:

- The training received by medical staff should not be restricted to the treatment of symptoms and acute conditions but should also take into account the multifaceted

⁽¹⁾ See the Joint Report entitled Health care and care for the elderly: Supporting national strategies for ensuring a high level of social protection, COM(2002) 774 final of 3 January 2003, p. 9

aspects of health in the elderly. Training in geriatric care should be adapted to reflect these needs.

- Nursing staff should be able to adapt to the specific fields in which they operate, i.e. at different levels of the care system (intensive care, hospital care, primary care, long-term care, home care etc.).
- The training of care workers should be extended to include socio-health services for reasonably self-sufficient elderly people, whose needs and dignity should nevertheless be respected.
- Social cohesion means that the borders between health care and social assistance will become more blurred. Similarly, professional roles will have to accommodate a demographic structure and composition that will be very different from today's.

2.3.3 The EESC considers that, in addition to improving training for different categories of care workers, as described above, the following new capacities should be developed:

- gathering, providing and exchanging information through networks and making the best use of new technologies;
- working in groups, interpersonal communication skills, dialogue with other vocations and institutions;
- work practices aimed at preventive care and promoting new approaches to emerging needs;
- working on projects that target specific segments of the population, transcending the narrow confines of traditional disciplines;
- awareness of the economics of services provided; assessment of results to improve resource allocation.

2.3.4 The EESC is in favour of using the European Social Fund for training programmes in order to raise skill levels in the health care and long-term care sectors, prevent the premature loss of workers from the sector and enhance quality, flexibility and, consequently, the efficiency of the care system. This approach is particularly important for the new Member States, where the modernisation process is faster and more intense, and where the need for vocational training is correspondingly greater.

2.3.5 In order to achieve good results, cooperation between the public and private sector must be rethought in positive terms. Cooperation must be actively sought not only to avoid competition between service providers in a world where the active section of the population is forecast to decline steadily in percentage terms (with consequent staffing bottlenecks and rising labour costs), but also to fully integrate in to health-care systems the qualities of efficiency and attention to needs, objectives which, at present, would appear to be the prerogatives of one or the other sector, rather than both.

2.4 *Financial sustainability*

2.4.1 Continuing to provide accessible quality health care without withdrawing funds from other sectors or political priorities is a major challenge for both old and new Member States. This requires a strategy that pays close attention to long-term trends, and to supply as well as demand. Action that has failed to take both these factors into account has not been successful in containing costs in the medium term.

2.4.1.1 Budgetary constraints, which partly arise from the Stability Pact, generally make it impossible to increase spending on welfare in proportion to growing demand for social services. Nevertheless, it is possible to make substantial improvements by restructuring existing services and concentrating on services that have proved effective, while eliminating unjustified use of the health service. Furthermore, an effective health policy means that interactions between health care and social assistance must be rethought in order to identify structures and types of treatment and professional services that are better suited to present and future contexts and the population's needs.

2.4.1.2 Various approaches have been tried in the effort to control the rise in costs, including the transfer of part of the costs to the user (this not only shifts the financial burden onto the individual but also curbs demand); containing supply and demand in price and volume terms; and reforms encouraging the efficient use of resources and the transfer of resources from hospital and social care to domiciliary care.

2.4.1.3 The use of the open method of coordination advocated in this analysis will result in a better understanding of the disparate underlying conditions and the likely impact on other social service sectors and so make it possible to assess which measures have been most effective and what combination of measures is likely to be most successful.

2.4.2 Although preventive health care policies are undoubtedly important and necessary, they are, unfortunately, often

neglected. A concrete plan for preventive measures (preferably far-reaching and universally applicable measures) should play a major role in the proposed strategy for the sustainable development and reform of health care. Various preventive measures, and in particular those already tried at national level, should be thoroughly tested through the open method of coordination to ensure that specific action is taken. The EESC realises that implementing preventive measures is difficult, as it requires policy coordination, which is still far from being achieved, and educational programmes to promote healthier life styles (healthier diets, and more intensive physical and mental activity). These programmes should pay particular attention to the segments of the population that are more exposed to health risks and are more socio-economically disadvantaged, and should also strive towards healthier working conditions. Such measures take a lot of time and effort to set up but do not offer any guarantee of success.

2.4.3 Differentiating expenditure according to care services, referral procedures and treatment is a laudable approach to containing costs. Therefore, any investment that will improve the health system's ability to respond to needs, or that facilitates modernisation, must be considered as a means of making health care more sustainable in the long term. However, this type of investment is sometimes sacrificed to economic exigencies. The EESC believes that investment in the streamlining of the health-care system should be combined with measures to influence demand (criteria for referral to specialists, ceiling above which costs are borne by the individual, charges, etc.) as well as supply (health-care infrastructures, cost of innovative technologies and pharmaceuticals, where the cost/benefit ratio is not always clear, payment criteria and procedures, awareness-raising of health-care costs amongst health workers etc.).

2.4.3.1 The structure and operational procedures of the health-care system, as well as transferral from one service to another, should be carefully analysed to ensure efficient and effective operation and coordination. This should be a priority of the open method of coordination.

2.4.3.2 The new Member States are working intensively to modernise their health-care systems and the EESC strongly recommends the use of Structural Funds, and in particular, the ERDF and the Cohesion Fund, to support infrastructural improvements to health-care systems. Furthermore, the EESC considers that the assessment of experience through the open method of coordination could be particularly valuable to the new Member States since it could prevent them from adopting systems which are likely to become obsolete rapidly.

2.4.4 Strengthened cooperation between care providers currently working in isolation (intensive care, primary health care, social services), as recommended in the Communication, is certainly appropriate, as people with high dependency needs generally require a variety of services, not all of them medical. Positive cooperation between families, care workers and medical personnel produces better results at lower cost. The EESC hopes that the recently established high-level group on health services and medical care will be given a clear mandate that includes the task of recommending concrete operational arrangements for cooperation.

2.4.5 Technological progress and greater awareness on the part of patients undoubtedly has the potential to curb spending since it lowers the cost of treating specific conditions and reduces their incidence. However, it also creates new needs and the right to have these needs met. As a result, well-established, cost-effective and generally adequate diagnostic and therapeutic procedures are abandoned. Unless innovative procedures are specifically targeted towards more effective health-care for the elderly, they are likely to have a negative rather than a positive impact on health care expenditure in the long term. Pressure from the better educated and more health-conscious sector of the population could lead to a further decline in services to the more disadvantaged groups, whose access to health care is already restricted.

3. Specific comments

3.1 Given that European legislation on long-term health care is impossible, the EESC considers that the open method of coordination is of primary importance for the effective modernisation and development of accessible, sustainable, long-term quality health care, and to ensure public health protection in different contexts and in the face of growing pressure and challenges.

3.1.1 Analysis and exchange of experience should focus on:

- the structure and coordination of health-care systems and institutions (from primary health care, to long-term care, and including domiciliary care);
- the procedures and waiting periods for access or transfer from one service to another;

- internal procedures and output (monitoring and assessing the quality of health services);
- the volume and type of services provided and, in particular, the efficient use of new technologies;
- the methods used to make more efficient use of resources and the most effective mechanisms for cost containment;
- the involvement of medical and health-care personnel in the management of resources;
- respect for patient rights, and their access to relevant information, therapeutic options and patient records;
- transparency of services provided.

3.2 The application of the open method of coordination entails the identification of indicators that can address existing knowledge deficits whilst taking into consideration prevailing situations and the long-term social dynamics that impact upon the health-care system. The set of indicators must include all structural considerations (network of services, availability of equipment and staff, levels of training and experience etc). It must also include the intrinsic qualities of health care (methods for providing services and carrying out interventions, operational guidelines, medical regulations and practice, patient rights' protection etc.). Finally, it must cover the quality of specific health-care outcomes, according to type and social expectations.

3.2.1 A special effort must be made to ensure that the indicators make it possible to monitor and assess trends relating specifically to the elderly and the care they receive, a shortcoming of the indicators currently identified or in use. Work on developing indicators will need to go hand in hand with work on clarifying the common objectives. In the meantime, it would be useful to take stock of data already available from a range of sources, including WHO, the OECD and ECHI (European Common Health Indicators). The arrival of the data under the new EU SILC later in 2004 should also be taken into account.

3.3 The 'next steps' proposed in the Communication touch on extremely important aspects of the problem and extend the debate to pertinent spheres of interest. However, the proposals are general in nature and therefore run the risk of failing to take the open method of coordination significantly forward.

3.3.1 The EESC hopes that more precise 'common objectives' will be identified, provided that they are not overprescriptive and do not have a negative impact on the organisation of national systems. Furthermore, the proposed preliminary reports should serve as useful tools that do not result in additional administrative costs and burdens that overstretch the limited resources of new Member States.

3.4 The EESC therefore hopes that the Commission will take swift action to:

- provide a precise definition for terms such as social protection, health care, socio-health care, care at home and other expressions which appear in the Communication and which are often used differently in the various Member States — for historical reasons and due to the operational specificities of different welfare systems;
- provide a clear guide for the preparation of the 'preliminary reports' so as to ensure that they cover the same topics and make comparison possible. They should not refer to the entire range of partial objectives but should focus on the measures best suited to identify and illustrate national policy guidelines and challenges;
- appoint a group of experts (with input from national institutions and specialised bodies with expertise in the field) to draw up specific indicators for long-term care, so as to ensure an effective assessment of macrosocial and macro-economic factors that affect health care and long-term care. Such experts should be qualified to assess all aspects of a global perspective and, in particular, to assess the indicators' value as forecasting tools;

- develop a European socio-health impact-assessment model based on indicators for investment/funding (input), structured response (output) and the effectiveness of action taken (outcome). This would make it possible to use reliable indicators to assess the welfare standards achieved in different countries ⁽¹⁾;
- address gender-specific issues by, for instance, taking into account the fact that on average women live five years longer than men, and have biological and physiological characteristics that make a considerable difference to their health-care needs;
- facilitate the joint preparation of health-care guidelines that are not restricted to pharmacological treatment but also include social and organisational factors. Such guidelines would serve as a reference point for operators in different health-care systems.

3.5 A particularly important and pressing need is the promotion of activities to improve the skills of operators and professionals by developing appropriate training schemes that cover the common professional ground between health care and health-related social work. This goes beyond technical aspects and requires the acquisition of new skills, such as information management, in particular using computer networks, and broad-based financial administration. Such new training schemes should be supported and promoted by the Community in order to exploit the experience exchanged using the open method of coordination.

Brussels, 28 October 2004.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹⁾ cf. EESC opinion: OJ C 80 of 30.3.2004, point 4.5.2 – rapporteur: Mr Jahier