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II

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

429TH PLENARY SESSION, HELD ON 13 AND 14 SEPTEMBER 2006

Opinion of the European Economic and Social Committee on Sustainable development as a driving force for industrial change

(2006/C 318/01)

On 14 July 2005 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Sustainable development as a driving force for industrial change*.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2006. The rapporteur was Mr Siecker and the co-rapporteur was Mr Činčera.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September), the European Economic and Social Committee adopted the following opinion by 98 votes to 11 with 11 abstentions.

Part 1: Summary of the EESC's conclusions and recommendations

A. In January 2003 the EESC adopted an own-initiative opinion entitled *Industrial change: current situation and prospects — An overall approach*. The goal of that opinion was not only to provide an overview of the most pressing industrial change issues and trends, but also to highlight the role of the CCMI and its future work. Among the areas of responsibility assigned to the CCMI in this context the following were to be found:

- 'analysing industrial change and its causes from the economic, social, territorial and environmental points of view, as well as assessing the impact of industrial change on sectors, firms, workforces, territories and the environment.
- seeking common approaches to promoting sustainable development [...].'

The abovementioned opinion also stressed the need to 'combine competitiveness with sustainable development and social and territorial cohesion' in keeping with the Lisbon strategy. Moreover, it proposed a working concept of 'industrial change' that embraced both the developments affecting companies and the interaction of these with their environment.

So far, the CCMI has focused mainly on assessing the impact of industrial change on sectors, firms, employees, territories and

the environment. The aim of the present own-initiative opinion is to examine how sustainable development can be a catalyst for industrial change.

B. That same opinion concluded that change in the European industrial sector has often been approached from the restructuring angle but that it is a much more dynamic concept. The business world is closely linked to the European political and social environment in which it develops and which, in turn, influences the process of industrial change. Fundamental industrial change comes about in two ways: through radical action and through gradual adaptation. Precisely, the aim of this own-initiative opinion is to consider how sustainable development as Brundtland defined it (a development that meets the needs of today without endangering the supply of the needs of future generations) can act as a catalyst for gradual and proactive industrial change.

C. The opinion provides, in the main, examples from the energy and related sectors but the same processes as described here can be applied to others. The reasons for this choice of sectors are several:

- the Brundtland definition of sustainable development implies the need to move towards renewable natural resources;

- energy is a cross-sector issue;
- lessons to be learned from the introduction of new technologies in this field may be extrapolated to other sectors;
- the 25 Member States currently import about 50 % of their required oil and gas; this could rise to 70 % by 2030, at which time the Commission predicts most suppliers will hail from 'geopolitically uncertain zones'.

D. The moment when a particular technology becomes available is determined by R&D. The moment when it is actually put in use is determined by the market, however. The gap between the two can also be influenced by politics. Thanks to a balanced mix of policy measures — subsidies, promotion, taxes — business in Sweden and Japan began at an early stage with the technological development of heat pumps and solar panels respectively. Partly as a result of this, these countries have succeeded in building a market-leading position.

E. The EESC reaffirms that the three pillars of the Lisbon strategy are of equal importance. However, it is often stressed that there is scope for environmental and social considerations only against a background of a healthy, growing economy. That is an overly simplistic explanation of the strategy as the reverse is also the case. Certainly there is no scope for a healthy, growing economy against a background of a sick environment or of a society driven by social dissent. The Committee welcomes the actions that have been taken in this field and which are described in Annex 2 of the Commission Communication on the Review of the Sustainable Development Strategy — A platform for action ⁽¹⁾.

F. Sustainability is not just one of the options on a list; rather, it constitutes the only possible course of action in order to secure a viable future. The concept of 'sustainability' is an overarching one and is therefore not restricted to the environment, but also embraces economic and social sustainability issues. Continuity of a business is a form of economic sustainability which can best be achieved by maintaining profitability. Europe can contribute to this by strengthening competitiveness through innovation and by stimulating research and development through active policy and a mix of targeted measures (see, for example, Sweden and Japan).

G. Social sustainability means allowing people to live healthy lives and to generate an income while guaranteeing a reasonable level of social security to those who are not able to do likewise. The EESC maintains that Europe can contribute in this area by striving for a society that enables people to maintain their vocational skills, by offering them decent work in a safe and healthy

working environment and in a climate where there is room for both workers' rights and fruitful social dialogue.

H. The eco-industry offers a lot of opportunity for economic growth. Europe has a strong position in a number of sectors in this industry. In order to retain and develop its strengths and to achieve similar positions in other sectors, the EESC feels that Europe has to display greater ambition.

I. An industrial policy directed at sustainable development can contribute to the competitiveness of the entire European economy, including not only to the new rising sectors, but also to the traditional industrial sectors. The EESC wants the European Commission to support such a policy. Examples described in this opinion show that well thought-out and implemented support schemes (combination of taxation, feed-in tariffs, promotion and regulation) during the introduction of new environmental technologies can help to create a market for these technologies that can then be developed further without support. Any support mechanism must be clearly degressive as the cost of state aid should not restrict the international competitiveness of other industries.

J. The EESC notes that subsidies and incentives are not always efficient and can incur large financial costs with little economic effect if used improperly. Subsidies and regulations should help the market start up and develop initially until the technology is ripe to permit survival without any support. The key factors of successful support are as follows:

- right duration;
- proper specification;
- degressive in time;
- announced well in advance;
- cooperation between government and private sector.

K. Sustainable development is not to be limited to a European context, as it has a global dimension. European sustainability policy should be endowed with instruments to prevent reallocation of labour to other regions. In order to ensure a level playing field, a two-pronged approach is needed: internally to the EU on the one hand and externally to the EU on the other. Regarding the former, appropriate instruments should be introduced to ensure that social and environmental costs resulting from non-sustainable production methods within the European Union be internalised in the price of goods to promote the main thrust of the report of the World Commission on the Social Dimension of Globalisation for policy coherence amongst the ILO, WTO, IMF and World Bank (see CESE

⁽¹⁾ COM(2005) 658 final, 13.12.2005.

252/2005). In terms of the latter, the EU should make every effort in relevant international fora (in particular WTO) to include non-trade concerns such as fundamental social and environmental standards into international agreements on trade to facilitate the upgrading of the sustainability policies of Europe's competitors. Countries such as the United States, India and China have an unfair economical advantage compared to Europe as long as they are not bound by the Kyoto protocol's CO₂ reduction targets. Those agreements should be implemented on a global scale as trade can only be really free when it is also fair.

Part 2: Arguments to support the opinion

1. Overview

1.1 Our economy is currently based on the availability of cheap energy and raw materials. But supplies are finite, which is partly why they are becoming considerably more expensive. Structural and technological change which are possible, are needed and Europe has to contribute to that change so as to help European industry to meet that challenge. Sectors which involve high levels of consumption of energy and raw materials have to turn to more sustainable production in the future in order to reduce the drain on natural resources. Because these sectors will still be needed in the future as the production of starting and semi-manufactured materials is the basis of industrial value.

1.2 Sustainably producing European energy-intensive industries which compete internationally must not be forced out of the market by competitors from outside the EU using less sustainable production methods. To prevent this occurring a level playing field must be created for those sectors in cooperation between civil society and government.

1.3 The greatest challenge confronting us is the development of a sustainable society which can maintain the present level of prosperity and at the same time neutralise the negative side-effects of current patterns of consumption. One of the main conditions for this is that we learn to cover our energy needs differently and transition to a different form of industrial production.

1.4 The need for gradual transition to a more sustainable model of society is beyond dispute. There are several reasons for that requirement. Experts differ on the period of time fossil fuels will be available for a reasonable price, but everyone agrees that they will become increasingly rare and expensive. In addition, and due to our consumption habits we are facing one of the greatest threats of our age: climate change.

1.5 Ideally, the best way to stop these processes would be to stop burning fossil fuels as we are at present. However, in the short term this is both politically and economically impossible. We have to adopt other approaches, for something has to change — if not as fast as desirable, then at least as fast as possible.

1.6 By applying the *trias energetica* ⁽²⁾, a model whereby more efficient energy use can be stimulated in three steps, a start can be made in the short term on moving towards more sustainable consumption and production. These steps are:

- reducing demand for energy through more efficient consumption;
- making maximum use of sustainable, renewable energy sources;
- applying efficient technologies that enable the use of remaining fossil fuels in a cleaner way.

1.7 For this a package of measures is needed both to put these three objectives into effect and to bring about a switch to more sustainable industrial production. These measures must be based on an economic and strategic calculation. When making such calculations, there inevitably comes a time when choices have to be made between conflicting interests. We must not avoid these conflicts. So-called 'win-win situations' do exist and policies should always be directed towards their creation, but, in practice, that can be very hard. In such a case, choices have to be made between opportunities for sustainable change and the protection of existing interests, taking into account the natural rise and decline of any one sector over another. Such existing and conflicting interests should be made transparent and addressed.

1.8 The concept of sustainability dictates that economic, environmental and social aspects of the development of European society are equally important. This opinion will:

- focus primarily on renewable energy sources and the striving for energy and raw-material efficiency (chapters 2 & 3);
- look at the opportunities of sustainable development in a selection of sectors (chapter 4);
- address a number of the social aspects (chapter 5).

⁽²⁾ Energy triad — an approach to energy sustainability developed by Delft University of Technology.

2. Renewable energy sources

2.1 Introduction

2.1.1 Every year the Earth absorbs 3 million exajoules (EJ) of solar energy. Total reserves of fossil fuels amount to 300 000 EJ, 10 % of total annual insolation. Total annual energy use is 400 EJ. The 3 million EJ of energy absorbed are available in the form of 90 EJ of hydroelectric power, 630 EJ of wind energy and 1 250 EJ of biomass. The rest is available as solar energy ⁽³⁾. Thus, in fact there is enough sustainable energy to cover our needs. Accessing it is the problem.

2.1.2 As, given the cost aspect and the lack of appropriate technology, renewable energy sources will not be able to meet rising energy demand in the short term, other energy sources will be needed. There is potential for fossil fuels to be used cleanly, for example by removing the CO₂ and subsequently storing it to prevent its release into the atmosphere. The development of technology for capturing and storing CO₂ is in full swing: a dozen or so pilot installations are already either in the startup phase or under construction in Europe, North America and China. The use of this technology can be expected to break even as early as 2015/2020.

2.1.3 The duration of support schemes for renewable energy is crucial, as premature withdrawal may jeopardise the new industry, and on the other hand, prolonged support is not efficient. Typically, support can be gradually phased out, as R&D and economies of scale push the price of the technology lower. Proper specification of the support scheme is also of high importance. Finally, it is important that support schemes be announced in advance so that business has time to prepare for the new market conditions.

2.1.4 The nuclear energy debate is becoming increasingly important, as is shown by the Green Paper on a European Strategy for Sustainable, Competitive and Secure Energy ⁽⁴⁾ and the Conclusions of the March 2006 European Council on this subject. In some countries there is a majority in favour of nuclear energy, in others a majority against — mainly because of the waste problem ⁽⁵⁾. Nonetheless, nuclear power will for some considerable time continue to be indispensable for meeting strongly growing energy demand, as it is an emission-free energy source and as the volume of waste is relatively low by comparison with the energy generated. In the long term nuclear fusion may provide a solution to the drawbacks of nuclear fission.

⁽³⁾ Source: *Energie Centrum Nederland*, www.ecn.nl.

⁽⁴⁾ COM(2006) 105 final, 8.3.2006.

⁽⁵⁾ Eurobarometer issues 227 (on nuclear energy and waste, June 2005) and 247 (Attitudes towards Energy, January 2006).

2.1.5 It should be noted that hydro-electric power sources do not form a subject of a specific paragraph, as this technology (apart from tidal energy) is considered both fully-fledged and fully operational. This should not be seen as detracting in any shape or form from its importance in the sustainability context.

2.2 Biomass

2.2.1 Biomass is organic material from plants and trees specially cultivated for energy purposes. Wood and fast-growing crops are used with a high yield per hectare. By-products from agriculture, the main emphasis being on food, are also used as biomass. Examples are straw and sugar beet crowns. Biomass streams can also be obtained from residues, e.g. waste arising from planting and maintenance and in households, businesses and industry. Examples are fruit, vegetable, and garden refuse, waste timber, manure, slurry, sawdust and cacao shells.

2.2.2 Biomass can be used to (partially) replace fossil fuels. Annual consumption of fossil fuel energy is 400 EJ. Annual availability of biomass energy is 1 250 EJ. But this does not mean that an immediate switch is possible. On the basis of available technology it is currently possible to produce 120 EJ of energy from biomass. Current world consumption of biomass energy is 50 EJ ⁽⁶⁾. A limited increase in the use of biomass for fuels is therefore possible in the short term, but technological breakthroughs will be needed to enable the potential to be exploited.

2.2.3 A number of initiatives have produced promising results. In Austria there has been a sixfold increase in the use of biomass for district heating, and in Sweden an eightfold increase has been achieved over the last ten years. In the USA more than 8 000 MW of the installed generation capacity is based on the use of biomass. In France 5 % of energy used for heating is produced from biomass. In Finland bioenergy already accounts for 18 % of total energy production and the aim is to increase this to 28 % by 2025. In Brazil ethanol is produced on a large scale as a fuel for cars, currently ethanol provides roughly 40 percent of Brazil's non-diesel fuels ⁽⁷⁾.

2.2.4 The development of biomass is important from a number of points of view:

- a. Environmental policy: the life cycle of biomass as a renewable material has a neutral effect on CO₂ and SO₂ emissions. Moreover, when biomass is used on a large scale it is possible to close the mineral and nitrogen cycles.

⁽⁶⁾ Source: *Energie Centrum Nederland*, www.ecn.nl.

⁽⁷⁾ www.worldwatch.org.

- b. Agricultural policy: in Europe agricultural land has been taken out of production. It is estimated that 200 million hectares of agricultural land and 10 to 20 million hectares of marginally productive land could be used for the production of biomass as a source of raw materials and energy. The need for more extensive agricultural production must be seen against the backdrop of the need to preserve Europe's rich landscapes, achieve the EU's objective of halting the loss of biodiversity and ensuring sufficient area is set aside for nature protection. Appropriate account of balance in all these areas will need to be taken.
- c. Social policy: in global terms 11 new jobs are created for every megawatt of installed production capacity. If the use of biomass as an energy source in Europe were to rise from 4 % of energy needs in 2003 to around 10 % in 2010 ⁽⁸⁾, this would mean 160 000 new jobs.
- d. Regional policy: biomass can be used as a decentralised source of energy where conversion takes place close to the production site by means of small-scale power generation plants. This can promote social stability at regional level, particularly in economically disadvantaged areas.
- e. The requirement to produce green electricity: a European directive requires European electricity producers to produce a certain percentage of their electricity from renewable energy sources. This percentage varies from country to country, but is rising steadily. Provision is made for penalties (or the withdrawal of subsidies) if the percentage targets are not met. Clearly, the production of electricity from biomass, either on its own or by burning it together with coal, will make a significant contribution to meeting the targets for green electricity.

2.3 Wind energy

2.3.1 Worldwide the theoretical potential of wind energy is more than twice forecast electricity needs in 2020. This potential and its steadily improving competitive position as a result of technological advances make wind energy an essential replacement for fossil fuels. Wind energy can never cover all needs because of its fluctuating supply.

2.3.2 Over the last few decades installed generation capacity using wind energy has increased spectacularly. The capacity of commercial turbines has grown from 10 KW (rotor diameter 5m.) to more than 4 500 KW (rotor diameter more than 120 m.) ⁽⁹⁾. Over the last eight years installed generation capacity using wind energy has grown at an annual rate of more than 30 % ⁽¹⁰⁾. According to projections by the European Wind Energy Association (EWEA), total wind energy capacity will be

sufficient in 2020 to cover 12 % of electricity needs. This implies an increase in wind energy capacity from 31 GW at the end of 2002 to 1 260 GW in 2020, growth of 23 % per year. The market leaders and biggest exporters are the United Kingdom, Denmark and Germany, and the main export markets are China, India and Brazil. The situation is going to change in China where the wind energy machinery industry is growing rapidly. Compared to 2004 the number of producers in China grew by 60 % in 2005. This implies that the European wind machinery industry may face the same scenario as the solar panel industry and lose massive market share to its Chinese competitors.

2.3.3 The wind energy sector is still to some extent dependent on various support measures. The most important of these is the price which producers receive for the energy they sell to the grid, together with the certainty of a guaranteed price level for the next ten to twenty years. Thanks to these measures the wind energy sector is a fast-growing industry in some Member States. The disadvantage is that these measures lead to large, centralised wind energy parks making large profits rather than a fine-meshed network of small, decentralised wind energy power plants. Public opinion is increasingly turning against this large-scale phenomenon. Of course at the end of the day wind energy also has to be able to survive on its own without subsidies and feed-in tariffs.

2.3.4 The research and development effort needs to be stepped up in order to further improve the competitive position of wind energy. Constant attention also needs to be paid to legal guidelines and political objectives. Further major challenges are posed by the development of new locations for wind parks at sea and the elimination of uncertainties regarding the implementation of wind energy.

2.3.5 The development of wind energy is important from a number of points of view.

- a. Environmental policy: wind energy is a clean form of energy without emission of CO₂ or other pollutants. Its availability fluctuates but is enormous.
- b. Social policy: in 2002 wind energy contributed to employment to the tune of 20 jobs per megawatt of installed capacity. However, as a result of learning effects in the design, manufacture and installation of turbines, employment is not increasing in proportion and the employment impact is expected to fall to 9.8 jobs per megawatt of installed capacity in 2020. This means that employment in the wind energy industry will increase from around 114 000 jobs in 2001 to some 1.47 million jobs in 2020 ⁽¹¹⁾.

⁽⁸⁾ Biomass Action Plan, Communication from the Commission (SEC (2005) 1573).

⁽⁹⁾ Source: *Energie Centrum Nederland*, www.ecn.nl.

⁽¹⁰⁾ Sources: www.ewea.org and www.wind-energie.de.

⁽¹¹⁾ Source: *Energie Centrum Nederland*, www.ecn.nl.

c. Regional policy: due to the support schemes wind energy develops into large, centralised wind energy parks. Because of their profits they are very attractive for investors. The public opinion is turning against this development as it is in favour of fine meshed networks of small, decentralised wind energy power plants.

2.4 Solar energy

2.4.1 There are two ways of using solar energy: to provide heating and hot water, and to produce electricity ⁽¹²⁾. Solar heating systems are relatively simple and cheap and are already used in many countries.

2.4.2 The main reason to aim for the large-scale use of solar energy is the fact that it is inexhaustible. It has enormous potential worldwide and is, providing it is well designed and constructed, very environmentally friendly.

2.4.3 Solar energy can be harnessed almost anywhere in the world in the variety of ways: from very small systems in remote places through solar panels on the roofs of houses to large solar power generation plants.

2.4.4 Solar heating systems are in widespread use. The largest market for these systems is China, mainly because gas and electricity distribution infrastructure is lacking in rural areas. In such cases solar energy is the most efficient solution. Another large market is Turkey. Between 2001 and 2004 the worldwide sale of solar panels grew by between 10 and 15 % annually. China took 78 % of total world production and Turkey 5.5 %.

2.4.5 In Europe, Germany, Austria, Spain and Greece are major markets for solar heating systems. The governments of Germany and Austria offer financial incentives for the installation of such systems. In some regions of Spain the installation of such systems in new buildings is compulsory. As a result of these support measures Germany and Austria are by far the largest producers of solar heating systems in Europe and account for 75 % of European production. This pales into insignificance, however, compared with the production of such systems in China. Europe has produced 0.8 million m² and China 12 million m². The main reason for this is that the Chinese government recognised the importance of solar heating early on and stimulated the production of these systems with a variety of measures in its five-year plans.

2.4.6 Despite its inexhaustibility, solar-generated electricity at present accounts for only a small proportion of our requirements. This is because the cost of solar generation is still considerably higher than electricity from gas or coal-fired power

stations. In order to break the vicious circle of low use and high prices solar energy should be used as much as possible as this will lead to major economies of scale in production and installation. And only then can the technology be further renewed and improved.

2.4.7 Moreover, the generation of electricity using relatively small units of variable yield (depending on the sun) requires a different approach to energy than hitherto. The switch to solar energy is something for the medium term, but it is very important that development in the sector be strongly promoted.

2.4.8 Although the photovoltaic (PV) market is growing rapidly, there are in fact only three major markets: Japan, Germany and California. These three areas account for 80 % of global production of solar energy systems. This is encouraged by high subsidies and by paying households a good price for electricity generated in this way. Worldwide production of solar cells in 2004 was equivalent to generating capacity of 1 150 MW. Adding this to the approximately 3 000 MW of generating capacity already installed at the end of 2003 means that in 2005 total capacity grew to around 4 500 MW.

2.4.9 The Japanese market was created in 1994 by a programme of incentives involving 50 % subsidies. The subsidy was reduced by 5 % each year and 2004 was the last year of the programme, in which a 5 % subsidy was available. As the programme created significant demand, Japanese industry benefited from economies of scale. Prices fell each year by 5 %, which kept the consumer price stable. Although the subsidy is no longer available, the market continues to grow at about 20 % annually. This stable demand made it possible for Japanese companies to invest in R&D and in new manufacturing technologies. As a result Japan currently accounts for some 53 % of the world market.

2.4.10 Germany has gone through a similar process, but about five years behind, beginning in 1999. A combination of low-interest loans, subsidies and stable prices for the sale of electricity to the grid resulted in rapid growth of the PV market. As early as 2001 Germany overtook the USA in terms of installed capacity. Local producers developed and half European production (13 % of world production) now comes from Germany. The launch of a new support programme in 2004, with stable purchase prices for electricity guaranteed for the next 20 years, has given the process a new impetus. The German market is now the fastest growing in the world, some 40 % in 2004 and 2005. This domestic demand makes it possible for German manufacturers to develop their production and to switch production to export markets once the domestic market begins to be saturated.

⁽¹²⁾ See Appendix I.

2.4.11 The development of solar energy is important from a number of points of view.

- a. Environmental policy: solar energy is a clean form of energy without emission of CO₂ or other pollutants. Its potential is enormous, as every year the earth absorbs 3 million exajoules (EJ) of solar energy. In comparison, the total reserves of fossil fuels is estimated at 300 000 EJ.
- b. Social policy: the development of solar energy will create jobs in designing, improving, producing and installing solar energy systems. On the other hand, jobs will be lost as less big centralised power plants will be needed.
- c. Regional policy: solar thermal energy can be used in distant, poor areas where there is no infrastructure for the distribution of energy. It is a cheap solution for heating and for the supply of hot water.

2.5 Geothermal energy

2.5.1 Geothermal energy can be used by means of heat pumps for heating and cooling buildings. These pumps use only a fraction of the quantity of gas or electricity used by conventional heating/cooling systems. The energy used for heating (or cooling) is taken from the environment (air, water or earth) ⁽¹³⁾.

2.5.2 The largest markets for heat pumps are the USA, Japan and Sweden, which together account for 76 % of total installed capacity. They are followed by China, France, Germany, Switzerland and Austria. The European market has grown from 40 000 units in 1997 to 123 000 units in 2004. The total market grew by 18 % in 2004. The manufacture and installation of heat pumps is concentrated in countries where governments offered strong financial and other incentives.

2.5.3 Sweden is a good example of this approach. The Swedish government has encouraged the use of heat pumps since the 1990s with measures such as direct financial subsidies, tax breaks and promotional activities. But new legislation applicable to the construction sector laying down detailed temperature requirements for heating systems also contributed to the growth in the use of heat pumps.

2.5.4 In this way a market was created in Sweden for the manufacture of heat pumps. The country now has an established heat pump industry, with three major players on the global market and 50 % of European demand. The Swedish heat pump market is now self-sustaining. The number of heat pumps in use is growing steadily, even without government support measures. More than 90 % of new buildings in Sweden are now equipped with a heat pump.

⁽¹³⁾ See Appendix II.

2.5.5 A similar development has taken place in Austria, where regional government subsidies equivalent to 30 % of the cost of purchasing and installing heat pumps have been available. Austria now has seven heat pump manufacturers. In both countries it was the combination of direct financial support, building regulations and promotional campaigns which ensured that a heat pump industry could develop which is now able to operate without support.

2.5.6 The development of geothermal energy is important from a number of points of view.

- a. Environmental policy: geothermal energy is an inexhaustible, clean and energy saving energy source. Its potential is enormous, as the outer 6 kilometres of the earth's crust stores energy that amounts up to 50.000 times that of all known the known oil and gas stocks in the world ⁽¹⁴⁾.
- b. Social policy: the development of geothermal energy will create jobs in designing, improving, producing and installing geothermal energy systems. On the other hand, jobs will be lost as less big centralised power plants will be needed.
- c. Regional policy: geothermal thermal energy offers people in distant areas without any infrastructure for the distribution of energy a cheap solution to provide in their own need of heating and hot water. Electricity is required in order to exploit geothermal energy, but significantly less than is required for direct heating and hot water supply.

3. Raw material efficiency

3.1 It is not only energy from fossil fuels which is finite, but also reserves of metallic, mineral and biological raw materials for industrial production ⁽¹⁵⁾. There is extensive use of raw materials in the industrialised world: 20 % of the world's population consumes more than 80 % of all raw materials.

3.2 This consumption pattern is incompatible with the sustainable use of the natural resources available to us. Based on the assumption that reserves of raw materials are our common heritage and that current and future access to them is a universal and inalienable right, Europe will have to reduce its use of raw materials fourfold by 2050 and tenfold by 2080 ⁽¹⁶⁾. The EESC is satisfied with the initiatives in this field like dematerialisation and the Environmental Technology Action Plan (ETAP).

⁽¹⁴⁾ Source: *Informatiecentrum Duurzame Energie*.

⁽¹⁵⁾ See EESC opinion entitled Risks and problems associated with the supply of raw materials to European industry.

⁽¹⁶⁾ Review of the European Sustainable Development Strategy.

3.3 In the final analysis, every product involves damage to the environment: whether during production, use or disposal at the end of its life cycle. The cycle has many phases: the extraction of raw materials, design, production, assembly, marketing, distribution, sale, consumption and disposal. At each stage different players are involved: designers, manufacturers, dealers, consumers, and so on. An integrated production policy attempts to improve coordination of these phases (for example by taking optimum recycling into consideration at the design stage) in order to enhance the environmental performance of the product throughout its life cycle.

3.4 With so many different products and players involved, it is not possible to draw up one uniform measure that solves all problems. A whole array of policy instruments is required, both voluntary and binding. These instruments have to be implemented in close cooperation with the public and private sectors and with civil society.

3.5 Consumer organisations should also play a more stimulating and supporting role than hitherto. Up until now, many of these organisations have focused mainly on obtaining the best possible product for the lowest possible price. In practice this means that production is not achieved in the most sustainable way.

3.6 Combined heat and power (CHP)

3.6.1 Using the heat produced in the process of generating electricity means a sharp improvement in the efficiency of energy use, despite the technical limitations arising from the distance between the place where the heat is produced (industrial environment) and the place where it is consumed (in the home), which causes a great deal of energy to be lost. Micro-CHP units can operate primarily to meet thermal needs of a building with electricity as a by-product. Alternative products can be configured for electricity demand first with heat as a by-product. Most sales to date have been heat-led micro-CHP, although fuel cells are more commonly configured to satisfying electricity demand.

3.6.2 CHP technology can circumvent this limitation, and at the same time it offers an economic challenge for European industry. CHP is mainly used to heat residential housing and shops and it produces electricity as a by-product. By 2004 some 24 000 units had been installed. CHP can be used with various energy sources. The most promising of these is hydrogen (fuel cell) technology, but this technology first needs to be further developed.

3.6.3 Thanks to subsidies for end users of CHP plant, Japan has made the most progress in developing this technology, partly because fuel cell technology is being strongly promoted there by the automotive industry. The Japanese government wants Japanese industry to develop a leading position in fuel cell technology, as it has already done in solar energy. To this end Japan is promoting and financing research and development and providing purchase subsidies to end users at an early stage of market development.

3.6.4 The development of CHP is important from a number of points of view:

- a. Environmental policy: it is a cheap and energy-saving energy source. On top of that it is very clean, hot water and power produced with CHP leads to 20 % less emission of CO₂.
- b. Social policy: the development of CHP will create jobs in designing, improving, producing and installing CHP systems. On the other hand, jobs will be lost as less big centralised power plants will be needed.

4. *Implications of sustainability for a range of sectors*

The growth of sectors engaged in research and development in the field of renewable energy technologies shows that there are considerable economic opportunities in sustainable development. These opportunities do not only exist in those sectors where sustainability technologies are being directly developed but also in those in which new technologies have to be implemented.

4.1 Transport

4.1.1 The transport sector is one of the largest users of fossil fuels. In this sector there are promising opportunities for the sustainable use of energy as the numerous useful recommendations in the CARS 21 final report illustrate⁽¹⁷⁾. In addition, better planning of urban development and infrastructure and more intensive use of ICT technology opens up prospects for improving transport efficiency. Combined with further improved combustion engine technology, this will lead to a substantial energy-saving. In the short term there are also promising opportunities for switching partially to other fuels, such as natural gas or fuel from biomass (BTL). In the longer term hydrogen offers attractive opportunities. The hybrid technology now being developed is also a promising interim solution.

4.1.2 The maximum potential market share of fuel from biomass is estimated at 15 %. The EU has set a target of a 6 % market share by 2010. An initial pilot project for producing fuel from biomass on a large scale is already up and running.

⁽¹⁷⁾ CARS 21 High Level Group: Competitive Automotive Regulatory System for the 21st century.

4.1.3 Natural gas produces lower CO₂ emissions than either petrol (-16 %) or diesel (-13 %) and could take a larger market share given a favourable tax regime. In that way a stable market could develop for both producers and users. The technology is already there. The opportunities are particularly great in relation to urban public transport, as this would enable optimum use to be made of gas filling stations. A 10 % market share would be possible by 2020 ⁽¹⁸⁾.

4.1.4 Examples in other countries (particularly Brazil) show that this kind of market share cannot be achieved merely by ensuring that bio-fuel is available. Flanking policies –such as tax incentives, targeted legislation and regulation and promotion– are needed to encourage the consumer to make the switch.

4.1.5 Another side of the coin is that increased use of bio-fuels originating from environmentally sensitive areas (such as palm-oil from South-East Asia) may lead to a large scale destruction of rainforests as these are replaced by palm-oil plantations. The world knows 23 big ecosystems, 15 of which are exhausted or heavily polluted according to a recent study by the United Nations.

4.2 Construction

4.2.1 In construction — e.g. housing — there is enormous potential for more sustainable techniques. It is already possible to build zero-energy houses at little additional cost, particularly considering that any additional costs are quickly recovered from energy savings. Building in this way costs on average 8 % more than traditional construction methods. Economies of scale could narrow the gap to 4 % within ten years. Norman Foster, one of the world's most famous architects, once stated that, if you look at the total costs of a building over a period of 25 years, the actual building costs are only 5.5 %. The costs of occupying the building (energy, large- and small-scale maintenance, interest rate on mortgage/lease) account for up to 86 % over that same period of time. So, while building in a sustainable way may be slightly more expensive in the short term, it is considerably cheaper in the medium to long term.

4.2.2 In Germany and Austria energy-efficient construction is growing faster than in the rest of Europe. The Passiv Haus Institut in Germany has commissioned housing designs which use very little energy by using solar energy in combination with efficient, air-tight insulation. More than 4 000 houses of this type have now been built in Germany and more than 1 000 in Austria. The principle is also increasingly being used in the construction of commercial buildings.

4.2.3 The municipality of Freiburg has laid down new rules on energy-efficient construction. These rules are an integral part

of every lease or purchase agreement which the local authority enters into with builders and property developers. In this way the local authority is making optimum use of its legal powers in order to promote energy management on a large scale. The agreements state that any construction on land purchased or leased from the local authority must be done in accordance with energy-efficiency guidelines; buildings are to be designed to make maximum use of solar energy and roofs must be suited to the installation of solar panels. In areas where buildings are constructed in this way savings of 40 % are achieved on hot water use.

4.3 Industry

4.3.1 The Committee welcomes the Commission's approach to industrial policy taking account of sustainability concerns, as promulgated in its Communication entitled *Implementing the Community Lisbon Programme: A policy framework to strengthen EU manufacturing — towards a more integrated approach for industrial policy* ⁽¹⁹⁾. The achievement of the Lisbon goals requires a competitive European industry. Therefore the EESC welcomes the setting-up of a High Level Group on Competitiveness, Energy and the Environment, one of the seven major cross-sectoral policy initiatives designed to reinforce the synergies between different policy areas in the light of competitiveness considerations. The Committee also welcomes the efforts made by the European industry itself in this field.

4.3.2 At present, industry remains largely dependent upon fossil fuels. However, in numerous instances the choice of electric process permits the use of all types of primary energy sources while, in the majority of cases, simultaneously making for energy savings ⁽²⁰⁾. There are also ways of exchanging residual energy between industrial complexes and other sectors or residential complexes. Thus, the residual heat of the Europoort industrial complex is used to heat the largest greenhouse complex in north-western Europe, 20 kilometres away in Westland.

4.3.3 Crude oil is the basis for the chemicals industry but in the future less of it will be available. An alternative is biosynthesis, the production of basic chemicals from biomass using bacteria, a very complex but also promising area. In recent years a great deal of progress has been made in relation to our knowledge of the genetic make-up of micro-organisms such as bacteria. New technologies make it possible to modify these organisms genetically so that they convert the original material into specific substances. The bacteria become a sort of programmable mini-reactor.

⁽¹⁸⁾ Source: COM(2001) 547, Directive 2003/30/EC on the promotion of the use of biofuels and other renewable fuels for transport, ALTERNATIVE FUELS REPORT OF THE ALTERNATIVE FUELS CONTACT GROUP DECEMBER 2003.

⁽¹⁹⁾ COM(2005) 474 final, point 4.1.

⁽²⁰⁾ See *Electricity for more efficiency — Electric technologies and their energy savings potential* (July 2004): http://www.uie.org/library/REPORT_FINAL_July_2004.pdf.

4.3.4 At present the food and pharmaceuticals industries use this micro-organism technology, e.g. in the production of cheese, beer and penicillin. The opportunities for bioconversion are considerable in these sectors too, but the chemicals industry is now also beginning to take an interest in the technology. A whole series of reaction steps are needed to obtain substances from crude oil and purify them. The technology needs to be developed much further but it is theoretically possible to switch to the direct conversion of biomass into basic chemicals and other products. This will reduce the need to use oil, with all the attendant economic and environmental benefits — emissions reduction, closing of the circuit and management of the chain.

4.3.5 Energy-intensive sectors may encounter particular problems in ensuring gradual transition to renewable energy sources. The level of sustainability of production is a direct function of the level of technology employed and no major improvements in this domain are to be expected in the near future. The steel and aluminium sectors in Europe, for instance, are already performing well in this area. Whereas the steel industry is investing a great deal in new technologies for more sustainable production, especially through the ULCOS project (Ultra Low CO₂ Steelmaking, the largest European steel project ever) and expects CO₂ emissions to be halved by around 2040, the production of primary aluminium in Europe is characterised by a remarkably high-level use of renewable energy (44.7 %). Since the energy used in producing secondary aluminium out of aluminium scrap is only 10 % of the energy needed for the production of primary aluminium there is a major potential for energy saving in this sector. However, aluminium scrap in the European market is being purchased massively by China through governmental incentives aimed at saving energy.

4.3.6 The European steel industry also does well in the field of raw material efficiency and recycling. Half of the world's steel is produced using scrap metal. Optimum use is also made of recycled waste. At the Corus plant at IJmuiden 99 % of waste is re-used either on site or externally.

4.3.7 Although the use of fossil energy sources as a raw material for industrial production will, to a great extent, be unavoidable for the foreseeable future, the use of newly developed materials will help save energy in the applications area, e.g. by reducing weight in vehicle manufacturing. In order to promote such innovation the European industry has to preserve its international competitiveness, beginning with the extractive industries where the value-creation chain starts.

5. Social aspects

5.1 The need for gradual transition to sustainable production is unavoidable and undisputed. Deindustrialisation, the transfer of production to other regions and increasing competition from developing economies has led to uncertainty and

fear. In this climate people have tended to believe that switching to more sustainable production will adversely affect Europe's competitiveness, hinder the growth of industry and destroy jobs, and that it is bad for the economy and for employment.

5.2 There have been negative effects on employment in Europe. In Germany studies predict that 27 600 jobs will be lost by 2010 due to the Emissions Trading Scheme (ETS), rising to 34 300 by 2020 ⁽²¹⁾. Yet another 6 100 jobs will be lost in Germany by 2010 as a result of the implementation of the renewable energy law ⁽²²⁾. Finally the implementation of the Kyoto-protocol agreements will have destroyed another 318 000 German jobs by 2010 ⁽²³⁾. These figures must be set against the number of jobs created, which shows that a policy geared towards climate protection goals really entails 'industrial change': for example, the EUR 16.4 billion for which the renewable energies sector in Germany accounted in 2005 and the 170 000 jobs that have so far been created in this sector ⁽²⁴⁾. With production amounting to EUR 55 billion (2004), the environment and climate protection sectors in Germany currently provide some 1.5 million jobs and contribute EUR 31 billion to German exports (2003), thus helping to secure many more jobs ⁽²⁵⁾.

5.3 However, the impact is not only negative. A survey of job losses in Europe shows that less than 5 % of jobs lost have disappeared as a result of the transfer of production to other regions ⁽²⁶⁾. In spite of methodological limitations arising from data collection techniques, this survey remains a useful source of information, particularly when taken in tandem with other relevant indicators. It could be argued further that only a small percentage of that job-loss is due to environmental legislation.

5.4 There has also been a growth in jobs. The eco-industry engaged in research and development in the field of sustainable technologies is a dynamic sector which is increasing employment by 5 % annually. This sector, with more than two million direct, full-time jobs, now provides as many jobs in Europe as the pharmaceutical and aerospace industries ⁽²⁷⁾.

⁽²¹⁾ 'Zertifikatehandel für CO₂-Emissionen auf dem Prüfstand', 2002, Arbeitsgemeinschaft für Energie- und Systemplanung (AGEP)/Rheinisch-Westfälisches Institut für Wirtschaftsforschung (RWI).

⁽²²⁾ 'Gesamtwirtschaftliche, sektorale und ökologische Auswirkungen des Erneuerbare-Energien-Gesetzes (EEG)', 2004, Energiewirtschaftliches Institut an der Universität zu Köln (EWI, Köln), Institut für Energetik und Umwelt (IE, Leipzig), Rheinisch-Westfälisches Institut für Wirtschaftsforschung (RWI, Essen).

⁽²³⁾ 'Das Kyoto-Protokoll und die Folgen für Deutschland 2005', Institut für politische Analysen und Strategie (ipas) in cooperation with the International Council for Capital Formation (ICCF).

⁽²⁴⁾ German Environment Ministry press release No 179/06 of 10.7.2006.

⁽²⁵⁾ German Environment Ministry press release No 81/06 of 20.4.2006.

⁽²⁶⁾ www.emcc.eurowind.eu.int/erm/.

⁽²⁷⁾ Hintergrundpapier 'Umweltschutz und Beschäftigung' Umweltbundesamt, April 2004.

5.5 An OECD study ⁽²⁸⁾ has shown that sustainable production does not by definition lead to higher costs. In the long-term it can even reduce costs to some extent. Moreover, sustainable output can be counterbalanced against these costs. Clear commercial advantages, environmental legislation and ancillary regulation lead to investment in sustainable innovation, encourage more efficient use of raw materials, strengthen brands, improve the image of businesses and ultimately lead to greater profitability and employment. In order to be successful this process needs a common approach based on shared responsibility from business, labour and government.

5.6 To be avoided at all costs is that European industry suffers a significant competitive disadvantage when compared to regions outside the EU due to higher costs resulting from environmental and social laws and regulations. When Europe sets standards for sustainable production for its own industry it is unacceptable and beyond reason if, at the same time, it allows producers from outside the region to bring products to the market that are not produced in compliance with those standards. To stimulate sustainable production a two-pronged approach is needed: internally to the EU on the one hand and externally to the EU on the other.

5.6.1 Regarding the former, appropriate instruments should be introduced to ensure that social and environmental costs resulting from non-sustainable production methods within the European Union be internalised in the price of the goods to promote the main thrust of the report of the World Commission on the Social Dimension of Globalisation for policy coherence among the ILO, WTO, IMF and World Bank, as pointed out in the EESC opinion on 'The Social Dimension of Globalisation'.

5.6.2 In terms of the latter, the EU should make every effort in relevant international fora (in particular WTO) to include non trade concerns such as fundamental social and environmental standards into international agreements on trade to facilitate the upgrading of the sustainability policies of Europe's competitors. Countries such as the United States, India and

China have an unfair economical advantage compared to Europe as long as they are not bound by the Kyoto protocol's CO₂ reduction targets. Those agreements should be implemented on a global scale as trade can only be really free when it is also fair.

5.7 The European eco-industry now has roughly a third of the world market and generates a trade surplus of more than EUR 600 million. In 2004 exports grew by 8 %, and this is a growth market because in the future all countries, even China and India, will increasingly switch to sustainable products and production processes.

5.8 The sustainable, innovative society towards which we have to move needs a thorough information campaign aimed at citizens and consumers to raise awareness and to provide a broad social basis. It also needs well-trained workers. In the recent past, Europe paid too little attention to this. The English text of ten European directives in this area (sustainability, innovation) has been scanned for the words 'training', 'learning', 'skilling' and 'education', and only the first of these occurred, once, in one directive.

5.9 A number of Commission communications which preceded these directives dealt at length with the need for training. That interest was entirely missing in the directives, however. Communications are just words, whereas directives are deeds. A policy is not what you say, it is what you do. The EESC welcomes the fact that a lot of attention is paid to the importance of education in the new EU industrial policy and encourages the Commission to continue in the same vein.

5.10 In the Lisbon Strategy Europe has set itself the objective of becoming by 2010 the most competitive knowledge-based economy in the world with more and better jobs and greater social cohesion. A well-trained workforce is needed to build and maintain this kind of society. If we do not invest enough in training our workers, not only will we not achieve the Lisbon objectives by 2010. We will never achieve them.

Brussels, 14 September 2006.

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

⁽²⁸⁾ www.oecd.org/dataoecd/34/39/35042829.

Opinion of the European Economic and Social Committee on The territorial governance of industrial change: the role of the social partners and the contribution of the Competitiveness and Innovation Programme

(2006/C 318/02)

At its plenary session of 19 January 2006, the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an opinion on *The territorial governance of industrial change: the role of the social partners and the contribution of the Competitiveness and Innovation Programme*.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2006. The rapporteur was Mr Pezzini and the co-rapporteur was Mr Gibellieri.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 181 votes to two with eight abstentions.

1. Conclusions and recommendations

1.1 The March 2006 European Council centred on the relaunch of the Lisbon strategy for growth and employment and on an integrated, governance-based approach to the new challenges of globalisation.

1.2 The EU must be committed to securing innovative, competitive and sustainable development for its people, in order to secure greater economic and social cohesion and spark the generation and development of new businesses, new professional profiles and more and better jobs, while preserving the European social model and focusing on a knowledge-based economy.

1.2.1 The Committee is strongly convinced that without 'a new governance cycle based on partnership and ownership' ⁽¹⁾, all Europe's efforts at boosting competitiveness and employment will be in vain, and that new models for governance must be adopted and implemented rapidly and widely.

1.2.2 The Committee feels that both the seventh RTD Framework programme (FP7) and the new CIP are still excessively top-down in their outlook and do not yet allow for the appropriate level of integration and responsible participation of public and private development players at local and regional level, optimising the essential role of the social partners to promote sustainable and lasting growth.

1.3 The European Union ought to encourage this type of partnership at local level with authorities and economic players and especially with the social partners, not least through the

two instruments mentioned above, in order to nurture a new generation of territorial pacts for development within the context of globalisation ⁽²⁾.

1.4 The EESC is convinced that there is no one form of governance to suit all. Each regional/local tier must seek the formula that best services the requirements of local or regional governance, while remaining compatible with the national, European or international frame of reference.

1.5 There are however certain common features:

- structured civil and social dialogue;
- regular public assessment of the quality and impact of the actions taken;
- the training of development agents and integrators;
- structured bridges between academia, industry and government;
- high-quality education and training structures;
- connection with networks of centres of technological and scientific excellence;
- the creation/strengthening of advanced groupings (districts, high-tech parks, production and financial conglomerates, etc.);

⁽¹⁾ See Presidency conclusions of the European Council meeting of 23-24 March 2006, paragraph 4.

⁽²⁾ See: *Pacte Industrial de la Regio Metropolitana de Barcelona* (<http://www.pacteind.org/eng/activities/>) which states that 'The territory's competitiveness lies in the quality of the companies and their workers, ...'.

- an equipped, sustainable, attractive and IT-friendly region;
- effective and accepted structures for reaching consensus and decision-making, based on public involvement.

1.5.1 Lastly, it is absolutely essential that this integrated regional policy include a structured social dialogue, not least by making more of existing local/regional economic and social councils with the social partners and representatives of organised civil society and by establishing effective forms of economic and social partnership ⁽³⁾.

1.5.2 In this respect, the route indicated by the EESC should be followed, involving the ESCs and similar bodies of individual European countries in a structured dialogue with the EESC.

1.6 The success of this new form of governance depends increasingly on the capacity to pinpoint the most effective degree of proximity for managing problems and finding solutions, in accordance with the principle of subsidiarity, while also maintaining a coherent framework and shared vision with other levels of intervention ⁽⁴⁾.

1.7 The Committee is convinced that the practice of exploring possible routes, actions and measures with a medium-to long-term view, shared by means of foresight exercises, can make a real bottom-up contribution to the cultural growth of society and can help to enrich the choices of politicians and administrators. Most importantly, it can also nurture and strengthen the local interaction between technological, economic, social, political and cultural sectors necessary for ensuring sustainable and competitive development.

1.8 First and foremost, the social partners and representatives of organised civil society must be involved in forming a clear understanding of strengths and weaknesses with a view to finding new niches on the internal and international market.

1.9 Globalisation generates competitive pressure to modernise, innovate and move up the value chain, and enables goods and services to be produced and distributed more efficiently and cheaply. However, there is a danger that if nothing is done in time, it will generate new divisions and fragmentation in the economic and social fabric, particularly at local and regional level.

⁽³⁾ See European Commission guidelines on cohesion policy: An active horizontal partnership (Social partners, organised civil society, administrators); An effective vertical partnership (European Commission, national governments, local and regional governments). See Regulation EC/1260/1999 of 21.6.1999 and COM(2002) 598 of 7.11.2002.

⁽⁴⁾ See 'Grassroots democracy'.

1.9.1 This, in the Committee's view, necessitates the formation of new areas of responsibility as soon as possible in order to guide the public through the changes. Joint training measures should be set up for district managers, business leaders and financial and credit system managers, to be implemented in conjunction with politicians, public sector officials and local and regional authority managers.

1.10 Only an integrated and jointly-framed territorial approach will ensure that knowledge accumulated through investment in research and development, innovation and education can generate the capacity for innovation, giving the European industrial base a competitive edge and enabling it to attract human and financial resources.

1.10.1 In that context, it is of the utmost importance to examine new ways of attracting human resources to a region, not least by improving work-life balance and introducing incentives, especially for white collar and highly qualified workers, such as managers, researchers and industry experts, securing for them sufficiently attractive benefits in their working life.

1.11 The new CIP programme (2007-2013) cannot be looked at in isolation from the Community's other regional policies and programmes. It aims to address the issues by means of a three-pronged approach: the Entrepreneurship and Innovation Programme; the ICT Policy Support Programme; and the Intelligent Energy Programme.

1.12 In that light, the Committee is in favour of strong coordination of the CIP with regional and cohesion policy and cross-border, transnational and interregional cooperation measures as well as with the VIth RTD framework programme (FP7). A significant part of the latter's 'Capacities' programme is also devoted to developing R&D in SMEs, the Regions of Knowledge, support for innovation and innovative services for companies and the necessary links between the world of training and that of enterprise.

1.13 The Committee believes it is essential that these initiatives be carefully coordinated to secure synergy and avoid overlaps or inconsistencies. They should be restyled and taken on board by each region, giving priority to partnership for jointly-framed local development.

1.14 The Committee would reiterate, lastly, the views it has already expressed in a recent opinion on the subject of modern industrial policy: 'What is missing is a clear link between the efforts at EU level, and the necessary involvement of governments, industry and stakeholders at national and regional level.'

2. Definitions

The opinion refers to a number of concepts whose definitions are provided below.

2.1 **Governance:** anthropological literature draws a distinction between three types of Governance (?). **Grassroots** governance involves the local coordination of all players, and is characterised by a marked orientation towards all kinds of technology-related activities. **Network** governance shows a high level of coordination between networked players, in particular firms, research organisations and funding organisations. **Dirigiste** governance is based on a high level of coordination and central management of key aspects such as funding and research competence.

2.2 *Socially responsible area* (°)

An area can be defined as being socially responsible when it gears its development towards sustainability, thus tying in the economic, social and environmental dimensions. An area can define itself as socially responsible if it succeeds in:

- building social and environmental considerations into economic decisions;
- using a shared system of values and a participatory methodology in decision-making processes;
- encouraging good practice and continuous pooling of ideas among stakeholders, in order to boost innovation and competitiveness.

In order to plan for a socially responsible area, it is necessary to:

- identify the community living there;
- identify its guiding values.

2.3 *The social capital of an area*

Social capital can take many forms: cooperative or competitive cultures; a shared sense of community, or polarised interest groups; differing modes of learning. Cultural traditions and types of organisation can have a considerable impact on the

(°) P. Cooke et al, 1998, Regional Innovation Systems — The role of governance in a globalised world.

(°) This concept underpins the new JESSICA programme, launched by DG Regio, financed by the EIB and aimed at particularly run-down city areas.

obstacles that might obstruct the creation of a socially responsible area. A more in-depth study of the social resources available in an area (social capital) calls for a distinction to be drawn between: institutional capital, cultural capital, symbolic capital, psychosocial capital and cognitive capital.

— **Institutional capital:** the capacity of the formal institutions in an area to concentrate on problem-solving, their capacity to act, their speed in decision-making, the quality of information available to organisations, their flexibility, and lastly existing inter-organisational relations.

— **Cultural capital:** the heritage of a region's traditions, values and beliefs, the richness of its language, and lastly social relations and behavioural patterns (?).

— **Symbolic capital:** the potential of a region to mobilise the energy necessary to secure its own development and its potential to provide an emblem for local companies.

— **Psychosocial capital:** this is based largely on trust, on the conviction that there is a community and that it has the potential to develop and, lastly, on an awareness of the possibility of cooperation with groups and associations.

— **Cognitive capital** is represented by collective know-how, not to be confused with the human capital of individuals. Cognitive capital resides in the knowledge infrastructure of organisations such as universities, research centres, cultural and professional organisations, companies and bodies responsible for social dialogue (°).

2.4 *Foresight* (°): *the future as a social construct*

The future has to be built. It is people who build it, through their actions and the sometimes unexpected consequences of them. It is not simply a matter of telling the future but of building it socially. The systematic consideration of probable or possible events can contribute to this process. The systematic study of the future is an area of research that seeks to shape a future that reflects our hopes more closely. The aim of foresight is not therefore to tell the future, but to imagine a future that is different from the present, made possible by factors such as changes in technology, lifestyle, working habits, regulations, world geopolitics, etc.

(°) In anthropological terms, culture consists of forms of behaviour that are acquired and transferred through symbols, actions, signs and the fruit of intellect (Alberoni, *Consumi e società*).

(°) F.Alburquerque et al, Learning to innovate, OECD seminar 30.9 — 1.10.1999 Malaga, Spain.

(°) Definition of foresight: Systematic, participatory process that involves the gathering of information and the development of visions for the future, in the medium and long term, designed to direct decision-making and mobilise means for joint action.

2.4.1 With a view to underscoring the guidelines established by the Lisbon European Council, the Commission laid the foundations for the European Research Area (ERA) ⁽¹⁰⁾, the financing for which was built into the VIth Framework Programme, with particular attention to territorial foresight ⁽¹¹⁾. Later, in 2001, the Commission launched its 'Science and technology foresight; links with the IPTS ⁽¹²⁾' unit, designed to promote foresight as a model for innovation.

2.5 Grassroots democracy

2.5.1 The idea of **grassroots** has gained importance in recent years along with other concepts such as **subsidiarity**. A grassroots culture enables members of the public to show they want to play a part in decisions relating to the social sphere. Thanks to new technologies, knowledge is spreading at a speed and on a scale that were previously unthinkable.

3. Reasons

3.1 As the third millennium begins, the EU is facing profound structural changes that in the space of just a few years have revolutionised the world environment in which the European economy works and competes. These include the following in particular:

- the workforce present on the open market has doubled with the entry of more than two billion people into the market economy area governed by the WTO;
- the economic revolution brought about by globalisation has altered firmly-established economic models, tilting the balance between supply and demand;
- new economic competitors have emerged, some in groupings, and have joined the traditional market players;
- companies are seen increasingly as integral parts of a system, providing integrated knowledge networks;
- company success is increasingly dependent on the new form of public territorial governance that must operate within a shared strategic vision;

⁽¹⁰⁾ COM(2002) 565 final of 16/10/2002.

⁽¹¹⁾ <http://www.cordis.lu/rtd2002/foresight/main.htm>.
<http://www.cordis.lu/rtd2002/foresight/main.htm>.
<http://www.regional-foresight.de/>.
<http://prospectiva2002.jrc.es/>.

⁽¹²⁾ Institute for Prospective Technological Studies. This is one of the seven institutes that fall under the JRC (Joint Research Centre).

- new forms of public and private governance at local and regional level coexist within a world context that shows strong demographic and economic imbalances;
- on the new global liberalised market, new aggressive strategies for economic and commercial penetration have taken hold, targeting largely the weak points in foreign markets in order to gain a competitive advantage.

3.2 The Aho ⁽¹³⁾ report reiterated the need for new models of governance, in order to make Europe competitive and aware of the challenges to the system brought by structural change.

3.2.1 The adoption of this new model for governance requires:

- a clear change to achieve a genuinely unified European market, in order to promote innovation and market new products and services, and countering the fragmentation that is the main barrier to investment, business and employment;
- a review of EU worker mobility schemes: this should include channels for exchange and mobility between science, industry and government and between countries; new instruments for dialogue are also needed, to make more of the European knowledge-based social model and to sow the seeds for new generations of knowledge-based districts, new technology and industrial parks, poles of excellence, technological platforms and clusters;
- a new common strategic vision, using participatory foresight instruments, to address internal social challenges and external economic challenges and to bridge the gap between political ideas and the practical need to involve all those regions wishing to be part of the knowledge-based economy;
- the development in the regions of highly professional 'development integrators' ⁽¹⁴⁾;
- support for the creation of the European Institute for Technology ⁽¹⁵⁾ in order to stave off a brain drain and attract professionals from other parts of the world so as to develop and boost research and innovation within the EU;

⁽¹³⁾ 'Creating an innovative Europe', report of the Independent Expert Group on R&D and Innovation, chaired by Esko Aho, January 2006.

⁽¹⁴⁾ People with social and technological experience who, with the help of technological poles, are able to help micro and small companies with innovation processes.

⁽¹⁵⁾ See European Council Conclusions of 15 and 16 June 2006.

— bold European measures to support vocational retraining and the preparation of relevant multidisciplinary profiles.

3.3 Research and development, design, manufacturing systems, logistics systems ⁽¹⁶⁾, marketing and client services are increasingly integrated as functions, acting together as a single entity that links clients with the inventors of new products.

3.4 Modern company structure has ever less to do with the availability of physical infrastructure and ever more to do with the ownership of intangible assets. It requires an equipped region, with structures for territorial governance, able to sustain the capacity to produce and distribute goods and services and to provide the best possible after-sales service.

3.5 Developing a clear regional or local identity, reflected in the social capital, is proving to be fundamental, both to prevent the risk of relocation, and because new business developments demand specific characteristics and a high quality of locally available services. These standards can be obtained only with well-trained staff with a high level of awareness.

3.6 Awareness of regional/local identity among the public, political decision-makers and social partners allows an integrated approach to environmental and social sustainability, which brings added value when it comes to attracting new investment.

3.7 Regional/local identity as a quality is based on a combination of belonging, recognition and empathy regarding a set of shared values and a shared vision of the future. Promoting regional/local identity involves:

— transparent, participatory models of governance, made possible through: the distribution of powers among the various players and public and private decision-making centres, capacity building activities designed to secure an optimal organisational, management and operations structure, and the sustainable use of local resources, including transport, health services, physical resources, infrastructure and ITC services;

— the development of a 'pleasing' image for the area;

— SWOT analyses ⁽¹⁷⁾;

⁽¹⁶⁾ See 'European logistics policy'.

⁽¹⁷⁾ SWOT: Strengths and Weaknesses, Opportunities and Threats Analysis.

— participatory foresight exercises, to foster awareness of a shared vision/path;

— networking and the exchange of best practice between regions;

— benchmarking exercises to secure comparative territorial advantages.

4. The integrated territorial approach (ITA) and foresight systems for local and regional research and innovation

4.1 ITA and local human resources

4.1.1 There are various priority areas for actions when it comes to making the most of local human resources:

— a shared common strategic vision (foresight) of medium- and long-term prospects for local and regional technological and innovative development;

— structured social dialogue at local and regional level; in this respect it is essential that existing legal requirements regarding information and consultation are fully upheld ⁽¹⁸⁾;

— training through high-quality structures designed to keep workers permanently skilled for the professional profiles necessary for future regional development, in a context of global competition;

— the use of the many social tools available to assist workers hit both by unexpected market changes that exclude them from development possibilities and by local and regional decline in crisis areas;

— policy geared towards social inclusion and respect for ethnic minorities;

— intelligent and responsible management of flexibility to broaden opportunities for professional achievement ('flexicurity' ⁽¹⁹⁾);

— full public involvement.

4.2 ITA and the development of a new, stronger form of entrepreneurship

4.2.1 An integrated territorial approach can encourage and promote the creation and development of businesses, SMEs in particular, by establishing a favourable environment. This involves:

— cutting red tape and removing bureaucratic obstacles to the setting-up and development (in size, for instance) of companies;

⁽¹⁸⁾ See ETUC document: 'Restructuring and employment — Anticipating and accompanying restructuring in order to develop employment: the role of the European Union' (ETUC Executive Committee, Brussels, 14 and 15 June 2005).

⁽¹⁹⁾ Flexicurity: the case of Denmark, ECO/167 — Rapporteur: Ms Vium.

- providing structures for vocational and other training, apprenticeships and lifelong learning, managed by the social partners by means of bilateral bodies working on the basis of forward-looking projects;
 - establishing integrated networks between universities, companies and research centres with standardised work programmes, methodologies and structures, all geared towards technology transfer;
 - setting up and relaunching new industrial and technological knowledge-based districts and integrated industrial platforms: within these the players in the technology sector expand to take in new centres of learning and applied research and look beyond their immediate neighbourhood to develop production and distribution systems that focus on the shared values and strategies of 'learning communities';
 - establishing (e.g. through regional development agencies) networks of industrial and technology parks, in order to develop well-equipped regions, able to offer services to aid the development of new businesses;
 - improving access to sources of funding and credit, not least by implementing mechanisms such as those promoted by the JEREMIE initiative (Joint European Resources for Micro to Medium Enterprises) throughout the EU;
 - developing and disseminating mechanisms for corporate social responsibility;
 - promoting and strengthening systems for cooperation between social partners and local economic and social players, by boosting their institutional capacities and potential for social dialogue;
 - modernising the local digital system for communication between all political, economic and social players present in the area and the relevant public and private authorities and institutions. The focus should be on instruments such as e-government, e-business, e-commerce and distance working, as well as high-capacity broadband communication networks, such as the GEANT⁽²⁰⁾ network for data transmission and the GRID systems⁽²¹⁾;
 - bolstering the values upheld by the JESSICA programme, aimed at the integration of city peripheries;
 - providing a physically, economically and socially secure environment for the public, companies and the world of work;
 - making the integrated territorial approach to local and regional industrial policy sustainable, by optimising environmental protection during economic and industrial change.
- 4.3 *ITA, CIP and the seventh framework programme — Consistency with other Community policies*
- In 2005, the Heads of State or Government gave further political impetus to the relaunched Lisbon strategy, in particular by emphasising the way in which European values can underpin modernisation of the economy and society in a globalised world.
- 4.3.1 The March 2006 European Council set out the priorities to pursue in the context of the renewed partnership for growth and employment:
- greater investment in knowledge and innovation;
 - unlocking business potential, especially of SMEs;
 - increasing new and sustainable employment opportunities for priority categories, especially for young people⁽²²⁾, women, older workers, people with disabilities, legal immigrants and minorities.
- 4.4 More specifically, the CIP Entrepreneurship and Innovation Programme ties into a coherent framework many activities designed to address key problems affecting competitiveness and innovation in the EU's economic and social fabric, by directing development towards innovative and productive measures, protecting the environment and making efficient and socially acceptable use of resources.
- 4.5 The FP7 specific 'Capacities' programme is intended to enhance capacity for research and innovation, in particular:
- by meeting the needs of SMEs needing to outsource research activities;

⁽²⁰⁾ The GEANT project grew out of collaboration between 26 National Research and Education Networks representing 30 countries across Europe, the European Commission, and DANTE (*Delivery of Advanced Network Technology to Europe*). Its principal purpose was to develop the GEANT network — a multi-gigabit pan-European data communications network, reserved specifically for research and education use.

⁽²¹⁾ GRID: a system that integrates and coordinates resources and users that live within different control domains for example, the user's desktop vs. central computing, different administrative units of the same company, or different companies, and addresses the issues of security policy, payment, membership, and so forth that arise in these settings.

⁽²²⁾ See, for instance, the 'youth pact' established by the French Government.

- by encouraging the transnational networks of Regions of Knowledge, in order to foster the emergence of clusters, metadistricts and technology and business parks, associating universities, research centres, companies and regional authorities;
- by tapping into the research and innovation potential of the Convergence Regions and outermost regions, in conjunction with action through the Structural and Cohesion Funds.

4.5.1 Optimising the participation of SMEs in research and innovation activities will also involve the other FP7 specific programmes (i.e. 'Cooperation', 'Ideas', and 'People').

4.5.2 The need to make full use of research results is also fundamental and a common feature of all the programmes, and this is done most effectively at territorial level. In this light, there must be high levels of coordination, consistency and synergy with the Community's regional and cohesion policy instruments and other Community support instruments for regional cooperation and education and training.

4.5.3 Furthermore, the above-mentioned actions must be coordinated with regional policies related to the reformed European Structural Funds.

4.6 In order to be properly assimilated in the field, these initiatives, as well as being closely coordinated in order to secure synergies and prevent overlaps or inconsistencies, must also give priority to:

- a receptive, well-equipped environment able to generate synergistic effects with relevant regional and local programmes, able to develop international research partner networks, in order to meet the transnationality criteria of European projects and translate research results into real competitive growth and higher employment, targeting current industrial change by means of permanent territorial networks promoting interaction between universities, industry and research centres;
- advanced education and training structures designed to provide a functional response to the demands of economic and industrial development, based on knowledge: these structures should be based on training schemes geared towards new technology-production, distribution and consumption models, and on lifelong learning systems anticipating responses to industrial and market changes;
- institutional and association-based capacity building and social dialogue initiatives, with a view to planning effectively and optimising research and technology transfer: all these elements must work to a vision shared by the economic and social players experiencing reality at first hand in the field and must be aimed at giving people new business and training opportunities, advanced qualifications and new professional profiles;
- an integrated regional policy able to make the most of local development potential, enhancing capacity for change and innovative anticipation, in order to enjoy the benefits of new flows of goods and services, human resources and capital generated by globalisation;
- consolidated social dialogue at regional/local level, as a key to maximising the benefits of anticipating industrial and market change and education and training flows; this dialogue must also deliver better job security and greater flexibility in the organisation of production, distribution and services.

4.6.1 The Committee feels that both the seventh RTD Framework programme (FP7) and the new CIP, on which it has already issued opinions, are still excessively top-down in their outlook and do not yet allow for the appropriate level of integration and responsible participation of public and private development players at local and regional level as is both necessary and desirable. This approach does not in effect give local players their rightful role as joint guardians of European governance.

4.6.2 The European Union ought to encourage this type of partnership at local level with authorities and economic players and especially with the social partners, not least through the two instruments mentioned above, in order to nurture a new generation of territorial pacts for development within the context of globalisation⁽²³⁾. These should involve all the stakeholders in economic and employment development, with a view to responding effectively to the challenges of the market and competitiveness, moving beyond local mindsets that are becoming dangerously restrictive in a world of interconnected realities.

⁽²³⁾ See *Pacte Industrial de la Regio Metropolitana de Barcelona* (<http://www.pacteind.org/eng/activities/>) which states that 'The territory's competitiveness lies in the quality of the companies and their workers, ...'.

4.7 ITA, participatory governance, the social partners and civil society

4.7.1 A considerable proportion of sustainable competitiveness measures fall within local and regional responsibility, making governance systems and cooperation between the various local and regional authorities, the various bodies and institutions, the social partners, companies, and civil-society players active in the field a priority.

4.7.2 With regard to the concept of governance, reference should be made to comments made previously by the Committee on the subject: 'private stakeholders must act and take responsibility through tangible contributions and actions. [...] Social and civil dialogue are important accompanying measures' ⁽²⁴⁾.

4.7.3 As far as strengthening social dialogue is concerned: 'The EESC agrees [...] that, by virtue of their sectoral knowledge, the social partners are able to play a special role in alerting the authorities.'

4.7.4 In the Committee's view, it is a matter of implementing streamlined, proactive and reactive jointly-framed social engineering and decision-making systems, able to maintain a high quality of political, economic and social democracy, without weighing down and holding back the development of actions and initiatives.

4.7.5 The development of a shared medium- to long-term vision is essential here, as is the identification and division of responsibility regarding agreed intermediate objectives, and the use of advanced and proven tools at regional level such as foresight.

4.8 The ITA is a governance strategy for the development of socially responsible regions.

4.8.1 In a context like ours, open to global competition, any governance strategy for socially responsible local and regional development must secure a sustainable trend towards economic development and high social standards. Such a strategy should in particular involve:

- constant improvements in quality and the cognitive and innovative capacity of the local and regional production system, through systematic analyses and the jointly-framed forecasting of social, economic and technological development;
- the development of global reference networks for the public and private sectors, ensuring a constant and clear two-way flow of interactions with the global market;
- high levels of environmental and social sustainability in the development of both production and consumption;
- efficient and consolidated processes for the formation and dissemination of knowledge, information and on-going training for technology operators, users and final consumers;
- the preparation of 'local and regional social balance sheets' able to measure, monitor and assess the trends that help qualitative and quantitative objectives to be met, on the basis of shared standards and methodologies at European level.

Brussels, 13 September 2006.

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

⁽²⁴⁾ See *The road to the European knowledge-based society — the contribution of organised civil society to the Lisbon Strategy* (exploratory opinion) — Rapporteurs: Mr Olsson, Ms Belabed and Mr van Iersel.

Opinion of the European Economic and Social Committee on *The contribution of IT-supported lifelong learning to European competitiveness, industrial change and social capital development*

(2006/C 318/03)

On 19 January 2006 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on: *The contribution of IT-supported lifelong learning to European competitiveness, industrial change and social capital development*.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2006. The rapporteur was Mr Marian Krzaklewski. The co-rapporteur was Mr András Szücs.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 181 votes to six with eleven abstentions.

1. Proposals and recommendations

1.1 The European Economic and Social Committee is convinced that the use of electronic media in teaching and training — (*e-Learning*) ⁽¹⁾ should help the European Union to carry out activities aimed at increasing the effectiveness and quality of education, including job-based education and training. This, together with other measures, will reduce staff training costs, substantially improving the competitiveness of businesses, especially small and medium-sized enterprises.

1.2 The Committee believes that learning and training supported by information and communications technologies (ICT) are still inconsistent in the EU. This is caused by linguistic and cultural diversity and the immaturity of the relevant markets.

1.2.1 In order to change this, all educational institutions, including those active in the field of lifelong learning (LL) ⁽²⁾, should be more open to new forms of learning and be ready to use them on an ever wider scale, supporting the integration of knowledge and experience with a view to achieving synergy with the planned technological and economic development.

1.2.2 The Committee believes that the European Commission is best placed to establish a new policy in this context. The issue of communication and coordination is therefore particularly important for the Commission services, especially in the fields of education and the information society.

1.2.3 The time has come to acknowledge that e-learning has moved into the mainstream and the consolidation of profes-

sional knowledge in this field. This will ensure the application of consistent approaches and help to realise the added value of e-learning.

1.3 The EESC is convinced of the need for a greater awareness in the EU of ICT, in particular of the way these technologies can support training in industry and lifelong learning, e.g. through:

- training provided mainly in the workplace, geared towards solving existing problems in a particular context;
- methods and approaches recognising prior learning achievements — including those obtained through work and experience — and encouraging active involvement in learning activities, both independent and collaborative.

1.4 The EESC appeals to the EU institutions and the Member States to remember, when implementing development programmes connected with the establishment of the information society, that these processes must not lead to any form of exclusion. In other words, there should be no social, economic or regional barriers to access to electronic infrastructure as a learning tool.

1.4.1 The Committee stresses that the key condition for using ICT in lifelong learning, particularly in the Community's rural areas and small towns, is support from the EU and the governments of Member States for broadband internet connections ⁽³⁾ that provide access to e-learning systems. The situation

⁽¹⁾ *e-Learning* — The use of new multimedia technologies and the Internet to improve the quality of learning by facilitating access to resources and services as well as remote exchanges and collaboration.

⁽²⁾ *Lifelong learning (LL)* — An expression used to indicate that acquiring new knowledge is now considered a continuous process which does not end when one leaves school or university, but continues uninterrupted throughout one's professional life and even after retirement, spreading to embrace all stages of life and all social groups thanks, to a large extent, to the possibilities offered by e-learning (source: www.elearningeuropa.info).

⁽³⁾ *Broadband Internet access* — Communications channel with high capacity, enabling quick, easy access to information and e-learning systems (source: www.elearningeuropa.info).

is exceptionally difficult for such areas in the new Member States. This adds even more weight to the argument that there can be no place for any kind of barrier as far as access to broadband connections is concerned.

1.4.2 In this context, the EESC appeals to the Commission to recognise access to broadband as part of a wider strategy aimed at ensuring that eAccess is accorded the status of general interest.

1.5 The Committee believes that, as far as e-distance learning and training are concerned, special consideration must be given to the risk of a generation gap emerging, especially since an increasing number of activities in the field of adult lifelong learning will be undertaken using ICT.

1.6 In addition, the EESC would like to draw attention to the fact that e-learning should also be designed in a way that meets the needs of blind people. Given that the technical solutions in this area are well known, the authors of e-learning textbooks should take as a basis the set of rules drawn up by organisations representing the blind community.

1.7 The EESC is convinced that e-learning should be an effective tool for improving the competitiveness of enterprises and increasing their business potential, especially the potential of small and medium-sized enterprises, which have a key role to play in generating economic growth and creating jobs.

1.8 The Committee believes that broadening the scope of ICT-supported lifelong learning in the EU will have a major influence not only on increasing the competitiveness of businesses but also on enhancing the social capital of the people they employ, which should increase the value of European business capital.

1.9 The EESC notes that there is an urgent need to define a new role for civil society and for dialogue among the social partners as regards the promotion and establishment of IT-assisted lifelong learning in the EU's labour markets. Preparing all European societies for ICT-supported lifelong learning will help to build a European Knowledge Area as well as a knowledge-based society ⁽⁴⁾.

1.10 The Committee notes that less progress than expected has been made in the integration of ICT into learning and the professional consolidation of e-learning. Therefore, the competent authorities at EU and national level are called upon to take

⁽⁴⁾ *Knowledge-based society* — A society whose processes and practices are based on the production, distribution, and use of knowledge for the continued improvement of skills and full involvement in family and professional life and in society, COM(2001) 678 final.

measures that will significantly increase the number of people taking up e-learning. Such a development has the potential to make a considerable contribution to the competitiveness and productivity of industry.

1.11 The EESC calls on the EU institutions to pay particular attention to the needs of SMEs, their networks and representative organisations with a view to ensuring they make the most of ICT for training purposes.

1.12 The Committee believes that teachers of modern technology and methodology (IT education) should be given long-term, systematic support through comprehensive programmes and incentives.

1.13 The EESC would like to stress that the European Commission should also pay special attention to the question of intellectual property rights in the field of IT education.

1.14 In the final conclusion of its proposals and recommendations, the Committee suggests following the example of terms already in use in the EU such as *e-Europe*, *e-learning*, *e-skills* etc. by introducing the term — *e-LL (e-lifelong learning)*, thereby stressing the role of this form of learning and the need to develop and extend it within the *eEurope action plan* and the subsequent i2010 initiative.

2. Introduction and reason for opinion

2.1 This opinion will examine the contribution of ICT-supported lifelong learning to competitiveness, industrial change and social capital development in the European Union.

2.2 In connection with the implementation of the Lisbon Strategy, lifelong learning is becoming one of the most important concepts in the EU's education policy and new educational programmes for the period 2007-2013 ⁽⁵⁾. Flexible and open methods of learning and training using ICT will certainly play a key role in the development of the knowledge-based economy.

2.3 Following the groundbreaking *eEurope* programme and measures to introduce e-learning, which have already led to some promising developments, there must be consideration of how to build on these accomplishments in terms of changes in industry, how to develop opportunities related to these accomplishments and how to sketch out future prospects.

⁽⁵⁾ *An integrated action programme in the field of lifelong learning*, COM (2004) 474 final, 14.7.2004.

3. General comments

3.1 The importance of information technology in developing human resources was recognised by the European Parliament and the Council of the European Union ⁽⁶⁾, which approved a multi-annual programme (2004-2006) for the effective integration of ICT in education systems in Europe. The basic aim of this programme is to use ICT to facilitate high-quality education and training in the context of lifelong learning.

3.2 Open, flexible distance learning, together with e-learning, dominated the last decade, but it is now being looked at once again, this time in a broader context. ICT-supported learning or e-learning make our lives, education and work more flexible and are regarded as one of the main paths to achieving the goals of the Lisbon Strategy. Non-formal ⁽⁷⁾ and informal learning ⁽⁸⁾ and also job-based training are becoming more important.

3.3 The EESC opinion of 2004 on *Improving the implementation of the Lisbon Strategy* ⁽⁹⁾ highlighted the need to examine the new opportunities provided by the knowledge-based economy and the importance of the increased expansion of information technologies and innovation processes.

3.3.1 It also drew attention to shortcomings in education systems and to the need for better integration of the social dimension.

3.4 Some of the initiatives taken by the Union in the last decade in the field of ICT-assisted learning produced exceptional results, while others demonstrated a lack of consistency and did not have the intended outcome in terms of numbers and quality.

3.4.1 Early models for e-learning were focused on individuals and the transfer of predetermined knowledge. They included virtually no tutorial support or assessment and were something of a disappointment to those who made early attempts to adapt to this form of learning.

⁽⁶⁾ Decision of the European Parliament and of the Council, No 2318/2003/EC on the eLearning Programme of 5 December 2003.

⁽⁷⁾ Non-formal learning takes place alongside the mainstream systems of education and training and does not typically lead to formalised certificates. Non-formal learning may be provided in the workplace and through the activities of civil society organisations and groups (such as in youth organisations, trades unions and political parties). It can also be provided through organisations or services that have been set up to complement formal systems. *EU Commission, SEC(2000) 1832*.

⁽⁸⁾ *Informal learning* — Learning based on everyday situations at work, in the family and during leisure time. It is neither organised nor formal (in terms of set goals, duration or resources). For the learner, non-formal learning often takes place unwittingly and does not usually lead to a certificate.

EU Commission, SEC(2000) 1832.

⁽⁹⁾ *Improving the implementation of the Lisbon Strategy*.

3.4.2 Rapid technological progress, increased economic pressures and the different pace of government policy measures over the past few years, which were supposed to introduce ICT into education and training, have not done enough to promote the development of vocational skills.

3.5 It is planned that in 2010, 12.5 % of adults in the EU aged 25-64 will be involved in various forms of lifelong learning, compared with a current average of 10 % ⁽¹⁰⁾. Only by stepping up the expansion of ICT-assisted education and training can these objectives be achieved.

3.5.1 The challenges facing the education and training programmes of the Commission and the Member States are all the greater, given that over the next five years only 15 % of new jobs will be for unskilled workers while 50 % will require highly qualified staff ⁽¹¹⁾.

3.6 A new EU initiative undertaken in connection with the *i2010* Commission communication ⁽¹²⁾ is the *e-Inclusion* initiative. The term *e-Inclusion* refers to both the inclusion of ICT and the use of ICT as a means of achieving inclusion ⁽¹³⁾. The *e-Inclusion* policy aims to remove barriers to ICT use and to promote ICT usage with a view to preventing exclusion, improving economic productivity and employment opportunities.

3.6.1 An important aspect of *e-Inclusion* is *e-distance learning*, which is aimed at reducing or preventing the social marginalisation of occupational groups with limited access to traditional forms of education owing to their geographical location, social situation or special educational needs.

3.6.2 The benefits of distance learning are: not being tied to a fixed place of learning, the possibility of adapting the pace of learning to meet individual learning needs, the opportunity to make use of modern information technologies, the possibility for people from disadvantaged groups to improve their skills, etc.

3.6.3 In its recent opinion ⁽¹⁴⁾, the EESC called upon representatives of governments and business sectors to draw up and support measures on the subject of ICT education and training for the various social groups facing e-exclusion ⁽¹⁵⁾.

⁽¹⁰⁾ Modernising education and training: a vital contribution to prosperity and social cohesion in Europe, COM(2005) 549 final 30.11.2005.

⁽¹¹⁾ Conclusions of the Council on education, youth and culture of 21.2.2005.

⁽¹²⁾ COM(2005) 229 final.

⁽¹³⁾ Ministerial Conference 'ICT for an inclusive society', Riga, 11.6.2006.

⁽¹⁴⁾ eAccessibility.

⁽¹⁵⁾ e-exclusion — exclusion from participation in electronic communication.

3.6.4 The implementation of the *e-Inclusion* programme is also linked to the promotion of digital literacy⁽¹⁶⁾, which has become synonymous with the modern knowledge-based society. The recognition in the near future of digital literacy as one of the key skills in lifelong learning in the context, inter alia, of the recent EESC opinion⁽¹⁷⁾, seems not only necessary but indisputable, too.

3.7 The promotion of *e-skills*⁽¹⁸⁾ is having an important influence on various aspects of industrial change. The term *e-skills* covers ICT practitioner, ICT user and e-business skills. Within the framework of the promotion of a wide-ranging e-skills agenda, the Commission recently proposed a series of measures, many of which were concerned with industry and boosting e-skills in the labour market as well as developing and promoting new e-competences⁽¹⁹⁾.

3.7.1 The partnership between stakeholder representatives plays a key role in measures relating to both e-skills and the body of issues linked to the introduction of ICT-supported lifelong learning. Such stakeholders include:

- trade unions;
- representatives of businesses (as ICT users) who are dependent on a skilled workforce;
- representatives of various industries who are responsible for introducing new technologies and are better informed about what type of qualifications are required;
- representatives of the ICT industry;
- researchers in the field of ICT and developers in this area;
- researchers of the quantitative and qualitative aspects of e-skills;
- policy makers in the field of education, research, business, innovation and the information society;
- forecast specialists with a broad view of changes in society and the interaction between society and technology.

⁽¹⁶⁾ Digital literacy — one of the basic skills required to actively participate in the information society and the new media culture. It focuses on the acquisition of skills and abilities linked to new technologies, increasingly essential in everyday life. *E-Learning Programme*, 5 December 2003.

⁽¹⁷⁾ Opinion — Key competences for lifelong learning, May 2006.

⁽¹⁸⁾ Report — RAND Europe, 'The Supply and Demand of E-skills in Europe', IX 2005.

⁽¹⁹⁾ E-competences — competences in the field of ICT and skills and attitudes relating to ICT usage, which make it possible to carry out professional tasks at the appropriate level.

3.8 The expansion of broadband Internet access is of central importance to the achievement of the goals of the i2010 Strategy and those of the e-Inclusion projects. It cannot be limited exclusively to large towns and cities, but should also be available to the inhabitants of less developed regions⁽²⁰⁾.

3.8.1 It is worth considering that in the EU 15 some 90 % of businesses and households in urban areas have access to a broadband connection, but only 60 % in rural and remote areas; these differences are much greater in the new Member States.

3.8.2 Broadband is vitally important not only for enhancing business competitiveness and for the economic growth of regions, but also for the education and training sector, especially where e-learning is used in training programmes.

3.9 A policy discourse on this matter would currently be highly advisable if we are to improve the practice of lifelong e-learning and thus make this form of training more effective. The EU is best placed to give policy in this area a new direction.

3.9.1 Current policies give de-facto priority to introducing ICT into formal education institutions, notably schools and universities; far less attention is devoted to ICT and far fewer resources are allocated to promoting ICT usage in lifelong learning and non-formal/informal learning among adults.

4. Specific comments

The contribution of IT-supported lifelong learning to European competitiveness and productivity

4.1 In keeping with the general thrust of the Commission communication of 2002⁽²¹⁾ and the EESC opinion on *Training and Productivity*, productivity can be said to be the key to making businesses and the European economies more competitive and also to economic growth. Improved productivity is to a large extent dependent on progress in ICT usage by businesses and on the ability of the workforce to adapt to the requirements of modern industry.

4.1.1 Despite the fact that electronic technology, which was the subject of much hype, failed to meet expectations in the initial stages of development, the e-sectors of society and the economy are actually showing unprecedented development and still have great potential.

⁽²⁰⁾ Communication of the European Commission: Bridging the Broadband Gap of 21.3.2006.

⁽²¹⁾ COM(2002) 262 final.

4.1.2 In this context, the European Commission rightly recognises and values the importance of modern ICT in stimulating competitiveness and innovation and in the knowledge-based economy, especially in small and medium-sized enterprises.

4.2 The path to improving the competitiveness of the European economy has to be vocational education, through programmes and training that make use of ICT. The creation of cohesive, mobile and flexible education and training systems for job seekers, those preparing for work as well as for people employed in industry will increase the growth rate of knowledge and lead to important technological changes and innovations in manufacturing enterprises, which will increase their competitiveness.

4.2.1 In this context, the introduction of IT-supported lifelong learning in businesses and related areas should make them more competitive and help to enhance the social capital of the people they employ, and in so doing increase the value of European business capital.

4.3 Around 1994, there was a breakthrough in the implementation and use of e-learning when the industry — chiefly large corporations — started using this method on a wider scale in their in-company training and human resource development. This was a sign of maturity, when e-learning demonstrated the ability to deliver consolidated and sustainable solutions, overcoming the earlier period of simplistic promotional and marketing messages. In the meantime, SMEs have, for a number of reasons, come to represent a practically disadvantaged group of users of e-learning, where the application of this training method — and frequently, that of ICTs as well — is limited, and most SME employees risk being excluded from opportunities in the field of continuing education. Greater e-learning uptake could be a considerable boost to the competitiveness of SMEs and help to make them more effective. Competent authorities, both at EU and national level, should raise awareness of this and implement measures to promote the use of ICTs for training purposes in the SME sector.

The contribution of IT-assisted lifelong learning to the development of social capital

4.4 Social capital covers skills, information, culture, knowledge and individual creativity as well as relations between people and organisations. The importance of these resources for economic growth and its accompanying industrial changes should be assessed by examining the relationship between the development, promotion and use of such resources and the added value they create.

4.4.1 A high level of social capital has a direct impact on the ability to form a knowledge-based society that is creative, innovative, open to change and capable of forging long-term economic and social ties. One of the cornerstones of such a society is investment in research, education and training.

4.4.2 Social capital may be increased through the ability of the relevant stakeholders (see 3.7.1) to cooperate in the form of a partnership in all programmes and activities relating to ICT-assisted education and training, especially lifelong learning.

The contribution of IT-assisted lifelong learning to industrial change, with particular reference to investment in employee skills, the development of human resources and tackling unemployment.

4.5 E-distance learning and training can enable the systematic, faster and cheaper transfer of knowledge that is of key significance particularly in industry where it forms an important element of its human capital and facilitates the transfer of knowledge from research institutes to industry.

4.5.1 Well-educated workers who continually improve their qualifications are an important factor in determining the value of a particular firm or enterprise. They facilitate changes in production technology, its profile and adaptation to meet the needs of the labour market.

4.6 The European Commission has stressed ⁽²²⁾ that, given rapid technological development and changing economic conditions, there is a need for long-term investment in the development of human resources, involving private individuals, businesses, social partners and public authorities. Unfortunately, EU countries show no clear trend towards greater public expenditure on education, which averages around 5 % of GDP, with significant and sometimes even dramatic differences between individual States.

4.7 Investment in the development of human resources has a direct impact on productivity growth and is also an attractive form of investment on both a microeconomic and a social level. Studies ⁽²³⁾ show that each year of learning directly increases economic growth by around 5 % in the short term and by around 2.5 % in the long term. This is confirmed in the proposals of the European Council ⁽²⁴⁾, which stressed that investment in education and training brings considerable benefits which far outweigh the associated costs.

⁽²²⁾ Commission communication: Investing efficiently in education and training: an imperative for Europe COM(2002) 779 of 10 January 2003 (5269/03).

⁽²³⁾ De la Fuente and Ciccone: Human capital in a global and knowledge-based economy. Final report for the Directorate General for Employment and Social Affairs, European Commission, 2002.

⁽²⁴⁾ Conclusions of the Presidency, European Council 23-24 March 2006 (7775/06).

4.8 Rapid technological development is leading to the emergence of modern production equipment that often has IT systems that can only be operated by ICT-literate staff. It is not always possible to recruit such staff immediately, but thanks to the large scale use of ICT in teaching and training, particularly in lifelong learning, it will certainly be easier to find such staff in the labour market.

4.9 For the reasons mentioned above, given the current changes in industry, it would be worth taking active steps to introduce ICT into lifelong learning without delay. This action should enable employees of European manufacturing firms and unemployed persons undergoing training to acquire new knowledge and skills more quickly. Unemployed people in particular should be guaranteed access to State-funded ICT training ⁽²⁵⁾.

Brussels, 13 September 2006.

4.9.1 Unemployed people have little motivation to learn independently as they still have too few opportunities to apply the knowledge they have acquired. The best motivation is the real possibility of a new job resulting from a specific form of training or retraining, ideally provided by the company offering the employment.

4.9.2 This could create favourable conditions for ICT-supported lifelong learning, but in the areas where this would be most appropriate (agricultural areas with bankrupt production businesses, which is becoming common in the new Member States), the infrastructure is inadequate.

4.9.3 Infrastructure in these areas requires government and Union support, since IT companies are unwilling to cover the costs of Internet access for poor areas (small towns and rural areas).

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

⁽²⁵⁾ Opinion: i2010 — A European Information Society for Growth and Employment.

Opinion of the European Economic and Social Committee on *Services and European manufacturing industries: Interactions and impacts on employment, competitiveness and productivity*

(2006/C 318/04)

On 19 January 2006 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on the *Services and European manufacturing industries: Interactions and impacts on employment, competitiveness and productivity*.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2006. The rapporteur was Mr Calleja. The co-rapporteur was Mr Rohde.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 183 votes to three with four abstentions.

Conclusions and recommendations

This opinion advocates:

Overall statement

The importance of business services for the growth, competitiveness and employment levels of European manufacturing and service industries needs to be recognised. The use of competitive business services should be promoted through a set of coherent policy actions at European level. The 2005 draft action plan of the EU Business-Related Service Forum (BRSF) provides a good platform for further discussion.

Policy objectives and follow-up

The positive role of business services in the development of public and private manufacturing and service industries should be supported. This may be achieved by a variety of means. At EU level, the following actions are strongly recommended by the EESC:

- direct and complementary actions to complete the internal market for business services and especially the removal of obstacles to the smooth operation of the sector (barriers hampering market integration, labour mobility and economic growth);
- urgent recognition of business services as an integral part of any industrial policy; the European Commission should note this and take action to widen the scope of European industrial policy by integrating business services;
- creation of a European Business Services Observatory to collect information, encourage research, stimulate debate and suggest and monitor implementation of policy recommendations;

- reinforcement of social dialogue to follow up and assess changes in labour conditions and job opportunities resulting from the structural changes underpinning the new business service economy.

More generally, other measures need to be taken at market level and encouraged by public administrations, such as:

- promotion of business services as a means to improve business and industrial performance and to achieve competitive advantages with low-cost and other competing countries in the global market;
- encouragement of more extensive and effective use of business services by SMEs;
- boosting of employment and enhancement of working conditions in business services as a means to improve productivity, service quality and living standards;
- targeted training and re-training programs to strengthen the adaptability and improve the employability of workers affected by structural change.

R&D, innovation and digital delivery

- R&D public-funded programmes, at national and EU level, should give particular attention to actions and projects aimed at boosting the production and use of innovative business services.
- Attention should be paid to specific projects in the field of knowledge-intensive services in manufacturing, resulting in innovation and high productivity and growth prospects (e.g. ICT and R&D services).

- Business services are a source of innovation in the knowledge economy. Research should be encouraged to further develop 'service science', in particular methodological know-how to be applied in business processes.
- Intellectual property rights (IPR) and other protection mechanisms should be strengthened through enactment of pending patent legislation to encourage companies to invest more in R&D and innovation.
- The role of ICT in service innovation has to be recognised and promoted with objectives such as ensuring delivery of services, particularly in SMEs, via high-speed broad-band internet access across Europe, while endeavouring to solve security and privacy issues relating to digital e-business networks. The European Commission's 'i2010' initiative plays an important role in this context.

Service engineering and standards

- Service engineering is a new discipline useful as a basis for improving business services output quality through improved systematic planning. This innovative approach deserves to be developed as a speciality for research and education at universities, business schools and other training organisations.
- Standards may play a useful role for higher quality services and more integrated EU markets. For that purpose, promotion of voluntary standardisation of services in general and of business services in particular should be encouraged.

Improving knowledge and employment in European business services

- Finding solutions to strengthen human capital in the EU and to reverse the growing brain drain from EU research activities.
- Introduction of new incentives to the private sector to increase its share of R&D activities in line with the Lisbon Strategy.
- Improvement of data and information on business services and on services provided by industrial companies.
- Improving transparency of business services' supplier markets.
- Provision of more resources for better education, training, e-learning and language skills to enable development of cross-border business services.

Reasons

1. Introduction

1.1 This Opinion examines the impact of business services on employment, competitiveness and productivity in European manufacturing industries and how this sector can be developed further, in line with the Lisbon programme. Attention is given to developments in the new discipline known as 'service engineering' and to the impact of externalisation/outsourcing of business services.

1.2 There is concern about the prospects of the European economy and how it will face up to the emergence of strong competition from low-cost economies. In Europe both manufacturing and services have lost many jobs to other countries with a comparative advantage in terms of costs and skills (e.g. China, in terms of manufacturing, and India, in terms of business services). In spite of these developments manufacturing continues to play a key role in Europe's economy. According to latest available statistics for 2004 the EU leads as the highest exporter of merchandise trade with a figure of over US \$ 1 200 bn ⁽¹⁾.

1.3 Manufacturing industry is considered to have remained the main source of technological change and innovation in the EU, but it is also noted that it failed to increase its activities in the high technology and higher value-added areas during the previous decade. Business-service related growth, in particular through the use of knowledge-intensive services, is a complementary channel for development of new technologies, new employment opportunities and acquisition of new competitive advantages. Business services provide also sources of non-technological innovation (e.g. organisational), which improve the intangible assets of firms and know-how of workers.

1.4 The remarkable shift in consumption towards services in highly developed economies does not indicate a trend towards de-industrialisation as is sometimes assumed. These developments can be seen as a statistical reflection of a deepening division of labour within developed economies and a disaggregation of previously integrated vertical value chains. Specialised service providers are now offering services that were previously performed in-house by manufacturing enterprises. New service enterprises have evolved and are supporting the effort of European industry to increase efficiency and to absorb new technologies that will spawn new and higher value-added products.

⁽¹⁾ WTO Trade Statistics, 2004.

1.5 Recent research shows that the type of economy being developed is one in which services and manufacturing are integrated and complementary in nature. Demand for services exists wherever there is a strong industrial economy and develops as a consequence of this. They do not represent an exclusive alternative ⁽²⁾.

1.6 This Opinion does not advocate a special promotion of services at the price of neglecting manufacturing industries but it stresses the interdependence between manufacturing and the service sector ⁽³⁾. It highlights the positive potential for improvement and expansion of business services. The EESC emphasises the positive contribution of business services to increased productivity and competitiveness of the European manufacturing sector. Simultaneously, the business service sector improves its own productivity through innovation, including the rapid uptake of new technologies, by attracting more highly qualified employees and by improving working conditions ⁽⁴⁾.

1.7 Externalisation/outsourcing of services to specialised service providers who can exploit economies of scale and continuous process innovation has a positive impact on costs and productivity. Yet the uptake of knowledge and innovative business services by SMEs does not yet seem to be sufficient. Also the ability of employees to move from manufacturing to business services needs to be facilitated through appropriate re-training programs.

1.8 Today, domestic suppliers are providing most of business services. Yet, there is no guarantee that this will be the case in the future. A range of business services can be sourced from abroad at wider European level including new Member States and candidate countries or even globally, according to cost and opportunity (near-shoring and offshore outsourcing). The latest figures show that in 2004 the EU-25 had a positive balance of EUR 42.8 bn in trade in services (an increase of EUR 5.8 bn from 2003) ⁽⁵⁾.

1.9 There is a need for a permanent and thorough analysis of company structures and processes in order to identify those functions which can be bought from specialised business services' suppliers or networks of companies (shared services) who can handle such functions more efficiently by operating on a larger scale and by pooling their expertise. Though this might have an impact on employment in manufacturing, it may sometimes help to offset the potential negative effects of offshore

⁽²⁾ Business Services in European Industry, Luis Rubalcaba-Bermejo — EU Commission, 1999.

⁽³⁾ Summary of final report: 'The significance of competitive manufacturing industries for the development of the services sectors', Kalmbach et al., University of Bremen, December 2003.

⁽⁴⁾ See the EESC Opinion on 'European business competitiveness', that highlights the importance of guaranteeing appropriate social conditions while seeking to increase productivity and competitiveness. See, in particular, §§ 2.5 to 2.5.3; in § 2.5.2, for instance, the EESC states that it is 'urgent for Europe to be made more competitive under conditions ensuring its economic and social development, its cohesion, its jobs and its environment'.

⁽⁵⁾ Eurostat News Release 17/2006, 13.2.2006.

outsourcing, maintain manufacturing industries in Europe and increase the demand of employment in business services. The reinforcement of qualified service jobs in businesses provides new competitive advantages.

2. Challenges for European industry: a challenge for business services

2.1 All sectors of the European economy feel the effects of globalisation and the need for change in order to adapt to new circumstances. Industrial policy can play a positive role in this context. In its Communication *Fostering structural Change: an Industrial policy for an enlarged Europe* ⁽⁶⁾, the European Commission stated that it intends to develop an appropriate industrial policy to accompany industrial change:

- European industry has to cope with a process of structural change which is beneficial overall and which should be encouraged by policies that facilitate the development and use of knowledge;
- economic internationalisation offers opportunities to European industry as long as industrial policy supports the necessary evolutions and active labour market and social policies prevent a negative impact on workers;
- EU enlargement offered not only the extension of the internal market but the possibility of re-organising value chains across the continent to make the most of competitive advantages of the new Member States;
- the transition to a knowledge economy will be vital and a certain regulatory prudence will be necessary to avoid putting a strain on the industrial competitiveness of the new Member States.

The EESC advocates more rapid progress in concrete achievements of the EU Industrial Policy and the inclusion of business services within its framework.

2.2 More recently, the European Commission published a Communication on *Implementing the Community Lisbon Programme: A policy framework to strengthen EU manufacturing — towards a more integrated approach for industrial policy* ⁽⁷⁾. Under this framework for industrial policy the Commission identified seven major cross-sectoral policy initiatives:

- an intellectual property rights (IPR) and counterfeiting initiative;

⁽⁶⁾ COM(2004) 274 final. EESC Opinion adopted on 15.12.2004 (rapporteur: Mr van Iersel, corapporteur: Mr Legelius), OJ C 157, 28.6.2005, p. 75 onwards.

⁽⁷⁾ COM(2005) 474 final. EESC Opinion adopted on 20.4.2006 (rapporteur: Mr Ehnmark), OJ C 185, 8.8.2006, p. 80 onwards. See also the CCMI Complementary Opinion (rapporteur: Mr Pezzini).

- a high level group on competitiveness, energy and the environment;
- external aspects of competitiveness and market access;
- new legislative simplification programme;
- improving sectoral skills by identifying relative skill requirements and gaps;
- managing structural change in manufacturing;
- an integrated European approach to industrial research and innovation.

The neglect of services in general and of business services in particular is a serious shortcoming of this Communication. The EESC calls for business services to form an integral part of any industrial policy and urges the European Commission to widen the scope of future industrial policy approaches by integrating business services. An effective industrial policy will also have to take into account the social and employment implications of industrial change. This means more emphasis on lifelong learning and support to facilitate mobility of employees.

2.3 Europe needs to embrace more widely and deeply Information and Communication Technologies (ICT). Intensification of ICT and its integration in industry is as important as it is in business services. In terms of IT take-up, Europe lags behind its key competitors. The IT expenditure in 2004 per capita was EUR 732 for Western Europe, EUR 1 161 for the USA and EUR 1 012 for Japan. The IT spending in terms of percentage of domestic GDP was 3.08 % for Western Europe, 4.55 % for the USA and 3.59 % for Japan⁽⁸⁾. The European Commission's task-force on ICT competitiveness plays an important role in this context.

2.4 The productivity gap of European manufacturers is often attributed to the lack of technology take-up and insufficient exploitation of the potential of ICT, in particular by SMEs. The problem does not seem to be caused by the costs of hardware. The problem is the lack of ICT knowledge and expertise in SMEs, which makes it difficult for them to cope with the rapid changes in, and the increased complexity of, ICT. A 'digital divide' that separates small from medium-sized companies exists with the consequence that the full potential of ICT and e-business models has not yet been realised⁽⁹⁾. The role of business services is important to make the ICT sector efficient and thus procure sustainable productivity gains.

⁽⁸⁾ EITO 2005, p. 263.

⁽⁹⁾ E-Business Report, 2005.

2.5 The internal market for services in general, and for business services in particular, is not complete and many obstacles do exist hampering efficiency, competitiveness and creation of new employment opportunities. A large number of barriers were recognised in the Report on 'The state of the internal market for services'⁽¹⁰⁾, but some progress has been made by implementing the Lisbon Strategy. On top of the regulatory aspects of the business services markets, complementary policies such as those indicated in this document are needed to ensure the necessary EU competitiveness in the global market as well as social and economic progress.

3. The importance of business services and their interaction with industry

3.1 Definition of business services

Business services are traditionally defined as a sub-group (NACE 70-74) within the business-related services (i.e. business services plus transport services, communications, distributive trade and financial services)⁽¹¹⁾. The criterion for the definition of both concepts is the clientele to which the services are directed. They are not services mainly addressed to final consumers, but rather to enterprises. They are real activities that influence first the competitiveness of companies (they are not incompatible with the service provision to consumers) through their use as intermediary inputs in the value chain and also through the quality and innovation gains resulting from the interaction between supplier and client and service. Business services have the particular characteristics that most of them can be performed in-house or be contracted out (outsourced) to an external specialised firm.

3.2 Business services is a group of very heterogeneous activities ranging from professional services (e.g. engineering, accountancy, legal services) to high-value-added services (e.g. ICT services, management consultancy), personnel services (e.g. selection of personnel, outplacement, temporary work) and business support services, including those with low added value (e.g. cleaning, security, catering) and those with rising added value (such as energy management, supply and treatment of water and other fluids, and air and waste processing). In these groups of activities, labour and social conditions deserve particular attention.

⁽¹⁰⁾ COM(2002) 441 final, 30 July 2002.

⁽¹¹⁾ See the European Commission Communication entitled 'The competitiveness of business-related services and their contribution to the performance of European enterprises' (COM(2003) 747 final, 4 December 2003), which may be accessed at http://europa.eu.int/eur-lex/en/com/cnc/2003/com2003_0747en01.pdf (see, in particular, § I.2 and box 1).

Table 1. Major services required for the performance of enterprises (functional approach) ⁽¹²⁾

FUNCTIONS IN ENTERPRISES	MAIN BUSINESS-RELATED SERVICES		FUNCTIONS IN ENTERPRISES	MAIN BUSINESS-RELATED SERVICES
Administration	Management consultancy Legal services Auditing and accounting		Information Management	Computer and IT services Telecommunications
Human Resources	Temporary work Recruitment of personnel Professional training		Marketing and sales	Advertising Distributive trades Public relations Fairs and exhibitions After-sales services
Financial Intermediation	Banking Insurance Renting and leasing		Transport and logistics	Logistics Transport services Express courier
Production and technical function	Engineering and technical Services Tests and quality control R&D services Industrial design Maintenance and repair of equipment		Facility management	Security services Cleaning services Catering Environmental services/ waste disposal Energy and water services Real Estate (warehouses)

3.3 The place of business services in the economy

Business services are an important element of the European market economy. However, the most important feature of business services is that they are present in, and integrated into, every stage of the value chain. Growth of business services is usually explained by the migration of employment from manufacturing industry to services due to the outsourcing of the services functions. But the reasons for growth are multiple. Changes in production systems, more flexibility, stronger competition on international markets, the increasing role of ICT and knowledge and the emergence of new types of services are other important factors. 'According to Structural Business Statistics, the business-related services sector (excluding the financial services) constitute[d] 53 % of total employment in the EU market economy in 2001, while manufacturing ha[d] a share of 29 % (or around 29 million persons employed) [...]. Total value added by business-related services constitute[d] 54 % in 2001 compared to 34 % for manufacturing' ⁽¹³⁾.

3.4 *Today more and more manufacturing companies venture into services themselves.* Not only do they offer after-sales services, but to an increasing extent discover the value added through selling their expertise in engineering, design or process innovation to other companies as part of their business. A new hybrid company model is emerging that includes enterprises with manufacturing/service activities. Customers are increasingly looking for 'solutions' rather than simply products, and it is often the ability to provide additional services that gives a manufacturing company its competitive advantage.

⁽¹²⁾ Source: *The competitiveness of business-related services and their contribution to the performance of European enterprises* (COM(2003) 747 final), Annex I ('Classifications of services and additional figures'), which may be accessed at http://europa.eu.int/eur-lex/en/com/cnc/2003/com2003_0747en01.pdf.

⁽¹³⁾ COM(2003) 747 final, § II.2, p. 11.

3.5 *Lack of specific statistical data on business services* ⁽¹⁴⁾. There is a lack of statistical information on the demand for services. The interrelationship between the various sectors is not sufficiently documented. Information on service activities and their contribution to the EU Member States' economies should hopefully be improved through a revision of the NACE classification system, which is expected in 2007. The revised classification will provide better insight into the structure and development of the services sector ⁽¹⁵⁾. Information on the extent to which industrial companies provide services is also lacking.

3.6 *Fragmentation and scarcity of information and analysis related to business services*. The EESC finds that there is a need for a European Business Services Observatory to collect information, encourage research, stimulate debate and suggest and monitor implementation of policy recommendations. An observatory or similar action would lead to a better understanding of the new high-speed developments of the sector and serve as a meeting point between policy-makers and stakeholders.

3.7 *Standardisation of services*. The further acceleration in voluntary standardisation of services based on market needs and sound evidence includes raising base-line safety, quality and performance and promoting competition and innovation in service delivery. This challenge has to be taken up by CEN, ISO and national standardisation bodies. The development of voluntary standards in the service sector would certainly stimulate the trade in services across borders and help to foster the internal market for services.

4. *How business services improve industrial competitiveness* ⁽¹⁶⁾

4.1 Business services are of major importance in helping the SME sector realise its potential contribution to innovation and growth. There is evidence that the most dynamic SMEs make extensive use of business services. In the face of the pressures of internationalisation, greater use of these services by a wider range of SMEs needs to be promoted.

4.2 *National innovation capacity*.

The ability of a nation to produce new ideas and to commercialise a flow of innovative technologies over the long term are influenced by a range of factors ⁽¹⁷⁾:

- overall innovation infrastructure;
- essential framework conditions/flanking policies;
- interconnection of the overall innovation system;
- general systems of education.

4.3 85 % of EU research concentrates on manufacturing (US 66 %) and no reliable figures exist for a breakdown of service sector R&D activities. Out of total manufacturing R&D, 87.5 % is conducted in eight specific areas (chemicals, mechanical engineering, office machinery, electrical machinery, semi/conductor-communications, instruments, motor vehicles and air- and spacecraft).

4.4 In terms of absolute expenditure the EU has failed to close the gap with the US on R&D; indeed, this gap has increased over the last decade.

⁽¹⁴⁾ See 'A sectoral survey of relocation: a factual background' (in particular pages 107 and 177-179), commissioned by the CCMI and used as a basis for its Information Report entitled 'A sectoral survey of relocation' (rapporteur: Mr van Iersel, co-rapporteur: Mr Calvet Chambon).

⁽¹⁵⁾ Report of the EU Business-Related Service Forum, June 2005.

⁽¹⁶⁾ See COM(1998) 534 final and COM(2003) 747 final.

⁽¹⁷⁾ Stern, Furman, Porter, 2002.

4.5 More focus on R&D funding into high-tech and knowledge-intensive (high margin) services is of paramount importance for the competitiveness of European industry. The '3 % objective' ⁽¹⁸⁾ would be easier to achieve if governments increased their financial commitments and if the private sector was encouraged and assisted to invest more in this regard including business services.

4.6 A European Institute of Technology as proposed by the European Commission in a recent Commission Communication ⁽¹⁹⁾ is useful, yet technology needs to be accompanied by effective business and organisational strategies.

4.7 The impact of innovative functions of business services is tabulated below:

Table 2. Innovative functions of business services ⁽²⁰⁾

Innovative functions	Principal elements of innovation	Business services (some representative sectors)
Technological Innovation	<ul style="list-style-type: none"> — Greater integration of technology — Use of existing technology — Adaptation of technology to business needs — Efficiency in the advanced processes of information and communication — Automation of routine processes — Flexibilisation of productive structures — Quality improvement 	<ul style="list-style-type: none"> — IT services — Engineering services — Design services — Telecommunications Services — On-line services of electronic communication — Quality control services
Organisational innovation	<ul style="list-style-type: none"> — Efficiency of internal organisation — Articulation of control and coordination processes — Improvement of human factor selection, training and utilisation — Improvements in the different functional specialisations 	<ul style="list-style-type: none"> — Management consulting and management — Audits and legal services — Manpower services (selection, training and temporary employment).
Strategic innovation	<ul style="list-style-type: none"> — Flexibility for dynamic environments — Positioning in complex markets — Strategic information regarding alliances — Information regarding product adaptation — Information regarding location and markets — Defence in a conflicting legal environment 	<ul style="list-style-type: none"> — Management services — On-line services — Audit services — Legal services — Fairs and exhibitions services — Marketing services
Commercial innovation	<ul style="list-style-type: none"> — Product competitive design — Innovative commercialisation — Taking advantage of opportunities — Search and relations with the client — Innovative Marketing — Image concern 	<ul style="list-style-type: none"> — Design services — Fairs and Exhibitions — Publicity — Direct Marketing — Public relations — After-sales services

⁽¹⁸⁾ See the EESC Opinion on FP7: In keeping with the Lisbon strategy, 'the spring 2002 European Council in Barcelona [defined] quantitative objectives for the support of research activities, with total research expenditure in the EU set to rise to 3 % of GDP by 2010, with two-thirds of funding coming from the private sector (the 3 % objective). The Committee would point out, however, that, in the light of the global investment race, this objective is a "moving target". Those who fail to reach it in time fall even further behind' (§ 2.5).

⁽¹⁹⁾ COM(2006) 77 final.

⁽²⁰⁾ Extracted from the publication entitled *The Contribution of Business Services to European Employment, Innovation and Productivity*, by Luis Rubalcaba and Henk Kox, forthcoming by Palgrave-Macmillan.

Innovative functions	Principal elements of innovation	Business services (some representative sectors)
Operational innovation	<ul style="list-style-type: none"> — Functional division of labour — Concentration on key tasks — Operational capacity concern — Image concern 	<ul style="list-style-type: none"> — Linguistic services — Courier services — Security services — Operational services

Source: Rubalcaba (1999) Business services in European Industry; European Commission, Brussels.

4.8 Some of Europe's most innovative companies are to be found in business services, but the overall level of R&D in the service sector is too low and unstructured. New services and business models often emerge from costly and time-consuming attempts and failures by individual enterprises. It is necessary for the EU to support research in selected areas in order to update the know-how of companies in leading global cutting-edge technologies.

4.9 It is important to find ways to improve the access of SMEs to research results and underpin them in their short-term product development.

4.10 If companies are to invest more in innovation and R&D, appropriate protection of intellectual property rights has to be secured by the European Commission and action has to be taken to implement the pending proposal on the patenting of computer-implemented inventions.

4.11 Better legislation and regulation is necessary.

5. *The EU knowledge creation system*

5.1 A radical overhaul of the EU knowledge creation system is needed. This includes:

- re-orienting R&D activities to high-technology ICT-producing enterprises;
- stopping the brain drain from the EU to the US (twice as many EU researchers move to work in the US compared with the opposite inward flows; 40 % of US R&D is carried out by EU-trained scientists);
- increasing total expenditure on research to achieve the Lisbon target of 3 % of GDP;
- ICT-user skills, digital literacy and e-business skills have to be regarded as key competencies; curricula must integrate ICT skills at an early age;
- advanced fixed and mobile broadband will be the infrastructure of the knowledge-based economy in this century. The i2010 initiative launched by DG Information Society in 2005 plays an important role in this context.

6. *The role of 'service engineering'*

6.1 Service innovation has been the subject of intense discussion and research mainly in Germany since the mid-90s. Service engineering generated much of the momentum for both academic and practical work in this field. This has developed into a technical discipline concerned with the systematic development and design of service products using suitable models, methods and tools. Although service engineering also embraces aspects of service operations management, the development of new service products is a key focus. At the same time service engineering is also concerned with the design of development systems, in other words with service-related questions of general R&D and innovation management.

6.2 Fundamental research into new business models, methods and tools will give service engineering a valuable boost. Integrated approaches for co-engineering physical goods, software and services will become an established feature. Finally, the growing harmonisation of service standards will encourage the specification and efficient development of new services ⁽²¹⁾.

6.3 Service engineering is one of the few fields in the service sector that has been substantially shaped by European research. Closer integration in international networks and the systematic development of an independent service engineering community are essential in order to sustain a leadership role in this field in the future ⁽²²⁾.

7. *The importance of digital delivery of services*

7.1 *A shift to intensification of online delivery.* There is increasing attention to the growth and impact of ICT-enabled international sourcing of information technology services and business-process services. There is a re-orientation of business services by the application of ICT and a shift to more intensive online delivery. The emphasis is on digital delivery in areas such as software services, R&D and technical testing services, consulting services and HRD and labour-supply services. This is mainly market-driven because of:

- new customer demands and expectations;
- the push to enhance market reach and expand markets;
- quality improvements and depth of customer relations;
- gains in operating efficiency and economies of scale;
- cost reductions by improving and expanding low-cost production and delivery options.

7.2 *Exploring the potential benefits of offshoring for the EU economy.* New global challenges are building up in the ongoing provision of outsourced services from any point of the world. Europe should therefore be ready to provide and export high-quality services to the rest of the world. Digital delivery and related e-business support is bound to increase. International offshoring of business-related services is today focussing on back-office functions (e.g. IT services, financial and accounting services, call-centre functions). In the higher value-added services such as IT engineering, research and analysis, the EU is still holding its own. However, technological development, availability of skills and related costs in the global market are bound to affect decisions by European companies to a larger extent in the future. This is a challenge for the European labour market to provide more high skilled employment opportunities and avoid unemployment ⁽²³⁾.

7.3 *Impediments to general digital delivery of services.* There are impediments to the development of digital delivery that should be thoroughly investigated and solutions found so that European business service firms can be more aggressive and expand more outside EU borders. Such impediments include the lack of standards and interoperability, trust and security in e-commerce, the lack of investment in fixed and mobile broadband infrastructure and the still too low uptake of ICT by SMEs.

⁽²¹⁾ *Service engineering — methodical development of new service products*, by Hans-Jorg Bullinger, Klaus-Peter Fahnrich, Thomas Meiren.

⁽²²⁾ Thomas Meiren, Fraunhofer Institute for Industrial Engineering, Stuttgart, Germany.

⁽²³⁾ European Forum on Business Related Services, 2005 Report.

8. The employment potential in business services

8.1 Employment in business services has grown impressively over the past few decades. Annual growth rates between 1979 and 2002 stood at around 4.5 % annually, which was far above the rates of any other economic sector. The share of business services employment in total employment stood at 9 % in 2003 in EU-15 and at 8.6 % in EU-25. The services sector in general and business services in particular will play a key role in providing new employment in the future and compensate for decreasing employment in manufacturing industries.

8.2 Table 3 below shows how employment in business services increased up to 2002 as compared to the total economy.

Table 3. Annual growth rates in business services employment, 1979-2002 ⁽²⁴⁾

Country	Total economy	Business services	Real Estate	Renting	Professional services	Contract R&D	IC services	Operational services
LU	2,6	7,6	5,2	4,4	7,5	6,5	12,4	7,4
PT	0,4	6,9	6,5	5,5	6,7	7,7	8,1	7,0
IE	2,0	6,4	5,3	4,6	6,0	0,8	10,5	6,5
IT	0,5	6,4	4,4	8,0	6,1	4,1	6,5	6,7
DE	0,6	5,3	4,2	3,4	4,5	2,9	6,5	5,8
FI	0,1	5,4	1,0	1,6	4,3	3,3	8,5	6,0
ES	1,1	5,4	3,7	6,0	4,9	3,2	7,4	5,8
NL	1,6	4,7	3,7	5,3	4,1	3,4	8,1	4,7
AT	0,3	4,8	1,4	2,6	4,3	4,0	9,6	4,8
SE	0,2	4,7	1,2	2,7	4,3	4,2	6,1	4,7
EL	0,8	4,6	5,9	3,4	4,2	4,0	8,1	4,8
UK	0,4	3,3	4,8	2,2	2,8	-0,4	6,9	3,5
FR	0,5	3,2	1,3	4,1	2,5	1,7	4,7	3,8
DK	0,3	3,1	1,5	2,8	1,8	-0,8	5,8	4,3
BE	0,3	3,6	3,9	0,9	3,2	-1,7	5,0	4,0
EU15	0,6	4,4	3,3	3,3	3,9	1,7	6,4	4,7
US	1,4	4,7	1,6	3,5	3,5	2,9	8,8	5,3

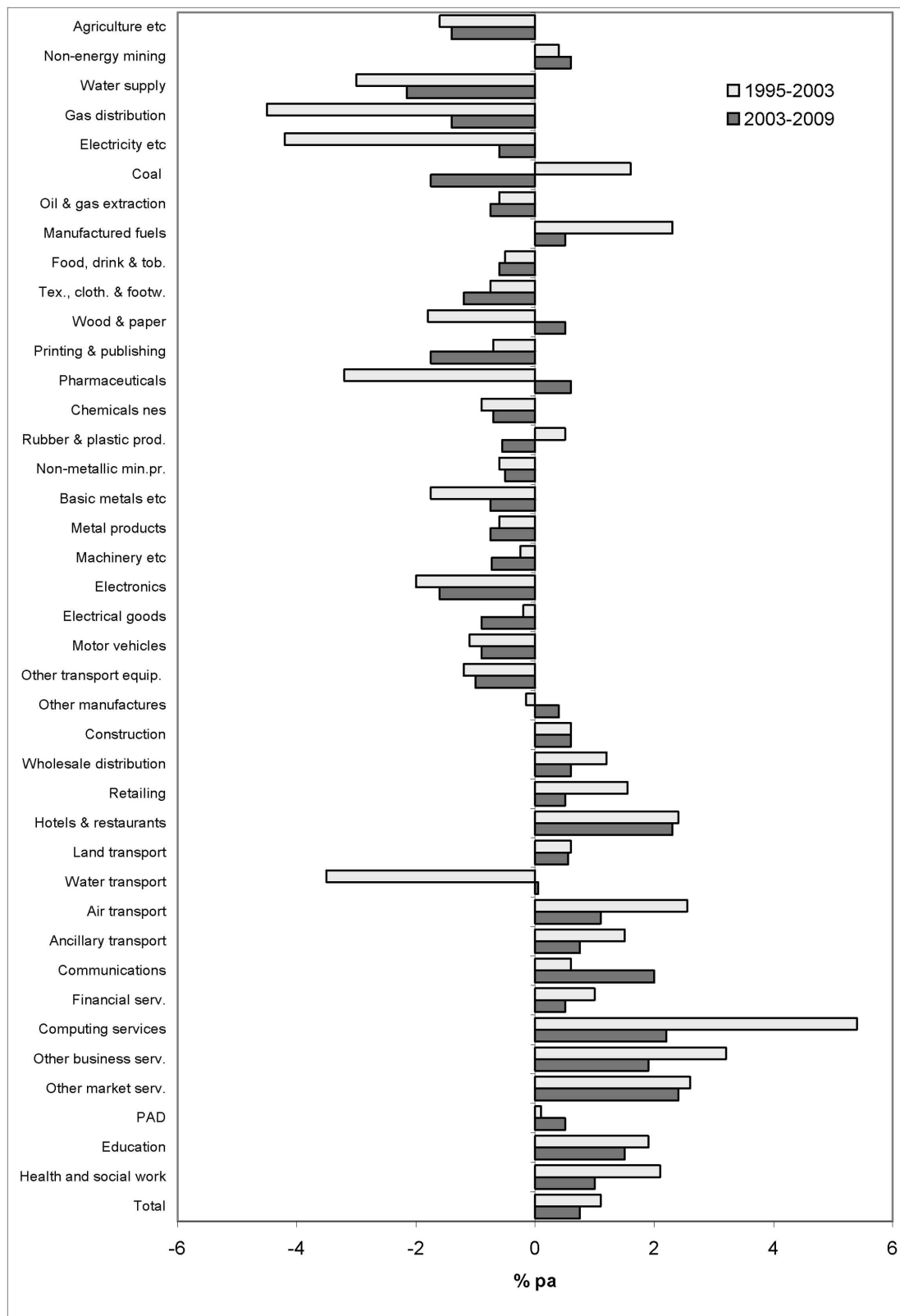
8.3 Dynamic employment growth in services and in knowledge-intensive business services in particular is a characteristic attribute of modern economies. Although the levels of employment in business services as well as the growth rates vary from country to country in Europe, it can be stated that 'there is no poor country with many business services and no rich country where business-service jobs are scarce' ⁽²⁵⁾.

8.4 It can be expected that the growth of employment in services and in particular in knowledge-intensive business services will continue though at slightly more moderate rates. Nevertheless, according to the table 4, these will be higher than those projected in other economic activities. Growth rates are expected to be essentially higher in the new Member States where development of services starts from substantially lower absolute levels.

⁽²⁴⁾ 'The Contribution of Business Services to European Employment, Innovation and Productivity' by Luis Rubalcaba and Henk Kox (to be published in 2006 by Palgrave-Macmillan).

⁽²⁵⁾ Rubalcaba, Kox, 2006, p. 42.

Table 4. Employment trends across Western European sectors



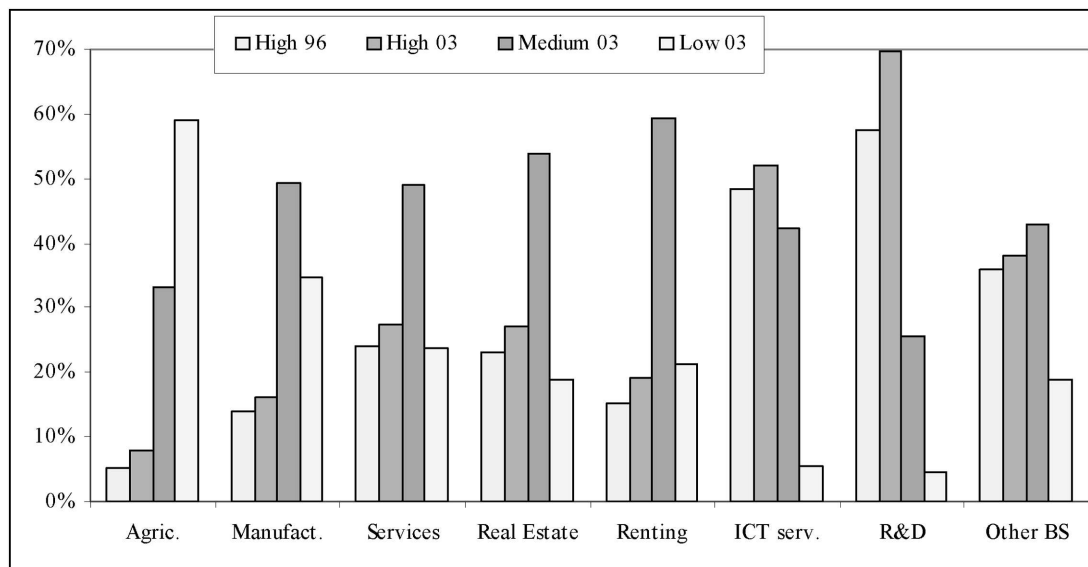
Note: Western Europe is defined as EU15 + Norway + Switzerland.

Source: Cambridge Econometrics Press Release, *What has happened to the Lisbon agenda?* November 2005.

8.5 A special feature of employment in business services is the high levels of education attainment. As the EU labour force survey shows, in 2003 the employment share of 'high-skilled' jobs was at 41 %, up from 38 % in 1998. The level of low skilled was at 17 % down from 25 % in 1998. The fact that most of the jobs in business services require high- and medium-level skills also poses a challenge to the educational

systems in Europe (and in particular the lifelong learning policies) as the structural change of European industries will require more people to move into business services from other employment areas. Rigorous application of the Lisbon education 2010 agenda will be of paramount importance against this background. Table 5 shows the education attainment levels across several sectors.

Table 5. Education attainment levels by major economic activity and business services, EU15, 2003 ⁽²⁶⁾



Brussels, 13 September 2006.

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

⁽²⁶⁾ Source: Rubalcaba and Kox (2006), based on Eurostat data, Labour force Survey, 2004.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council establishing the European Globalisation adjustment Fund

COM(2006) 91 final — 2006/0033 (COD)

(2006/C 318/05)

On 27 March 2006 the Council decided to consult the European Economic and Social Committee, under Article 159 § 3 of the Treaty establishing the European Community, on the abovementioned proposal.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2006. The rapporteur was Mr van Iersel and the co-rapporteur was Mr Gibellieri.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 170 votes to ten with fifteen abstentions.

1. Executive summary

1.1 The EESC welcomes the proposal from the European Commission concerning the setting up of a European Globalisation Fund (hereafter EGF). The EESC agrees with the objective of intervening via the EGF in cases where immediate and extensive social problems for workers arise as a consequence of serious and unforeseeable economic disruptions.

1.2 The EESC agrees that the Member States themselves have primary responsibility and that the EGF should intervene only at the request of a Member State and after a corresponding decision of the budgetary authority. The rules have to be clear.

1.3 During times of severe disruption, anticipatory policy, dynamic entrepreneurship, regional responsibility and timely measures and cooperation by the relevant stakeholders — business, the social partners, government, regional authorities and others — are key. The EGF as an instrument of EU solidarity has a complementary function. To be credible the expectations must not be raised too high.

1.4 The specific actions, financed by the EGF, must fit into the overall planning of all stakeholders concerned. The EGF should not intervene in areas where the Member States have exclusive competence. It should be made clear that the Fund is targeting specific employment opportunities for people in urgent economic circumstances.

1.5 The EESC calls on the Commission to ensure active involvement of the social partners in processes aimed at creating employment for workers made redundant. Achieving

the objective of 'quick reintegration' of redundant employees into the labour market is usually a tough job. Evidence shows that such processes take a lot of time.

1.6 Strict coordination between the various existing instruments, particularly between the EGF and the Structural Funds, should be guaranteed in order to increase effectiveness and coherence.

2. The Commission's proposal

2.1 In March 2006 the Commission submitted a proposal for a European Globalisation adjustment Fund ⁽¹⁾. It is aimed at providing specific, one-off support to facilitate the re-integration into employment of workers in areas or sectors suffering the shock of serious economic disruption.

2.2 Serious economic disruption can imply economic delocalisation to third countries, a massive increase of imports or a progressive decline of the EU market share in a given sector. The major criterion for the EGF is more than 1 000 redundancies in a company or in a group of companies in regions with a higher than average rate of unemployment.

2.3 Eligible actions under the EGF should create conditions for a quick re-integration of people who have lost their jobs into the labour market. The assistance is supplementary to national provisions and targeted regional programmes. Measures to be included are: retraining, relocation assistance, assistance for business start-ups and supplementary income benefits.

⁽¹⁾ Proposal for a Regulation establishing the European Globalisation adjustment Fund, March 2006, COM(2006) 91 final, 2006/0033 (COD).

2.4 The EGF will intervene only at the request of a Member State. The amount paid by the EU may not exceed 50 % of the total estimated cost of the complete set of measures envisaged by the Member State.

2.5 There is no specific financial provision for the Fund in the Financial Perspectives. It will be financed through under-spends and decommitted funds. Each deployment will be decided by the budgetary authority, which means that full responsibility lies with the Council and the EP.

2.6 A detailed budget procedure is foreseen. The Member States shall take responsibility for the management of actions supported by the EGF. The Commission shall have a supervisory role. In cases where the amount is under-spent reimbursement shall take place.

2.7 The Commission shall carry out an ongoing evaluation on the results, criteria and effectiveness of the regulation as well as an ex-post evaluation. From 2008 on, the Commission will present an annual report on the implementation of the Fund, including evaluations.

3. Background to the EGF

3.1 The proposal, aimed at demonstrating the EU's solidarity with workers made redundant as a result of sudden changes in world trade patterns, is based on the conclusions of the European Council of December 2005. As a compromise, it is part of the deal on the Financial Perspectives. An impact assessment has been carried out ⁽²⁾ containing relevant information about the content and scope of the EGF.

3.2 The EGF is separate from the Structural Funds and will serve as one of the EU instruments needed to further the adaptation and competitiveness of the European economy ⁽³⁾.

3.3 The Structural Funds aim at long-term anticipative actions based on a multiannual approach, whereas the EGF is not envisaged for restructuring purposes. It aims specifically to address individuals in regions affected by serious shocks in world trade patterns. Such infrequent but critical situations may require one-off, time-limited individualised support. Some objectives of the EGF are not covered by the Structural Funds.

3.4 To a certain extent the US Trade Adjustment Assistance (TAA) programme of 1962 has served as an example. The TAA aims to correct the asymmetry between the adverse effects of trade opening and international liberalisation for specific individual cases or regions and their overall benefits. A comparison between the TAA and the EGF, though, is not easy because of

⁽²⁾ Impact assessment regarding above-mentioned regulation, SEC(2006) 274/2.

⁽³⁾ EU Competitiveness and Industrial Location, Bureau of European Policy Advisors to the Commission, BEPA (2005), 26 October 2005.

the difference in culture between the US and the EU and the different criteria involved.

3.5 The EGF should function in accordance with the best practice identified by OECD, which specifies the need for a clear identification of groups of trade-displaced workers and the provision of assistance for limited periods of time in line with the principles of cost-effectiveness, transparency and accountability.

3.6 The EGF aims to contribute to the development of a 'flexicurity' approach in the Union, a balance between flexibility and employment security and will complement the multi-annual strategic priorities and policies of the Structural Funds.

4. General comments

4.1 The Regulation initially refers to the overall positive effect of globalisation on growth and jobs in the EU. But the EESC notes that, at the same time, visible and adverse effects at sectoral and regional level are quite possible. The EGF will be a specific instrument in view to enhancing reemployment opportunities towards workers affected by serious economic disruption. It is a pity that the impact assessment ⁽⁴⁾ has not carried out an analysis of concrete cases.

4.2 Given that the fourth recital of the Regulation requires that activities of the EGF be '*coherent and compatible with the other Community policies and comply with its acquis*', the proposals should be closely examined by a range of Commission policy-makers, in particular DG Competition, in order to avoid any unjustified allocation of state subsidies.

4.3 The EGF represents a concrete step by the European Union towards tackling the consequences of serious shocks in external trade and the global market. For the future, a similar instrument might be considered to mitigate the negative consequences of the internal trade and EU single market (e.g. delocalisation within the EU, taxation policy).

4.4 Intervention criteria

4.4.1 Strict intervention criteria are required. However, the criterion mentioned in Article 1: '*support for workers made redundant because of changes in world trade patterns leading to a significant adverse impact on the regional or local economy*', is rather vague. The Member States have primary responsibility for submitting applications for Fund contributions. The Commission should guarantee an equal application of the criteria in all cases and to all Member States.

⁽⁴⁾ SEC(2006) 274.

4.4.2 The burden of proof regarding applications lies with the Member States. Application will be examined and close monitored by the Commission, involving the use of guidelines and financial support will be allocated by the budgetary authority on a case-by-case basis. This will involve a process of learning by doing and by practical experience, for the Commission, for the Member States and for the budgetary authority alike. Ambiguities must be avoided: the same rules and approach must be valid and applied across the Union.

4.4.3 As regards the minimum level of redundancies in specific regions, the intervention criteria laid down in Article 2 are clearly defined. The criterion '1 000 employees' is not limited to one company, but it includes downstream and upstream producers.

4.4.4 Usually the rationale for reducing the number of employees will be based on a range of factors, such as modernisation, rationalisation, change of production methods, and, indeed, international trade patterns. Rarely will one specific factor prevail totally.

4.4.5 The American TAA has been taken as an example. But, again, in the Commission's description of the functioning of the TAA the link between changing trade patterns and governmental actions aimed at softening their effect on redundancies is rather vague. Moreover, the criteria and the history of application of the TAA are quite different from what is envisaged in the EU.

4.4.6 GF funding will be sought in the event of economic shocks and unforeseeable circumstances. However trends of change are usually already visible before the real impact of this change is felt. Good business management involves taking preventive actions in good time.

4.4.7 This means that any planned national and EU support measures will have to take into consideration the way in which companies and the social partners themselves have anticipated change. For instance, how relevant are support measures, if business and social partners have neglected to identify in good time developments which might threaten markets and/or employment?

4.5 *The definition of eligible actions*

4.5.1 The difference between the Structural Funds and the EGF is threefold: a) difference in scale: EUR 44 billion versus EUR 500 million per year, for the future programming period 2007-2013; b) difference in approach: long-term and anticipative on broad issues of modernisation versus short-term and targeted on a quick re-integration of workers in the labour market; and c) because of their volume and scope the Structural

Funds tend to be bureaucratic, whereas for the EGF a non-bureaucratic approach is aimed at.

4.5.2 A strict distinction between the Structural Funds and the EGF must be ensured. The EGF is by definition short-term and time-limited and is focussed on specific cases. In the longer run additional commitments of Structural Funds can be foreseen in the framework of a broader regional context. In cases where actions are complementary the different philosophy and structure of each Funds must be respected.

4.5.3 It will not be easy to create conditions for a 'quick' reintegration of redundant employees into the labour market, if the context and circumstances are not favourable, such as in the case of regions primarily dominated by one industrial activity, backward regions, or where there is a lack of education and retraining facilities on the ground, etc. Special attention should be addressed to middle and senior management in order to avoid any brain drains. In these particular cases a combination of EGF and Structural Funds is probably needed, as well as the best possible use of the EURES network to promote opportunities for mobility across Europe. A lack of effective coordination might pose problems. In this respect the provision of Art. 5(3) requires special attention.

4.5.4 The eligible actions set out in Art. 3 must be taken together with the provisions of Arts. 5 and 6, in particular regarding the interrelationship and interaction between regional, national and EU actions. As EU actions are complementary to regional and national measures, experience gained in the past in the EU — like those in RESIDER, RECHAR and RETEX — and in other situations could be helpful, taking into account that the EGF has not been entrusted with any restructuring role.

4.5.5 In specific cases it may be useful to employ the sectoral approach used in modern industrial policy, in examining analyses and in determining the use of instruments.

4.5.6 It is of particular importance and concern to a number of Member States that income-related and labour market policies remain a national responsibility and that the Commission is prevented from interfering in national competences. Consequently, within the complete set of measures drawn up by a Member State to address a particular crisis, the EU contribution must focus explicitly on individuals and on fostering the re-entry of redundant employees into the labour market. At this point, the EESC refers to the application criteria of the former social chapter of the Coal and Steel Community which may help to avoid institutional overlap and conflicts.

4.6 The budgetary authority has a crucial role to play. We welcome the fact that the Regulation duly prescribes in detail the financial procedures to be followed.

4.7 The Regulation is drafted for specific emergency cases, which as a rule require fast and effective action. This means that in applying the rules bureaucracy must, of course, be minimised, whereas at the same time due caution is required. The objective should remain the provision of effective support in the shortest possible time frame.

4.8 In the (recent) past, in a number of cases, successful restructuring has been carried out, even in complicated cases. Although concrete cases are always unique, the broad spectrum of restructuring shows that concentrated regional efforts of all stakeholders, often supported by their governments, with a clear focus on creating conditions for new or reinforced industrial and service-related business and redeployment, have fostered success.

4.9 In most cases economic and social plans have been made in close cooperation between the national government, regional authorities and the social partners, who have generally organised round tables and involved all stakeholders in the region.

4.10 Regarding the new EGF, similar procedures need to be foreseen and implemented in order for the Fund to be a success. To that end, representatives of the Commission shall have to participate directly in such gatherings and meetings at regional and local level.

5. Specific comments

5.1 Although the budgetary allocation of EUR 500 million for the EGF has been established by the Commission through statistical simulations based on concrete cases, its amount should be assessed and possibly adjusted annually on the basis of the evolving situation and of the real feedback of the fund application.

5.2 Article 2 specifies serious economic disruption as the trigger for EGF intervention. The EESC calls on the Council to discuss the definitions of the phenomena mentioned in the introductory paragraph of this Article, before the Regulation comes into force. Overly broad definitions may hamper effective decision-making later on by the budgetary authority. Too narrow definitions may have the same effect. A Council discussion may help to clarify the dilemma and strike a balance. Such discussion may also be a useful input for the Commission's guidelines.

5.3 The reasons for such intervention must be clearly stated. Anticipative actions by business itself as well as by the social partners and other stakeholders should be taken into consideration. This could also be included in the Commission's guidelines.

5.4 As part of the annual evaluation, and also with a view to possible modification in accordance with Article 20, an assessment of the intervention criteria as laid down in Article 2 (number of workers involved, territorial dimension and employment indicators) should be considered in order to ensure that the intervention criteria are also flexible enough to cope with the diversity of specific regions, in particular regarding small countries with primarily small and medium-sized companies.

5.5 Article 3 sets out in (a) and (b) the actions eligible for EGF financial intervention. The EESC notes that income-related areas such as retirement rights and social benefits are an exclusive competence of the Member States. The EGF should be restricted to financing various kinds of education and training facilities and framework conditions. In specific circumstances this may include wage-support for individuals, who have a job or are job-seeking.

5.6 Article 10(1), fixes the maximum contribution by the EGF at 50 % of the total set of measures envisaged by the Member State. The EESC does not wish to query the level of this percentage. It points, however, to the fact that a relation exists between the level of financial contribution by the EGF and the number and the dimension of the cases that will be dealt with.

5.7 With regard to Article 12 the EESC proposes that paragraph 1(b) read as follows: 'evidence that the criteria laid down in Article 2 *and the requirements of Article 6*' are met.

5.8 The EESC considers that the social partners and other stakeholders in the regions have to be involved at every stage of the EGF procedure. The EESC and the Committee of the Regions should also be informed by the Commission.

5.9 From 2008 on the Commission will present annual reports on the EGF. Such ex-post evaluation may be subject to debate by the Council. Article 20 provides for a formal review of the Regulation by December 2013. The EESC recommends that the Commission also include an assessment of the EGF in its White Paper ahead of the interim discussion on the EU budget due by 2009.

Brussels, 13 September 2006.

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 on the exercise of voting rights by shareholders of companies having their registered office in a Member State and whose shares are admitted to trading on a regulated market and amending Directive 2004/109/EC

COM(2005) 685 final — 2005/0265 (COD)

(2006/C 318/06)

On 31 January 2006 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 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 20 July 2006. The rapporteur was Mr Cassidy.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 83 votes to 9 with 18 abstentions.

1. EESC conclusions and recommendations

1.1 The EESC welcomes the Commission proposal as barriers to cross-border voting provide distortions of the single market.

1.2 Share blocking, i.e. the obligation to deposit or block shares for a few days before a general meeting to be able to vote still exists in several EU countries. Indeed, the practice is mandatory in some. It is an expensive practice, which prevents shareholders from negotiating shares in advance of the general meeting. It is also considered by the majority of institutional investors as one of the greatest obstacles to voting. Article 7 of the proposed Directive eliminates any proposal to 'block' shares by requiring them to be deposited ahead of the general meeting. The EESC particularly welcomes this, though aware that the number of countries where this is still permissible is limited.

1.3 The EESC believes that the Directive should acknowledge the drive for better regulation and draws attention in particular to paragraph 34 of the Interinstitutional Agreement on better lawmaking of December 2003, paragraph 34 of which encourages Member States to 'draw up, for themselves and in the interests of the Community, their own tables, illustrating as far as possible, the correlation between this Directive and their transposition measures, and to make them public'.

1.4 The EESC would like to see greater use of electronic voting to improve transparency and to encourage shareholder participation but believes this should be left to the companies concerned but wishes Member States to avoid imposing obstacles to wider use of electronic participation in general meetings.

1.5 Following from the preceding paragraph, the EESC expects a wider use of secure Internet voting perhaps including

the use of SMS. This should be encouraged but not imposed by an EC Directive.

1.6 The EESC particularly welcomes the proposals for Proxy Voting set out in Article 10. It especially welcomes the removal of constraints on Proxy Voting whereby, in some Member State, 'Proxies' are restricted to relatives of the shareholders.

1.7 The EESC supports the idea that Member States may set a single date, with reference to a specified number of days before the general meeting, and may provide the company shall not be obliged to respond to questions which are submitted after that date.

1.8 The EESC would like to see a strengthening of Article 5 concerning the supply of information to shareholders prior to a general meeting.

2. The Commission's proposal

It deals with obstacles to cross-border voting for shareholders.

2.1 Due to the recent spate of scandals connected with poor Corporate Governance in the EU and in the USA, there is a need to encourage shareholders to play a more active part by voting at general meetings. The proposal under consideration is aimed at protecting the rights not only of shareholders in the EU but elsewhere in the world too.

2.2 This proposal aims to improve Corporate Governance in EU listed companies by enhancing the rights shareholders are able to exercise in relation to company meetings. In particular, it seeks to achieve this by ensuring that shareholders owning shares in companies registered and listed in another Member State may vote without difficulty at company meetings.

2.3 The draft Directive addresses the following four significant issues:

- (a) the abolition of 'share-blocking';
- (b) sufficient advance notice for meetings (including a requirement that all general meetings of shareholders be called with at least 30 days' notice);
- (c) removal of legal obstacles to electronic participation;
- (d) the ability to vote without attending the meeting.

2.4 This proposal is one of the short-term measures put forward in the communication from the Commission to the Council and European Parliament of 21 May 2003 ⁽¹⁾ entitled 'Modernising Company Law and Enhancing Corporate Governance in the European Union — a Plan to Move forward'.

2.5 The Commission notes that the process of voting at company general meetings differs widely across Member States and is often a complex procedure. It is further complicated when shares are held across EU borders.

2.6 The Commission believes that existing legislation at EU level does not address sufficiently the cross-border voting problem. At present, under Article 17 of Directive (2004/109/EC) the 'Transparency Directive', companies are required to make a limited amount of information available in relation to company meetings. But the Transparency Directive does not deal with the shareholder voting process.

2.7 Voting can be a complex process. Shares are often held on behalf of investors by intermediaries. Where this is the case, voting can involve a chain of events which encompasses companies, registrars, custodian banks, investment managers, central securities' depositories and proxy voting agencies.

3. Options

3.1 There is no guarantee that the market will react quickly enough to improve shareholders' rights nor that appropriate legislative change will take place in all Member States to deal with the problem of the complexity of the voting process.

3.2 A Commission Recommendation has no legal force but would offer flexibility for Member States to implement it into the national systems on the basis of Commission guidelines.

A Recommendation would not guarantee the introduction of minimum standards in key areas which are the origin of cross-

border voting problems and increased costs, such as share-blocking where what deters investors is the possibility that such a requirement be present at national level.

3.3 A Regulation would introduce a uniform treatment, irrespective of Member States laws. It could also guarantee the introduction of a tight common framework for cross-border related issues. It would have the additional advantage of avoiding Member States 'gold plating' a directive.

The Commission believes that the costs of a regulation could be significant since it would not be possible to offer flexibility across the differences that characterise legal traditions in EU Member States.

3.4 A Directive would allow for differences in Member States' practices, preventing imbalance between different classes of shares and shareholders and favouring basic, minimum standards.

4. Costs and benefits

4.1 Benefits

4.1.1 The main beneficiaries from the proposal, in the short term, will be institutional investors that currently own cross-border shares in their portfolios. The existence of costs, associated with obstacles to cross-border voting means that investors are unable to become as actively engaged in the governance of companies as they may wish.

4.1.2 Over the longer term, the proposal may encourage smaller investors, who are currently deterred from holding cross-border shares by the high costs associated with voting, to increase their holdings in such shares. This will enable them to further diversify their portfolios so reducing risk. Overall, in the longer term, the proposal should give rise to greater liquidity in European capital markets.

4.1.3 Currently, a number of obstacles to cross-border voting exist. Share blocking remains a problem in some countries and is perceived by many investors to represent a serious obstacle to voting. In this respect it represents an obstacle to the efficient operation of cross-border capital markets. In addition, there is confusion among investors as the precise nature of blocking arrangements across EU States. This too represents a serious cost for investors, which would be reduced by the draft directive.

⁽¹⁾ COM(2003) 284 final 'Modernising Company Law and Enhancing Corporate Governance in the European Union — A Plan to Move Forward'.

4.1.4 There is an unfair distinction between domestic and cross-border shareholders regarding the information made available to cross-border shareholders relating to a general meeting. The Commission draft ensures that adequate and timely information is available across all markets and should, therefore, help to alleviate this problem.

4.1.5 The jurisprudence of the European Court of Justice (ECJ) emphasizes the need for Member States to avoid abuse by one class of shareholders prejudicial to other classes.

4.1.6 Proxy voting and re-registration requirements are often costly and there is some evidence based on the Commission Impact Assessment to suggest that the level of these costs effectively discourages small funds from voting. The Commission's proposal should simplify the process for the appointment of proxies and clarify who can be appointed as proxies and enhance the rights of proxies in certain countries.

4.1.7 In cases where the Chairman of the meeting holds shareholders' Proxies, he/she should be obliged to vote them strictly according to those shareholders' wishes.

4.2 Costs

4.2.1 A uniform notice period, as proposed, would introduce an element of inflexibility for those Member States, which require only a 14 days notice period for the calling of an Extraordinary General Meeting (EGM).

4.2.2 The requirement to produce written answers to shareholders' written questions is essential.

4.2.3 Articles 5 and 7 of the draft Directive laid on 30 days between the record date and the date of the meeting in order to assist shareholders in being able to vote their shares.

5. Specific comments

5.1 The EESC welcomes the Commission proposal as barriers to cross-border voting provide distortions of the single market.

5.2 As the financial sector is an important influence on the economy and on employment growth, anything which inhibits shareholder participation should be discouraged. The Commission proposal sets out to do that.

5.3 Currently cross-border voting is *a priori* more expensive for non resident shareholders than those resident in the country

in which the company concerned has its shares quoted, it is an example of market distortion.

5.4 The Committee believes that there are too many constraints at present, which make proxy voting in some Member States unduly cumbersome.

5.5 Share blocking, i.e. the obligation to deposit or block shares for a few days before a general meeting to be able to vote still exists in several EU countries. Indeed, the practice is mandatory in some. It is an expensive practice, which prevents shareholders from negotiating shares up to weeks in advance of the general meeting. It is also considered by the majority of institutional investors as one of the greatest obstacles to voting.

5.6 The EESC shares the Commission's view that the late availability of information relevant to a general meeting or its incompleteness or resolutions in summary form or short noticed periods are among the major obstacles which non-residents face when seeking to exercise their rights as shareholders. All relevant documents including auditor's reports, replies to shareholders' questions and notices convening general meetings, and the motions to be submitted to such meetings should be made available electronically as well as physically.

5.7 Article 8 concerns participation in the general meeting by electronic means. As technology moves so rapidly, the Commission is proposing that Member States 'shall not prohibit the participation of shareholders in the general meeting by electronic means.'

5.8 The Commission's text does not specifically deal with the problem of 'barer' shares, communication with whom currently is largely through newspaper advertisements. The EESC believes that electronic communication is more modern, quicker and certainly cheaper.

5.9 Article 10 clarifies the arrangements for Proxy voting and abolishes the arrangements whereby certain companies impose restrictions as to the person who can be granted a Proxy.

5.10 The option of doing nothing, in other words to leave the present situation as it is does not recommend itself to the EESC. The obstacles make cross-border voting prohibitively expensive for small shareholders and very costly for institutional investors.

Brussels, 13 September 2006.

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 Regulation of the European Parliament and of the Council establishing common rules for the provision of basic information on Purchasing Power Parities and for their calculation and dissemination

COM(2006) 135 final — 2006/0042 (COD)

(2006/C 318/07)

On 20 July 2006 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 the Committee's work on the subject, adopted its opinion on 20 July 2006. The rapporteur was Mr Santillán.

At its 429th plenary session, held on 13 and 14 September (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 182 votes to 3 with 12 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the proposal for a Regulation establishing a legal basis for the implementation of Purchasing Power Parities (PPP), since this will improve the transparency, timeliness and quality of the whole process of PPP production, at both Community and national level.

1.2 Given the importance of the issue addressed by this proposal and the need for binding rules that define the competences of the Commission and Member States and establish uniform bases for the calculation and dissemination of information on PPP, the Committee recommends the immediate approval of this draft Regulation.

1.3 Nevertheless, the EESC notes that currently, due to cost reasons, the Commission (Eurostat) calculates PPPs by countries, not by regions⁽¹⁾. However, these calculations are used, *inter alia*, to evaluate the economic performance of regions. Existing information shows that — within the Member States — there are sometimes considerable regional differences in the prices of goods and services. Although the statistical institutes that gather basic information apply spatial correctors, it is essential that such correctors adequately prevent distortions in calculating PPPs. Therefore, it is recommended that Member States make every effort possible, both economically and technically, to ensure that spatial correction coefficients reflect as precisely as possible geographical differences in prices.

1.4 For the reasons stated above, the minimum period of six years for the revision of the spatial coefficients seems too long

⁽¹⁾ There are 254 NUTS 2 regions. Regulation (EC) No 1059/2003, annex 1.

and should be reduced. Similarly, since the frequencies stipulated in the draft Regulation for the provision of basic information are minimum frequencies⁽²⁾, information on prices should if possible be supplied every two years⁽³⁾ (the draft stipulates a minimum of three years).

1.5 Generally speaking, it should be stressed that an effort is needed to increase the efficiency of the EU's statistical apparatus, in terms of both technical and human resources and coordination between Eurostat and national statistical institutions, which have important responsibilities in the calculation of PPPs.

2. Purchasing Power Parities (PPPs)

2.1 The Eurostat-OECD PPP Programme was established in the early 1980s to compare, on a regular and timely basis, the GDP of the Member States of the European Union and of the OECD⁽⁴⁾. As such, PPPs are types of currency conversion rates that convert economic indicators expressed in nominal national currencies to a common artificial currency called Purchasing Power Standard (PPS), which equalises the purchasing power of different national currencies.

2.2 Economic volume aggregates in PPS are obtained by dividing their original value in national currency units by the respective PPPs. GDPs of countries expressed in PPS by using PPPs as conversion factors reflect a pure volume comparison, since the price level component has been eliminated.

⁽²⁾ Annex I, Methodology, 2.1.

⁽³⁾ The prices in question are 'prices of consumer goods and services and related representativity indicators', 'prices of equipment goods' and 'prices of construction projects'.

⁽⁴⁾ Nevertheless, the origins of international price and volume comparisons of GDP can be traced back to the experimental comparisons carried out by the Organisation for European Economic Cooperation (OECE) in the 1950s.

2.3 PPPs are both price deflators and currency converters. With the launch of the euro in the euro-zone Member States, for the first time prices can be compared directly between those countries, although the euro has a different purchasing power, depending on national price levels. Therefore, for the non-euro-zone countries PPPs are currency converters and eliminate the effects of different price levels, while for the euro-zone countries they fulfil only the latter, price-deflator function.

2.4 PPPs are calculated using a basket of comparable goods and services, taking into account, *inter alia*, the *Classification of Individual Consumption by Purpose* (COICOP⁽⁵⁾) and the *Classification of Products by Activity* (CPA). The groundwork is carried out in one or various cities within the economic territory (generally only in the capitals of Member States). Most Member States apply spatial correctors in order to take account of regional differences, although there are some Member States that only take into account data from the capital because their small geographic area means that there are no regional differences.

3. PPPs and Gross Domestic Product (GDP)

3.1 GDP reflects the results of all activities of economic operators within a given economic territory and within a given period, usually a year. GDP is calculated in accordance with a system of national accounts, which, for the EU, is the European system of integrated economic accounts 1995 (ESA-95). GDP can be measured from the production, the expenditure and the income side. For PPP purposes the expenditure measure is particularly important. It reveals the extent to which the goods and services produced (or imported) by the economy of a country are used for private consumption, public consumption, capital formation or exports.

3.2 In order to obtain a real comparison, it is necessary to use conversion factors (spatial deflators), which reflect the differences in the level of prices between countries. Exchange rates cannot be used as they usually reflect elements other than price differences alone.

3.3 Therefore, PPPs between various countries' currencies have been specifically developed to be appropriate for use as spatial conversion factors.

4. Uses for PPPs

4.1 Initially the major users were international organisations such as Eurostat, the IMF, the OECD, the World Bank and the United Nations. But over time the use of PPP statistics has spread and now there are many users: government agencies, universities, research institutes, as well as public and private enterprises. Banks use PPPs for their economic analyses and to monitor exchange rates; individuals and their employers use them to calculate remuneration when they move from one country to another.

⁽⁵⁾ System used by international bodies (United Nations, IMF etc.).

PPPs may also be used in transnational collective bargaining on wages.

4.2 PPPs are vital indicators for the EU from both the economic and political angles. Firstly, the rules state that they are to be used for the Structural Funds⁽⁶⁾. Secondly, they are an obligatory benchmark for the Cohesion Fund⁽⁷⁾. Nevertheless, it should be pointed out that in the first case (Structural Funds) the calculation is based on per capita gross domestic product (GDP), while in the second (Cohesion Fund) it is based on gross national product (GNP). The draft Regulation under consideration here refers only to GDP⁽⁸⁾.

4.3 PPPs are also used for establishing the correction coefficients to be applied to the remuneration and pensions of officials and other servants of the European Communities⁽⁹⁾.

5. Proposal for a Regulation

5.1 The purpose of the proposed Regulation is to fill a legal vacuum by establishing a legal framework for the calculation of PPPs. It is aimed at improving transparency and the quality of the data provided by the Member States, through common rules for the provision of basic information (Art. 1). The intended objective would not only benefit Eurostat as coordinator of the results, but also the statistical institutions of each country.

5.2 Definition of roles and responsibilities. The Commission is to be responsible, through Eurostat, for coordinating the basic information, calculating and publishing PPPs and adjusting methodology in consultation with Member States (Art. 4.1), while Member States are to provide basic information, issue written certification of the survey results and ensure the validity of the data (Art. 4.2).

⁽⁶⁾ According to Council Regulation 1260/1999, the Structural Funds apply to those regions whose per capita GDP, measured in PPPs, is less than 75 % of the Community average. This is also the case for those countries that have subsequently joined the EU (Annex II of the 2003 Act of Accession).

⁽⁷⁾ With regard to the Cohesion Fund, Article 2(1) of Council Regulation (EC) 1164/1994 of 25 May 1994 states that the Fund applies to 'Member States with a per capita gross national product, measured in purchasing power parities, of less than 90 % of the Community average'.

⁽⁸⁾ Article 3 includes the following definition: "Purchasing Power Parities" or "PPPs" means spatial deflators and currency converters, which eliminate the effects of the differences in price levels between countries, thus allowing volume comparisons of GDP components and comparisons of price levels'.

⁽⁹⁾ The Staff Regulations of Officials of the European Communities and the Conditions of Employment of other Servants of the European Communities, Annex XI, Art.1 ('The economic parities shall be calculated in such a way that each basic component can be (...) checked by a direct survey at least once every five years'.

5.3 The statistical institutions of the Member States are to transmit the basic information to Eurostat in accordance with common parameters and in a common technical format (Art. 5 and Annex I).

5.4 The statistical units are those defined in Council Regulation (EC) No 696/1993 or others to be established at a later date (Art. 6), and the Commission and the Member States are to set up a quality control system (Art. 7).

5.5 Eurostat calculates PPPs once a year (Art. 8) and will be responsible for publishing these at an aggregated level for each Member State (Art. 9).

5.6 The draft Regulation does not require Member States to undertake surveys solely for the purpose of establishing the correction coefficients to be applied to the remuneration and pensions of Community officials and other servants (Art. 10).

5.7 Temporal and spatial adjustment coefficients. PPPs are calculated from the **national annual average prices (Article 2 (2))**. Given that 'data collection may be limited to one or more locations within the economic territory' and furthermore 'to a specific period of time', Member States should apply a **temporal adjustment coefficient** (dating back no more than one year) and a **spatial adjustment coefficient** (dating back no more than six years) (Annex I Methodology, sections 2 to 4).

Brussels, 13 September 2006.

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 Decision of the European Parliament and of the Council on a paperless environment for customs and trade

COM(2005) 609 final — 2005/0247 (COD)

(2006/C 318/08)

On 17 January 2006 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 12 July 2006. The rapporteur was **Mr Burani**.

At its 429th plenary session, held on 13 and 14 September (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 190 votes with three abstentions.

1. Introduction

1.1 The Commission's proposal concerns a new electronic customs project which should ultimately make the European customs system fully automated, interoperable, secure, accessible and efficient, on a completely electronic and paperless basis. This is the necessary adjunct to implementation of the new Community Customs Code proposed by the Commission (¹), on which the EESC has issued a separate opinion.

1.2 Adopting the proposed computerised system requires a joint and coordinated effort by all the Member States, with respect not just to customs, but also to border agencies other than customs, which will have the task of putting the concepts

of the **single window** and the **one-stop shop** into practice. These two objectives will make customs procedures easier, faster and less costly for operators, and facilitate risk management controls by customs authorities.

1.3 The Member States have already invested substantially in setting up computerised customs systems, but there are considerable differences between these, in terms both of their level of sophistication and of rules and data used. Thus the current state of harmonisation is inadequate, and there is the even more serious problem, as yet unresolved, of lack of **interoperability between systems**.

⁽¹⁾ COM(2005) 608 final.

1.4 Interoperability will allow information to be exchanged between customs authorities in the different countries. Evidencing concern for citizens, the proposal also makes it possible to provide **interfaces with trade**, not just to allow implementation of the single window principle, but also to guarantee exchange of information. When it is fully effective, the new computerised system will represent a decisive step towards realising a single internal market, with only external borders — if only where customs are concerned. It is also important to remember that the global nature of markets means relations with third countries must be taken into account, a factor that is not mentioned in the Commission document.

2. General comments

2.1 The Commission notes that the computerisation objectives for interoperable systems could also have been achieved by setting up a **centralised customs system**. However, it says that such a solution is not possible for various reasons, including the difficulty of transferring responsibility from the Member States to the Commission, which would go against the principles of subsidiarity and proportionality. However, the real reason is probably that the Member States are loath to relinquish their prerogatives, knowing that a portion of customs revenues falls directly under the Community budget. The EESC believes that Community customs management should be one of the long-term objectives of the Union; this has advantages in terms of simplicity, reliability and cost, as well as the possibility of inter-connecting with other EU and third country systems. With the potential delays to the implementation of the basic systems developed by each of 25 member countries, there is a need to evaluate whether it would not be preferable to implement fully automated systems such as the Automated Import System and Automated Export System linked through a Single European Access Point.

2.2 The Commission's initiative is necessary in the first place because introduction of the new Customs Code requires that procedures be consistent with the new rules. It is also one of a series of measures adopted in various sectors in the context of eEurope and eGovernment ⁽²⁾; more specifically it follows up on the commitments made in 2003 in the Commission's communication to the Council on 'A simple and paperless environment for Customs and Trade' ⁽³⁾. However, those commitments were already made — at least with regard to introducing a paperless environment — in the 'Customs 2007' programme ⁽⁴⁾ and confirmed in the 2004 changes to the Customs Code regulation ⁽⁵⁾.

⁽²⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, COM(2003) 567 of 26.9.2003.

⁽³⁾ COM(2003) 452 of 24.7.2003, quoted in the EESC opinion on the Customs Code.

⁽⁴⁾ COM(2002) 26 of 21.3.2002, subject of EESC opinion in OJ C 241 of 7.10.2002.

⁽⁵⁾ COM(2003) 452 of 4.8.2003, subject of EESC opinion in OJ C 110 of 30.4.2004.

2.3 The EESC welcomes the main innovations introduced with the system proposed by the Commission: networking of national systems, the setting-up of an interface for operators based on a single window, the possibility of submitting customs clearance requests electronically and integrated risk management are undeniably major advances, provided the costs to the taxpayer and to operators are sustainable. It would therefore be as well to consider the impact of these radical changes on customs officials (resources, training, career paths, adaptation).

2.4 However, the EESC wishes to make some comments on the integration of computer systems and their complementarity. The Commission aims to achieve full interoperability of customs systems: this means that customs authorities must be able to exchange information with each other and with 'other authorities involved in the international movement of goods'. This definition clearly does not include **authorities responsible for collecting VAT**; however, a link between customs and VAT staff could be useful, at least in certain cases and for certain goods, in order to control **counterfeiting of origin marking**. This is nothing new, of course, but it is a phenomenon that is on the increase: goods imported from third countries are often circulated (with payment of VAT) within the Community bearing labels of European origin or false 'European' labels.

2.5 The EESC would also draw attention to the second recital of the proposal for a decision: 'The pan-European eGovernment action ... requires measures to increase the **efficiency ... to help combat fraud, organised crime and terrorism ...**' The intention is clear; what is less clear is how the objective can be achieved by the provisions contained in the proposal. Collection of customs data cannot be used for other purposes without **setting up a system for communicating with other systems**.

2.5.1 In December 2004 the Council adopted the **Hague Programme** based on a Commission assessment ⁽⁶⁾ and a European Parliament recommendation of 14 October 2004. This programme sets out a series of measures and actions to strengthen EU security, with a view to '**securing police, justice and judicial cooperation**'. A follow-up document (of 10 June 2005) presented an **action plan for implementing the Hague Programme**, which referred to a Council of Justice and Home Affairs ministers resolution of 30 March 2004 on customs cooperation, and a communication on the fight against cross-border trafficking in restricted or prohibited goods. In another follow-up document ⁽⁷⁾ customs cooperation was again cited as a priority issue. All the projects envisaged in the above-mentioned documents concern the **availability of information**

⁽⁶⁾ COM(2004) 401 final.

⁽⁷⁾ COM(2005) 184 final.

for law enforcement purposes, a matter which is also mentioned in the Hague Programme. Given the overall context and the nature of the projects under way, it seems obvious to the Committee that in designing a computerised customs system intended to last, it is essential to ensure that, when the system starts operating or at a later point, **the customs database interacts with other systems**, especially with internal, European and third country security systems. Respect for privacy, professional secrecy and data protection must, of course, always be paramount.

2.5.2 This concern is not raised at all in the Commission document, except in the quote in point 2.5 above. Nor, on the other hand, does the Commission's explanatory memorandum anywhere mention the Hague Programme; the section 'Consistency with the other policies and objectives of the Union' mentions only the Lisbon strategy and the eEurope and eGovernment initiatives. Notwithstanding Article 3(d) — which is discussed below — such a major omission cannot be coincidental, and the Commission should clearly explain the reasons for it. In any case, the fact remains that it would not be acceptable to simply postpone an initiative which should be adopted without delay.

2.5.3 When it was drawing up this document, the Commission organised six seminars in the space of two years; it consulted users; and it discussed the matter in the Customs Code Committee, the Customs 2007 electronic customs group and the Trade Contact Group. But there is no mention of contacts with Europol, OLAF or other directorates-general of the Commission. A system cannot be planned solely according to the requirements of its direct users; if it must be designed to connect with other systems, there must be an understanding of their characteristics and needs. The EESC thinks that the reservations it expressed in its opinion on the Community Customs Code are now being borne out in so far as there is no proper awareness **of the interdependence between different public administrations in the fight against crime**.

2.5.4 A complete change in approach along the lines indicated in the previous point would probably be difficult owing to the time constraints fixed by the programme with respect to implementation. However, it would surely be possible now to provide for **security measures for 'sensitive goods'** (e.g. arms, explosives, nuclear materials, machines and equipment for the chemicals, nuclear or defence industries, narcotics, alcohol and tobacco). Such measures could form the basis for surveys that would be forwarded to the relevant authorities automatically or on request.

2.6 In accordance with the subsidiarity principle, the **financial burden on the Community budget** is that required to

ensure system interoperability, a single interface and customs portals. This cost is estimated at EUR 180 million, divided into incremental annual appropriations, starting at EUR 4 million in 2006 and rising to EUR 111 million from 2011. The EESC endorses this, but is puzzled by the decision to charge **the cost of national customs portals** to the Community budget. Even though portals are in principle available to all operators, whether national or from another EU country, it is likely that each will be used principally by national operators. It would therefore make more sense for the cost of portals to be borne by individual Member States rather than by the Community. Of course, the terms would be different if the Commission were talking about European portals, which it does not refer to explicitly.

2.7 As regards **implementation deadlines**, the Commission has drawn up a list of milestones which are mandatory for all the Member States. These are based on the date of publication of the Decision in the OJ: **three years** for adopting interoperable automated customs clearance systems, registration systems for economic operators and information portals; **five years** for setting up a network of single access points and an integrated tariff environment corresponding to Community standards; and **six years** for providing single window services. The EESC considers these deadlines, especially the first one, to be **rather optimistic**: three years is not a long time bearing in mind that this has to include several months for testing the programmes and sharing information with the other parties involved. Moreover, not all Member States have the same level of computerisation or availability of financial and human resources. If failure by one or more Member States to meet the deadlines forced the Commission to grant extensions, this would jeopardise the efficiency of the system and above all its credibility. Therefore the current Multi-Annual Strategic Plan (MASP) needs to be revised taking into account:

- the need for all Member States to have fully implemented the system before it goes live, and
- the need for business to have a minimum of 12 months in which to prepare systems, after receipt of full requirements from customs in their Member State. Industry and trade should not be obliged to submit the Summary declarations for imports and exports before homogenous systems are fully operational.

3. Specific comments

3.1 **Article 2: Objectives.** The objectives include seeking a common approach to the control of dangerous and illicit goods. It would be advisable to re-formulate this objective in the light of the EESC's suggestion in point 2.5.4.

3.2 **Article 3: Data exchange.** Under Article 3(d), customs systems must allow data to be exchanged with 'other administrations or agencies involved in the international movement of goods'. The EESC has already expounded its views on the inadequacy of this definition (see point 2.5 ff.). If the Committee's suggestion that the Hague Programme be included under the heading 'Consistency with the other policies and objectives of the Union' is taken on board, the wording of this point must be adapted accordingly. Whatever happens, the text must be worded more clearly so that it is not open to interpretation: it is not clear whether it refers to 'administrations ... involved in the international movement of goods', as an alternative to 'agencies', or whether the reference is to 'administrations' in general; if the latter is the case, it should be clearly specified that by using this term the Commission wishes to signal a new approach that is consistent with the Hague Programme. The current rather vague wording and its interpretation leave too much room for uncertainty.

3.3 **Article 4: Systems and services, and timetable.** As noted in point 2.7 above, the deadlines for implementing the system seem over-optimistic: the Commission should discuss them again, from a technical point of view, with the Member States and **with their bodies that are directly involved**, so as to be sure that all those concerned explicitly guarantee they are capable of completing the tasks within the required time frame.

3.4 **Article 9: Resources.** The article divides responsibility for the human, budgetary and technical resources required between the Commission and the Member States: the former is responsible for the Community components and the latter for the national components. The article is correctly formulated, but it must be read in conjunction with Article 10 as regards the meaning and substance of the terms 'Community components' and 'national components'.

3.5 **Article 10: Financial provisions.** This article is also properly formulated, but its interpretation might be problematic. The third paragraph states that the Member States shall bear the costs of the national components, 'including interfaces with other governmental bodies and economic operators'. It must be assumed that **portals** — which generally operate in the language of the Member State and are tailored to the needs of that country's economic operators — will be considered

national components. However, the explanatory memorandum (see point 2.6 above) states that portals are regarded as **Community components**, which would not be an obvious interpretation to anybody reading only the text of the article. The EESC thinks that this point should be revised: in substance, if the EESC's comments are accepted, and otherwise at least in form, for the sake of transparency.

3.6 **Article 12: Reports.** Member States must submit a report by 31 December each year on progress made and results achieved. The Commission in turn sends a consolidated report to the Member States by 31 March each year, which should include the results of any monitoring visits and other controls. There is nothing exceptionable about this in principle, but the Committee wonders what the implications of 'monitoring visits' are and whether their results should be made public.

3.7 **Article 13: Consultation with economic operators.** This article states that the Commission and the Member States shall 'regularly' consult economic operators at all stages of the preparation, development and deployment of the systems and services provided for. Consultation is to take place through a mechanism which brings together a representative selection of economic operators on a regular basis. The EESC considers this type of mechanism to be consistent with normal Community practice and with the principles of consultation and transparency; however, experience shows that consultation must not draw attention to too many disparate demands and contradictions that might create obstacles which would take a long time to overcome and require unreasonable compromises. The consultative phase should therefore be compatible with the need to reach a prompt decision.

3.8 **Article 14: Accession and candidate countries.** This article states that the Commission shall inform accession and candidate countries about initiatives taken and progress made in the various phases, and allow them to take part. The wording here is vague: it is not clear whether the countries in question may take part actively or only as observers; whether they are allowed to introduce parallel customs systems with a view to their accession; and in such cases whether they would be entitled to funding from the Community budget. The EESC asks that the wording of this provision be made more transparent.

Brussels, 13 September 2006.

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

Opinion of the European Economic and Social Committee on Implementing the Community Lisbon programme: Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 97/7/EC, 2000/12/EC and 2002/65/EC

COM(2005) 603 final — 2005/0245 (COD)

(2006/C 318/09)

On 18 January 2006, the Council decided to consult the European Economic and Social Committee, under Article 47(2) and 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 12 July 2006. The rapporteur was Mr Frank von Fürstenwerth.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 191 votes to one, with three abstentions:

1. Summary

1.1 The European Economic and Social Committee (EESC) agrees with the European Commission that, for the establishment of the internal market, it is essential that all internal frontiers in the Community be dismantled so as to enable the free movement of goods, persons, services and capital. A key element in this process is a properly functioning single market in payment services. Such a market, however, is not yet in place. Following the successful introduction of the euro, the EESC now also supports the establishment of a Single Euro Payments Area (SEPA).

1.2 The EESC backs the European Commission's efforts to establish a proper legal framework for a Single Euro Payments Area and feels that the proposal for a directive points the way forward.

1.3 The Committee welcomes the action already taken by the European Commission and the European banking industry to establish a Single Euro Payments Area, the (really quite ambitious) aim of which is to make cross-border euro payments within the European single market simple, convenient, safe and cheap.

1.4 The Committee notes, however, that, in submitting this proposal for a directive, the European Commission has selected a very broad-based approach to the rules in this area that clearly goes beyond the legal framework required for cross-border payment services. The EESC is thus concerned that, not least given the transposition periods required by the Member States and payment service providers and users, the target of establishing the Single Euro Payments Area in 2008 could be missed because of an overloaded legal framework that goes beyond

what is necessary to achieve the objective at hand. The Committee urges that more consideration be given to self-regulation and co-regulation tools.

1.5 All that should be needed to achieve the European Commission's objective of launching the Single Euro Payments Area in 2008 is to establish the legal basis for cross-border direct debits and to rework the requisite legal provisions set out under Title II (Payment service providers) and Title IV (Rights and obligations in relation to the provision and use of payment services) of the proposed directive (in relation, among other things, to the authorisation, revocability and refund of direct debits as set out in Title IV). This would make it possible to meet the 2008 launch date for the Single Euro Payments Area.

1.6 Not least in the light of the legal provisions already in place, the EESC feels that the principle of better regulation is only served by focusing on those areas that really do require regulatory action. Hence, in the interests of both providers and users of payment services, the basic premise of the proposed directive should be to promote and facilitate payments, not to hamper them by red tape that ultimately makes the systems more expensive and thus less acceptable to users.

1.7 The EESC would point to other issues arising in connection with the establishment of a single market in payment services, which it is not possible to resolve here. These include the security of electronic payments and related factors. The question of access to a current account, without which it is now virtually impossible to take part in economic life, is also becoming an increasingly important issue in the Member States.

1.8 The EESC recommends a series of specific changes to the proposal for a directive.

2. Content of the draft directive

2.1 The proposal for a directive is designed to establish a uniform legal framework for SEPA, the main purpose of which is to facilitate cross-border payments. The proposal seeks to harmonise the different legal provisions in place in the Member States so as to:

- enhance competition between national markets by creating a level playing field;
- increase market transparency for payment service providers and users; and
- standardise the rights and obligations of payment services providers and users.

The main provisions of the proposed directive are as follows:

2.2 *Right to provide payment services to the public (Title II)*

2.2.1 The harmonisation of market access requirements of non-credit institution payment service providers is designed to create a level playing field, instil more competition in national markets and reflect market developments in recent years, triggering market entry of a new generation of providers, i.e. payment institutions.

2.3 *Transparency and information requirements (Title III)*

2.3.1 Clear and consistent rules on transparency for payment services are intended to enhance competition by boosting user choice and protection. The European Commission is proposing information requirements for payment services to replace national rules.

2.4 *Rights and obligations of users and providers of payment services (Title IV)*

2.4.1 The proposal for a directive sets out the core rights and obligations of users and providers of payment services. The provisions are designed to make users more trustful of electronic payment systems and thus to secure the efficiency and acceptance of such systems.

3. General comments

3.1 The European Economic and Social Committee supports the objective of the draft directive to establish a Single Euro Payments Area, particularly for cross-border payment services. The establishment of a single market in payment services is long overdue and should, as planned, be launched in 2008.

3.2 The European Commission has selected a very broad-based approach to the rules in this area. Indeed, some of the rules go beyond the legal framework required for a Single Euro

Payments Area. This is particularly true since harmonised legal provisions are already in place for credit transfers (Directive 97/5/EC on cross-border credit transfers, Directive 2002/65/EC concerning the distance marketing of consumer financial services, and the E-money directive (2000/46/EC)).

3.3 Maintaining established, cost-effective and efficient procedures is no barrier to a Single Euro Payments Area. On the contrary, such procedures can be built upon as a conduit to standardisation, thereby safeguarding the level of security and efficiency that has already been achieved while at the same time making a high-calibre Single Euro Payments Area a reality through intelligent interface management. Guided by the principle of better regulation, the EESC advocates keeping the proposed provisions to the minimum required to improve payments within the European single market and urges that more consideration be given to self-regulation and co-regulation tools.

3.4 The EESC considers the Single Euro Payments Area to be a key prerequisite for transparent product development across Europe, with payment service providers free to compete with each other in a way that also benefits clients. Moreover, the EESC considers it important that consumers retain the existing freedom to use the payment instruments of their choice so that due account can be taken of customer preference.

3.5 One difficulty is access to payment systems by payment institutions that do not hold a banking licence. In the interests of fair competition, this requires a uniform level of prudential supervision. The fear otherwise is that competition will be distorted and that the operability and safety both of payment transactions and of payment service providers (e.g. bankruptcy) will be compromised.

3.6 The Committee recommends confining the proposed directive to the provisions — set out in Title II (Payment service providers) and Title IV (Rights and obligations in relation to the provision and use of payment services) — that are needed for any future European direct-debit scheme (in relation, among other things, to the authorisation, revocability and refund of direct debits). This should still make it possible both to adopt the directive and to transpose it into national law within the prescribed time frame so that the 2008 launch date for SEPA (including uniform conditions for payment service providers and SEPA Direct Debit) can be met.

3.7 The Committee very much welcomes the provisions of Article 79 of the proposal, under which, no later than two years after the directive is adopted, the Commission is to present an implementation report to the European Parliament, the Council and the European Economic and Social Committee.

4. Specific comments

4.1 The Committee would make the following specific comments about the proposal for a directive:

4.2 Article 2(1) — *Third-country transactions should not be included*

4.2.1 Article 2(1) includes within the geographical scope of the directive payments to and from countries outside the European Union and the European Economic Area (third countries). This goes considerably beyond the objective of establishing a uniform legal framework within the European single market. Moreover, this provision may well lie outside the EU's legislative remit and also raises difficulties in that the European legislator is in no position to ensure that corresponding provisions are adopted in third countries. It is therefore wholly inappropriate to impose (as Article 67 does) strict liability for the execution of the transaction in a third country on the payment service provider of the payer without corresponding rules being in place in the third country.

4.2.2 The Committee recommends that the scope of the directive be confined to payment services within the European single market.

4.3 Articles 5 et seq. — *A uniform level of prudential supervision is an essential element of fair competition*

4.3.1 The prudential requirements that apply to the market access of payment institutions that do not hold a banking licence (Articles 5 et seq.) should diverge from those that apply to the banking sector only insofar as a payment institute is not comparable with a fully licensed bank. The fear otherwise is that competition will be distorted to the detriment of banks and that the operability of payment systems will be severely compromised. Moreover, if payment institutes that do not hold a banking licence do not meet the same conditions as banks in terms of risk-based equity, managerial competence and reliability, business plans, and the organisation and ongoing supervision of business operations, including any necessary sanctions, then the imposition of a rule granting such institutes access to payment systems could also undermine the integrity and operability of the European direct-debit scheme currently in the pipeline. Above all, however, consumer confidence in SEPA would be perennially compromised without an appropriate level of prudential supervision. This also includes the question of bankruptcy protection and the necessary arrangements for holding client funds separately.

4.3.2 The EESC therefore feels it is essential that all payment institutions should be subject to the same prudential supervision requirements in relation to the risks and dangers of payment transactions and that appropriate supervisory bodies should be equipped with the requisite powers.

4.4 Articles 30 et seq. — *Information requirements must not be too formalised*

4.4.1 The EESC agrees with the Commission that clear and consistent transparency rules are of key importance for consu-

mers — and for the acceptance of SEPA. The information must be clear and easily understandable and must be presented in a readable form. Too varied and too frequent information may be counterproductive, however, and may make the situation less rather than more transparent. Moreover, private SEPA users need different information from commercial ones. The Commission also sows confusion — and generates extra costs — when it imposes different transparency requirements on similar cases. The Committee would draw particular attention in this regard to the distance marketing directive.

4.4.2 The selected approach to harmonisation — full harmonisation and mutual recognition — may well pose problems for consumers and consumer protection. The possibility cannot be discounted, for instance, that consumer protection standards will be lower than those already in place in individual Member States.

4.4.3 The provisions relating to the method of providing information under Article 30 should also be simplified. Particularly in cases where users are to be informed about changes in contractual conditions (Article 33) and about executed payments (Article 36) and received payments (Article 37), it should be possible, where this is the agreed custom, to retain the current practice — which is inexpensive for users — of making the information available via account statements or via online banking. It should also be possible to meet the information requirements using price tables or by posting the data on the internet. It should be stated in more explicit terms (Articles 31 und 37) that the prices of the various service elements covered by an aggregate fee need only be indicated separately to the client in cases where individual service elements involve separate and/or different product constellations.

4.4.4 For incoming and outgoing payments, it is important, from a user perspective, not only that a clear indication is given of both payer and payee, but also that the full payment reference data are included in the transfer details. This is the only way to secure fully automated referral for outstanding items and sums due.

4.5 Article 41, second sentence — *All kinds of authorisation must be permitted*

4.5.1 The EESC agrees with the Commission's approach whereby a payment transaction is to be considered as authorised only if the payer has consented to the payment order addressed to the payment service provider. Under the second sentence of Article 41, payers are required to give their consent by means of 'explicit' authorisation of 'a payment transaction or a series of transactions'. The wording here is unclear. To require an explicit authorisation for each and every direct debit within a contractual relationship would impose serious constraints on any efficient and cost-effective direct-debit scheme.

4.5.2 To ensure the continued use of what consumers too perceive to be tried-and-trusted, cost-effective procedures such as direct debits, the directive should be geared towards minimum coordination rather than any full harmonisation that brooks no exceptions.

4.6 *Article 48(2) and (3) — The burden of proof in cases of disputed payment transactions is not properly balance*

4.6.1 Consumers will not accept SEPA if, in cases of disputed authorisation, they are faced with insurmountable difficulties relating to evidence. The EESC backs the Commission's efforts to facilitate matters for users on this front.

4.6.2 That said, such an approach must not result in the payment service provider being blocked from producing any counterevidence in the case of gross abuse. Yet, Article 48(2) makes it impossible for, the payment service provider to bring forward evidence of gross negligence or even intent on the user's part. If, however, it is no longer possible to bring forward evidence that a payment service user did in fact act with gross negligence or even intent, then this too is nothing short of an invitation to disregard any normal safekeeping requirements and to abuse the system. A rule of this kind also very much limits the scope to offer certain electronic payment methods.

4.6.3 The EESC would advocate fair burden-sharing. The onus is thereby on the payment service provider to furnish evidence that the holder of the payment verification instrument did in fact order the payment. If, however, the payment was made using special security features incorporating recognised safeguards against improper use, then the *prima facie* evidence should stand, i.e. that the payment service user either authorised the payment himself or herself or has at least acted in a grossly negligent manner. Moreover, no undue limits should be placed on national courts' scope to consider the evidence, especially since Member States' civil procedure laws are not harmonised.

4.7 *Article 49 — Legal certainty must be established in the case of unauthorised payment transactions by introducing uniform cut-off periods for refunds*

4.7.1 In the explanatory memorandum to the proposal for a directive, the European Commission makes the point that payment systems are used in some 231 billion transactions within the Community each year. This fact alone makes clear the need, at a certain point, for legal certainty as to whether a transaction was authorised or not. In order to establish an appropriate degree of legal certainty, the refund claim by the payment service user in the case of unauthorised payment transactions should be time-limited. The time limit should be fair. The EESC considers a time limit of one year to be appropriate.

4.7.2 Under Article 45, payment service users are, rightly, required to check their account transactions regularly and to raise any objections against unauthorised payment transactions without undue delay. It is therefore a consistent and balanced move to limit the refund claims of payment service users in respect of unauthorised payments to one year. This would give both payment service providers and payment service users the requisite legal certainty that, on expiry of that period, the payment is considered final. A one-year period would also tie in with the record-keeping requirement under Article 44.

4.8 *Articles 49 and 50 — Liability allocation requires further consideration*

4.8.1 The EESC feels that liability must be allocated in an appropriate way between service provider and user. Only then will consumers use the payment service concerned and only then will payment service providers be able to offer the service at reasonable prices.

4.8.2 The strict liability of the payment service provider for unauthorised payments proposed under Article 49 makes sense, in the EESC's view, provided users handle their payment verification instrument with the requisite care and in compliance with the contractual requirements.

4.8.3 The EESC feels that, as provided for under Article 50, it is appropriate to limit to EUR 150 the liability of users who, despite having taken the requisite care, fail to notice the loss of the payment verification instrument but duly notify the loss the moment it comes to their attention. However, users who fail to notify the loss without undue delay, even though they are obliged to do so under Article 46, thereby also depriving the payment service provider of the opportunity to avert or limit any damage, should be given no special treatment, in terms of the liability they bear, to the detriment of those users who do exercise the requisite care.

4.9 *Article 53 — The refund period must be clearly fixed*

4.9.1 The period during which a refund may be claimed is a key feature of the European direct-debit scheme. It is essential that all those involved in the payment procedure are able to determine when, precisely, the period ends during which a refund may be claimed on authorised payments. There is no guarantee of this, however, as the first sentence of Article 53(1) states that the period begins once information has been provided to the payer, yet neither the payee nor his or her payment service provider knows when the payment service provider of the payer actually informed the payer of the payment transaction on his or her account.

4.9.2 The reason is that, in practice, the interval for providing bank account statements varies widely. Sometimes, statements are provided only every quarter, sometimes every week, and sometimes even on a daily basis. This is a question of user preference and cost. Depending on the frequency of the information provided, therefore, the refund period may, to take these examples, be three months plus four weeks, one week plus four weeks, or even one day plus four weeks. It is thus more or less impossible to determine when the payment becomes final. This would pose a virtually insoluble problem for — and seriously jeopardise — the European direct-debit scheme currently in the pipeline.

4.9.3 The EESC therefore proposes that, in line with Article 53(1), a four-week period should start when the customer is informed, but should end at all events eight weeks after the entry on the payer's account.

4.10 *Articles 60, 61 and 67 — A clear distinction must be made between the obligations of the payment service providers involved in executing the payment*

4.10.1 Articles 60, 61 and 67 indicate that the payment is deemed to have been executed once the amount is credited to the payee's account. This represents a break, for no apparent reason, with existing European law on credit transfers. It lumps together the contractual obligations of the payment service provider of the payer on the one hand, and the payment service provider of the payee on the other. The payment service provider of the payer would thus be subject to a requirement which is incumbent only on the payment service provider of the payee and which cannot be verified by the payment service provider of the payer.

4.10.2 The EESC therefore proposes retaining the principle governing payment rules currently enshrined under the European directive on credit transfers and applicable in a uniform manner across all the EU Member States. Under this principle, the payment service provider of the payer is responsible for the transaction until it reaches the payment service provider of the payee, while the payment service provider of the payee is responsible until the amount is credited to the payee's account.

4.11 *Articles 60, 61 and 67 — The execution periods must be practicable*

4.11.1 The EESC considers it essential that the execution periods be such that they represent a clear improvement on the present position, but that the technical implementation does not involve unreasonably high costs which would then make payments more expensive.

4.11.2 The execution periods of one banking business day provided for under Articles 60 and 61 (day on which the payment order is accepted plus one banking business day) could, under present circumstances, be too ambitious. Under the current European directive on cross-border credit transfers, the standard period is six banking business days (day on which the order is accepted plus five banking business days, plus one day for the funds to be credited = five days for the payment service provider of the payer to credit the payment service provider of the payee, plus one day for the payment service provider of the payee to credit the payee), although some deviation from these rules is possible. A number of regional and smaller payment service providers are indicating that they will be unable to meet this requirement. The planned (maximum) execution period (one day for the payment service provider of the payer to credit the payee) would be one sixth of the time frame permitted at the moment. According to payment service providers, the technical implementation of this rule would also involve unreasonably high costs, thus inevitably making payments more expensive. The European banking sector has entered into a voluntary commitment under the Credeuro Convention for a maximum execution period of three banking business days for euro payments, and a standard execution period of three banking business days for payments in other European currencies.

4.11.3 In the event that competitive disadvantages are suffered by regional and smaller payment service providers, the EESC recommends that an execution period of three days be set for an appropriate transitional period. This is not, however, to affect provision being made for shorter execution periods for purely national payment transactions (Article 64).

Brussels, 13 September 2006.

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 Regulation of the European Parliament and of the Council on the law applicable to contractual obligations (Rome I)

COM(2005) 650 final — 2005/0261 (COD)

(2006/C 318/10)

On 24 February 2006 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 July 2006. The rapporteur was **Mr Frank von Fürstenwerth**.

At its 429th plenary session, held on 13/14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 191 votes to one, with five abstentions:

1. Summary of EESC conclusions and recommendations

1.1 The European Economic and Social Committee welcomes the Commission's plan for a European regulation on conflict-of-law rules in the field of contractual obligations. The regulation will develop European conflict-of-law rules in a logical way and close a loophole in the current system of Community law. The regulation is useful and necessary for the development of a single European area of justice, since the 1980 Rome Convention ⁽¹⁾ that currently regulates this field is in need of modernisation but, as a multilateral agreement, the prospects of that happening are doubtful and would in any case involve time-consuming negotiations.

1.2 The Committee offers its encouragement to the Commission and urges it to complete its work as rapidly as possible, taking account of the proposals set out below, so that the regulation can enter into force.

1.3 The Committee welcomes the Commission's efforts to introduce full harmonisation so as to close the legislative gap that exists due to the absence of any European legal act applicable to the Member States in the field of conflict-of-law rules for contractual obligations. This will make matters much simpler for those applying the law, who, given that the regulation will be directly applicable in all Member States, can, in future, work on the basis of a single set of identical rules. The regulation is a necessary complement to the proposed Rome II regulation ⁽²⁾, which has reached an advanced stage in the legislative process. Together with the Rome II regulation, the present document will ensure that, for the first time, the EU has a (more or less) complete system of conflict-of-law rules on contractual obligations.

1.4 The Committee urges the Community legislative bodies to incorporate the following amendments:

- Article 3(1)(3) should be changed into a rule of interpretation,
- Article 3(3) should be amended so that a subsequent choice of the law applicable to consumer contracts may be made after a dispute has arisen,

- the introduction of less rigid rules than those set out in Article 4(1) on the law applicable to particularly circumstanced exceptional cases should be considered,
- with reference to Article 5, it should be checked whether and under what conditions the freedom to choose applicable law may also be granted in cases in which a company operates in the consumer's country or directs its activity to that country,
- Article 22(c) should be deleted.

Work on the regulation should be completed as rapidly as possible so that it can enter into force.

1.5 The Committee is pleased to note that Ireland intends to become a party to the regulation on a voluntary basis. It regrets that the regulation will not apply in the United Kingdom and Denmark, as the impact of harmonisation will not be felt as strongly as could otherwise have been the case. The Committee urges the Commission to use all possible means to bring about the application or adoption of the regulation in these two countries.

2. General comments

2.1 Grounds for the initiative

2.1.1 The regulation creates a unified set of conflict-of-law rules on contractual obligations in the EU. Admittedly, such a set of rules has to some extent already been in place since 1980, when the majority of western European states decided to conclude the Rome Convention. Other states subsequently acceded to the Convention. The vehicle of a multilateral convention was chosen because, at that time, the EC Treaty did not provide a legal basis for the adoption of an appropriate legal instrument by the Community. After over twenty-five years of applying the Convention, it is widely acknowledged as a real step forward, and the solutions which it provides remain broadly applicable today. However, revision and modernisation are needed to remedy certain acknowledged weaknesses. Given that the Rome Convention was a multilateral agreement, it can

⁽¹⁾ Rome Convention on the law applicable to contractual obligations, 19 June 1980. Current version: OJ C 27, 26.1.1998, p. 36.

⁽²⁾ COM(2006) 83 final, 2003/0168 (COD).

only be revised on the basis of a new round of negotiations, which would be time-consuming and uncertain in terms of outcome. However, this is no longer necessary as the TEC now includes a legal basis for a Community legal act in this area (Articles 61(c) and 65(b) of the TEC). To make it easier to apply the law, rules should be identical in all EU Member States. This means that the only possible legal instrument is a regulation.

2.1.2 In 2004 the Commission conducted a public hearing on the basis of a 2003 Green Paper ⁽³⁾. A large majority at the hearing were in favour of a regulation. The EESC ⁽⁴⁾ and the EP ⁽⁵⁾ have also spoken out in favour of modernising the Rome Convention and converting it into a European regulation.

2.2 The legislative background

2.2.1 The regulation should be seen in the context of the Commission's activities in the field of civil law and procedural civil law, which contribute to establishing a uniform European legal area and facilitating public access to the law. The Committee has on several occasions commented on a series of Commission proposals ⁽⁶⁾.

⁽³⁾ COM(2002) 654 final.

⁽⁴⁾ Opinion of the European Economic and Social Committee on the Green Paper on the conversion of the Rome Convention of 1980 on the law applicable to contractual obligations into a Community instrument and its modernisation. INT/176, 29.01.2004.

⁽⁵⁾ European Parliament Resolution on the prospects for approximating civil procedural law in the European Union (COM(2002) 654 — COM(2002) 746 — C5-0201/2003 — 2003/2087(INI)), A5-0041/2004.

⁽⁶⁾ The following examples should be mentioned:
 the adoption of the 1968 Brussels Convention in the form of a regulation; Council Regulation (EC) No 2001/44 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 12, 16.1.2001, p. 1, and the EESC opinion on the subject, OJ C 117, 26.4.2000, p. 6 (rapporteur: Mr Malosse),
 the Regulation creating a European enforcement order for uncontested claims, Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 143, 30.4.2004, p. 15, and the EESC opinion on the subject, OJ C 85, 8.4.2003, p. 1 (rapporteur: Mr Ravoet),
 the Regulation on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, Council Regulation (EC) No. 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, OJ L 160, 30.6.2000, p. 37, and the EESC opinion on the subject, OJ C 368, 20.12.1999, p. 47 (rapporteur: Mr Hernández Bataller),
 the Council Regulation on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L 174, 27.6.2001, p. 1, and the EESC opinion on the subject, OJ C 139, 11.5.2001, p. 10 (rapporteur: Mr Hernández Bataller),
 Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency procedures, Council Regulation (EC) No 1346/2002 of 29 May 2000 on insolvency procedures, OJ L 160, 30.6.2000, p. 1, and the EESC opinion on the subject, OJ C 75, 15.3.2000, p. 1 (rapporteur: Mr Ravoet),
 the Consumer Credit Directive, (COM(2002) 443 final of 11.9.2002). See the EESC opinion on the subject, OJ C 234, 30.9.2003, p. 1 (rapporteur: Mr Pegado Liz),
 the Council Directive on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29, and the EESC opinion on the subject, OJ No C 159, 17.6.1991, p. 35 (rapporteur: Mr Hilkens),
 Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation (COM(2002) 746 final), and the EESC opinion on the subject, OJ C 220, 16.09.2003, p. 5, (rapporteur: Dr von Fürstenwerth),
 Proposal for a Regulation of the European Parliament and of the Council creating a European order for payment procedure, and the EESC opinion on the subject, OJ C 221, 8.9.2006 (rapporteur: Mr Pegado Liz).

2.2.2 The initiative ties in particularly closely with the Commission's work on conflict of substantive laws, i.e. its proposal for the Rome II regulation. Rome II is complementary to Rome I and the two are entirely compatible.

2.3 Legal base/Subsidiarity/Proportionality/legal status

2.3.1 The regulation aims to harmonise conflict-of-law rules in the field of contractual obligations. The legal base for the harmonisation of conflict-of-law rules is Article 61(c) TEC, cf. Article 65(b) TEC. This means that the Commission is empowered to act where this is necessary for the smooth operation of the internal market. In the Committee's view this condition is met, as harmonising conflict-of-law rules will help to ensure equal treatment of economic operators in the Community in cross-border cases, increase legal certainty, simplify application of the law and thus promote willingness to enter into cross-border business. It also promotes the mutual recognition of legal acts by making it easier for nationals of other Member States to check that they are legally sound.

2.3.2 These objectives cannot be achieved through measures at the level of individual Member States, and they require EU action. EU action in this area is consistent with the subsidiarity and proportionality principles (Article 5 TEC).

2.4 The Commission has rightly chosen to use the form of a regulation, as, unlike a directive, it does not leave the Member States any room for manoeuvre in implementation; this would result in legal uncertainty, which should be avoided.

3. Specific comments

3.1 Material scope, application of third-country law (Articles 1, 2)

3.1.1 The regulation is intended to apply to contract law conflict rules in **civil and commercial matters** (Article 1(1)). The Commission could therefore use the terminology of Council Regulation (EC) No 44/2001 (Article 1), which is also used in the proposed Rome II regulation, as this is clearly defined. The exclusion of tax, customs and administrative matters follows logically. Although it is not necessary to mention it, there is no harm in doing so.

3.1.2 The regulation is not intended to cover the entire area of conflict between civil law systems, not even to the extent of making it applicable to individual cases, for example to the evaluation of a contract law case. The Commission is well advised not to aim too high and thereby make the project unwieldy. Thus, the **exclusion of questions involving the status or legal capacity of natural persons** (Article 1(2)(a)) is justified, as these matters are traditionally dealt with in conflict-of-law rules by means of separate instruments (so far, nearly always multilateral agreements ⁽⁷⁾) in view of their social implications. **The exclusion of obligations arising from family relations and maintenance, and from property, marriage, wills and successions** (Article 1(2) (b), (c)) is warranted for similar reasons, or should be dealt with in separate legal instruments.

3.1.3 The exclusion of obligations arising under the **bills of exchange or cheques** (Article 1(2)(d)), is justified by the fact that these matters are adequately dealt with in separate agreements ⁽⁸⁾, the scope of which extends beyond the Community and the continued existence of which should not be called into question.

3.1.4 The exclusion of **arbitration agreements and agreements on the choice of court** (Article 1(2)(e)) has to do with the fact that these matters are covered by international civil procedural law, as they can be better dealt with in this context and to some extent are also regulated in agreements whose applicability extends beyond the EU. The same arguments apply to **evidence and procedure** issues (Article 1(2)(h)).

3.1.5 The exclusion of **company and association law** matters and issues concerning legal persons in Article 1(2)(f) is unavoidable, as the issues in question are so closely bound up with the company statute as to require regulation in this context. **Trusts** are a specific feature of Anglo-American law. They were already excluded in the Rome Convention (Article 1(2)(g)), which the regulation rightly follows (Article 1(2)(g)).

3.1.6 The exclusion of **obligations arising out of a pre-contractual relationship** (Article 1(2)(i)) refers to matters of tort. These are part of the proposed Rome II regulation and their exclusion is therefore justified.

3.1.7 The Committee is pleased to note that **Ireland** intends to become a party to the regulation on a voluntary basis. It regrets that the **United Kingdom** has not decided to follow suit. In **Denmark** the regulation will not apply (Art. 1(3)) until an agreement on application is concluded by Denmark and the

⁽⁷⁾ Cf. the various Hague Conventions, for example the Convention relating to the settlement of the conflict of the laws concerning marriage of 12.6.1902, the Convention on the law applicable to maintenance obligations towards children of 24.10.1956, the Convention on the law applicable to maintenance obligations of 2.10.1973, etc.

⁽⁸⁾ The Geneva Convention providing a uniform law for bills of exchange and promissory notes of 7 June 1930 and the Geneva Convention providing a uniform law for cheques of 19 March 1931.

Community or until Denmark voluntarily transposes it into national law. The Committee urges the Commission to use all possible means to bring about the application or adoption of the regulation in these two countries. Opting out by individual Member States would undermine the objective of Europe-wide harmonisation of conflict-of-law rules which the regulation is intended to achieve. It would be unfortunate if the Rome Convention continued to apply to those countries as there will be discrepancies between the Rome Convention and the Rome I regulation. This might mean that, depending on the location of the court before which a case is heard — a matter which, despite the Brussels and Lugano Conventions and Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments (the Brussels I regulation) is still somewhat arbitrary — the same case could produce different judgements. Such a state of affairs would be difficult to accept in the Community.

3.1.8 The regulation requires the specified law to be applied, whether it is the law of a **Member State** or that of a **third country** (Article 2). In so doing it follows a recognised standard in conflict of laws, which prohibits discrimination against other systems of law. The Committee endorses this approach. If the circumstances of a case require that a system of law be applied, it makes no difference whether or not it is that of a Member State.

3.2 General rules on applicable law (Articles 3, 4)

3.2.1 Article 3(1) declares that in principle it is the law chosen by the parties which applies. The Committee welcomes this provision, which reflects the principle of **contractual freedom**, which is a basic principle of contract law and ties in with the acknowledged standard of private international law. It is broadly consistent with the provisions of Article 3(1) of the Rome Convention, which are generally felt to be appropriate. The Committee endorses this approach. However, it sees a risk that, when applying this standard in practice, courts could attempt to establish a hypothetical will of the parties without adequate evidence to support it. Such a risk should be ruled out and this point should ideally be clarified in the recitals (No 7). Article 3(3) puts such emphasis on the freedom of choice of applicable law that the parties may choose a different law at any time. Although the Committee welcomes this in principle, it feels that there is a potential threat to the protection of consumers, who might be unable to fully anticipate the consequences of such a step. The Committee suggests that such subsequent changes in the law chosen to apply to consumer contracts should — in line with the rule on agreements on the choice of jurisdiction (Article 17(1), Brussels I regulation) — only be allowed after a dispute has arisen, as the consumer will then be on the alert and will act more cautiously.

3.2.2 On the basis of the parties' agreement on the **choice of courts**, the third sentence of Article 3(1) **presumes** that they have chosen the **law of the Member State in which the court is situated** (unless they have explicitly chosen a different law). This provision reflects an endeavour to align forum and law. Alignment usually makes it simpler to pass judgment. However, the Committee has its doubts as to whether such strict wording of the rule would not interfere with the intention of the parties. It would be better to tone down and re-word the rule so that it simply guides interpretation of the second sentence, for example as follows:

'In particular, this choice should take account of the court chosen by the parties.'

3.2.3 The Committee would like to discuss one aspect in greater depth, as it is of central importance for the future of the European legal area, i.e. the possible creation of an **'optional instrument' or 26th regime** by the European Community. This would mean that the parties could opt for Community civil law, an idea which is currently under discussion. Work has begun on a Common Frame of Reference (CFR), which could represent a first step in this direction. Article 3(2) includes a clause which gives parties the option of such supranational rules. At present this possibility is not straightforward in private international law, and the Committee therefore strongly welcomes this development. This would for the first time allow parties to use European standard contracts, which to a large extent would be genuinely harmonised and would represent a significant step towards completion of the Internal Market ⁽⁹⁾.

3.2.4 Article 4(1) includes **rules on the law applicable** to a variety of contracts; in terms of content, these amplify the provisions of Article 4(2) of the regulation, which are taken from the Rome Convention. Under the Rome Convention, these rules could only have been derived by interpreting Article 4(2). Although the Commission's proposed rules can be seen as ensuring greater legal certainty, this happens at the price of rigidity and inflexibility, barring any exceptions even when individual circumstances may warrant them. The Committee is concerned that this is a retrograde step relative to the Rome Convention which could have negative repercussions, as cases are conceivable in which the rigid rules on the applicable law could, exceptionally, result in an inappropriate solution. In such exceptional cases, the option for judges to apply a more appropriate law might possibly lead to a more satisfactory outcome. Admittedly, if the goal of legal certainty and predictability in terms of the applicable law is to be met, such waivers cannot

⁽⁹⁾ If an **optional instrument/26th regime** ever comes into being, this would then claim to be the best of all possible systems of civil law. If it were agreed to apply this instrument rather than a national system of law, there would logically no longer be any need to align it with national laws or allow interference on the grounds of national mandatory rules (or even public policy considerations — Article 20). Instead, choice of the optional instrument would lead to a fully unrestricted application of this set of rules, as it would represent the generally acknowledged standard in the EU. As Article 3(2) already allows in principle for the choice of such an instrument, this would also be the logical place to create the conditions enabling the benefits of the optional instrument to be put into practice. It should be explicitly stated that Article 8 is without effect if it is agreed to apply a supranational system of law (the same applies to public policy — Article 20).

under any circumstance be allowed to result in judges invoking the applicable law in an arbitrary way; they will therefore have to give very careful consideration and deliver a very solidly reasoned judgement. With this in mind, the Committee suggests considering an amendment to the regulation.

3.2.5 The Committee understands what the Commission is trying to achieve in Article 4(1)(f). However, it would point out that, because of the grounds on which they are substantiated, many **industrial property rights** are assignable under conditions that differ from those provided for under the law of the rightholder's country of habitual residence. As Article 4(1) does not establish applicability of the law of the **place of habitual residence in substantiating the legal relationship**, a change in the applicable law due to a subsequent change in the rightholder's country of habitual residence would raise difficulties in such cases in relation to the legal basis of property rights. The Committee recommends that the Commission look into this problem and propose an appropriate solution.

3.3 Specific rules on applicable law (Articles 5-17)

3.3.1 The Rome Convention rules on **consumer contracts** have often been criticized and there have been numerous calls for their revision; Article 5 is a thorough re-working. The Committee feels that the Commission has taken a step in the right direction, as the complex application of two different sets of laws to the same case required by Article 5 of the Rome Convention will be avoided in future. There is no doubt that a consumer who signs contracts with a person who pursues a trade or profession needs protection, including in the area of conflict-of-law rules. In most cases, this is ensured by applying the **law of the Member State in which the consumer has his habitual residence** (Article 5(1)), as this is the law which consumers know (best), the language of which they can speak and on which it is easiest to obtain professional advice. In addition, the proposed text stipulates that the activity of the company must have been directed to or conducted in the country in which the consumer has his habitual residence. Professionals tend to prefer application of home-country rules, as this is more convenient for them; the Commission's proposal serves their interests by allowing this in other cases, in line with the Rome Convention. However, the Committee wonders whether it is really necessary to deprive the parties to consumer contracts within the meaning of paragraph 2 of any possibility of choosing applicable law. In the Committee's view, it is much more likely that consumers would also benefit from the possibility of choosing the applicable law, at least provided that certain protective measures are in place, which they — as the less experienced and weaker party to the contract — undeniably need. The Committee therefore recommends that the Commission review these provisions once again with the above in mind.

3.3.2 The provisions for **employment contracts** (Article 6) reflect the fact that employees are in particular need of protection. These provisions are taken from Article 6 of the Rome Convention, with additional provisions to duly reflect developments in the field of dependent employment. The addition of the words 'or from which' is a change arising from ECJ case law

relating to Article 18 of the Brussels Convention. However, in the absence of a precise definition in the regulation itself or of clarification in the recitals, the Committee is unclear as to what constitutes 'temporary' work in another country (Article 6(2)(a)). It is vital to put this right, as the 'temporary' nature of employment is of particular relevance to the rule for determining the applicable law. Nor can this shortcoming be remedied by falling back on Article 2 of the directive on posting workers⁽¹⁰⁾, as this does not contain a precise definition either. Moreover, the Committee finds it difficult to understand why a provision is needed for 'territory subject to no national sovereignty' (Article 6(2)(b)). Perhaps this refers to drilling platforms in international waters. This should at least be clarified in the explanatory memorandum.

3.3.3 Article 7 deals with **representation in legal transactions**, an area which is only partially regulated in the Rome Convention, and does not include the legal relationship between agents and third parties. Closure of this loophole is timely (Article 7(2)). It is difficult to answer the question of which law should be applied here as the interests of both agents and third parties are concerned. In cases of agents exceeding their authority or acting without authority, third parties are usually more in need of protection. The proposed text aims to strike a balance between the interests of both sides and therefore meets with the Committee's approval.

3.3.4 The issue of **mandatory rules** is a difficult one; where possible, the results of the choice of law by the parties should not be impeded more than absolutely necessary, and application should not be hindered by rules which are extraneous to the governing law. Article 8 is broadly consistent with Article 7(2) of the Rome Convention. The regulation takes into account relevant EC case law⁽¹¹⁾ in defining mandatory rules and making them applicable. For those applying the law, such cases are associated with the difficulty that there is no longer a uniform basis for assessing a case, and that non-harmonised or even contradictory rules are supposed to be applied and brought in line with one another. This is time-consuming, technically complicated and results in greater legal uncertainty. However, given the situation with regard to alignment of national laws, the Committee does not feel that there is any alternative, especially seeing that even legal theorists are overwhelmingly in favour of applying such rules in conflict-of-law cases.

3.3.5 On the whole, the remaining Articles 10–17 present few problems in the Committee's view and no detailed comments are necessary, especially when they simply take over the provisions of the Rome Convention.

3.3.6 Given the growing frequency of distance contracts, Article 10 (**formal validity** of the contract) meets the need for simpler rules on formal validity of contracts or unilateral acts by introducing additional rules on the applicable law.

⁽¹⁰⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

⁽¹¹⁾ Cases C-369/96 and C-374/96 of 23.11.1999.

3.3.7 **Voluntary assignment and contractual subrogation of the creditor's rights** from the creditor to a third party discharging the debt, which is a feature of many systems of law, serve the same purpose in economic terms⁽¹²⁾. The proposed text does well to deal with both in Article 13. Article 13(3) introduces a new conflict-of-law rule on the question of which law should determine whether the assignment may be relied on against third parties. This rule rightly follows the solution adopted by the United Nations Convention on the assignment of receivables in international trade of 12 December 2001.

3.3.8 Article 14 includes a conflict-of-law rule for a **statutory subrogation**, which is a feature of most systems of law. A conflict-of-law rule is therefore necessary. Article 15 completes Article 14 with a conflict-of-law rule on **joint liability of multiple debtors** in the case of statutory subrogation. Although it would have made sense to combine this with Article 14 in a single rule, no change is needed here.

3.4 Other provisions/final provisions (Articles 18 — 24)

3.4.1 The matters dealt with in Chapters III and IV are predominantly technical rules consistent with general standards in conflict of laws and require no detailed comment. This applies in particular to Article 19 (Exclusion of *renvoi*), which is consistent with Article 15 of the Rome Convention, Article 21 (States with more than one legal system), which is consistent with Article 19 of the Rome Convention, Article 20 (Public policy), which is consistent with Article 16 of the Rome Convention and Article 23 (Relationship with existing international conventions), which is consistent with Article 21 of the Rome Convention.

3.4.2 The **habitual place of residence** (Article 18) of a person plays a central role in current private international law when determining the applicable law. Although determining the habitual place of residence of a natural person is unproblematic, doubts may arise in relation to legal persons. The regulation disposes of such doubts in an appropriate way by declaring the main place of business to be the decisive criterion. It would not have been appropriate to model this provision on Article 60 of Council Regulation (EC) No 44/2001, as this regulation generally takes the place of permanent residence rather than that of habitual residence as the criterion, and also as the threefold solution adopted there would have meant less legal certainty.

3.4.3 Sub-paragraph (c) of Article 22 is difficult to understand. What it seems to be stipulating is that Community **legal acts adopted at a later stage** may include **conflict-of-law rules of their own**, which could override application of the regulation. However, existing achievements in harmonising private international law should be preserved in future. Dispersal of legal sources with substantively divergent rules is to be avoided. If the need for special rules should arise in future, they should be integrated into the regulation.

The Committee suggests deleting sub-paragraph (c).

⁽¹²⁾ Note: this is only clear from the French language version of the proposal; incomprehensibly, in the German language version it has not been translated, as German law lacks an equivalent legal instrument. However, for the sake of completeness it should at least be paraphrased.

3.5 Annex I

3.5.1 The third and fourth items listed in the Annex are the 'second non-life insurance Directive' and the 'second life assurance Directive'. Apart from the fact that the latter directive has been repealed and that presumably the intended reference is to the life assurance Directive ⁽¹³⁾ which replaced it, both of these bullet points cause problems, although the Committee would not go so far as to call for their deletion. However, it would definitely draw the Commission's attention to the major problems to which the proposal gives rise. A golden opportunity to simplify and harmonise conflict-of-law rules and to solve problems in the relevant area is being squandered as a result. Used in conjunction with Article 22 (a), the third and fourth bullet points of Annex I would mean that the regulation could not be applied to conflict of laws on direct insurance contracts ⁽¹⁴⁾ covering risks located within the EU, as this is regulated by these two directives.

3.5.2 However, conflict-of-law rules on insurance contracts covering risks located outside the EU, on insurance of risks inside the EU (although only if contracts are concluded with a non-EU insurance company) and on re-insurance contracts are very much within the scope of the regulation. This would perpetuate a situation which has already led to confusion on the part of those applying the law ⁽¹⁵⁾. Since enactment of the insurance directives, the conflict-of-law rules for insurance contracts differ from general conflict-of-law rules for contracts (Article 1(3) of the Rome Convention), even though insurance contracts also entail contractual obligations. There were no objective reasons for drawing this distinction, other than that at the time of concluding the Rome Convention work had not yet begun on the second generation of insurance directives, and it was decided to wait and see what kind of regulatory framework would emerge before determining the conflict-of-law rules ⁽¹⁶⁾. However, this reason no longer applies.

3.5.3 Private international law rules were at odds with the directives, which are influenced by regulatory law. Without

specialist knowledge, lawyers applying the law would not expect to find them. The division between various cross-cutting and sector-specific legal sources complicates private international law on insurance. For the sake of legal consistency, a comprehensive approach superseding special rules would be desirable.

3.5.4 There is no point in incorporating the private international law of the directives in the Rome I regulation without substantive changes, as it would maintain different rules for insurance contracts with risks located inside and outside the EU without good reason. This cannot be justified by reference to regulatory law. Insurance companies are regulated according to the country of establishment principle, which in any case tends to lead to a discrepancy between regulation and risk location for cross-border operations. The situation for insurance contracts covering risks inside and outside the EU is not the same. It makes sense to bring insurance contracts covering risks located inside the EU within the scope of the regulation's general rules on applicable laws. Due to the introduction of rules on the choice of law by the regulation, the insurance sector and its clients in the non-consumer segment would in future benefit from enhanced choice-of-law options. An intelligent choice of law from the contract law perspective would make it possible to offer identical products throughout Europe, obviating much of the necessity to develop separate products. In the past, problems in this area have deterred insurance companies from making much use of the freedom to provide services for anything less than coverage of major risks. In terms of choice of law, only consumers are in general need of protection, including in the area of insurance. Compared to them, businesses and the self-employed enjoy a lesser degree of protection, but do not have full freedom in choice of law, and do not require any special protection. They have sufficient business experience to understand the risks which they are taking in operating outside their home country's system of law or to recognise when they need legal advice.

Brussels, 13 September 2006.

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

⁽¹³⁾ Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, OJ. L 345, 19.12.2002, 1.

⁽¹⁴⁾ In distinction to re-insurance contracts.

⁽¹⁵⁾ At present, the situation is as follows: according to Article 1(3) of the Rome Convention, insurance contracts are excluded from the scope of the Convention, provided that they are direct insurance contracts, but only if the risk is located in the EU. When this happens cannot be deduced from the Rome Convention itself, but from the insurance directives. However, the Rome Convention applies to re-insurance contracts and to risks located outside the EU.

⁽¹⁶⁾ *Giuliano/Lagarde*, Rome Convention on the law applicable to contractual obligations, OJ C 282, 31.10.1980, p. 13.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions and on access to vehicle repair information, amending Directive 72/306/EEC and Directive .../.../EC

[COM(2005) 683 final — 2005/0282 (COD)]

(2006/C 318/11)

On 31 January 2006 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 12 July 2006. The rapporteur was **Mr Ranocchiari**.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 180 votes to three, with 11 abstentions.

1. Conclusions and recommendations

1.1 The EESC agrees that it was necessary to promote the continued improvement of car emission levels by means of legislation, gradually introducing increasingly ambitious objectives. It therefore welcomes the Commission's proposal, which marks a further step in this direction.

1.2 The EESC also endorses the Commission's decision to opt for a regulation rather than a directive and its choice of legislative procedure, which provides for a co-decision-based regulation, supplemented by a comitology-procedure regulation for the more technical aspects, drawn up with the assistance of a regulatory committee.

1.3 The Committee must nevertheless point out that the draft regulation in its current form poses considerable problems for the industry and for the Member State government departments responsible for vehicle type approval and registration.

1.3.1 In particular the EESC recommends changing the dates of entry into force of the new rules contained in the proposed regulation to 1 January 2010 (for the type approval of new types of car) and 1 January 2011 (for new registrations) or, alternatively, 36 months and 48 months after the publication of the new regulations in the EU Official Journal. The EESC also recommends maintaining a further period of one year for class II and III N1 vehicles ⁽¹⁾.

1.3.2 The EESC agrees with the limits proposed for vehicles with diesel engines. It has doubts, however, as to the need to further tighten the limits for vehicles with engines running on petrol or gaseous fuels.

⁽¹⁾ Category N vehicles are goods vehicles with at least four wheels. They are divided into three classes: N1, N2 and N3, on the basis of maximum weight: N1 < 3 500kg; N2 < 12 000kg; N3 > 12 000kg. The N1 class is also subdivided into 3 subclasses: NI, NII and NIII, also on the basis of weight.

1.3.3 The EESC believes that the exemption enabling certain M1 passenger vehicles ⁽²⁾ that perform specific functions or are used for work (e.g. minibuses) to be approved in accordance with the limits laid down for light commercial vehicles (N1) should be preserved. It therefore asks the Commission to provide a more precise and restricted definition for such vehicles than that given in the current directive.

1.3.4 The EESC recommends that the proposed regulation not contain rules that would be better covered by other regulations or directives already in force.

1.3.5 Lastly, the EESC asks the Commission to revise those points in the proposed text that could give rise to administrative uncertainties, by making full use of the support of national experts who deal with problems relating to the type approval and registration of motor vehicles on a day to day basis.

2. Reasons and legislative context

2.1 Until now, emissions from cars (M1 vehicles) and light commercial vehicles (N1 vehicles) have been regulated by Directive 70/220/EEC and subsequent amendments. The most recent updates, commonly referred to as Euro 4 ⁽³⁾, came into force on 1 January 2005 (new vehicle types) and 1 January 2006 (new registrations) respectively.

⁽²⁾ Category M covers passenger vehicles with at least four wheels. They are divided into three classes (M1, M2, M3) based on the number of seats and their maximum weight: M1 < 9 seats; M2 > 9 seats and < 5 000kg; M3 > 9 seats and < 5 000kg.

⁽³⁾ OJ L 350 of 28.12.1998, Directive 1998/69/EC.

2.2 The present proposal provides for a tightening of the rules on motor vehicle emissions, by adopting a regulation to replace the current directive. The reason for this choice of legal instrument is that the regulation and thus its objectives will be directly applicable in the Member States without having to be transposed into national law as would have been the case for a directive. The existing directives are repealed.

2.3 The Commission proposes a two-pronged legislative approach:

- a) a regulation of the European Parliament and the Council, defining general principles, will be approved by means of the co-decision procedure ('co-decision proposal');
- b) a regulation defining technical specifications will be adopted by the Commission with the assistance of the Committee on adaptation to technical progress ('comitology proposal').

2.4 In addition, an economic impact assessment of the proposed regulation has been published, including estimates of the costs of the measures to be taken to bring vehicles into conformity with the reduced emission levels planned.

3. Content of the proposal

3.1 The draft regulation, referred to in Community jargon as 'Euro 5', applies to cars and light commercial vehicles fuelled by petrol, natural gas, LPG and diesel. It establishes limit values for emissions of pollutants originally considered by the Commission to be a priority, such as particulate matter (PM), nitrogen oxides (NO_x), carbon monoxide (CO) and hydrocarbons (HC).

3.2 More specifically, the proposal imposes the following restrictions on the tailpipe emissions of positive ignition (petrol and gaseous fuels) and diesel vehicles:

- A 25 % reduction in NO_x and HC is proposed for engines fuelled by petrol and gaseous fuels.
- An 80 % reduction in particulate emissions is proposed for engines fuelled by diesel, requiring the installation of diesel particulate filters (DPF). A 20 % reduction in NO_x emissions is also planned.
- The Commission supplements its proposals on tailpipe emission limits with rules on the durability of emission testing systems, in-use compliance checks, on-board diagnostics (OBD), evaporative emissions, idling speed emissions, crankcase emissions, smoke opacity, and fuel consumption measurement.

3.3 Lastly, the Commission provides for measures relating to access to vehicle repair information for operators working outside the network of authorised dealers. It is proposed that this information should be more accessible via web sites, in a standardised format developed by an international technical committee (OASIS standard⁽⁴⁾).

3.4 The Commission proposes that the regulation should take effect:

- as of 18 months and 36 months after publication in the EU Official Journal for new models and for all newly registered vehicles (class I passenger cars and light commercial vehicles) respectively,
- as of 30 months and 48 months for new models and for all newly registered vehicles (class II and III light commercial vehicles) respectively,
- this would mean the possible introduction of the proposed new standards for passenger vehicles as of the first half of 2008.

4. General comments

4.1 The EESC welcomes the Commission's decision to opt for a regulation rather than a directive. As a result, as it is not necessary to transpose the regulation into national law, it will become immediately and simultaneously applicable in all the Member States.

4.2 The EESC endorses the new two-stream legislative procedure, while stressing the need for the two regulations — one the product of co-decision, the other of comitology — to be published in the Official Journal simultaneously. The industry needs both pieces of legislation in order to complete the engineering of technical devices to meet the new standards.

4.3 The EESC welcomes the plan to introduce tighter limits on diesel emissions.

4.4 The EESC recognises that technology to reduce the particulate (PM) emissions of vehicles with diesel engines is now available and that the proposed limit values will require its generalised use.

4.5 The Committee does, however, have considerable concerns regarding the proposed regulation's economic impact assessment:

⁽⁴⁾ OASIS, Organisation for the Advancement of Structured Information Standards.

- first, in striking contrast to the working methods of the CAFE programme ⁽⁵⁾ (Clean Air for Europe), none of the results obtained by the models used for assessing the cost-benefit ratios of the measures to be taken in the various sectors causing air pollution have been made available in the way suggested by CARS 21 ⁽⁶⁾;
- the economic impact assessment refers only to the additional costs generated by the entry into force of the new limits on car emissions and the corresponding reduction in pollutants emitted in tonnes/year. It does not therefore allow for any comparative assessment of the cost-benefit of measures that could be implemented in other sectors, using the CAFE models;
- the figures for the 'Euro 5' scenario proposed by the Regulation, which were estimated by the group of independent experts ⁽⁷⁾ chosen by DG Enterprise for that purpose, have been cut by 33 % to take into account the economies of scale arising from the increased volume of production, without any explanation for the choice of percentage ⁽⁸⁾;
- more specifically, the group of independent experts' estimates of the cost of measures to be taken on vehicles to bring them into line with the various emission-reducing scenarios already include a 30 % reduction in the price of precious metals. Precious metals are one of the key elements in post-processing systems for exhaust gases and their market value has a major influence on the cost of such systems. The above hypothesis is not justified by the fact that over the last five years the price of platinum has risen steadily.

4.6 The EESC also has concerns regarding the dates of implementation of the regulation:

- the 18-month period following the entry into force of the new regulation is not sufficient, as it takes at least three years to bring into production a known technology that has not yet been applied to specific models,

⁽⁵⁾ CAFE — Clean Air for Europe. This programme was launched by Communication COM(2001)245. It is designed to develop an analytical strategy for assessing directives on air quality, the effectiveness of programmes running in the Member States, ongoing monitoring of air quality and the dissemination of information to the public, the revision and updating of emissions limits and the development of new monitoring and modelling systems.

⁽⁶⁾ CARS 21 — Competitive Automotive Regulatory System for the 21st Century. This is a group of experts made up of representatives of the Commission, the European Parliament, the Member States, industry, trade unions, NGOs and consumers. Its task is to make recommendations for improving the competitiveness of the European automobile industry, while giving consideration to the relevant socio-environmental aspects.

⁽⁷⁾ At the meeting of the Motor Vehicle Emissions Group (December 2005), DG Enterprise handed out the document produced by the group of independent experts, which set out the results of the analysis carried out on the technology/cost ratio for vehicles falling within Euro 5.

⁽⁸⁾ SEC(2005) 1745, Impact Assessment for the present draft regulation, §6.2. Scenarios of the Regulatory Approach, Table 1 — Scenario G, p. 13.

- the draft regulation should either confirm 1 January 2010 as the date of entry into force of the new requirements for the approval of new types of vehicle or impose a 36-month period from the date the regulation is published, subject to clarification of the limit values and testing protocols,
- the industry has planned, in agreement with its suppliers, to introduce the Euro 5 standards by 2010/2011, as was clearly indicated in the Commission's communication on fiscal incentives in January 2005 ⁽⁹⁾. Changes to the various models and related production processes have already been planned, the deadline for introducing Euro 5 is already very tight and the timetable cannot therefore be made any tighter.

4.7 Lastly, in Article 5(4) the Commission sets specific requirements for type approval, without providing any further guidelines or instructions. The EESC is concerned that the absence of such instructions makes it impossible to assess the real impact of the proposal on vehicle engineering and the environment.

5. Specific comments

5.1 In Annex 1, Table 1 of the draft regulation, Euro 5 limit values are given for HC and NO_x emissions from positive ignition petrol-fuelled vehicles. There is a 25 % reduction, taking HCs to 75mg/km and NO_x to 60mg/km. However, there is no justification for this reduction of the Euro 4 limit values in the results obtained by the Auto Oil II programme on air quality, and neither the CAFE analysis nor the Thematic Strategy on Air Pollution document ⁽¹⁰⁾ envisages an NO_x or HC level reduction scenario for these vehicles.

5.2 As far as the CAFE results are concerned, the EESC concludes that in terms of benefits to air quality there is no clear justification for the measures set out in the draft regulation as regards:

- NO_x limit values: the proposed reduction would place an additional obstacle in the way of cutting fuel consumption and thus CO₂ emissions from petrol-fuelled cars, which is the greatest challenge facing industry today. Meanwhile, the environmental benefits would be completely negligible given that, according to CAFE data, petrol-fuelled vehicles account for only 4 % of total NO_x emissions from vehicle transport ⁽¹¹⁾;

⁽⁹⁾ SEC(2005) 43, Commission Staff Working Paper, Fiscal incentives for motor vehicles in advance of Euro 5.

⁽¹⁰⁾ COM(2005) 446 final.

⁽¹¹⁾ Information available on the IISA, International Institute for Applied Systems Analysis, website.

— HC limit values: the new limit proposed would prove an insurmountable obstacle to vehicles that run on natural gas, which offer considerable environmental benefits. 90 % of these vehicles' HC emissions consist of methane, a gas that is well-known for being stable and non-pollutive and is also void of aromatic hydrocarbons; the CO₂ emissions of these vehicles are 20-25 % lower than those of petrol fuelled vehicles. If the 25 % reduction in HC fuels introduced by the regulation were to be confirmed, it would no longer be possible to produce and market natural gas-run vehicles, which would have a negative impact on CO₂ emissions. This would also run counter to the substitution objectives set by the Commission in its communication on alternative fuels ⁽¹²⁾.

5.3 The Commission proposal does away with the exemption enabling M1 passenger vehicles with a weight of over 2.5 tonnes (but under 3.5 tonnes) to be type approved in line with the limits for light commercial vehicles (N1).

5.3.1 The EESC believes that a distinction should be drawn between heavy vehicles designed to perform specific tasks and those often bought as a fashion statement and for mounting kerbstones in big cities. Examples of the former include:

- vehicles designed to carry seven or more passengers: these vehicles perform a local transport function (e.g. minibuses, shuttles, campervans and vehicles designed for specific purposes, such as ambulances). The ability to seat a large number of passengers and the greater load-carrying capacity imply the design of a heavier, taller and wider vehicle with a specific gear box and thus slightly higher emissions;
- off-road vehicles, with a maximum weight of over 2.5 tonnes: these vehicles are essential work tools for rural communities, as well as for the emergency services and public utility organisations, and have many other important functions, including military purposes. For this reason, their specific needs are taken into consideration by various legislative systems and they should continue to benefit from special treatment;
- production volumes in these two market segments are extremely small and their emissions account for a negligible share of total motor-vehicle emissions. Their impact on air quality is therefore negligible providing the rules for light commercial vehicles are applied.

5.3.2 The EESC does not agree with the Commission that the conditions no longer apply to justify M1 category vehicles weighing over 2.5 tonnes being type approved within the limits intended for light commercial vehicles. The Committee does however accept the need to define more clearly which vehicles can benefit from the exemption.

5.3.3 The indiscriminate removal of the exemption for all heavy M1 vehicles would lead to a switch to petrol engines,

⁽¹²⁾ COM(2001) 547 final, whose objective for replacing traditional fuels with natural gas was set at 5 % by 2015 and 10 % by 2020.

with a corresponding increase in fuel consumption and thus CO₂ emissions.

5.4 The EESC agrees with the Commission that access to vehicle repair information and effective competition in the market for vehicle repair and information services are necessary to facilitate the free movement of vehicles in the internal market. This has been confirmed in Regulation 1400/2002/EC on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector as well as in Directives 98/69/EC and 2002/80/EC and elsewhere.

5.4.1 Nevertheless, the EESC would point out that it is necessary to provide unrestricted and standardised access to vehicle repair information, since, in practice, vehicle manufacturers tend to spread this information across different media and documentation structures. It causes considerable barriers to independent multi-brand aftermarket operators, especially small enterprises that predominate on the independent repair market in the EU. Therefore, the EESC supports the Commission proposal to include in the regulation a requirement that vehicle repair information also be available through websites in a standardised format.

6. Comments and specific recommendations

6.1 The draft regulation makes a number of references to future Directive XXX/XX/EC. As this directive will modify the Framework Directive on type approval, it would be preferable to indicate clearly that the reference is to the 'Framework Directive on type approval 70/156/EEC, as modified by Directive XXXX/XX/CE'.

6.2 The 13th recital introduces the requirements for a standardised method of measuring fuel consumption and for customers and users to have access to objective and precise information. However, these are already binding requirements under Directive 1999/94/EC and it is therefore quite unnecessary to mention them again.

6.3 The EESC would point out that the text of Article 2(1), Article 4(1) and Article 5 of the draft regulation is unclear. More specifically:

6.3.1 Article 2(1) lists the motor vehicles concerned by the regulation. Article 4(1) and Article 5 then appear to require that all vehicle models covered by the regulation (i.e. those listed in Article 2) comply with the following long list of requirements: tailpipe emissions; low ambient temperature emissions; evaporative emissions; on-board diagnostic (OBD) systems; durability and anti-pollution devices; emissions at idling speed; crankcase emissions; CO₂ emissions and fuel consumption; smoke opacity.

6.3.2 The above would however involve an unjustified increase in the number of tests to be conducted at the type approval stage. For instance, measuring emissions at idling speed or evaporative emissions for a diesel vehicle is totally unnecessary. It would be less ambiguous and more appropriate to use the table proposed in Directive 70/220/EEC ⁽¹³⁾, Annex I, Figure 1.5.2.

6.4 The EESC would point out lastly that the scope of the regulation is not clear in the case of category M vehicles (passenger vehicles) with positive ignition engines, with the exception of those running on NG and LPG. Articles 4 and 5 of the regulation seem to extend the entire set of requirements to M2 and M3 category vehicles, whereas, in the past, M vehicles weighing more than 3.5 tonnes (which are extremely rare in Europe) had only to comply with requirements on idling speed and crankcase emissions.

6.5 Article 4(3) underlines the manufacturer's obligation to provide the buyer with technical information on vehicle emissions and consumption. As this obligation is already laid down in Directive 1999/94/EC, as modified by Directive 2003/77/EC, this paragraph is redundant.

6.6 Article 10 deals with the type approval of non-original replacement components. It bans the sale and installation of replacement catalytic converters unless they are of a type that has been approved within the meaning of the regulation. It is not clear whether the Commission intends to limit the use of such converters to vehicles registered before 1992 (and thus to pre-OBD vehicles), ruling them out for more recent vehicles. Furthermore, the need for type approval should be extended to any other non-original components of emission control systems, such as particulate filters.

6.7 Article 11(2) authorises Member States to introduce financial incentives for the installation of retrofit systems ⁽¹⁴⁾ that bring the tailpipe emissions of in-use vehicles into line with the limits set by the regulation. The Commission does not however state which procedures should be used to demonstrate that these systems conform with requirements, nor does it state whether such procedures are already available.

Brussels, 13 September 2006.

6.8 Article 17 gives a list of Directives ⁽¹⁵⁾ that will be repealed 18 months after the date of entry into force of the regulation. This gives rise to the following comments:

— if the Commission intended to include all the Directives that amend Directive 70/220/EEC on vehicle emissions and Directive 80/1268/EEC on fuel consumption, the list is incomplete (e.g. Directive 70/220/EEC has undergone 18 modifications, but only six of those are mentioned). A simpler approach might be to use the following wording: 'Directive 70/220/EEC, as most recently modified by Directive 2003/76/EC, and Directive 80/1268/EEC, as most recently modified by Directive 2004/3/EC, are repealed with effect from ...'.

6.8.1 The proposed repeal of the above-mentioned directives on vehicle emissions and fuel consumption 18 months after the entry into force of the regulation raises some serious problems.

6.8.2 This date would in fact coincide with the date for the entry into force of type approval standards, albeit only for new M1 vehicles introduced by the manufacturer. M1 models already type approved before that date may still be registered for a further 18 months, without a further type approval being required. Similar conditions apply for class II and III N1 vehicles: new models have a further 12 months to be type approved, whereas those that have already been type approved and have still to be registered are granted a further 30 months.

6.8.3 The problem lies in understanding how the certificate of conformity required at registration can be issued if it necessarily refers to a repealed directive.

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

⁽¹³⁾ This table identifies the tests to be carried out by vehicle type.

⁽¹⁴⁾ The term retrofit means the installation of a mechanism on a vehicle that is already in use in order to further restrict emissions.

⁽¹⁵⁾ Directive 70/220/EEC, Directive 80/1268/EEC, Directive 89/458/EEC, Directive 91/441/EEC, Directive 93/59/EEC, Directive 94/12/EC, Directive 96/69/EC and Directive 2004/3/EC.

Opinion of the European Economic and Social Committee on Social tourism in Europe

(2006/C 318/12)

On 19 January 2006, the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on: *Social tourism in Europe*.

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 26 July 2006. The rapporteur was **Mr Mendoza Castro**.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September), the European Economic and Social Committee adopted the following opinion by 138 votes to two, with four abstentions.

A. PART ONE: ANALYSIS OF CURRENT SITUATION

peace. For such a strategic industry as tourism in Europe, these challenges — and many others — are a necessary step towards a better quality of life for all.

1. Introduction

1.1 To tie in with the various opinions it has been drawing up as a contribution to the framing of a European tourism policy, the European Economic and Social Committee has decided to draft an opinion on social tourism, analysing its origins, development and current situation in Europe, the experiences of different Member States and the values it represents. In particular, the opinion will make recommendations aimed at public and private institutions with a view to enhancing social tourism in Europe and making it accessible to all. This opinion also contributes to the current debate on European tourism policy by looking at social tourism as an integral part of the European tourism model.

1.2 **Tourism in Europe:** state of play and future challenges. There have been various studies, reports and opinions discussing the situation of tourism from a wide range of angles: the economic, social and environmental aspects; the high importance of tourism in the European and various national economies; its positive contribution to wealth and employment in Europe. All of these factors combine to create a picture of strong potential, stability and growth. However, it is also pointed out that tourism brings with it various internal and external problems and threats in the short, medium or long term: seasonality, the use or abuse of natural resources, poor appreciation of cultural heritage and the local environment, and concerns over terrorism affecting the safety of local people and tourists. These factors mean that tourism raises some major challenges that will need to be addressed if it is to follow the path of sustainable development. These challenges include the accessibility of tourism to all, its real contribution to the development of many undeveloped countries around the world, environmental sustainability, respect for the Code of Ethics for Tourism, job stability and quality, and a contribution to world

1.3 **Tourism policy in the European Union.** On 6 April 2005, the European Economic and Social Committee adopted an opinion on **Tourism policy in the enlarged European Union**, which analysed in detail both current tourism policy, in the light of the Constitutional Treaty, and the repercussions of the present and future enlargement. The opinion welcomes the role of tourism as supporting, coordinating and complementary to other European policies. For example, tourism has strong links with employment and social policy, the improvement of quality, technological research and development, consumer protection, environmental policy and other very diverse policies. In particular it should be pointed out that the present opinion aims to pinpoint and analyse the contribution of social tourism to employment and social policies. The EESC, in the context of various opinions on tourism, is promoting European policies that focus on creating a European tourism model based not necessarily on legislation but on values. Social tourism and the values associated with it could form a key part of this model, and help to establish and disseminate it.

1.4 **The challenge of the Lisbon agenda and social tourism.** Attention should be given to the challenge that the Lisbon agenda raises for tourism, especially social tourism. As the strategic objective of the agenda is to make Europe **'the most competitive and dynamic knowledge-based economy in the world, capable of sustained growth, growth providing more and better jobs and greater social cohesion'**, it will be necessary to analyse whether social tourism contributes effectively and positively to this goal, how it achieves this, and how its contribution could be enhanced. As will be explained in the course of this opinion, the EESC believes that while this contribution is real, it could be strengthened. Measures will therefore be proposed for the various players involved in social tourism.

1.5 **Background to the opinion.** There is a wide variety of background material to this opinion, both in terms of theory (studies, reports, journals) and practice (actual examples of social tourism initiatives in Europe). There have been a great many contributions from public and private institutions; among these, it is worth mentioning the EESC's opinion of 29 October 2003 on **Socially sustainable tourism for everyone** which includes social tourism among 100 initiatives (point 5.5.2); also worth citing is the opinion of 6 April 2005 on **Tourism policy in the enlarged EU**, which includes the European social tourism project as a potential pilot project for European institutional cooperation.

2. The concept of social tourism

2.1 **The right to tourism as a keystone of social tourism.** Everyone has the right to rest on a daily, weekly and yearly basis, and the right to the leisure time that enables them to develop every aspect of their personality and their social integration. Clearly, everyone is entitled to exercise this right to personal development. The right to tourism is a concrete expression of this general right, and social tourism is underpinned by the desire to ensure that it is universally accessible in practice. Thus social tourism is not marginal or extraneous to tourism in general, which is a major industry in the world, in Europe as a whole and in various Member States in particular; on the contrary, it is a way of putting into practice this universal right to participate in tourism, to travel, to get to know other regions and countries — the very foundation of tourism. It should be highlighted that this right is enshrined in Article 7 of the Global Code of Ethics for Tourism approved by the World Tourism Organization in Santiago de Chile on 1 October 1999 and adopted by the United Nations on 21 December 2001.

2.2 **Definition of social tourism.** There are many ideas about what social tourism really is, making it difficult to define the concept precisely. While the various institutions that have covered the topic use widely differing methods (such as the identification of content, expected results, aims, ideas and beliefs), they always base themselves on one tenet: everybody, including the least privileged, has the right to rest, relaxation and time off from work on a daily, weekly and yearly basis. According to the International Bureau of Social Tourism (BITS), social tourism is *'all the concepts and phenomena resulting from the participation in tourism of low-income sectors of the population, made possible through well defined social measures'*. BITS is currently in the process of revising this definition, expanding it to include the contribution tourism makes to development and solidarity.

2.2.1 According to the European Commission ⁽¹⁾, *'social tourism is organised in some countries by associations, cooperatives and trade unions and is designed to make travel accessible to the*

⁽¹⁾ The different concepts of social tourism: the evolution of supply and demand, Directorate-General XXIII, Tourism Unit, 1993.

highest number of people, particularly the most underprivileged sectors of the population'. This already dated definition is being revised in the wake of the technical meetings held in recent years. The EESC does not believe that either definition is precise enough; however, as is often the case in the social sciences, an exact definition is less important than the identification of specific features.

2.2.2 Consequently — and without any intention of giving a precise definition of social tourism, but starting from the premise that tourism is a general right which we should try to make accessible to everyone — we can say that an activity constitutes social tourism whenever three conditions are met:

- Real-life circumstances are such that it is totally or partially impossible to fully exercise the right to tourism. This may be due to economic conditions, physical or mental disability, personal or family isolation, reduced mobility, geographical difficulties, and a wide variety of causes which ultimately constitute a real obstacle.
- Someone — be it a public or private institution, a company, a trade union, or simply an organised group of people — decides to take action to overcome or reduce the obstacle which prevents a person from exercising their right to tourism.
- This action is effective and actually helps a group of people to participate in tourism in a manner which respects the values of sustainability, accessibility and solidarity.

2.2.3 Ultimately, just as tourism in general is an integrated activity involving various sectors, branches of activity and spheres of development, social tourism subsumes all those initiatives which make tourism accessible to persons with special needs, at the same time generating social and economic benefits for various sectors, activities and groups.

2.3 History of social tourism

- Although the emergence of social tourism activities as we know them today is not clear, they may have originated in the organisations that specialised in holidays based on physical exercise in the mountains, which arose at the beginning of the 20th century, or the holiday camps for children from underprivileged families that emerged in Switzerland and France.

- The public authorities began to get involved in the early forms of social tourism after the Second World War. This involvement was connected with workers' movements, with some European countries (France, Italy, Portugal and Spain) organising social tourism activities, while others (UK, Netherlands) simply adopted a non-interventionist attitude.
- It was in the 50s and 60s that efforts to promote social tourism really took off and many organisations, associations and coordinating bodies emerged, including the Brussels-based International Bureau of Social Tourism (BITS), which still carries out extensive promotional and representative work today.

2.4 Basics of social tourism. According to BITS, social tourism is based on five criteria:

2.4.1 The right of the majority to enjoy tourism. It is perhaps the desire to make this right a reality that justifies and underpins most strongly the various social tourism initiatives. The number of people who today benefit from a period of holiday has grown considerably as a result of the spread of tourism throughout society, but there are still many groups which, for various reasons, have no access to holidays. Lack of funds is the most common factor preventing this right from becoming universal. It is unlikely that the public authorities could or would use public funds to guarantee the right to tourism or holidays. Different countries respond to the issue in a variety of ways: some are more committed for social reasons, while others are less proactive in addressing a situation which prevents holidays from becoming accessible to all. It is important to stress that social tourism can or should in no way be equated with tourism of an inferior quality or type; quite the contrary, the hallmark of social tourism activities must be the greatest concern for overall quality as regards both facilities and service.

2.4.2 The contribution of social tourism to social integration. Tourism is a powerful driver of social integration, fostering contact with other cultures, places, customs and, especially, people: without travel, holidays and tourism, it would be impossible for people to meet, talk and acknowledge one another as fundamentally equal, yet culturally different. This cultural exchange and enjoyment of leisure time is an important means of personal development, both for tourists and for those who receive them in their local environment. The cultural exchange generated by tourism is especially valuable for young people, enhancing their intellectual development and enriching their view of the world. In the EU's case, social tourism could be effective in helping to build the Citizens' Europe. It is important to stress that the general opinion is that social tourism holi-

days should not be differentiated from tourist holidays in general, but should help with social integration. General tourist holidays should provide social tourism groups with suitable conditions for enjoying their holiday and not the other way round. Clearly this implies that an effort has to be made not only as regards facilities, but also the type of service and hence the special training that workers in the sector should receive.

2.4.3 Creation of sustainable tourism structures. In reality, infrastructures in tourist destinations and areas cannot always be called sustainable, particularly since tourism has often developed under conditions of short-term profitability, abuse of natural resources and occupation of the best areas — usually coasts and mountains. Social tourism, which focuses more on the social conditions than the economic aspects, can help to build or rehabilitate tourist destinations while meeting economic, social and environmental sustainability criteria. The way in which the various kinds of social tourism are managed is a key factor in the sustainability of tourist destinations and areas. If sustainability is, essentially, the balance between various aspects of human activity, then social tourism is a sustainable development tool for many less developed countries which see tourism as a source of economic activity that can lift them out of poverty.

2.4.4 Contribution to employment and economic development. Tourism is possibly already and will certainly one day become the most powerful global industry, and one of the greatest contributors to employment, development, wealth and quality of life in its beneficiaries. While social tourism contributes to this economic strength, it is not yet sufficiently aware of its own power, its economic importance and, indeed, its ability to make the choice of destinations conditional on sustainability. Social tourism companies and bodies need to look beyond economic criteria when developing their activities. One criterion that should be used is the creation of stable, high-quality employment, which is key to the sustainable development of a tourist destination. In particular, social tourism's contribution (whether it be great or small) to combating seasonality is a basic criterion when aiming for quality and stability of employment, and should form an integral part of the European tourism model. Public-private partnerships in the management of social tourism can serve as a useful instrument and indicator for meeting this criterion.

2.4.5 The contribution of social tourism to global development. It has been mentioned above that tourism, particularly social tourism, can provide many communities with an escape route from underdevelopment or industrial crisis and the

collapse of mining, industrial or farming activities. The conditions required for the development of social tourism are the same as those needed for an area and its inhabitants to see tourist activity as a driver of development. Insofar as communities can earn their livelihood from tourist activity, the local economy and social stability will be strengthened. As recommended by many international bodies, tourist activity is a good antidote to wars and disasters of all types. Tourism signifies welcome, exchange, the enhancement of local assets, friendship and communication between people, as opposed to war, which represents aggression, invasion and the destruction of nature. If one only loves what one knows, then tourism can encourage people to become closer and learn about each other, thus promoting peace, harmony and development. Social tourism can and should be reinforced, and should help to promote the conditions of equality, justice, democracy and well-being that enable the mutually-supportive development of all peoples around the world.

2.5 Principles and conditions of social tourism and its management. It is important to analyse the factors and criteria that characterise social tourism and the way it is managed so as to distinguish those aspects that can and those that cannot be labelled 'social'. In line with BITS, we can indicate some of the criteria that determine the general concept of tourism:

- the basic aim should be to increase the accessibility of tourism to all groups for whom such tourism is difficult, or to one particular group;
- it should be open to a wide variety of user groups and sectors. It should also be open to different forms of management and social tourism practitioners;
- groups at which activities are aimed should be properly defined: social categories, age groups, persons with disabilities, and always meeting the criterion of non-discrimination on the grounds of race, culture or social situation;
- initiatives and objectives should be included that are humanist, educational, cultural and relate to personal development in general;
- there should be transparency in the economic side of the activity, with profits reduced to the level necessary to meet the social objectives;
- the tourism product should add non-monetary value;

- there should be a clear desire to integrate the tourist activity into the local environment in a sustainable manner;
- human resources should be managed in a way that promotes job satisfaction and integration, focusing on the quality of employment of social tourism organisation employees.

These and similar criteria can be used as guidelines for action by those managing social tourism, and to identify the activity.

2.6 Company profitability and social tourism. Social tourism is, quite rightly, an economic activity (although not exclusively so), and it should be governed by the basic principles of return on investment and the profit necessary to pursue and achieve its basic goals. Only businesses which are competitive and profitable in the broadest sense can operate effectively, safely and with guarantees for consumers. The varying situation of social tourism today shows that the businesses and organisations devoted to this activity are profitable once they have established their structure and have the right market and appropriate prices. It is worth noting that social tourism organisations create jobs both throughout the year and during low-occupancy periods, thus helping to provide employment for the workers affected.

2.7 Social profitability of tourism. Although social tourism is an economic activity, it is also clearly a social activity, bringing benefits in this field. Visitors benefit on their holidays, tourism workers benefit in their work, and society as a whole gains. In the EU's case, social tourism is having an increasing impact on the construction of the Citizens' Europe and will surely continue to do so. Travel within Europe by as many citizens as possible can only lead to greater knowledge, understanding and tolerance.

2.8 Concepts and views of social tourism in Europe. Social tourism today means different things in the different EU Member States that operate such programmes, but there are three points in common:

- the real ability to have free time to go on holiday;
- the financial ability to travel;
- the existence of a channel, structure or instrument making these rights accessible in practice.

2.8.1 Thus, social tourism would include all travel and activities organised by trade unions, for family reasons, for religious reasons, organised by companies for their workers, organised by public institutions, for people with disabilities, young people or senior citizens with low incomes, and various other situations.

2.9 **Social tourism bodies.** There are also various bodies which work in and manage social tourism throughout Europe, including:

- national federations or consortia;
- public establishments, focused on social tourism or with activities relating to it;
- social tourism, sporting or cultural associations;
- cooperation bodies;
- trade unions;
- joint enterprises.

3. *Social tourism players and their roles*

3.1 **The European institutions.** The European institutions are displaying a growing interest in social tourism, as illustrated by the various studies, opinions, reports and conferences being organised, promoted or coordinated by the Parliament, the Commission and the EESC. Essentially, their activity focuses on gathering, classifying and circulating the wide range of experiences acquired by European countries. In particular, the role being played by the Commission is to promote new experiences in each country, and to bring together those responsible in the various countries with a view to cooperating on transnational initiatives. At present, the Commission's role does not seem to include acting as general coordinator of social tourism experiences at EU level. It is worth noting the recent survey conducted by the Tourism Unit of DG Enterprise, which looked at EU citizens' participation in holidays and the reasons why some 40 % of them do not take part in tourist activities. It does not seem unfeasible that the Commission might one day take on the role of general coordinator for a social tourism platform at European level. This role would not necessarily call for financial contributions from the European institutions in order to develop such a joint transnational platform.

3.2 **Member States' governments.** As pointed out above, the involvement of Member States' governments in social

tourism activities varies greatly for historical, ideological and social reasons. In some countries, the government, whether national, regional or local, provides significant financial aid. These funds are often aimed at various groups: young people, senior citizens, people with disabilities, underprivileged people, etc. Governments are currently taking steps to go beyond the national limits of their social tourism programmes with various types of transnational exchanges.

3.3 **Employers.** It is important to note that there are initiatives such as 'holiday vouchers', whereby employers contribute financially to help facilitate holidays for their staff. Furthermore, as mentioned, it should be borne in mind that social tourism is a major economic activity with great potential and, as such, attracts entrepreneurs from the tourism sector who see it as a means to boost their activities as service providers or intermediaries. One noteworthy initiative is the Spanish company Mundo Senior ('Senior World') which comprises various large tourism companies and was set up originally to manage the social tourism programme of the Ministry for Labour and Social Affairs, and which has expanded its social scope and activity by offering specialised tourism products for senior citizens. Clearly, the competitiveness criterion is not hindered by the social nature of this activity. In the future, there will need to be public-private partnership initiatives to develop profitable social tourism programmes both within Member States and between different countries.

3.4 **Workers.** Ever since social tourism first emerged, trade unions, as the bodies which defend workers' rights, have had a strong presence in tourism, as a means of obtaining benefits for their members. This presence is illustrated through support for physical infrastructure, holiday complexes, guest houses, etc. and for specialised services. Experiences and commitment levels vary from country to country, but in almost all countries there is some kind of social tourism activity stemming from trade unions. It is worth mentioning the trade union organisations of the newest Member States, which are seeking a valid model for social tourism and relations with more experienced bodies. It is also worth mentioning an interesting study that was carried out by BITS in May 2005, relating to various trade unions' tourism activities for workers and listing one by one the activities currently existing in the 25 EU countries. It is a useful source of information and analysis about the current state of play.

3.5 **Specialised associations.** These associations include the consumer cooperatives that in certain countries (Italy and the UK) have extensive networks of agencies organising social tourism, together with the youth and environmental organisations operating in this field, and the associations belonging to the social tourism bodies themselves, such as the BITS, which carries out important support, coordination and promotion work.

3.6 Groups involved directly and indirectly in social tourism. Evidently, the beneficiaries themselves are the main players in the various social tourism programmes and activities. It is they who benefit first from the economic advantages that enable them to enjoy their leisure time and holidays, taking part in the sporting or cultural activities that appeal to them. Secondly, they benefit from tourism that is respectful of geographical resources, heritage and the environment, and the relationship between the beneficiaries and the inhabitants of the host areas. Together, these activities help to foster mutual knowledge, relaxation and well-being. Local communities in which social tourism is practiced also benefit from employment, economic activity and development.

4. *The reality of social tourism in Europe today*

4.1 Theoretical, legislative and planning context. In Europe, the theoretical, legislative and planning framework for social tourism is not very extensive at present; however, there are a number of studies and reports that aim to inventory and carry out comparative analyses of the various examples of social tourism in Europe. Some of these are listed as technical and documentary references in Part D of this opinion.

4.2 Various practical experiences in Europe. As indicated above, during the course of the study group's work, at the hearing held in Barcelona on 4 and 5 May 2006 and from the information on experiences described at the conference 'Tourism for all' organised by BITS and the Commission, it has been possible to single out and become familiar with many practical initiatives in Europe which may be described as manifestly successfully. It is not for this opinion to study these experiences in detail, but we do consider it appropriate to mention some of the most important which will undoubtedly help to raise the profile of social tourism and can serve as a guide for others working in the social tourism sector, or for those states or areas that, for various reasons, do not have programmes in this field.

4.2.1 The French Agence Nationale pour les Chèques-Vacances (ANCV) [National Holiday Vouchers Agency] had a turnover estimated at around EUR 1 billion in 2005. It was set up in 1982 as a 'public body with industrial and commercial character' and after more than 23 years of activity it remains a useful social policy tool for tourism.

4.2.1.1 Its objectives are threefold:

— to help the maximum number of people possible to go on holiday, especially those on low incomes;

— to provide free use through an extensive network of tourism professionals able to respond efficiently to all requests;

— collaborate in the development of tourism, helping to achieve a more even spread of tourism across the regions.

4.2.1.2 It should be mentioned that holiday vouchers are received annually by some 2.5 million people and benefit some 7 million travellers. The ANCV has more than 21 000 affiliated organisations which participate in its financing and some 135 000 tourism and leisure practitioners are involved in providing services.

4.2.1.3 In addition, its programme helps to provide holidays for especially underprivileged groups, groups of disabled people, young people, etc. by means of holiday grants to the tune of EUR 4.5 million. The Agency also invests considerable sums in the modernisation of social tourism amenities.

4.2.1.4 Overall it would appear that the programme's continuity and profitability is assured; economic studies will, doubtless, show that the impact of its economic activities enable it to recoup the financial outlay.

4.2.1.5 The Agency's objectives for the next few years are to continue extending and disseminating its services among users and tourism practitioners. Perhaps these objectives could include a transnational dimension to the programme by means of agreements with European countries; the benefits would undoubtedly be mutual, exemplary and of great economic and social importance.

4.2.2 The IMSERSO social tourism programme in Spain has similar aims but uses a different approach and instruments. It helps more than one million people annually to go on organised trips, in groups, in the low season, and especially older people. The Spanish State invests about EUR 75 million annually in the programme, but through various tax mechanisms (VAT, tax on commercial and professional activities, corporate profits and income of physical persons), increased revenue from social security contributions and savings on unemployment benefits, the programme brings in some EUR 125 million and is therefore economically highly profitable. The social and economic profitability of the programme is clear as it has enabled broad sections of the elderly population to travel for the first time, to get to know other cities and places, broaden their social relations on an equal footing, improve their physical fitness — and the quality and user satisfaction is reasonable.

4.2.2.1 Furthermore costs are recouped at a rate of EUR 1.7 for every EUR 1 invested in the programme.

4.2.2.2 Mention should be made of the impact of this programme on employment, estimated at about 10 000 workers who would otherwise be unemployed in the low season as the hotels and other establishments and businesses remain open.

4.2.2.3 The programme is constantly expanding and evolving, seeking out new forms of social tourism with greater cultural, health and social value, such as stays in spas, undoubtedly successful, or cultural tours and events.

4.2.2.4 As in the case of France, there is broad scope for expanding the programme, not only within the country but also abroad. At present the Spanish Inmerso has already reached an agreement with its Portuguese counterpart on an exchange of tourists and is studying doing the same with France. This could be an exportable model of great value for the rest of Europe.

4.2.3 **Other experiences.** Besides these two major social tourism programmes in Europe, there are other good examples, perhaps more limited, targeted more at more clearly defined users, but no less valuable for that. Such is the case of the example analysed at the Barcelona hearing, namely the **Plataforma Representativa Estatal de Discapitados Físicos (PREDIF)** [Representative State Platform for Physically Disabled People] which focuses on a very specific group but successfully manages a programme of holidays for this group.

4.2.3.1 Different, but also very interesting and worth mentioning is the shared initiative of three organisations, one from the UK (**Family Holiday Association**), one from Belgium (**Toerisme Vlaanderen**) and one from France (**Vacances Ouvertes**) which coordinate to facilitate 'tourism for everyone' in their three countries.

4.2.3.2 Social tourism activities can also be found in other European countries, including **Portugal, Poland and Hungary**, where the trade unions play an important role, and in **Italy** where the programme is sponsored by the consumer co-operatives. To conclude, it can be stated that the variety of initiatives, user numbers and diversity are on the increase throughout Europe.

4.2.3.3 Similarly, it must be noted that some regions and municipalities are developing social tourism initiatives in one form or another, e.g. the **Autonomous Community of the Balearic Islands** with its Plan OCI 60.

4.2.3.4 At regional level too, the government of Andalusia (Spain) is developing the **Residencias de Tiempo Libre**

[Leisure Time Guest Houses] programme, along with the **Conoce tu Costa** [Know Your Coast] programme, which involves cooperation between the regional administration and local councils to encourage tourism by older people within the Autonomous Community.

4.2.3.5 Mention should further be made of the presence of social tourism on the European Union's tourism portal, www.visiteurope.com, which is intended as a consultation site for all tourist activity in Europe, including social tourism.

4.3 **General assessment of social tourism.** Social tourism brings many values to European society, including:

- satisfaction for beneficiaries, not just through the direct activity of taking a holiday, but also through the 'special' nature of this leisure activity;
- the human dimension and values of the activity;
- improvement in the well-being and personal development of beneficiaries and the hosting community;
- profitability and economic gain for the tourist industry, particularly by extending the high season;
- benefits from the creation of stable, high-quality employment year-round;
- maintenance of sustainability in host areas;
- enhancement of the local environment and its natural, social and cultural resources and heritage;
- boosting of knowledge and exchange between EU countries.

4.3.1 This whole set of values, together with the successes that social tourism has already achieved, the prospects for growth, and the research into and introduction of new products, all make for a highly positive general assessment of social tourism in Europe from all angles.

4.3.2 Such an all-round positive assessment means that we can dub social tourism a 'miracle' in that all the practitioners and users obtain all kinds of benefits: economic, social, health, employment, European citizenship ... no one is harmed by this activity ... the bottom line is that it would be difficult to find a human economic activity that is so universally recognised and supported.

4.3.3 Accordingly it is not difficult for this opinion to warmly commend proposals and formulas which would (i) consolidate and improve existing programmes and (ii) extend their benefits to broader sections of the population.

B. PART TWO: PROPOSALS

5. Towards a European social tourism platform

5.1 **Prerequisites.** It has been shown above that, regardless of the definition given of social tourism or how it is financed or managed, it is a powerful, profitable and stable economic and social factor, which meets its objectives whilst satisfying its beneficiaries, contributing to employment and reducing the seasonal nature of tourism. Indeed, it is an activity that is of great value throughout the world, particularly in Europe. The aim, therefore, is to examine how the beneficial effect of social tourism can be extended more widely to individuals, companies and society as a whole.

5.1.1 It is not easy to subsume under a single name a Europe-wide social tourism action: we can speak of a platform, project, project, initiative ... and although these terms do not necessarily signify the same thing they all allude to an organised activity, with clear objectives, of supranational European scope. In this opinion, given that it is intended as a general proposal, these terms are used interchangeably in the hope that the work of this future platform will suggest a suitable name.

5.1.2 Nevertheless, it is clear that tourism in Europe does suffer from various shortcomings and medium-term threats, such as:

- the serious, growing phenomenon of seasonality in the tourist industry, both in northern and central Europe as well as on the Mediterranean coast, where areas are deserted during low season and adequate year-round infrastructure is lacking;
- under-use of human resources during low and shoulder seasons;
- significant growth in the working population due to emigration, which makes it necessary to increase economic activity in order to maintain the same standard of living;
- difficulty for the tourism industry to maintain sufficient year-round price and occupancy levels in order to maintain profitability in the medium term;
- objective limits to the number of bedspaces that can be utilised for the purpose;
- for development to be sustainable in the tourism industry, it is necessary to increase the added value of each tourist area throughout the year: increasing the quality (and, as a result,

the price) or average annual occupation by increasing the season during which tourist establishments are open;

- the emergence of numerous tourist destinations throughout the world offering competitive and innovative products and services. This new competition should, above all, serve to stimulate quality and competitiveness.

5.1.3 There are also factors that represent clear opportunities in terms of the viability of a possible European social tourism platform or project:

- gradual increase, in absolute and relative terms, of citizens who are not working but have pensions and a sufficient standard of living in Europe;
- gradual increase in life expectancy of Europeans;
- increase in the average amount of leisure time that a person has throughout their life, particularly when they are older;
- reduction in transport costs due to the boom in low-cost airlines, which favours mobility and tourism;
- growing cultural awareness level which encourages responsible, sustainable tourism;
- good and successful experiences with social tourism programmes throughout Europe;
- accession of countries to the EU, which increases the market and the possibilities and opportunities for travel.

5.2 A European social tourism platform could have various **objectives:**

- to generalise and extend existing programmes and number of users of social tourism throughout Europe, until every country has its own programme;
- to harness the transnational nature of existing programmes through bilateral or multilateral cooperation programmes;
- to establish the conditions for designing and implementing a European social tourism platform, in which the potential beneficiaries are European citizens who can visit other countries in an affordable and sustainable manner; in this context, it would be useful to find out how many Europeans have never visited another European country, as this group would probably be quite numerous and would underpin the programme;
- to promote the gradual implementation of European-scale social tourism in which as many states as possible participate.

5.3 Players and groups involved in the European social tourism platform. The groups or players that could be involved include:

- organisations that currently manage social tourism programmes in the various countries;
- trade union organisations and cooperatives interested in the development of the programme;
- employers in the tourism sector (in its broadest sense) interested in improving the sustainable profitability of their establishments;
- national, regional and local governments interested in taking action in the field of tourism, its improvement, and the personal and social development of their citizens;
- the EU and its institutions, interested in boosting and promoting employment, economic activity and European citizenship; given the supranational dimension of the platform, the EU institutions should also have the task of coordinating and monitoring the conditions under which the programme is developed, including heading up its establishment;
- social tourism organisations, especially BITS.

5.4 Key aspects of European Social Tourism. In order for a European social tourism platform to be socially and economically viable, it must meet the following criteria:

- It must be aimed at the most economically, territorially or socially underprivileged groups, or groups with disabilities, particularly those with a physical or mental disability, or which find it difficult to travel for geographical reasons (such as Europe's islands). This means being responsible for partial, fair and equal financing, irrespective of the length of the holiday and stays, as a way of compensating for the situation of the underprivileged in the broadest sense.
- Overall, it must be economically and socially profitable in the short, medium and long term, at both public and private levels.
- It must create stable, high-quality employment throughout the year. Centralised management and an effort to maximise stays in tourist establishments would be necessary to meet the employment objective.
- It must be implemented during low occupancy seasons.

- It must be sustainable and ensure personal and social enrichment both for beneficiaries and host communities.
- It must maintain high-quality services commensurate with the objectives.
- It must take the form of public-private cooperation.

If these conditions were met, social tourism would doubtless become a key component of the European tourism model.

5.5 Public-private cooperation in the project. The feasibility of the programme may well be dependent on — but could also benefit from — effective public-private cooperation in its planning, design and management. It would seem at least possible, although not easy, to find organisations and businesses in Europe that are willing to undertake the development of a European social tourism platform.

6. *Effects and results of a European social tourism platform*

6.1 On growth and employment. Should this platform be implemented in its various phases, the effects on growth and employment would be major, and would surely help to achieve the objectives of the Lisbon summit. The IMSERSO programme undertaken in Spain, for example, clearly shows the beneficial impact of social tourism on safeguarding and creating jobs during the low season.

6.2 On the effective right to access tourism. Although, according to the statistics available, around 40 % of the population do not currently go on holiday, the European social tourism platform would aim and no doubt help to reduce this percentage substantially and make tourism for all a reality, as well as helping the peoples of Europe to get to know each other better.

6.3 On the European tourism model. In its various opinions on tourism, the EESC has expressed its belief that it is possible to build a European tourism model based not on legislation, but on widely accepted and applied values. One of the values that could be included in this model is undoubtedly universal access to tourism — tourism for all. The European social tourism platform could significantly help to boost the European tourism model.

7. *Contribution of tourism, particularly social tourism, to the construction of a European identity and dimension*

7.1 In recent years it has become evident that the European venture is not a short or easy task, and even today there are still many uncertainties and difficulties to overcome. Social tourism could be a powerful tool to boost information and understanding between individuals and solidarity between peoples. It could help to build the Citizens' Europe not through sacrifice or struggle, but through the enjoyment of leisure time, travel and holidays. Young people, especially, are a group that are likely to travel more during high season — a period when student residences are unoccupied and could temporarily play host to tourist initiatives similar to the Erasmus programme.

7.2 Tourism could be a good way to build the Citizens' Europe. The various groups involved, the tourism industry and local communities could together bring their interests into line, in a way that is pleasant and accessible to all.

C. PART THREE: CONCLUSIONS AND RECOMMENDATIONS

8. *Conclusions*

8.1 A first general conclusion to be drawn from this opinion's analysis of the situation of social tourism in Europe today is that it is an environmentally, economically and socially sustainable activity, and an activity of the first order in each of these three spheres.

8.2 The economic, social, health and integration benefits that all the users and practitioners participating in the programmes gain are widely acknowledged and of considerable added value.

8.3 The various social tourism user groups and in particular people with a disability and/or reduced mobility get an enormous boost towards their full integration as individuals.

8.4 On the ground, social tourism in Europe is characterised by a wide variety of practitioners, forms of development, public objectives, financial instruments, etc. which enrich it, diversify it and contribute to its development and evolution.

8.5 In particular we can conclude that the profitability of social tourism is compatible with and positively linked to economic profitability.

8.6 It is economically feasible and socially desirable for each European country to develop a national social tourism programme with a diversity of approaches and management forms.

8.7 It is economically feasible and socially desirable to establish a transnational European social tourism platform.

8.8 Every social tourism activity should incorporate a set of sustainability and job-creation values in line with the Lisbon strategy.

8.9 Social tourism can be highly valuable tool for the creation of a Citizens' Europe, embracing all citizens; the role of young people is particularly important in this process.

8.10 Social tourism is an activity that displays some of the values which can be incorporated into the European tourism model.

8.11 All local communities throughout Europe could benefit from social tourism, due to its contribution to the protection of cultural and local heritage.

8.12 In conclusion, social tourism today is a mature activity practiced in many of Europe's Member States, with good management and organisational structures. It is ready to progress towards implementation in all countries, making its services transnational and thus increasing the quality and quantity of its objectives.

9. *Recommendations*

9.1 The basic recommendation for potential users of social tourism programmes is clearly to encourage them to participate in an activity such as tourism, to which they have a right but to which they may not have had access for a whole host of reasons. Social tourism clearly promotes integration, greater knowledge and personal development, and as such participation in its activities is desirable.

9.2 With regard to the wide range of practitioners who are involved in managing the various social tourism programmes, first we should acknowledge the benefits of their work, their dedication to their organisation's mission and the care they put into providing an accessible but high-quality service to users. But we should also encourage them to go on improving their products and services, investing in improvements to infrastructure, innovating with new products, especially with a transnational dimension. The coordination of programmes and formation of associations between the organisations responsible are a good way of improving and exchanging experiences.

9.3 With regard to businesses in the tourism sector, we would recommend that they take part wholeheartedly in social tourism activities. The values of social tourism are compatible with good business management, competitiveness and profitability, in the short term but particularly in the medium and long term, and make it possible to secure the jobs of many workers over the whole year.

9.4 With regard to national, regional and local institutions and governments, we would advise them to establish social tourism programmes on account of their social but also economic benefits. The additional revenue from taxes and contributions, the savings on unemployment benefits, are clear incentives to provide fair subsidies to economically, socially or physically disadvantaged groups, in the certainty that the costs will be recouped with interest.

9.5 Our recommendation to the European institutions is to bear in mind that social tourism is an important activity which shares objectives with tourism and social policy, is an activity which merits recognition, development, specialised technical assistance, support and incentives (not necessarily economic). Guidance, technical coordination, dissemination of experience and a forum for concluding transnational agreements are among the tasks that the Commission especially, through its tourism unit, can provide with its own resources in order to set up an effective European social tourism platform. The Commission's leadership in these aspects of promoting social tourism would undoubtedly be a valuable tool for achieving the objectives and monitoring initiatives.

9.6 All institutions should consider boosting their policies to eliminate all types of barriers in communications infrastructures and in accommodation and tourism service infrastructures. The case of Europe's islands clearly illustrates how their geographical situation strongly affects mobility and access to tourism for their citizens.

9.7 Given its political, social and economic dimensions, the European Parliament should launch initiatives to promote a debate and resolutions encouraging social tourism in Europe.

9.8 The EESC concurs that this opinion should be known, published and distributed as the Barcelona declaration on social tourism in Europe, and serve as its contribution to the 2006 European Tourism Forum and this year's World Tourism Day.

D. PART FOUR: TECHNICAL AND DOCUMENTARY REFERENCES

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Brussels, 14 September 2006.

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 Regulation of the European Parliament and of the Council concerning structural business statistics

COM(2006) 66 final — 2006/0020 (COD)

(2006/C 318/13)

On 27 March 2006 the Council decided to consult the European Economic and Social Committee, under Article 285(1) 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 26 July 2006. The rapporteur was Ms Florio.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September), the European Economic and Social Committee adopted the following opinion by 130 votes, with seven abstentions.

1. Background

1.1 On 20 December 2000, the European Council decided to launch a 'Multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises' ⁽¹⁾. This new reference framework was intended by the European Union to improve the competitiveness of enterprises in a knowledge-based society, to simplify and facilitate their legal, administrative and financial environment, and above all to foster research and innovation, give them easier access to services and Community programmes and promote entrepreneurship.

1.2 In early 2003, the European Commission presented its Green Paper on Entrepreneurship in Europe ⁽²⁾, in which it stressed the need for targeted support and called for strategic policies to promote the industrial and manufacturing sector, which has been experiencing a perilous slow-down for years now in Europe, above all when compared with other areas of the world.

1.2.1 The principal actions proposed to support and increase the entrepreneurial spirit in Europe were:

- bringing down barriers to business development and growth,
- balancing the risks and rewards of entrepreneurship,
- encouraging a more favourable attitude in society as a whole towards the establishment of new businesses.

1.3 In 2004, following a consultation of stakeholders based on the Green Paper, the Commission presented an action plan on entrepreneurship ⁽³⁾ which took account of the new responses received and built on the Multiannual Programme for Enterprise and Entrepreneurship.

1.4 At both national and European level, key issues such as industrial policy, support for services, and employment as an

engine of economic growth are closely linked to priorities in the employment and social spheres, which are an important goal of the European Union's policy decisions. In this area, too, the European institutions have taken a number of initiatives in recent years, including the presentation of an annual plan by Member States.

1.5 The Luxembourg Summit of 1997 launched the European Employment Strategy (EES), which would later be seen as a key element of the Lisbon Strategy. It is the Lisbon Strategy, in fact, which set the goal of modernising the European economy by cutting unemployment and creating highly skilled jobs. These goals can only be achieved if attention is paid to social policies and to policies providing equal opportunities among all levels of the population. This is in effect a *sine qua non*, prior to a substantive restructuring of the economic system, for achieving a higher growth rate and a 'healthy' economy.

1.6 Other elements that were to be included in this ambitious project are the European Research Area, a complete integration of markets and the creation of an SME-friendly environment. In its proposal on the Competitiveness and Innovation Framework Programme (2007-2013) ⁽⁴⁾, the Commission itself states that the promotion of technologies and research is directly linked to exploiting opportunities offered by the market to new products, services and business practices. The willingness to take risks and try out new ideas on the market should also be nourished. Insufficient innovation is one of the main causes of Europe's disappointing growth.

1.7 On the social cohesion front, there was a call for immediate interventions in the fields of education/training and social protection. To ensure coordination between Member States when formulating their policies, an open method of coordination was mooted through which best practices and performances in the different fields would be exchanged and disseminated.

⁽¹⁾ Decision 2000/819/EC.

⁽²⁾ COM(2003) 27 final, 21.1.2003.

⁽³⁾ COM(2004) 70 final, 11.2.2004.

⁽⁴⁾ COM(2005) 121 final, 6.4.2005.

1.8 It was thanks to the mid-term review of the Lisbon Strategy that in 2005 the European Commission was able to present its Communication on growth and employment ⁽³⁾, which focused attention on two important points: bringing about solid and sustainable economic growth and creating ever more and better jobs. These goals were thought to be achievable through a synergy of the Community and national levels.

2. General comments

2.1 The process of change in the economy and manufacturing spheres is continuous and fast moving; the various industrial sectors and their operators adapt and innovate to keep abreast of market evolution, endeavouring to remain competitive and create ever greater growth and profit opportunities.

2.1.1 In a market such as the European one, where businesses evolve at break-neck pace and traditional sectors (manufacturing, commerce, distribution, etc.) encroach upon one another, the demarcation line between the different types of operation can be difficult to define. Moreover, when it comes to assessing and classifying businesses, it is becoming more and more difficult to determine where the main thrust of their activity lies (whether in commerce, agriculture, manufacturing, cottage industry, services, etc.).

2.1.2 The growth of the social economy to a point where it now accounts for a large and increasing part of the European market makes it difficult for statistical data to keep pace with a situation of constant flux and renewal. Eurostat officials say they have found it difficult to define this field because social economy activities are not always registered as business activities. However, the Committee thinks that no effort should be spared in order to measure the increasing importance of the social economy sector, which is crucial for the achievement of the Lisbon Strategy objectives. Absence of such data is an obstacle to a better understanding of developments of the business world and the market place.

2.1.3 The importance of obtaining structural statistics on the European Union's businesses — updated and focused above all on their activity, competitiveness and output — has been established. In stressing the importance of statistical support, it should be remembered that the collection and subsequent processing of data involves what could be substantial investments in human and financial resources, especially for small businesses.

2.1.4 Economic growth is an absolute priority for all the countries of the European Union, as the European Council and other European institutions have reiterated on countless occasions. This economic growth must necessarily be accompanied by the creation of new and better jobs. In all sectors, but especially in manufacturing and the services sector, this must be done in a way that fuels growth itself and allows Europe's citizens to reap the benefits.

2.2 The European development model differs from others in the considerable role attributed to the social component and to the very notion of sustainable economic growth. This must be borne in mind whenever the European institutions intend legislating in their sphere of competence.

2.3 This means that a very clear idea of the real state of European industry is needed if truly effective, useful and coherent legislation is to be framed. Political choices should be based on an analysis of the real situation and the problems involved and offer solutions that embrace as many elements as possible, seeking to anticipate the impact that decisions will have on that situation from all angles (political, economic, legal, social, national and subnational).

2.4 Statistical data are undoubtedly a crucial instrument for a thorough and effective analysis of reality. The work Eurostat has carried out since its inception is a valuable and indispensable support for the European Union's decision-making and political processes.

2.4.1 Statistical data are of fundamental importance because they can measure, study and describe the numerous and diverse aspects of the reality on the ground. The availability of statistical information is cardinal for the formulation and evaluation of policies, for the management of public services and functions, for a better legislative framework and for regular ongoing monitoring of the success and the progress delivered by the policies adopted.

2.5 This is true for all areas of the European Union's competence. For this reason Eurostat, supported and assisted by the statistics institutes of the Member States, is charged with compiling and providing up-to-date and reliable data. Of crucial importance in recent years have been the data collected in the fields of economy and finance, agriculture, demographic policies, social security, business, scientific research, environment, transport and, no less important, the world of industry and its attendant market indicators.

2.5.1 To have an idea of the importance attributed to the European business world and its development, one need look no further than the initiatives the Commission and the Council have taken on this front in recent years.

3. The proposal for a regulation on structural business statistics

3.1 Council Regulation (EC, Euratom) No 58/97 adopted by the Council on 20 December 1996 has been amended no fewer than four times in the last decade, and this is the latest proposed recast, intended to improve the coherence of analyses and applicability of policies and strategies for supporting European industry and manufacturing.

⁽³⁾ COM(2005) 330 final, 20.7.2005.

3.1.1 To respond to the increased need for statistics, the Commission proposes a number of improvements, paying particular attention to services, which have been at the centre of considerable discussion in recent months because of their economic importance and their potential, which is not entirely reflected at EU level. The Commission also adds an annex on the demography of enterprises and business services.

3.2 The Commission has confirmed that no detailed and recent statistics are available for a raft of activities, mostly related to business services; the new proposal is therefore an opportunity to adapt the provisions in force so that economic and manufacturing activities can be compared with those in services.

3.2.1 In addition, the Commission has considered it necessary to have harmonised data on the demographics of businesses (start-up, operation and wind-up) and their impact on employment to support strategic recommendations on the spirit of enterprise. The 'demographic' data of businesses already feature in the structural indicators used for monitoring the goals set by the Lisbon Strategy. It is in this context that the Commission's proposed recast should be examined.

3.3 The proposal identifies the NACE code, normally used by the Commission's services for all statistics on economic activity, as the reference instrument for collecting statistical data ⁽⁶⁾. The NACE code has itself been revised and updated to provide a better understanding of trends in the EU's economy and manufacturing.

3.4 NACE REV. 1.1, the reference indicator, is simply an update of NACE REV. 1 and does not represent a significant reorganisation. The purposes of the revision was to reflect:

- new activities that did not exist when NACE REV. 1 was drawn up;
- activities which had become more important since the drafting of NACE REV. 1 as a result of changes in technology or in the economy;
- the correction of errors in NACE REV. 1 which were already apparent at the time, i.e. not reflecting any changes in the philosophy of the operation.

3.4.1 The latest version of NACE, bringing new modifications and revisions, is currently at its second reading in the European Parliament and will be launched in the coming months.

⁽⁶⁾ NACE: Nomenclature générale des Activités économiques dans les Communautés Européennes (General Industrial Classification of Economic Activities in the European Communities).

3.5 The collection of statistics, defined by the field of application (Article 2), is organised in modules, as set out in Article 3 of the proposal for a regulation:

- a common module for annual structural statistics;
- a detailed module for structural statistics in industry;
- a detailed module for structural statistics in trade;
- a detailed module for structural statistics in construction;
- a detailed module for structural statistics in insurance;
- a detailed module for structural statistics on credit institutions;
- a detailed module for structural statistics on pension funds;
- a detailed module for structural statistics on business services;
- a detailed module for structural statistics on business demography;
- a flexible module for the conduct of a small ad hoc data collection of enterprise characteristics.

3.5.1 The last three modules are new to this proposed recast of the regulation and an annex is devoted to each module and its use.

3.6 Pilot studies are also envisaged for just some of the modules. Such pilot studies have always accompanied the collection of statistics via modules; in this instance, the inclusion of *ad hoc* pilot studies for the health and education sectors should be highlighted. These are voluntary studies which, according to Eurostat, are intended to afford a more accurate assessment of the impact of market activities in these sectors.

4. Specific comments

4.1 The EESC recognises the crucial contribution that statistical data make to setting industrial policy priorities under the Lisbon Strategy. The Commission also affirms, again in the Competitiveness and Innovation Framework Programme 2007-2013 ⁽⁷⁾, the value of benchmarking as a useful instrument for drafting policies, along with studies and exchanges of good practice between national and regional authorities.

4.2 For this reason the EESC considers the revision of Regulation 58/97 important and suggests some modifications.

⁽⁷⁾ See footnote 4.

4.3 The heading 'social security costs' in the common module (Annex I) was also present in previous versions. However, new developments in the internal market now make it seem vague and difficult to interpret. Social security in the Member States is organised in different ways, with different systems and practices: the very definition of 'social security system' is problematic for the 25 EU Member States and should probably be elaborated and articulated further.

4.4 Again in Annex I, though it also appears in those that follow, the data on employment are unduly limited and do not reflect the complexity of the labour market across all the EU Member States. They are restricted, in fact, to the number of those working part time and full time: in reality, there are far more modes of employment than this. Moreover, there is no breakdown by sex, apart from in the banking sector (Annex VI).

4.4.1 Article 1 of earlier versions of Regulation 58/97 already included among the goals of statistical collection that of analysing 'business conduct': this recast could also have been an opportunity to gauge more carefully and in greater depth the employment policy of businesses, given the importance this has in the policies of the European Union.

4.5 On the issue of pilot studies, the Committee has misgivings about the method chosen by the Commission, which sees a need to analyse sectors such as health and education in order to 'test the feasibility of covering market and non-market activities in these Sections'. In particular, bearing in mind the Commission's provisional proposal on the services directive, which would exclude them, the Committee believes that such sensitive sectors should not be covered by structural business statistics. In the light of the new regulatory proposals concerning services in the single market, the EESC thinks it would be useful for the Commission to initiate ad hoc gathering of statistics on these sectors.

4.6 In Annex II (the industry sector module), the Commission has decided to exclude data on overall spending and spending on staff involved in research and development. In the light of the Lisbon Strategy, the absence of such data is an obstacle to a better understanding of developments in the business world and the nature and aims of investments.

4.7 The Commission has elected to exclude data on the acquisition of energy products. However, these are quite impor-

tant, since they give a broad picture of energy consumption and use by businesses; moreover, Article 1 of the draft regulation states that data on 'the factors of production used' will be collected and there is not the slightest doubt that energy is one of these. Above all, these indicators are accorded high priority in the most recent statements by the Council and the European Parliament, including the recent Green Paper: A European Strategy for Sustainable, Competitive and Secure Energy⁽⁸⁾.

4.8 Annex VIII is new and concerns the structure, activity and performance of business services, while Annex IX concerns business demographics. The collection of statistics in these two fields requires far more frequent monitoring. Moreover, in the module on business demographics, the data on employment are not broken down according to employment mode or sex, although it would be very useful to know the nature and structure of the workforce when businesses are started and wound up.

5. Conclusions and recommendations

5.1 The European Union needs better statistics to support current sector-specific industrial policies.

5.2 For this reason, the EESC stresses the key role played by Eurostat as the instrument for monitoring the European Union's policies. The EESC thinks, therefore, that Eurostat's work should be reinforced and the statistics-gathering networks in the Member States expanded and improved.

5.3 The EESC broadly supports the proposal to recast Council Regulation (EC, Euratom) No 58/97 on industrial statistics.

5.4 Statistics are an important tool at both Community and national level, so support instruments should be devised to make them ever more effective, timely and reliable.

5.4.1 As far as possible, statistics should be based on up-to-date data already kept by administrative authorities and other authorised bodies. The administrative burden of collecting statistics must match the size of the business concerned. In some countries, gathering data on SMEs is the responsibility of local or regional business associations. It would be useful for Member States to pool good practices of this kind.

⁽⁸⁾ COM(2006) 105 final, 8.3.2006.

5.5 Increasingly targeted and up-to-date statistics are needed on the structure of businesses and their production activity, taking into account the volume and variety of activities (production, commerce, distribution) sometimes carried out by one and the same company.

5.6 The Committee considers it important to have a good system within which Eurostat, the social partners, the academic world and businesses can consult one another and pool experience. This mechanism should be improved and expanded within the CEIES-Eurostat forum (one representative of users for each Member State).

5.7 Were Eurostat to dialogue more closely with social partners on social security costs, for example, it would be possible to get a more detailed breakdown of the burden on businesses in this area, which is not uniform throughout the 25 EU Member States, rather than having just one heading.

5.8 Although employment data are part of other targeted statistics, if they were more detailed, they could provide a clearer picture of the activities of businesses. The Committee notes that structural business statistics, including those on demography, must always include a careful analysis of the quality of employment. Employment is a key factor in the success of business activities and so statistics on modes of work that distinguish only between part-time and full-time work are entirely inadequate, particularly in the light of constant changes in the labour market. Moreover, the Committee does not consider it useful to separate structural business statistics from employment data, as the two fields are inextricably linked.

5.9 Year after year, the social economy accounts for an ever greater part of the European economy. The EESC suggests, therefore, that the Commission could use Eurostat to examine this sector and its impact on the business world using the pilot study method.

5.10 The Committee reiterates its doubts regarding the appropriateness of assessing the health and education sectors using the pilot study method. Given the sensitivity of these sectors and their crucial importance for all of Europe's citizens, it would be inappropriate to include these fields in structural business statistics. In the light of the new regulatory proposals concerning services in the single market, the EESC thinks it would be useful for the Commission to initiate ad hoc gathering of statistics on these sectors.

5.11 On the question of energy purchases and investment in human resources in the research and development sector, the EESC considers that, although ad hoc statistical gathering is provided for, it is important to assess both the qualitative and quantitative importance this has in the life of businesses — in the light of both the Lisbon Strategy goals and the most recent concerns and initiatives undertaken by the European Union on energy policy.

5.12 As far as statistics on environmental variables are concerned, the EESC stresses the importance of collecting data on the treatment of industrial waste, waste-water purification and the cleaning-up of polluted areas. It would also be good to know whether industrial waste treatment is performed in-house or contracted out, given the cost of such operations.

5.13 In Annex IV, which refers to the building industry, it would be useful to differentiate between the various activities: housing, public buildings, transport networks and infrastructure.

5.14 Greater emphasis should be given to regionally based statistics showing in which areas industry and business had sprung up, what the principal activities were, in which areas research investment was concentrated, and where the most business start-ups and failures were.

Brussels, 14 September 2006.

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 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

COM(2006) 93 final — 2006/0031 (COD)

(2006/C 318/14)

On 7 July 2006 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 26 July 2006. The rapporteur was Mr Pegado Liz.

At its 429th plenary session of 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 186 votes to seven, with 12 abstentions.

1. Gist of the Commission proposal

1.1 This proposal seeks to further the process of updating Directive 91/477/EEC of 18 June 1991 ⁽¹⁾ which, following the 1984 Fontainebleau European Council, for the first time looked at the need for *'effective rules enabling controls to be carried out within Member States on the acquisition and possession of firearms and on their transfer to another Member State'*, in the light of the criteria set out in the Palermo Protocol supplementing the UN Convention against Transnational Organised Crime, which the Commission was authorised to sign on behalf of the European Community ⁽²⁾.

1.2 The proposal thus seeks to entrust the legal enforcement of the aforementioned Supplementing Protocol to an international convention, which the Commission signed on behalf of the Union. In other words, by following this approach, the Union is undertaking to tackle the issue at hand itself, thus making these measures directly binding on Member States, i.e. there is no need for them to opt to sign up to the protocol referred to above or to any Community recommendations on the matter, since this is already covered by Title V of the Treaty ⁽³⁾.

1.3 The following needs have been identified as overall objectives:

- to harmonise European legislation on the matter;
- to combat the illegal market in weapons designed for civilian use; and
- to prevent legal weapons finding their way onto the illegal market.

1.4 Consequently, the proposal currently under examination proposes mechanisms which are binding on Member States and

⁽¹⁾ Council Directive 91/477/EEC of 18 July 1991 on control of the acquisition and possession of weapons (OJ L 256 of 13.9.1991, p. 51). EESC Opinion: Through what was then called the Section for Social, Family, Educational and Cultural Affairs and with Mr Van Dam as rapporteur, the EESC delivered its opinion on 17.12.1987 (O) C 35, 8.2.1988, p.5), which was highly critical of the scope of the excessively limited measures adopted for controlling the movement of weapons from one Member State to another.

⁽²⁾ Council Decision of 16 October 2001 (OJ L 280, 24.10.2001).

⁽³⁾ In other words, as part of common external and security policy.

which aim to make the 1991 directive more coherent, effective and rapid with regard to the mechanisms and objectives set out therein.

1.5 Specifically, the proposal:

- a) updates the framework surrounding the concept of illicit manufacturing, using this as a basis for defining the different types of offences of illicit manufacturing, falsification and trafficking, for which there should be penalties proportionate to the harm they cause society;
- b) recommends instrumental measures for monitoring and tracing weapons, the best examples of which are marking them, and also rules on disabling/deactivating them;
- c) sets out rules and measures for greater control of certain activities related to the arms trade.

2. The political and social framework for the measure in the current international setting

2.1 Transnational crime is highly organised and is a by-product of today's high-risk societies, which are based on the globalisation of knowledge, communication and information.

2.1.1 Transnational crime also constitutes one of the most serious threats to the integrity of States and more generally, to the very democratic framework that hallmarks them. It could even, in extreme cases, take the shape of alternative and illegitimate forms of controlling the Community.

2.2 Within this form of crime and as a result of the multi-dimensional and highly varied nature of the risk, various types of criminal activity overlap and feed into one another.

Terrorism and highly organised crime are closely linked to one another, and these are both closely linked to the trafficking of weapons and ammunition ⁽⁴⁾.

2.3 Estimates suggest that there are currently hundreds of millions of light weapons in circulation in the world, responsible for hundreds of thousands of deaths per year; of these fatalities, more than one half will occur in internal conflicts in various Asian and African countries. In financial terms, this is clearly a very lucrative business, but from the humanitarian point of view, it is devastating.

2.4 The Union's Member States must provide an appropriate and coherent response to this transnational situation. To this end, legislative solutions, both preventive and punitive, must be harmonised and must lead to integrated, common policies.

2.5 The subject of this proposal combines market rules with important issues of intra-Community security, a predominant value in any democratic society and one from which the Union is not and cannot be exempt. Security is, in fact, a prerequisite for the exercise of any freedom.

2.6 What is at issue here is quite simply drawing up requirements for bringing about a European area of freedom, security and justice for all citizens, a subject closely related to the third pillar of European integration. In addition to posing a threat to the integrity of the various Member States, trafficking in weapons is also a significant risk factor for the EU's internal affairs.

2.7 The Community had already felt the need to tackle this threat within its own borders, by adopting Council Directive 91/477/EEC of 18 June 1991. Subsequently, the EU Joint Action of 17 December 1998 ⁽⁵⁾ prompted the different Member States to introduce measures aimed at improving and stepping up weapons and ammunition control, an approach echoed in various annual reports that have since been published ⁽⁶⁾.

2.8 More recently, the United Nations too has focused its attention on the matter, and has even supported a number of measures in this field. Consequently, it set up a special committee ⁽⁷⁾ with the task of drawing up an international convention against transnational organised crime, which was adopted two years later in Palermo ⁽⁸⁾. This rapidly led to an

understanding of the importance, in this context, of trafficking in firearms.

2.9 Subsequently, and leading up to the Vienna Process, the supplementary protocol to the aforementioned Convention on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition was born, open to all interested countries as of 1 September 2001; it has however experienced some delays in being signed and ratified by the EU Member States.

3. General comments

3.1 Legal base

3.1.1 Article 95 TEC provides sufficient authority for incorporating this directive into the Community legal order, since this is a measure relating to the operation of the internal market and is covered by the procedure set out in Article 251.

3.1.2 It is appropriate to use a directive in this case, especially taking into account the principle of the hierarchy of laws, and particularly given the type of legislation to be amended.

3.1.3 The Committee therefore supports the Commission initiative and endorses its legal basis, which it deems to be in keeping with the stated aims ⁽⁹⁾.

3.2 Gist of the proposal

3.2.1 In adopting the Supplementary Protocol to the United Nations Convention against Transnational Organised Crime, the Commission is correctly basing its approach on the fundamental principles enshrined in this protocol concerning the need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, because of the threat that these activities pose to the welfare of the public at large and to their right to live in peace.

3.2.2 The Committee welcomes this concern and fully supports the Commission initiative.

3.2.3 The Committee would point out that this issue has been considered on several occasions by the European Parliament and has been the subject of a number of written questions to the Commission ⁽¹⁰⁾.

⁽⁴⁾ The issue of the traceability of ammunition, whilst not falling within the specific scope of the Commission proposal, has already been partially addressed, in conjunction with the placing on the market and supervision of explosives for civil uses, in Directive 93/15/EEC of 5 April 1993 (OJ L 121, 15.05.1993, p.20, EESC Opinion — OJ C 313, 30.11.1992, p.13), amended by Regulation (EC) No 1882/2003 of 29 September 2003 (OJ L 284, 31.10.2003, p.1, EESC Opinion — OJ C 241, 07.10.2002, p.128), in Directive 2004/57/EC of 23 April 2004 (OJ L 127, 29.04.2004, p.73), in Commission Decision 2004/388/EC of 15 April 2004 (OJ L 120, 24.04.2004, p.43) and in the programme set out in the Commission Communication of 15 July 2005, on measures to ensure greater security in explosives, detonators, bomb-making equipment and fire-arms.

⁽⁵⁾ Later included in the EU's June 1997 programme on the illicit trafficking of conventional weapons.

⁽⁶⁾ For the years 2001 to 2003 see: OJ C 216, of 1.8.2001, p.1, OJ C 330, of 31.12.2002, p.1; and OJ C 312, of 22.12.2003, p.1.

⁽⁷⁾ Under UN General Assembly Resolution 53/111, of 9 December 1998.

⁽⁸⁾ Under Resolution 55.25 of 15 November 2000.

⁽⁹⁾ A detailed discussion is warranted, however, of the grounds on which the Commission considers itself entitled to regulate matters of criminal law in its proposed amendment to Article 16 of Directive 91/477/EEC.

⁽¹⁰⁾ Including in particular written questions: P-4193/97 by Maria Berger, MEP (OJ C 223/70, 17.7.1998); E-1135/01 by Christopher Huhne, MEP (OJ C 350 E/78, 11.12.2001); and E-1359/02 by Gerhard Schmid, MEP (OJ C 229 E/209, 26.9.2002).

3.2.4 Furthermore, in its external relations, the Council has taken a particular interest in the need to assist third countries in drawing up appropriate legislation and regulations on the ownership, possession, use, sale and transfer of weapons and ammunition, as a means of ensuring peace and security and contributing to sustainable development ⁽¹¹⁾.

3.2.5 There is clearly, however, also a close link between this issue and concerns about the fight against terrorism ⁽¹²⁾, money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime ⁽¹³⁾, the supervision of explosives for civilian uses ⁽¹⁴⁾ and, in general, all measures combating gangsterism and organised crime.

3.2.6 In this regard, the Committee is not merely pleased with the Commission initiative; it welcomes it wholeheartedly, and hopes that the European Parliament and the Council will take it fully on board.

4. Specific comments

4.1 Article 1 of this proposal amends the following articles of Directive 91/477/EEC:

- 1, with the addition of two new points;
- 4, with new wording;
- 16, with new wording;
- Annex I with new wording from point a) and a new point.

4.1.1 All of the proposed amendments are supported by this Committee, insofar as they appropriately incorporate the provisions of the protocol on which they are based.

4.2 Article 2 sets out the arrangements that will be binding on Member States if the proposed directive is adopted, but leaves the transitional period open, despite its immediate entry into force (see Article 3).

4.2.1 Where this aspect is concerned, it is not thought that there is any need for a lengthy delay in transposing the directive once it has been adopted. In fact, the impact of the

directive on those it is designed to affect will basically depend on the legislative process, specifically criminal law, on how economic operators adjust to the new rules for entering the arms profession and on how registers of trading activity are organised. 12 to 18 months are deemed to be sufficient for this task.

4.3 With regard to classifying the illicit activities in question, existing comparative law in the Member States ⁽¹⁵⁾ could provide useful support for the *totus communitatae*, and the relevant system of penalties could be discussed as soon as possible at the European Council.

4.4 It might also be worth looking at the need to specify that the concept of 'illicit trafficking' contained in the proposal should be viewed against the background of the fight against transnational organised crime, in such a way as to limit the application of criminal sanctions to situations that fall exclusively within the specific scope of the United Nations convention referred to above.

4.5 As regards the provision set out in No 3(c) of Annex I to the directive, on defining antique weapons or reproductions of such, the EESC urges the Commission to coordinate this at Community level.

4.6 To conclude, it might also be useful to refer to the use of weapons in hunting, sporting, or collectors' activities, because the primacy of security interests must also prevail in these areas, due to the nature — or rather the lethal nature — of the items in question. In fact, assessing the purpose of owning a weapon is simply a matter of the will to impart that information; here there is margin for misuses and abuses, which must be prevented as far as possible. Against this background, it should be recommended, along the broad lines set out in this proposal, that Member States be bound to require weapon owners to declare ownership, hold a permit or comply with another administrative procedure authorising the use and carrying of a weapon, which involves the national security organisations responsible for monitoring and control.

Brussels, 13 September 2006.

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

⁽¹¹⁾ See Council Decision of 15 November 1999 on Cambodia, OJ L 294, 16.11.1999, p.5.

⁽¹²⁾ Framework Decision on the fight against terrorism (COM(2001) 521 final, 19.9.2001) and EESC Opinion CESE 1171/2006.

⁽¹³⁾ Framework Decision of 6 July 2001, OJ L 182, 5.7.2001.

⁽¹⁴⁾ Directive 93/15/EEC of 5 April 1993, OJ L 121, 15.5.93, amended by Regulation (EC) 1882/2003 of 29.9.2003, OJ L 284, 31.10.2003.

⁽¹⁵⁾ In Portugal, for example, the recent Law no 5/2006, of 23 February, already incorporates all the measures now being proposed.

Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council and the European Parliament on a Thematic Strategy on the Urban Environment

COM(2005) 718 *final* — {SEC(2006) 16}

(2006/C 318/15)

On 11 January 2006, the Commission 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 Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 July 2006. The rapporteur was Mr Pezzini.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 194 votes to two with six abstentions.

1. Conclusions and recommendations

1.1 The EESC realises that in order to achieve sustainable growth and boost competitiveness and innovation, it is imperative that we address the complex problems that currently face our cities, including environmental degradation, traffic congestion, housing issues, insecurity, criminality, unemployment crises and manufacturing restructuring, the social exclusion of the young and elderly in particular, and spatial as well as ethnic segregation.

1.2 Urban air pollution has long been a public health emergency with extremely high social and health costs. The World Health Organisation has identified poor air quality in cities as the primary cause of the rising incidence of many chronic diseases. These diseases place a considerable burden on health systems in terms of financial cost, treatment, hospital admissions and sick leave.

1.3 Preventive action has become absolutely essential not only at the level of individual responsibility, by cutting down on vehicle use, but also collectively, through new transport policies.

1.4 The EESC believes that the Member States should now stop reflecting upon the issue and recommends that they waste no time in adopting concrete action plans for immediate implementation, following the Commission's numerous recommendations, within the framework of an integrated, participatory and responsible approach, in order to make a significant, sustained and verifiable improvement to quality of life and the environment.

1.5 The Committee is also convinced of the future success of the Commission's approach in developing an integrated develop-

ment strategy for an urban environment deeply rooted in the principles of subsidiarity and proximity, especially if the strategy is implemented through shared, participatory methods, within the framework of the renewed Lisbon and Gothenburg agendas.

1.5.1 The Committee believes that the European Union should adopt incentives to promote the best practices adopted by national, regional and local authorities in order to put the abovementioned strategy into effect in accordance with their own individual circumstances.

1.5.2 In order to remain competitive, cities must develop modern, efficient and readily available online services, especially for the health sector, social services and public administration. This would ensure greater social cohesion and include the young and elderly in a framework that enhances relations between historic centres and the suburbs, rich and poor urban areas and between the latter and its hinterland.

1.6 In substance, the EESC advocates using the 'Socially Responsible Territories' model (i.e. territories that aim to develop sustainably, taking into account the economic, social and environmental aspects of their own activities as well as the socioeconomic implications of an ageing population) for urban development.

1.7 A territory may be defined as 'socially responsible' when it succeeds in combining adequate levels of wellbeing with the obligations inherent in social responsibility.

1.7.1 The process of learning to accept responsibilities as well as rights begins with informed awareness in the home and is strengthened through formative experiences at school from early childhood onwards.

1.8 The current (6th) Framework Programme for Research and Development offers an opportunity, through the Foresight project, to involve society stakeholders in agreeing on the choices most likely to produce a model that will be more alive to territorial social responsibility.

1.8.1 In addition to foresight activities, the 7th Framework Programme for Research and Development also foresees, under the dedicated priority theme 'health' ⁽¹⁾, specific activities relevant to human development and ageing, including through interactions between factors such as the environment, individual behaviour and gender issues.

1.8.2 The Committee emphasises the crucial role that schools, educational institutions and universities in general are expected to play in orientating young people and citizens towards sustainable development.

1.8.3 Many international initiatives have attempted to identify core principles and fundamental values when discussing corporate social responsibility. The foremost include:

- The Charter of fundamental rights of the European Union, Article 37 on environmental protection ⁽²⁾;
- Global Compact ⁽³⁾;
- The OECD guidelines ⁽⁴⁾;
- *Istituto Europeo per il Bilancio Sociale* (European Institute for Social Accounting) ⁽⁵⁾.

1.9 The Committee states its strong belief that actions intended to support the concrete application of such principles and fundamental values should be considered as growth-enhancing investments insofar as they are intended to enhance the economic, social and occupational aspects of the urban fabric and its potential attractions and expressiveness.

⁽¹⁾ OJ C 65/02/2006, point 5.2.2 (rapporteur: Heinisch) and OJ C 65, 2006 (rapporteurs: Wolf and Pezzini).

⁽²⁾ Article 37: **Environmental Protection** — 'A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development'.

⁽³⁾ 'So let us choose to unite the power of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations.' — The Secretary General of the United Nation, Kofi Annan, announced the Global Compact in a statement at the World Economic Forum in Davos, Switzerland in January 1999 and formally presented it at the UN in July 2000. The Global Compact calls on businesses to adopt nine universal principles of human rights and labour and environmental standards.

⁽⁴⁾ The OECD Guidelines for Multinational Enterprises were published in June 2000 and target international corporations.

⁽⁵⁾ Charter of Corporate Values drawn up by the IBS — (see Appendix II).

1.10 The Committee is convinced that it would be useful to introduce 'European green city' awards in order to encourage local communities and their public and private players to optimise their efforts.

1.10.1 The Committee believes that it should set an example, in conjunction with the Committee of the Regions, by looking into the possibility of launching a 'Eurogreen city' civil society award and monitoring best practice in sustainable urban development through the SMO.

2. Reasons

2.1 The overwhelming majority of Europe's population lives in urban areas ⁽⁶⁾, where the quality of life is often characterised by a dramatic deterioration in transport systems, environmental and social conditions, and access to basic services. The latter call for substantial, innovative interventions, a more intelligent use of resources and personal and community lifestyles that are more respectful of the environment.

2.1.1 The EESC has had frequent occasion to express its views on this issue, in particular: 'For numerous reasons ... cities crystallise environmental problems in concentrated form. Such problems are acutely felt by citizens, particularly when they concern air quality, noise pollution and, especially in the southern Member States, water resources'.

2.1.2 The problems involved in integrating environmental issues into the urban development process are covered by the priorities outlined in the Sixth Community Environment Action Programme 2002-2012 for sustainable development in various priority areas, and on which the EESC has already expressed its views.

2.1.3 The Sixth Community Environment Action Programme 2002-2012 provides for the development and implementation of seven thematic strategies ⁽⁷⁾:

- * air pollution,
- * marine environment,
- * sustainable use of natural resources,

⁽⁶⁾ With a population of over 50 000 inhabitants.

⁽⁷⁾ Asterisks denote that the area has already been covered by a Directive.

- * waste prevention and recycling,
- soil protection,
- use of pesticides,
- * urban environment.

2.1.4 Five of the seven thematic strategies have already been formalised by the Commission. More specifically: the Proposal for a *Thematic Strategy on air pollution* was adopted by the Commission on 21 September 2005 ⁽⁸⁾; the *Proposal for a Marine Strategy Directive* was adopted on 24 October 2005 ⁽⁹⁾; the *Proposal for a Directive on waste* (new thematic strategy on the prevention and recycling of waste) was adopted on 21 December 2005 ⁽¹⁰⁾; the Proposed for a thematic strategy on the sustainable use of natural resources was adopted on 21 December 2005 ⁽¹¹⁾; and the most recent proposal on the urban environment (which is the subject of this opinion) was adopted on 11 January 2006.

2.1.5 There are clear interactions between the recommendations in the four previous thematic strategies and the most recent one. The following are concentrated and magnified in an urban environment:

- measures for combating air pollution;
- waste prevention and recycling;
- greenhouse gas emissions produced by fossil fuels used in urban transport and domestic heating and air-conditioning systems;
- the protection of ground water and the natural fauna and flora in urban parks;
- the protection of the marine environment, with cross-cutting issues for ports and coastal towns.

2.1.6 Other measures that are also relevant to the thematic strategy for the urban environment concern the reduction of noise pollution, which was covered by an action plan strategy for major agglomerations in 2002 ⁽¹²⁾, and the recent *Proposal for a Directive on the promotion of clean road transport vehicles* (especially the recommendations concerning public procurement) ⁽¹³⁾.

2.1.6.1 The following are also closely connected with the proposed strategy under consideration:

⁽⁸⁾ COM(2005) 446 final.
⁽⁹⁾ COM(2005) 505 final.
⁽¹⁰⁾ COM(2005) 667 final.
⁽¹¹⁾ COM(2005) 670 final.
⁽¹²⁾ Directive 2002/49/EC.
⁽¹³⁾ COM(2005) 634 final.

- EU environmental policy actions for urban management under the LIFE+ programme;
- EU regional and cohesion policy actions relevant to the ESF, the ERDF and the Cohesion Fund as well other EU initiatives including URBAN II, EQUAL and INTERREG;
- EU initiatives for rational energy use, reduced energy consumption and energy efficiency under the Intelligent Energy Programme and, at a future date, the Competitiveness and Innovation framework Programme (CIP);
- EU research and development activities under the RTD Multiannual Framework Programme, which mainly concern the environment and public health; transport and energy; the information society as a means of improving quality of life; scientific progress and cultural growth in society; new materials and nanotechnology; radionavigation and satellite development through GALILEO, GEO and GMES ⁽¹⁴⁾;
- interventions for the conservation of the urban architectural, monumental and cultural heritage under Community programmes such as MINERVA, LIFE/RICAMA, Culture 2000, MEDIA Plus and eContentplus;
- EU actions on behalf of the countries of the Mediterranean basin and the Balkans (MEDA), and the countries of the New Independent States (NIS) (TACIS) — the subject of the new Neighbourhood Instrument;
- EU actions under Community development cooperation policies on behalf of various regions: ACP, Latin America (Mercocidades) and Asia, and EU trade policies under the EU Trade Sustainability Impact Assessment (SIA).

2.1.7 Major contributions towards defining a *Thematic Strategy for the Urban Environment* were based on the outcome of consultations carried out by the Commission on the interim Communication adopted in 2004 ⁽¹⁵⁾; on a preliminary analysis of possible strategies in this area; on voluntary initiatives under Agenda 21; the Aalborg Charter ⁽¹⁶⁾; the Conclusions of the Council of 14 October 2004 on the relevance of the theme and the importance of taking action at all levels; and, finally, on the Bristol Conclusions drawn up under the UK Presidency ⁽¹⁷⁾.

⁽¹⁴⁾ Global Monitoring for Environment and Security.

⁽¹⁵⁾ COM(2004) 60: *Towards a thematic strategy on the urban environment*.

⁽¹⁶⁾ www.aalborgplus10.dk.

⁽¹⁷⁾ The Bristol Accord, December 2005, www.odpm.gov.uk, Product code 05 EUPMI 03584. The Bristol Accord identifies 8 basic characteristics for a sustainable community 1) Active, inclusive and safe; 2) Well run; 3) Well connected; 4) Well served; 5) Environmentally sensitive; 6) Thriving; 7) Well designed and built; 8) Fair for everyone.

2.1.8 Furthermore, the Commission has drawn up a working document, which is appended to the Communication under consideration. The working document consists in an impact assessment of the different implementation scenarios for the strategy and their cost.

2.1.9 In 2005, the European Parliament in its *Report on the urban dimension in the context of enlargement* ⁽¹⁸⁾, recognises that cities and urban agglomerations or areas where 78 % of the European Union population is concentrated, are the place where both the most complex and the most common problems are concentrated but they are also the place where the future is built, and where all forms of knowledge are explored and consolidated. Hence, towns and cities 'have a central role to play in achieving the revised Lisbon and Gothenburg objectives'. The European Parliament has also called on the Commission 'to develop and propose models and tools for sustainable urban development which would be accessible to all towns and cities and urban agglomerations or areas'.

2.1.10 The EESC maintains that political decision makers, in coordination with the social partners and civil society at large, should pursue the objective of developing an urban environment that achieves a high social return through training-oriented policies.

2.2 The Commission proposal

2.2.1 The Commission proposal observes that the 'diversity in terms of history, geography, climate, administrative and legal conditions calls for locally developed, tailor-made solutions for the urban environment' and that the 'application of the subsidiarity principle, where action should be taken at the most effective level, also implies acting at the local level'. Given the diversity of urban areas and existing national, regional and local obligations, and the difficulties linked to establishing common standards, 'it was decided that legislation would not be the best way to achieve the objectives of this Strategy', as was confirmed by most Member States and the local authorities themselves.

2.2.2 The proposed thematic strategy is structured along the following lines:

- guidance on integrated environmental management;
- guidance on sustainable urban transport plans to be developed by the local authorities with technical guidance on the main aspects of transport plans and with examples of best practice, to be published by the Commission by 2006;

⁽¹⁸⁾ EP(2005)0272, 21 September 2005.

- support for EU-wide exchange of best practices;
- Commission Internet portal for local authorities to facilitate access to all documents published on a variety of websites for local authorities, in line with the action plan for improving communication on Europe;
- training to provide the specific skills required for adopting an integrated approach to management. This would also include exchange programmes for local authority officials and ESF initiatives for strengthening the efficiency of public administrations at regional and local level ⁽¹⁹⁾;
- application of other EU policies: cohesion policies ⁽²⁰⁾ and research policies ⁽²¹⁾.

2.2.3 Since the Commission proposal is multisectoral, it should be read against the background of other thematic proposals, and more specifically, the proposal on air pollution, and the proposals on solid urban waste, marine pollution and soil protection.

2.2.4 Furthermore, it would be appropriate for the Commission to provide a consolidated version of all provisions pertaining to the sustainable development of cities and urban agglomerations in the various EU programmes applicable to the urban environment. Finally, it should also provide strategic guidelines that, in various respects, are relevant to urban development.

2.3 General comments

2.3.1 The Committee welcomes the Communication from the Commission because it tackles an issue of considerable relevance to EU citizens insofar as it impacts on the quality of life in their cities and urban areas and also because of the fundamental role that the latter play in generating wealth and economic, social and cultural development.

2.3.2 Emphasis should be placed on the pre-requisites of the strategic action as outlined in the Bristol Accord of December 2005 ⁽²²⁾ for sustainable communities across Europe:

- economic growth, without which we are unable to invest in the creation and maintenance of sustainable communities;

⁽¹⁹⁾ The European Social Fund (COM(2004) 493) could be used to support public administration training at various levels. The new Life+ programme could also play an important role.

⁽²⁰⁾ COM(2004) 494 and 495.

⁽²¹⁾ COM(2005) 1.

⁽²²⁾ See footnote 18.

- an integrated approach that ensures sustainable development, reconciling economic, social and environmental challenges as well as social inclusion and social justice;
- strong cultural identities to turn Europe's cities into places of international excellence with a view to achieving the Lisbon Agenda;
- the ability to respond to the challenge of social segregation;
- recognition that sustainable communities can exist at different spatial levels: local, urban, regional.
- provide EU support for technical training, best practice sharing and exchange programmes for local authority officials and experts from different Member States;
- form public-private partnerships, especially for the management of integrated economic development programmes and the promotion of ecological economic activities in programming sustainable development and rehabilitating degraded or brownfield sites as well as the socioeconomic sustainable regeneration of small to medium-sized urban centres or run-down neighbourhoods in large cities ⁽²³⁾;
- ensure coordination and consistency in the approach of Commission departments responsible for policies and programmes that focus on the various economic, social and environmental aspects of urban development by setting up a clearly defined interservice focal point that outside partners can easily identify;

2.3.3 In order to ensure consistency with the Community commitment 'to legislate less but to legislate better', the Committee believes that it would be appropriate to:

- adopt voluntary coordination methods that combine the new integrated approach to urban management with the contents of the environmental directives (water, air, noise, waste, gas emissions, climate change, nature and biodiversity) and other thematic strategies under the Sixth Action Programme 2002 — 2012;
- adopt foresight systems for urban environment development, involving all economic and social players, stakeholders and end-user groups, including the most vulnerable and marginalised, on which local decision-makers can base their independent choices and whose outcomes could serve to identify common indicators at European level for monitoring and benchmarking;
- intensify cooperation at all levels of government (local, regional and national) and between the various local authority departments, including in the area of public security, and to safeguard economic activities from criminality and urban petty crime;
- take concrete action that addresses the problems presented by an ageing urban population, also by comparing experiences in different European cities;
- provide EU support for capacity-building initiatives in support of local administrations and economic and social stakeholder and civil society organisations in the region;
- provide EU support for feasibility studies to ensure a clear and objective assessment of the cost of preparation, adoption, implementation, certification, control and monitoring, quality assessment and the review of Integrated Environmental Management Plans (EMPs), Sustainable Urban Transport Plans (SUTPs), and Environmental Management Systems (EMSs) ⁽²⁴⁾ for cities and urban agglomerations according to type and characteristics;
- strengthen Community support for concrete development projects as well as networks of European cities and non-European cities such as the European Urban Knowledge Network, Eurocities, Mercocidades, Civitas-Mobilis, Urbact;
- develop the technological potential of the information society, e-government, e-learning, and teleworking to enhance the development of the urban environment;
- develop curricula for schools and vocational training centres at various levels to increase the citizens' sense of responsibility towards environmental issues and to create 'knowledge workers';
- develop impact assessment systems that are able to provide harmonised progress reports on the environmental, economic, social, cultural and technological situation in European cities. To this end, it would be appropriate to provide common guidelines for impact assessments, similar to the EU Draft Handbook for Sustainability Impact Assessment.

⁽²³⁾ The contribution of the European Investment Bank (EIB) in this field is substantial.

⁽²⁴⁾ See Annex F of the Commission Staff Working Document SEC(2006) 16.

2.3.4 The Committee attributes considerable importance to the process that will enable regions and especially cities to define themselves as '**Socially Responsible Territories**'⁽²⁵⁾. This will only happen if regions and cities can successfully integrate:

- social and environmental considerations into our economic decisions;
- value models combined with participatory decision-making processes to relaunch competitiveness under the EU JESSICA initiative⁽²⁶⁾, amongst others;
- best practice and continuous stakeholder interaction to promote innovation and competitiveness;
- 'reasonable' wellbeing combined with responsibility for the environment and health;
- a sensitive and participatory approach to sustainable urban development from politicians.

2.3.4.1 The Committee is convinced that the social and cultural development of the urban environment is of primary importance, in view of demographic trends and migratory flows.

2.3.4.2 The Committee is also convinced that at the heart of an effective sustainable development strategy lies the need to fight economic, social and cultural poverty, deteriorating physical and mental health in humans, social exclusion, and the marginalisation of the most vulnerable sectors of the urban population in order to achieve more effective social inclusion of all ethnic and cultural groups.

2.3.5 The process should be divided into the following clearly defined phases:

- identification of the local community's shared values;
- identification of resources and needs;
- definition of improvement objectives and harmonised assessment indicators;
- establishment of an operation plan and identification of instruments;
- bottom-up management and monitoring of the Socially Responsible Territories project;
- intensive awareness-raising activities and continual training to develop a territorial culture.

⁽²⁵⁾ See the Renewed EU Sustainable Development Strategy (Council document 10117/06, 09.06.06, paragraphs 29 and 30).

⁽²⁶⁾ JESSICA (Joint European Support for Sustainable Development in City Areas: Community support for sustainable investments in urban areas) aims to provide solutions to financing problems for urban restructuring and development projects and social housing projects through a combination of subsidies and loans.

2.3.5.1 Local authorities have already identified a number of solutions, including the following examples:

- electric minibus service to replace the use of private vehicles in urban centres (Salzburg);
- biofuel buses (Bologna);
- assisted pedal cycles⁽²⁷⁾: very important for the elderly in general and for the inhabitants of non-upland towns (Ferrara, Milan);
- light railways connecting airports and intermodal centres with cities;
- local plans for urban restructuring to regenerate the city whilst preserving its architecture and character, as in the outstanding example of Versailles⁽²⁸⁾.

2.3.5.2 The EESC endorses the Commission proposal on the promotion of clean road transport vehicles and the proposal on taxing vehicles according to CO₂ emissions and not cylinder capacity.

2.3.6 The EESC considers that awareness-raising initiatives relevant to these themes should be intensified at all levels, but especially at the local level, in order to ensure that citizens and businesses develop a sense of commitment and responsibility (including through the Foresight project) towards the work carried out in recent years on sustainable development and corporate social responsibility by international bodies, including the Commission, the UN, the OECD, and the *Istituto Europeo per il Bilancio Sociale* (European Institute for Social Accounting).

2.3.6.1 The procedures to be adopted centre round research and innovation, policies for supporting the renovation of installations, training, disseminating environmental management systems, and monitoring systems.

2.3.6.2 The most appropriate instruments in addition to information campaigns and the promotion of a culture of responsibility, include ISO 14001; EMAS⁽²⁹⁾; GHG⁽³⁰⁾; tax and financial support for meeting these targets; simplified procedures; exemption from environmental procedures for those who have obtained the relevant certification.

⁽²⁷⁾ With electric motors.

⁽²⁸⁾ The study group chaired by Mr Mendoza Castro was able to verify on site, at the invitation from the city's Deputy Mayor, Mr Buffetaut, the concept, structure and development of the local urban development plan for Versailles in the context of Agenda 21, which was decided by the city's municipal council in 2003 (See appendix 3).

⁽²⁹⁾ EMAS, Regulation 1836/93, amended by Regulation 761/2001.

⁽³⁰⁾ The new ISO 14064 standard on Greenhouse Gas (GHG) and Directive 2003/87/EC.

2.3.6.3 The Committee believes that it would be useful to introduce 'European green city' awards. Such awards could prove to be effective incentives for optimising the efforts of local communities, and their public and private components, to develop an integrated approach and lifestyles that are consistent with it.

2.3.6.4 The Committee believes that it should set an example, in conjunction with the Committee of the Regions, by looking into the possibility of launching a 'Eurogreen city' civil society award, contributing to a progress assessment of ESPON ⁽³¹⁾, identifying obstacles and monitoring best practice in sustainable urban development through the SMO.

2.3.7 The EESC believes that the focal point of an effective urban development strategy consists primarily in identifying appropriate governance systems in order to take action through the integrated management of complex situations that provide for the co-existence of:

- multilevel territorial interventions and decision-making;
- multiple decision-making centres with their own specificities and priority objectives;
- timeframes for short, medium and long term objectives.

2.3.8 The Committee maintains that amongst the most relevant points for improving the integrated governance system of socially responsible territories, the following should be included:

- improvements to the Commission's internal consultation process;

- involve all stakeholders in the socio-economic and environmental sustainability of cities when drafting proposals for action;
- continuous and structured dialogue with civil society for the transparent dissemination of information on environmental risks, clean technology choices, and the need to make one's own city more attractive;
- a common vision for medium-term prospects through participatory foresight that involves all public and private decision-making centres;
- impact assessment tools based on pre-defined criteria and indicators at EU level, corresponding to an integrated territorial approach;
- best practice analysis, especially with regard to social inclusion, safety and social co-existence;
- more environmental education in schools and extracurricular training for adults and the elderly;
- a joint effort to develop, including through the EU JEREMIE and JESSICA initiatives, a financial engineering system liable to promote growth, employment and social inclusion in cities, through the Structural Fund and the Cohesion Fund, the EIB, the EIF and with the support of the PPP (public-private partnership);
- incentives and certification schemes that reward public and private voluntary initiatives for the development of a sustainable and competitive urban environment.

Brussels, 13 September 2006.

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

⁽³¹⁾ ESPON (European Spatial Planning Observation Network).

Opinion of the European Economic and Social Committee on The future outlook for agriculture in areas with specific natural handicaps (upland, island and outermost areas)

(2006/C 318/16)

On 19 January 2005 the European Economic and Social Committee decided to draw, under Rule 29(2) of its Rules of Procedure, on *The future outlook for agriculture in areas with specific natural handicaps (upland, island and outermost areas)*.

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 11 July 2006. The co-rapporteurs were Mr Bros and Mr Caball i Subirana.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September 2006), the European Economic and Social Committee adopted the following opinion by 173 votes to six with 16 abstentions.

1. Conclusions and recommendations

1.1 The EESC considers that the existence of these areas with specific natural handicaps (upland, island and outermost areas) must be recognised both publicly and politically, so that coherent, targeted policies in line with the real needs of these regions can then be implemented.

1.2 At a time when rural development and regional competitiveness programmes are being negotiated between the European Commission and the European regions or Member States, the European Economic and Social Committee wishes to emphasise the importance and the needs of farming in areas with specific natural handicaps (upland, island and outermost areas).

1.3 Bearing these handicaps in mind, the Committee calls on the European Commission to propose policies that are genuinely specific to these areas, in order to coordinate the different policies currently applying to them and to develop synergies between existing measures.

1.4 Even though the second pillar of the CAP — rural development — is indispensable and thus a key political priority, it has to be said that this was one of the main variables whereby agreement could be reached on the financial perspective. Noting this cut in budgetary resources, the Committee calls on the Commission and the Council to steer appropriations for rural development towards the weakest areas in the greatest need; in other words, areas with permanent natural handicaps.

1.5 The Committee calls on the Commission and the Member States, when drawing up rural development and regional programmes under the Structural Funds, to ensure that

these programmes in areas with natural handicaps are both complementary and consistent.

1.6 The EESC proposes that, in the same way that platforms such as Euromontana already exist to promote mountain regions, this type of cooperation should be boosted in island and outermost regions, especially for agricultural policy issues, and should actively involve civil society.

1.7 Given the precarious situation and the importance of farming in these areas, the EESC considers that creating a European monitoring centre for such areas (upland, island and outermost areas) is of the utmost importance. The aim is to develop a European vision of farming in these areas that acts as a point of reference for following up, analysing and disseminating information on the state of farming there and as a meeting place for reflection and dialogue between administrations, civil society and the different European organisations and which puts forward European initiatives to maintain and develop farming in these areas.

1.8 The EESC would, however, point out that there are many other disadvantaged rural areas besides the upland, island and outermost areas discussed in this opinion, areas with comparable problems in terms of location, production costs and climate. This applies in particular to 'other disadvantaged areas' and 'areas with specific handicaps'. The EESC will look at these issues in a subsequent opinion.

1.9 In demarcating the other disadvantaged areas, objective location-related handicaps to agricultural use should also figure prominently. Sufficient account should also be taken of specific regional features.

2. Justification

2.1 Background

- EESC opinion on *The future of upland areas in the EU* ⁽¹⁾
- EESC opinion on rural development ⁽²⁾
- European Parliament resolution of 6 September 2001 on 25 years' application of Community legislation for hill and mountain farming ⁽³⁾
- EESC opinion on the outermost regions ⁽⁴⁾
- EESC opinion on the strategy for the outermost regions ⁽⁵⁾
- EESC opinion on *The problems of agriculture in the EU's most remote regions and islands* ⁽⁶⁾.

3. Common section: areas with permanent natural handicaps

3.1 The regulations on rural development and regional policy have now been adopted. It has not been easy to allocate the funds, given the cut in the budget for these policies. The agreement on the financial perspective 2007-2013 resulted in lower amounts being allocated to rural development in the old Member States and in regional policy funds being spread more thinly.

3.2 After many years, some upland and outermost regions suffering from permanent natural handicaps are now recognised in the common agricultural policy and in regional policy, but island regions do not enjoy the same recognition.

3.2.1 Upland areas are important in Europe: they cover one-third of its territory and account for some 18 % of the EU-25's population. The accession of Romania and Bulgaria will bring extensive upland areas within the EU's borders. European upland areas are extremely varied, both in their physical characteristics such as topography and climate, and in their socio-economic characteristics, such as demography, accessibility and connections to neighbouring areas. They differ in terms of land use and the role played by farming, in terms of social cohesion and, even more importantly, their level of economic development.

3.2.2 EUROSTAT uses the following five criteria to define what constitutes an island: 1) the island must cover an area of at least one square kilometre; 2) the distance between the island and the mainland must be at least one kilometre; 3) there must be a permanent resident population of at least 50 inhabitants; 4) there must be no permanent physical link between the island

and the mainland; and 5) no EU capital city may be situated on the island.

3.2.3 Any island on which an EU capital is based is excluded according to the EUROSTAT definition. Before enlargement, therefore, the United Kingdom and Ireland were excluded, but two relatively small islands — Cyprus and Malta — have, since May 2004, become EU Member States. The EESC suggests that the definition be reviewed to include these two Member States. This has been acknowledged by the EU in its proposal on the new Structural and Cohesion Funds and in the Treaty establishing a Constitution for Europe, which already refers to this point.

3.2.4 The outermost regions — i.e. the French overseas departments, the Azores, Madeira and the Canary Islands — are full members of the European Union, but at the same time present their own unique characteristics. These regions are all in a similar situation and are characterised by a series of geographical, physical and historical factors that have a considerable influence on their economic and social development.

3.2.5 Other specific areas that are smaller, such as peri-urban ⁽⁷⁾ areas, wetlands or polders, can face particular handicaps, to which special attention should be paid in a more decentralised framework for implementing European policies. The Committee could address these issues in a subsequent opinion.

3.3 These areas suffer from permanent natural handicaps including isolation — which results in higher marketing, supply and service costs and makes access to markets more difficult — and higher infrastructure, transport and energy costs.

3.4 Hence the particular importance of preserving agriculture in disadvantaged areas in the interests of economic development, social life, cultural heritage (farmers make up a high percentage of the population in these areas), balanced territorial development and the environment.

3.5 The recent changes to the CAP are many and far-reaching and will inevitably affect the sustainable development of all European regions and, in particular, areas with specific natural handicaps, due in particular to the weakening of the second pillar in the case of the older Member States. A dual trend can be seen in these developments: on the one hand, a European response to the negotiations taking place at the WTO (World Trade Organization) and the quest for competitiveness on international markets; on the other hand, the unrealised wish to strengthen measures and support for protecting the environment, animal welfare and rural areas.

⁽¹⁾ OJ C 302 of 14.3.2003, rapporteur Mr Jean-Paul Bastian.

⁽²⁾ OJ C 302 of 7.12.2004 and CES 251/2005, OJ C 234 of 22.9.2005, rapporteur Mr Gilbert Bros.

⁽³⁾ INI2000/2222, OJ C 072 of 21.3.2001.

⁽⁴⁾ OJ C 221 of 17.9.2002, rapporteur Mr Philippe Levaux.

⁽⁵⁾ OJ C 24 of 31.1.2006, rapporteur Ms Margarita López Almendáriz.

⁽⁶⁾ OJ C 30 of 30.1.1997, rapporteur Mr Leopoldo Quevedo Rojo.

⁽⁷⁾ OJ C 74 of 23.3.2005.

3.6 The theoretical aim of the 2003 CAP reform was to improve competitiveness and to adapt farm production to market needs. If left to market forces alone, however, farming in disadvantaged areas would die out. A proactive policy is therefore needed to keep farming alive in these difficult areas.

3.7 It is hard to assess the impact of the reform of the 'first pillar', adopted on 29 September 2003, involving decoupling, cross-compliance and modulation, because the Member States and regions have adopted different strategic decisions as to what action to take. It is clear, however, that the reform entails the risk that some forms of production will cease and/or relocate (because there is no obligation on farmers to be productive in order to receive direct aid), for example in the case of livestock breeding and the fattening-up of animals for sale.

3.8 At a time when the Commission is negotiating rural development and regional policy programmes with the European regions and the Member States, particular attention must be paid to areas suffering from permanent natural handicaps in order to ensure the territorial cohesion that is crucial to the success of the Lisbon strategy. Basing public policy solely on strategies to improve competitiveness would thus run counter to the stated aims. This appears, however, to be the direction that some EU Member States wish to take.

3.9 Farming must continue as an economic activity based on farmers' desire to do business. This does not mean turning disadvantaged areas into museums for outdated farming practices or into areas where the environment is the sole or predominant concern. The farming sector has succeeded in developing and modernising to meet consumers' and the public's expectations. This dynamic must be continued so as to make the best use of farmers' capacities for innovation and enterprise. Farming in disadvantaged areas must continue down this path and allow an agri-food sector to develop on the basis of local production in order to keep such areas economically viable. State aid for regions has a special role to play here.

4. Upland regions

4.1 Introduction: the specific characteristics of upland farming and the challenges for rural development

4.1.1 **Upland farming** in Europe has a number of specific characteristics. Although upland areas are not the same throughout Europe, neither in terms of environment, soil and climate nor from an economic and social point of view, there

are common constraints (or handicaps) on farming in these areas due to the slopes, the uneven terrain and a generally harsh climate. These constraints limit choices of production to pasturage and livestock breeding. These factors also make it harder for farming here to adapt to competition and entail higher costs that prevent it from producing competitive low-cost products. This type of agriculture does, however, present a number of benefits for the sustainable development of upland areas.

4.1.2 Rural development issues in upland areas essentially concern the scarcity of useable land, competition with other activities such as forestry or urban development, the abandonment of agricultural land, the overgrowth of landscapes, the development of tourism, accessibility (or isolation), services of general interest and the management of water and natural resources, and in particular the preservation of biodiversity. Ultimately, they concern the safety of goods and persons thanks to the positive roles played by farming and forestry in combating natural risks such as landslides, flooding, avalanches or fires.

4.2 *The need for a harmonised EU definition*

A reminder of the position set out in the EESC opinion on The future of upland areas in the EU ⁽⁸⁾:

There are thus significant discrepancies [in the classification of upland areas] between Member States. Whilst a certain amount of subsidiarity should be retained in the final designation of the areas concerned, it would therefore be advisable to standardise the concept of an upland area by adapting the current EU definition and specifying a range for each of the three criteria (slope, altitude and climate).

4.2.1 As a result of the report produced by the European Court of Auditors and the study requested by the European Commission entitled *Mountain Areas in Europe: Analysis of mountain areas in EU member states, acceding and other European countries*, published in January 2004 on the Internet at: http://europa.eu.int/comm/regional_policy/sources/docgener/studies/study_en.htm, the Commission is now in a position to produce a standardised definition of upland areas.

4.3 *The European Union must have a specific policy for upland areas*

4.3.1 Upland farming has a unique effect on the environment and on the land itself. Farmers provide considerable benefits for the local economy, the environment and for society as a whole.

⁽⁸⁾ Ibid 1.

These are its 'positive externalities' or its 'multifunctional nature'. Farming is an effective form of land-use planning and natural resource management and is of central importance to successful landscaping. These aspects are particularly crucial in upland areas, due to their considerable water resources, upland-specific biodiversity and the tourist attraction of almost all upland areas. Upland farming also helps to preserve certain animal and plant species, either by making direct use of them (breeds of cattle or sheep exported throughout the world because of their traditional country flavour, or specific plant breeds such as perfume-producing flowers, or certain cereals that consumers are now rediscovering) or as a consequence of farming (maintenance of rough grazing land, etc.). Agriculture in these areas also helps to ensure a wide range of farm and food produce for the markets, not least because it often supplies typical and very well-known regional products for which there is less competition and this also helps to preserve traditional know-how. Lastly, this form of farming contributes to employment in rural areas and is closely linked to non-farming rural activities, because in many regions a large proportion of people hold down several jobs at once.

4.3.2 Unless we take the view that these positive externalities could be charged for as services rendered, which is generally not the case today, an overall reduction in support for upland farmers would have an immediate impact on them, speeding up the abandonment of farms and consequently of their task of maintaining the countryside. This is a matter of general interest, which concerns all public decision-makers and society as a whole. If there is a real desire to prioritise sustainable development, this issue cannot be ignored.

4.3.3 The need to preserve productive farming in upland areas is particularly pressing for the rural economy, to help transform it and thus to create added value in these areas, which will lead to employment, growth, etc. Furthermore, produce from upland areas is often an integral part of the particularly rich cultural heritage of these areas, whose survival depends on local products, such as the *artisou* cheese from Margeride⁽⁹⁾ (which forms the basis of the artisou cheese festival), Mahon cheese or Rute aniseed.

4.3.4 Upland farming faces a number of specific and permanent constraints. The implementation of the first pillar of the CAP, which has traditionally been based on farm production levels, has meant that upland areas consequently receive less support under the first pillar than lowland areas. Assistance under the second pillar is in practice of equal importance to that provided under the first pillar in these areas. A specific policy for upland areas must ensure that account is taken fully and consistently of the specific problems facing upland farms,

both agricultural and pastoral. This policy starts from the premise that society must give itself the means to promote dynamic upland agriculture, which is able to perform the tasks of agricultural production and countryside maintenance that are deemed crucial to the spatial planning and future development of these areas.

4.3.5 Under the European network for rural development, the Committee calls on the Commission to set up a thematic working party for upland-related issues.

4.3.6 Mountains in the Mediterranean suffer from both upland handicaps and those resulting from the Mediterranean climate (such as drought, forest fires, storms, etc.). This specific characteristic should be taken into account at European level so that policies can be adapted at regional level.

4.4 *Attaching priority to upland areas when allocating appropriations under the second pillar*

4.4.1 At a time when rural development budgets are falling or staying at the same level in the old Member States and the new Member States are tempted to allocate appropriations to the areas that are most productive in the short term, the European Commission must ensure that EU appropriations are allocated to the areas with permanent natural handicaps that need them year after year.

4.5 *Consolidating compensation measures for upland farmers is crucial*

4.5.1 Compensation for natural handicaps and consequently for higher production costs is the most important measure that can be adopted to support upland farming. No one today questions the importance of this measure, even if sufficient means are not provided to meet its aims.

4.5.2 Farm production conditions in upland areas are basically characterised by major constraints linked to altitude, slopes, snow and difficulties in communication. The consequences of these constraints fall into two categories. They result in higher equipment costs (buildings and materials) and transport costs and also reduce the productivity of certain factors (land ownership, capital, labour) depending on the type of production and the degree of handicap.

4.5.3 Lower productivity in upland farming is linked to the shorter active lifespan of vegetation, which falls from eight months in the lowlands to less than six at an altitude of 1000 metres. This means that at least one-third more fodder is required to feed an animal and, to compound the problem, this is on land that is already less productive per fodder unit.

⁽⁹⁾ More information on this cheese: <http://www.artisoudemargeride.com>.

4.5.4 The Compensatory Allowance for Permanent Natural Handicaps (CAPNH) is the main support mechanism for achieving these aims. A ceiling on the allowance would be desirable to limit the growth of holdings that are already medium to large, in order to maintain a sufficient number of farms, thereby preventing desertification.

4.6 *Other measures supporting upland farming must be pursued and built on*

4.6.1 Extensive grassland farming policy

4.6.1.1 In earlier programming periods, agri-environmental measures helped to implement a policy aimed at supporting grassland production in areas with extensive farming. This approach must be continued by means of measures that are simple and accessible to the greatest number of farmers, supplemented by other measures that are more geared towards areas facing specific environmental issues.

4.6.1.2 Limiting agri-environmental support to this type of area would in fact run counter to the aim stated in the measure, insofar as it would almost inevitably lead to farmers leaving the profession and to the countryside returning to a state of neglect, which would hamper the prevention of natural risks, the multi-functional role of the areas concerned and the preservation of biodiversity. It should be noted that, in any event, agri-environmental measures that will enter into force in 2007 have actually become more selective than before, because they now include a mandatory unremunerated basic amount linked to farms' implementation of cross-compliance.

4.6.2 Support for investment

4.6.2.1 There are a number of factors causing higher building costs in upland areas, such as buildings having to withstand snowfalls and heavy winds, remoteness, the greater excavation work required and keeping animals stabled for longer periods, thus requiring higher volumes of fodder and waste to be stored. Higher mechanisation costs are due to the specific characteristics of the equipment needed for working on steep terrain, to the wear and tear it suffers as a result of the climate and the small production runs for such equipment. Just like compensation for natural handicaps, support for investment is a prerequisite for farms' survival and should thus be stepped up in upland areas.

4.6.3 Getting young people into farming and subsidised loans

4.6.3.1 The trend in upland farming, as in farming everywhere, is for fewer people to join the profession due to the lack

of prospects, the onerous nature of the work and the heavy financial burden when operating capital has to be transferred; when three farmers cease their activities, only one is replaced, in upland areas as elsewhere.

4.6.3.2 Nevertheless, due to the fragile nature of upland farming systems and the higher levels of investment required than in the lowlands, it is more important than elsewhere to encourage new generations to replace those leaving the profession and take up farming. This aim is of direct concern to farming, but it also very much in the general interest, as emphasised above.

4.6.4 Compensation for the higher costs of services

4.6.4.1 Higher costs of services (artificial insemination, harvesting, etc.) are largely due to the lower density of upland holdings, which makes transportation longer, and to transport conditions, which are more difficult and cause more wear and tear to vehicles. In order to meet the aim of preserving farms in upland areas, support must be given to these services, in particular to milk collection, the cost of which is currently borne by farmers. In the context of upland areas, the argument that support of this nature would distort competition does not really hold water, because market rules are not applied in all areas in the same, undifferentiated way.

4.6.5 Support for the agri-food industry

4.6.5.1 In order to ensure the best return on upland farm produce, industrial processing and marketing tools must be available locally. But the agri-food industries are also affected by the constraints imposed by the mountainous nature of the land, the distance from markets, higher transport costs, and higher construction and maintenance costs. Such a measure would also lead to new jobs being created, which is particularly important in rural areas.

4.6.5.2 This is why permanent support for these activities is appropriate and necessary. The agri-food industry must be given broad access to regional aid.

4.6.6 Support for investment in agri-tourism

4.6.6.1 Agri-tourism is highly developed in some of Europe's upland areas, in Austria for example, and provides additional income that is crucial to the survival of farms there. Conversely, tourism exists in these areas, and not only on farms, because of the attraction of the landscapes and cultures that have largely been shaped by farming.

4.6.7 Support for the European Charter for Quality Food Products

4.6.7.1 Most upland farms cannot compete with lowland farms by selling mass-produced, run-of-the-mill goods at the same price (or often at a lower price because of producers' remoteness). In order to boost farmers' incomes, it is crucial in upland areas even more than elsewhere to strive to ensure the quality, authenticity and the originality of products and to establish mechanisms for improving production and structures in the agri-food sector, thus achieving greater added value. Many designations of origin come from upland areas.

4.6.7.2 Adequate protection of high-quality agri-food products from upland areas — meaning that consumers can buy with confidence and that producers are properly remunerated — is a major issue for the future of upland farming. This is why the Committee is a signatory to the European Charter for Mountain Quality Food Products⁽¹⁰⁾ and hopes that the Community institutions support this initiative.

4.7 *Integration of agricultural and regional policies to ensure they have a greater impact on upland areas*

4.7.1 For example, one of the aims of European regional policy is territorial cohesion, which is barely referred to in the CAP and has a rural dimension which could be enhanced. These two policies taken together, if coordinated, could have a substantial and positive effect on sustainable development in upland areas.

4.8 *Other points to be considered*

4.8.1 There must be a concerted approach to dealing with large predators.

4.8.1.1 Extensive sheep farming in European upland areas was able to emerge and develop when large predators were eradicated. Their reappearance (wolves in the Alps and bears in the Pyrenees) once again threatens this form of extensive farming, in which herds are not constantly watched over.

4.8.1.2 Initiatives have been put forward proposing fair solutions that could reconcile the practice of pastoralism in upland areas with protecting large predators, in particular in Italy and Spain (effective means of protection, compensation for losses, compensation for additional work involved in cohabiting with predators, etc.), which should be further developed. These experiences should be built on in other European upland areas.

⁽¹⁰⁾ See the Internet site <http://www.mountainproducts-europe.org/sites/euromontana>.

4.8.2 Forestry is an essential complement.

4.8.2.1 The total surface area of upland forest is estimated to be some 28 million hectares in the EU-15 and 31 million hectares in the EU-25 and is growing at a faster rate than European forestry as a whole. Forestry is often a source of additional income for upland farmers. Against the current backdrop of making better use of biomass, in particular for energy, this could provide an additional opportunity for the sustainable development of upland regions, provided the planting of new forestry areas is managed rationally. Selecting species and varieties that have the right mechanical properties would also present an opportunity for upland regions and for the timber markets, whilst helping to restrict imports from third countries, which can cause ecological disasters.

4.8.2.2 In functional terms, upland forest ecosystems also have their own specific characteristics. Furthermore, they play a key role in regulating surface and underground water and are particularly sensitive to external impacts (pollution, excessive wild animal populations, storms, insects) and to fires, which are more difficult to prevent and bring under control in such areas, where access is difficult and/or fire can spread very quickly.

4.8.2.3 The ecological stability of upland ecosystems is not only important to these areas; it also protects the regions located below them.

4.8.3 The Committee welcomes the European Community's adoption of the agricultural protocol to the Alpine Convention. Under this initiative, the European Commission must support international cooperation of this type for all European upland areas.

5. Islands

5.1 *Definition*

5.1.1 More than 10 million people, or 3 % of the European Union's total population, live on Europe's 286 islands, which occupy an area of 100 000 km² (or 3.2 % of its total area). These 286 islands are grouped into archipelagos and it can thus be said that there are 30 island regions. The Balearic Islands, for example, formed by four islands according to the EU's definition, make up a single island region. Generally speaking, farming on these 286 islands is less developed in economic terms than in mainland Europe. Island regions generate 2.2 % of the EU's total GDP, achieving only 72 % of the EU average.

5.1.1.1 The islands under discussion here are basically those in the Mediterranean, because 95 % of Europe's island population lives on these islands, with only 5 % living on the Atlantic and northern islands. Just five Mediterranean island regions (Sicily, Corsica, Sardinia, the Balearic Islands and Crete) are home to 85 % of the EU's island population.

5.1.1.2 People often talk about the cost of island life, with this being understood to be the higher cost of living on an island; but it should be asked whether such a cost really exists. Is it really more expensive to consume and produce on an island than on the mainland? To answer 'yes' to this question, we would need to accept the premise that the natural environment has an impact on human activity and thus on farming; in which case it would make sense to talk about the cost of island life.

5.2 General comments

5.2.1 Although one region differs from another in specific respects, agriculture in the most remote regions has two features in common: duality and dependence. Modern, 'export-oriented', farming co-exists with traditional, quasi-subsistence farming and there is a high degree of dependence on external markets, both for supplies of inputs for the local market and as an outlet for local produce. The trade balance clearly reveals exports of one or two 'specialist' products and imports of a wide range of farm products for internal consumption.

5.2.2 At all events, rural development is facing a series of permanent common problems stemming primarily from the geographical and economic isolation of these regions, exacerbated by the other natural handicaps already mentioned.

5.3 Specific comments

One feature of these regions is that they have permanent handicaps which clearly distinguish them from mainland regions and which include:

5.3.1 General and agricultural handicaps:

- isolation from the mainland
- restricted usable land area
- restricted water supplies
- restricted sources of energy
- falling population, particularly of young people
- a shortage of skilled workers
- the absence of a favourable economic climate for businesses
- difficult access to high-quality education and health services
- the higher cost of sea and air transport communications and infrastructure

- difficulties in waste management.

5.3.2 Agricultural handicaps:

- monoculture and the seasonal nature of their agriculture
- territorial fragmentation, which makes their governance, administration and economic development more complicated
- restricted market size
- isolation from the major markets
- oligopolies in the supply of raw materials
- a shortage of processing and marketing infrastructures
- tough competition for land and water from flourishing tourism
- a shortage of slaughterhouses and processing plants for local products.

6. Outermost regions

6.1 Definition

6.1.1 The European Commission decided to adopt a joint approach to these regions through its programmes of options specific to the remote and insular nature of the outermost regions (POSEI): POSEIDOM for the French overseas departments (Martinique, Guadeloupe, Guiana and Réunion); POSEICAN for the Canary Islands and POSEIMA for Madeira and the Azores.

6.2 General comments

6.2.1 In the most remote regions agriculture is, over and above its relative importance in regional GDP (at all events above the Community average), a key sector for the economy (with considerable indirect impact on transport and other allied activities), social and labour relations stability, spatial planning, conservation of the natural and cultural heritage, and, for strategic reasons, security of supply.

6.3 Specific comments

6.3.1 Natural constraints and difficulties in obtaining capital goods and appropriate technology result in high production costs.

6.3.2 Their products are more expensive than those from mainland Europe and also have great difficulty in competing with imports on local markets because these regions are scattered, fragmented and lack adequate structures for processing and marketing. The increasing number of hypermarkets and major distribution networks does not exactly help to improve this situation.

6.3.3 Lack of economies of scale, with small and frequently fragmented local markets, the lack of partnership structures (cooperatives, etc.), few or no slaughterhouses and small processing plants.

6.3.4 The local processing industry also suffers from similar obstacles to development and does not have an adequate customer-base, which gives it only very limited scope to achieve added value.

6.3.5 The difficulties are similar for exports: scattered and fragmented supply-side structure, shortcomings in marketing systems and infrastructure, difficulties in gaining access to distribution centres at the place of destination and in reacting quickly enough to changes in the market.

6.3.6 Falling local population, especially amongst young people, due to people leaving for other economic sectors, especially tourism, or leaving the island regions altogether.

6.3.7 Farms — on which the role of women is crucial — are generally small and family-run, with considerable impact on part-time employment; extensive farming faces major obstacles (excessive fragmentation of land and mechanisation problems).

6.3.8 Lacking a substantial industrial base, economic development gravitates towards the tourist sector; this exacerbates the fragility of the natural environment and places agriculture in competition — where it is at a disadvantage — for the best land, water and labour. The relocation of the population towards the coastal zones creates problems of erosion and desertification inland.

6.4 *Agricultural handicaps*

6.4.1 Agricultural products such as tomatoes, tropical fruit, plants and flowers have to compete on the same markets with similar products from other countries that have concluded association agreements with the EU, such as the ACP group of countries, Morocco, or countries that benefit from preferential arrangements.

6.4.2 The POSEI agricultural programmes have not been used to the best effect, mainly because some of the measures have only come into force recently. Consequently, the ceilings that have been established, giving these programmes adequate financial resources to achieve their aims, should be respected.

6.4.3 The new scheme which is about to take effect under the future reform of the COM in bananas, maintaining the income of Community producers and sustaining employment, to ensure the future of the Community's banana sector.

6.4.4 The final outcome of the WTO negotiations (proposed changes to custom tariffs). Should this prove necessary, the appropriate measures must be taken to ensure farmers' employment and incomes in the sectors in question.

6.4.5 Bearing in mind the general situation of these regions, plant and animal health checks should be established and stepped up, and all necessary human and technical resources provided.

7. **Proposals for the island and outermost regions**

7.1 The Committee notes the importance of the strategic role played by farming in these regions as a factor for social, cultural, territorial and environmental balance, and for a balanced landscape.

7.2 Having studied the various documents referred to above, the Committee notes the existence of structural handicaps to farming in island and outermost regions.

7.3 For these reasons, the Committee considers it necessary to draw up a set of recommendations for the European Commission, urging it to implement specific measures to overcome the handicaps arising from insularity or remoteness, which affect 16 million people in Europe and, in particular, farming activities in these areas.

7.4 With regard to island and outermost regions, the Committee calls on the European Commission to:

7.4.1 **Grant the status of less-favoured agricultural area to all of these regions.** The specific handicaps to farming on the islands of Malta and Gozo ⁽¹⁾ set an important precedent for implementing this measure for all island and outermost regions.

7.4.2 **Establish a scheme allocating aid for transporting farm produce between these areas and mainland Europe** and also for inter-island transport. Subsidising transport costs should enable farm produce from the islands and the outermost regions to compete on an equal footing with other EU farmers in the European market.

⁽¹⁾ Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

7.4.3 Establish a **plan that guarantees equal prices for basic agricultural inputs in these areas** (such as fuel, animal feed, machinery, etc.) to compensate for the higher production costs involved in farming in the island and outermost regions. Measures must be adopted to assist with importing basic animal feed products.

7.4.4 Include European co-financing in rural development plans and increase the percentages thereof; these plans should include the construction of and investment in the infrastructure needed to overcome the specific handicaps arising from an area's remoteness or the fact that it is an island, such as plans for irrigation using purified water, drainage systems, port and storage infrastructure, marketing aid, etc.

7.4.5 Establish **special measures for monitoring oligopolistic activities**, which are particularly prevalent in the islands, where the limited size of the local market favours the existence of a few distribution companies whose trade margins are sometimes considerable. Combating these practices will help a free market to develop in these areas.

7.5 Furthermore, with regard to measures aimed specifically at the EU's island regions, i.e. not the outermost regions, the Committee calls on the European Commission to:

7.5.1 Adopt **specific action programmes for EU island regions that are not outermost regions**. These special programmes, like those adopted for the outermost regions⁽¹²⁾, must enable island regions to achieve results similar to those achieved by the seven

outermost regions: during the 1994-1999 and 2000-2006 periods, those seven areas received 33 % more funding per capita from the Structural Funds than the other inhabitants of Objective 1 regions. This assistance helped to secure higher economic growth and a more marked fall in unemployment rates than in many other EU regions.

7.5.2 In the new programming period for regional policy (2007-2013), **increase the contribution from the European Funds to the total eligible costs, with a ceiling of 85 %**, as is already the case for the outermost regions and the most remote Greek islands⁽¹³⁾. The new Commission proposal⁽¹⁴⁾ (for the 2007-2013 period) for islands is clearly inadequate (ceiling of 60 %).

7.5.2.1 Local and regional authorities should be allowed to introduce the JEREMIE programme⁽¹⁵⁾ in the form of an investment fund, granting financial aid to young farmers who wish to grow food crops.

7.5.3 The Committee proposes that island regions should be dealt with separately under the new Structural Funds.

7.6 Given the consequences of there being no specific policy for defraying the costs of living on an island, the EESC calls for the stakeholders, i.e., government, civil society, etc., to unite their efforts by creating a platform that channels and coordinates all requests to solve problems, to ensure that farmers, both men and women, continue to live and work in all island regions.

Brussels, 13 September 2006.

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

⁽¹²⁾ The POSEIDOM programme for the French outermost regions, POSEICAN for the Canary Islands and POSEIMA for the Azores and Madeira.

⁽¹³⁾ Regulation No. 1260/1999.

⁽¹⁴⁾ COM(2004) 492 final.

⁽¹⁵⁾ OJ C 110 of 9.5.2006, rapporteur Mr Antonello Pezzini.

Opinion of the European Economic and Social Committee on Meeting the challenges of climate change — The role of civil society

(2006/C 318/17)

On 19 January 2006 the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an opinion on *Meeting the challenges of climate change — The role of civil society*.

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 11 July 2006. The rapporteur was Mr Ehnmark.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September), the European Economic and Social Committee adopted the following opinion by 59 votes to one with two abstentions.

A. Conclusions

A.1 Climate change is a process that cannot be stopped, not at least within the next 15 to 20 years. In that perspective, we must learn to live with climate change, and seek ways and means to mitigate its effects, and to adapt.

A.2 The discussion on climate change focuses excessively on the macro level and events in the distant future. There is a clear need for a debate on how climate change affects — and will affect — citizens in their everyday life. Climate change issues must be restructured in a way that makes them more understandable and concrete.

A.3 The social partners and organised civil society have an essential role to play in bringing the issues of climate change to the citizens, and in promoting discussion at local level on how communities can prepare concrete steps to adapt to climate change.

A.4 Climate change will have an impact on large sections of society. The EESC has highlighted a number of examples of this. The overall conclusion is that communities in the EU, together with the social partners and organised civil society, must take greater responsibility for preparing and planning for the consequences of climate change.

A.5 The EESC proposes that organised civil society and the social partners together launch an EU-wide Public Dialogue on Climate Change, focusing on how climate change may affect everyday life. The principal purpose of the Dialogue would be to raise awareness and make preparations, over the next 15-20 years, when present climate change will worsen regardless of what mankind can do now.

A.6 The EESC proposes that every EU Member State should identify and/or establish a climate change information and coor-

dination office to promote links between local, regional and national levels.

A.7 The EESC regrets that climate change is most often discussed in terms of far-off scenarios. Climate change is no longer mainly, or only, a matter for the distant future.

Climate change concerns us here and now.

1. Introduction

1.1 The existence of climate change is widely recognised, the nature and size of its consequences less so. One reason is the need for more knowledge from research and from scenario studies. Another is the nature of climate change itself: mainly a creeping change interrupted by more and more frequent dramatic events. A third is the fact that climate change, in public debate, is often treated as an issue for others and not for ourselves. A fourth is the focus on megatrends and far-off scenarios, which seem to blur the more concrete issues for everyday life.

1.2 The melting polar ice can be taken as an example. In recent months, the mass media have been fascinated by calculations that the melting ice could cause ocean levels to rise by up to 13 metres (estimation by the European Environment Agency (EEA)). Another example is the Gulf Stream: if the mechanisms steering the Gulf Stream are disrupted, there could be a sharp drop in temperatures in northern Europe. Interesting and important as they are, these stories do not motivate people to confront climate change in a more immediate and concrete way.

1.3 It is important to stress that the climate changes we at present observe, and are trying to handle, are just the beginning of a long process ahead. For the next 15 to 20 years, the ongoing changes in the climate will worsen for the simple reason that mankind has delivered — and is still delivering —

enough damaging material in the form of greenhouse gases. Our task therefore is to prepare and adapt to climate change. However, what will happen beyond the next 15 to 20 years is also the responsibility of present generations, in the sense that firm action now can mitigate climate change in the distant future. The discussions in the framework of UNFCCC (the UN Framework Convention on Climate Change) and under the Kyoto protocol offer an opportunity for post-2012 action that must be seized. If this chance is missed, there will be further deterioration of the climate — and more drastic action to reverse the trends will be required. It is not surprising that an increasing number of governments see climate change as a very high priority. However, this is not to say that governments translate priority into action.

1.4 The climate change debate is largely dominated by governments and the scientific community. Environmental NGOs are doing a very good job but with meagre resources. Important large organisations such as trade unions and employer organisations are on the whole not as active in the debate on how to meet and mitigate climate change. Organised civil society should play a key role but seems to be reluctant to assume this.

1.5 It is the firm opinion of the EESC that preparation for climate change and ownership of the climate change debate must be extended so as to involve actively the social partners and organised civil society at large. Climate change is entering a phase where mitigation and adaptation are becoming issues in everyday life. Climate change is no longer mainly, or only, a matter for the far-off future. Climate change is also here and now. And, therefore, it is of paramount importance that the social partners and organised civil society assert and claim their ownership of the climate change debate and preparation.

1.6 It is essential that the current debate on climate change integrates to a much greater extent the micro perspectives based on the situation of individual citizens, and local communities. There is a need to analyse how citizens can mitigate the effects of current climate change, be it in terms of costs (cf. energy costs), insurance, or consumer preferences, to mention but a few examples.

1.7 The purpose of this opinion is primarily to examine the role of the social partners and of organised civil society in analysing, planning and implementing steps for meeting the challenges of climate change. It focuses on ways and means in economic, social and cohesion terms, in a concrete, bottom-up approach.

1.8 The focus on the next 15 to 20 years is motivated by the fact that this is a period when climate change will continue on the basis of what we have already done. It is equally clear that

we need to adapt now to the initial effects of the process while preparing for those that will be felt in the future.

1.9 It is often observed that the amount of reports and information on climate change is as overwhelming as it is difficult to absorb by citizens seeking answers on how climate change can and will affect their everyday life. There is an enormous amount of information on climate change, and this poses a communication challenge. It is a situation that will require political leadership, because some of the inevitable actions will no doubt involve some discomfort in everyday life.

1.10 It is important to stress that a number of very rewarding studies are being carried out. Of particular importance is the European Climate Change Programme, now in its second phase. Within the programme, a number of working groups have been set up to deal with emissions trading, energy supply and demand, transport, industry, agriculture and forestry, to mention just some of the issues. The Second Climate Change Programme, launched by the European Commission in October 2005, includes new working groups on adaptation, carbon dioxide capture and geological storage, aviation, and integrated approach on CO₂ emissions of light duty vehicles as well as a number of groups reviewing the implementation of previous actions. All in all, the Climate Change Programmes are providing a wealth of analysis and information as well as the basis for a number of Council decisions.

1.11 Is there a need for further expansion of the Climate Change Programme? The answer is yes in the sense that there is a widespread need for more concrete information and in particular more examples of successful initiatives. Moreover, addressing climate change requires the active involvement of stakeholders, and ultimately the citizens themselves. The European Commission has sensed this need and has launched a major information and communication campaign. This initiative is highly welcome. However, there is a need to launch additional information efforts involving all Member States, coordinating work at EU, national and local levels, and, most important of all, bringing the issues to the people.

2. The scope of the challenges of climate change

2.1 Climate change will have profound effects on a number of sectors in modern societies. The effects are not limited to extreme weather conditions. A non-exhaustive list of impact areas includes floods, forest fires, infrastructure damage, agriculture restructuring, air quality problems particularly in metropolitan areas, energy supply problems, water use restrictions and impacts on industry, particularly in manufacturing industry. To this list can be added urban planning and the introduction of new architectural solutions for energy saving.

2.2 The fact that climate change will affect such a wide variety of cross-cutting sectors is only gradually being understood. The public support required for the necessary action is only slowly emerging.

2.3 Countering climate change through specific actions will in many cases have clear and sometimes unpleasant effects on the every-day lives of citizens.

2.4 There is a clear parallel here to the ongoing debate on the EU strategy for sustainable development. From the first stages in this debate, it has been obvious that the public is unaware of what it will really entail to improve the likelihood of sustainable development in the European Union as well as globally. The challenges ahead in sustainable development have been characterised as leading to radical changes in the way our societies work and function ⁽¹⁾.

2.5 The battle against climate change is of course an integrated part of the efforts to achieve sustainable development. The battle against climate change must be, like all the efforts for sustainable development, concrete and down to earth.

2.6 The Lisbon Strategy is sometimes referred to as a realisation of the vision of sustainable development, seen in an initial ten-year phase. The Lisbon Strategy focuses on the economic, social and environmental pillars. It is often forgotten that, from the very beginning, the Lisbon Strategy also set out lofty ambitions regarding the environment, climate change, and sustainable development in general. Therefore, action against climate change cannot be discussed as a completely separate issue. Climate change is a key part of the wider vision and strongly linked to the overall need for action.

2.7 A recurrent observation concerning the Lisbon Strategy is that Member States and their governments have not given enough priority to agreed actions and investments. It can be argued that the effects on citizens of the Lisbon Strategy are not very direct and not very tangible. However, the effects of climate change — natural disasters for instance — are often extremely tangible. Citizens will have to make appropriate advance preparations to mitigate these effects.

2.8 Climate change is often identified only in terms of financial losses. This doesn't paint the full picture. The social dimensions of climate change have to be fully recognised. It is not only a matter of citizens losing their homes or workplaces. It is also a matter of meeting higher costs for energy and for leisure and vacations. It is also a matter of citizens being motivated to change their consumption behaviour. And, among many other

aspects, there is the risk that adaptation to climate change will incur new socio-economic imbalances, with negative effects for citizens in far-off regions or with low disposable income.

2.9 The EESC underlines the importance of social cohesion in the battle against climate change. An extended use of economic factors for persuading citizens must be balanced against possible negative social effects. Other instruments for meeting climate change must also be weighed against the effects on social cohesion. This highlights how essential it is to involve organised civil society in the whole process of battling climate change.

2.10 It is necessary to further analyse the consequences of climate change for working life. These consequences include not only transitions to energy-saving production methods that economise on natural resources but also the re-location of production units according to the availability of cheap renewable energy resources. For the employees, the transition to new production methods and new service areas will highlight new demands for further skills upgrading and life-long education. Social dialogue, particularly at EU level, should highlight the social impact of climate change, and particularly its effects on working life. The social partners at EU level should make climate change a priority issue. In this context, it is important to underline that mitigating climate change does not per se lead to unemployment risks. Instead the effects of climate change can provide new job opportunities (cf. 2.13).

2.11 Consumers will soon feel the effects of climate change, as it will inevitably lead to changes in consumption patterns, be it for food, transport, housing or vacations. But consumers are also potential drivers for mitigating the effects of climate change — and for providing a basis for long-term action to halt climate change. The best way to achieve sustainable production patterns is undoubtedly an established and vigorous consumer movement with the capacity to reach out to citizens. Consumers should be looked upon as the key players they are — or could be — in mitigating the impact of climate change on individual citizens.

2.12 The global dimension of climate change is recognised in terms of weather-related disasters in other countries, causing enormous losses in terms of human life and property. Tropical diseases can spread to new areas as a result of climate change, adding to the challenges ahead. Climate change will test the solidarity between peoples and nations. The industrialised countries will have to strengthen their capacity for providing support and help. It should be remembered that, particularly in the developing countries, it is most often the poor who have to bear the brunt of climate change. The global social dimension of climate change is of fundamental importance; it is an area where much can be done to solve problems that could otherwise easily multiply.

⁽¹⁾ cf. statement by Mr Rocard at the EESC stakeholder forum in April 2001.

2.13 Climate change is most often debated in terms of threats and weaknesses. However, a positive opportunity is to be found in the actions to mitigate climate change. With the rapidly growing need for energy-saving production and transport, a vast new field has opened up for research, for the development of new technologies and for marketing new products. This should be an important part of the EU response to the challenges of climate change. In the framework of the Commission initiative for an integrated industrial policy, support for and orchestration of the development of environmentally-friendly technologies should have a very high priority. Here, small and medium-sized enterprises can also play a very important role.

2.14 Meeting and mitigating climate change can raise some unexpected issues. One example: the new emphasis on producing ethanol from agricultural products is becoming a success in some countries. As a result, the use of some crops, such as corn, is increasingly linked to ethanol production. However, the same crops are key products in supplying food assistance to famine areas in developing countries. This example illustrates the importance of avoiding one-sided solutions.

2.15 The scope of the challenge ahead can be illustrated by this quotation: 'Science tells us that we should be aiming to limit the future global average temperature increase to 2°C above pre-industrial levels in order to limit the damage. The 2°C target implies that policies are needed both to adapt to climate change and to mitigate climate change. Despite the implementation of already agreed policies, global emissions are likely to grow within the next two decades and global reductions of at least 15 % in emissions by 2050 compared to 1990 levels would seem to be necessary, and will take significant effort' (Commission Communication 'Winning the battle against global climate change' ⁽²⁾). The last part of the quotation can be characterised as a major understatement. Nevertheless, it illustrates the importance of anchoring the process at the local and regional levels, and with the citizens.

3. Ten sectors for civil society involvement

3.1 Urban and community planning is a sector where important gains can be made with regard to mitigating climate change and saving energy. Good urban planning should include climate-friendly solutions to both housing and transport. Studies made have confirmed very positive energy effects depending on how buildings are positioned in the landscape or in the community ⁽³⁾. The architectural solutions are important both for

maximum use of solar energy, and for the insulation of buildings. An additional aspect is of course the importance of such solutions for shaping user-friendly and socially well-functioning villages, suburbs and metropolitan areas. It is essential that the social partners and organised civil society be involved at an early stage in urban and community planning.

3.1.1 The European Commission should launch consultations with regional and local authorities, and other stakeholders, concerning guidelines for urban planning in view of accelerating climate change. The EESC proposes that the Commission should produce basic information material for urban planning together with guidelines on existing successful solutions.

3.2 The battle against climate change will highlight the need for modernisation and insulation of existing and new buildings, together with the application of all relevant energy-saving techniques and materials. Building materials, particularly with regard to heat insulation, is an area where further initiatives are necessary. This is not only a question of making heating systems more efficient. It is also a question of insulating houses better against both high and low outside temperatures. The experiences of the hot summer in Europe some years ago should not be forgotten. Tax incentives could be used to encourage private owners to reinsulate houses and apartments. The EESC recommends that a system of energy-performance certificates be introduced, as a means of providing consumers with relevant information on the energy costs of living in a specific house or apartment.

3.3 Road transport is increasing rapidly in the EU. Railway systems have difficulty in matching the advantages of road transport, in terms of quick door-to-door delivery. This trend is unsustainable, both with regard to CO₂ emissions and with regard to increasing fuel prices. A decoupling between GDP growth and road transport growth is necessary, if the battle against climate change is to succeed. The practical steps to achieve this still have to be settled. A rapid freight railway system would be the logical answer, all the more so in the enlarged Union. More freight transported by railway will require huge investments. To some extent, prices can be used to encourage the transport of freight via railway. For consumers, it is essential that distribution of food products be quick and efficient. For industry, it is essential to have smooth and efficient deliveries, on time. At the same time, congested highways are substantial polluters. Non-modern fleets of trucks add to the pollution. There is no simple solution to transport issues in the wider climate change picture. Instead, what is needed is a multiple-action strategy, including support measures for railway options, and further research and development work, among them for developing efficient and environmentally-friendly truck engines capable of functioning on alternative fuels. It will be important for consumers to know the real transport cost of a particular item.

⁽²⁾ COM(2005) 35 final, p. 8.

⁽³⁾ e.g. the house-building project in Freiburg.

3.4 The travel and leisure sector will have to cope with increasingly higher energy prices, which will have an impact on both road and air transport. The price of petrol has climbed rapidly in recent years, and constitutes by now a very convincing argument for consumers to choose new solutions. The rapidly growing interest in buying smaller and more energy-efficient cars is a very promising sign. In fact, this is one of the clearest cases of win-win situations in the battle against climate change: smaller and less polluting cars, and a huge potential global market for such cars and such solutions. Tax incentives for using alternative fuels are also delivering promising results, as witnessed in some countries.

3.5 In this context, the volume of commuting traffic to and from metropolitan areas will require specific attention. The rapid growth of metropolitan areas, in the EU as in other parts of the world, makes it urgently necessary to try new approaches for commuting and for freight transport. Experiments with special charges for entering city centres by car have been essentially positive when combined with heavy investments in rapid and convenient public transport. Taking action against car use without supplying something comparable in return will merely cause a public outcry. Citizens will battle for the right to use car transport if alternatives are not suitable. The voices of organised civil society have a crucial role in this area.

3.6 The above-mentioned challenges are also part of the wider issue of reducing the import and use of fossil fuel in the European Union. The uncertainties of securing a safe supply of fossil fuels in the winter of 2005/2006 have added to the urgency of finding new solutions. Some Member States are launching ambitious programmes for drastic reductions in the use of fossil fuels and are aiming for more renewable alternatives together with new policies for promoting the use of energy-efficient solutions. In some countries, like in Sweden, governments have launched studies on how to drastically reduce imports of fossil fuels. The European Commission should launch consultations with stakeholders and Member State governments on new efforts to make a drastic cut in the EU's import of fossil fuels. By the end of the decade, all EU Member States should have launched initiatives to identify the ways and means of achieving major reductions in the import and use of fossil fuels. This could be a major contribution to the next Kyoto programme, and to halting climate change in the long term. It would also be a major technological and industrial opportunity for the European Union. Organised civil society would benefit greatly from such efforts.

3.7 Agriculture, and therefore food prices, will be directly affected by climate change, and the ensuing effects on energy prices. In the EU, desertification in southern areas will require

special support measures, in line with solidarity under the CAP. The Commission should initiate studies on the effects of climate change on agriculture in the EU, based on national reports and analyses. It is essential to highlight the importance of research in continuing to reduce the use of inputs in farming practices and develop substitutes for petroleum derivatives using agricultural raw materials. As for the role of agriculture in diversifying energy supply, it may well become increasingly important. Finally, it would be appropriate to encourage farmers to produce their own energy.

3.8 Challenges for industry present another area where advance planning and adaptation is essential. This is not only an issue for industry in lowland areas where flooding can be, or will be, a major problem. For industry, smooth and efficient solutions to freight transport needs are essential. The supply of raw materials could be limited by climate change. The supply of energy — and at reasonable prices — is essential. For industry, climate change is also providing new opportunities. The global market for energy-saving technologies will be immense. Enterprises with sufficient capacity to invest in the development of such technologies can look to a rosy future.

3.9 Workplace issues are another sector where advance planning for adaptation is important. With the advent of more energy-saving technologies and goods production applying such technologies, there will be a demand for further upgrading skills and competences. Some new technologies for future expansion will put heavy strains on the workforce, for example in applying nanotechnologies. Issues relating to workplace challenges are compounded by the issue of rising energy prices. There will be increasing interest in opportunities to work from home — which necessitates better ICT techniques, including broadband facilities.

3.10 Disaster management is yet another important area in the context of climate change. Weather-related disasters are becoming more frequent and have wider consequences. A disaster response body capable of delivering timely assistance at short notice should be established within the EU. In a number of Member States, such units already exist. What is needed is the establishment of similar bodies in all Member States, and a certain level of coordination and cooperation. In this way, the EU would have the capacity to assist the victims of weather-related disasters not only within the EU itself but also in other parts of the world.

3.11 Disasters caused by extreme weather conditions also place heavy demands on financial assistance, primarily from insurance companies. The frequency of weather-related disasters

will place a greater strain on the insurance sector, with effects on insurance costs for citizens. The European Commission should carry out a study on these issues, with a view to safeguarding a sustained functioning insurance system.

4. Adaptation and mitigation — but how and by whom?

4.1 Communicating climate change and its consequences to the public will be a huge task. It is important to take a balanced and somewhat pragmatic approach towards raising awareness. It is not a matter of frightening citizens but of focusing on the practical work ahead in order to provide a sustained quality of life for all citizens.

4.2 The EESC proposes that all EU Member States should set up contact, information and coordination offices with a capacity for advisory services and for carrying out studies on adapting to and mitigating climate change. Exchange of experience with other Member States, and the distribution of such information to civil society and municipalities should be an important part of this work. Contact with local communities, social partners and organised civil society will be particularly important, as will contact with industry and enterprises.

4.3 The EESC proposes that an EU-wide Dialogue on Climate Change be launched on the ways and means to counter further climate deterioration, and to take steps towards adapting to the changes already taking place. This Dialogue should be supported by the institutions of the European Union, but responsibility for the practical work should lie with municipalities, educational institutions, trade unions and employers' organisations, farmers' organisations and consumer organisations and others. The EESC is willing to take active part in the dialogue, and function as a clearing-house for exchange and assessment.

4.4 The EESC would like to express its satisfaction that the European Commission has launched a wide-ranging EU information and communication programme on climate change. This will be a major contribution to raising awareness about climate change. The EESC's proposal on a Dialogue on Climate Change targets local communities, regions and nations, with special emphasis on the social partners and organised civil society. The two programmes would complement each other in a constructive way.

4.5 An essential part of the Dialogue on Climate Change would be to circulate information on examples of good practice, for instance from countries trying to draw up action plans for decreasing dependence on fossil fuels. Other types of examples could be metropolitan solutions for reducing the use of cars for

commuting to city centres (London and Stockholm are just two examples).

4.6 The Dialogue should start in the winter of 2006/2007. It does not need any final deadline. It should be closely related to efforts to communicate the vision of sustainable development. Climate change issues will obviously provide an opportunity to make sustainable development issues more tangible.

4.7 No dialogue with citizens on climate change will be possible without the clear and continuous participation of stakeholders at the local and regional level. Financial support should be made available for planning and exchange. Obviously some time will be needed for capacity-building in communities and in organised civil society as well as among the social partners.

4.8 In 2012 there will be a follow-up UN conference on sustainable development, following on from the 1992 conference in Rio and the 2002 conference in Johannesburg. The EESC strongly recommends that the next conference, in 2012, should focus specifically on climate change and the global impact of this change. Cooperation initiated between the EESC and the ILO, as well as between the EESC and the United Nations Economic and Social Council will provide opportunities for joint studies on the global effects of climate change. Cooperation will also help to highlight how the social partners and organised civil society could be active stakeholders in the battle against climate change.

5. Instruments for promoting awareness and support

5.1 Promoting citizen awareness of climate change and its consequences should primarily be the responsibility of the local, regional and national levels, with support and initiatives taken at EU level. The object should be to use a bottom-up approach that invites citizens to put forward the solutions they prefer and not to deliver pre-packaged answers.

5.2 Among civil society organisations, consumer organisations will be particularly important in mobilising consumers and in fostering dedicated involvement. Consumers exert — or can exert — considerable pressure on the market through the goods and services they purchase. For the European consumers movements this will be a real challenge.

5.3 The social partners will have a special responsibility for analysing the impact of climate change on working life, and in proposing relevant mitigation or adaptation strategies. The social dimension of the battle against climate change is a crucial part of the whole effort.

5.4 Winning the battle against climate change will not be possible without the active support and cooperation of industry and enterprises. Industry can play a key role in integrating climate change issues into planning, production, marketing and evaluation. Industries could benefit from incorporating more information on their work on climate change into their annual reports. Being active in climate change issues could prove to be a winning marketing concept.

5.5 In debates on the effects of climate change, many observers express support for various forms of tax or other financial incentives. There is no doubt that such motivators can produce very clear results. They should, however, be applied with some caution. For example, taxing car fuel will have a negative social impact on people in sparsely-populated areas. Charging motorists for entering core city areas in by car is having a positive impact on the overall traffic situation, but such a system has to be accompanied by new investments in public transport. Otherwise, the charge will create new socio-economic imbalances: those who can afford to, will continue to use their cars, whereas those who cannot will have to rely on a public transport system which may or may not be really efficient.

5.6 Another important tool for raising awareness would be the introduction of environment managing processes, such as the Eco-Management and Audit Scheme (EMAS), a voluntary scheme established under European Council Regulation 761/01. The purpose of EMAS is to recognise and reward organisations that go beyond minimum legal compliance and continuously improve their environmental performance.

5.7 By applying EMAS, individual organisations and institutions explore concrete ways to measure and reduce the environmental impact of various activities, for instance energy and materials use and travelling by car or railway or airplane. The European Economic and Social Committee could consider introducing EMAS and in particular explore the possibility of calculating the emissions caused by travelling to meetings — and then introducing compensatory measures (cf. annex with some preliminary calculations).

5.8 Another proposal under discussion is to calculate the transport cost as part of the total price for an item. This could give consumers more basic information when choosing between alternative items.

6. A challenge for civil society

6.1 Organised civil society at European level has been working with the issues of sustainable development ever since the Rio and Johannesburg global conferences.

6.2 Organised civil society has a unique opportunity to play a valuable role in the proposed European Dialogue on Climate Change. The contribution of civil society could focus primarily on 5 areas:

- taking active part in raising awareness of climate change and its effects;
- mobilising consumers and other vital groups to adopt clear consumption preferences that take account of the impact of climate change;
- initiating, influencing and supporting new programmes for urban planning, including housing, transport and commuting;
- acting as channels between citizens and governments, on issues of mitigating climate change and — in a longer perspective — halting present processes;
- acting in cooperation with civil society in other countries and regions to take constructive action to mitigate the effects of climate change.

6.3 In line with the statements made by the European Council, the EESC has built an inter-active network with all economic and social councils in EU Member States. The network is particularly focused on the Lisbon Strategy.

6.4 The EESC is open to considering an expansion of the network to include issues concerning climate change and Europe's answers to the effects of that change.

Brussels, 14 September 2006.

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

Opinion of the European Economic and Social Committee on the Disposal of animal carcasses and the use of animal by-products

(2006/C 318/18)

On 19 January 2006, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up on the *Disposal of animal carcasses and the use of animal by-products*.

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 11 July 2006. The rapporteur was Ms Santiago.

At its 429 plenary session, held on 13 and 14 September 2006 (meeting of 14 September 2006), the European Economic and Social Committee adopted the following opinion by 115 votes to 32 with 16 abstentions.

1. Conclusions

1.1 Information has a crucial role to play in society, and consumers have the right to accurate and timely information on the quality of the food that they eat. The EESC therefore considers that appropriate consumer information campaigns are needed. The EESC reaffirms that protecting public health and ensuring food safety in European production is one of its fundamental priorities.

1.2 The EESC suggests that the European Commission pursue and step up as swiftly as possible the studies currently under way which clearly show that the use of meat meal from non-ruminants can be used in pig and poultry feed without posing any danger to human health.

1.2.1 The way in which proteins are identified and the methods used to trace the meat meal in which they are found must give consumers a cast-iron guarantee that pigs are fed on meat meal obtained exclusively from the by-products of poultry, and that poultry is fed on meat meal obtained exclusively from the by-products of pigs.

1.2.1.1 As soon as the current studies have been completed, by-products from these (healthy) animals, which have been slaughtered in separate abattoirs, should be used in the production of meat meal, the protein in which is clearly identifiable and fully traceable.

1.3 Establishing research programmes to develop methods of destroying carcasses on-site is vital for preventing the possible spread of diseases when carcasses are being transported.

1.4 The EESC recommends promoting research into systems — if possible, energy-producing systems — for processing all farm by-products and waste, with a view to standardising production methods, whilst protecting the environment in the short and medium term, ensuring the economic balance of

farms and safeguarding the health safety of the livestock and the health of the farmers themselves.

2. Introduction

2.1 Six years after the BSE crisis, the Committee felt it would be timely to re-examine the issue of carcass disposal and the use of animal by-products, taking into account food safety, consumer health protection and the economic problems faced by producers.

2.1.1 Safety standards for food production are much higher in Europe than in third countries, but they do guarantee food safety for consumers, environmental protection and animal welfare. Maintaining these standards, with the higher production costs that they entail, will only be possible if production continues in Europe.

2.2 Before the BSE crisis, destroying animal carcasses on pig farms did not pose a problem for producers, because dead animals could be used in the production of meat meal, which would then be used in animal feed. Consequently, in various countries, producers of meat meal would collect carcasses free of charge.

2.3 As a result of the BSE crisis and in the wake of the European Parliament and Council Regulation 1774/2002 of 3 October, not only was the use of meat meal in animal feed banned, but animal carcasses were also considered to be category 2 risk material, requiring them to be collected and destroyed by incineration, and this only by undertakings licensed for this purpose.

2.4 As might be expected, this situation entailed further costs for producers and thus increased distortion of competition vis-à-vis third countries. This led producers to seek alternatives that were less damaging to the sector's economy but still effective in terms of biosafety and the environment.

2.5 The current trend in business is for an open global market, where the only law is that of supply and demand. We in Europe, however, have been the victims of a terrible distortion of competition, because various technical and scientific decisions have resulted in political stances that make our production costs significantly higher than in third countries.

2.6 One example of this is Council Decision 766/2000/EC of 4 December 2000, Article 2(1) of which prohibits the use of animal proteins in animal feed in all Member States. This decision applied to all animal species. European Parliament and Council Regulation 1774/2002 of 3 October 2002 (Article 22 (1)(a)) consolidates and broadens the scope of this ban.

2.7 The crisis unleashed by the emergence of BSE in cattle and its link with Transmissible Spongiform Encephalopathies understandably affected intensive production sectors (pig and poultry breeding) which receive no aid or production premium, operate on very narrow margins and face major barriers to their development due to legislation on the environment, animal welfare and health issues.

2.8 The ban on the use of meat meal dealt the sector a major blow, because it lost a major source of protein for feed and the price of vegetable protein shot up due to increased demand. Consequently, the price of feed rose sharply. Slaughterhouse by-products also went from being a source of additional profit to constituting a financial burden; this factor, combined with the higher price of meat meal, inevitably led to higher prices for the consumer.

3. General comments

3.1 *Legal aspects and technical and scientific contradictions relating to the disposal of pig carcasses*

3.1.1 Regulation 1774/2002, which made it compulsory for carcasses to be collected and destroyed by accredited undertakings and which prohibited the use of animal proteins, not only caused financial difficulties for producers in countries already implementing this system; it also led to much more serious problems in those countries that did not have this system in place, because they were then forced to implement it, incurring even higher costs. This situation caused producers in those countries to wonder whether the regulation was really intended to compensate by-product processors for the ban on selling meat meal.

3.1.2 The issue takes on even greater significance given that this regulation includes a derogation for remote areas with low animal population density, where traditional methods for

destroying animal carcasses are allowed to continue. The fact cannot be ignored that collection costs in these areas would be extremely high. Two further derogations are included:

- dead pet animals may be directly disposed of as waste by burial;
- animal by-products may be disposed of as waste by burning or burial on site in the event of an outbreak of a disease mentioned in List A of the International Office of Epizootic Diseases (OIE), if the competent authority considers that transporting the carcasses entails a risk of propagating disease or when the nearest processing plant does not have the necessary capacity.

3.1.3 Today there is a growing need to locate farms as far as possible from human settlements and also from one another, wherever this is feasible. Consequently, farmers increasingly seek out remote locations so as not to trouble neighbours and to protect the health of their stock.

3.1.4 As stated above, the process of collecting carcasses is extremely expensive, hence the attempts to find solutions that go further than the proposals contained in the regulation and which reflect the reality of the situation today. When considering these options, certain factors must always be borne in mind: human health and safety, animal health and welfare and environmental protection.

3.2 *Legal aspects and technical and scientific contradictions relating to the use of meat meal*

3.2.1 There is no scientific evidence that pigs and poultry are at any risk of contamination from BSE. Pigs and poultry in the United Kingdom have undeniably been exposed to the bovine spongiform encephalopathy (BSE) infectious agent (prions). Despite being fed the same animal protein that caused BSE in cattle, there has not been a single case of contamination in animals of either species. Studies of domestic chickens indicate that they are resistant to infection by both parenteral and oral challenge ⁽¹⁾.

3.2.2 On issues relating to consumer health protection and safety, the Commission is adopting risk-control measures based on the most recent test results available and on a solid scientific assessment such as that provided in the guidelines drawn up by the Scientific Steering Committee (SSC). The SSC itself is assisted by an Ad-Hoc Transmissible Spongiform/Bovine Spongiform Encephalopathy group, made up of scientists from across the EU.

⁽¹⁾ (D. Matthews and B. C. Cooke, *Rev. Sci. Techn. Int. Epit.* 2003, 22(1), 283 — 296). Another key study is: Poultry, pig and the risk of BSE following the feed ban in France — a spatial analysis. Abrial D, Calavas D, Jarrige N, Ducrot C; *Vet. Res.* 36 (2005) pp. 615-628.

3.2.3 The limitations of our understanding of TSE are revealed in the following work:

- A scientific study on ‘*Oral exposure of humans to the BSE agent: infective dose and species barrier*’, adopted by the SSC at its meeting of 13 and 14 April 2000.
- A scientific report on ‘*the safety of meat-and-bone meal derived from mammalian animals fed to non-ruminant food producing farm animals*’, SSC Meeting of 24-25 September 1998.

3.2.4 The issue of TSE in pigs was also the subject of an SSC study:

- A scientific study adopted by the SSC at its meeting of 24 and 25 June 1999 on ‘*fallen stock and dead animals*’.
- A scientific study on ‘*the risk born (sic) by recycling animal by-products as feed with regard to propagating TSE in non-ruminant farmed animals*’, SSC 17 September 1999.
- A scientific study on the use of animal proteins in feed for all animals, adopted by the SSC at its meeting of 27 and 28 November 2000.

3.2.5 In a nutshell, the conclusion that we can draw from all of these scientific studies is that no epidemiological proof exists for the theory that pigs, poultry or fish are susceptible to contracting BSE or that these species have been affected by BSE. To date, no scientific tests have demonstrated the development of TSE in pigs, poultry or fish.

3.3 Analysis of the problems and the possibility of processing by-products on farms

3.3.1 A global approach to processing waste from livestock farms must be adopted, incorporating food safety, health, animal welfare and due regard for the environment.

3.3.2 The EU produces more than 170 million tonnes of farm waste every year⁽²⁾. Managing a modern livestock farm is an extremely complex task, and what to do with the waste is one aspect of this. With regard to processing carcasses, more efficient and cost-effective disposal methods must be found.

⁽²⁾ Table 1 — List of zootechnical waste (EU15) — Source EUROSTAT/MAPYA 2003.

3.3.3 The issue of disposing of animal carcasses is extremely complex because, whilst account must be taken of the environment, we must also consider the possibility of diseases being transmitted during transportation. There are also issues of hygiene, safety and public health⁽³⁾.

3.3.4 With this work we hope to expand the range of options for producers, whilst upholding the principle of protecting public health and the environment. We therefore suggest hydrolysis, together with any method that meets the requirements set out above, which must also be considered⁽⁴⁾.

3.3.5 Hydrolysis, as the primary method of processing animal carcasses, is biologically identical to the hydrolysis of other organic matter likely to degrade unaided under controlled conditions. The biochemical path followed by hydrolysis is determined by the substance’s capacity for autolysis. Basically, the proteins decompose, producing amino acids, with the carbohydrates producing sugars and the lipids producing fatty acids and alcohol. In the case of pork, esterification of the fatty matter results in the hydrolysed matter ultimately taking on a dense, viscous appearance with flow characteristics equivalent to viscous liquid, which is an additional advantage when it comes to processing it under controlled conditions and makes it easier to handle the resulting fluid. To make hydrolysis more effective, some factors must be controlled, such as particle size (which requires carcasses to have been ground down in advance), temperature, duration of processing and the oxygen content in the atmosphere surrounding the process, in order to prevent the release of unpleasant smells. The liquid produced by hydrolysis can then be processed with the farm’s slurry, with the added advantages of:

- biosafety (carcasses are processed on the farm itself under controlled conditions, thus reducing the possibility of diseases being transmitted to other farms);
- making the traditional slurry disposal process more efficient;
- eliminating pathogenic elements;
- improving farm management, because carcasses and slurry are processed on-site and in real time⁽⁵⁾.

⁽³⁾ Table 2 — Quantifying waste and by-products from farm animals (Source EUROSTAT/MAPYA).

⁽⁴⁾ — Risk assessment: use of composting and biogas treatment to dispose of catering waste containing meat (Final report to the department for Environment, Food and Rural Affairs). Gale P. (2002). In <http://www.defra.gov.uk/animalh/by-prods/publicat/>

— Informe final relativo a los resultados obtenidos en los proyectos de estudio de alternativas a sistemas de cadáveres [Final report on results obtained in research projects on alternatives to carcass-based systems]. Antonio Muñoz Luna, Guillermo Ramis Vidal, Francisco José Pallarés Martínez, Antonio Rouco Yáñez, Francisco Tristán Lozano, Jesús Martínez Almela, Jorge Barrera, Miriam Lorenzo Navarro, Juan José Quereda Torres. (2006).

⁽⁵⁾ Studies in this field:

- Informe final de resultados sobre la hidrólisis de cadáveres animales no ruminantes: experiencia en ganado porcino. [Final report on the hydrolysis of non-ruminant animal carcasses: an experiment on pigs]. Lobera JB, González M, Sáez J, Montes A, Clemente P, Quiles A, Crespo F, Alonso F, Carrizosa JA, Andujar M, Martínez D, Gutiérrez C.
- *Parámetros Físico-químicos y bacteriológicos de la hidrólisis de cadáveres de animales no ruminantes con bioactivadores [Physical and bacteriological parameters of the hydrolysis of non-ruminant animal carcasses with bioactivators]*. Gutiérrez C, Fernández F, Andujar M, Martín J, Clemente P, Lobera JB CARM-IMIDA. <http://wsiam.carm.es/imida/publicaciones%20pdf/Ganader%EDA/Gesti%F3n%20de%20Residuos%20Ganaderos/Hidrolizaci%F3n%20de%20Cad%20E1veres/Resultados%20del%20Estudio%20Preliminar.pdf>.

3.3.6 Producing energy by means of biogas is important and, to this end, interconnecting tanks can be used, preventing back-flow or contact with the atmosphere. Also of great interest, however, is studying simpler processes that are suitable for smaller farms and which also guarantee public health generally and on farms, and protect the environment.

4. Specific comments

4.1 Information plays a crucial role in society today. Consumers have the right to be fully and accurately informed, which rarely happens, because the media always prefer to report disasters and accidents whilst positive developments are given scant coverage. We must, therefore, work hard to inform consumers about all of the work being done in public health so that they can make informed choices about what they think is best.

4.2 Economic consequences of eliminating animal carcasses and waste

4.2.1 The disposal of carcasses is causing a number of logistical problems (in countries not previously implementing the collection system) and in some cases, collection is incompatible with good practice for health protection on farms.

4.2.2 The economic impact of the Community directive must be analysed in two specific cases:

4.2.2.1 In countries where there was previously no collection of carcasses, investment will be needed by farms (for building cold-storage units and establishing safe carcass collection plans), by transport companies, which will have to acquire lorries specially equipped for the task and by by-product processing plants, which will have to make changes in order to be able to process entire animals ⁽⁶⁾.

4.2.2.2 In countries that have already established carcass collection systems, there is no need for further investment, but where meat meal cannot be used, the costs of its collection and destruction must be covered ⁽⁷⁾.

⁽⁶⁾ Calculations have been made suggesting an increase in production costs of between EUR 0.36 and EUR 0.96 per animal produced, depending on the location and size of the farm, although it is certain that the smallest farms will always be the most heavily penalised.

⁽⁷⁾ The product consequently entails an additional cost varying between EUR 0.3 and EUR 0.5 per animal produced.

4.3 Economic impact on the use of animal by-products

Banning the use of animal protein in feedingstuffs for pigs, poultry and fish has led to significantly higher production costs in Europe and has consequently caused further problems of distortion of competition vis-à-vis other countries such as Brazil, Argentina and the USA, for example, where the use of animal protein is authorised. These higher costs have had consequences at various levels, with slaughterhouse by-products no longer being a benefit, because they now entail destruction costs, and with increased demand for vegetable protein leading to higher prices and consequently higher feed prices ⁽⁸⁾.

4.3.1 In real terms, EU production costs are higher than in third countries for:

Destruction of by-products: EUR 6 per 100 kg of pig carcasses ⁽⁹⁾

Non-use of animal meal: EUR 0.75 per 100 kg ⁽¹⁰⁾

Increase in soya price: EUR 1.5 per 100 kg ⁽¹¹⁾

When multiplied by the number of pigs produced annually, these figures represent a total Community-wide loss of EUR 173 million. To this increase in costs, we can add a set of production factors such as feed, energy, labour, animal welfare and environmental standards, which mean that one kg of pork carcass costs EUR 0.648 in Brazil ⁽¹²⁾, compared to EUR 1.25 in the EU ⁽¹³⁾.

4.3.2 This distortion of competition can never be openly discussed in WTO negotiations, because it would immediately be refuted, since no scientific evidence has been produced to support it. If this situation continues, we will have to compensate European producers or we will be threatening their survival.

⁽⁸⁾ Studies carried out by the University of Murcia working group, led by Prof. Dr. António Muñoz Luna, DMV, PhD, MBA.

⁽⁹⁾ Source: National Institute for Agricultural Research (INRA).

⁽¹⁰⁾ Calculated on the basis of the average price of raw materials before and after the ban, on an average diet for a fattening pig.

⁽¹¹⁾ Idem 10.

⁽¹²⁾ Production costs for a farm of 1200 pigs in a closed cycle with a productivity of 20.3 suckling pigs per sow per year in the state of Paraná.

⁽¹³⁾ A farm with 500 pigs in closed cycle with a productivity of 23 suckling pigs per sow per year in Portugal.

4.4 *Issues to take into account when considering the possibility of lifting the ban on the use of meat meal from non-ruminants in pig and poultry feed*

4.4.1 The main issue is to ensure that there is no cross-contamination in meat meal. A group of researchers from a range of Belgian bodies was therefore asked to study and implement various techniques that would make it possible to determine the presence of animal protein from ruminants in feed. This group satisfactorily completed its work in the first half of 2004, with DG SANCO issuing a final report dated 24 September 2004, entitled 'Determination of Processed Animal Proteins Including Meat and bone Meal in Feed', which sets out methods for ensuring that these proteins can be detected in feed. This could now help us to establish production systems for fully traceable non-ruminant meat meal (in other words, protein whose origin would be easy to determine) which is also monitored. This could enable us to establish an initial set of systems for producing and reincorporating these ingredients, with firm guarantees that these contain no meal from ruminants ⁽¹⁴⁾.

Brussels, 14 September 2006.

4.5 *The final obstacle to reincorporating non-ruminant meat meal into feed for pigs and poultry*

4.5.1 Currently, all that is needed is to develop techniques capable of distinguishing pork protein from poultry protein, to comply with another request from the European Parliament, namely to ensure that no cannibalism takes place. It is incorrect, in the context of meat meal, to talk about 'cannibalism'. Cannibalism refers to direct consumption and can only occur accidentally on some farms. Talking about cannibalism in relation to amino acids and fatty acids is, therefore, unacceptable.

4.5.2 In any event, regardless of the above comments, there is now a real opportunity to set up a mechanism to monitor systems exclusively supplying pork protein for poultry feed and vice versa, because:

- meat meal from pigs and meat meal from poultry can never be produced at the same slaughterhouse, because these species require different slaughtering facilities;
- since some plants produce only poultry feed and others only pig feed, the two can never be accidentally mixed;
- the same applies to plants that have separate production lines for different species.

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

⁽¹⁴⁾ Other studies addressing this matter:

- Effective PCR detection of animal species in highly processed animal by-products and compound feeds. Fumière O, Dubois M, Baeten V, von Holst C, Berben G. *Anal Bioanal Chem* (2006) 385: 1045-1054.
- Identification of Species-specific DNA in feedstuffs. Krcmar P, Rencova E.; *J. Agric. Food Chem.* 2003, 51, 7655-7658.
- Species-specific PCR for the identification of ovine, porcine and chicken species in meat and bone meal (MBM). Lahiff S, Glennon M, O'Brien L, Lyng J, Smith T, Maher M, Shilton N. *Molecular and Cellular Probes* (2001) 15, 27-35.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation laying down special measures to encourage silkworm rearing

(Codified version)

COM(2006) 4 final — 2006/0003 (CNS)

(2006/C 318/19)

On 8 February 2006, the Council decided to consult the European Economic and Social Committee, under Article 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 11 July 2006. The rapporteur was Ms Le Nouail.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 168 votes to 7 with 17 abstentions.

1. Introduction

1.1 The purpose of the Commission's proposal is to undertake a codification of Regulation (EEC) No. 845/72 laying down special measures to encourage rearing of silkworms (*Bombyx mori* (Linnaeus, 1758)) using the accelerated procedure provided for under the inter-institutional agreement of 20.12.1994.

1.2 Codification is used for rules that have been frequently amended over time and have therefore become unclear or difficult to understand.

2. General comments

2.1 The Regulation cited above came into force over thirty years ago. It has been amended substantially several times and, as a result, it has become difficult for the intended users of this legislation to understand its content and scope without considerable legal research work to assess which parts of the text are currently applicable.

2.2 Consequently, the Committee supports the proposal on codification, which makes it easier for Europe's citizens to access the law and contributes to the goal of establishing better lawmaking, as called for and expressed in the Committee's earlier opinions ⁽¹⁾.

3. Specific comments

3.1 Consideration should also be given to the use of other simplification procedures, such as the repeal or updating of the legislation concerned.

3.2 Silkworm rearing began to develop in Southern Europe in the 13th century and reached a peak in the 19th century, before collapsing in the wake of an epidemic which struck the silk moth, *Bombyx mori*, whose caterpillar, or silkworm, produces a cocoon made up of a single strand of silk, used in the textile industry. Despite the reintroduction of healthy eggs ⁽²⁾, silkworm rearing never recovered. Not only do the silkworms themselves require a good deal of care, rearing also involves mulberry cultivation, since the worms feed exclusively on mulberry leaves and eat vast quantities, which need to be picked every day. Today, the industry depends almost exclusively on imports, mainly from China and Vietnam.

3.3 Given that silk has many different uses, requiring various different qualities, and that research may uncover many new applications for silk in the future, the Committee considers that the basis for a European silk worm rearing industry should be preserved, especially since it provides jobs in disadvantaged or outlying regions ⁽³⁾. The granting of aid for each box of silkworm eggs, as provided for in the Regulation, is vital to ensure the future of an activity that faces fierce competition from mass imports from countries outside the EU, where labour costs are extremely low. Furthermore, European silk is not only suitable for current applications, but may also have other applications in the future, thus warranting the preservation of EU production.

Brussels, 13 September 2006.

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

⁽¹⁾ Including the EESC's 2005 exploratory opinion on *Better Lawmaking* (rapporteur: Daniel Retureau) INT/265 — OJ C 24 of 31.1.2006, p. 39.

⁽²⁾ Eggs of the silk moth, *Bombyx mori*.

⁽³⁾ Half of all Europe's production comes from the Canary Islands.

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury

COM(2006) 69 final — 2006/0018 (COD)

(2006/C 318/20)

On 8 March 2006 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 11 July 2006. The rapporteur was Ms Cassina.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 181 votes to 5 with 8 abstentions.

1. Conclusions

1.1 On the basis of the comments made in points 2 and 3, the EESC:

- a) supports the Commission's proposal and its choice of legal basis (Article 95 of the Treaty) and endorses the strategic goal of removing all mercury from the measuring devices referred to in point 2.2 below,
- b) believes that the proposal is consistent with other Community standards and policies concerning the environment and public health,
- c) calls for replacement with alternative, mercury-free products to be speeded up (maybe with incentives and information and awareness-raising campaigns to prevent potentially dangerous devices containing mercury continuing to remain in circulation) and for the cost to the consumer of this replacement to be considered too,
- d) calls for differentiated collection to be provided for and for sellers to be made responsible for collecting discarded devices (as in the case of electric and electronic devices),
- e) calls upon the Commission to specify the safeguards that have been put in place to ensure that the sectors excluded (devices for professional and industrial use) are required to comply with the objective of not releasing mercury into the environment,
- f) calls upon Community and Member States' authorities to check carefully that imported products comply with EU legislation.

2. Introduction and gist of the proposal

2.1 The proposal follows the approach laid down in the Communication of 28 January 2005 on a *Community strategy concerning mercury* ⁽¹⁾. Taking as its starting point the now universally — acknowledged fact that mercury is toxic and highly dangerous to humans, ecosystems and wildlife, the Communication proposes a series of measures to protect public health and the environment, based on eliminating the use of mercury from all activities where it is now possible to substitute alternative substances or products which would not have the current harmful effects on the nervous and immune systems and the reproductive organs.

2.2 In this context, the Commission sees the amendment ⁽²⁾ of Directive 76/769 as a stage in the implementation of the general strategy. It bans marketing of the following devices containing mercury:

- a) fever thermometers;
- b) other measuring devices for sale to the public (such as manometers, barometers, blood-pressure gauges).

2.3 However, on the basis of the bans and/or restrictions already in place in a number of Member States and, therefore, in the light of experience gained, devices and equipment used in science and industry are to be excluded from the ban on the grounds that they are relatively few in number and are used in highly specialised environments which are already subject to control standards and procedures concerning safety in the work place and management of dangerous waste or are covered by REACH.

⁽¹⁾ COM(2005) 20 final.

⁽²⁾ The addition of a specific point 19 a) in Annex I of Directive 76/769/EEC.

3. General comments

3.1 Although some Member States have already started phasing out mercury and substituting alternative products, an estimated ⁽³⁾ 33 tonnes of mercury is currently still being used in Europe each year for measuring and control devices, approximately 25-30 tonnes of which are placed on the market in thermometers.

3.2 Thus, mercury and its most toxic derivatives are present in the domestic waste stream because thermometers and other measuring devices are, for the most part, thrown away with household rubbish when they are discarded or break. Landfilling and other inadequate forms of disposal allow waste mercury to enter waste water and be released into the environment. Consequently, mercury infiltrates foodstuffs and is particularly dangerous for the aquatic food chain, making consumers of fish and seafood especially vulnerable (particularly in Mediterranean areas).

3.3 The EESC notes that devices exist and are already on sale which perform the same function as those referred to in the proposal and contain substances which are alternatives to mercury. It would therefore be possible to substitute them without delay, apparently at no additional cost (although cf. point 4.1(b), (c) and (e) below). However, the impact assessment gives no indication at all of the cost to the consumer of substituting these devices: the EESC calls for this cost to be quantified and for support measures to be incorporated into the mechanism for implementing the directive.

3.4 The EESC firmly supports the Commission's objective of banning marketing of the devices containing mercury listed in the proposal: no further proof is needed of the hazardous effects and persistence of mercury, and banning devices containing mercury would help to achieve a high level of protection of the environment and human health, as specified in the measure's legal basis (Article 95 of the Treaty), which the EESC believes to be absolutely right and proper.

Brussels, 13 September 2006.

4. Specific comments

4.1 However, the EESC points out that:

- a) if devices containing mercury used in professional environments or industry are to be excluded from the ban, there must be a guarantee that disposal and recycling of these devices, once they have been discarded, will include processing of mercury which will prevent it being released into the environment and causing environmental and public health hazards; it is important for proper controls, training support and advice to be in place, particularly in the craft and small-scale jewellery sector, where mercury is still widely used for specific processes;
- b) both the impact assessment and the proposal seem to underestimate the problem posed by devices containing mercury which are still currently in use being thrown into urban waste: Member States' attention should be drawn to the need for/potential benefits of a system of 'end-of-life' incentives to ensure that these devices are phased out as fast as possible;
- c) withdrawal of devices containing mercury which are still in circulation could be facilitated by financial support measures and, above all, by proper information campaigns targeting users to make them aware of the danger and urge them to act responsibly, asking them not to throw mercury away with urban waste or — even more importantly — to let children handle it; at the same time, suitable incentives should be provided for consumers who fast-track replacement;
- d) differentiated collection managed by sellers of devices containing mercury should be the method used to withdraw these devices, along the lines of the arrangements laid down in the WEEE Directive;
- e) particular attention should also be paid to imported products so that the benefits gained from restrictive European legislation are not cancelled out by products from third countries which do not give any consideration to the dangers of misusing mercury.

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

⁽³⁾ On the basis of the information available from the Commission.

Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council and the European Parliament on improving the economic situation in the fishing industry

COM(2006) 103 final

(2006/C 318/21)

On 9 March 2006, 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 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 11 July 2006. The rapporteur was Mr Sarró Iparraguirre.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September 2006), the European Economic and Social Committee adopted the following opinion by 120 votes to 16 and nine abstentions.

1. Conclusions and recommendations

1.1 Given the economic and social importance of the fishing industry to the European Union, which goes beyond its direct contribution to GDP ⁽¹⁾, the EESC agrees with the Commission's diagnosis that the sector is in a state of economic crisis ⁽²⁾ and believes action is necessary to improve the situation. However, the EESC thinks that the measures proposed to rescue the sector are neither realistic nor sufficient. It considers the measures to be unrealistic because the vast majority of operators are SMEs or owners of one sole vessel, working in fishing grounds with limited resources, with very small crews, subject to stringent fishing management rules and with very little scope to take measures to restructure and ensure their short-term viability.

1.2 Moreover, without a new budget that is separate from the FIGG/EFF ⁽³⁾ arrangements, there is very little opportunity to put these new measures into practice. The EESC therefore thinks that this communication will have little practical impact for most enterprises.

1.3 Nevertheless, for those enterprises that are large enough to apply for rescue and restructuring aid, the EESC believes that the communication should:

- provide for a budget separate from the FIGG/EFF option;
- make rescue aid non-reimbursable and ensure it is implemented for more than six months;
- ensure that the national schemes to be presented by the Member States are flexible and adaptable so as to provide enterprises applying with rapid access to the aid available.

1.4 In addition to rescue and restructuring aid for struggling firms, the Committee considers that a further series of measures should be taken in order to alleviate the serious effects that high fuel prices are having on fishing enterprises and their crews. Specifically, the EESC recommends that the Commission and the Council should approve the following action:

- a) increasing the level of de minimis aid to EUR 100 000 per enterprise;
- b) temporarily halting fishing activities in the event of 'unforeseeable circumstances', understood as the crisis provoked by high fuel prices;
- c) authorisation of aid to finance premiums for hedging fuel costs, as provided for in the agricultural sector;
- d) setting up a Community scrapping fund with a special budget, which would give priority to those fleet segments with the most problems and enable vessel owners who choose voluntarily to abandon fishing to do so in an acceptable way;
- e) provision of maximum support by both national and Community authorities, through RTDI aid ⁽⁴⁾, for projects presented by the fishing sector aimed at improving the energy efficiency of fishing, finding alternative or complementary energy sources to oil and developing Fishing Technology Platforms;
- f) efforts to change the mindset of fishermen with the aim of persuading them to become involved in selling fishery products, so as to increase the added value of those products;

⁽¹⁾ Gross Domestic Product.

⁽²⁾ COM(2006) 103 final, 09.03.2006.

⁽³⁾ Financial Instrument for Fisheries Guidance/European Fisheries Fund.

⁽⁴⁾ Research, technology, development and innovation.

- g) revising the fiscal provisions governing the inshore fishing fleet, in particular by introducing exemption from corporation tax on the proceeds of the first sale of fish products by wholesale franchise operators and a reduction in VAT on intermediary operations carried out by such wholesalers;
- h) entry of the deep-sea fleet which fishes outside Community waters into the second registers that exist in a number of Member States for the merchant fleet, amending the Community guidelines on state aids in the fishing sector.

2. Explanatory statement

2.1 Not only does the fishing industry supply a substantial proportion of the protein needed for human consumption, but it also makes an important contribution to the economic and social fabric of many coastal communities across the EU. According to the Commission ⁽⁵⁾, with 7 293 101 tonnes of fish (catches and farmed), the enlarged European Union (EU-25) accounts for 5 % of total world production of fisheries products, making it the second largest producer in the world after China. Furthermore, it has a fleet of just under 90 000 fishing vessels, generating 229 702 jobs.

2.2 The fishing sector is facing difficult adjustments caused by the decline in, and in some case exhaustion of, fish populations in most of its fishing grounds, and by unfavourable market conditions. According to the communication, the quotas allocated to vessels fishing in the west of Europe for the main demersal species (cod, haddock, whiting, saithe and hake) and benthic species (plaice, sole, anglerfish and nephrops) have been decreasing since the mid-1990s.

2.3 Although the reform of the CFP in 2002 launched a modernisation of fisheries management in the European Union with a view to sustainability, it also introduced measures, such as the recovery plans, which restrict catches and so radically reduce profits, a situation which will continue in the future.

2.4 Together with the normal, ongoing increase in operating costs and the dramatic rise in fuel costs, this has resulted in many vessels being run at a considerable loss.

2.5 The Commission communication lists the reasons that have combined to put a large part of the Community fleet in this economic position and suggests ways of addressing it.

⁽⁵⁾ Facts and figures on the CFP — basic data on the Common Fisheries Policy. 2006 edition, European Commission.

3. Background

3.1 Among the reasons, the Commission communication identifies two obvious factors:

- Decreasing income
- Rising costs.

3.1.1 Decreasing income is due to:

- Stagnating market prices:
 - increasing share of fish imports
 - development of aquaculture
 - concentration of sales in big distribution chains
- Lower fishing yields:
 - intense fishing of certain fish populations
 - insufficient reduction of fleet capacity.

3.1.2 The operating costs of vessels, which normally increase from year to year, have risen very fast since 2003 owing to the rise in fuel costs. This affects all fishing fleets, but especially bottom trawlers, which are by far the largest segment of the Community fishing fleet, and whose net operating results are negative.

4. General comments

4.1 Solutions proposed by the Commission to ease the current economic difficulties of the fishing industry include:

- in the short term, measures to rescue and restructure fishing enterprises capable of regaining profitability through structural changes;
- in the long term, ensuring that the fishing industry can adapt to the new situation marked by higher fuel prices.

4.1.1 *Short-term rescue and restructuring*

4.1.1.1 In order to rescue and restructure fishing enterprises which are on the point of bankruptcy or in financial difficulties, the Commission provides for existing instruments and the existing state aid framework to be used, on the basis of Community guidelines governing state aid for rescuing and restructuring firms in difficulty ⁽⁶⁾ and the guidelines for the examination of state aid to fisheries and aquaculture ⁽⁷⁾. Furthermore, it provides for some exceptions, which extend beyond these Directives (see points 4.1.1.5 and 4.1.1.6).

⁽⁶⁾ OJ C 244 of 01.10.2004.

⁽⁷⁾ OJ C 229 of 14.09.2004.

4.1.1.2 Such rescue aid may take the form of a reimbursable loan or guarantee lasting not more than six months. The purpose of such aid is to enable businesses to adapt to the new fuel price situation, especially in the case of vessels using towed gear and targeting demersal stocks. Where the rescue aid is followed by approval of a restructuring plan, it can be repaid with the funds received by the firm in the form of restructuring aid.

4.1.1.3 The EESC considers that for rescue aid to be really effective it should be non-refundable as opposed to a reimbursable loan. This would give added value to rescue aid, making it potentially more attractive to businesses. Otherwise, a straight-forward repayable loan could be obtained from any credit institution, without the need for authorisation from the European Commission.

4.1.1.4 Aid for further restructuring of fishing enterprises to restore economic viability will often imply investment to adapt fishing vessels. The guidelines governing state aids in the fishing sector set out the rules on aid for modernisation and equipment of fishing vessels in accordance with the rules laid down in the Financial Instrument for Fisheries Guidance (FIFG) ⁽⁸⁾. The conditions for granting national aid for these purposes are therefore the same as those applicable to Community aid under the FIFG Regulation ⁽⁹⁾.

4.1.1.5 In exceptional cases, the Commission may authorise national aid for certain types of modernisation which are not covered by the FIFG Regulation, if it is aimed at restructuring fishing enterprises as part of national rescue and restructuring schemes. Before granting authorisation, the Commission will assess these national schemes on the basis of the Community guidelines, provided the restructuring of the firms is based on realistic economic assumptions in the present context, taking into account the state and possible evolution of targeted stocks and ensuring the profitability of firms based on a reduction in operating costs without increasing current overall fishing effort and capacity.

4.1.1.6 Exceptional authorisation by the Commission of state aids under national rescue and restructuring schemes will be for the following investments:

- a) a first change of fishing gear resulting in a less fuel-intensive fishing method,
- b) purchase of equipment to improve fuel efficiency (e.g. econometers),

c) one replacement of the engine provided that,

- 1. for vessels under 12 metres in overall length and not using towed gear, the new engine has the same power as the old one or less,
- 2. for all other vessels up to 24 metres in overall length, the new engine has at least 20 % less power than the old one,
- 3. for trawlers of more than 24 metres in overall length, the new engine has at least 20 % less power than the old one and the vessel changes to a less fuel-intensive fishing method.

4.1.1.7 In national schemes approving a restructuring plan for enterprises operating a number of vessels of over 12 metres in length, the Commission could accept that the reduction in engine power referred to in 4.1.1.6 (c)(3) could apply 'globally' at the level of the enterprise and that the decommissioning of a vessel without public aid could also be counted against the required reduction rate.

4.1.1.8 This principle could also be acceptable in the form of national schemes authorising a restructuring plan presented by a group of small and medium-sized enterprises (SMEs). In such cases, the profitability of some members of the group could be improved by action, such as decommissioning, taken by others.

4.1.1.9 During the temporary cessation of activities needed to carry out the approved investment, companies may apply for the relevant state aid, provided this is requested under the rescue and restructuring schemes.

4.1.1.10 Any other public aid, including Community aid, granted to a company in difficulty will have to be taken into account in the overall assessment of the restructuring plans and the long-term viability.

4.1.1.11 The Member States have two years from the date of publication of the present communication within which to notify the Commission of national rescue and restructuring aid schemes and, where appropriate, individual plans in the case of bigger enterprises. As soon as the Commission gives its approval, the Member States have two years within which to issue the administrative decisions on the restructuring plans.

4.1.1.12 Given that the current economic difficulties hit vessels using towed gear in particular, the Commission considers that such restructuring aid should primarily target trawlers.

⁽⁸⁾ Council Regulation (EC) No. 1263/1999 of 12.06.1999.

⁽⁹⁾ Council Regulation (EC) No. 2792/1999 of 17.12.1999.

4.1.1.13 As regards direct operating aid, in the current situation of high fuel prices the Commission rejects any public intervention to compensate for this increase in costs, since this would be incompatible with the Treaty.

4.1.1.14 As an alternative, the Commission could accept a guarantee scheme, as requested by the fishing industry, whereby money paid in by the industry in favourable times could be repaid as compensation in the event of sudden increases in the fuel price. The Commission could approve such a scheme only if it were to provide guarantees of reimbursement of all public aid under commercial conditions.

4.1.1.15 While it agrees with the Commission's diagnosis that the Community fishing industry is in a state of economic crisis, the EESC believes that the measures proposed to rescue the sector are neither realistic nor sufficient. It considers the measures to be unrealistic because the vast majority of operators are SMEs or owners of one sole vessel, working in fishing grounds with limited resources, with very small crews, subject to stringent fishing management rules and with very little scope to take measures to restructure and ensure their short-term viability. Moreover, without a new budget that is separate from the FIFG/EFF arrangements, there is very little opportunity to put these new measures into practice. The EESC therefore thinks that this communication will have little practical impact for most enterprises.

4.1.1.16 Nevertheless, for those enterprises that are large enough to apply for rescue and restructuring aid, the EESC believes that the communication should:

- provide for a budget separate from the FIFG/EFF option;
- make rescue aid non-reimbursable and ensure it is implemented for more than six months;
- ensure that the national schemes to be presented by the Member States are flexible and adaptable so as to provide enterprises applying with rapid access to the aid available.

4.1.1.17 The EESC would remind the Commission that applying a *de minimis* aid rule could be an effective short-term measure. The Committee nevertheless considers the ceiling provided for under current legislation (EUR 3 000 per company over three years) to be very low and not appropriate to the actual situation, especially given that other EU sectors, with the exception of agriculture, have a ceiling of EUR 100 000. The Committee therefore feels there is an urgent need to revise the rules governing *de minimis* aid for fishing, increasing the aid

ceiling to EUR 100 000 in line with other sectors. This point was made by the EESC in its opinion on the *State aid action plan — Less and better targeted state aid: a roadmap for state aid reform 2005-2009* ⁽¹⁰⁾.

4.1.1.18 Another measure that could be very helpful for enterprises and crews would be to consider the grave economic situation of the fishing sector as an 'unforeseeable circumstance' within the meaning of Article 16 of the FIFG Regulation, which allows compensation to be granted to fishermen and vessel owners for temporary cessation of activities in such situations.

4.1.1.19 With the aim of adapting the capacity of fishing vessels more quickly to the state of fish stocks, the Committee suggests that in the short term the Commission should set up a Community scrapping fund with a special budget, to be used on a mandatory and exclusive basis by the Member States for companies that ask for their vessels to be scrapped. This fund could give priority to those fleet segments with the most problems.

4.1.1.20 The Committee also thinks that in the short term the Commission should revise the guidelines on state aids for fishing to allow special registers of fishing vessels to be drawn up in the Member States, which would make it possible to improve the competitiveness of the deep-sea fishing fleet operating outside Community waters, as happened in the 1990s with the merchant fleet.

4.1.1.21 As regards the guarantee scheme for sudden increases in fuel prices, the Committee considers this to be another type of aid that could help keep fishing vessels in operation in the current difficult climate. It therefore supports the system, though in the present economic situation it thinks it is very unlikely to be applied on the terms required by the Commission. The Committee thinks that the Commission should allow the Member States to partly or totally cover the cost of premiums for any futures contracts concluded by businesses in the sector to guarantee a maximum fuel price over a fixed period of time, by analogy with the agricultural sector.

4.1.1.22 The Committee also feels it would be appropriate to revise the fiscal regime for the inshore fishing fleet, authorising exemption from corporation tax on the proceeds of the first sale of fish products by wholesale franchise operators and a reduction in value-added tax on intermediary operations carried out by such wholesalers.

⁽¹⁰⁾ OJ C 65, 17.3.2006.

4.1.2 *Longer-term measures and initiatives*

4.1.2.1 In the long term the fishing sector's prospects will only be good if fish populations recover and sustainable fishing is practised. In this context, the communication proposes the following measures:

- a) improving fisheries management
- b) better compliance with fisheries management rules
- c) organisation and operation of fish markets
- d) promoting research on fuel-efficient and more environmentally friendly fishing methods.

4.1.2.2 The Committee believes that all these long-term measures are already envisaged in the new CFP. However, it would ask the Commission to note that in order to achieve a system of fisheries management that provides the maximum sustainable yield, new practical ideas are called for once the plans for re-establishing and managing the most threatened populations have been realised.

4.1.2.3 The EESC fully supports the Commission's efforts to ensure that the rules of the Common Fisheries Policy are correctly applied across the Union. It reiterates that the Commission must cooperate fully with the European Fisheries Control Agency, in accordance with its intention stated in the communication, and that it must give the agency sufficient staff and funding to carry out the vital task that has been entrusted to it.

4.1.2.4 The EESC urges the Commission to step up its fight against illegal, undeclared and unregulated fishing; one decisive countermeasure is to close the Community market to such catches, since this is the principal destination of illegal fishing. The Committee considers banning transshipments on the high seas to be another effective measure against this type of fishing.

4.1.2.5 The Committee believes it is necessary to evaluate the organisation of the fish market, as proposed by the Commission, with a view to improving financial returns, using new tools, enhancing the marketing of fish and fishery products, and enabling producers to improve added value on those products at first sale and become involved in the marketing process. The Committee thinks that producer organisations have an important role to play here and that they should therefore be supported. To achieve this, the EESC believes that the Commission and the Member States should concentrate their efforts on changing the mindset of fishermen with respect to these issues.

4.1.2.6 The EESC supports the Commission's idea of drawing up a code of conduct on fish trade in the European Union and its promotion of eco-labelling, once the debate on this issue — on which the Committee recently issued an opinion — has been concluded.

4.1.2.7 The Committee believes the final long-term measure proposed in the communication (promoting research on fuel-efficient and more environment-friendly fishing methods) to be crucial. It hopes here that the financing commitments set out by the Commission will be met and that maximum support will be provided for projects presented by organisations representing the fishing sector, as well as for the development of Fishing Technology Platforms.

4.1.2.8 The EESC considers that in view of the current fuel price situation, which seems irreversible, it is crucially important to conduct research in all of the areas proposed in the communication. In particular the Committee believes it is necessary to investigate renewable energy production, especially the development and practical application of new types of biofuels and improvement of energy efficiency. It calls for financial support from the European Commission and the Member States for projects presented by organisations in the fishing sector.

Brussels, 14 September 2006.

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 on glucose and lactose (codified version)

COM(2006) 116 *final* — 2006/0038 CNS

(2006/C 318/22)

On 2 May 2006, the Council decided to consult the European Economic and Social Committee, under Article 308 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for the Committee's work on the subject, adopted its opinion on 11 July 2006. The rapporteur was Mr Donnelly.

At its 429th plenary session held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 187 votes to one and seven abstentions.

1. Introduction

1.1 The purpose of this proposal is to undertake a codification of Council Regulation (EEC) No 2730/75 of 29 October 1975 on glucose and lactose. The new Regulation will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bringing them together with only such formal amendments as are required by the codification exercise itself.

Brussels, 13 September 2006.

2. General comments

2.1 In the context of a people's Europe, the European Economic and Social Committee supports the Commission in simplifying and clarifying Community law so as to make it clearer and more accessible to ordinary citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

2.2 The Committee believes that codification must be undertaken in full compliance with the normal Community legislative procedure.

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

Opinion of the European Economic and Social Committee on Belarus Civil Society

(2006/C 318/23)

On 14 July 2005, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Belarus Civil Society*.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 July 2006. The rapporteur was Mr Stulík.

At its 429th plenary session held on 13 and 14 September 2006 (meeting of 14 September), the Economic and Social Committee adopted the following opinion by 146 votes to two with five abstentions.

1. Gist of the Opinion

1.1 With this own-initiative opinion, the European Economic and Social Committee (EESC) wishes to express its support, solidarity and empathy to all civil society organisations in Belarus working to promote democracy, human rights, the rule of law and freedom of association and speech — the values on which the European Union rests — in that country.

1.2 The European Economic and Social Committee expresses its moral support in particular to civil society organisations such as non-governmental legal organisations dealing with human rights and monitoring the state of democracy and the rule of law, independent youth organisations, independent foundations, independent associations of workers and entrepreneurs and independent trade unions working to promote democracy, human rights, the rule of law and European values in Belarus.

1.3 Direct interpersonal contacts — for example through exchanges, especially between young people — play an important role in contacts with Belarus civil society. In order to support and increase these, the EU and its Member States must introduce an amenable visa policy for Belarus citizens.

1.4 The European Union as a whole should undertake to put in place appropriate, comprehensible and targeted information policies and strategies to explain to Belarus citizens the fundamental values of the European Union and how it works.

1.5 EU financial support to civil society in Belarus must be delivered in appropriate and flexible forms so that it really does reach those for whom it is intended.

1.6 The European Economic and Social Committee recommends that EU institutions make use of the experience of transformation and the know-how of civil society organisations in the new Member States when drawing up a strategy for supporting civil society organisations in Belarus.

2. General introduction

2.1 With this own-initiative opinion, the European Economic and Social Committee (EESC) wishes to express its support, soli-

darity and empathy to all civil society organisations in Belarus working to promote democracy, human rights, the rule of law and freedom of association and speech — the values on which the European Union rests — in that country.

2.2 The EESC considers it extremely important to have a true and totally free civil society in Belarus as the prerequisite for lasting stability and the development of democracy in the country.

2.3 The EESC expresses its fundamental disapproval of the actions taken by the Belarus authorities and state and public administration which culminated in the very opaque and irregular presidential elections of 19 March 2006. The EESC also deplores the politically manipulated trials of democracy activists and NGO members who sought merely to exercise their civil rights in monitoring the course of the presidential elections and recently received exemplary and unjust sentences (the case of members of the Partnership NGO).

2.4 The EESC points out that Belarus, an immediate neighbour of the EU, is currently witnessing politically motivated violence against its own citizens, the violation of fundamental human rights and the flouting of internationally binding conventions and agreements upholding these rights. The organised civil societies in the 25 EU Member States find this unacceptable.

2.5 The EESC disapproves of and rejects the persecution and subsequent criminalisation of those civil society organisations which have come out against the arbitrary rule of the state authorities.

2.6 The aim of this EESC own-initiative opinion is to suggest a further course of action by the EU institutions concerning Belarus and support for civil society in the country. The EU's strategy for supporting Belarus civil society must be a specific, feasible and sustainable mid-term strategy, especially now that international interest is beginning to shift away from Belarus following the presidential elections.

2.7 The opinion also seeks to give European civil society organisations a better understanding of the situation in Belarus and encourage greater interest in how their Belarus partners are faring and the problems they face, and so pave the way for them to work together.

3. The situation of civil society in Belarus

3.1 The formal legal framework governing civil society organisations may appear at first sight adequate and in line with the standards of modern societies. However, the problem with the legal framework in Belarus lies in the way the details are interpreted and in the obstacles that are artificially created to the running and registration of civil society organisations. In practice, this legal framework can easily be used to find pretexts for refusing registration of civil society organisations that the ruling regime finds problematic.

3.2 As in every country with an authoritarian or totalitarian government, Belarus is divided into two parts: an official one and one which operates at best legally but with restrictions, semi-legally or illegally. The Belarus authorities politicise these organisations and associate them with the opposition. However, the right of citizens to freely associate in order to defend their individual and common interests is one of the fundamental rights and European values. 'Conflicts' between civil society and the state are thus common and normal in EU Member States. In normal democracies, such 'conflicts' do not diminish the legitimacy of these organisations, but are a means of public involvement and oversight in the running of public affairs.

3.3 A whole series of official organisations operates in Belarus which are loyal to the regime or directly monitored or controlled by state bodies. The state passes these organisations off as 'Belarus civil society' ⁽¹⁾. On the other side are civil society organisations which are critical of the regime and, as a result, are criminalised and in many cases even outlawed.

3.4 Unofficial organisations or associations of citizens, which must be considered part of civil society, are also operating in Belarus. Given the nature of their activities, these groups of active and aware citizens have no chance of becoming official organisations and are forced to operate unofficially. People who have come together in this way face victimisation, prosecution, dismissal from work or expulsion from education. The important question is how to help these groups, which, though unofficial, in many cases make up the core of independent Belarus civil society.

⁽¹⁾ In a speech delivered on 26 May 2006, President Lukashenko called for Belarus to build its own model of civil society.

3.5 Similarly, a series of civil society organisations continues to operate which were refused registration on various grounds and for a variety of petty, bureaucratic and nonsensical objections which the Belarus authorities use as a way of formally eliminating troublesome organisations. These are mostly non-governmental legal organisations dealing with human rights and monitoring the state of democracy and the rule of law, independent youth organisations, independent foundations, independent associations of workers and entrepreneurs and independent trade unions. These organisations are unable to continue operating as registered legal entities.

3.6 Although Belarus has more than 2 500 ⁽²⁾ NGOs in total, the number of independent organisations dealing even marginally with social issues is declining as a result of persecution, bureaucratic interference and the need to meet new registration requirements. In the field of human rights, for example, one of the last organisations operating legally is the Helsinki Committee, but this has also been facing increasing pressure from the authorities in recent days.

3.7 The sector of independent associations and groups of entrepreneurs, industrialists and employers comprises only a few small organisations (such as 'Perspektyva'), but their members, too, are frequently arrested and tried on trumped-up charges.

3.8 There are both official trade union organisations (affiliated to the Federation of Trade Unions of Belarus, FTUB), and an independent trade union movement under the name of the Belarusian Congress of Democratic Trade Unions. However, the freedom of association and rights of members of independent trade unions are systematically infringed. The recent appeal ⁽³⁾ to the European Commission by the European Trade Union Confederation (ETUC), the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) specifically highlighted the violation of trade union rights in Belarus.

3.8.1 The International Labour Organisation (ILO) has for many years criticised and condemned the grave and systematic violations of the fundamental workers' and trade unions' rights of Freedom of Association and Collective Bargaining (Conventions 87 and 98). A Commission of Inquiry of the Governing Body of the ILO, set up in 2003, produced a report in 2004, which condemned the Government's interference in internal trade union affairs, as well as its anti-trade union regulations and laws. Since the adoption of the report the ILO has sharply criticised the Government for not, or only very partially, implementing the recommendations of the Commission's inquiry. The recent 95th session of the International Labour Conference of the ILO (June 2006) urged the Government to take concrete steps for the implementation of these recommendations so that

⁽²⁾ European Commission: Country Strategy Paper, National Indicative Programme, p. 22. Of this figure, around 10 % are purely political in character.

⁽³⁾ Belaplan agency, 30 May 2006.

real and tangible progress could be noted by the November 2006 Governing Body session. If no such progress could be noted, the Conference trusted that the Governing Body of the ILO would begin to consider whether further measures under the ILO Constitution should be taken. Such measures would include action taken by the International Labour Conference to recommend member states, employers' federations and trade unions to review their relations with Belarus.

3.9 The EESC expresses its full support for those Belarus civil societies which acknowledge European values, do not legitimise or support the authoritarian regime through their actions and are in no way associated with it. The EESC calls for similar support (including financial) from the EU institutions and from civil society organisations in the Member States.

3.10 The EESC is also aware, however, of the need for dialogue and discussions with those organisations whose activity or conduct legitimises the present authoritarian regime and thus undermines fundamental European values.

3.11 Belarus civil society organisations (working in part with their partners abroad) must seek in every way to overcome their own isolation within the society and win its trust by demonstrating their achievements and their importance for society.

3.12 The situation and role of civil society in Belarus is made all the more difficult by the fact that many Belarus citizens acknowledge the legitimacy of the current political leadership and lend it their support. Civil society organisations, on the other hand, do not enjoy great public support and the political regime manages — not least through its information policy — to give them a negative image in the eyes of the average Belarus citizen.

4. General recommendations on the EU's strategy on Belarus

4.1 The EESC in essence agrees with, and expresses its support for, the European Commission, which on 28 May 2004 adopted the *Country Strategy Paper: National Indicative Programme Belarus, 2005-2006*. The EESC is particularly interested in, and supportive of, those points of the Indicative Programme which refer to EU support for Belarus civil society. The EESC offers its active participation in consultations to decide the most appropriate form for such support.

4.2 The EESC also hopes that the European Commission will submit a similar programme for the longer term, since a number of Belarus organisations are looking for a greater commitment from the EU in terms of human rights and democracy in their country. Plans and programmes of this kind serve to motivate and encourage Belarus civil society.

4.3 The EESC notes, therefore, that in order to change an authoritarian regime which seeks to give the impression of being in control on the ground, day-to-day activities will have to be supported, often through a policy of incremental steps. This is work, above all, for Belarus civil society organisations. In a situation in which even non-political civic organisations are constrained, their work, too, becomes political.

4.4 EU institutions and Member States must take action on Belarus and must coordinate and harmonise their strategies for supporting civil society both among themselves and with other international donors (foundations and the other governments).

4.5 The potential pros and cons of imposing economic and other **sanctions** must be analysed extremely carefully. With President Lukashenko controlling virtually all the media, the EU can easily be portrayed to the Belarus population (particularly those outside the capital, Minsk) as a hostile institution, which would make the option of a 'European' economic and political orientation for Belarus seem less attractive.

4.6 A distinction must be made between **sanctions** which directly affect the population or only those in power. If sanctions are imposed, the form they take must respect this distinction. Sanctions should not directly affect the Belarus population itself. On no account is expelling Belarus from the Generalised System of Preferences (GSP) a sanction, since this is about qualified preferential access to the EU market which is dependent on respecting basic rules. Furthermore, the Belarus government has enough time and opportunity to remedy the main complaints regarding infringement of fundamental trade union rights in the country.

4.7 Although Belarus is officially included in the **European Neighbourhood Policy (ENP)**, in the current circumstances the country cannot yet be offered the full benefits of ENP. The EESC agrees with the Commission and the Council that the inclusion of Belarus in the programme should be possible once its authorities have clearly demonstrated their willingness to respect democratic values and the rule of law. Nevertheless, the European Commission should also prepare a unilateral scenario (or one drawn up in conjunction with civil society representatives) in which Belarus would be swiftly included in the ENP in the event of a fundamental shift in the country's economic and political situation. A parallel can be made here with Slovakia when it was a candidate country in the 1990s under the government of Vladimír Mečiar⁽⁴⁾. A similar approach and flexibility by the EU towards Belarus would keep the country's civil society constantly mobilised and offer it an attractive, alternative, 'European' scenario.

⁽⁴⁾ The EU's pre-accession strategy enabled Slovakia to 'catch up' very quickly with its neighbours, despite its being some years behind.

4.8 **Russia** has been, is, and will continue to be, one of the key influences on, and stakeholders in, Belarus' future. Since Russia is a declared strategic partner of the European Union, there must be a policy of dialogue with the country and its politicians and civil society representatives on the situation in Belarus.

5. Specific problem areas of Belarus civil society and proposed practical measures

5.1 **Free media and access to objective and impartial information.** At present, the regime has a virtual monopoly on information. Civil society does not have access to the media in general or to the official media and information channels. Most of the independent press has been shut down on various grounds and what remains is effectively denied access to the state distribution network. Access to the Internet is also limited outside the capital Minsk and regional centres, and even there the connecting charge remains high. The EU's priority should therefore be to provide, support and strengthen independent sources of information for the citizens of Belarus and to ensure that there are uncensored internet servers. Grass-root initiatives regarding the internet should be supported.

5.2 **EU support for Belarus civil society.** Despite the EU's declared priority of supporting civil organisations in Belarus, there is a whole series of practical and formal obstacles to actually getting this support to the recipients. The existing EU funding procedures are extremely complicated, lengthy and costly. The current Financial Regulation should be adjusted to enable more flexible and user-friendly funding of not only NGOs, but also unregistered civil initiatives, especially in the countries with a hostile environment. The EESC calls for the Commission, the European Parliament and the Council to consider easing the existing funding procedure for civil society while adopting new amendments to the Financial Regulation and its Implementing Rules. A good way of delivering the help needed could be to use existing European civil organisation networks for representing Belarus organisations (including unregistered ones).

5.3 The EESC welcomes the recent Commission proposal to create a separate Financial Regulation for supporting democracy and human rights throughout the world and to target it at countries where fundamental freedoms are most at risk. The EESC hopes it will have the opportunity to comment on this proposal and that the key principle underlying the instrument will be its availability to all who need it and flexibility in the way civil society organisations use it.

5.4 The EESC also supports the recent initiatives discussed in the European Parliament and among Europe's non-profit organi-

sations aimed at creating a new financial instrument (**European foundation/agency for democracy**) for supporting democratic forces in countries such as Belarus. This agency should ensure that vital financial support gets to those organisations which have no formal status and which are denied registration by the authorities.

5.5 It is crucial for the democratic future of Belarus to **consolidate democratic forces** and independent civil society and to set strategic directions for their further development in this period following the elections. The EU should concentrate above all on supporting these elements by working with other donors and states pursuing the same goals and interests in Belarus.

5.6 Equal access to EU support (not only financial support) and to contacts with European institutions must be guaranteed for both 'old' established democratic civil society organisations in Belarus and for new organisations and initiatives.

5.7 **Exchanging information.** In contrast to other countries, there is no European Commission delegation operating in Belarus, despite an unsuccessful official request to the EU to open the delegation in Minsk. There is also no network of European Documentation Centres. It is practically impossible to access essential and objective information about the EU, the way it works and its values and policies. Thought should be given, therefore, to how to better inform Belarus citizens about the EU so that a possible 'European' course for the country appears more attractive ⁽⁵⁾.

5.8 The EU should set about drafting a comprehensive information strategy to explain fundamental European values to the citizens of Belarus. As the European Commission delegation is still not open in Belarus (the fault lying with the EU), it would be good for the representations of EU Member States to act jointly to propagate European values, for example by establishing a common European centre in Minsk.

5.9 The EESC considers it useful to create the office of EU special representative for Belarus, as is the case for other regions ⁽⁶⁾. This representative, appointed by the EU Member States, would keep the EU institutions informed of the current situation in Belarus and of developments in EU-Belarus relations. The special representative should also coordinate Member States' foreign policy on Belarus and propose common EU measures and procedures regarding Belarus. The special representative's other roles should include maintaining contacts with representatives of Belarus civil society, the democratic opposition and Belarus official authorities and institutions.

⁽⁵⁾ According to a recent public opinion survey, only 1.1 % of Belarus citizens associate a better future with the European Union and 77.7 % with President Lukashenko.

⁽⁶⁾ For example, the EU special representative for Moldavia, Sudan and the Southern Caucasus. For more information on the role and importance of EU special representatives, see: http://www.consilium.europa.eu/cms3_fo/showpage.asp?id=263&lang=en&mode=g

5.10 It also has to be said, however, that awareness in the EU of the difficult situation of civil organisations in Belarus is also inadequate and differs significantly between Member States.

5.11 **Maintaining contacts between EU and Belarus civil society organisations.** In practice, the Belarus authorities prevent members of civil society organisations meeting their partners from the EU and travelling abroad, or at least make it uncomfortable for them to do so. The obstacles to young people meeting are particularly problematic. In many cases, the regime prevents Belarus students from studying abroad and becoming involved in NGOs. Personal contacts between members of civil society organisations from Belarus and the EU should therefore be one of the priorities of the EU's policy on Belarus. There is no substitute for personal contacts when it comes to, for example, passing on information and experience and providing moral support. The EU should therefore fund youth and student exchanges, provide scholarships and internships support to foster joint actions by civil society groups, as well as targeted assistance to opinion leaders.

5.12 The EESC is greatly concerned at the present visa policy of individual EU Member States regarding citizens of Belarus. While EU claims it is attempting to streamline visa procedures for certain groups of citizens (including representatives of civil society organisations), in practice Belarus applicants for visas to EU countries are subjected to flagrant affronts to human dignity and to humiliation. The length of visa procedures and the fact that they are often humiliating and undignified (7) for applicants discredit the values which the EU promotes and on which it rests in the eyes of Belarus citizens. This, together with the recent increased charge made for issuing visas, substantially curtails contacts between people, including those between representatives of civil society organisations.

5.13 The EESC therefore calls on the EU institutions and the EU Member States to minimise the red tape and the official and

unofficial barriers for those Belarus applicants for EU entry visas who respect and abide by the laws in force and to reduce the charges for issuing them. Member States should consider a simplified procedure for issuing visas on humanitarian grounds and for purposes of research and study. The charges should be in line with local purchasing power in the country where the application is made. At the same time, care should be taken to ensure dignified treatment of visa applicants. Only in this way will the EU send a credible signal to Belarus society that it is serious in its intention to boost interpersonal relations between EU and Belarus citizens.

5.14 For Belarus civil society organisations, their partners from the new Member States are a valuable source of know-how and experience. Most valuable of all is the knowledge and experience (negative as well as positive) of the transition from a totalitarian to a democratic regime and what this involves: the adoption of transformation legislation, the creation of basic democratic institutions and the principles of the rule of law, the functioning of a free and civil society and of independent media, the creation of a balance between public, private and civil sectors, the implementation of socio-economic reforms and reforms of the machinery of state (including the army, police and judiciary). The EU as a whole should support the transfer of this 'transformation' know-how to Belarus organisations.

5.15 **Transfer of experience and skill** should not only involve people travelling out of Belarus: visits to Belarus need to be arranged, and various activities, seminars, conferences and round tables with partners from EU countries need to be organised and held in the country itself. Sufficient scope and support should be given to the work and activity of private foundations that carry out and fund such activities. Examples of good practice and successful models of similar activities with Ukrainian civil society organisations could serve as examples to follow.

Brussels, 14 September 2006

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

(7) A detailed account of these practices and the humiliating procedures of EU Member State delegations faced by Belarus visa applicants (verbatim quotes from applicants and accounts of their experiences) is to be found in the Batory Foundation report 'Visa Policies of European Union Member States. Monitoring Report', Warsaw, June 2006, at <http://www.batory.org.pl/english/intl/pub.htm>. An extract by way of illustration: 'Almost all Consulates did nothing to ensure suitable conditions for those waiting outside the Consulate, that is, shelter from rain or snow [...] or even a place to sit. This seemingly minor problem gains in importance when we realise that the waiting time outside the building can last all night long (the case of the Consulates of France in Belarus).' (Page 22).

Opinion of the European Economic and Social Committee on Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations

(2006/C 318/24)

On 14 July 2005 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 July 2006. The rapporteur was Mr Pariza Castaños.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 181 votes to 7 with 8 abstentions.

1. Introduction

1.1 In 2002, the EESC drew up an own-initiative opinion on *Immigration, integration and the role of civil society* ⁽¹⁾ with the purpose of stimulating a political and social debate at Community level aimed at ensuring that integration policies are included as a basic component of common immigration and asylum policies.

1.2 One of the opinion's proposals was that the European Union should draw up a Community programme to promote the social integration of immigrants. The EESC believes that programmes need to be set up to promote the integration of new immigrants and of people arriving on the grounds of family reunification. The same also applies to refugees and asylum-seekers who, as well as having European status, are protected by international law.

1.3 The EESC held a conference for this same purpose on 9 and 10 September 2002, in cooperation with the Commission. It was attended by more than 200 representatives of the social partners and the most representative NGOs of the 25 Member States and of European networks. The aim of the conference was to involve civil society in promoting European integration policies.

1.4 The conclusions of the conference stated that 'the social partners and civil society organisations have a key role to play in integration', and that 'The European Union and its Member States should **foster the integration** of immigrants, minorities and refugees, **particularly at regional and local level**. A **European programme** to advance integration is needed' ⁽²⁾.

1.5 In 2003 the European Council set up the National Contact Points for integration, and instructed the Commission to present an annual report on migration and integration ⁽³⁾. The Commission also drew up a *Communication on immigration, integration and employment* ⁽⁴⁾ adopting a holistic approach to integration, which was endorsed by the EESC in its opinion at that time ⁽⁵⁾. In November 2004 the Commission published a *Handbook on Integration for policy-makers and practitioners* ⁽⁶⁾.

1.6 The Hague Programme, adopted by the European Council of 4 and 5 November 2004, underlines the need for greater coordination of national integration policies and EU initiatives in this field, and declares that EU policies should be based on common principles and clear means of evaluation.

1.7 A more developed policy and legislative environment for immigration policies is now in place. The present opinion represents a fresh contribution from the EESC, which focuses on the social and political players at regional and local level, since this is where challenges can most effectively be met and where policies can achieve the best results.

1.8 In conjunction with the drawing up of the opinion, the EESC held a hearing in Barcelona in order to exchange local and regional authorities best practice (a report on the hearing is in Appendix 2) and another in Dublin, in cooperation with the ILO and the European Foundation for the Improvement of Living and Working conditions, to analyse best practice on integration and anti-discrimination measures at the workplace (Appendix 3 contains a report on the hearing).

⁽¹⁾ OJ C 125 of 27.5.2002 (rapporteur: Mr Pariza Castaños; co-rapporteur: Mr Melícias).

⁽²⁾ See the conference General Conclusions.

⁽³⁾ COM(2004) 508 final.

⁽⁴⁾ COM(2003) 336 final.

⁽⁵⁾ OJ C 80 of 30.3.2004 (rapporteur: Mr Pariza Castaños).

⁽⁶⁾ http://europa.eu.int/comm/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf.

2. The Common Agenda for Integration

2.1 On 1 September 2005, the Commission published a Communication on *A Common Agenda for Integration — Framework for the Integration of Third-Country Nationals in the European Union* ⁽⁷⁾, which the EESC welcomes and supports, as it sets out to flesh out the proposal made by the Committee in the 2002 opinion and conference.

2.2 The communication calls upon the Member States to step up their efforts concerning national strategies to integrate immigrants, and seeks *greater consistency* between these strategies and actions taken at EU level.

2.3 The present opinion is at the EESC's own initiative, and is therefore not specifically on the Commission's communication. It does, however, also incorporate the EESC's views on COM(2005) 389 final.

2.4 The Justice and Home Affairs Council of 19 November 2004 adopted a set of **Common Basic Principles** to underpin a coherent European framework for integration policies. The Commission is putting these principles into practice in the form of actions which 'should be seen as main elements of all national and EU integration policies' ⁽⁸⁾. The actions are organised around eleven principles ⁽⁹⁾. The EESC views these principles, fleshed out in the Common Agenda, as a proper basis for balanced and coherent integration policies at European and national levels.

2.5 The establishment of a **European Fund for the Integration of Third-country Nationals** ⁽¹⁰⁾ is proposed under the 2007-2013 financial perspectives, to be based on these common principles. The EESC supports the proposal ⁽¹¹⁾ and hopes it will be included in the future EU budget.

2.6 The Agenda suggests actions to be carried out at national level and others at Community level. The Commission wants to carry out continuous assessment of the programmes.

2.7 The Commission argues that 'with due consideration to the competence of Member States and of **their local and regional authorities**, it is essential to foster a more coherent EU approach to integration' ⁽¹²⁾.

2.8 The Commission had proposed an open method of coordination ⁽¹³⁾ for immigration policies, which was not accepted by the Council. The EESC ⁽¹⁴⁾, which supported the Commission's proposal, sees the network of national contact points, the common principles and the evaluation procedure for integration policies as a step forward in coordinating national policies, and as part of a common approach. The EESC proposes that the Commission and the Council adopt the open method of coordination, on the basis on these encouraging experiences.

2.9 Development must continue of a legal framework (common policy) governing the conditions of admission and stay for third-country nationals at European level. The Member States must properly transpose the directives on long-term residents and family reunification ⁽¹⁵⁾ which were adopted in 2003.

2.10 The close connection between a common 'immigration' policy and a common integration strategy is highlighted by the Commission. However, the directive on the admission of economic migrants has still not been adopted. The EESC ⁽¹⁶⁾ agrees with the European Commission's view that 'any future migration instruments should take into account equality of treatment and rights for migrants' ⁽¹⁷⁾. The Commission has announced a second edition of the Handbook on Integration, an integration website, the creation of a European Integration Forum, and the reinforcement of the annual reports on migration and integration. The EESC supports these aims, and is willing to cooperate with the Commission.

2.11 The EESC firmly supports the implementation of the Agenda, and recalls its views as stated in an earlier opinion: 'The EESC proposes that the Commission could manage a European integration programme, equipped with sufficient economic resources and within the framework of coordination of national policies, and stresses how important it is that the Council grant the Commission the political, legislative and budgetary means needed to promote the integration of immigrants. The EESC highlights the importance of establishing positive and effective immigrant arrival programmes in cooperation with civil society organisations' ⁽¹⁸⁾.

2.12 In addition, the EESC also proposes that the EU dedicate adequate funds to humanitarian conditions for the many undocumented migrants arriving in the countries of southern Europe. The EU Member States must display a sense of solidarity and responsibility if Europe is to act with a common policy.

⁽⁷⁾ COM(2005) 389 final.

⁽⁸⁾ See COM(2005) 389 final, point 2.

⁽⁹⁾ Appendix 1.

⁽¹⁰⁾ See COM(2005) 123 final.

⁽¹¹⁾ See EESC opinion on management of migration flows, OJ C 88 of 11.4.2006 (rapporteur: Ms Le Nouail-Marlière).

⁽¹²⁾ See COM(2005) 389 final, point 3.

⁽¹³⁾ COM(2001) 387 final.

⁽¹⁴⁾ OJ C 221 of 17.9.2002 (rapporteur: Ms zu Eulenburg).

⁽¹⁵⁾ Directives 2003/109/EC and 2003/86/EC.

⁽¹⁶⁾ Opinion on the Green Paper on an EU approach to managing economic migration (rapporteur: Mr Pariza Castaños), OJ C 286 of 17.11.2005.

⁽¹⁷⁾ See COM(2005) 389 final, point 3.2.

⁽¹⁸⁾ OJ C 80 of 30.3.2004, point 1.10 (rapporteur: Mr Pariza Castaños).

3. Integration policies

3.1 Integration is a two-way process, founded on the rights and obligations of third country nationals and the host society, enabling immigrants to participate fully. In another opinion, the EESC defined integration as 'bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment' ⁽¹⁹⁾.

3.2 This two-way approach means that integration applies not only to immigrants, but also to the host society. It is not so much a question of the integration of immigrants into the host society, but rather with the host society: in other words, both sides must integrate. Integration policies must shape both sides, the purpose being to achieve a society in which all citizens have the same rights and obligations, and share the values of a democratic, open and pluralist society.

3.3 Immigrants have a duty to understand and respect the cultural values of the host society, which in turn has a duty to understand and respect the cultural values of immigrants. Cultural issues are often manipulated for discriminatory purposes. Integration does not mean the cultural adjustment of immigrants to the host society. This mistaken attitude has led to a number of failures. European societies are pluralist from the cultural point of view, and this trend is set to be further reinforced in the future as a result of increasing and more widespread immigration.

3.4 It should not be forgotten that several Member States have sizeable minority populations of various national or cultural origins, whose rights must also be upheld and guaranteed.

3.5 The EESC is convinced that cultural diversity is a feature of a pluralist and democratic Europe, as is the principle of religious neutrality on the part of the State. Immigration from non-EU countries contributes new ingredients to our diversity, enriching our societies socially and culturally. Culture in human societies cannot be understood as a fixed entity, but rather as a process in permanent flux which is enriched by the most diverse contributions. An administration that applies the principles of independence and neutrality towards religions helps to create a good relationship between immigrants and the host society. European societies need to promote intercultural training programmes. The UNESCO convention on cultural diversity ⁽²⁰⁾ is a crucial tool for European policies.

⁽¹⁹⁾ OJ C 125 of 27.5.2002, point 1.4 (rapporteur: Mr Pariza Castaños).

⁽²⁰⁾ Convention on the Protection and Promotion of the Diversity of Cultural Expressions. See http://portal.unesco.org/culture/en/ev.php-URL_ID=11281&URL_DO=DO_TOPIC&URL_SECTION=201.html.

3.6 The social integration of immigrants also means a process of putting their rights and duties on an equal footing, and is closely linked with the fight against discrimination. Discrimination is an illegal means of undermining personal rights. The right to family life is not sufficiently guaranteed in some Member States due to highly restrictive laws on family reunification. Neither is the directive adopted by the Council appropriate ⁽²¹⁾.

3.7 The principle of subsidiarity indicates that integration policies, within a coherent European framework, are not the sole responsibility of the Member State governments. Such policies will be more fruitful if regional and local authorities are involved in them, and if they cooperate actively with civil society organisations. The EESC proposes that local and regional authorities step up their efforts and promote new integration policies.

3.8 In keeping with the powers which they have in the various Member States, local and regional authorities possess political, legislative and budgetary instruments which they must put to good use in integration policies.

3.9 Both immigrants and host societies must display an integration-friendly attitude. The social partners and civil society organisations must be actively involved in integration policies and anti-discrimination measures.

3.10 The fundamental challenge facing civil society organisations is to foster an integration-friendly attitude among European host societies. The social partners, human rights organisations, cultural and sports associations, faith communities, neighbourhood associations, educational communities, the media and so on must be at the forefront of integration. To do this, they must open their own doors and seek to get immigrants involved.

3.11 Discrimination, racism and xenophobia are on the rise in some small sectors of European societies, fuelled by some irresponsible politicians, and by elements in the media which amplify the social impact of such behaviour. However, many of Europe's civil society organisations are engaged in the social and political struggle against such behaviour.

⁽²¹⁾ See Directive 2003/86/EC and the EESC opinions in OJ C 204 of 18.7.2000 (rapporteur: Ms Cassina) and OJ C 241 of 7.10.2002 (rapporteur: Mr Mengozzi).

3.12 Together with civil society organisations, local and regional authorities bear a responsibility to inform immigrants and the host society about their rights and duties.

3.13 Immigrant organisations and communities are playing a key role in integration. These bodies must also generate an impetus for integration among their members and step up their links with host society organisations.

3.14 Local and regional authorities must support the work of these organisations and consult them before taking policy decisions.

3.15 Anti-discrimination directives⁽²²⁾ have been adopted and transposed into national law. The Committee hopes it will be informed about the reports evaluating their impact and results.

3.16 However, many immigrants and their descendants, or people belonging to ethnic or cultural minorities, suffer from workplace discrimination (with equal vocational qualifications): greater difficulty in gaining employment, low-quality jobs and more frequent dismissal.

3.17 It is essential that the social partners at local and regional level combat these discriminatory practices, which infringe European legislation and are obstacles to integration. Discrimination at work is also an obstacle to successful businesses. Workplace integration, ensuring equal treatment free of work-related discrimination vis-à-vis national workers, is a prerequisite for business success and social integration⁽²³⁾. Appendix 3 contains a report on the hearing held in Dublin to examine best practice in employment integration.

4. Regional and local integration programmes

4.1 It was, in the past, believed in some Member States that there was no need for integration policies, since they considered immigrants to be no more than 'guests' who would return to their countries of origin when they finished working. This mistaken approach has caused numerous problems of segregation and social marginalisation, which present policies are attempting to resolve.

4.2 The thinking in other Member States was for years that immigrant integration would happen easily and automatically, without active policies. However, segregation and marginalisation have solidified with time, triggering serious social conflicts. New policies are now setting out to put right the problems of the past.

4.3 It must be remembered that immigration through irregular channels is an obstacle to integration policies, since undocumented immigrants are in an insecure, highly vulnerable position. Procedures have been introduced in some Member States to regularise the residency status of such people, thereby promoting their integration.

4.4 Although some doubts about subsidiarity persist in the Council of the European Union, most leaders believe that coherent integration policies need to be promoted at all levels: Community, national, regional and local.

4.5 The EESC considers that if such policies are to be effective, they must be proactive and be pursued as part of a coherent and holistic approach. Authorities often work only reactively, once problems have appeared and are difficult to resolve.

4.6 Integration is a process with many dimensions, and must draw in all the different public administrations and social players. European, national, regional and local authorities should draw up programmes reflecting the scope of their respective powers. In order to guarantee the efficacy and overall consistency of the programmes and actions, they must be properly backed and coordinated.

4.7 The general public and local authorities suffer the consequences of mistaken government policies. Urban authorities are the first to bear the consequences of these policies' failures. As a result, numerous local and regional governments have long been pursuing their own introduction and integration policies. Their experiences vary widely: some offer examples of best practice, while others have failed.

4.8 The scale of the problems, and of present and future migration flows, suggest that the challenges are great — but the economic means and political work of local and regional authorities are not enough.

4.9 The EESC believes that local and regional governments should, in cooperation with civil society organisations, draw up integration plans and programmes which lay down the objectives and allocate the necessary resources. 'Paper policies' — programmes without funding — are ineffective.

4.10 In the EESC's view, it is reasonable to earmark a part of the economic benefits generated by immigration for introduction and integration policies.

4.11 It is highly important that the most representative immigrant associations are consulted when integration programmes and plans are being drafted.

⁽²²⁾ Directives 2000/43/EC and 2000/78/EC.

⁽²³⁾ Cf the positive work of the social partners in Ireland, as referred to in Appendix 3.

4.12 A number of municipalities and regions in Europe have participatory and advisory bodies which bring civil society organisations together with the authorities in framing and implementing integration policies.

5. Instruments, budgets and evaluation

5.1 Adequate budgets must be allocated to local and regional integration plans and programmes, and they must be equipped with their own management and evaluation instruments.

5.2 There are many examples of European cities and regions which have dedicated bodies and services, with wide-ranging policy and technical content.

5.3 Many cities also have advisory and participatory bodies for civil society organisations. A number of forums and consultative committees have been set up, in which civil society organisations and immigrant associations take part.

5.4 The EESC sees these as examples of best practice which should be extended across the EU.

5.5 Some cities also provide examples of specialist services for immigrants, which implement practical aspects of integration plans.

5.6 There is an on-going debate about the risk of segregation arising from immigrants being dealt with by specialist services set up for them. The EESC believed that segregation in the use of public services is to be avoided, although dedicated services may sometimes be necessary, especially for the initial reception of immigrants on arrival.

5.7 The EESC is convinced of the necessity of involving the social partners and other civil society organisations in drawing up and operating regional and local integration plans and programmes.

5.8 Encouraging cooperation between the local and regional authorities of European host societies and their counterparts in the countries of origin is also helpful. There are examples of good practice which should be replicated.

5.9 Some authorities only allocate funds to reduce conflict once it has broken out. Integration policies must be proactive if they are to be effective.

5.10 Integration poses a challenge to European societies. Recent events in a number of countries have highlighted that

the aims are not being met. Although circumstances vary between Member States and some problems are country-specific, policies for equal treatment, integration and combating discrimination need to be improved throughout Europe.

5.11 The EESC proposes that the various public administrations, at European, national, regional and municipal level — in keeping with each country's particular practices — prepare integration programmes, with adequate funding, which have a proactive approach.

5.12 These programmes need to possess evaluation systems, with accurate indicators and transparent procedures. Civil society must be involved in evaluation procedures.

6. Objectives

6.1 The issues and approaches which must be covered by regional and local integration programmes are highly diverse; the most important are as follows:

6.2 *Observing the actual situation.* The reality of immigration and the position of minorities in a given territory must be analysed by the institutions in order to devise appropriate future actions.

6.3 *Initial arrival.* Establishment of reception centres; health care and legal assistance; temporary accommodation for specific cases; introductory language courses; information on the laws and customs of the host society; help in gaining initial employment, etc. Particular attention needs to be given to minors and other vulnerable persons under this action.

6.4 *Language teaching.* Local and regional authorities must pursue active language learning policies, since adequate knowledge of the host society language is necessary for integration. Language courses should be held in locations close to the places of residence, and with highly flexible timetables. It is incumbent upon the authorities to ensure that all immigrants have the opportunity to attend courses.

6.5 *Access to employment.* Work is certainly a priority aspect of integration. Public employment services should operate appropriate programmes: vocational training courses, careers advice, etc.

6.6 Workplace discrimination is a major obstacle in the path of integration. Partners at local and regional level should be active players in opposing discrimination.

6.7 *Access to housing.* Discrimination-free access to decent housing is one of the greatest challenges for local and regional policy. Authorities must prevent the formation of run-down urban ghettos in which large numbers of immigrants are concentrated. To this end, urban planning policies must be adjusted in good time. Improving the quality of life in such areas must be a priority.

6.8 *Education.* Education systems should ensure that the children of immigrants have access to high-quality schools. Over-concentration of these pupils in poor quality 'ghetto-schools' — as frequently occurs — must be prevented. School education, at all stages, lays down the foundations for the integration of new generations.

6.9 Education should reflect the internal diversity of European societies. Intercultural mediators should be available and teaching resources should be boosted in order to resolve linguistic and cultural difficulties.

6.10 Adult education programmes should draw in the immigrant population, especially women. Training for employment is vital to facilitating access to employment for immigrants.

6.11 *Access to health.* Access to health and health care for immigrants should be promoted. The help of intercultural mediator services may be necessary in some circumstances.

6.12 *Adjustment of social services.* Immigration often places demands on social services for which they are not prepared. Adjustments must be made in line with the new state of diversity.

6.13 *Training for the professionals.* Those working in social services, education, police forces, health services and all other public services should receive new training courses so that they can deal appropriately with immigrant and minority populations.

6.14 *Diversity is a good thing.* Cultural programmes ought to recognise cultural diversity. Diversity is a typical feature of present-day European cities. Religious beliefs are also diverse.

6.15 There is also a need for local authorities to promote *learning to coexist*, and encourage everyone, of whatever origin, to adjust to the lifestyles of the cities in which they live. Both immigrant and host society populations must play a part in this process of learning, in order to increase understanding between cultures and foster social integration.

6.16 Everyone should be able to exercise the right to live with their family: this is one of the fundamental rights recognised at international level by human rights conventions. In spite of this, many national laws — and even the European family reunification directive ⁽²⁴⁾ — fail to provide sufficient guarantees for many immigrants that they can exercise the right to family life, although this is a very beneficial factor for integration policies.

6.17 *The gender dimension.* The gender dimension must also be mainstreamed in all integration policies. Policies on training for employment, aimed at facilitating access to employment, are of especial importance.

6.18 *Public participation.* Access to means of civic participation is one of the key components of integration. Citizenship rights and the right to vote in municipal elections must be guaranteed for third-country nationals who are stable or long-term residents, as the EESC has proposed in several opinions ⁽²⁵⁾.

7. New strategies for local and regional authorities (some conclusions from the Barcelona hearing)

7.1 *The need for networking and coordination between different institutions*

7.1.1 Networking and inter-institutional coordination is crucial, and takes two forms: horizontal, between local authorities; and vertical, between the local, regional and state levels of government. The challenges of immigration and integration cannot be met by individual authorities in isolation. The EESC proposes that the public authorities improve coordination arrangements and that evaluation procedures should be introduced for networking. The EESC would also like to forge closer cooperation links with the Committee of the Regions to promote integration policies.

7.1.2 Some regions, such as Catalonia and Schleswig-Holstein, reported that one of the central planks of their approach has been to involve local authorities in planning their initiatives. The Campania region also pointed to its decision to forge networks with trade unions, church bodies, etc. Local authorities, for their part, emphasised the importance of networking with specialist bodies in areas such as initial reception.

⁽²⁴⁾ See Directive 2003/86/EC and the EESC opinions in OJ C 204 of 18.7.2000 (rapporteur: Ms Cassina) and OJ C 241 of 7.10.2002 (rapporteur: Mr Mengozzi).

⁽²⁵⁾ See EESC opinion on Access to European Union citizenship, OJ C 208 of 3.9.2003 (rapporteur: Mr Pariza Castaños).

7.1.3 Experience with networking between local government and the European level is growing. *Eurocities* was set up in 1986, and now has a membership of 123 European cities. It is organised into working groups, one of which deals with immigration and integration. A number of the cities present at the hearing, such as Rotterdam and Leeds, belong to this working group. As well as exchanging experience and best practices, the working groups promote European projects involving a number of cities.

7.1.4 Another more recent network, ERLAI, is specifically geared to immigration and integration. 26 local and regional authorities have already joined the network. It also sets out to swap information and experience, and to carry out joint actions and projects.

7.1.5 Other ventures are also being promoted by a range of bodies. The European Foundation for the Improvement of Living and Working Conditions also works through a network of cities to coordinate integration policies.

7.1.6 At European level, the purpose of the network of National Contact Points for integration, coordinated by the European Commission, is also to exchange experience. It helped to draw up the Handbook on Integration ⁽²⁶⁾ and the annual report on migration and integration ⁽²⁷⁾.

7.2 Integration plans and civil society participation

7.2.1 Those local and regional authorities which have drawn up comprehensive plans, and which have integration management services, obtain better results than those which only mount one-off actions. Planning, provision of resources and management instruments are necessary if immigration and integration are to be addressed.

7.2.2 The EESC believes it is of great importance that civil society organisations play a part in drawing up policies and implementing actions. If an integration plan is to succeed, it is important for civil society to be involved. The Schleswig-Holstein region has understood this, and brought in social players and a range of bodies in a broad debate on integration before adopting its project. As a result, society was alerted to the need for integration policies. Other cities and regions (including Copenhagen, Barcelona and Helsinki) also offer examples of participatory processes.

7.3 European Fund for Integration

7.3.1 The effectiveness of local and regional authorities is enhanced when they can rely on economic support from Member State governments: integration policies require economic resources and the Member States should make a greater commitment. The Schleswig-Holstein region mentioned this aspect, indicating that much of its work has been directed to confronting the German federal government with the need to

respond to this requirement, having achieved encouraging results in this regard.

7.3.2 Other local authorities, as in the cases of Ljubljana and Brescia, have pointed out that the scant support they receive from their respective governments prevents them from implementing more wide-reaching policies in this sphere. The problem is worse still where regional governments have few own resources. This was mentioned by the French Midi-Pyrénées region.

7.3.3 The European Fund for Integration, approved by the Council and Parliament for the 2007-2013 period, is essential, since it will mobilise significant economic resources for integration policies and help to ensure that policies are carried out within a coherent and comprehensive EU framework, which respects subsidiarity. The new Member States have voiced particular interest in this fund. The EESC again expresses its support for the establishment of the fund, and urges the Commission to consult the Committee when preparing the relevant regulation.

7.4 Specialist services must not generate segregation

7.4.1 The creation of dedicated services for immigrants must not be allowed to breed segregation. The Budapest representative, for example, reported that in Hungary, local authorities have family support, early childhood, employment etc. services, which immigrants — along with all other citizens — must use. In general, however, all cities and regions which have drawn up integration policies have done so by developing specific plans and providing dedicated resources and services. The Helsinki representative argued that 'specialist services for immigrants should not be necessary — but they are', showing that support from general services alone cannot cope with the shortcomings, disadvantages, difficulties and special needs experienced by immigrants.

7.4.2 Specific plans, projects and resources are needed for immigration and integration. The problem of how to move forward from this point towards a more normal situation continues to give cause for concern: how to prevent specificity generating segregation? The Brescia representative pointed out that the immigration-related services that had been set up 'are not parallel, but complementary, services'. They do not replace the other ordinary services, to which immigrants must apply for all the matters for which such services are responsible.

7.4.3 Copenhagen also emphasised that one of the concerns of its Integration Council is that its work should not legitimise any form of segregation of immigrant or minority populations. The aim is for its actions to be inclusive, encouraging a closer relationship and integration between all sectors of the population.

⁽²⁶⁾ http://europa.eu.int/comm/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf.

⁽²⁷⁾ COM(2004) 508 final.

7.4.4 It is important, in this regard, that the local population should not see initiatives geared to immigrants as a form of privilege, which could accentuate prejudice and foster segregation. Catalonia is aware of this, indicating that when implementing tailor-made actions for the immigration population, great care must be taken regarding the possible feelings of rejection this may trigger among the local population. The steps taken by local and regional governments concerning immigrants must be clearly and carefully explained.

7.5 *Integration objectives*

7.5.1 A number of cities and regions contributed their ideas regarding integration as a concept, demonstrating that this is an on-going debate in Europe, since it contains differing political and legal cultures, as well as differing models for integration.

7.5.2 Following a major debate, the Schleswig-Holstein region argued that integration should focus on three central aspects: equal participation, equal rights and duties, and inclusive, anti-discriminatory measures involving both immigrants and the host society.

7.5.3 This inclusive line is followed by the *Misericórdia* church-based social work organisation in Portugal, which directs integration policies in the country. The emphasis is mainly on equality policies and on facilitating access to Portuguese nationality.

7.5.4 Barcelona identified three areas of action: promoting equality (recognition of rights, promotion of equal opportunities and treatment); recognising cultural diversity; and promoting coexistence (facilitating initiatives for social cohesion and preventing the growth of parallel societies between the local population and immigrant groups).

7.5.5 A major debate was launched in Rotterdam in 2004, challenging the integration model so far followed. The need for the debate arose from the observation that although active integration policies had been implemented for years, society was becoming fragmented and a process of segregation was under way (particularly concerning the Muslim population). The most intensive discussions centred on the 'us and them' attitude which had permeated society.

7.5.6 The *European Liaison Committee for Social Housing* couched the debate on integration in terms of removing inequalities and equal opportunities. Their work focused on housing, and they explained that discrimination in this area was one of the main causes factors in the segregation of immigrant populations.

7.5.7 The EESC is convinced that the 11 common basic principles (set out in Appendix 1) governing the European integration programme have a proper and balanced focus. The majority of participants at the Barcelona hearing agreed with this view.

8. **New challenges for employment integration** (some of the conclusions of the Dublin hearing)

8.1 Through their work, immigrants make a positive contribution to Europe's economic development and social well-being. The EESC considers that immigration in Europe can provide new opportunities for company competitiveness, working conditions and social well-being.

8.2 Employment is a key part of the integration process, because decent jobs are vital to immigrants' self-sufficiency, and they enhance social relations and mutual understanding with the host society. The EESC proposes that integration into the labour market should take place on a level playing field, without discrimination between workers from the host country and immigrants, taking the necessary professional requirements into account.

8.3 Europe's migrant workers must be treated fairly, because they are protected by international human rights conventions and the principles and laws enshrined in the ILO conventions. The EESC reiterates its proposal that EU Member States sign up to the UN's 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

8.4 The EU directives on equal treatment in employment and equal treatment irrespective of racial or ethnic origin are essential legal instruments in shaping legislation and practice in the Member States in combating discrimination and fostering employment integration.

8.5 In the field of employment, legislation and public policies must complement one another through cooperation with the social partners, because integration into the labour market is also an issue of society's attitudes and of commitment on the part of trade unions and employers.

8.6 Public employment services must boost programmes to help immigrants find work and these programmes might include: helping with the recognition of professional qualifications, improving language learning and occupational training, and providing adequate information on employment systems in the host country.

8.7 At grass-roots level, unions, employers' organisations, immigrant associations and other civil society organisations play a key role in conveying information and in helping immigrants to find employment. Social organisations are actively involved across Europe in helping immigrants and their children to find employment by means of vocational training courses, employment advice, support for small business start-ups, etc.

8.8 Companies are increasingly benefiting from the opportunities and growing diversity brought by the integration of immigrants into the labour market. The EESC considers that companies could help to raise awareness within the host society against discrimination, and provide employment contracts that are not xenophobic and do not encourage exclusion.

8.9 Procedures must be set up based on the planning of migratory flows, which should be carried out in the source countries and should reflect the real possibilities for labour integration and, therefore, of social integration.

8.10 Poor quality employment is also a factor for discrimination, when immigrants are used as the 'most vulnerable' workforce available.

8.11 Trade unions sometimes demonstrate corporatist tendencies, only defending a few vested interests and excluding immigrants. The EESC considers that trade unions must welcome immigrant workers into their ranks and help them to attain representative and management positions. Numerous trade unions implement best practices which guarantee that workers enjoy equal rights, regardless of their origin or nationality.

8.12 Employers' associations face a major challenge in terms of ensuring transparency in the labour markets. The EESC considers that, together with the trade unions, they must cooperate with regional and local public authorities to avoid situations of discrimination and to foster attitudes that favour integration.

8.13 The social partners, who are key players in the operation of the labour markets, and who are cornerstones of Europe's economic and social life, have an important role to play in integration. In the context of collective bargaining, they must accept their share of the responsibility for integrating immigrants, eliminating any direct or indirect discrimination

from collective agreements and from employment laws and practices.

8.14 There are many examples of good practice amongst the social partners and civil society organisations in Europe, which the EESC would like to see more widely adopted. At the Dublin hearing, positive experiences in businesses, trade unions, employers' associations and social organisations were looked at, and some that the Committee wishes to highlight are: the commitments given by the social partners in Ireland to manage diversity within companies and to combat discrimination, and the agreement reached by the social partners in Spain to legalise irregular employment and immigration and to manage labour migration through cooperation and social dialogue.

8.15 The EESC believes that active policies and new commitments on the part of the social partners are needed, in order to foster social attitudes that encourage integration, equal treatment and the efforts to combat discrimination in the workplace. European social dialogue can provide an appropriate framework enabling the social partners to give new commitments as they see fit.

8.16 European social dialogue is the exclusive responsibility of the social partners; the ETUC and UNICE have drafted the agenda for European social dialogue and the EESC hopes that the objectives it sets out will be attained.

8.17 The EESC can form a permanent forum for dialogue on good practices in the areas of integration and immigration is set to continue working in cooperation with the Dublin Foundation and the ILO to foster the development in Europe of integration-friendly policies and practices. It will organise further meetings and forums bringing together the social partners and other civil society organisations with the aim of examining and exchanging instances of current best integration practice in Europe.

Brussels, 13 September 2006.

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

Opinion of the European Economic and Social Committee on European Works Councils: a new role in promoting European integration

(2006/C 318/25)

On 12 July 2005 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *European Works Councils: a new role in promoting European integration*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2006. The rapporteur was Mr Iozia.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 144 votes to 76 with 15 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee recognises the essential role of European Works Councils (EWC) in stimulating and upholding social cohesion, and as a means of integrating European workers, with mutual knowledge and understanding helping European citizens to gain a clearer picture. The more than 10 000 EWC delegates working in Europe are directly and actively committed to creating a new society.

1.2 The European social model, based on consensus-seeking and social dialogue, respect for personal identity and dignity, conciliation of different interests, the ability to combine development with care for individuals and the environment, advocates creating a forum for meeting and discussion within transnational companies. The EESC believes that Directive 94/45 has played an important part in achieving these objectives.

1.3 The Commission was required, not later than 22 September 1999, to review its operation 'in consultation with the Member States and with management and labour at European level', with a view to proposing 'suitable amendments to the Council, where necessary'.

1.4 The Commission has begun consulting the social partners. UNICE and CEEP have said they are opposed to a revision of the directive. The European Trade Union Confederation (ETUC), in contrast, has repeatedly called for an urgent revision.

1.5 The EESC has closely examined the present situation, in part by means of a hearing with labour, employers' and civil society representatives.

1.6 Experience to date presents many positive aspects. As pointed out by several studies on the question, and as recalled by the EESC, the social partners have also reached voluntary agreements on work organisation, employment, working conditions and further training, based on a partnership for change. Their successful implementation is also entirely dependent on the will of the parties concerned.

1.7 The EWC experience has also revealed a number of areas of concern: the most prominent of these is the persistently low percentage of EWCs set up compared to the number of companies covered by obligations under the directive, which allows for the possibility of setting up EWCs at the initiative of undertakings or workers in at least two Member States. The lack of workers' initiative is one of the reasons for the incomplete implementation of the directive, although this might itself be due in some countries to the absence of legislation protecting trade union rights in enterprises.

1.8 In the years since Directive 94/45 came into force, the Community legal framework on information and consultation rights has been strengthened, in particular by Directives 2001/86, 2002/14 and 2003/72, which provide a more advanced view of information and consultation than under Directive 94/45, together with employee involvement procedures designed to ensure that they take place prior to any decisions. These procedures help to make European businesses more competitive on a global scale.

1.9 The EESC has identified three main points which it feels should be taken into consideration for a rapid updating of Directive 94/45:

- coordination of the information and consultation provisions of Directive 94/45 with those dealing with the same question in the above-mentioned directives;
- an adjustment to the number of worker representatives on the Special Negotiating Bodies (SNBs) and EWCs to reflect EU enlargement and the right of representatives of each country concerned to belong to the former; the directive had set a maximum membership of 17, which at the time corresponded to the number of countries covered by the directive;
- recognition of the right of national and European trade unions to belong to SNBs and EWCs, and to make use of their own experts, not only during the scheduled meetings.

1.10 The EESC proposes that, following a reasonable period of integration for the new Member States and in the light of whatever the social partners may highlight from the lessons learned on EWCs, currently being discussed in various seminars, the directive should be subject to a review which takes account of these experiences and of those indications which can already be made.

1.11 The EESC upholds the social dimension of businesses in the European Union, and the role played by EWCs. In discussing sustainable development and the European social model, the European debate has focused on the Union's unique features. Corporate social responsibility in a global economy represents one of Europe's responses to the problems raised by globalisation, the negative effects of which could be mitigated by the adherence of all WTO members to basic ILO standards. Businesses are seen as a major player on the social scene, able to make a vital contribution to enhancing the quality of life of all stakeholders and of the regions. It should be noted that, as with EWCs themselves, and particularly at transnational level, progress made through social dialogue is all the greater for being legislation-based.

1.12 The EESC takes note of the Commission's comments, in its Communication on corporate social responsibility, regarding the important role of employees and their trade unions in implementing CSR practices⁽¹⁾. In the communication, the Commission argues that 'social dialogue, especially at the sectoral level, has been an effective means for promoting CSR initiatives, and European Works Councils have also played a constructive role in the development of best practice on CSR. Nevertheless, the uptake, implementation and strategic integration of CSR by European enterprises should be further improved. The role of employees, their representatives and their trade unions in the development and implementation of CSR practices should be further enhanced. External stakeholders, including NGOs, consumers and investors, should play a stronger role in encouraging and rewarding responsible business conduct'.

1.13 The European social model is marked by the respect it shows for the rights on which human dignity is based, as well as by the protection it provides for the most vulnerable through welfare systems. In today's Europe, it should be indeed possible to exercise citizenship rights everywhere, including in the workplace and, in particular, within cross-border companies. The EESC urges the Commission to recognise those new elements which have emerged since Directive 94/45 was adopted, and to identify the measures most likely to strengthen the feeling of belonging to the Union.

(1) COM(2006) 136 final.

2. The socio-economic and legislative context in which European Works Councils operate

2.1 The EESC wishes firstly to highlight the positive aspects emerging from ten years' implementation of Directive 94/45, without however overlooking the difficulties and areas of concern which have marked the European Works Council (EWC) experience. To this end, it plans to ask all the relevant stakeholders, both Community institutions and bodies, and the social partners at the various organisational levels, to cooperate in improving this democratic instrument of representation which, it is now clear, is essential if the European social model is to be consolidated. The EESC confirms its support for the stable development and reinforcement of this instrument.

2.2 The purpose of the EESC's present own-initiative opinion is to help make the role of EWCs more incisive, by means of updating Directive 94/45 so as to facilitate integration and social cohesion. This is an objective of increasing political significance, especially in the current climate in which the impetus towards a socially stronger and more united European Union is diminishing.

2.3 Much has changed in the European Union in the twelve years since the directive was adopted. The enlargement process, supported by the EESC, resulted in the accession of ten countries in May 2004, and two more, Bulgaria and Romania, are about to enter. In spite of the considerable efforts to bring national legislation into line with the *acquis communautaire* and the substantial progress made in protecting working conditions, there is no doubt that in some of these countries, workers' and employers' organisations still experience difficulties in consolidating their level of representation.

2.4 The EESC hopes that the social dialogue will be reinforced and is convinced that EWCs are crucial to achieving this aim, since they introduce structures for contact and mutual understanding which can promote a culture of social dialogue in the Member States.

2.5 The adoption by the Council of Ministers, on 22 September 1994, of Directive 94/45 on *The establishment of a European Works Council or a procedure for the purposes of informing and consulting employees* and its extension to the United Kingdom by Council Directive 97/74/EC of 17 December 1997 marked a crucial step forward in the development of a European social dialogue at company level, matching the transnational structure of companies and groups of companies. This new transnational instrument, has made a very important contribution to developing the European dimension of industrial relations⁽²⁾.

(2) EESC opinion on the *Practical application of the European Works Council Directive (94/45/EC) and on any aspects of the directive that might need to be revised* (rapporteur: Mr Piette), OJ C 10 of 14.1.2004, p. 11.

2.6 Under Article 15 of Directive 94/45, the Commission was required, not later than 22 September 1999, to review its operation 'in consultation with the Member States and with management and labour at European level', 'with a view to proposing suitable amendments to the Council, where necessary'. The review was to concentrate on how the directive's operation and, consequently, all aspects relating to the establishment and operation of European Works Councils, and particularly the suitability of the workforce size thresholds.

2.7 While recognising that the process involved was certainly innovative, the Commission felt that by 22 September 1999 the negotiations and other work conducted by the EWCs should have provided enough information and practical experience to permit a review of the directive.

2.8 On 4 April 2000 the Commission presented its report on the application of the directive to the Parliament and the Council. While focusing essentially on an assessment of the transposition measures adopted by the Member States, the report also examined the application of the directive itself. The Commission underlined that, regardless of the quality of the implementing measures, some of the points they contained still needed further interpretation. It also pointed out that it was usually either the parties concerned or the courts who settled these issues. The Commission did not therefore consider it necessary to propose any amendments at that stage.

2.9 The EP took an interest in the review of the directive. In its resolution on the application of the directive and the need for it to be revised, adopted on 4 September 2001, the European Parliament highlighted the role of transnational bodies representing employees and assessed the limits of, and opportunities arising from, exercise of the rights to information and consultation⁽³⁾. The EP therefore urged the Commission to put forward a proposal for a revision at an early date, to include a series of improvements: as well as enabling workers to influence management decision-making processes, and providing for appropriate sanctions, the EP considered that the definition of 'Community-scale undertakings' should be re-examined with reference to the thresholds. According to the EP, the threshold for the directive's scope should have been lowered from companies with 1 000 employees to those with 500, and from 150 to 100 for those operating in at least two Member States (as is known, throughout the course of the directive's adoption procedure, the Parliament and Commission had both suggested a lower threshold than was eventually laid down in Directive 94/45)⁽⁴⁾.

2.10 In 2004, at the end of a lengthy implementation period for Directive 94/45, the Commission considered that a further

examination of the directive's application should be carried out, particularly since the issue was included on the Social Agenda adopted at Nice in December 2000.

3. The procedure for reviewing Directive 94/45

3.1 On 20 April 2004 the Commission commenced the first stage of consultation of the social partners on a possible revision of Directive 94/45, asking them to comment on:

- how best to ensure that the potential of EWCs to promote constructive and fruitful transnational social dialogue at the level of the undertaking is fully realised in the years ahead;
- the possible direction of Community action in this regard, including the review of the EWC directive;
- the role the social partners intend to play in addressing issues connected with managing a context of rapid and radical change, and its social consequences.

3.2 In opening the consultation procedure, the Commission noted that the institutional landscape has changed considerably since it was examined in its report of 4 April 2000. The report did not reflect new developments such as the Lisbon Agenda or Union enlargement. Regarding this second aspect more specifically, the Commission pointed out that 'the inclusion of activities in the new Member States will swell the number of undertakings or groups falling within the scope of the directive', and that 'where undertakings or groups with subsidiaries in the new Member States already have European works councils, these will need to be extended to ensure representation of the newly included subsidiaries'. Application of the EWC directive after 1 May 2004 will entail more, and new, representatives from the new Member States with a different economic environment, social traditions, languages and cultures, compounded by greater complexity and higher cost.

3.3 The European Economic and Social Committee adopted an opinion on 24 September 2003 in which it drew the Commission's attention to a number of aspects to take into account in any revision of the directive⁽⁵⁾.

3.4 UNICE has replied to the Commission that it is strongly opposed to a revision of the EWC directive⁽⁶⁾. The best way of developing worker information and consultation in Community-scale undertakings is through dialogue at the level of the companies affected by the directive. Intervention by the EU legislator would be counterproductive, as it could undermine the dynamic for gradual progress in EWC functioning. For its part, the CEEP has declared its opposition to a revision of the directive at this stage. It does not agree with a revision of

⁽³⁾ EP document (A5-0282/2001).

⁽⁴⁾ European Parliament Report A5-0282/2001 FINAL of 17 July 2001 on the Commission report on the application of Directive 94/45/EC, Committee on Employment and Social Affairs.

⁽⁵⁾ Cf. footnote 2.

⁽⁶⁾ See document of 1.6.2004.

Directive 94/45, but calls for better use of existing tools, especially the information and consultation procedure. The European social partners could play a key role in this process, especially in the new Member States. Furthermore, the case studies underpinning the basic guidelines for managing change and its social consequences highlight the importance of effective information and consultation and point to further social partner activities, particularly in the new Member States ⁽⁷⁾.

3.4.1 The ETUC, in contrast, has responded favourably, confirming a number of comments already made in a previous resolution from 1999 ⁽⁸⁾: basing its thinking on established agreements and practices so far, the ETUC argues that the restrictions and shortcomings attributable to the legislation cannot be redressed purely through negotiations, or voluntarily, while perhaps continuing to monitor the positive results of best practice, but that a revision of the directive itself is 'urgently necessary' ⁽⁹⁾.

3.5 The Commission has moved on to the second stage of consultation of the European social partners on the review of the EWC directive, albeit in conjunction with the consultation on restructuring. The EESC welcomed the launch of the second stage, while expressing its reservations about the fact that the procedure was taking place at the same time as, and in conjunction with, another subject: **'European Works Councils do, indeed, play an important role in the issue of restructuring. Quite apart from this fact, however, the improvement of the European Works Council Directive is long overdue'** ⁽¹⁰⁾.

4. The EWC experience. A question of method: highlighting positive aspects and thinking about negative results

4.1 Experience to date presents many positive aspects. The studies show how a growing number of EWCs are functioning effectively under the new conditions. As underlined in the April 2005 Joint Statement by the social partners, *'Lessons learned on European Works Councils'*, EWCs have, among other things, helped workers' representatives and workers themselves to understand the internal market and a transnational corporate culture in a market economy. Research indicates that a

growing number of EWCs are functioning effectively, and are enhancing social dialogue. As pointed out by several studies on the question, as indicated by the social partners in a number of joint seminars, and as recalled by the EESC in particular, voluntary agreements on work organisation, employment, working conditions and further training, based on a partnership for change, have also been reached ⁽¹¹⁾.

4.1.1 All these proposals have analysed the major problems which have emerged from the monitoring of the work of the EWCs, carried out on several occasions. One of the most recent studies ⁽¹²⁾ revealed that almost 75 % of EWCs do not at present comply with the directive's requirements for the provision in good time of information in the event of restructuring. Another very important point emerging from an examination of the replies from 409 delegates belonging to 196 EWCs is that 104 delegates reported that joint texts had been negotiated and finalised within their respective EWCs. Given that in 2001, according to a major study by the European Foundation for the Improvement of Living and Working Conditions ⁽¹³⁾, 14 agreements were signed directly or indirectly by EWCs, a clear, albeit partial, view emerges of how the role of EWCs is subject to constant change, and that they are gradually building up a real negotiating power.

4.2 The EWC experience has also revealed a number of areas of concern which must be examined carefully in order to improve this democratic instrument for representation and involvement of workers, which has now become an essential component of the European social model. The most prominent of these is the low percentage of EWCs compared to the number of companies obliged to set them up at workers' request, in accordance with the directive. In December 2004, out of over 2 000 undertakings covered by the directive, some 800 EWCs had been set up ⁽¹⁴⁾, representing approximately 70 % of the workforce employed in companies covered by the directive. One of the reasons for the incomplete application of the directive is lack of initiative on the part of workers. This, however, in the case of several countries, is due to poor worker representation in the workplace, which might be caused in turn by the insufficient protection provided by national legislation. This aspect merits closer examination with a view to identifying possible remedies.

4.3 The new and broader territorial scope of Directive 94/45/EC clearly means that there must be a process for consideration and study, enabling all stakeholders, in both the longer-standing and the recently-entered EU Member States to take on board facts and figures from different cultures, methods and situations, and to overcome the obstacles presented by social, economic and cultural differences, so as to strengthen the European system of industrial relations as a whole.

⁽⁷⁾ See CEEP document of 18.6.2004: CEEP answer to the first-stage consultation of the European Social Partners on the review of the European Work Councils Directive.

⁽⁸⁾ See document of 1.6.2004.

⁽⁹⁾ Trade Union Memorandum to the Luxembourg Presidency of the European Union — ETUC, March 2005.

⁽¹⁰⁾ EESC opinion on the Communication from the Commission on the Social Agenda (rapporteur: Ms Engelen-Kefer), OJ C 294 of 25.11.2005, p. 14.

⁽¹¹⁾ Idem.

⁽¹²⁾ Jeremy Waddington, University of Manchester: The views of EWC representatives, for ETUI, November 2005.

⁽¹³⁾ Mark Carley, Bargaining at European level, Joint texts negotiated by EWC, Dublin 2001.

⁽¹⁴⁾ Kerckhofs and Pas EWC Database ETUI (December 2004).

4.3.1 Enlargement-related issues are however only one aspect of the broader changes throughout the EU's labour market and business sector. The quickening pace of cross-border restructuring, now a permanent feature of company life, and the new forms which businesses are taking, present European Works Councils with challenges far greater than envisaged by the Community legislator in Directive 94/45, as reflected in subsequent enactments of legislation on worker involvement.

4.4 The legislative environment has indeed changed substantially. New Community legislation has been introduced on the information and consultation of workers both across borders, such as Directive 2001/86/EC of 8 October 2001 on the involvement of employees in the European company and the directives on the European company and on mergers, and at national level, such as Directive 2002/14/EC of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

4.5 The new and more robust role to be played by EWCs is also set out in the Commission's communication on restructuring in cross-border companies ⁽¹⁵⁾.

4.6 In a series of opinions, the EESC has stated that it favours developing and strengthening EWCs ⁽¹⁶⁾, in connection with the important part they have to play in cross-border restructuring. In the mechanical engineering sector, the role of EWCs has been vital in many cases of restructuring, helping to achieve agreements aimed at maintaining production sites and safeguarding jobs.

5. The role of Directive 94/45 in the evolution of European industrial relations

5.1 Directive 94/45 is one of the most significant pieces of industrial relations legislation adopted at European level. In spite of certain loopholes and shortcomings, pointed out from several quarters, it has certainly made a substantial contribution to launching the process of creating new transnational industrial relations practices, combining new models for solidarity between workers from different countries and for constructive discussion between representatives of employees and transnational companies. It also, for the first time, establishes joint means for representing and safeguarding some fundamental rights of workers regardless of national borders.

⁽¹⁵⁾ COM(2005) 120 final.

⁽¹⁶⁾ EESC opinion on *Social dialogue and employee participation, essential for anticipating and managing industrial change*, 29 September 2005 (CESE 1073/2005), rapporteur: Mr Zöhrer. OJ C 24 of 31.1.2006, p. 90.

5.2 However, as the data on the application of the directive illustrate, its dynamic contribution to building an integrated industrial relations model and consolidating the European social model seems to have been running out of steam in recent years. A number of structural factors, regarding changes in the labour market and business organisation, have contributed to this fall-off. The EESC has previously discussed these factors in its opinions on the Commission's Social Agenda and on restructuring. Other reasons for the diminishing impact of EWCs lie in the fact that the EWCs' information and consultation rights fail 'to make appropriate action' on the definition and implementation of company industrial policy 'feasible'. In other cases, the role of the EWCs has been recognised.

5.3 On the contrary, as the EESC pointed out in a recent opinion, **'European industrial policy needs to be defined in business, sectoral and intervocational terms, and put into practice with input from the social partners, whose expert knowledge, as the main stakeholders affected, will be vital. This requires that companies make their intentions clear at an early enough stage to make appropriate action by the other stakeholders feasible'** ⁽¹⁷⁾.

5.4 One factor in the weakness of EWC action may be that the information and consultation arrangements — aspects covered by the review of Directive 94/45 — appear inconsistent with both the new economic and structural environment and the new Community legislative framework as established by Directives 2001/86 and 2003/72, and Directive 2002/14. In these directives, information and consultation procedures are not purely formal: they are not routine requirements which companies can simply tick off 'downstream' of the decision-making process, but are, in fact, procedures to be carried out 'upstream' of that process.

5.5 Under the directives supplementing the Statute for a European Company and the European Cooperative Society, the purpose of the information and consultation procedures is not only to inform employees' representatives of final decisions that the company has already made regarding important steps, such as transformation or reorganisation on a transnational scale, but above all to give them the right to 'exercise an influence' over such decisions.

⁽¹⁷⁾ EESC opinion on *The scope and effects of company relocations* (rapporteur: Mr Rodríguez García-Caro), OJ C 294 of 25.11.2005, p. 9, point 4.5.10.

6. Informing and consulting employees, an essential component of the European social model

6.1 The employee information and consultation procedures (together with participation procedures in the strict meaning of the word under the terms of Directives 2001/86 and 2003/72) are crucial elements not only in the EU's industrial relations systems, but also in the European social model itself, as can be seen in the way these rights are expressed in the EU's primary sources⁽¹⁸⁾ and their continuing development in Community secondary legislation. The rights in question are recognised and safeguarded in an extensive series of directives⁽¹⁹⁾, in a process culminating in the signing of the Charter of Fundamental Rights in December 2000, and its subsequent incorporation into the Treaty establishing a Constitution for Europe⁽²⁰⁾.

6.1.1 Under the Charter of fundamental rights, the provision that the rights are to be exercised 'in good time' is of particular importance: in this way, an interpretation focusing on the mostly anticipatory nature of these rights would be boosted, in keeping with recent developments in legislation (cf. the above-mentioned directives) and case-law⁽²¹⁾.

6.1.2 The progressive and continuous development of the legislation on the rights of information and consultation since the mid-1970s, within both the national and transnational legal frameworks, can be explained by the Community legislator's concern that the procedures in question should be more than merely formal or routine. As is generally known, the decisive impetus for strengthening these rights came from the events surrounding the closure of the Renault works in Vilvoorde (February 1997), which also had significant judicial implications.

6.2 A report drawn up by a group of experts (the Gyllenhammar Group) at the request of the Luxembourg European Council (November 1997) highlighted the need for a new Community legislative framework to lay down minimum standards which, as well as establishing common principles, rules and methods in the Member States regarding information and consultation, would be consistent with the European Employment Strategy. The strategy, based on the concepts of 'anticipation', 'prevention' and 'employability', which subsequently became features of the European employment strategy, must be

⁽¹⁸⁾ See Article 137 of the TEC, now Article III-210 of the new Treaty of Rome.

⁽¹⁹⁾ Including those on protecting workers in the event of collective redundancies or transfers of undertakings (Directives 98/59 and 2001/23), safety and health at work (Directive 89/391 and specific directives), the involvement of employees in general (Directive 2002/14) and in specific company matters (Directives 2001/86 on the involvement of employees in the European company (SE) and 2003/72 on the involvement of employees in the European cooperative society (SCE)).

⁽²⁰⁾ Article II-87, *Workers' right to information and consultation within the undertaking*, which enshrines the substance of Article 21 of the Council of Europe's European Social Charter, as amended in 1996, together with points 17 and 18 of the 1989 Community Charter.

⁽²¹⁾ (Court of Justice, Judgment of 29 March 2001 in case C-62/99, Bofrost, and the Judgment of 11 July 2002 in case C-440/00, Kühne).

incorporated into the Member States' public policies if it is to have a positive effect on employment by means of an intensified social dialogue, including at company level, in order to facilitate change which is compatible with the continuing priority objective of employment.

6.3 The references to 'employee involvement in the operation and future of the undertaking', partly to 'increase its competitiveness'⁽²²⁾ assume their full meaning in this context. The legislator specifies that such involvement is 'a prerequisite for the success of the restructuring and adaptation of undertakings to the new conditions created by globalisation of the economy'⁽²³⁾.

6.4 This provision is particularly important in making information and consultation procedures effective and, therefore, ensuring effective and substantial involvement of workers, particularly where it is stated⁽²⁴⁾ in the subsidiary applicable standard rules that if the company 'decides not to act in accordance with the opinion expressed by the representative body, this body shall have the right to a further meeting with the competent organ of the SE (or SCE) with a view to seeking agreement'.

6.5 European companies, especially those structured in large groups, are engaged in increasingly radical and rapid restructuring operations. In a recent opinion, the EESC pointed that 'restructuring that is carried out only in response to change usually has painful effects, especially for employment and working conditions'. It concluded that 'the inclusion and involvement of workers and their representatives and trade unions is therefore crucial to managing change in a socially acceptable way at company level', arguing that 'European works councils have a special role to play here. Transnational social dialogue at company level is clearly forging ahead, as shown by the example of agreements on restructuring measures reached by companies with European works councils and/or European trade union federations'⁽²⁵⁾.

6.6 The nature and intensity of these restructuring processes have served to highlight the inadequacy of the legislative and negotiating instruments currently available to workers' and the social partners' representatives at the various levels and have pointed to the need for broader and deeper involvement of the trade unions at the various levels. The aim therefore is not only to complete the formal application phase of the directive on

⁽²²⁾ C.f. the seventh recital of the preamble of Directive 2002/14.

⁽²³⁾ C.f. the ninth recital of the same directive.

⁽²⁴⁾ See Directive 2001/86, and also Directive 2003/72, Part 2 of the Standard Rules.

⁽²⁵⁾ EESC opinion on *Social dialogue and employee participation, essential for anticipating and managing industrial change*, 29 September 2005 (rapporteur: Mr Zöhrer). OJ C 24 of 31.1.2006, p. 90.

EWCs, but also, firstly, to ensure the full efficacy of agreements and national transposition standards and, secondly, to bring the information and consultation procedures and EWC rights into line with the changed market conditions and more active management policies.

6.7 A more careful and receptive attitude to negotiations, although it is, of course, to be encouraged, would not seem to be enough for this purpose; targeted action is needed on those parts of the directive which, if not subjected to appropriate amendment, could make the role of the EWC meaningless and, more generally, undermine the good practices so far introduced. There is, moreover, a danger that the spread of essentially routine procedures at supranational level — which is crucial for many company decisions which would not otherwise be subject to trade union scrutiny — or the replacement of existing good information and consultation practice with 'bad practice', could have a harmful influence on the effectiveness of information and consultation rights at national level. This is in addition to the counterproductive effect, in terms of legitimacy and authority, that it could have on relations between employees and local company managements, with damaging repercussions on the culture of binding information and consultation rights, as recently set out in the Nice Charter and Directives 2001/86, 2003/72 and 2002/14 (this could be summed up, to paraphrase Gresham's Law, as 'bad information drives out the good').

6.8 A crucial element is the formal recognition of trade union organisations. The directives on the involvement of workers in the SE and SCE mention, for the first time, workers' organisations as entities who may be members of the Special Negotiating Body. The earlier directives (on information and consultation rights) did not grant a direct (or supporting) role in negotiations to trade union organisations as such. These elements as well as national specificities must be taken into account with a view to any review of the directive, together with others to be indicated below.

7. Why the directive should be re-examined before negotiations begin on its revision

7.1 It is agreed in many quarters that there are three main sets of reasons for a re-examination of the directive.

7.1.1 The first reason concerns the need to bring the 1994 Directive into line with the changes occurring in subsequent directives dealing with this issue. There is a need for simplification and coordination, in order to eliminate the discrepancies that exist in the definitions of information and consultation in the various directives.

7.1.2 The second reason for change derives from EU enlargement, which logically necessitates a change in the number of SNB and EWC representatives, increasing their number proportionately.

7.1.3 The third reason concerns recognition of the right of national and European trade unions to take part in negotiations and to be EWC members (in the same way as under the directives on the involvement of employees in the SE and SCE), with the opportunity to make use of their own experts, not only for scheduled meetings.

7.1.4 In addition, an assessment of current EWC practice suggests that Directive 94/45 should be reviewed in the light of the potential prospects in the area of corporate social responsibility and the new role that civil society organisations could play with European- and world-scale companies, as well as the efforts those companies need to make to uphold fundamental social and trade union rights within their field of activity.

7.2 The lessons learned on EWCs ⁽²⁶⁾, as expressed by the social partners, are worthy of a more in-depth examination and should lead to an improvement in EWC practices and to better and further development of the agreements. This should not however serve to prevent efforts getting under way regarding how EWCs function in order to define the basis for a revision, following a reasonable period of integration for the new Member States into the EWC process. As part of the future discussions and negotiations, the following points should be taken into account:

- a) Making the current text clearer regarding the methods and quality of the information and consultation: a clearer statement regarding the prior (or anticipatory) nature of the information and consultation procedures is required, especially on issues 'on the agenda' or raised by employees' representatives. Failure to accept the prior nature of the procedures themselves, as set out in the Community legislation on EWCs would lead to a serious imbalance between the procedures under Directive 94/45 on the one hand, and those in the involvement of employees (in the Directives on the European company and the European cooperative society) on the other, with the risk of weakening the latter. Moreover, the spread of *ineffective* information and consultation procedures in Community-scale undertakings (such procedures being compulsory under Directive 94/45) could have a negative, 'copy-cat' effect on information and consultation procedures which must be carried out by national undertaking in accordance with several Community directives ⁽²⁷⁾.

⁽²⁶⁾ Lessons learned on European Works Councils, 7 April 2005, ETUC, UNICE, UEAPME and CEEP.

⁽²⁷⁾ Safeguarding of employees' rights in the event of collective redundancies or transfers of undertakings, and Directive 2002/14.

- b) For very large EWCs, or in the light of the functions they are required to perform, providing a permanent secretariat and a smaller body to prepare meetings, arrange for supply of documents relating to issues on the agenda, prior distribution of the agenda and relevant documents in the various languages and, subsequently, of the minutes and other documents relating to the decisions taken ⁽²⁸⁾. A further important requirement is the need for coordination of different experiences, e.g. according to the industry/services sectors guideline.
- c) Guaranteeing regular and smooth communication between SNB members prior to the establishment of an EWC and, subsequently, between EWC members in the interval between its meetings.
- d) Guaranteeing properly organised meetings of sufficient duration between EWC members in advance of meetings with management representatives.
- e) Recognising the right of national and European trade unions — which, based on the planned re-examination of the directive, are SNB and EWC members — to make use of reliable experts, not only for meetings.
- f) Adjusting existing agreements in line with changes to the scale of groups of companies. More specifically, explicit provision should be made for a specific additional negotiating stage in cases of cross-border concentrations or mergers, tying in with existing directives in this field.
- g) Support for initial and on-going training of EWC members.
- h) Including CSR among the areas subject to information and consultation (as stipulated in the SCE directive), involving business stakeholder organisations at European level.
- i) Acknowledging the importance of the effects and dissemination of information related to the life, acts and positions of the EWC regarding the representatives and workers of the individual establishments of groups of companies in each of the countries where company branches have been set up.
- j) Ensuring proper representation of disabled people and an effective balance between men and women on EWCs (in keeping with Directive 2003/72).

⁽²⁸⁾ The April 2004 Infopoint study of agreements revealed that only 51 % of EWCs had such a steering committee. This could constitute a problem, since most EWCs — some 70 % — meet only once a year. The lack of a small steering committee which can provide continuity in contacts between employees' representatives in individual establishments and countries and company management and European federations, could be a major handicap to the functioning and efficacy of EWCs.

⁽²⁹⁾ NSZZ Solidarnosc research, A. Matla, 2004.

- k) Providing incentives for companies which guarantee full implementation of the directive and deterrents for those which hinder it.
- l) Promoting, by making appropriate adjustments to the relevant procedures, participation in EWCs by all categories of employees, including executives and professional and managerial staff.

8. The work of EWCs in a larger Union: their contribution to boosting European social cohesion

8.1 Particular attention should certainly be paid to the issue of how the labour market and social situation have changed since enlargement.

8.2 In Poland alone, 425 companies have EWCs, and at present EWCs have more than 100 delegates on the basis of voluntary agreements ⁽²⁹⁾; this gives some idea of how the EWC instrument could become a powerful vehicle for integration and for developing a European social model laying down minimum benchmark standards. In the EU-15, but particularly in the enlarged Europe, EWCs are making a practical contribution to building a European mindset, thanks to awareness and recognition flowing from the diversity of national systems.

8.3 There are numerous obstacles to the creation of EWCs in both the older 15 and the new 10 Member States. Social dialogue in some of the latter countries is weak. The laws transposing the directive in the new Member States are theoretically sound, but in practice ineffective. The Commission should identify the obstacles preventing the directive from being properly applied.

8.4 EWCs have so far been an important means for workers to gain a picture of how the companies that employ them operate across borders. The process of European economic integration depends on the recognition of a new role for EWCs, especially in an economic phase when cross-border mergers and the establishment of a European company are constantly increasing.

8.5 EWC presence in the new Member States

Country	MT	CY	LV	LT	BG	SI	EE	TR	RO	SK	CZ	HU	PL
Potential number of EWCs (companies covered by Directive 94/45/EC)	56	65	155	162	163	185	181	256	263	340	636	662	819
Number of EWCs set up	29	33	84	87	89	108	101	136	140	199	333	334	425
Observers						3		3	2	2	8	2	5
Delegates	5	2	8	9	5	13	10	5	5	24	73	58	80

The first line shows the number of possible EWCs, based on the current distribution of employees; the second shows how many EWCs have actually been set up; the third row shows how many observers have been invited to participate in EWCs; line whereas the fourth line indicates the number of delegates with full rights that have been appointed to them.

If all EWCs were set up, there would be 3 943 delegates, and if the presence of delegates from the new countries was guaranteed on those actually set up there would be 2 098. However, only 322 have been elected, representing 8.17 % of the possible total, and 15.35 % within those EWCs already set up (source: ETUI, *op.cit*).

9. The social dimension of companies in the European Union and the new role of the EWCs — corporate social responsibility in a global economy

9.1 In a recent key opinion, the EESC discussed the role of EWCs in connection with CSR strategies ⁽³⁰⁾. The opinion highlighted the importance of dialogue with the main stakeholders in pursuit of company objectives: workers, clients, suppliers, local or regional representatives, and consumer and environmental organisations: **'Voluntary commitment has to go hand-in-hand with a well-organised dialogue with the stakeholders'; 'Dialogue is particularly important for the stakeholders forming part of the value chain'**.

9.2 Against this backdrop, the EESC stated that **'At European level, the voluntary and/or negotiated approach to addressing the implications of CSR in all those multinationals which have set up European enterprise committees [European Works Councils] marks a decisive step. It also makes it possible to involve the new Member States in this dynamic process. European enterprise committees [EWCs] should play a role in bringing about the incorporation of**

⁽³⁰⁾ EESC opinion on *Information and measurement instruments for corporate social responsibility (CSR) in a globalised economy*, OJ C 286 of 17.11.2005, p. 12.

⁽³¹⁾ COM(2001) 264 final.

CSR into the policies pursued by enterprises. They are also the ideal forum for internal stakeholders. It should, however, be borne in mind that a coherent policy on CSR also has to take account of the views of external stakeholders, in particular (a) all members of the overall workforce involved (temporary workers, employees of subcontractors working on the site, craftsmen and other self-employed workers working for the enterprise) and (b) all participants in the value chain (subcontractors, suppliers), whose views should be heeded to the greatest possible extent'.

9.3 In its Communication on a *Strategy for Sustainable Development* ⁽³¹⁾ the Commission called on publicly quoted companies to publish a **'triple bottom line'** in their annual reports that would measure their performance against economic, environmental and social criteria. This information should also be communicated to EWCs.

9.3.1 Part 2(b) of the Standard Rules of the recent directive on the European cooperative society placed social responsibility among the areas for consultation between businesses and employees.

9.4 The EESC welcomes the fact that in keeping with this approach, businesses are now more than just an economic agent, but are seen as a major player on the social scene, able to make a vital contribution to enhancing the quality of life of all stakeholders and of the regions.

9.5 The EESC takes note of the European Commission's recent Communication of 22 March 2006 on corporate social responsibility (CSR), in which it stressed the important role of employees and their trade unions in implementing CSR practices ⁽³²⁾:

⁽³²⁾ COM(2006) 136 final.

'Awareness, understanding and uptake of CSR have improved over the past few years, partly as a consequence of the CSR Forum and other actions supported by the Commission. At the same time, initiatives by business and other stakeholders have moved forward the development of CSR in Europe and globally. Social dialogue, especially at the sectoral level, has been an effective means for promoting CSR initiatives, and European Works Councils have also played a constructive role in the development of best practice on CSR. Nevertheless, the uptake, implementation and strategic integration of CSR by European enterprises should be further improved. The role of employees, their representatives and their trade unions in the development and implementation of CSR practices should be further enhanced. External stakeholders, including NGOs, consumers and investors, should play a stronger role in encouraging and rewarding responsible business conduct. Public authorities at all levels should further improve the consistency of their policies in support of sustainable development, economic growth and job creation. The EU's vision of long-term prosperity, solidarity and security also extends to the international sphere. The Commission recognises the linkages between the uptake of CSR in the EU and internationally, and believes that European companies should behave responsibly wherever they operate, in accordance with European values and internationally agreed norms and standards.'

9.6 In Directive 2003/51, which amends the directives on annual and consolidated accounts, the EU specifically requests that, where necessary for an understanding of the company's development, performance or position, the analysis shall include non-financial key performance indicators, including information relating to environmental and employee matters. In such cases, EWCs should receive all the information, both financial and non-financial, that is relevant for CSR purposes.

Brussels, 13 September 2006.

The Directive recognises the relevance of environmental and social issues in the context of corporate governance.

9.7 In its opinion on *Corporate Social Responsibility* ⁽³³⁾, the EESC advocated a co-regulation system at EU level: a 'specific EU context of CSR could be developed on the basis of joint initiatives and voluntary agreements between the social partners'.

9.8 Organised civil society can make a major contribution in this direction, within a process of dialogue and cooperation, by helping to define the objectives (human rights, social standards, priority of health and environmental policy, etc.), and striving for greater disclosure and transparency regarding company activities. The purpose is definitely not to blur the distinct roles of employers, trade unions and NGOs, but to enrich each of the players concerned through ways of comparing and thinking about items of common concern. This activity can only strengthen their traditional roles and help derive additional benefit from existing legislation, without impeding its progress.

9.9 The European social model is marked by the respect it shows for human dignity at all times and places, as well as by the protection it provides for the most vulnerable through welfare systems. In today's Europe, it should be possible to exercise citizenship rights everywhere, including in the workplace. The great achievement of the above-mentioned directives on rights, and the EWC directive, is to have harmonised these rights, affording — at least in formal terms — dignity to the workers of all EU Member States. The process is not yet complete, and must be stepped up. The Commission is urged to recognise those new elements which have emerged over the last 12 years, and to make the choices most likely to strengthen a feeling of belonging to the Union among the Member States.

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

⁽³³⁾ EESC opinion on *Corporate social responsibility* (rapporteur: Ms Hornung-Draus), OJ C 125 of 27.5.2002.

Opinion of the European Economic and Social Committee on Civil society participation in the fight against organised crime and terrorism

(2006/C 318/26)

On 28 October 2005, the European Commission asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an exploratory opinion on *Civil society participation in the fight against organised crime and terrorism*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for the Committee's work on the subject, adopted its opinion on 13 July 2006. The rapporteurs were Mr Rodríguez García-Caro, Mr Pariza Castaños and Mr Cabra de Luna.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 182 votes to six, with 11 abstentions.

1. Introduction

1.1 Ms Margot Wallström, Vice-President of the European Commission, has asked the EESC to draw up an exploratory opinion on *The conditions and priorities for civil society participation and the role of public-private partnerships in the fight against organised crime and terrorism*, a subject of major political and social importance in Europe, in which the Committee is considered to be a key player. Although terrorism and organised crime are two different problems, the opinion deals with both topics, as requested by the Commission.

1.2 The Hague Programme is the broad political framework which defines EU policy on freedom, security and justice. The EESC adopted an opinion ⁽¹⁾ in which it stated that *'The EESC believes that security policy should be effective, protecting citizens in a free and open society within a framework of justice, under the rule of law'*, and that European security policies should strike a balance with freedom and the protection of fundamental rights.

1.3 The financial perspectives make provisions for the development of major programmes to fight terrorism and crime. The EESC adopted an opinion ⁽²⁾ in which it stressed that *'Protection of fundamental rights, liberties and security is the responsibility of all.'*

1.4 The Commission has recently published a Communication on *Terrorist recruitment — Addressing the factors contributing to violent radicalisation* ⁽³⁾, which sets down objectives for preventing recruitment by terrorist groups.

1.5 As requested by Ms Wallström, this opinion looks at security from the angle of civil society involvement and public-private partnerships — although this term may be inaccurate, as 'civil society' refers to social organisations, which are different from private companies. Partnership between businesses and private operators and public authorities is key from an operational and security-related point of view. Civil society plays a fundamental role in promoting the values of the rule of law and making an active contribution to democracy.

2. Conclusions

2.1 Civil society plays a fundamental role in promoting the values of the rule of law and making an active contribution to democracy. Civil society organisations in Europe are carrying out very positive work in society, promoting active European citizenship and a participatory democracy. However, these organisations cannot and must not replace the national and European authorities in operational policies.

2.2 The EESC cannot accept that terrorists and criminals should be able to escape justice due to the EU's internal borders hindering police or judicial action. The EESC urges the EU institutions and Member States to draw up and implement a common strategy against terrorism and to abandon the current situation of decision-making 'on the fly'.

2.3 The EESC believes that the current situation of mere intergovernmental cooperation is for the most part inadequate and often inefficient, and therefore supports the European Parliament's resolution that security policy should be implemented by qualified majority rather than under the unanimity rule, and that the Community method should be adopted for decision-making. When it comes to security policy, 'more Europe' is what is needed.

⁽¹⁾ EESC Opinion of 15.12.2005 on the *Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years — The Partnership for European renewal in the field of Freedom, Security and Justice* (Rapporteur: Mr Pariza (OJ C 65 of 17.3.2006)).

⁽²⁾ EESC Opinion of 14.12.2005 on the *Proposal for a Council Decision establishing the specific Programme 'Prevention, Preparedness and Consequence Management of Terrorism', for the Period 2007-2013. General Programme 'Security and Safeguarding Liberties'* (Rapporteur: Mr Cabra de Luna (OJ C 65 of 17.3.2006)).

⁽³⁾ COM(2005) 313 final, 21.09.05.

2.4 The EESC proposes that Europol become a European agency under a European political or judicial authority, with a remit that extends beyond its current coordinating role, and with its own operational capability for investigation across the EU in cooperation with Member States' police forces.

2.5 The EESC supports the European Parliament's recommendation that Member States modify their criminal legislation so that the crimes of terrorism covered in the Framework Decision should not be time-barred. The EESC supports the idea that the International Criminal Court should have jurisdiction over these crimes.

2.6 The EESC proposes stepping up Europe-wide school programmes and training activities for young people so that they can receive civic training that promotes democratic values, equality, tolerance and understanding of cultural diversity, in order to equip them with tools to prevent them from falling into the clutches of networks promoting radical and violent ideas.

2.7 In the fight against violent radicalisation, the EU and Member States' authorities need to consult the civil society organisations working actively to promote dialogue between religions and cultures and combat intolerance, racism, xenophobia and violent extremism, in order to reduce the tensions that breed radicalism and violence. Setting up platforms for public-private partnership at local level could be a positive way to deal with these — and other — issues. The EU and Member States should promote and boost the establishment of these platforms.

2.8 The EESC proposes that the EU institutions draw up a legislative framework of minimum standards that guarantee the protection and recognition of terrorism victims. The EESC therefore proposes that state action in this area be guided by standards, recommendations, good practices and guidelines to protect the victims of terrorism.

2.9 The EESC again stresses the need for common EU legislation for the compensation of crime victims.

2.10 The EESC calls for the recommendations of the Financial Action Task Force on money laundering and funding terrorism to be implemented without delay. It therefore urges the Member States to take the appropriate legal steps in order to comply with these recommendations.

2.11 The EESC calls on the media (especially when publicly owned) to establish suitable codes of conduct and work with the authorities to guarantee the dignity and privacy of victims, in order to avoid perspectives that could further the propaganda interests of terrorist groups, while respecting the freedom of the press.

2.12 The EESC supports the Commission's proposal to set up a European platform for public-private partnership and believes it essential that it secures the means to gain maximum benefit from public-private cooperation between the Member States and between the EU and Member States. The EESC believes that there should be ample scope for partnership, in order to boost the synergies that can be generated in the fight against crime and terrorism, with due respect for the EESC's intrinsic consultative prerogative. Point 13.4.2. of this opinion sets out what the EESC believes to be the priority objectives for public-private partnership.

3. The values and principles of the European Union

3.1 The draft Constitutional Treaty defines the values, principles and objectives of the European Union. The Charter of Fundamental Rights ensures a balance between security on the one hand and individual freedom and rights on the other, including the right to protection of personal data.

3.2 The greatest threat to the stability and development of democratic systems comes not from external attacks, but from the loss of vitality, dynamism and social support within the institutions themselves.

3.3 Europe's great achievement is that it has successfully established the **rule of law** as the best means of organising power democratically.

3.4 The social rule of law refers to the exercising of power subject to the rule of law, the growing requirement for democratic legitimacy, and universal access to goods and services whilst ensuring equal opportunities and treatment.

4. Terrorism and organised crime are attacks on the rule of law

4.1 Terrorism is one of the greatest problems facing the world; it is a critical issue at in Europe today, and Europeans are paying the price. This terrorism has various ideological bases; in recent years, particularly dangerous international radical islamist terrorism has also emerged. It is very difficult, therefore, to come up with an international definition of terrorism. For the purposes of this Opinion, the definition adopted by the Council on 13 June 2002 ⁽⁴⁾ will be used.

⁽⁴⁾ See COM(2005) 313 final, footnote 1, which states that 'each Member State shall take the necessary measures to ensure that the intentional acts referred to nine expressly specified offences, as defined under national law, which given their nature and context, may seriously damage a country or an international organisation where committed with the aim of seriously intimidating a population, unduly compelling a Government or international organisation to perform or abstain from performing an act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, shall be deemed terrorist offences.'

4.2 There are also many powerful criminal networks ⁽⁵⁾ operating in Europe. Some of these are active at national level, but the most dangerous operate on a European and international scale. In 2002, the UN adopted an International Convention ⁽⁶⁾ on the subject in Palermo.

4.3 Terrorism and organised crime threaten and weaken the very nature of the State: its legitimate monopoly on the use of force. Although Europeans know that terrorism is a real threat which must be combated, they are less aware of the risks of organised crime, which can infiltrate institutions and society and has a strong and corruptive influence, as well as devastating consequences in both economic and social terms.

4.4 Terrorist and criminal organisations both use similar procedures to launder money via, inter alia, the financial and real estate sectors. Organised crime has a strong corrupting influence, which it tries to exert on political and administrative authorities and, occasionally, on civil society organisations.

4.5 At the international level, there are overlapping areas between organised crime and terrorism: illegal arms dealing and drug trafficking. For instance, one area where terrorism and organised crime converge is the phenomenon of extortion. Terrorist groups have often acted like mafia-style organisations which finance their barbaric acts through criminal activity: trafficking of narcotics, weapons and human beings, credit card fraud, hold-ups, robberies and extortion of professionals and businessmen, illegal gambling and other crimes.

4.6 Terrorism and organised crime are two different problems: terrorism has political motives and strikes European societies at certain times in their history, while organised crime is a problem of public order that affects society on an ongoing basis.

4.7 Although their roots and objectives differ, terrorism and organised crime do have one interest in common: to destroy or weaken the rule of law in order to achieve their goals.

4.7.1 Terrorist organisations operating in some European countries aim to achieve their political ends through terror, crime, threat and extortion. However, they know that they will only realise their totalitarian goal once they have destroyed or weakened the rule of law.

⁽⁵⁾ These operate in illegal arms dealing and drug trafficking, trafficking of human beings, robbery, prostitution, illegal gambling, commercial piracy, etc.

⁽⁶⁾ United Nations Convention against Transnational Organized Crime. See: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf

4.7.2 Organised crime aims to reduce and limit the scope of the rule of law and to increase the territory of impunity and lawlessness. It aims to develop a parallel society outside the remit of law and justice, ruled by mafias and criminal networks.

4.7.3 The boundaries separating the rule of law from impunity can sometimes be unclear. In some parts of Europe, both terrorists and their social networks and organised criminals have managed to weaken the State by sowing terror and corruption within the political system.

4.7.4 The rule of law is the response to the problems caused by terrorism and organised crime, ensuring a balance between freedom and security, joint action between police and judiciary, European and international cooperation, and active commitment from citizens and civil society.

4.7.5 Society and the authorities must not back down or give up the fight against terrorists and organised crime. Terrorist organisations are fuelled by the possibility of achieving their goals, and society and the authorities must therefore make determined efforts to ensure that they fail.

5. Civil society's response to terrorism and organised crime

5.1 Terrorism is a serious violation of human rights, as it is a direct attack on life and freedom.

5.2 The operational side of the fight against terrorism and organised crime is the duty of the State (specifically, the police and the judiciary) which must guarantee the freedom and safety of its citizens. The actions of the State must retain the balance between freedom and security, obey fundamental values (human rights and public freedoms) and democratic values (rule of law), because, as the EESC stated in another opinion ⁽⁷⁾, 'History has shown us that it is open and free societies that most effectively defend security'.

5.3 Civil society constantly strengthens democracy and the values of the rule of law, and thus fights terrorism and organised crime in society in order to stop it from developing and to reduce its effects. Civil society organisations cannot and must not replace the national and European authorities in operational policies.

⁽⁷⁾ EESC Opinion of 15.12.2005 on the *Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years — The Partnership for European renewal in the field of Freedom, Security and Justice* (Rapporteur: Mr Pariza (OJ C 65 of 17.3.2006)).

5.4 No ideology or cause can justify crime, terror and extortion. There is no legitimacy in using terror to achieve political ends. Terrorism has no causes, as nothing justifies terrorism. It is important to continue fighting tirelessly against the political and social legitimisation of terrorism, against radicalised political views that see terrorism as another instrument in political action.

5.5 Many European citizens do not perceive the seriousness of the terrorist threat, and some sectors even harbour doubts about it. Citizens are entitled to receive adequate information about security risks and to pressure public authorities to act more effectively against terrorism and organised crime.

5.6 Civil society organisations in Europe are carrying out very positive work in society, promoting active European citizenship and a more participatory democracy.

5.7 Political systems depend on their own internal life force. Europe's life force comes from the democratic nature of society. Political systems and institutions rely on society to breathe life into them; citizens and civil society must support the rule of law, as it is intended to guarantee and protect their freedom and social wellbeing.

5.8 However, 20th century European history has shown that the political values of democracy are extremely vulnerable. Citizens and civil society organisations must defend the values and principles on which the democracy of Europe is built.

5.9 Participatory democracy and the rule of law cannot be sustained and transformed without the support of citizens and their organisations. Through the activities of its organisations, civil society constantly revitalises the social and democratic rule of law in response to relativism and radicalism.

5.10 Some sectors of the public are not committed enough: there is a certain lack of social conscience towards prostitution, drug trafficking, money laundering, piracy of consumer products, etc.

5.11 Citizens and civil society organisations could be more active in fighting organised crime, as it has a strong corrupting influence over political systems.

6. Europe: an area of freedom, security and justice

6.1 The Hague programme defines the EU's objectives to become a common area of freedom, security and justice, but there is still a long way to go before this goal can be achieved.

6.2 Meanwhile, criminals and terrorists are taking advantage of Europe's weakness in order to escape being brought to justice. The freedom of movement of people, capital and goods means that criminals can benefit from the permeability of borders; yet when it comes to political and judicial action, borders are maintained.

6.3 The EESC cannot accept that terrorists and criminals should be able to escape justice due to the old internal borders being maintained for police or judicial action.

6.4 The EU should draw up a common strategy against terrorism. The Commission and the Council should remain a constant political driving force and overcome the current situation of decision-making 'on the fly'. Political and judicial cooperation in Europe is poor because the legal and technical instruments are not adequate in the fight against terrorism and organised crime. Most instruments fall within the powers of Member States; in the Treaty, they come under the Third Pillar of the EU, i.e. intergovernmental level.

6.5 The European security strategy should be developed within the Community framework, and should go beyond the current situation of mere intergovernmental cooperation. Keeping these areas within the Third Pillar of the EU reduces their effectiveness and overall scope. The EESC calls on the Council to create an overarching common legal framework that is consistent with regard to security policy. Article 42 TEU could be applied, as proposed by the European Parliament⁽⁸⁾, with the unanimity rule being replaced by the qualified majority principle.

6.6 Criminal organisations regularly use the EU's external borders for their unlawful activities. The EU Customs Code should be used more effectively by border control services and, above all, by the customs authorities themselves and their International Mutual Administrative Assistance services. Indictments and punishments must be harmonised across the Community customs area, and the right of pursuit (the right to extend pursuits beyond national borders, within the EU) and mutual recognition of sentences must be made universal. In other opinions, the EESC has pointed out the need to set up a European border police force⁽⁹⁾.

6.7 The Member States must step up the exchange of information between intelligence and security services regarding threats to the internal and external security of the EU; they should pool their strategic analyses of the terrorist threat, and draw up joint plans for protecting basic infrastructures.

⁽⁸⁾ European Parliament resolution on progress made in 2004 in creating an area of freedom, security and justice. P6_TA(2005)0227, 8 June 2005.

⁽⁹⁾ See, in particular, the EESC opinion of 27.10.2004 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)* (Rapporteur: Mr Pariza (OJ C 120 of 20.5.2006)).

6.8 The principle of availability of information is a key factor for improving police efficiency. This principle marks a new approach to improving the cross-border exchange of law enforcement information in the EU, based on enabling a law enforcement officer of one Member State to obtain from another Member State all the information he needs to carry out his investigation ⁽¹⁰⁾. To ensure interoperability, a high level of trust between the law enforcement authorities of the respective Member States will be needed. The lack of trust has been one of the biggest obstacles to European cooperation thus far, and its causes should be investigated and explained to civil society.

6.9 The EU's role must be strengthened, and the European security strategy must be developed within the Community framework, with the aim of increasing its effectiveness and transparency. When it comes to security policy, 'more Europe' is what is needed. The EESC has proposed ⁽¹¹⁾ that the Community method be adopted in relation to security, granting the right of initiative to the Commission and co-decision powers to the Parliament. The Council should also abandon the unanimity rule and adopt decisions by majority, and the Court of Justice should have its own competences.

6.10 Europol's role should go beyond cooperation, giving it operational capability. The EESC proposes that it become an agency with operational capability, able to investigate throughout the EU. The Hague Programme calls for stronger practical cooperation and coordination at a national level between law enforcement, judicial and customs authorities as well as between these authorities and Europol. Member States need to promote Europol as a European agency and enable it to play a decisive role, together with Eurojust, in the fight against organised crime and terrorism. It is unacceptable that the Protocols amending the Europol Convention have still not been ratified or implemented by all Member States ⁽¹²⁾. This is especially urgent if Europol is to receive the support and resources needed to function effectively as a cornerstone of European law enforcement cooperation. From 1 January 2006, Europol will replace its annual European Union crime situation reports with 'threat assessments' on serious forms of crime.

6.11 Eurojust's aim is to coordinate national judicial authorities in the fight against organised crime and terrorism; however, despite the progress made since it was set up, it is still far from achieving its goals. Eurojust has few legal or financial resources, and commitments by Member States vary, as laws in some

countries do not ensure sufficient support for judicial cooperation.

6.12 The EESC proposes that Eurojust serve as a means to effectively develop joint investigation work between the judiciary and tax authorities in the EU, in the fight against organised crime and terrorism. Information from national investigations should be sent to Eurojust, which should set up an effective European database.

6.13 Judicial cooperation in criminal matters is essential; the relationship between judicial authorities is currently based on a lack of trust. There is no 'European judicial culture' or minimum common regulations on criminal matters. Citizens must ensure that the EU institutions and Member States heed their call for maximum judicial cooperation between all States. Citizens demand that no terrorist or criminal should be able to escape justice due to problems caused by misunderstandings or non-existent cooperation procedures.

6.14 The EESC supports the European Parliament's recommendation that Member States modify their criminal legislation so that the crimes of terrorism covered in the Framework Decision should not be time-barred. The EESC ⁽¹³⁾ strongly supports the idea that the International Criminal Court should have jurisdiction over crimes of terrorism.

6.15 The current situation is incomprehensible and unacceptable as far as citizens are concerned. It does not make sense for initiatives to be blocked because Member States put national prerogatives before the priorities of the common fight against terrorism and organised crime. European citizens do not understand the plethora of instruments and tools in the fight against terrorism and organised crime in the EU. There are numerous non-coordinated entities working towards the same goal, such as the Council's Counter-Terrorism Coordinator, the Commissioner for Justice, Freedom and Security, Europol, Eurojust, etc.

6.16 Scattering resources is not the best way to achieve efficiency. Eurojust and Europol should overcome their current cooperation problems and reinforce their joint investigation teams. The intelligence services should improve procedures for transmitting information within Europol. The European Anti-Fraud Office (OLAF) should work with Europol and Eurojust in investigating crime. The different agencies and services must exchange data and investigations, so that their action against criminals can be more effective.

⁽¹⁰⁾ On 12 October 2005, the European Commission submitted a Proposal for a Council Framework Decision on the exchange of information under the principle of availability, COM(2005) 490 final, 12.10.2005.

⁽¹¹⁾ EESC Opinion of 14.12.2005 on the Proposal for a Council Decision establishing the specific Programme 'Prevention, Preparedness and Consequence Management of Terrorism', for the Period 2007-2013. General Programme 'Security and Safeguarding Liberties' (Rapporteur: Mr Cabra de Luna (OJ C 65 of 17.3.2006)).

⁽¹²⁾ Ireland and the Netherlands are the only States not to have ratified it.

⁽¹³⁾ EESC Opinion of 15.12.2005 on the Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years — The Partnership for European renewal in the field of Freedom, Security and Justice (Rapporteur: Mr Pariza (OJ C 65 of 17.3.2006)).

6.17 As terrorism is a global threat, counter-terrorism also features in the EU's foreign and security policy, and effective multilateralism and international cooperation are key issues therein. The EESC believes that the EU's efforts to fight terrorism and organised crime must complement the efforts of regional organisations sharing the values and interests of the EU. It is therefore important to seek synergies and ways of boosting cooperation with organisations such as the UN, the OSCE and the Council of Europe, in areas where these bodies add value to the objectives defined in the EU's policies against terrorism and organised crime.

6.18 In order to reduce some of the risks of radicalisation, Europe should aim for a foreign policy that promotes the values of democracy, peace, dialogue between different cultures, the fight against poverty and corruption, the extension of human rights throughout the world, and international cooperation within the UN system.

7. The role of civil society in the prevention of violent radicalisation

7.1 Civil society organisations embody the democratic rights of citizens to come together and play an active part, for example in society, in politics or in cultural life. Civil society organisations can, in their work, be important players in preventing terrorism, by promoting social cohesion and acting against the factors that contribute to violent radicalisation. They must obtain the necessary means to promote awareness of European values.

7.2 Terrorists do not fall into a predefined age group or social class, and some sectors of society can therefore become vulnerable. Poverty, failure at school, the lack of job opportunities, discrimination, the lack of civic values, identity crises, social exclusion, etc. create a breeding ground for frustration, where sects, religious fundamentalists, terrorist groups and criminal organisations spread their nets in the search for recruits.

7.3 In general terms, the EESC agrees with the view stated by the Commission in its Communication entitled *Terrorist recruitment — Addressing the factors contributing to violent radicalisation* ⁽¹⁴⁾. This is the field in which civil society organisations are acting.

7.4 *The EESC wishes to highlight the key points.*

7.4.1 Programmes should particularly target young people of school age, in order to prevent them from getting caught up in

⁽¹⁴⁾ COM(2005) 313 final.

networks of radical, violent thought. It is important to step up Europe-wide school programmes and training activities for young people so that they can receive civic training that promotes democratic values, equality, tolerance and understanding of cultural diversity.

7.4.2 The European Employment Strategy and the Lisbon objectives should reinforce policies promoting the professional integration of the most vulnerable individuals and minorities.

7.4.3 Civil society and the public authorities have an important educational role to play in order to ensure that all people, whatever their place of origin, have access to adequate information and training on the values of pluralism, freedom of conscience and religion, gender equality, tolerance and the secularity of the State, which form the basis for the democratic rule of law in Europe.

7.4.4 The EESC has drawn up several proposals to make integration a priority goal of the Community immigration policy ⁽¹⁵⁾.

7.4.5 Opinion formers and the media can make a positive contribution to integration, by adopting balanced perspectives.

7.4.6 European societies today are culturally mixed, but national, ethnic or religious minorities suffer from a great many problems of racism, xenophobia and discrimination.

7.4.7 Social organisations are working actively in Europe to promote dialogue between religions and cultures and combat intolerance, racism, xenophobia and violent extremism.

7.4.8 The authorities should consult these organisations and establish cooperation systems in order to reduce the tensions that breed radicalism and violence. Businesses, trade unions and all civil society organisations play a key role in training, integration and combating discrimination.

7.5 The EESC is in favour of the development of programmes to research and analyse the social processes involved in violent radicalisation, terrorism and organised crime, and proposes that the Commission make funds available to help think tanks, universities and research centres.

⁽¹⁵⁾ See the EESC opinions of 21.3.2002 on *Immigration, integration and the role of civil society organisations* in OJ C 125 of 27.5.2002 (Rapporteur: Mr Pariza Castaños), of 10.12.2003 on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on immigration, integration and employment*, in OJ C 80 of 30.3.2004 (Rapporteur: Mr Pariza Castaños), and of 13.9.2006 on *Immigration and integration: cooperation between regional and local governments and civil society organisations* (Rapporteur: Mr Pariza Castaños).

8. Consideration for the victims

8.1 Victims of terrorism suffer violence which targets the whole of society and the values it represents. Victims are the reality of terrorism; they are the voice of society and its front line in the war on terrorism. They are key players for promoting society's necessary commitment against terrorism, and forging a civic response. Focusing on victims is the best way of discrediting and isolating terrorists, both politically and morally.

8.2 The best way to recognise and commemorate the victims is to defend democracy and the rule of law, so that Europe can be a free and open society.

8.3 Victims represent, in one way or another, what terrorists and organised criminals are unable to accept: legitimate and democratic power subject to the rule of law. Civil society must transmit this social and political lesson so that the victims can be granted the necessary social and political recognition, and democracy and the rule of law can be revitalised.

8.4 Victim protection is an effective means of prevention. The victims of terrorism deserve full respect, support and help from citizens and institutions. The injustice of their experience and the consequences of the attack must be offset with decisive action by civil society and authorities in Member States and the EU, in order to meet their needs and ensure that their suffering be as limited as possible.

8.5 The EESC proposes the following measures for the protection and recognition of the victims of terrorism and their families.

8.5.1 A legislative framework of minimum standards should be drawn up to guarantee the right to dignity, respect for private and family life, the right to financial compensation, the right to medical, psychological and social assistance, the right to effective access to justice and judicial protection, and the right to professional and social reintegration, vocational and academic training to ensure equal capabilities with regard to employment opportunities.

8.5.2 State action in this area should be guided by standards, recommendations, good practices and guidelines to protect the victims of terrorism. The Commission should make funds available to help associations of terrorism victims set up European networks.

8.6 It is also important not to neglect other, lesser-known victims who receive less media coverage. These are the victims of criminal organisations that violate human rights to the same extent as terrorist organisations: victims of extortion, robbery, drugs; victims of human trafficking, prostitution and trade in women; victims of illegal labour exploitation.

8.7 All crime victims deserve special attention from the authorities and from civil society. The EESC has issued opinions ⁽¹⁶⁾ in which it called for common EU legislation for the compensation of crime victims. Insurance companies and mutual societies should make new commitments and ensure that their policies provide for better coverage for victims.

9. Financing of terrorism and organised crime

9.1 The EESC has issued various opinions ⁽¹⁷⁾ containing proposals for improving public-private partnerships in order to combat the financing of terrorism and criminal organisations. However, it is the financial bodies that must make the greatest commitments.

9.2 The EESC recently issued two opinions ⁽¹⁸⁾ on the obligations of financial bodies to ensure greater transparency in financial transactions, in order to make unlawful activity more difficult. The EESC urges Member States to take appropriate legal steps to ensure that private bodies and non-profit organisations that might form part of the network through which terrorist funds are channelled adhere to the recommendations of the Financial Action Task Force on money laundering (FATF) ⁽¹⁹⁾ and on funding terrorism and money laundering. However, this must not result in general suspicion of all those citizens in civil society organisations.

⁽¹⁶⁾ EESC Opinion of 20.3.2002 on the *Green Paper on Compensation to crime victims*. (Rapporteur: Mr Melicias (OJ C 125 of 27.5.2002)).
EESC Opinion of 26.02.2003 on the *Proposal for a Council Directive on compensation to crime victims*. (Rapporteur: Mr Koryfidis (OJ C 95 of 23.4.2003)).

⁽¹⁷⁾ For example, see EESC opinion of 11.5.2005 on the *Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing* (Rapporteur: Mr Simpson (OJ C 267 of 27.10.2005)).

⁽¹⁸⁾ EESC Opinion of 21.4.2006 on the *Proposal for a Regulation of the European Parliament and of the Council on information on the payer accompanying transfers of funds* (Rapporteur: Mr Burani (OJ C 185 of 8.8.2006)).

EESC opinion of 11.5.2005 on the *Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing* (Rapporteur: Mr Simpson (OJ C 267 of 27.10.2005)).

⁽¹⁹⁾ Group set up by the G-8 nations.

9.3 The real estate sector is increasingly used to hide many funds deriving from terrorism and organised crime networks. In some cases, local authorities are corrupted by these groups. Real estate firms, large construction firms and other operators in the sector must cooperate with the national authorities to prevent the sector being used to hide ill-gotten funds, and to prevent the laundering of money obtained by terrorists and criminal organisations.

9.4 The international art, philately and antiques market is being used more and more as a means of concealing money obtained from criminal activities. Companies working with these goods should collaborate more actively with the authorities in order to make the market more transparent.

9.5 The EU needs common legal and administrative instruments so that it can work with Member States in combating these illegal activities. The EU Council must ensure that each Member State has adequate criminal legislation, within the context of minimum EU regulations, in order to take action against the financing of terrorism and organised crime.

9.6 The EU Action Plan on Combating Terrorism⁽²⁰⁾ includes measures for coordinating the fiscal and financial intelligence services, and these should be increased. It is up to all Member States to act efficiently and achieve sufficient coordination within the Council.

10. Internet and mobile telephony

10.1 Internet and mobile phone operators must cooperate with the authorities and comply with laws requiring storage of internet traffic data (but not the content of messages).

10.2 There should also be cooperation when it comes to obtaining personal data when mobile phone cards are purchased: terrorist groups and criminal networks shelter behind the anonymity of email services or prepaid mobile phone cards so that they can communicate with one another undetected, or even detonate explosive devices remotely. The EESC has issued opinions⁽²¹⁾ on this topic. The Parliament has also adopted a report⁽²²⁾ with which the EESC agrees.

10.3 European society is extremely vulnerable to cybercrime, and the Internet is increasingly being used by criminal organisations for their unlawful activities.

10.4 The Internet is becoming more and more necessary for European societies, companies and individuals, key service providers and public authorities, and the police and judiciary services. Europe is now facing a new risk: cyber-terrorism, which could bring society to a standstill.

10.5 Internet operators will need to improve their security systems and work with police and judicial authorities in order to crack down on these new crimes.

11. The media

11.1 It is the right and duty of the media to provide truthful information, and to avoid perspectives that are of interest to terrorist organisations. The media should also avoid images and information that violate the privacy and dignity of victims. Young people, in particular, should be protected from these risks. In this context, publicly-owned media should set the example.

11.2 The media could establish suitable codes of conduct and work with the authorities to guarantee the dignity and privacy of victims, and to avoid perspectives that could further the propaganda interests of terrorist groups.

11.3 The Commission is holding a European conference in which the main media players will take part. The EESC believes that this would be a good opportunity to exchange best practices, set up self-regulation systems, help form European public opinion and promote a constructive image of the EU.

12. Critical infrastructures

12.1 Terrorists also try and achieve their criminal goals by attacking strategic infrastructures and key public services. Their targets include transport modes and networks, energy networks and operators, water supplies, telephone and communications operators, areas where people tend to congregate, etc.

12.2 New terrorist threats are hanging over European societies: most experts agree that there is a real and current risk of radiological, nuclear, chemical, biological or bacteriological attack. The sectors working with these products should therefore improve their security systems and cooperate effectively with the law enforcement authorities.

⁽²⁰⁾ See Plan adopted by the Council on 13.2.2006.

⁽²¹⁾ See EESC opinion of 19.1.2006 on the *Proposal for a Directive of the European Parliament and of the Council on the retention of data processed in connection with the provision of public electronic communication services and amending Directive 2002/58/EC* (Rapporteur: Mr Hernández Bataller (OJ C 69 of 21.3.2006)).

⁽²²⁾ See EP report A6(2005) 365 of 28.11.2005.

12.3 The EESC congratulates the Commission on its excellent Security Research programme (SRC 06), and hopes that it will continue to finance joint public-private research projects in order to improve security in the EU.

12.4 However, this programme should be extended to Europe's partners at its eastern and southern borders (Mediterranean) in the context of the European Neighbourhood Policy.

12.5 The private sector should be prepared to make its assets available to the authorities in times of crisis, in order to help manage the potentially catastrophic consequences of terrorist attacks. It would therefore be necessary to identify the areas in which organised civil society could add further value in a crisis situation, and to draw up agreements and conventions in order to roll out an efficient joint crisis management network.

12.6 Prevention and reaction capabilities depend on information and effective management of knowledge and the ability to anticipate future situations. An active role should be taken by all in responding to the challenges of terrorism and organised crime, and information must therefore be properly circulated among the parties involved.

12.7 The relevant managers of businesses and civil society organisations (particularly in strategic areas) should receive available information on the aspects of terrorism and organised crime affecting their areas of expertise or responsibility, so that they can prepare themselves and anticipate threats.

13. The European platform for public and private partnership

13.1 The Commission is currently drawing up a communication on public-private partnerships against organised crime and terrorism, which includes an action plan on public-private partnerships. The key aspect of this cooperation, as set out by the Commission, is the so-called platform for public-private partnership against organised crime and terrorism. The content, procedures and operating rules of this platform, which is to be set up at the end of the year, should be defined. It will meet periodically in order to discuss subjects of common interest, identify areas for political and legislative action, design prevention strategies, exchange good practices and information, etc.

13.2 The platform will comprise representatives from the Member States and, on a voluntary basis, representative organisations such as European employers' bodies, trade unions, non-governmental organisations involved in the fight against orga-

nised crime and terrorism, etc. It aims to harness the advantages and synergies that such partnerships can generate. The end-goal of the initiative is to reduce the effects of organised crime and terrorism in Europe, making it an ever safer place for public action, citizens and economic activity.

13.3 *Conditions for civil society participation*

13.3.1 Civil society hopes that EU and Member State institutions will take note of the concerns voiced by their citizens, who are calling for efficiency in the fight against terrorism and organised crime. Citizens do not want to hear national, political or legal excuses for side-stepping the problems arising from the fight against crime and terrorism; they want solutions, and this forum should provide them with answers to their concerns.

13.3.2 The EESC believes that the Commission's proposal to create a public-private platform is a step forward, but does not go far enough.

13.3.3 The EESC should be involved in setting up and evaluating this platform.

13.3.4 Under the Treaty, organised civil society in the EU is represented through the European Economic and Social Committee. Naturally, other players representing specific interests will need to participate, but as general interests are represented by the EESC, it should be represented on this platform by three of its members (one from each Group).

13.3.5 The EESC urges Member States to promote the creation of public-private platforms at local and municipal level, with the same participatory and collaborative goals as the platform to be set up at EU level.

13.4 *Public-private partnerships in the fight against terrorism and organised crime*

13.4.1 The EESC believes that there should be ample scope for partnership between the public and private sectors, in order to boost and strengthen the synergies that can be generated in the fight against crime and terrorism.

13.4.2 Key aims of this partnership:

a) the first of civil society's objectives is not only to prevent the unlawful acts of terrorism and organised crime, but to prevent vulnerable people and groups from getting caught up in terrorist or criminal networks;

- b) identify the areas most vulnerable to criminal gang activity, and promote self-protection and links with the forces working to quash organised crime and terrorism;
- c) boost information and exchange experiences to reduce opportunities for crime;
- d) convey to EU and national institutions the concerns of the various sectors of civil society, so that the institutions can focus on the areas of crime and terrorism prevention and control that are of most interest to citizens;
- e) convey to EU and national institutions the main needs of businesses and organisations in the EU in terms of protection from organised crime; discuss with these institutions the best ways to ensure protection from criminal attacks and to fight crime;
- f) define areas for exchange of experience in specific sectors and in particular sensitive fields where organised crime is rife; Priority sectors include finance, transport, communications and energy;
- g) boost European platforms for prevention;
- h) act as a discussion forum in order to analyse the level of coverage and attention to the needs and requirements of victims of terrorism and organised crime;
- i) define Community strategies and policies on terrorism and organised crime from the viewpoint of organised civil society;

Brussels, 13 September 2006.

- j) step up the links between leading experts in both sectors in order to make the most of knowledge and experience in protection and the fight against organised crime and terrorism;
- k) take part in setting up and assessing the platform.

13.5 *Partnership systems*

13.5.1 A partnership system between the public and private sectors, based on an instrument similar to that proposed by the Commission, could be an ideal way to start linking the two sectors. If there is a high level of representation within the platform, then the public-private partnership will have a greater impact and the resulting measures to fight terrorism and organised crime will be more effective.

13.5.2 The partnership system must allow for the creation of sector-based or specific working groups, designed to suit the subject in question and specifically linked with the structure set up for public-private partnership.

13.5.3 The partnership platform could invite organisations, businesses, experts, EU and national authorities to its meetings, along with all those that could share information or experience or add value to the fight against terrorism and organised crime.

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

Opinion of the European Economic and Social Committee on Quality of working life, productivity and employment in the context of globalisation and demographic challenges

(2006/C 318/27)

On 17 November 2005 the Finnish Presidency decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on *Quality of working life, productivity and employment in the context of globalisation and demographic challenges*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 July 2006. The rapporteur was Ms Engelen-Kefer.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September 2006), the European Economic and Social Committee adopted the following opinion by 116 votes to three with eight abstentions:

1. Conclusions and recommendations

1.1 The Lisbon Agenda is the European response to the challenges of globalisation. Synergies between economic, employment, social and environmental policies are intended to improve Europe's competitive position in the world. It is therefore important that the European economy makes use of the opportunities of globalisation by creating new areas of employment in sectors of the economy with good future prospects and boosting growth through innovation. Europe should therefore focus on its strengths, which are to be found in the high quality of its products and services, its well-trained workforce and its social model, and should compete with its global competitors on quality and not enter a race for the lowest wages and social standards in which Europe is bound to be the loser. Such qualitative competition requires a comprehensive approach to innovation policy, which includes the microeconomic level, i.e. business structures and the quality of working life.

1.2 Whilst it is a stated aim of the Lisbon Agenda to create not only more but better jobs, this qualitative aspect has so far been neglected in the debate on the implementation of the Lisbon goals. As well as increases in R&D investment and investment generally, and investment in education and training in view of the requirements of the knowledge and information society, improving the quality of working life is a key to increasing the growth in productivity and innovativeness of businesses. This is proven by studies into the relationship between quality of work and productivity and into the significance that 'good work' has from the point of view of the employees concerned for their job motivation and readiness to enhance output.

1.3 Quality of working life includes a number of aspects, such as the avoidance and reduction of health risks, the way work is organised at the workplace, social benefits including a fair income, opportunities to gain skills and qualifications, and the ability to reconcile work and family life. Improvements in all these areas have a positive impact on productivity, according to the results of studies into improving working and living conditions carried out by the Dublin Foundation and presented to the EESC. Support for voluntary corporate health promotion schemes is especially important in this area. Secure jobs, salu-

rious working conditions and working arrangements that give workers more autonomy in their work are an important factor for increasing productivity and hence innovativeness, which is also influenced by the social environment. The EESC therefore believes that business structures and cultures should take this into account. The Lisbon strategy therefore also needs to be implemented at company level, where economic and social goals meet. Social dialogue has an important role to play here.

1.4 In order to bring about an improvement in the quality of working life, it is necessary to adopt a comprehensive plan which takes account of the changes in the world of work and addresses the particular needs of older people. In line with the concept of 'well-being at work', pursued by the Commission in its Community strategy on health and safety at the workplace, the primary objective must be to prevent health risks and to bring about an ongoing reduction in the number of industrial accidents and the incidence of occupational illnesses. In this context, there is a need to pay special attention to the issue of precarious employment offering little social protection and not subject to any regulation or contract. It is, however, likewise necessary to introduce new forms of work organisation in order to promote job satisfaction and a readiness to boost output. Cooperative methods of working, involving low-profile hierarchies and greater autonomy, such as group- and team-work, make it possible to exploit people's knowledge and abilities to the full, whilst, at the same time, taking account of the greater demands for flexibility in the economy. Good working conditions and forms of work organisation that are conducive to empowerment and participation are also a key prerequisite for improving labour productivity and strengthening businesses' innovativeness. For this reason, the EESC supports the concept of flexicurity — i.e. a healthy balance between flexibility and social security — as endorsed by the Employment and Social Policy Council on 1 and 2 June 2006.

1.5 The EESC calls for more studies into the relationship between quality of work and productivity to be commissioned. The Dublin Foundation would be well suited to doing this. In addition, the EESC suggests that a European index for quality of work be developed. This would be composed from various criteria for 'good work' on the basis of relevant studies, and

would regularly be collated and published. Such an index could help raise the profile of changes and progress, and at the same time form the basis for new initiatives to improve the quality of working life. The social partners should be involved in the evaluation and be regularly asked for their opinion.

2. Arguments and comments

2.1 Background to the opinion

2.1.1 In anticipation of the Finnish Presidency of the Council in the second half of 2006, the Finnish Government has asked the EESC to draw up an exploratory opinion on the connection between quality of working life, productivity and employment, as this subject will occupy a central role in the political debate.

2.1.2 This exploratory opinion therefore looks at the extent to which quality of work is a factor for increasing productivity and economic growth, and what contribution improving the quality of work can make to building the information and knowledge society and thus achieving the Lisbon goals. Globalisation and demographic change are mentioned as background conditions.

2.2 Introduction

2.2.1 Globalisation brings with it risks but also opens up new opportunities. The risks consist in the fact that the European economy, owing to increased international competition and the restructuring of the international division of labour, could lose jobs through restructuring and relocations unless new areas of employment are developed. At the same time, labour standards in Europe and the European social model as a whole are coming under increasing pressure, because in a single monetary area wage and welfare costs are a decisive factor in competition. However, a Eurostat study (March 2006) shows that labour costs rose more slowly in the EU-25 in 2005 than in the USA. The Lisbon Strategy is the European response to the challenges of globalisation. Synergies between economic, employment, social and environmental policies are intended to improve Europe's competitive position in the world.

2.2.2 However, an adjustment strategy that one-sidedly focuses on making the labour market more flexible, reducing labour standards and lowering social benefits is not a suitable way of achieving this objective. Rather, it is necessary to use the opportunities provided by globalisation for the benefit of the European economy, given that Europe is an attractive place to do business and can boast the following advantages:

- the attractiveness of the Euro area;
- stable democracies and social harmony;
- trustworthiness;
- efficient public services;
- developed infrastructure.

The EESC believes that a balance should be struck between flexibility and social security in the spirit of a flexicurity approach. Four important elements have been identified for achieving a healthy balance of this kind between flexibility and security in the labour market: 'suitable contractual arrangements, active labour market policies, credible lifelong learning systems and modern social security systems' ⁽¹⁾. The concept of flexicurity is set out in greater detail in the resolution adopted by the Employment and Social Policy Council of 1 and 2 June 2006. This states that contractual arrangements should provide 'a balanced combination (of) security and activation offers'. The importance is stressed of ensuring 'adequate rights for employees in all kinds of contracts'. Modernisation of social security systems should be geared to 'taking better account of new forms of work' and 'ensuring that women can build up their own pension rights'. While unemployment insurance should be 'adequate for all to have a sufficient income (...), it is important to ensure incentives and assistance to find work'. It also states: 'Active labour market policies, lifelong learning and in-company training are important to support the change from job security to employment security ⁽²⁾.' In this regard, the EESC welcomes the fact that the social partners and other stakeholders are to be involved in the further development of flexicurity policy.

2.2.3 The opportunities of globalisation include focussing on areas of the economy and innovations with good future prospects, competing with global competitors on the basis of quality rather than social dumping, and creating new high-quality jobs. Whilst they are a cost factor in international competition, high labour standards also offer a locational advantage, since they are an essential prerequisite for the cohesion of societies and boost the productivity of employees and their ability to innovate. This constructive role of social policy is characteristic of the European social model, which is based on common values 'such as solidarity and cohesion, equal opportunities and the fight against all forms of discrimination, adequate health and safety in the workplace, universal access to education and healthcare, quality of life and quality in work, sustainable development and the involvement of civil society. The role of public services in social cohesion and social dialogue also deserve a mention in this context. These values represent a European choice in favour of a social market economy' ⁽³⁾. If it is to hold its own in a competitive world, Europe must therefore build on these strengths of its social model ⁽⁴⁾.

⁽¹⁾ Council Conclusions, 1-2 June 2006, p. 17 English version. URL: http://www.consilium.europa.eu/cms3_applications/Applications/newsRoom/LoadDocument.asp?directory=en/lisa/&filename=89830.pdf.

⁽²⁾ Flexicurity: Joint Contribution of the Employment Committee and the Social Protection Committee for the Employment and Social Policy Council on 1-2 June 2006. URL: <http://register.consilium.europa.eu/pdf/en/06/st09/st09633.en06.pdf>.

⁽³⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'European values in the globalised world — contribution of the Commission to the October Meeting of Heads of State and Government' COM(2005) 525 final/2 of 3.11.2005, p. 5.

⁽⁴⁾ See EESC opinion adopted on 6 July 2006 on *Social cohesion: fleshing out a European social model*, rapporteur: Mr Ehnmark. URL: http://eescopinions.eesc.europa.eu/viewdoc.aspx?doc=//esppub1/esp_public/ces/soc/soc237/en/ces973-2006_ac_en.doc.

2.2.4 The objectives which the Union set itself under the Lisbon Strategy will not be achieved without strengthening social cohesion through active social policies, increasing productivity growth through greater use of information and communications technologies (IC technologies), and, at the same time, improving the quality of working life, motivation and job satisfaction of the workforce as an essential prerequisite for innovation. Innovation is not just a technical phenomenon that finds expression in new products and production processes. Rather, innovation is a social process that depends upon people, their knowledge, their qualifications and skills. The achievement of these objectives therefore requires new forms of work organisation — for instance group work and team work and better collaboration between management and staff — in which people can apply their knowledge and skills and take part in decision-making. Demographic change poses a particular challenge here and will lead to changes in the age structure of the workforce. This means (i) offering older people appropriate training which will enable them to adapt to the new work requirements arising from technical and organisational change; and (ii) taking into account changes in the work profile of older people by organising work in ways that meet age-related needs. Both presuppose a rethink in the HR policies of companies so as to offer more employment opportunities to older workers ⁽⁵⁾.

2.2.5 Boosting innovation as an essential element in achieving the Lisbon objectives requires, alongside increasing investment in research and development, further measures by both government and business. This includes improving skills in the use of new technologies, but also changes to working structures in businesses through new forms of work organisation that empower the individual and improve collaboration with management. Increasing the number of women in senior management posts and better ways of reconciling work and family life also have a role to play. Finally, it is important to improve working conditions as a whole to prevent stress and work-related illness, so that older people in particular are able to carry on working, and to provide working conditions that meet age-related needs. In this context, the Committee draws attention to the importance of corporate health promotion schemes that businesses provide for their employees on a voluntary basis. Further support from public incentive schemes could help to increase the use of this tool, in particular in SMEs. Similarly, the integration of young people is important, as mixed-age teams bring the skills of younger people together with the experience of older people, allowing the best, most innovative ideas to emerge.

⁽⁵⁾ See the following EESC opinions:

on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on increasing the employment of older workers and delaying the exit from the labour market* (OJ C 157, 28.6.2005, pp 120-129; rapporteur: Mr Dantin).

URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:157:0120:0129:EN:PDF>

on the *Communication from the European Commission on Productivity: the Key to Competitiveness of European Economies and Enterprises*, rapporteurs: Mr Morgan/Ms Sirkeinen; co-rapporteur: Mr Ehnmark (OJ C 85, 8.4.2003, pp. 95-100)

http://europa.eu/eur-lex/pri/en/oj/dat/2003/c_085/c_08520030408en00950100.pdf.

2.2.6 Regulating working conditions through collective agreements is a key part of the social partners' role. When it comes to improving the quality of working life, social dialogue at all levels is thus of the utmost importance. The creation of salubrious working conditions and of an innovation-friendly working environment that empowers individuals to decide and to act requires partnership with employees and those who represent them within the organisation. Only if the interested parties and their representatives are involved will the Lisbon objective of creating better jobs be achievable. This kind of partnership for change and better quality of working life needs to start at company level and continue at sectoral and cross-sectoral level. The EESC welcomes the fact that an initial exchange of views took place between the social partners on the eve of the informal meeting of the Employment and Social Policy Council on 6 July 2006 in which a representative of civil society was also able to take part. The EESC hopes that the social partners can agree on a joint contribution to the debate — in conjunction with the flexicurity concept — on the quality of working life, productivity and employment.

2.3 Growth, productivity and employment

2.3.1 It is no secret that the ambitious growth and employment targets which were set under comparatively favourable economic conditions in March 2000 by the European Council in Lisbon are still far from being achieved. According to the 12 July 2005 broad economic policy guidelines 'The EU is in several respects further away from its goal of becoming the world's most competitive economy than was the case in March 2000'. ⁽⁶⁾ Alongside the continuing high level of unemployment, mirrored by only a marginal increase in the employment rate to 63 % in 2003 — far below the target of 70 % by 2010 — low productivity growth is seen as a cause of this failure. The report of the expert group on the Lisbon Strategy chaired by Wim Kok had already drawn attention to this in November 2004. The decline in productivity growth (per hour worked) in the EU since the mid-1990s can 'be attributed more or less equally to a lower investment per employee and to a slowdown in the rate of technological progress' ⁽⁷⁾. This slowdown, according to the report of the expert group, 'has been associated with the same reasons Europe is not meeting the Lisbon targets: insufficient investment in R&D and education, an indifferent capacity to transform research into marketable products

⁽⁶⁾ Council Recommendation of 12 July 2005 on the broad guidelines for the economic policies of the Member States and the Community (2005 to 2008) (OJ L 205 of 6.8.2005 — pp. 28-37).

URL: http://europa.eu/eur-lex/lex/LexUriServ/site/en/oj/2005/l_205/l_20520050806en00280037.pdf.

⁽⁷⁾ 'Facing the challenge — The Lisbon Strategy for Growth and Employment'. Report from the High-Level Group chaired by Wim Kok, November 2004 (Kok report), p. 16.

URL: http://europa.eu/growthandjobs/pdf/kok_report_en.pdf.

processes, and the lower productivity performance in European ICT-producing industries ... and in European ICT-using services ... due to a slower rate of ICT diffusion' ⁽⁸⁾. So the European economy clearly lacks investment in future-orientated products and technologies and the ability to innovate, something which requires investment in people's potential to acquire skills. The low levels of spending on R&D measured against the target of 3 % of gross domestic product (GDP) by 2010 are just one indication of this. What is more, only 55 % of research spending in the Union is financed by the private sector — something that is viewed as a significant cause of the innovation gap between the USA and the EU ⁽⁹⁾.

2.3.2 In its report for the Spring European Council in March 2006, the Commission comes to the conclusion that the EU, despite all its efforts, 'is unlikely to meet its target of boosting research spending to 3 % of GDP by 2010' ⁽¹⁰⁾. It stresses in this regard the need to increase private investment, for which internal market policy should create better conditions. Alongside a macroeconomic policy geared towards growth and jobs, only a strategy focussed on boosting innovation will lead to more and better jobs. This is also highlighted in the conclusions of the European Council Spring Summit, which calls for a 'comprehensive approach to innovation policy' that inter alia includes investment in education and training ⁽¹¹⁾. At its meeting of 15 and 16 June 2006, the European Council again highlighted the need for investment in knowledge and innovation and for national and EU measures to this end ⁽¹²⁾.

2.4 Investment in people as a prerequisite for a knowledge-based innovative economy

2.4.1 In a knowledge-based economy and society, production and services structures are continually updated through the use of ICT technologies and innovative products and production processes. This is accompanied by changes in the organisation of work at both production and managerial levels. This technical and organisational structural change in production and management leads to changes in work requirements, which must be taken into account in both school and basic and further vocational training. IT knowledge and ICT skills (media literacy) but also social skills such as communication and team skills and

foreign languages, are becoming key factors in being able to meet the new work requirements. The development of such key skills must be given consideration in all branches of the education system as another way of strengthening the ability of businesses to innovate by improving the skills of employees.

2.4.2 The Employment Taskforce report of November 2003 has already pointed out that raising levels of education and constantly adapting qualifications to meet the needs of a knowledge-based economy are of central importance in creating more jobs. This involves both raising the general level of education and providing easier access to lifelong learning opportunities for people with different career profiles, both in the public and in the private sector. Priority should be given here to the most needy, namely the low-skilled, older workers and the employees of small and medium-sized enterprises (SMEs). The Employment Taskforce stresses in particular the responsibility of trade and industry and calls upon employers to take on more 'responsibility to build employees' skills throughout their career' ⁽¹³⁾. A combination of legal provisions and voluntary arrangements should guarantee that there is sufficient investment by employers in further training and that there is a fair division of costs (for example, through sectoral or regional further training funds, tax credits or by splitting the costs of further training as is the case in France) ⁽¹⁴⁾. The EESC believes that every employee should have the opportunity for further training.

2.4.3 The expert group on the future of EU social policy also recommends that within the framework of the European employment strategy the Union should concentrate on creating the conditions for a knowledge-based economy throughout the education system, and on improving the education system ⁽¹⁵⁾. The expert group makes a number of proposals here concerning all levels of education and vocational training. Particular importance is attached to further training. The expert group recommends that the general right to further training should be stipulated in wage and employment agreements. Furthermore, businesses should draw up personal development plans for each individual and introduce an internal management scheme for further training and skills. So there is no shortage of good proposals, but they are not being implemented.

⁽⁸⁾ Idem.

⁽⁹⁾ See EESC opinion of 15.9.2004 entitled *Towards the seventh Framework Programme for Research: Research needs in the area of demographic change — quality of life of elderly persons and technological requirements*, rapporteur: Ms Heinisch (OJ C 74, 2.3.2005, pp. 44-54).
URL: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c_074/c_07420050323en00440054.pdf.

⁽¹⁰⁾ Communication from the Commission for the Spring European Council 'Time To Move Up A Gear — The new partnership for growth and jobs' (COM(2006) 30 final — PART 1 of 25.1.2006), p. 19.

⁽¹¹⁾ European Council (Brussels), 23-24 March 2006 — Presidency Conclusions, points 18 et seq.
URL: http://consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/ec/89013.pdf.

⁽¹²⁾ Presidency conclusions, points 20 and 21.
URL: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/press-data/en/ec/90111.pdf.

⁽¹³⁾ 'Jobs, Jobs, Jobs — Creating more employment in Europe' — report of the Employment Taskforce chaired by Wim Kok, November 2003, p. 49.

URL: http://europa.eu/comm/employment_social/employment_strategy/pdf/etf_en.pdf.

⁽¹⁴⁾ Idem, page 51.

⁽¹⁵⁾ Report of the High-Level Group on the future of social policy in the enlarged European Union, May 2004.
URL: http://europa.eu/comm/employment_social/publications/2005/ke6104202_en.pdf.

2.5 *Improving the quality of working life in order to strengthen innovation skills and better integration of older workers*

2.5.1 Quality of working life and productivity

2.5.1.1 The transition to a knowledge-based economy that is capable of innovation requires new initiatives to improve the quality of working life. Working conditions that meet health needs and working arrangements geared towards greater cooperation between executives, managers and employees at other levels, cooperation on equal terms and shared decision-making boost work satisfaction and wellbeing at work and therefore contribute to the economic success of a business. On the other hand, stressful working conditions that cause people to become ill have detrimental effects on quality of life and knock-on social costs and lead to productivity losses, which have a negative impact on the ability of the economy to be innovative. Relevant scientific studies back this up, though there are too few such studies.

2.5.1.2 A study carried out by the European Agency for Safety and Health at Work (2004) looks more closely into the relationship between quality of work and productivity⁽¹⁶⁾. One of the key findings was that the success of a business in today's highly competitive environment can no longer be measured purely in terms of figures. Instead, such factors as customer satisfaction, optimising working relationships within the organisation, innovativeness and flexible organisational structures are playing an increasingly important role. The results of the study based on an analysis of the literature shows that there is a close relationship between good working conditions and the economic success of a business. The quality of work has a significant effect on productivity and profitability. In particular, the study identifies the following factors for business success:

- combining business targets with human resource activities so as to achieve better results;
- a holistic approach to health promotion that not only looks at immediate working conditions, but also includes job motivation and corporate culture;
- health promotion programmes that are aimed at avoiding health risks;
- improving working practices and the organisation of work in connection with technical innovations.

2.5.1.3 On the basis of case studies in various Member States and different sectors, the same study found the following factors for improving productivity:

- high quality of work, including good conditions for reconciling work and family life, is very important;
- cooperative behaviour by management contributes to higher productivity;

⁽¹⁶⁾ European Agency for Safety and Health at Work: Quality of the Working Environment and Productivity — Working Paper (2004). URL: http://osha.eu.int/publications/reports/211/quality_productivity_en.pdf (English only).

- forms of work organisation that give employees more autonomy and responsibility in their work have a positive effect;

- improving working methods and workplace equipment helps to reduce the burden of physically demanding work and facilitates higher productivity. Such investment is therefore worthwhile;

- certain types of heavy duties need creative solutions for the avoidance of occupational accidents. Cutting absence due to sickness has a direct, positive effect on productivity.

2.5.1.4 The stresses to which employees are subject have changed, not least through the introduction of ICT technologies. Indeed there are still areas, particularly in industrial production, where physical stresses predominate. On the whole, however, there has been an increase in psychosocial stresses as a result of the increasing intensity of work and time pressure and working with ICT technologies. Work-related stress is the predominant complaint in all areas of activity and the economy and the central challenge for prevention. The European Agency's study comes to the conclusion that preventing stress not only reduces costs, but also improves productivity by increasing motivation and enhancing the working atmosphere.

2.5.1.5 The proportion of skilled work involving increased autonomy and less hierarchy has risen, particularly in the New Economy. At the same time, however, the pressure of work has intensified. The start and finish of the working day are becoming more and more fluid, a factor which goes hand-in-hand with new forms of deterioration in the health of workers, such as 'burn out syndrome', and reduces quality of life overall. At the same time, however, a contrary tendency is becoming apparent in a number of fields. Because of increased costs and the pressure of competition, humane forms of work organisation, such as team working in the motor-vehicle industry, are being dropped again and working patterns based on a strict division of labour are being re-introduced, leading to uneven strains and corresponding health risks.

2.5.1.6 The proportion of precarious employment, in the form of involuntary part-time working, limited duration employment and temporary employment, is increasing and the groups of workers concerned do, for the most part, have to contend with particularly stressful working conditions in the form of simple, monotonous tasks, heavy physical labour or environmental health hazards. Precarious jobs are often those with poor quality of working life, which makes measures to protect employment and health and work organisation measures all the more necessary.

2.5.1.7 The expectations of employees themselves as to what constitutes 'good work' is shown by a representative survey by the International Institute for Empirical Social Economy in Germany (INIFES) ⁽¹⁷⁾. The analysis for employees showed that the most important factors are related to income and job security, followed by qualitative aspects such as meaningful and varied work. Social aspects such as cooperative management behaviour and mutual support come in third place. Specifically, those involved stated that the following aspects of work, listed in order of importance, impact on their job satisfaction and their readiness to enhance output:

1. a stable, reliable income;
2. job security;
3. work should be fun;
4. being treated as a person by one's superiors;
5. permanent contract of employment;
6. promotion of loyalty among colleagues;
7. a healthy workplace;
8. work should be meaningful;
9. many-faceted, varied work;
10. having influence on working methods.

All these criteria had the support of between 70 and 90 per cent of respondents. Other criteria that also attracted wide consensus (over 60 %) as to what constitutes good work related to the opportunity to further develop one's own skills and the expectation that superiors should promote training and career development. The investigation also showed that high quality work that is broadly in line with the subjective criteria for good work leads to greater job satisfaction, willingness to work and readiness to enhance output. It is therefore possible to conclude that this also has a positive effect on labour productivity, even though this relationship was not specifically investigated.

2.5.2 Organising work in ways that meet age-related needs

2.5.2.1 The employment rate in respect of older workers (aged 55-65) in the EU continues to be inadequate, and the objective set out at Lisbon of increasing the rate to 50 % by 2010 will not be achieved. A key reason why older workers take early retirement from gainful employment is the deteriora-

tion in their health brought about by stressful working conditions and highly intensive work. Another is high unemployment. In the past, personnel policies were geared to inducing older workers to take early retirement. This led to a process of displacement, which also put social security schemes under considerable pressure.

2.5.2.2 In the EESC's view, it is not enough simply to spell out ambitious objectives without, at the same time, creating the necessary prerequisites for achieving such objectives. In view of the considerable shortage of jobs, priority must be given to reducing the performance pressures facing workers in enterprises and administrations and organising working conditions and performance requirements in such a way as to place reasonable demands on workers over the course of (rather long) working careers. In many enterprises such a measure will make it necessary to increase the workforce in order to reduce performance pressures and prevent premature deterioration in the health of workers. Improving the quality of working life by taking appropriate measures in respect of working conditions and the organisation of work and the allocation of staff are key instruments for achieving the abovementioned objective. The focus should therefore not be on increasing the legal retirement age, but rather on bringing the actual retirement age more into line with the legal retirement age. With this aim in view, there is a need, above all, to take measures with regard to working conditions and to change the personnel policy pursued by businesses in respect of older workers.

2.5.2.3 The High Level Group on the Future of EU social policy recommends, in this context, that measures be taken on three levels. In addition to the reform of social security schemes, aimed at reducing incentives for workers to take early retirement, the High Level Group believes that the measures to be taken should focus on measures at enterprise level. There is a need to boost the involvement of older workers in further training measures, to improve working conditions and to modernise the way in which work is organised. New forms of work organisation should be brought more into line with the abilities and skills of older workers, in particular by tailoring jobs to meet the needs of older workers and by facilitating internal job changes ⁽¹⁸⁾. There is also a need for society to adopt a change of outlook by revising the value it places on knowledge gained through experience and skills acquired during a person's working life.

Brussels, 13 September 2006.

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

⁽¹⁷⁾ 'Was ist gute Arbeit? Anforderungen aus Sicht von Erwerbstätigen' (What is good work? Employees' expectations)– Summary. INIFES, November 2005.
URL: <http://www.inqa.de/Inqa/Redaktion/Projekte/Was-ist-gute-Arbeit/gute-arbeit-endfassung.property=pdf,bereich=inqa,sprache=de,rwb=true.pdf> (German only).

⁽¹⁸⁾ Report of the High-Level Group on the future of social policy in the enlarged European Union, May 2004, page 35.
URL: http://europa.eu/comm/employment_social/publications/2005/ke6104202_en.pdf.

Opinion of the European Economic and Social Committee on Making European citizenship visible and effective

(2006/C 318/28)

On 19 January 2006 the European Economic and Social Committee decided, in accordance with Rule 29(2) of its Rules of Procedure, to draw up opinion on *Making European citizenship visible and effective*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the EESC's work on the matter, adopted its opinion on 13 July 2006 (rapporteur: **Mr Vever**).

At its 429th plenary session of 13 and 14 September 2006 (meeting of 14 September 2006), the European Economic and Social Committee adopted this opinion by 111 votes for, 22 votes against and 13 abstentions.

1. Summary

1.1 The formal inclusion of European citizenship rights in the recent treaties has not been enough to stop the rise of euro-scepticism in public opinion. Europe suffers from an accumulation of defects in the way that Europeans themselves perceive it: defects as regards visibility, appropriation, information, dialogue and effectiveness are the main ones in an over-long list. All in all, there is a lack of confidence. The process of ratifying the constitutional treaty has paid the penalty, and this logjam is itself likely to fuel this euro-scepticism even further.

1.2 It is therefore urgent to react; the priority now must be not so much issuing new declarations of rights, but taking concrete steps to enable this European citizenship to be used fully. This will require a militant and 're-tempered' commitment in this direction from the Commission, a code of conduct for better governance from the institutions, an end to the growing gap between the ambitions placed in Europe and the limited resources provided, more cooperation between states that are ready to move forward together, and more pressure and initiatives from stakeholders in civil society.

1.3 Firstly, the EESC proposes to put right particularly unjustified deficiencies in Europe, i.e.:

- re-start work on and adopt rapidly a European statute for associations;
- do the same as regards a European statute for mutual societies;
- create a simplified European statute open to SMEs;
- implement the Community patent between the Member States which have ratified it;
- remove all double taxation, at least in the eurozone;
- ensure non-discriminatory portability of social security benefits.

1.4 Secondly, the EESC proposes to develop a more citizen-oriented governance of the Union, i.e.:

- put right the media's failure to make people aware of Europe by encouraging best practices, with the support of a European audiovisual agency;
- upgrade the consultation phase in preparing projects, by ensuring they have more added value for citizens;
- identify and justify publicly the reasons for proposals concerning European citizens' rights being blocked at the Council or withdrawn by the Commission;
- promote socio-professional self-regulation and co-regulation in all areas of direct relevance to civil society;
- set out the ground rules, in liaison with the various single market support agencies, for a concept of European public service, ultimately including a Europeanised customs service at the EU's external frontiers;
- develop more interactive methods of providing information about Europe;
- involve socio-professional players in the interventions of the Structural Funds on the ground.

1.5 Finally, the EESC proposes to promote joint initiatives with a strong identity content, such as:

- giving greater priority to EU budget funding of particularly significant major European projects (trans-European networks, research, advanced technology);
- investing in ambitious European education and training programmes, not least in the field of languages, including a European non-military voluntary service scheme that is attractive to young people;
- getting celebrities to talk about their sense of having a 'European' identity;

- investing in equally ambitious European cultural and media programmes, with a common statute for foundations and sponsors;
- making particular progress in economic and social integration in the eurozone;
- adopting decisions of major political significance, such as electing the European Parliament on the same day, making 9 May a European public holiday and bringing forward a European right of popular initiative.

1.6 All in all, the EESC is convinced that such initiatives would enable Europeans to feel their EU citizenship more deeply, exercise the freedoms that this gives them more effectively and thus give Europe the renewed identity, dynamism, competitiveness and cohesion that the Member States are having trouble providing today.

1.7 To help achieve this objective, the EESC should set up a permanent 'Active European Citizenship Group' and organise a symposium on this theme soon.

2. Introduction

2.1 Despite a prevailing euro-scepticism, Europeans are deeply attached to the essential achievements of European integration, which they regard as both natural and irreversible:

- peace and cooperation between the Member States;
- the full exercise of their democratic rights;
- freedom of movement and trade; and the
- will to unite to face world challenges.

2.2 Europeans also have expectations of European integration. They expect it to provide a real added value, and in particular:

- better political, civil, participatory, economic and social rights;
- better support for their identity and quality of life as they undergo major changes;
- more growth, jobs and economic and social development;
- more effective promotion of their common interests in the world.

2.3 For many Europeans, these expectations are far from being met today, as regards their everyday concerns and the future. The double 'no' vote on the draft Constitutional Treaty by the French and Dutch voters was symptomatic of this unease and soul-searching, even if reasons other than European ones probably came into play also.

2.4 However, real progress on European citizenship rights, inaugurated by the Maastricht Treaty, has been made in the recent treaties (cf. Amsterdam, Nice), the Charter of Fundamental Rights and in the Constitutional Treaty (which, among

other things, gave the Charter the force of law by incorporating it into the Treaty). The preparatory Convention on the Constitutional Treaty, which was truly innovative in that it included members of parliament and was opened up to civil society, worked to consolidate these rights in the political, civil, economic and social fields. The European Economic and Social Committee, in addition to its participation in the Convention, has not let up at all in recent years in its efforts to push for full recognition of European citizens' rights and get their concerns taken into account. But it must be admitted that the formal incorporation of such rights into the treaties has hardly been enough to stop the rise of euro-scepticism in public opinion. Jean Monnet's words that 'we are not merging states, we are uniting peoples' are hardly felt today as being the dominating feature of the EU's way of operating.

2.5 There is now a risk, for a number of reasons, that these concerns of public opinion will grow even stronger:

2.5.1 The non-ratification of the Constitutional Treaty will place a severe strain on the operations of the EU: the unwieldiness and complexity of the Nice Treaty, which the new treaty was intended to correct, will quickly have a negative impact.

2.5.2 The gap between Europe's ambitions and the weakness of its management resources is growing, both in the political field (i.e. the difficulties of 27 members coming to a decision) and in budgetary matters (low level of the resources planned for 2007-2013).

2.5.3 The new rights of European citizens set out in the Constitutional Treaty, which incorporates the Charter of Fundamental Rights, cannot be made official.

2.5.4 This unfavourable context may very well prevent the situation from improving, and confirm Europe in the highly damaging role of scapegoat that too many of its citizens are already giving it.

2.6 As the EESC has already emphasised in its contribution to the European Council of 15 and 16 June 2006 ⁽¹⁾, the pause for reflection decided upon following the current blockage of the Constitutional Treaty should not be used as an excuse to adopt a wait-and-see policy as regards getting people more involved in Europe. On the contrary, there is an urgent need to boost Europe's image in the eyes of public opinion; otherwise there is a danger of getting dragged into a downward spiral of suspicion, giving up and blocking moves forward, which would have incalculable repercussions. Moreover, it would be complete nonsense to claim, in any way, that the current failure to ratify the Constitutional Treaty can be sorted out without first trying to get Europeans to feel more strongly that Europe belongs to them. This means analysing right now where and why today's Europe is lacking in visibility and attractiveness for too many Europeans.

⁽¹⁾ EESC opinion: *Contribution to the European Council of 15 and 16 June 2006 — Period of reflection* (rapporteur: Mr Malosse).

3. Lack of appreciation of European citizenship

3.1 People feel they are citizens intuitively and even emotionally before they start thinking in terms of rights and duties. 'European' citizenship should itself be seen as an added value, enriching national citizenship without suppressing it, and as a 'new frontier', opening up more rights, more freedoms and more responsibilities. In all these areas, and despite real progress on the trade front, European citizenship has a long way to go to prove its worth. One even has the impression sometimes that almost everything has been done to discourage it. We need only look at a few simple cases. For all Europeans, starting with 'the European man in the street', Europe clearly lacks four things:

3.1.1 There is a lack of visibility: today it is not clear what the objectives of European integration are and what form they should have, including in the geopolitical sense (which borders?); this is due both to political differences over the very aim of integration and a lack of clear criteria for continuing the apparently permanent enlargement process.

3.1.2 There is a lack of closeness and proximity: despite freedoms and acquired rights, Europe seems to be as a business primarily for politicians, diplomats and experts, citizen involvement is only secondary and very limited; national and local administrations themselves have not got away from this idea of Europe being something 'out there', often perceived as foreign.

3.1.3 There is a lack of information and dialogue: Europeans know little about their rights, their freedoms, and the way their common market works; their questions about Europe are themselves often badly perceived, badly dealt with and badly answered; governments, for their part, tend to present an image of Europe which suits them and to denounce or conceal those things which place constraints on them, even at the risk of endangering Europe's credibility; the major media (radio, TV), which are primarily national, give the distinct impression that they are not very familiar with such things, which are considered complex by the journalists themselves due to their lack of training in this field; they provide hardly any information about them, except for one-off items that are often summarised and frequently inaccurate; the absence of any 'European' opinion other than an awkward lumping-together of national opinions does not make it any easier to develop European media and vice versa.

3.1.4 There is a lack of economic and social effectiveness: faced with globalisation, Europe is felt by many to be neither an effective motor, because of its inadequate results as regards growth and jobs, including in terms of quality, nor an effective protection against increased external competition, which is often felt to be excessive or even unfair, and relocation (with tensions also being heightened by the unprecedented increase in the production costs differential within the enlarged EU).

3.2 Europeans who are more familiar with the way Europe operates, because of their contacts, their jobs and their journeys, are not only aware of these same four areas, but feel there are others that are just as noticeable:

3.2.1 There is a lack of cohesion, which has inevitably increased with the enlargements: administrative, cultural and social disparities have greatly increased and differences in development have sometimes trebled; there are also disparities in economic and monetary integration, with a eurozone currently limited to twelve members.

3.2.2 There is a lack of completion in the operating of the single market, where there is still considerable compartmentalisation in the services sector (which accounts for 2/3 of GDP), public purchasing (16 % of GDP) and taxation, as well as the freedom of movement of citizens of the new Member States, which is still subject to transitional restrictions: at best, the single market is only running at half speed.

3.2.3 There is a lack of simplification, which is obvious to all European citizens in their capacity as users of regulations: all too often, the EU directives and other provisions that are supposed to simplify their lives are superimposed on to ever-increasing national rules.

3.2.4 There is a lack of resources, together with a lack of general interest and European public authority, which is just as clear to all observers: in the area of finance, the EU budget — which is approximately 1 % of GDP (compared with the figure of 20 % for the USA's federal budget in an admittedly very different context) and which at the time of its most recent planning for the years 2007-2013 was the subject of protracted and conflict-ridden negotiations — is hardly up to handling all the extra tasks assigned to Europe; at institutional level, it is generally difficult to reach decisions because of the number of partners involved and, in many cases, the persistence of requirements or practices that requiring the unanimous agreement of the Member States.

3.2.5 Coupled with the lack of budgetary resources, there is a lack of trans-national infrastructure (transport, energy, telecommunications): the agreement of December 2005 in the European Council even reduced by half the envelope proposed by the Commission for 2007-2013 (barely 2 % of the budget, instead of almost 4 %) even if later talks with the European Parliament have led to these restrictions being moderated slightly.

3.2.6 Commission reports show that too many Member States lack discipline in transposing EU directives and punishing infringements of EU law.

3.2.7 Lastly, to complete the list, let us add a lack of communication about and implementation of the Lisbon strategy: far from triggering renewed European investment renewal in research, innovation, joint infrastructure networks and training, this strategy has in fact fallen far short of the mobilisation required and the objectives pursued (a classic example here has been the planning of the budget for 2007-2013, which is restrictive in all these areas).

3.3 Finally, for many EU citizens, a feeling emerges which is rather logical in view of this impressive accumulation of shortcomings noted in the operation of Europe: a lack of confidence. To put this right, there has to be a determined attack on all the cases of malfunctioning that have been noted. To help achieve this, it is no longer the time to carry on amending a list of European rights which, while being remarkable in its content, is little known and badly implemented. The thing to do now is to clarify and simplify the way that Europeans approach Europe, by giving them the keys to a more visible and effective common citizenship.

3.4 It will not be possible to achieve significant initial progress unless the main players in Europe give this approach better support. This will require:

3.4.1 a militant and 're-tempered' — i.e. more daring or even more intransigent — commitment around these demands by the European Commission, in particular through its power to make proposals and its methods of consultation;

3.4.2 improved functioning of the European institutions through a genuine commitment to serve citizens, such as a code of conduct for better governance and a willingness to acknowledge that Europeans themselves should have more responsibilities in matters that concern them directly;

3.4.3 language that is more complimentary towards Europe from political leaders, who should stop projecting an unnecessarily sacrificial or wrongly technocratic vision of Europe while unilaterally attributing the best role to themselves — which would also mean the media playing more of an educational role;

3.4.4 an equally responsible attitude by these leaders, who should agree to give Europe — which they are building together — the minimum resources it needs (in terms of decisions, budgets and discipline) to measure up at last to the hopes officially placed in it;

3.4.5 'enhanced cooperation' between states that are ready to move forward with each other to provide a way forward — under conditions that do not call into question the primacy of the Community method — when the unanimity requirement is too big an obstacle to progress that is considered essential by Europeans;

3.4.6 more pressure and initiatives from the social partners and other civil society players: without their active and constant assistance, there would be no point in envisaging the development of a visible and effective European citizenship.

3.5 As the EESC stressed in its opinion on the *Active citizenship action programme* ⁽²⁾, the 'Citizens for Europe' programme (2007-2013) presented by the Commission is handicapped by the extreme modesty of its field of intervention and its budget (EUR 235 million cut back in the meantime to EUR 190 million, i.e. less than half a euro per person for this period). Despite its laudable intentions, it has no means of achieving its objective of ensuring 'a central place for citizens' in European integration. At best, it will only be able to play an accompanying role.

3.6 The priority now must be not so much issuing new declarations of rights or granting a few one-off subsidies, but taking specific steps to allow this European citizenship to be exercised fully. To move forward along this road, the European Economic and Social Committee proposes the development of new initiatives in three areas:

- put right particularly unjustified inadequacies in Europe;
- develop a more citizen-based governance for the Union;
- promote joint initiatives with a strong identity content.

4. Putting right particularly unjustified inadequacies in Europe

4.1 The citizens of Europe can justifiably be amazed at the absence of common tools and European freedoms in key areas that should, on the contrary, illustrate their membership of the Union. This particularly applies to the particularly unjustified lack of a European statute for associations, mutual societies and small firms, a single Community patent, or European tax protection against all cases of double taxation, including social security benefits and pension schemes. These various inadequacies are gone into later.

4.2 It is a paradox that, half a century after the creation of the Common Market, the thousands of associations that were set up to defend the European interests of their members do not have a legal status in European law, and are forced to opt for the national law of their place of establishment, which is generally Belgian law.

⁽²⁾ EESC opinion of 26.10.2005 on the *Proposal for a Decision of the European Parliament and of the Council establishing for the period 2007-2013 the programme 'Citizens for Europe' to promote active European citizenship*, rapporteur: Mr Le Scornet (OJ C 28 of 3.2.2006).

4.2.1 The draft text proposing such a European statute was withdrawn by the Commission in October 2005, along with about sixty other texts, on the grounds that this would simplify regulation or that there was little prospect of the texts being adopted. By withdrawing this draft statute without consulting the interests concerned, the Commission unfortunately 'put the kibosh on it'.

4.2.2 The first thing that the Commission needs to do to mollify the citizens of Europe would be to admit its error and re-submit its draft. Obviously, Parliament and the Council should undertake to adopt it quickly after explaining, or even justifying, the reasons for the hold-up.

4.3 The same approach should also be followed as regards a European statute for mutual societies, the draft of which has also wrongly been withdrawn by the European Commission. Such a statute would, however, help to promote new European initiatives, while consolidating recognition of the variety of entrepreneurs in Europe.

4.4 Another paradox is the absence of a unified and simplified legal European statute to facilitate the life of small and medium-sized enterprises, when multi-annual programmes, declarations and even a SMEs Charter have been piling up without producing any noticeable changes for entrepreneurs.

4.4.1 In 2002 the EESC unanimously adopted recommendations calling for just such a statute ⁽³⁾. Up to now there has been no Commission proposal to follow them up. Although one official statement has followed another, calling more and more enterprising and competitive Europe, this situation is becoming more and more unjustifiable with each passing day.

4.4.2 The EESC therefore repeats its request to the Commission to submit a draft regulation for such a statute as quickly as possible.

4.5 One particularly symbolic failure has been that of the Community patent, which has still not been ratified by all the Member States since it was signed in 1975.

4.5.1 The repeated calls from the European Council to the Member States — i.e. to itself — to come up with a solution at last have been in vain. European inventors are still subject to a complex and expensive system to protect their rights on an effective scale. For a European Union that has set itself the objective of becoming the most dynamic and the most competitive knowledge-based economy in the world by 2010, this blockage is an illustration of a deplorable impotence.

4.5.2 If a unanimous agreement should still prove to be out of reach, the EESC suggests that this Community patent should be implemented already between those Member States which

have ratified it, using effective, simple and competitive procedures.

4.6 The elimination of double taxation between Member States is still managed by a complex and incomplete tangle of hundreds of bilateral conventions between states, leaving the citizens subject to the discretion of the tax authorities, who themselves are often not very well-informed as regards the provisions applicable.

4.6.1 The draft for a single and simplified regulation submitted by the Commission to settle this problem was unsuccessful, due to the lack of unanimous agreement between the states.

4.6.2 It would be a useful step forward if these provisions were approved now and implemented by those Member States in a position to do so. It would be particularly logical if all the Member States of the eurozone agreed to adopt the text.

4.6.3 The EESC would also stress the need to ensure effective portability of social security benefits, without tax discrimination, as part of intra-Community mobility. The EESC would particularly recall its recent opinion on the *Portability of supplementary pension rights* ⁽⁴⁾ calling for a harmonisation of the tax rules on supplementary schemes, which is missing from the draft Directive: differences between the tax rules applied in the Member States represents a serious obstacle to mobility, as workers may be subject to double taxation on contributions and on benefits.

5. Developing a more citizen-based governance for the Union

5.1 European integration is still too often seen as a matter for states, where citizens only have a secondary role. To put this right, a more citizen-based governance for the Union should be developed, i.e. the way the EU operates needs to be tailored more overtly to the service of its citizens: it should promote a more European approach in the media, analyse the impact of projects on citizens more fully, make better use of dialogue and consultation procedures, set out the reasons for blocking or withdrawing proposals, promote self-regulation and co-regulation more, encourage the development of cross-frontier collective negotiations between the social partners, implement a concept of European public service supporting the single market with a Europeanised customs service at the EU's external frontiers, develop more interactive European information, involve the social partners and other representative civil society stakeholders on the ground in the implementation of programmes receiving EU aid. These various demands are expanded on below.

⁽³⁾ EESC opinion of 21 March 2002 on a *European Company Statute for SMEs*, rapporteur: Mr Malosse (OJ C 125 of 27.5.2002, p. 100).

⁽⁴⁾ EESC opinion of 20.4.2006 on the *Proposal for a Directive of the European Parliament and of the Council on improving the portability of supplementary pension rights*, rapporteur: Ms Engelen-Kefer.

5.2 While the media today are treated as a 'fourth power' alongside the legislature, the executive and the judiciary, it is noticeably unaffected by the European dimension of issues, unlike the other three, although it is the most visible and most familiar 'power' of all. There are no big radio or TV stations that are European in nature and scope, and multilingualism is still a poor relation in the media. There are comparatively few European political programmes and debates in the media. There is hardly any comment on the business of the EU institutions, except for the odd event such as summits, crises and new members joining, and coverage remains confidential. For example, a recent Eurobarometer reported that barely 30 % of the people who said they were interested in European affairs (so the figure would be much lower for EU citizens as a whole) would be able to give three correct answers to three basic questions (number of Member States, whether MEPs were elected or appointed, whether all nationalities were represented in the Commission or not). Steps should therefore be taken to put right this chronic disinformation, such as:

5.2.1 emulating the national media on European issues, with incentives to make more room for information on the EU politics; and

5.2.2 promoting and coordinating such initiatives in the media; support could be provided by a European audiovisual agency operating with similar bodies that might exist in the Member States.

5.3 As regards the operations of the EU institutions, the most recent treaties have been more concerned with co-decision procedures — which rightly give increased powers to the European Parliament — than with consultation methods, where many improvements could be made.

5.3.1 In practice, and in particular following the White Paper on better European governance submitted by the Commission in 2002, real progress has already started to be made: there is more use of Green Papers, public consultations on the Internet (even if their operational scope remains unequal) and requests for exploratory opinions sent more upstream to the EESC.

5.3.2 Among the steps which still need to be taken, one worth mentioning is the more systematic use of preliminary analyses of the impact of drafts prepared by the Commission; these should focus on whether the drafts add value and mean real simplification for citizens and users and on whether it is feasible to adopt alternative approaches to traditional regulations, with these approaches always being submitted along with the drafts. In particular, there cannot be effective simplification of regulations unless users' representatives are involved upstream, and unless there are parallel simplification programmes at national level.

5.3.3 Steps should also be taken to improve the quality of consultations: in particular, the Commission should justify the action taken to follow up debates and give the reasons why certain options and arguments were adopted in preference to others. In any event, the consultation phase should remain quite distinct from the decision or co-decision phase, which is often far from being the case. Apart from the case of the exploratory opinions previously mentioned, the effectiveness of the Economic and Social Committee's consultations is too often hampered by parallel and simultaneous referrals from the decision-making bodies.

5.3.4 The European Council of March 2006, quite pertinently, asked that the social partners and other civil society players directly concerned by the Lisbon strategy should have more control over the process. The EESC is also pleased that the European Council renewed its mandate to contribute, along with the Committee of the Regions, towards evaluating and promoting implementation of this strategy. The exchange networks that the EESC has developed for this purpose with economic and social councils or similar representative bodies in the Member States are making a useful contribution towards this more citizen-based governance of the EU.

5.3.5 At national level, governments and parliaments should consult the social partners systematically before the autumn and spring European Councils, so as to involve them in the broad economic policy guidelines, the guidelines for employment and the implementation of the Lisbon strategy. The national reports of the Member States should be based explicitly on these consultations.

5.4 The European institutions should not only feel responsible for carrying out appropriate consultation of citizens and their representative organisations before adopting proposals or guidelines concerning them. They should act in the same way if a proposal is persistently blocked or withdrawn, so that it is possible to:

- know the exact reasons, arguments and responsibilities for a blockage within the Council or a withdrawal by the Commission;
- sound out the views of civil society representatives on the prospects of an alternative approach to remedy the most negative consequences of such a blockage or withdrawal.

5.5 One major step towards a visible and effective European citizenship would be to promote co-regulation and self-regulation more, whereby the socio-professional actors themselves are not only consulted but are actually involved in defining economic or social rules which concern them directly.

5.5.1 It was not until the Maastricht Treaty of 1992 that the ability of the European social partners to conclude contracts within the framework of an autonomous dialogue, both at inter-professional and sectoral level, was recognised officially. Another decade was necessary before a European inter-institutional agreement, concluded in December 2003 between Parliament, the Council and the Commission, gave full recognition to self-regulation and co-regulation involving civil society players and other areas, and laid down definitions and procedures.

5.5.2 These practices have already developed significantly, especially as regards, in addition to the social dialogue, technical standards, professional rules, social dialogue, services, consumers, energy saving and the environment ⁽⁵⁾. However, they still need to be developed much more, even if all EU citizens are already concerned by them in one way or another.

5.5.3 It would be particularly useful, in order to support the best possible exercising of European citizenship in border regions, to promote the development of cross-border collective bargaining, as envisaged by the Commission in its communication of 2005 on the social agenda.

5.5.4 In particular, the development of self-regulation and co-regulation should make it possible, as a complement to legislators' actions, and if necessary under their control, to promote Europe and the rights of European citizenship in a very large number of areas, for instance:

- many aspects of work relationships that may concern employment, working conditions, initial and ongoing vocational training, participation and social protection;
- the creation of a genuine European market in services;
- the strengthening of consumers' rights in the single market;
- improvement of the environment.

5.5.5 The EESC, for its part, has adopted a systematic approach of compiling and encouraging alternative regulation practices, such as the settlement of disputes, particularly through its hearings and its modernised PRISM 2 database, which is the main reference work on the state of self-regulation in Europe.

5.6 Both traditional European regulation (directives, regulations) and co-regulation and self-regulation should contribute towards consolidating the single market and improving the way it operates. European citizens should be able to treat this single market as a natural dimension of their initiatives and activities.

5.6.1 While being a natural framework for emulation and competition for economic operators, the single market should not be placed in direct and systematic opposition with concepts of public service and general interest, which also deserve to be developed at European level. The various European agencies that were set up in various Member States to help several aspects of

the functioning of the single market should set themselves genuine 'European public service missions' when performing their duties, to help the single market to operate better. Such guidelines could play a useful role in the debate on opening up public services in Europe. They would help outflank the opposition made up of those who conceive public service only in national terms and those who automatically equate the opening-up of Europe with more privatisation.

5.6.2 Similarly, the external frontiers of the EU should eventually be managed by an EU customs administration, with an identical visual symbol, rather than by national administrations. A first step would be to create, in cooperation with the European Border Control Agency, a body of European inspectors and border guards, while ensuring that all customs officers followed a common basic training course, and by developing mutual exchanges more, which at the moment are too irregular. Offences and sanctions should also be harmonised, and Member States should recognise and enforce decisions taken by each other's courts, as well as administrative decisions.

5.6.3 Europe should also equip itself with a mobile and efficient common civil protection body for providing the Member States and their peoples with rapid and effective support in the event of natural disasters or acts of terrorism.

5.6.4 As regards informing citizens about their rights and the opportunities within the single market, steps should be taken in all the Member States to provide information — which currently is all too often non-existent — about the Solvit Centres and other contact points on Europe, which were set up in all the Member States to help citizens to sort out the problems that they can still encounter in their trade. The European agencies mentioned previously themselves have hardly made themselves known to the public since they were set up. Information campaigns should put this right.

5.6.5 Information on the operation of Europe and the single market, like that on the rights and freedoms of citizens on this scale, should also be suitably adapted to the expectations and language of interlocutors. It is often necessary to start from the questions and aspirations of the latter, particularly when young people are concerned, rather than provide them with ready-made answers 'handed down from on high'. The development of contact and information points on Europe should thus go hand in hand with a real capacity to incorporate fully the language, approach and viewpoint of interlocutors through an interactive dialogue allowing better appropriation of European information according to the characteristics of everyone involved. Using the Internet fits in nicely with these specifications and should be utilised fully, both by the EU institutions and civil society associations, to make European citizenship more effective.

⁽⁵⁾ See the information report on the *Current state of co-regulation and self-regulation in the Single Market* adopted on 11 January 2005 by the Section for the Single Market, Production and Consumption, rapporteur: Mr Vever.

5.7 In addition, there is still a lot to do to involve European citizens in the interventions of the Structural Funds. Although the provisions governing EU aid for the ACP countries in Africa, the Caribbean and the Pacific expressly prescribe the close involvement of civil society (cf. the Cotonou Agreement), paradoxically there is no such thing about the involvement of the social partners and other players representing organised European civil society in EU cohesion policy.

5.7.1 The strategic guidelines proposed by the Commission for 2007-2013 make only an informal reference to such involvement and consultation, without laying down explicit provisions in the texts proposed, whether these be guidelines or regulations concerning the Structural Funds.

5.7.2 This should be put right and these texts should stipulate such an involvement, with provisions that are directly applicable by the EU institutions and by the Member States.

6. Promoting joint initiatives with a strong identity content

6.1 The citizens of Europe, who expect Europe to add value to their national, regional and local identities, have too often noted that this added value is modest, if not superficial. Admittedly, significant and increasingly important steps forward have gradually been decided by those who govern Europe: a European anthem and flag, a European passport, mutual assistance between embassies and consulates and, of course, a single currency, with the euro already being used in twelve Member States.

6.1.1 However, such advances have only been made very gradually and are accompanied by series delays as regards a common identity in other, often closely related, fields. To put this right, the subsidiarity concept should be defined not in a systematically downward graduation, but in a way that is adapted to the case under consideration, which may often call for European intervention.

6.1.2 In this spirit, initiatives with a strong identity content should be promoted, such as: giving priority to the financing of major European projects, investing in ambitious European education and training programmes, including a non-military European voluntary service scheme for young people, getting celebrities to talk about their sense of having a 'European' identity, investing too in ambitious European cultural and media programmes, with a common statute for foundations and sponsors, pursuing particular progress in economic and social integration on the scale of the eurozone. Decisions of major political significance should also be adopted, such as holding the European Parliament elections on the same day, having official celebrations to mark Europe Day or implementing right now the European right of popular initiative. These various recommendations are developed below.

6.2 The paucity of European budget resources should be one more reason to devote a bigger share to financing authentic European projects.

6.2.1 Such financing should particularly benefit frontier regions, which are the 'glue that binds Europe' and which, more than any others, have their cohesion affected by the lack of harmonisation between Member States. Socio-professional interests in these cross-border regions should themselves be given a key role in designing and operating such cross-border programmes. They should be given a significant percentage of the EU budget, which should be increased over several years. In particular, the EURES programme should be given increased budgetary appropriations and its activities should be reported in regional publications and by regional radio and TV stations.

6.2.2 Such EU funding, with effective support from public/private partnerships, should also promote the development of trans-European networks (transport, energy, telecommunications) to serve a more efficient and better connected Europe. However, the current trend is against this, such as shown by the decision of the European Council of December 2005 to cut by half the 2007-2013 envelope initially proposed by the Commission for such networks, although these cuts were offset slightly by a later arrangement with the European Parliament.

6.2.3 More major industrial and technological European projects should be developed through the Community budget or with special contributions from the Member States wishing to take part in them. The successes already achieved in the aerospace industry show the way ahead. Such successes consolidate the image of Europe and a common sense of belonging a great deal in public opinion, while at the same time strengthening competitiveness. There is still huge scope for industrial and technological integration and cooperation, particularly in the defence and security sector.

6.3 Ambitious initiatives should also be undertaken to consolidate European citizenship through education and training, not least about Europe.

6.3.1 A common European core should be ensured at all levels of education: primary, secondary and university. The learning of languages should be strongly encouraged, on the basis of a common reference of acquisition levels (cf. generalising the Council of Europe initiative setting up a European languages 'portfolio'). Making people more aware of Europe should be done not through lectures but through exchanges, training periods and life experience stays. European twinning schemes and school and university courses should be given priority. Courses in journalism should themselves include a substantial European element.

6.3.2 Young people should be able to carry out a period of attractive and educational non-military European voluntary service on a much broader scale than the initial experiments, which to date have concerned only a few thousand people. Such an opportunity would be a useful complement to the Erasmus and Leonardo student exchange schemes, which have already achieved real success, with several million beneficiaries.

6.3.3 To promote a sense of European identity, celebrities from the world of sport or the arts could be presented in information campaigns as authentic 'Europeans', using their personality to highlight this expression of identity.

6.4 Similarly, one should also promote ambitious initiatives to develop European culture and promote its dissemination in the media.

6.4.1 Better use should be made of the richness of European culture to emphasise both the strength of its common core and the great diversity of ways to express it. The use of subtitled original versions of films, works and broadcasts from other Member States should be promoted, as this would make it easier for Europeans to acquire and maintain a knowledge of languages other than their own.

6.4.2 The European Union should encourage the setting-up of a European film school and promote its own prizes, like the Oscars, to reward its best creative people and artists.

6.4.3 The success of an ambitious European cultural programme with many economic and social effects itself would be greatly facilitated by a joint promotion of foundations and sponsoring. The development of an attractive European statute in these areas would contribute directly towards intensifying such cooperation.

6.5 Finally, special thought should be given to the euro. At the moment the states which have adopted the euro seem to feel that they have arrived somewhere, rather than that they have started out on something. Citizens in the eurozone could ask themselves questions about such an attitude.

6.5.1 In the economic field, just what are these states waiting for to consolidate their integration, step up financial trade and start moving towards better tax harmonisation? Why is the Eurogroup, which brings together the twelve finance ministers, still so far today from setting up an embryonic economic government of the eurozone vis-à-vis an already federal European Central Bank? Why is no thought being given to having a single economic and financial representation of the euro states

(in the IMF, G7, etc.) to provide greater weight vis-à-vis the dollar in particular? Why have the euro states not already started close mutual cooperation on their respective budgets?

6.5.2 As the need for a more effective and convergent implementation of the Lisbon strategy is growing, why is the Eurogroup still limited to the ministers for economic affairs and finance, and why has it not created an equivalent for social affairs ministers? With such a dual structure economy-finance and social affairs, to which the ministers for industry could also be added, could the Eurogroup not develop more effective approaches on economic and social reforms, set an example in promoting research and implementing the Community patent, and submit a joint report on the implementation of the Lisbon strategy in addition to the national reports?

6.5.3 The citizens of the eurozone states should be consulted and closely involved in such choices, particularly through their representative associations. They should also be encouraged to develop their own initiatives on a eurozone scale. By doing so, the eurozone, as a laboratory for greater economic and social integration, would also become the laboratory for a more concrete European citizenship.

6.5.4 Obviously, at the same time care should be taken not to harm EU cohesion as a whole: those states which do not use the euro should be properly informed, consulted and, as far as possible, involved in this increased cooperation, which they will have to practise fully in any case as soon as they adopt the euro.

6.6 At the purely political level, certain measures would definitely help moves towards a more visible and effective European citizenship, such as:

6.6.1 choosing the same day for the direct elections to the European Parliament: the genuine European electoral evening which would follow would give a whole new dimension to the debates, remarks and comments which would be made; it would place political issues in their true European context, instead of limiting them, completely wrongly, to their national context, which is largely the case at the moment;

6.6.2 holding dazzling official celebrations to mark Europe Day on 9 May, which would be worth making a public holiday throughout Europe; if the Member States so chose, this could replace another date that had hitherto been a public holiday; it should be marked by cultural and other events and programmes with a distinctly European theme;

6.6.3 enacting a European right of popular initiative pending fulfilment of the provisions laid down in the Constitutional Treaty (one million signatures gathered in several Member States); the European Commission could pledge right now to examine and, if necessary, pass on any popular initiative proposal that had achieved such a threshold; it could also undertake to explain publicly exactly why it might decide not to follow up such an initiative.

7. Conclusions

7.1 When all is said and done, after all the declarations and charters, a more visible and effective European citizenship is not laid down by decree. It is deserved and it is exercised. It evolves and is a driving force. It will only be consolidated by standing up for itself. And it is only by developing a 'horizontal' participatory dimension to European integration that European citizenship will ensure that the 'vertical' dimension of this construction is fully accepted and will last.

7.2 Such an active European citizenship today needs tools that are operational, and not simply empty words; up to now,

such tools have too often been lacking. Europeans should now be given the tools that they expect and which they will be able to put to good use. No-one doubts that they will then manage to give Europe a new identity, a new dynamism, competitiveness and cohesion that the Member States are struggling to provide it with today.

7.3 To follow up these recommendations and help promote real progress for EU citizens, the EESC should set up a permanent 'Active European Citizenship' group. The key aims of this group should be to:

- follow the development of progress and delays in this field;
- promote public dialogue with civil society players; and
- encourage initiatives and best practices and make them better known.

7.4 To mark and direct the launch of such a follow-up, a symposium on active European citizenship will be organised by the EESC, as already envisaged by it in its previous opinion on the *Active citizenship action programme* ⁽⁶⁾.

Brussels, 14 September 2006.

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

⁽⁶⁾ EESC opinion of 26.10.2005 on the *Proposal for a Decision of the European Parliament and of the Council establishing for the period 2007-2013 the programme 'Citizens for Europe' to promote active European citizenship*, rapporteur: Mr Le Scornet (OJ C 28 of 3.2.2006).

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 A Roadmap for equality between women and men 2006-2010

COM(2006) 92 final

(2006/C 318/29)

On 1 March 2006 the Commission 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 13 July 2006. The rapporteur was Grace Attard.

At its 429th plenary session, held on 13-14 September 2006 (meeting of 13 September 2006), the European Economic and Social Committee adopted the following opinion by 175 votes to 11 with nine abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Commission's political will to keep gender equality high on its agenda for the period 2006-2010. It appreciates President Barroso's personal commitment to its adoption and agrees with the importance of involving all stakeholders in the implementation of its priorities.

1.2 *The EESC:*

- acknowledges that common priorities in the coordination of employment policies are necessary to increase the female participation rate;
- finds that national governments, national equality bodies and the social partners of all Member States have a clear obligation to ensure that the pay systems they put in place do not lead to pay discrimination between women and men;
- recommends that with regard to women entrepreneurs, strategies should aim at improving women's access to bank credits and bank services;
- recommends that the national curricula should include entrepreneurship education at secondary and tertiary levels, especially among females, and that measures be taken to make more women graduate in scientific/technical disciplines in order to address the employment gender gaps that exist in technical areas like engineering and ICT-related services;
- proposes that strategies with regard to gender equality in social protection and the fight against poverty should be stepped up to ensure that taxation and social security systems address the needs of women at risk of poverty, particularly single mothers; there should also be concrete policy proposals aimed at encouraging single parents to

develop marketable skills and to facilitate their access to employment;

- believes that the national strategies for health and long term care should include integrated policies that address women health standards at work;
- calls for increased consideration, investigation and analysis of the impact of the demands for caring for others and the resulting drain on women's physical and mental health;
- submits that the open method of coordination should be applied to the field of health care and incorporate gender equality objectives;
- acknowledges the phenomenon of feminisation of migration and recommends that gender equality be fully mainstreamed into EU policy and actions at each stage of the migration process;
- recognises the importance of developing measures, including the setting of precise targets and indicators, to ensure the provision of care for children as well as for dependent elderly and disabled;
- recommends the introduction of targets and deadlines in order to increase female participation in all forms of decision-making;
- recommends the development of a European Action Plan on Violence Against Women;
- calls for Member States to ensure that measures are implemented in order to grant victims of trafficking for sexual exploitation increased rights and support;
- recommends the development of pan-European awareness actions on zero-tolerance for sexist insults and degrading images of women in the media;

- finds that Member States should ensure that audiovisual commercial communications do not include any discrimination on grounds of race, sex or nationality, as recommended in the Directive proposed by the Commission on the coordination of certain provisions concerning the pursuit of television broadcasting services ⁽¹⁾;
- recommends the introduction of gender training modules in media-training institutions and strong mechanisms aimed at gender balance at all decision-making levels within the media industry;
- recommends that the EU in the context of the EU Development Policy women should have adequate access to EU financial assistance channelled particularly through national projects carried out by women's organisations;
- calls for the European Commission Humanitarian Aid (ECHO) policy to prioritise aid and financial assistance for women in gender-based violence perpetrated during conflicts;
- believes that improving governance for gender equality is crucial to the success of the Roadmap; it recommends the strengthening of mechanisms for dialogue and consultation with organised civil society, in particular with women's organisations at national level;
- calls for the setting-up of a Gender Budgeting Working Group within the Commission's DG Budget and the carrying-out of a separate gender impact assessment of the EU budget on an annual basis.

2. Reasons

2.1 Gist of the Commission Communication

2.1.1 The EU has made significant progress in achieving gender equality, thanks to equal treatment legislation, gender mainstreaming, specific measures for the advancement of women, action programmes, social dialogue and dialogue with civil society. Nevertheless, inequalities remain and may widen, as increased global economic competition requires a more flexible and mobile labour force. This can impact more on women, who are often obliged to choose between having children or a career, due to the lack of flexible working arrangements and care services, the persistence of gender stereotypes, and an unequal share of family responsibilities with men.

⁽¹⁾ Proposal for a Directive of the European Parliament and of the Council amending Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (COM(2005) 646 final).
URL: http://ec.europa.eu/comm/avpolicy/docs/reg/modernisation/proposal_2005/com2005-646-final-en.pdf.

2.1.2 The Commission's roadmap outlines six priority areas for EU action on gender equality for the period 2006-2010:

- equal economic independence for women and men;
- reconciliation of private and professional life;
- equal representation in decision-making;
- eradication of all forms of gender-based violence;
- elimination of gender stereotypes;
- promotion of gender equality in external and development policies.

For each area, priority objectives and actions are identified. The Commission cannot achieve these objectives alone, as in many areas the centre of gravity for action lies at Member State level. Thus, the roadmap represents the Commission's commitment to driving the gender equality agenda forward, reinforcing partnership with the Member States and other actors.

2.1.3 In order to improve governance for gender equality, the Commission also sets out a number of key actions and commits itself to monitor progress closely.

2.2 General comments

2.2.1 The EESC welcomes the Commission's political will to keep gender equality high on its agenda for the period 2006-2010. It appreciates President Barroso's personal commitment to its adoption and agrees with the importance of involving all stakeholders in the implementation of its priorities.

2.2.2 Gender equality is a fundamental right, a value common to both the EU and its Member States and a necessary condition for the achievement of the EU's objectives of growth, employment and social cohesion, which also constitute the main bulwarks of the Lisbon Agenda. The EESC supports the Roadmap's strategy based on the dual approach of gender equality mainstreaming and specific actions.

2.2.3 Progress made by women, including in key areas such as education and research, are not fully reflected in women's position in the labour market. The EU simply cannot afford not to maximise on its human capital. At the same time, demographic change leading to low birth rates and a shrinking workforce are challenges that threaten the EU's political and economic role.

2.2.4 The EESC also welcomes the Commission's objective to address and eliminate gender-based violence and trafficking. These are barriers to the achievement of gender equality and a violation of women's human rights.

2.2.5 Moreover, the EESC supports the Commission's commitment to address global challenges and to safeguard and integrate women's human rights into all relevant EU external policies, actions and programmes.

2.3 *Specific comments to Part I: Priority Areas of Action for Gender Equality*

2.3.1 Success in tackling the priority areas identified by the Roadmap requires integrated strategies as well as ensuring that gender equality is explicitly addressed and included in all policies, at the appropriate EU and national levels. EU mechanisms and resources need to be strengthened to ensure effective gender mainstreaming at national level, as set out in the Gender Equality Pact agreed upon in the Spring Council 2006.

2.3.2 Concrete monitoring of the Roadmap needs to be done in cooperation with the Member States. Although indicators to monitor progress already exist, it is important to develop comparable data at EU level.

2.3.3 Achieving Equal Economic Independence for Women and Men

2.3.3.1 Reaching the Lisbon employment targets

2.3.3.1.1 The Lisbon employment targets call for a 60 % employment rate for women by 2010. Despite the commitments undertaken by the Member States with regard to the Lisbon Strategy, the Growth and Jobs Agenda and the existence of a binding set of EU rules concerning gender equality in employment, serious gender gaps still remain. There is a lower employment rate for women (55.7 % against 70 % for men) which is much lower (31.7 %) for older women between 55 and 64 years of age. Women also have a higher unemployment rate than men (9.7 % against 7.8 %). The gender dimension of the Lisbon strategy for jobs and growth must be strengthened.

2.3.3.1.2 The Commission focuses on compliance with equal treatment legislation, effective use of the new Structural Funds and making work pay in particular through the individualisation of rights linked to tax and benefit systems. The

EESC welcomes the setting up of the European Institute for Gender Equality, however adequate human and financial resources are necessary for its effective functioning ⁽²⁾.

2.3.3.1.3 The Committee acknowledges that common priorities in the co-ordination of employment policies are necessary to increase the female participation rate. In assessing National Reform Programmes, the Commission needs to ensure that gender gaps are given priority and that the necessary action is taken.

2.3.3.1.4 The EESC believes that national governments, national equality bodies and the social partners of all Member States have a clear obligation to ensure that the pay systems they put in place do not lead to pay discrimination between women and men.

2.3.3.1.5 The Committee is concerned that certain new form of work organisation can result in exploitation of workers and in precarious jobs often carried out by women, and firmly believes that a balance should be struck between flexibility and security.

The EESC believes that gender based reliable and comparable data relating to obstacles to employment for women with disabilities is crucial for their integration in the labour market.

2.3.3.2 Eliminating the gender pay gap

2.3.3.2.1 Despite EU legislation on equal pay, women earn an EU average of 15 % less than men ⁽³⁾ and this gap is decreasing at a much slower pace than the gender employment gap. Its persistence results from direct and indirect discrimination against women and structural inequalities, such as segregation in sectors, occupations and work patterns, career breaks for child and other family care, access to education and training, biased evaluation and pay systems and stereotypes. Technical, human and financial resources are not necessarily available in all Member States.

2.3.3.2.2 In its forthcoming communication on the gender pay gap and the involvement of social partners, the Commission should ensure that there is greater consistency in national legal provisions on equality rights, together with ease of access to avenues of redress.

⁽²⁾ EESC opinion of 28.9.2005 on the 'Creation of a European Institute for Gender Equality', rapporteur: Ms Štečková (OJ C 24, 31.1.2006, pp. 29-33).
URL: <http://eur-lex.europa.eu/JOHtm1.do?textfield2=24&year=2006&-Submit=Search&serie=C>.

⁽³⁾ Unadjusted gap.

2.3.3.3 Women entrepreneurs

2.3.3.3.1 Women constitute on average 30 % of entrepreneurs in the EU. They often face greater difficulties than men in starting up business and in accessing finance and training. The EU Entrepreneurship Action Plan needs to be further implemented and made more gender-sensitive. Promoting entrepreneurship, information and initial support to facilitate the creation and development of new firms using a variety of techniques including easier access to finance for start-ups are necessary. Strategies should improve access of women to bank credits and bank services. Furthermore, female entrepreneurs should be enabled to network with financial institutions in order to create tailor-made support packages, particularly with regard to micro-financing.

2.3.3.3.2 The national curricula should include entrepreneurship education at secondary and tertiary levels, especially among females to promote a culture of women's participation in setting up of innovative ideas in this area. However, not all women want to be self-employed. National curricula should, therefore, also inform students on their rights relating to employment and encourage them to take up work in 'non-traditional' sectors.

2.3.3.3.3 A specific, but integrated female entrepreneurship policy would serve in particular to address the employment gender gaps that exist in technical areas like engineering, ICT-related services and skilled jobs.

2.3.3.4 Gender Equality in social protection and the fight against poverty

2.3.3.4.1 Social protection systems should remove any disincentives for women and men to enter and remain in the labour market, allowing them to accumulate individual pension entitlements. Women should be able to benefit from pension rights and alternative models should be found to guarantee entitlement for women. Women are still more likely to have shorter or interrupted careers and therefore fewer rights than men. This increases the risk of poverty, especially for single parents, older women or women working in family-based business such as agriculture and fisheries and the retail and manufacturing sectors. Member States should also ensure the protection of migrant women from exploitation in these sectors.

2.3.3.4.2 Strategies should be stepped up to ensure that women at risk of poverty whether in the labour market or not develop marketable skills that will guarantee their future financial independence ⁽⁴⁾.

⁽⁴⁾ EESC opinion of 29.9.2005 on 'Poverty among women in Europe', rapporteur: Ms King (OJ C 24 of 31.1.2006, pp. 95-101).
URL: <http://eur-lex.europa.eu/OJHtml.do?textfield2=24&year=2006&Submit=Search&serie=C>.

2.3.3.4.3 The EESC proposes that strategies with regard to gender equality in social protection and the fight against poverty should be stepped up to ensure that taxation and social security systems address the needs of women at risk of poverty, particularly single mothers. There should also be concrete policy proposals aimed at encouraging single parents to develop marketable skills and to facilitate their access to employment. In particular, there is the need to overhaul the current low differentials between unemployment benefits plus supplementary allowances for dependents and the national minimum wage which is felt more acutely in some Member States.

2.3.3.4.4 In practice, the enhancement of work attractiveness should not be limited exclusively to the remuneration package but also to other non-fiscal incentives such as job flexibility and training opportunities for low-skilled workers. Adequately subsidised childcare facilities for those families — whether one- or two-parent families — at risk of poverty with two and more offspring should be provided.

2.3.3.4.5 The risk of poverty is highest among single parent households (35 % of the EU average), 85 % of which are headed by women. Women aged over 65 years are also at high risk of poverty. Low-skilled women are at risk of being forced out of work before retirement age.

2.3.3.5 Recognising the gender dimension in health

2.3.3.5.1 Women and men are confronted with specific health risks, diseases, issues and practices impacting on their health. This includes environmental issues such as chemicals, as tackled by the REACH proposal, and pesticides that are often transmitted through breast feeding. Current medical research and health and safety standards relate more to male-dominated work areas. Knowledge and research in this field and statistics and indicators should be further developed from the female perspective also.

2.3.3.5.2 In the context of action to improve women's occupational health and safety in areas where women are most numerous, the national strategies for health and long term care should include integrated policies that address health standards at work for women farmers and the health of women in farming families generally, as well as repetitive strain in industry. This should also include information and education for empowerment.

2.3.3.5.3 Furthermore, the EESC also calls for increased consideration, investigation and analysis of the impact of the demands for caring for others and the resulting drain on women's physical and mental health.

2.3.3.5.4 The EESC agrees with the EU gender equality objectives and submits that the Open Method of Coordination should be applied to the field of health care and incorporate gender equality objectives and include the strengthening of preventive programmes. In addition, there is the need to intensify gender-sensitive initiatives that address sexually transmitted diseases (including HIV/AIDS) and sexual and reproductive health issues.

2.3.3.6 Combating multiple discrimination, in particular against immigrant and ethnic minority women

2.3.3.6.1 Women members of disadvantaged groups are often worse off than their male counterparts. They often suffer from multiple discrimination. The promotion of gender equality in migration and integration policies is necessary to ensure women's rights and civic participation to fully use their employment potential and to improve their access to education and training.

2.3.3.6.2 The EESC regrets that The Hague Objectives, adopted by the European Council to be implemented in the area of Freedom, Security and Justice during 2005-2010, do not address the specific situation of migrant women. It acknowledges the phenomenon of feminisation of migration and recommends that gender be fully mainstreamed into EU policy and actions at each stage of the migration process, in particular at the stage of admission and integration into host societies.

2.3.3.6.3 Transposition and implementation of existing asylum-related instruments, in particular temporary protection and minimum standards for reception conditions, are consistent with the obligations stemming from international conventions on human rights and the 1951 Geneva Convention. Moreover, asylum policies should reflect the nature of gender-based persecution of women who flee their country for this reason.

2.3.3.7 The key actions set out by the Commission in this area

2.3.3.7.1 The EESC endorses the key actions set out by the Commission, in particular where it gives priority to monitoring and strengthening gender mainstreaming. It agrees with the initiatives to streamline the open method of coordination covering, inter alia, pensions, social inclusion, health and long term care. The main focus here must be on promoting equality between men and women ⁽³⁾.

⁽³⁾ Please see point 5.2.2 of the EESC opinion of 20 April 2006 on the Strategy for open coordination on social protection; rapporteur: Mr Olsson (OJ C 185 of 8.8.2006, p. 87).
URL: <http://eur-lex.europa.eu/jOIndex.do?year=2006&serie=C&textfield2=185&Submit=Search>.

2.3.4 Enhancing Reconciliation of Work, Private and Family Life

2.3.4.1 The EESC recognises the importance of developing measures, including the setting of precise targets and indicators, to ensure the provision of childcare facilities from birth to mandatory school age and affordable and accessible care services for other dependent persons, as this impinges directly on female participation in paid work. After-school services for children throughout their school life, matching the parents' working hours should, also be introduced.

2.3.4.2 The EESC agrees with the importance of striking a balance between personal and professional life and acknowledges that the benefits of flexible working arrangements are still not as widely resorted to as they should be. The Committee is concerned that certain new forms of work organisation can result in exploitation of workers and in precarious jobs often carried out by women, and firmly believes that a balance should be struck between flexibility and security.

2.3.4.3 The EU has recognised the importance of achieving a balance in private and working life for women and men ⁽⁴⁾. The gendered division of domestic and caring tasks in the home needs to be changed to achieve an equal sharing between men and women. The role of men within the household needs to be enhanced. Moreover, within the context of the current discussions on the revision of the working time Directive, there is the need to establish working timetables which are socially compatible with family responsibilities.

The EESC recognises the importance of developing measures, including the setting of precise targets and indicators, to ensure the provision of care for children as well as for dependent elderly and disabled.

2.3.5 Promoting Equal Participation of Women and Men in Decision-Making

2.3.5.1 The under-representation of women in politics, economic decision-making and in science and technology is still not being effectively dealt with. The proposed key actions of the Commission aim to address this undemocratic situation. However, commitment by Member states to take the necessary measures is still very weak. Segregation is visible in both the public and private sectors. Women are under-represented in top level and decision-making posts in both the public and private sector.

⁽⁴⁾ Resolution of the Council and of the ministers for employment and social policy of 29 June 2000 on the balanced participation of women and men in family and working life (2000/C 218/02).
URL: http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/c_218/c_21820000731en00050007.pdf.

2.3.5.2 The Committee is therefore recommending the introduction of targets and deadlines for the attainment of equity in order to increase female participation in all forms of decision-making, since it believes that these could effectively boost the representation of women in political leadership, economic decision-making, science and technology.

2.3.5.3 Furthermore, all European institutions should effectively implement positive action measures at all levels where women are under-represented in decision-making in accordance with Article 1d (77) 96 of the Staff Regulations of Officials of the European Communities of 1.5.2004 (7). The outcome of such positive action measures should be regularly monitored and published.

2.3.6 Eradicating Gender-based Violence and Trafficking

2.3.6.1 The Commission is committed to combat all forms of violence. Women are the main victims of gender-based violence. The EESC has recently addressed this issue in an own-initiative opinion on domestic violence against women (8). Domestic violence against women hinders their social inclusion and in particular their inclusion in the labour market, resulting in marginalisation, poverty and financial and material dependency. There is the need for the development of a European Action Plan on Violence against Women.

2.3.6.2 Trafficking in human beings cannot be dealt with on its own. It is an integral component of organised crime and requires the cooperation of all Member States for a more consistent security policy and a common legal framework to be able to operate effectively in this field. The Hague programme (9) and the United Nations Convention against Transnational Organised Crime (10) define the objectives of the EU in this area. The EESC has adopted an opinion, which stresses the importance of an effective security protecting citizens in a free and open society within a framework of justice under the rule of law (11).

(7) See: http://www.europa.eu.int/comm/dgs/personnel_administration/statut/tocen100.pdf.

(8) EESC opinion of 16.3.2006 on 'Domestic violence against women', rapporteur: Ms Heinisch (OJ C 110 of 9.5.2006, p. 89). URL: <http://eur-lex.europa.eu/JOIIndex.do?year=2006&serie=C&text-field2=110&Submit=Search>.

(9) See http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/index_en.htm.

(10) See http://www.unodc.org/unodc/crime_cicp_convention.html.

(11) EESC opinion of 15.12.2005 on the 'Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years — the Partnership for renewal in the field of Freedom, Security and Justice', rapporteur: Mr Pariza-Castaños (OJ C 65 of 17.3.2006, pp. 120-130). URL: <http://eur-lex.europa.eu/JOIIndex.do?year=2006&serie=C&text-field2=65&Submit=Search>.

2.3.6.3 Trafficked women should not be subjected to involuntary deportation, as they may be in danger from traffickers in their home countries if they are forced to return. Instead they should be granted right of residence in the country to which they have been brought, with due safeguards against possible abuse of such a right being introduced.

2.3.6.4 The Committee calls for Member States to insure that measures are implemented in order to grant women victims of trafficking for sexual exploitation increased rights and support. There is the need to address the escalating demand for sexual services by increasing awareness campaign especially targeting clients. This should be part of a wider educational initiative to expand people's access to alternative jobs and finance.

2.3.6.5 Consideration should be given by Member States to the criminalisation of the buying of sexual services or, at the very least, to the greater protection of trafficked or otherwise unwilling participants in the sex trade.

2.3.7 Eliminating Gender Stereotypes in Society

2.3.7.1 The EESC agrees with the Commission that the media play a key role in forming attitudes and behaviour. The proposed actions covering the elimination of gender stereotypes in education, in the labour market and in the media deal with these issues and provide direction for Member States.

2.3.7.2 While acknowledging that, in the case of women, access to the media and especially to decision-making positions in the media is still lacking, the EESC agrees that policies need to be formulated in relation to gender equality and the media. The EESC therefore recommends:

- (a) The development of pan-European awareness actions on zero-tolerance for sexist insults and degrading images of women in the media.
- (b) As recommended in the Directive proposed by the Commission on the coordination of certain provisions concerning the pursuit of television broadcasting services, Member States should ensure that audiovisual commercial communications do not include any discrimination on grounds of race, sex or nationality (12).
- (c) Encouraging the introduction of gender training modules in media-training institutions, while developing strong mechanisms aimed at gender balance at all decision-making levels within the media industry.

(12) COM(2005) 646 final. See footnote 2.

(d) The development of public broadcasting as an independent media tool with a public service mission to safeguard human rights and gender equality.

2.3.7.3 The EESC agrees with the proposed action to raise awareness through the Commission's plan for 'Democracy, Dialogue and Debate' ⁽¹³⁾ ('Plan D'), as well as the activities related thereto that are organised by its respective Representation Offices in the Member States.

2.3.8 Promoting Gender Equality outside the EU

2.3.8.1 The EESC supports the Commission's role in advancing women's rights in an international context.

2.3.8.2 EU external and development policies must reflect the fact that women play a key role in the elimination of poverty, and that their economic, educational, political and sexual empowerment affects not only them, but their families and the community.

2.3.8.3 The EU must, furthermore, guarantee that women's needs and perspectives are mainstreamed and monitored, at both national and EU level, and ensure that women have adequate access to EU financial assistance in the context of the EU Development Aid Policy.

2.3.8.4 In situations of crisis intervention, there is the need to mainstream a gender perspective in the European Security and Defence Policy (ESDP) in line with UN Resolution 1325 ⁽¹⁴⁾ and the European Resolution on the participation of women in peaceful conflict resolution of November 2000.

2.3.8.5 The European Commission Humanitarian Aid (ECHO) policy should prioritise aid and financial assistance for women in gender-based violence perpetrated during conflicts periods and to seek redress through the mechanisms of international law in the aftermath of armed conflict.

Brussels, 13 September 2006.

2.4 Part II: Improving Governance for Gender Equality

2.4.1 Gender equality can only be achieved with a clear commitment at the highest political level. The Commission promotes gender equality within its own ranks ⁽¹⁵⁾ and supports a number of structures working on gender issues, which have led to significant progress. However, major progress still has to be achieved in the key areas identified in the Roadmap and this requires better governance at all levels: EU institutions, Member States, parliaments, social partners and civil society. At national level, the support of gender equality Ministers is essential.

2.4.2 The EESC recommends the reinforcement of existing structures at Commission level to promote gender equality, through improved consistency and networking systems, as well as the strengthening of mechanisms for dialogue and consultation with organised civil society. There should be more support with and recognition of women's organisations at national level, as well as enhanced synergies based on the principle of participative democracy.

2.4.3 Furthermore, the EESC advocates the setting up of mandatory gender mainstreaming and gender awareness training within the EU's institutional set-up.

2.4.4 The EESC also recommends the setting up of a Gender Budgeting Working Group within the Commission's DG Budget and the carrying out of a separate gender impact assessment of the EU budget on an annual basis.

2.4.5 The EESC believes that monitoring progress in the implementation is crucial to ensure that the objectives set out in the Roadmap are reached. The mid-term review to be carried out in 2008 should also serve to further develop appropriate measures, if necessary, other than those in the policy areas so far identified, leading up to 2010 and the follow-up of this Roadmap.

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

⁽¹³⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — The Commission's contribution to the period of reflection and beyond: Plan-D for Democracy, Dialogue and Debate (COM(2005) 494 final).
URL: http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0494en01.pdf.

⁽¹⁴⁾ See <http://www.peacewomen.org/un/sc/1325.html> (adopted on 31 October 2000).

⁽¹⁵⁾ Annex III to the Communication.

Opinion of the European Economic and Social Committee on Pan-European transport corridors 2004-2006

(2006/C 318/30)

On 16 December 2004, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Pan-European transport corridors 2004-2006*.

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 4 September 2006. The rapporteur was Ms Alleweldt.

At its 429th plenary session, held on 13/14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 192 votes to four with ten abstentions:

1. Aims of the permanent study group

1.1 Since the beginnings of the pan-European transport policy in 1991, which laid the foundations for planning the major corridor links, the EESC has worked actively and with great conviction on this policy of promoting cohesion beyond the EU's external borders. In 2003 a brochure ⁽¹⁾ was published on the work undertaken over the previous ten years. Since then, a permanent study group has been working continuously on this issue. The last opinion ⁽²⁾ covered the 2002 — 2004 reporting period. The present opinion looks at developments up to mid-2006.

1.2 The aim of the permanent study group is to tie in the creation of a common pan-European transport infrastructure with the pursuit of a policy for a sustainable, efficient transport system and with cohesion targets, right from the outset and not limited by the EU's borders. In doing so, social, economic, operational, environmental, security policy and regional issues need to be taken into consideration, and the corresponding interest groups involved. The permanent study group wishes to make its own contribution to this through its practical work in the field. The opinion presented here is a report on the activities carried out and experience gathered in the 2004-2006 period. It also offers an assessment of the political changes that have taken place in this area.

2. Conclusions

2.1 The link between transport infrastructure development on the one hand, and the implementation of the key transport policy objectives and operational issues on the other, is at the heart of the EESC initiative and has lost none of its relevance and urgency. Although it has been asserted regularly and often at political level that such a link would be established, progress has been very modest because no specific implementation method for doing so has been developed. The hope that transport policy aims would almost automatically tie in with continued infrastructure development has not materialised over the past years. Here, a key role could fall to the regions, where all issues come together in practice and where an understanding

of the pan-European context is particularly necessary. Hence, leading by example, the permanent study group held a regional conference in North-east Poland to illustrate the importance of taking into consideration the effects planned trunk routes would have on regions. European policy must take on more responsibility here. It will not be enough to consider only the central trunk routes as a European task.

2.2 In the past two years much has been done to adapt European infrastructure planning to the new political circumstances. Within the EU new priority projects have been launched, new central trunk routes with neighbouring states identified, and an initiative with the Western Balkans further developed. In principle, the EESC considers these new initiatives to have been a success. It particularly welcomes the fact that the task of establishing links with neighbouring states has been taken seriously. At the same time, however, these new initiatives have remained rooted in old concepts: the focus is virtually exclusively on the planning of transport routes, with little or no attention paid to questions of intermodality and environmental impact, or to local economic and social interests.. The EESC considers this highly regrettable.

2.3 One of the reasons for revising infrastructure planning at European level was that only very slow progress was being made with implementation; this was often due to lack of funds. Hence, concentrating on just a few projects became the main priority. The EESC feels that European subsidies must also be increased, and has already made suggestions elsewhere on the possibility of additional funding. At the very least, the 20 % co-financing available through EU funds for projects within the EU should be better exploited. Also, with increased subsidies, the conditions stipulated for infrastructure projects, for example, environmental, intermodal and security projects, can and must be formulated in a more binding way.

2.4 The EESC advocates finding more common ground between the cross-border bodies set up by national transport ministries in the Member States (such as the steering committees for the corridors) and those set up by the Commission in

⁽¹⁾ EESC: Ten years of pan-European transport policy, 2003.

⁽²⁾ Committee opinion on The Pan-European Transport Corridors, OJ No. C 120 of 20.5.2005, p.17.

this field. Coordination alone will not suffice, or will mean losing out on important opportunities to make progress with practical policies. It is becoming increasingly difficult to ascertain who has what responsibilities for achieving overall transport policy aims. The first three pan-European transport conferences in 1991, 1994 and 1997 provided important guidelines. The 1997 Declaration of Helsinki still provides an excellent basis for cooperation thanks to its comprehensive nature. At the time the intention was to regularly assess progress made. Today almost the only thing being assessed is the completion of construction work.

2.5 The EESC conference in Bialystok was a great success ⁽³⁾. Not only did it bring Europe to the region, it also conveyed local people's expectations regarding an effective pan-European transport policy. The EESC will focus its future activities in this field on its capacity to provide such an impetus. It would also be useful to continue to work closely with the steering committees for the corridors, the South East Europe Transport Observatory (SEETO) and, of course, the Commission, as part of ongoing coordination work. It is important, in future, to study and evaluate not only regional approaches, but also transport-mode-related issues along trunk routes and priority projects within the TEN-T network.

3. A new context for pan-European transport policy

3.1 Major developments have taken place in Europe over the last two years. In May 2004, ten new Member States joined the European Union. Europe has renewed and strengthened its commitment towards the Western Balkan countries and it has developed a new Neighbourhood Policy. The Commission's initiative to recast trans-European networks and press ahead with the development of the corridors was, on the one hand, directed inwards, as it reflected the 2004 enlargement and also brought some of the experience gained with the corridors to bear in the TEN-T policy within the EU ⁽⁴⁾. On the other hand, it was also a matter of extending the key transport routes in line with — and indeed also going beyond the scope of — the new European neighbourhood policy.

3.2 In 2002 the European Commission reviewed the state of implementation of the TEN-T network and pan-European corridors. The findings generally pointed towards serious delays in the upgrading of the major axes. A new approach was taken, with more clearly identified priorities and fuller commitment in relation to the countries concerned. As a result, three different regions have been identified: the European Union in its future shape of 27 Member States, the Western Balkans ⁽⁵⁾ and the remaining countries and regions bordering the EU 27. In each of the three cases high level groups were commissioned by the European Commission to recommend priority projects or axes, implementation measures and monitoring mechanisms.

⁽³⁾ The report on the conference can be found in Appendix I.

⁽⁴⁾ Based on the expert group headed by Karel van Miert, which submitted its report in June 2003.

⁽⁵⁾ For reasons to do with policy coherence, Western Balkans is occasionally dealt with as part of South East Europe, which practically include — apart from the former Yugoslavia — Romania, Bulgaria and even more occasionally Turkey and Republic of Moldova.

3.3 The first exercise of this kind was carried out for the EU 27 by the High Level Group coordinated by Karel Van Miert (2002-2003). Three quarters (3/4) of the pan-European corridors fell under scrutiny and the Group came up with 30 transport infrastructure projects, to cover both the 'old' and 'new' Member States, that represented the priorities for **the EU 27 Trans-European Transport Networks (TEN-T)**. Apart from this, the Group recommended *inter alia* new financial and legislative provisions to support the implementation of the TEN-T, new project-based coordination mechanisms. The High Level Group recommendations led to the revision of the TEN-T guidelines in April 2004.

3.4 The Western Balkans has offered a less homogenous base for regional policy making than the EU 27: the diversity in the status of the countries vis-à-vis the EU, the intra-regional relations, as well as the dynamics in the relations with the EU, has led to continual policy adjustments. The past conflict left the Balkans in deep need of stability — economic, social and political — and therefore in even greater need of external assistance. To this extent, the regional approach towards the Western Balkans has a particular added value. The EU has been a fervent adept of this approach not only in the transport sector but also in the efforts to set up a common free trade area and a common energy market.

3.4.1 In 2001, the European Commission issued a strategy for regional transport system in South East Europe as a multi-modal transport infrastructure network. The strategy was followed by two studies — TIRS and REBIS ⁽⁶⁾ which defined the CORE network and made recommendations regarding investment and financing. This process created the basis for setting up a Secretariat based in Belgrade, called the South East Europe Transport Observatory (SEETO). SEETO is not only meant to support and coordinate infrastructure development, but also to function as a contact point for queries from social and economic players. This facility is being used more and more. The EESC permanent study group is also expressly mentioned in this context.

3.4.2 The first *Five Year Multi Annual Plan* covering the period 2006 — 2010 was signed in November 2005 and identified approximately 150 projects. Additionally, up to 20 so-called regional 'soft projects' — representing measures to accompany the process of regional networks implementation are listed in the plan. Given the serious financial limitations, the number of priority infrastructure projects has recently been drastically reduced to 22. The process coordinated by SEETO can be compared to the former TINA process in the EU, where the regional network is to be finalised in addition to the main axis/corridors.

⁽⁶⁾ (Regional Balkans Infrastructure Study — Transport).

3.5 The work of the High Level Group (HLG 2) headed by Loyola de Palacio looked at the further development of trunk routes to the EU's neighbouring countries and far beyond. Four land routes and a navigable route were defined (?). These were intended not only to represent the main international links but also to strengthen regional cohesion. The HLG 2 has also put forward various proposals for horizontal measures, such as speeding up border formalities, improving traffic/transport safety, and securing better interoperability in rail transport. The HLG 2 also recommends closer coordination and a more forceful approach by replacing the MoUs with binding agreements. Based on the recommendations, the Commission intends to publish a communication on its plans sometime in July or September. The permanent study group feels the Commission must adequately address horizontal issues.

3.6 The pace of work in the corridors and transport areas has been varied (See Appendix II for details). With the exception of the Barents-Euro-Arctic Region the transport areas have yet to make their mark, a situation which has changed little since the areas were set up in 1997 (at the Helsinki Conference). There has been an increasing trend for cooperation within the corridors to spill over into regional networks as well. The EESC considers this an altogether positive development. Over the last two years, there has still been no progress in terms of financial and technical backing for organisational activity. The Commission has failed to respond to the frequent calls for more support. However, one decisive change is that, given the work of the two high-level groups and the Commission's conclusions, the corridor model has in practice become obsolete. Within the EU, the priorities are determined in line with the 30 TEN projects. Outside the EU, the corridors have been 'replaced' by the five new axes or have been continued under different names. However, there is clearly sufficient reason to press ahead with work on them. The steering committees have established themselves amongst the transport ministries involved as important platforms for contact and cooperation, and they have developed an identity (brand) of their own. They are continuing work on important links which are not covered by any other cross-border initiatives, such as priority TEN projects without designated special coordinators.

3.7 The Commission has stepped up its support for coordination, and the regular meetings held once or twice a year with all corridor chairs and various other leading players provide a key forum for exchange. The EESC is always welcome to

(?) The routes are as follows:

- South-west axis: connecting south-west Europe to the centre of Europe, including Switzerland, and the 'Transmaghreb' axes between Morocco and Egypt.
- South-east axis: connecting the centre of Europe to the Caucasus and the Caspian Sea, as well as the Middle East and Egypt, via the Balkans and Turkey.
- Central axis: connecting the centre of Europe to the Ukraine and the Black Sea, as well as Russia and Siberia.
- North-east axis: connecting the EU to Norway, as well as Russia and Transsiberia.
- Motorways of the sea: connecting the Baltic Sea, the Atlantic Ocean, the Mediterranean and the Black Sea, as well as the coastal countries. Extension to the Suez canal is also planned.

participate and collaborate, and it has noted that this participation is also much appreciated. These meetings do not just involve exchanging information about recent progress in construction plans, but also involve the discussion of fundamental and conceptual issues in the field of pan-European transport infrastructure policy. A number of structural innovations are of relevance here: in order to facilitate implementation of key sections of TEN projects, the Commission has designated special coordinators for six projects (8). Provision has also been made for setting up an agency aimed at improving financing and execution of key projects, not least in view of the higher volumes of funding involved. Finally, there is an ongoing debate on a legally binding form of cross-border cooperation which would go beyond existing MoUs.

4. Organising the work of the permanent study group — activities

4.1 In line with the re-orientation of pan-European transport policy, the permanent study group no longer focuses only on work in the corridors, but also on priority projects within the trans-European transport network (9) as well as recent planning activity by the expert group headed by Loyola de Palacio, such as the idea of a special link between Spain and Africa. In discussions with the appropriate departments of DG TREN, it emerged that EESC input into the socio-economic evaluation of completed or planned TEN projects would be appreciated.

4.2 Around the turn of the year 2004/2005, the Commission began preliminary work on a second expert report headed by Loyola de Palacio. At this early stage, the permanent study group had an opportunity to make its views known on fundamental issues (10). The following observations were made: environmental protection should play a greater role; the requirement for intermodality should be translated more effectively into practice — this could be chosen as a separate evaluation criterion; and there should be more of a focus on links to regional transport networks. Finally, the permanent study group highlighted the importance of horizontal aspects such as harmonising legislation, safety issues, etc., and emphasised that these aspects would have to be discussed more fully and in greater detail if the intention was to push forward implementation of the EU's transport policy objectives. In its written

- (8) I. Berlin-Palermo rail link (Mr van Miert).
- II. Lisbon-Madrid-Tours/Montpellier high-speed rail link (Mr Davignon).
- III. Lyon-Turin-Budapest-Ukrainian border rail link (Ms de Palacio).
- IV. Paris-Bratislava rail link (Mr Balzacs).
- V. 'Rail Baltica' Warsaw-Helsinki rail link (Mr Telicka).
- VI. Rail corridors and the ETRMS (Mr Vinck).

(9) Decision 884/2004/EC of 29 April 2004, OJ 30.4.2004 and 7.7.2004.

(10) Letter to E. Thielmann, DG TREN of 15.12.2004.

reply ⁽¹⁾, the Commission stressed that it would in future, pay closer attention to the call for links to regional transport networks in particular.

4.3 In tandem with the second expert report, the Commission also took stock of work to date in the corridors. The permanent study group also provided a brief assessment, and in particular advocated greater scope for questions of economic and social cohesion and for consultation. The study group felt it was equally important to strengthen the steering committees and ensure that they were more effectively networked to make the arrangements in place more binding and to monitor progress, something which above all falls within the remit of the steering committees themselves. In its evaluation of the questionnaire the Commission drew four important conclusions ⁽²⁾: the corridor concept had proved its worth and would be retained; there was a need to act on operational issues and to take socio-economic factors into account; it was worth monitoring progress more closely, but such monitoring should be based on the specific characteristics of each corridor; the positive impact of the corridors could only be estimated in the long term, but the more binding the nature of the cooperation, the more successful that impact will be.

4.4 Cooperation with the steering committees of the ten transport corridors has continued to be of importance over the past two years. For practical and staffing reasons, active participation in steering committee meetings could not be maintained at the same level as in previous years. However, contacts have always remained in place, not least because the coordination sessions held roughly twice a year in Brussels ensure regular meetings and an exchange of experience. The permanent study group has introduced a system whereby specific responsibility for individual corridors is allocated through an equitable division of the workload. This will, in future, mean more practical commitment and greater continuity in the group's own ranks.

4.5 The opinion on 'The role of railway stations in an enlarged EU' ⁽³⁾ was relatively broad in scope; it was integrated into the work of the permanent study group and adopted in February 2006. European transport policy should pay closer attention to the preservation, use and design of railway stations — particularly from the safety point of view — as shop windows for passenger rail transport and as service centres in the transport network.

4.6 In the period under review, the permanent study group organised two external events: in November 2004, the EESC participated in a memorable train journey along Corridor X,

organised by the 'ARGE Korridor X' cooperative, which ran from Villach in Austria via Zagreb in Croatia to Sarajevo in Bosnia-Herzegovina. This event illustrated the need for more efficient rail links and for cross-border cooperation between the region's railways. To attract the attention of the media, activities were organised at the various stops. The second external event took place in Bialystok, Poland, with the focus on the regional impact of Corridor I planning on nature conservation, safety and the quality of life in north-eastern Poland. In many ways, the Bialystok conference was a definite success and can be seen as the highlight of the permanent study group's work. Evaluation of the event will therefore be included in the next chapter on 'main outcomes'.

5. Main outcomes of work in the 2004-2006 period

5.1 From 15 to 17 November 2005, the permanent study group held a conference with an open hearing in Bialystok, at the invitation of the Marshal of the Podlaskie voivodship. This was accompanied by talks and visits to areas in the vicinity of pan-European transport Corridor I, the 'Via und Rail Baltica'. The aim was to discuss with regional government representatives, the various social and economic interest groups and bodies responsible for transport policy at regional and national level how best to ensure that Corridor I development dovetails with regional interests and the needs of environmental protection. The EESC delegation was accompanied by a representative of the European Commission with special responsibilities for the Rail Baltica. All of the meetings took place in a uniquely hospitable atmosphere. The visit was not only important from the perspective of transport policy, but was also a success for both sides in terms of 'communicating Europe'.

5.1.1 This conference brought diverse stakeholders together: environmentalists, local politicians, railway entrepreneurs, local residents and works council representatives, and in practical terms, it forged a tangible link between the region and the EU/Brussels. It brought home the various ways in which transport corridors have an impact: the strain on people living along transit routes, expectations of an economic upturn resulting from transport links, the weaknesses in public passenger transport and regional rail transport, preservation of the natural assets of the region, concerns about job losses, financial difficulties not to mention the red tape, that could only be recognised as such and overcome by coming together in this way. The lessons of the conference were many-faceted and extremely instructive for all stakeholders, and, ultimately, new approaches for dealing with the problems also emerged.

⁽¹⁾ Letter from E. Thielmann of 21 January 2005.

⁽²⁾ Evaluation presented at the coordination meeting on 21 April 2005 in Brussels.

⁽³⁾ EESC opinion on The role of railway stations in the cities/towns of the enlarged Europe, OJ No. C 88 of 11.4.2006, p. 9.

5.1.2 The Via Baltica in north-eastern Poland can serve as an illustration of the issues to be dealt with in an integrated pan-European transport policy. One of the main problems is congestion in the region from transit traffic and, on the other hand, the urgent need for economic development which is generated by the transport links but not by transit traffic. A second key problem and also the region's main 'asset' is its unique natural environment, which must be protected. Many helpful solutions, which are not even necessarily more expensive, were identified here. It emerged that regional planning had not taken due account of the Rail Baltica, presenting an opportunity for the representative of the EU coordinator to make the case for the rail link. It became clear that only an integrated overall transport strategy in the region could deal with the problems and thus overcome the barriers to planning and implementing the Via Baltica and Rail Baltica. The EESC will continue to support the positive developments which were set in motion at the conference.

5.2 Cross-border cooperation between the transport ministries of the individual states along the 'corridors' will in future be replaced or superseded by the Commission initiative (see section 3). In so doing, it is important to seize this opportunity to pursue closer 'one-stop' coordination, instead of coordinating two parallel processes as has been the case up to now. This

would also improve the basis for the implementation of key transport policy aims. One problem which remains unresolved is how to effectively make cross-border cooperation between EU Member States and third countries more binding. Apart from enhanced contractual relations, the EESC feels that the best way for this to happen is by concentrating available EU funds. For example, there should be a concentration on priority projects even within the priority axes, and full use should be made of possible co-financing of 20 % for projects within the EU. At present, subsidies are barely at the level of 2-5 %.

5.3 Finally, there is the problem of combining infrastructure and operational issues, an area which has always been important for the EESC and one which remains underdeveloped. Although there have been regular and frequent pledges on this issue, little progress has been made due to the lack of a separate implementation procedure in this area. The hope that transport policy objectives would more or less automatically tie in with ongoing infrastructure development has not been fulfilled over the last few years. Transport policy will, unfortunately, no longer be shaped by large conferences, as in the past; in future, the key role should, therefore, be played by regions, where all issues come together in practice and where it is vital to have an understanding of the pan-European context. This observation is borne out by the experience of the Bialystok conference.

Brussels, 13 September 2006.

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

Opinion of the European Economic and Social Committee on The energy supply of the EU: a strategy for an optimal energy mix

(2006/C 318/31)

In a letter dated 29 August 2005, the European Commission asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on: *The energy supply of the EU: a strategy for an optimal energy mix.*

The Section for Transport, Energy, Infrastructure and Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 May 2006. The rapporteur was Ms Sirkeinen.

At its 429th plenary session of 13 and 14 September 2006 (meeting of 13 September 2006) the European Economic and Social Committee adopted the following opinion by 162 votes to 27, with 15 abstentions:

1. Conclusions and recommendations

1.1 The EESC finds that Europe needs to set a strategic goal of a diversified energy mix, meeting optimally economic, security of supply and climate policy objectives. All energy sources and technologies have, in relation to these objectives, benefits and drawbacks, which have to be taken into account in an open and balanced way.

1.2 A diversified mix is needed:

- for **reasonable energy costs** by providing for fuel-to-fuel competition and an optimal overall efficiency in energy systems, in particular electricity. In addition, sources of supply need to be diversified ensuring competition between suppliers;
- for better **security of supply** by providing substitution when delivery problems arise and to increase market power of users;
- for European and even **global solidarity** concerning use of resources and environmental effects.

1.3 **External energy dependence** of the EU area cannot presently be avoided. Political, economical and technical problems may arise from high and increasing dependence on one source of supply, in particular from areas not respecting the same rules of the game or with political unrest, as in the case of oil and gas.

1.4 Coal and uranium are available on the world market from various sources, also within the EU, and thus not giving rise to concern.

1.5 Increased use of **renewables** for electricity production has a potential that needs to be tapped. But even when the target for 2020 of 20 % renewables, proposed by the European Parliament, would be met, it is **not likely that renewables can**

substitute fully the traditional energy sources in the foreseeable future.

1.6 The use of **gas** has increased and still increases for market reasons, but is also driven by political choices. It is now obvious that the continuation of this trend is problematic. For security of supply and cost reasons gas can hardly continue to substitute coal, nor can gas substitute nuclear for reasons of emissions. Voices have also been raised against energy use of the finite supplies of gas, which is a valuable raw material for high added industrial use, as is also oil.

1.7 In the light of the critical debate taking place in many EU Member States, concerns regarding **nuclear** safety, decommissioning and spent fuel, an issue which has still not been resolved in the majority of Member States, particularly as regards final storage, have to be addressed in order to continue and even increase the use of this technology, given its benefits vis-à-vis climate change, low economic external dependence and stable costs. In light of scenarios, in the foreseeable future possible substitution of nuclear power would be difficult to achieve without increased use of fossil fuels.

1.8 The EESC supports a **careful approach to future choices**. It is not wise to assume that the future development is completely predictable and that everything goes in perfect accordance with policy goals or best expectations. Policy choices need to ensure a sufficient supply of energy at reasonable prices also under less beneficial developments. Anything else would be gravely irresponsible.

1.9 **All options have to be kept open.** The scenarios for EU-25 presented in Chapter 4 clearly support this conclusion. Even the scenario based on assumptions of the strongest developments of energy efficiency and increase of renewables do not render any energy technology obsolete without negative impacts on either environment or economy.

1.10 **The present mix should be developed by political strategies towards less external dependence and more non-emitting sources available in Europe**, bearing in mind that market actors make decisions on investments in various technologies.

1.11 **The EESC recommends developing a strategy for an optimal energy mix**. In this context it is important to clarify the roles of the EU, Member States, independent authorities and market actors. Because of a high level of interdependence in energy matters between Member States, a better coordination of energy policy within the EU would increase the ability to react to internal and external problems.

The strategy for an optimal energy mix should consist of the following elements:

1.12 **Energy efficiency, including combined heat and power production**, is the first key answer to the energy policy challenges. Better efficiency does not directly serve a balanced mix, but supports all energy policy targets — competitiveness, security of supply, climate change.

1.13 **Renewable energy sources** have much potential in the EU and need support. Some technologies merely need some efficiency development to be ready for market access, others need more long term R&D. Policies have to be designed carefully so as not to contribute to the already strong push upwards on energy prices.

1.14 Increase carefully, following profound impact assessments, the use of **biofuels for transport**. Firstly, the Directive on the promotion of biofuels in force has to be implemented. ⁽¹⁾

1.15 Enhance **energy efficiency in transport** by a variety of measures (see 6.3.1.5).

1.16 There is an urgent need for even better **nuclear safety** and a solution to the question of **spent fuel**, which is still unresolved in the majority of countries. The responsibility will have to be carried by operators, and the safety authorities and relevant international bodies will have to lay down appropriate requirements. As regards the transport of spent fuels, both EU-rules and international commitments have to be respected.

1.17 Put serious efforts into **clean coal technologies** — improved power plant efficiency and commercial applications of carbon capture and storage. This is particularly important in view of global developments.

1.18 Prepare for re-increased **use of domestic EU coal reserves**, including use in liquid and gas forms. In this and

other contexts it should be kept in mind that political decisions regarding energy usually have strong economic, social and environmental effects, and that the dimensions and timescales of changes are big.

1.19 In order to lessen problems of keeping and increasing the share of gas in the energy mix, encourage investments in **liquefied natural gas** terminals, with a view to diversify supply sources of gas, and develop gas storage facilities and measures.

1.20 Sufficient **investments** in energy production and transmission have to be ensured both by putting the legal framework right and by appropriate financial measures. For instance, long-term contracts can be a helpful instrument, within the limits set by the need for sufficient competition.

1.21 The EU should speak with one voice and take its position as one of the strongest actors — on the international scene in **negotiating** with energy suppliers, in particular **Russia**. In reacting and negotiating on energy supply issues, different features of mutual dependencies need to be taken into account. The Union cannot be an actor in the energy markets, but energy being much in the hands of governments in many supply countries, it should strongly support the interests of EU actors.

1.22 When assessing the environment of energy choices, external costs as well as the impact of subsidies have to be analysed. **Also, the impact of present and future climate and environmental policy measures on the other energy** policy objectives — competitiveness and security of supply — as well as on a diversified energy supply must be carefully assessed.

1.23 It is necessary to **find a global solution to post-Kyoto** climate policies, involving at least all major emitters. Otherwise there will not be any significant development in mitigating climate change, but there could be a risk of harming the EU's economic and social developments.

1.24 Increase **R&D efforts** and EU support to energy R&D in line with the high importance and great challenges of energy for society. In the shorter term direct efforts towards better energy efficiency, renewable technologies still far from the market, clean coal technologies and nuclear safety. Many renewables and efficiency technologies mainly need smart engineering to lower their costs. Much basic and longer term research and development work is needed to make the vision of an energy scene with renewables, fusion and hydrogen possible. In the meantime, also elements of other promising future visions need to be encouraged and supported.

⁽¹⁾ Dir. 2003/30/EC, OJ L 123 of 17.05.2003.

2. Introduction

2.1 Since 2002 the EESC has prepared several own initiative and exploratory Opinions on different energy sources and technologies — nuclear, renewables, fossil fuels and energy efficiency. This opinion builds on these, without specific referrals to the more detailed information and discussion presented in them.

2.2 Developments in the energy scene are impossible to exactly foresee. All forecasts and scenarios have limitations. Surprising events or strong political actions can shift trends. Policy considerations, let alone decisions, have, however, to be based on profound information on the present situation, best possible forecasts and scenarios as well as understanding of drivers and breaks on change. This opinion is essentially based on scenarios by the International Energy Agency IEA and the European Commission, and covers a time period to 2030. After that the picture is much less precise.

2.3 Choices of energy sources and technologies are made by investors and can be influenced by political decisions. The EU does not have direct power over Member States' choices of sources, but influences indirectly through its environmental mandate. Member States should facilitate the use of their domestic resources as far as possible. The choices Member States make influence one another. Also, energy users in Member States without, for instance, nuclear or coal power production are part of an electricity market where nuclear and coal are used.

2.4 **Our key question is: Can we already now rule out present or potential future systems or possible options?** In other words, do we know enough and are we confident enough to narrow our choices by which to meet the goals of energy policy — sufficient, secure energy supply, reasonable, competitive prices and decreased burden on the environment and climate? We seek to answer this question as well as presenting related conclusions and recommendations.

3. Global energy market and carbon dioxide emission developments

3.1 The **world energy future** has an effect on the European energy future. Energy consumption now and growth are biggest outside Europe. Global growing fossil fuel demand has an impact on prices and availability in Europe. Price changes also lead to changes in energy choices, consumer and corporate behaviour and direction of R&D-efforts. All this affects the situation in the EU, too. Therefore it is essential to have an overall global picture of the energy future as a backdrop when consid-

ering European options. The International Energy Agency IEA presents its views of the world energy future in the *World Energy Outlook 2004* with two scenarios from 2004 to 2030.

The Reference Scenario (WEO-R04) takes account of those government policies and measures that were enacted or adopted by mid-2004. *The World Alternative Policy scenario analyses (WEO-A04)* how the global energy market could evolve if the countries around the world would adopt a set of policies and measures that they are either currently considering or might reasonably be expected to implement over the projection period. Some parts of both the *Reference* and the *Alternative Scenario* were updated in the *IEA World Energy Outlook 2005 (WEO-R05, WEO-A05)*.

3.2 **World primary energy demand** in the *WEO-R05 scenario* is projected to expand by 52 % between 2002 and 2030. More than two-thirds of the increase will come from developing countries. The annual rate of growth in energy demand (1.6 %) will slow down from the 2.1 % level of the past three decades. The transport and power-generation sectors will absorb a growing share of global energy. World electricity consumption will double over the period.

3.3 In the *WEO-A05 scenario* global energy demand would be 10 % lower than in the *WEO-R05 scenario*.

3.4 **Energy use in final sectors** will grow by 1.6 % per year through to 2030 (*WEO-R04*). Transport demand will grow quickest, at 2.1 % per year. Residential and service sector consumption will grow at an average annual rate of 1.5 %, as will industrial demand.

3.5 **World electricity demand** will double between 2002 and 2030 in the *WEO-R04 scenario*. The largest sectoral increase will be in the residential electricity consumption (119 %), followed by the services sector (97 %) and industry (86 %). About 4 800 GW of new capacity or nearly 10 000 new installations are needed to meet the projected increase in electricity demand and to replace ageing infrastructure.

3.6 **Fossil fuels** will according to the *WEO-R05 scenario* continue to dominate global energy use. They will account for around 83 % of the increase in world primary energy demand. The share of nuclear power falls from 6.4 % to 4.7 %, while the share of renewable energy sources is projected to increase from 13 % to 14 %.

In the *WEO-A04* fossil-fuel demand falls by 14 % in 2030 as compared to *WEO-R04*, while the use of nuclear power goes up by 14 % and that of non-hydro renewable energy sources (excluding biomass) rises by 27 %.

3.7 **Oil** will remain the single largest fuel. Oil demand in the world will grow by 1.4 % per year up to 2030 (WEO-R05). OPEC's worldwide market share will rise from 39 % in 2004 to 50 % in 2030. Net inter-regional oil trade will more than double during that period. Exports from the Middle East will rise most.

Primary oil demand is 11 % lower in WEO-A04 compared to WEO-R04.

3.8 **Natural gas** demand will grow at a steady rate of 2.1 % per year (WEO-R05). Consumption of natural gas will increase by three quarters between 2003 and 2030. Gas-to-liquids plants will emerge as a major new market for natural gas, making possible the use of reserves located far from traditional markets. Production will increase most in Russia and the Middle East.

Gas demand would be 10 % lower in WEO-A04.

3.9 **Coal** will continue to play a key role in the world energy mix with the average annual rate of increase of 1.4 % (WEO-R05). Coal demand will increase most in developing Asian countries. The electricity sector will be responsible for over 95 % of the growth. Over 40 % of the world's coal reserves, which are equal to almost 200 years of production at current rates, is located in OECD countries.

Coal demand would be nearly a quarter lower in 2030 in the Alternative scenario than in the Reference scenario.

3.10 **Carbon dioxide global emissions** will according to the WEO-R05 scenario increase by 1.6 % per year over 2003-2030. Nearly 70 % of the increase will come from developing countries. Power generation is expected to contribute about half the increase in global emissions. Transport stays the second largest source for carbon dioxide emissions worldwide.

In the WEO-A05 scenario carbon dioxide emissions are 16 % lower than in the Reference Scenario in 2030. The annual growth rate over the projection period falls to 1.1 %.

4. Energy market and carbon dioxide emission developments in the EU

4.1 The European Commission has made numerous **scenarios** on the EU energy future with different assumptions. In this chapter two different scenarios are presented. *The Baseline 2005 scenario (BL-05)* shows the future under current trends and EU and Member States policies decided upon before the end of 2004. *The high levels of energy efficiency and renewables (HLEER-04)* scenario aims at simulating the energy and environ-

ment effects of successfully implementing strong policies for both energy efficiency and renewables as far as such measures can be modelled. The *HLEER-04* has not been updated, so comparisons are made with the *Baseline 2004 (BL-04)*, i.e. the two scenarios are not directly comparable. The Commission has not presented calculations of the cost difference between *BL-* and *HLEER-*scenarios.

4.2 **In the year 2005 primary energy use in the present day EU-25 was** composed of 18 % solid fuels (mainly coal), 37 % liquid fuels (oil), 24 % natural gas, 14 % nuclear and 7 % renewable energy sources. Electricity was generated from 29 % coal and lignite, 20 % gas, 31 % nuclear, 15 % renewables (incl. big hydro) and 5 % petroleum products.

4.3 **EU primary energy demand** in the *BL-05 Scenario* is projected to be 15 % higher in 2030 than it was 2000 (+0.5 % pa), with a GDP growth of 79 %. The *BL-05* shows a continuation of the decoupling of energy demand from GDP. Energy intensity (the ratio of energy use to GDP) is improving by 1.5 % pa.

In the *HLEER-04* scenario primary energy need is projected to be -14.1 % below *BL-04* levels in 2030, but still slightly above the level in 2000.

4.4 **Energy use in final sectors** is projected to grow by 25 % to 2030 (*BL-05*). Energy demand for services is projected to be 49 % higher in 2030 than it was in 2000. This development is driven by increasing demand for electricity. Household energy demand is expected to rise by 29 % between 2000 and 2030. Transport energy demand in 2030 is projected to be 21 % and industry 19 % higher than in 2000.

In the *HLEER-04* scenario energy demand is 10.9 % below *BL-04* levels in 2030.

4.5 **EU electricity demand** will rise 43 % between 2005 and 2030 (*BL-05*). Demand growth will be especially rapid in the household sector (62 %), followed by the tertiary sector (53 %) and industry (26 %).

4.6 **EU electricity production** is expected to increase by 51 % between 2000 and 2030 (*BL-05*). An increasing share of electricity will be produced in the form of combined heat and power (up almost 10 percentage points to reach 24 % CHP share in 2030). The structure of power generation changes significantly in favour of renewables and natural gas while nuclear and solid fuels losing market shares.

In the *HLEER-04* scenario the overall electricity production in 2030 is projected to fall 16 % from *BL-04* levels. Solid fuels and nuclear energy decrease by similar amounts of electricity generation in absolute terms (-9.3 % from *BL-04* in 2030 respectively).

4.7 **Oil** remains the most important fuel, although its consumption in 2030 should not exceed the current level (*BL-05*). **Natural gas** demand is expected to expand considerably (38 % up to 2030) after the substantial increase already seen in the 1990s. **Solid fuels** are projected to decrease somewhat by 2020 but return almost to the current level in 2030, following the high oil and gas prices and the nuclear phase-out in certain Member States.

In *HLEER-04* scenario lower energy needs, combined with promotional policies for RES, significantly reduce future demand for fossil fuels. The biggest decline occurs for solid fuels (-37.5 % from *BL-04* levels).

4.8 **Renewables** increase more than the other fuels in relative terms in *BL-05* (more than doubling their contribution from current levels by the year 2030). They contribute nearly as much as natural gas towards the increase of energy demand.

In the *HLEER-04* scenario promotional policies for RES bring a large increase in renewables deployment in the EU-25 energy system. The increase is 43.3 % above the *BL-04* levels in 2030.

4.9 **Nuclear** in the *BL-05* is somewhat smaller in 2030 than it was in 2000 (-11 %), because of the political decisions on nuclear phase-out in certain old Member States and plants with safety concerns in some new Member States.

In the *HLEER-04* scenario the share of nuclear would be 19.9 % smaller than in the *BL-04*.

4.10 **Import dependency** continues to grow reaching 65 % in 2030, which is up nearly 15 % points from today's level (*BL-05*). Import dependency for oil continues to be highest reaching 94 % in 2030. Natural gas import dependency rises from just over 50 % at present to 84 % in 2030. Similarly, solid fuel supplies will be increasingly based on imports reaching 59 % in 2030.

In the *HLEER-04* scenario import dependency would be 4-6 % lower than in the *BL-04*.

4.11 **Carbon dioxide emissions** sank between 1990 and 2000. Today they have returned to the 1990 level. Over the

next years, carbon dioxide emissions are projected to increase exceeding the 1990 level by 3 % in 2010 and by 5 % in 2030. In the long term, the moderate further carbon dioxide increase reflects low energy consumption growth and the rather strong role of the carbon dioxide free sources renewables and nuclear.

In the *HLEER-04* scenario carbon dioxide emissions are considerably lower than under *BL-04* developments (-11.9 % from the *BL-04* levels in 2010 and -22.5 % in 2030). The decrease from 2000 would be close to 10 %.

5. Policy challenges

5.1 Price developments

5.1.1 Price increases that are demand-driven and global — although they affect consumers — do not have a strong effect on the national economies, when price increases create demand in producer countries. Price increases in one economic area, as now partly is the case with electricity, harm both consumers and competitiveness. Higher prices, in the longer term, change the competitive situation of different energy sources and technologies, the profitability of efficiency measures as well as behaviour in general.

5.1.2 **Oil and oil product** prices have risen dramatically in recent years. Several reasons could keep oil prices high or even raise them in the years to come, mainly:

- strong demand-side pressures from fast economic growth in Asian countries,
- under investment in supply infrastructure, as well as
- geopolitical factors and political instability.

5.1.3 **Gas** prices have risen strongly in all regions, following oil prices. In Europe gas prices are normally indexed to oil prices. As European supplies are concentrated in Russia and Norway, and LNG is not likely to become competitive soon, the price link will remain. Gas-to-gas competition could put downward pressure on gas prices, but the effect would largely be offset by rising supply costs.

5.1.4 **Coal** prices are likely to be moderate in the long term, because many market fundamentals remain unchanged. There are many existing and potential suppliers, the market is still highly competitive and coal prices are expected to remain low relative to the prices of other primary energy commodities.

5.1.5 The capital costs of **renewable energy** are assumed to go on declining in the future. The fastest rate of decline will come in costs of photovoltaics, which is today's most capital-intensive energy system. Substantial decreases are also expected in the capital costs of offshore wind, solar thermal and tidal and wave technologies. The cost of hydropower generally is low and stable, the potential for newbuild is limited and increasingly costly.

5.1.6 **Electricity** prices have risen in the EU for several reasons. Higher gas prices contribute to electricity prices in most parts of the EU, where gas is the marginal fuel for generation. It is difficult, however, to justify higher prices for electricity generated in coal-fired power stations by reference to rising raw material prices. The tightening balance between supply and demand also has started to reflect on prices. Energy supply companies sometimes quote emissions trading as the reason for higher prices adding the 'cost' of emissions rights to retail prices, although they have been allocated these rights free of charge. Measures to support renewable energy sources have in some cases increased electricity prices, as have also taxes and other levies. In addition, the Commission presently investigates whether insufficient competition in the electricity market has had an adverse effect on prices.

5.2 Security of supply

5.2.1 In its **Green Paper** on security of supply the Commission pointed out its serious concern on the issue. EU external energy dependence was forecasted to grow from 50 % to 70 % in three decades. In its Opinion on the Green Paper the EESC ⁽²⁾ strongly shared this concern. Today the question of security of supply is even much more pressing.

5.2.2 **Dependence on oil imports** from external sources is growing and increasingly concentrated in the Middle East. Also growing gas demand increases dependence on external sources is growing and concentrating on Russia. An additional concern is transportation via long pipelines often through politically unstable regions.

5.2.3 **Some network failures** have pointed the attention, in addition to managerial and some regulatory problems, to insufficient investments in relation to increased transmission demand and distances. The interconnection of both electricity and gas grids throughout Europe has advanced, but important structural bottlenecks exist between Member States. Regulation of networks has to support safety, quality and sufficient investment.

5.2.4 **Investments** in power stations and oil refineries have been low in the last two decades. As for electricity, the period of overcapacity is ending and investments of 600-750 GW of power generation capacity are needed until 2030 in order to

meet rising electricity demand and replace ageing plants. The need for investment in additional generation capacity, in particular for peak load, could be partly counteracted by fully interconnected grids.

5.2.5 EU policies to increase the **use of renewable** energy sources are a powerful move to counteract increasing external dependence. At the same time greenhouse gas emissions will be mitigated and, in some cases, grid dependence decreased. In the case of biomass and biofuels, longer term optimal use of land has to be observed.

5.2.6 **Uranium** is to 95 % imported to the EU from various sources. According to the IAEA and the OECD-Nuclear Energy Agency present known economic uranium sources should satisfy world demand at its present level for 50 years. Potential deposits based on geological readings defer the exhaustion prospect to 280 years. Later on new technologies may provide further fuel supply options.

5.3 Climate change

5.3.1 **The EU has taken the global lead** in tackling climate change. EU policies are unique, highly advanced and ambitious, in particular the emissions trading scheme and enhancing renewables. Many other parts of the world, including the biggest emitters, have not followed suit.

5.3.2 In the context of global warming trends the Kyoto targets are modest, but nevertheless they seem to be hard to meet for most EU Member States.

5.3.3 Most **reductions so far** have been achieved by substituting coal by gas in heating and electricity generation (in the UK) and through closing down and renewing old production units in the eastern parts of Germany. Many of the present and future emission reductions are more cumbersome and costly.

5.3.4 It is necessary to **find a global solution to post-Kyoto** climate policies, involving at least all major emitters. Otherwise there will not be any significant development in mitigating climate change, but there could be a risk of harming the EU's economic and social developments.

6. Future options

6.1 Long-term vision

6.1.1 At present it seems that **one ideal future energy vision**, minimizing environmental and climate impacts as well as securing sufficient global supply, would consist of renewable energy sources for heat and variable electricity loads, nuclear fusion for base load and the use of hydrogen as an energy

⁽²⁾ 'Towards a European Strategy for Energy Supply Security', OJ C 221 of 07.08.2001.

carrier. Such an energy mix is not expected to be operational by 2050, probably much later. Another vision shows high energy efficiency, renewables supported by a technological solution to electricity storage — for instance hydrogen — and coal coupled with CO₂ capture and storage.

6.1.2 **Fusion** technology still entails big challenges and uncertainty. Some basic technical breakthroughs are needed and, in particular, much development to reach economic viability. A widespread **hydrogen** economy, again, requires abundant availability of electricity. Hydrogen based on renewables or gas cannot, at least not alone, provide for a fully-fledged hydrogen economy.

6.1.3 The global potential of **renewable energy sources**, when taking into account some natural limitations and the economy, is difficult to establish. Some studies have pointed to the possibility of close to a 100 % share of renewables in 2050 in Europe, but this view is not broadly shared nor do Commission scenarios support this — even the most renewables-intensive alternative scenario gives a 15 % share of renewables in 2030. So far the use of renewable energy sources in EU-25 has developed slower than targets set.

6.2 Energy efficiency

6.2.1 Energy efficiency and energy saving are key elements of energy policy. The EESC has recently, in its Opinion responding to the Green Paper on energy efficiency, strongly supported actions in this policy area and commented on a large number of potential instruments and measures.

6.2.2 Better efficiency has an influence on the future energy mix. The relative decrease in demand would through market forces be directed to a decreased use of the most uneconomic source of supply, or possibly by political measures to the least desired source.

6.2.3 In its recent Green Paper on energy efficiency the Commission estimates the potential of economic efficiency improvements to be 20 %, 1.5 % annually and thereby going back to the demand level of 1990 for EU-25. The scenarios published by the Commission do not show such a decrease by 2030, not even the one assuming the strongest policy measures.

6.2.4 The EESC in its opinion strongly supports the idea of better energy efficiency as a prerequisite for sustainable development, competitiveness and economic independence. Better energy efficiency simply makes good economic sense, when not driven too far. Enhancing energy efficiency is an everyday practice in enterprises and voluntary agreements a functioning tool. In other sectors many measures are required, like awareness and knowledge spreading as well as appropriate economic measures.

The EESC sees, however, the goals presented in the Green Paper as optimistic.

6.2.5 In spite of efficiency measures, in the light of the scenarios it seems unlikely that energy demand would turn towards a decrease before 2030 in EU-25, possibly it could even increase. A stronger development of energy efficiency would bring great benefits.

6.3 Options in fields of use

In order to analyse energy mix options in relation to the above-mentioned policy challenges, it is helpful to look at the different sectors of primary energy use — transport, heating and electricity separately. They are only marginally interdependent.

6.3.1 Transport

6.3.1.1 Transport is almost fully **dependent on liquid fuels**, in practice oil products. Presently the only substitute is, to some extent, electrical rail transport. A small but growing part of gas is used in public transport, which provides for diversification but encounters the questions linked to increased use of gas.

6.3.1.2 EU has a target for substituting oil-based fuels with **biofuels** up to 5.75 % by 2010. With present high oil prices much higher substitution rates are widely discussed. The Commission presented a Communication on increased use of biofuels in February 2006 (Biomass Action Plan). When planning for policies in that direction many factors have to be taken into account, like net energy balances, trade, finance, environment and agricultural policies as well as costs to users. Additional important issues are a secured continuous supply as well as the impact on alternative uses of biomass.

6.3.1.3 **Fuel cell** driven cars are in the testing phase. A key issue is what the fuel would be. In the future hydrogen may be produced from renewables or natural gas as well as from water by electricity. So far, fuel cells are much more expensive than combustion motors.

6.3.1.4 Electricity can offer a viable alternate as an energy carrier for transport, for example plug-in hybrid vehicles.

6.3.1.5 There is no fast way in sight to an oil-free transport system. Therefore strong efforts have to be directed to **increase energy efficiency** in transport by:

- better engine and fuel technology,
- lighter cars, more efficient road goods transport vehicles,
- better public transport, supported by road tolls in city centres,

- transfer as much as possible to rail and waterways, given that they work efficiently,
- counteracting congestion, for instance by flexible working hours.

Transport needs can be decreased by regional planning and tele-working.

For a more general in-depth analysis of the European transport infrastructure and its future challenges please see the EESC opinion 'Preparing transport infrastructure for the future: planning and neighbouring countries — sustainable mobility — financing'.

6.3.2 Heating and cooling

6.3.2.1 In Europe **predominantly fossil fuels** are used for heating — oil, gas and coal. The share of gas is increasing fast. Electricity is used to some extent, while biomass has entered the scene in the north and solar in the south. For cooling electricity is still the dominant source, but other options, in particular district cooling services from CHP-plants are gaining ground.

6.3.2.2 40 % of energy in Europe is used in buildings, for heating and cooling. According to experts the potential for better **energy efficiency** and savings is big, and the EU has already acted on this.

6.3.2.3 **Renewables** have a big potential in this area. Biomass could be much more widely used in modern area or district heating and cooling systems, combined with electricity production when applicable. Geothermal energy offers almost untapped potentials. Solar heating is surprisingly little developed in some southern countries. In addition, the extraction of ambient heat via heat pumps represent an abundant and energy efficient source of renewable energy.

6.3.2.4 Heating and cooling represent very local use of energy. Measures to enhance efficient energy use in buildings need to be taken locally. At the EU-level actions should be taken to support technology development, share knowledge and best practices and ensure a functioning internal market for related products and services.

6.3.3 Electricity

6.3.3.1 Sources of electricity generation are **diverse** — coal, gas, oil, hydro, nuclear and wind as well as non-fossil solid fuels, like biomass. Photovoltaic and tidal technologies are under development.

6.3.3.2 The majority of **power plants** in Europe are coming up for **replacement** in the near future. This is the case for the major kind of plants, based on fossil fuels, as well as for nuclear. This gives a unique possibility for a major move towards non-carbon energy sources and at the same time a decrease in external dependency as well as an improvement of efficiency in electricity generation.

6.3.3.3 **Energy efficiency** measures can be adopted throughout the electricity chain — from fuel and power plant technology to eco-efficient design of electricity-using products.

6.3.3.4 The general view is, however, that **electricity demand will still grow** for a few decades and nearly 400 GW of new power plants, or some 400-800 of them, have to be constructed in the EU-25 in order to cover increased demand. In addition new plants of hundreds of GW are needed to replace old ones.

6.3.3.5 An **optimal power supply mix** includes different types of generation capacity, responding to different demands. Base load capacity, for stable and continuous demand, is optimally provided by hydropower, nuclear or combustion plants using less expensive fuels like coal. Variable loads — the majority of use — require easily regulated supply, like hydropower or thermal power. Peak loads are preferably supplied by plants with low capital costs, usually coupled with high running costs, like gas turbines. Base load capacity can also be utilised to increase hydropower for peak load use. The use of intermittent power sources requires easily regulated back-up supply.

6.3.3.6 Sufficient and successfully functioning **transmission grids**, including interconnectors, are needed to make the use of power plants more efficient and decrease the need for newbuild. On the other hand, the system needs to be optimized so as not to use long distance transmission instead of building power plants where demand is high. Distributed generation, preferably CHP-plants, are an option to be developed. Well designed demand-side management could decrease peak demand in a well functioning market.

Brussels, 13 September 2006.

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 proposal for amendment was rejected, but received at least a quarter of the votes cast.

New point, 2.2.1

'The EESC would point out that the forecasts on which this opinion is based could prove to be wrong or out-dated in the light of current developments on the energy markets, in particular the trend in the price of oil. In the case of all forecasts, a factor of decisive importance is the general terms of reference used and over the last few months the data in question has changed to a crucial degree. To illustrate this point, a study ⁽¹⁾ drawn up on behalf of the Federal Ministry of Economic Affairs in Germany came to the conclusion that, on the basis of a future price of oil of USD 60 per barrel — the price level which is now expected — energy consumption is set to decline by 17 % by 2030 and there will be an increase in the use of coal and renewable sources of energy. Hitherto, it was assumed, on the basis an expected future price of oil of USD 37 a barrel, that energy consumption would increase.'

Reason

Clearly, any assertions we make have to be based on particular forecasts and the rapporteur rightly quotes scenarios advanced by the International Energy Agency and the European Commission. The EESC should, however, at least incorporate the latest developments into its opinion, without having to change its conclusions as a result.

Outcome of the vote:

For: 69

Against: 85

Abstentions: 19

Point 2.3

Amend as follows:

'Choices of energy sources and technologies are made by investors and can be influenced by political decisions. The EU does not have direct power over Member States' choices of sources, but influences indirectly through its environmental mandate. Member States should facilitate the use of their domestic resources as far as possible. The choices Member States make influence one another. Also, energy users in Member States without, for instance, nuclear or coal power production are part of an electricity market where nuclear and coal are used.'

Reason

This statement is incorrect as currently formulated. Countries which do without, or intend to do without, nuclear energy often have sufficient alternative generating capacity. The fact that, for example, nuclear power is imported into Germany from France or the Czech Republic has to do with the European internal market and the fact that surplus capacity has been deliberately generated in certain countries. It is not because an alleged energy shortfall can only be covered by foreign nuclear power stations.

Outcome of the vote:

For: 60

Against: 115

Abstentions: 13

Point 5.2.6

Amend as follows:

'Uranium is to 95 % imported to the EU from various sources. According to the IAEA and the OECD–Nuclear Energy Agency present known economic uranium sources should satisfy world demand at its present level for 50 years. Potential deposits based on geological readings defer the exhaustion prospect to 280 years. This period is likely to be radically shortened, however, if certain countries' nuclear power plant construction plans come to fruition. Thus, for example, India is planning to increase its nuclear power generation capacity from 3,000 MW at present to 300,000 MW, which would clearly have a serious impact on the global availability of uranium. Later on new technologies may provide further fuel supply options, but such technologies are not yet proven or actually available.'

⁽¹⁾ Study drawn up by the Prognos Institut of Basel and the Energy Industry Institute (Energiewirtschaftliches Institut) of the University of Cologne.

Reason

Clarification.

Outcome of the vote:

For: 62

Against: 124

Abstentions: 6

Point 6.3.3.2

Amend as follows:

'The majority of **power plants** in Europe are coming up for **replacement** in the near future. This is the case for the major kind of plants, based on fossil fuels, as well as for nuclear. This gives a unique possibility for a major move towards non-carbon energy sources less environmentally damaging energy generation systems (district heating plants and clean coal technology) and at the same time a decrease in external dependency as well as an improvement of efficiency in electricity generation.'

Reason

Self-explanatory. See also the observations on clean coal technologies set out in points 1.17 and 1.18 of the opinion.

Outcome of the vote:

For: 62

Against: 121

Abstentions: 12

**Opinion of the European Economic and Social Committee on the
Proposal for a Directive of the European Parliament and of the Council on compliance with flag
State requirements**

COM(2005) 586 final — 2005/0236 (COD)

**Proposal for a Directive of the European Parliament and of the Council on common rules and stan-
dards for ship inspection and survey organisations and for the relevant activities of maritime admin-
istrations**

COM(2005) 587 final — 2005/0237 (COD)

Proposal for a Directive of the European Parliament and of the Council on port State control

COM(2005) 588 final — 2005/0238 (COD)

**Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/
59/EC establishing a Community vessel traffic monitoring and information system**

COM(2005) 589 final — 2005/0239 (COD)

**Proposal for a Directive of the European Parliament and of the Council establishing the fundamental
principles governing the investigation of accidents in the maritime transport sector and amending
Directives 1999/35/EC and 2002/59/EC**

COM(2005) 590 final — 2005/0240 (COD)

**Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers
of passengers by sea and inland waterway in the event of accidents**

COM(2005) 592 final — 2005/0241 (COD)

**Proposal for a Directive of the European Parliament and the Council on the civil liability and finan-
cial guarantees of shipowners**

COM(2005) 593 final — 2005/0242 (COD)

(2006/C 318/32)

On 25 January (TEN/236), 8 February (TEN/235), 14 February (TEN/234 and 239), 28 February (TEN/237) and 15 March 2006 (TEN/233 and 238), the Council decided to consult the European Economic and Social Committee, under Articles 71(1) and 80(2) of the Treaty establishing the European Community, on the abovementioned proposals.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 July 2006. The rapporteur was Mr Retureau; the co-rapporteur was Dr Bredima-Savopoulou.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 198 votes to 2 with 5 abstentions.

1. Conclusions and recommendations

1.1 Overall, the EESC welcomes the Third Maritime Safety Package, which is a further constructive and proactive step towards improving maritime safety by preventing maritime accidents and pollution and better controlling their effects. The Committee broadly supports the flag state performance proposal, the port state control proposal, the oversight through audits of the classification societies, the accident investigations and the vessel traffic monitoring (VTM, ships in distress and areas of refuge) proposal. They broadly reflect its positions in its opinions on the Erika I and II packages. These proposals improve various aspects of the transport chain and demonstrate the EU's commitment to quality shipping.

1.2 The Committee has some concerns about the proposals regarding passenger ship liability based on the IMO

(International Maritime Organisation) Athens Convention and civil liability. In particular, the proposal on civil liability merits further examination.

1.3 The EESC considers the recognition of the role of the IMO to be a positive element of the package. This is entirely in line with its past opinions (since 1993) on maritime safety and pollution prevention in which the need for an international legal regime on maritime safety and pollution prevention has been acknowledged.

1.4 The EESC recommends that the Commission take all necessary steps to ensure that the existing IMO Conventions are ratified promptly by all EU Member States, particularly the

1996 Convention on Limitation of Liability for Marine Claims (LLMC). This will have a direct added value for maritime safety, the global environment, liability and compensation for pollution damage worldwide.

1.5 The EESC suggests that the Commission should exclude inland navigation from its proposal on passenger liability in inland waterways and issue a specific proposal under the NAIADES programme.

1.6 The EESC reiterates its earlier calls in response to the Erika I and II packages for another maritime safety package dealing more specifically with the human element and deplors the fact that the human element has not been sufficiently addressed at EU level in the Third Maritime Safety Package. It proposes that the maritime labour code convention adopted by the International Labour Conference (Maritime Session) of the ILO in 2006, which Member States should ratify with a view to harmonising basic European and international rules, should serve as the basis for framing appropriate provisions. The 'recommendations' section (soft law) of the code should also be duly taken on board in order to draw up better European standards.

1.7 The EESC notes that better lawmaking goes hand in hand with better enforcement. Hence, it draws attention to the need for better implementation measures. It also urges all relevant stakeholders to be vigilant in the enforcement of the new maritime safety package.

1.8 The EESC draws attention to the need to increase resources allotted to port state control by the Member States; in addition, it calls for an increase in the number of port inspectors to ensure the effective implementation of various aspects of the maritime safety packages. It invites the Commission, in collaboration with Member States, to provide the necessary means to attract and recruit suitably skilled new entrants to the inspectors' profession.

2. Introduction

2.1 In the aftermath of the Erika (1999) and Prestige (2002) accidents off the coasts of France and Spain, which highlighted the vulnerability of Europe's coastlines, the EU acted immediately in order to set up a defensive mechanism to protect its coasts against the risks of maritime accidents and pollution and improve the safety conditions of the vessels calling at its ports.

Two legislative packages were adopted: Erika I ⁽¹⁾ (2001) and Erika II ⁽²⁾ (2002) consisting of six legal instruments (three Directives and three Regulations). On 23 November 2005 the Commission published its Third Maritime Safety Package, which is intended to strengthen European maritime safety rules and to improve the effectiveness of existing measures.

3. The Commission's proposals

3.1 Following the enlargement of the EU, the European fleet now accounts for 25 % of the world fleet. The European Commission's aim is to make it a model fleet, providing a European maritime service which is safe, competitive and environmentally friendly.

3.2 The Third Maritime Safety Package will make it possible to better guarantee European maritime transport safety. It proposes a more pro-active policy aimed at restoring conditions for healthy and sustainable competition for operators who comply with international rules. The package contains seven proposals that take account of the experience acquired in implementing the Community legislation on maritime safety and pollution prevention and are structured around two major courses of action:

- improved accident and pollution prevention, and
- dealing with the aftermath of accidents.

3.3 *Proposal for a Directive of the European Parliament and of the Council on compliance with flag State requirements*

3.3.1 The objective of the proposal is to ensure that Member States effectively monitor compliance with the international standards recommended by the International Maritime Organisation (IMO) by ships flying their flags and having for this purpose a maritime administration operating in accordance with high-quality criteria. This proposal seeks to ensure that Member States meet their international obligations in an effective and coordinated manner.

⁽¹⁾ Directive of the European Parliament and of the Council amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port state control).

Directive of the European Parliament and of the Council amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

Regulation of the European Parliament and of the Council on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers (EESC Opinion: OJ C 14 of 16.1.2001).

⁽²⁾ Directive of the European Parliament and of the Council establishing a Community monitoring, control and information system for maritime traffic.

Regulation of the European Parliament and of the Council on the establishment of a fund for the compensation of oil pollution damage in European waters and related measures.

Regulation of the European Parliament and of the Council establishing a European Maritime Safety Agency. (EESC Opinion: OJ C 221 of 7.8.2001).

3.4 *Proposal for a Directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations*

3.4.1 The proposal is intended to improve the quality of the work of recognised classification societies (which inspect and certify ships), to reform the system of sanctions against defaulting societies by introducing more gradual and proportionate financial penalties and to increase the powers of the Commission so as to enable inspectors to access ships of any flag. The quality of the work carried out by classification societies should be improved by establishing a quality-control system.

3.5 *Proposal for a Directive of the European Parliament and of the Council on port State control*

3.5.1 This proposal introduces the principle of a far-reaching reform aimed at replacing the current system (Paris Memorandum of Understanding — MOU) under which each Member State must inspect at least 25 % of ships entering its ports with a Community target of inspecting 100 % of ships, bearing in mind the need to reduce the burden of carrying out inspections on high-quality ships.

3.5.2 Other measures will be taken to improve the effectiveness and quality of checks on ships in European ports (including the working conditions of the crews). The new inspection regime will focus on risky ships. Stricter actions will be taken against substandard ships by strengthening the arrangements for banning them in Community waters.

3.6 *Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system*

3.6.1 The proposed objectives include improving the legal framework on places of refuge for ships in distress. The identification of all potential places of refuge should be speeded up, which would improve the efficiency of decision-making in the event of maritime accidents. The Commission is also proposing to equip all fishing vessels with automatic identification systems (AIS) in order to reduce the risk of collisions with large ships.

3.6.2 The extension of the SafeSeaNet data-exchange network to the whole of the EU will enable monitoring of

movements of ships and their cargoes. Ships will be notified about icing dangers in certain maritime areas.

3.7 *Proposal for a Directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC*

3.7.1 The quality of maritime safety standards depends on the ability to analyse the causes of accidents and learn from them. The purpose of this proposal is to establish a harmonised European framework for carrying out investigations following accidents. The investigations will be carried out by independent specialist bodies with appropriate authorisations for the task. The proposal provides clear Community guidelines and encourages cooperation for technical investigations of maritime accidents.

3.8 *Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterway in the event of accidents*

3.8.1 The purpose of the proposal is to incorporate into Community law the provisions of the 2002 Athens Convention (applicable only to international journeys and not yet in force) and to extend the protection introduced by this Convention to cover all passengers travelling on ships in the EU in domestic maritime traffic and inland waterway traffic.

3.9 *Proposal for a Directive of the European Parliament and of the Council on the civil liability and financial securities of shipowners*

3.9.1 The aim is to make shipowners act more responsibly, and to oblige them to take out an insurance policy or other financial security for third-party damage and which also covers the costs of repatriating seafarers in the event of abandonment.

3.9.2 As a first step, Member States will have to ratify all relevant IMO Conventions, including the 1996 LLMC. The text of the 1996 LLMC will be incorporated into Community law to ensure full and uniform application of this convention all over the EU. As a second step, the Commission will seek a mandate for negotiation within IMO to review the 1996 LLMC Protocol with the aim of reviewing the level at which shipowners lose their right to limit their liability. Ships flying the flag of a state that is not party to the 1996 LLMC will be subject to a more severe liability regime in the event of gross negligence.

3.9.3 Member States have to ensure that owners of ships sailing in Community waters, irrespective of flag, have a financial security for civil liability up to double the ceiling laid down in the 1996 LLMC. Shipowners must also have a financial security for abandonment of seafarers. Financial security must be evidenced on the basis of certificates, which must be carried onboard the ship.

4. General comments

4.1 *Proposal for a Directive of the European Parliament and of the Council on compliance with flag State requirements*

4.1.1 The EESC fully supports this proposal as it means that Member States will have to fulfil their responsibilities properly and comply with IMO instruments, including the IMO flag state implementation code and the IMO flag state Audit Scheme.

4.1.2 The EESC wonders whether Article 9 'Flag State Investigation' is necessary as it deals with accident investigation, which is amply covered by the fifth proposed instrument in the Third Maritime Safety Package. Nevertheless, it would reinforce the need for investigations and strengthen the requirement and obligation for Member States to provide adequate resources to this end.

4.1.3 The Committee recognises that Article 10 'Safe manning' seeks to ensure that ships flying the flag of a Member State are adequately manned, in accordance with IMO Assembly Resolution A.890 (21) on Principles of safe manning. However, the EESC is convinced that a level playing field between flag States is essential and that the proposal that the Commission produce a report as referred to in Article 15 'Cooperation agreements' should be implemented as soon as possible.

4.2 *Proposal for a Directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations*

4.2.1 Classification societies are increasingly responsible and accountable to administrations of flag States for the safety of shipping and the environment to a high degree. Therefore, the EESC endorses the proposed measures intended to improve the quality of their work on behalf of Member States and to strengthen checks and penalties, introducing a system of incremental sanctions which will be more effective than the current arrangement.

4.2.2 But as these tasks are currently intertwined, the EESC believes that a greater distinction should be made between statutory and classification tasks, for example by assigning them to different inspectors in the same recognised organisation or to two different organisations. There would seem to be a need for an interim period of ongoing promotion of best practices through negotiations between the Member States and the societies concerned, and between the classification societies, in order to draw up a compendium of good practice for the purpose of avoiding conflicts of interest.

4.2.3 Article 19(3) requires Member States to cooperate with the classification societies in the development of their rules and/or regulations. Notwithstanding the provisions of Articles 16 and 17, the EESC believes that a reciprocal obligation should be placed upon the classification societies.

4.2.4 The EESC welcomes the provisions of Article 20 concerning the requirement for recognised organisations to consult with each other and to cooperate with each other with a view to achieving equivalence and consistency in the application of international conventions.

4.3 *Proposal for a Directive of the European Parliament and of the Council on port State control*

4.3.1 The EESC agrees with the recasting of the Directive in order to improve clarity and to reinforce and improve the effectiveness of port State control. It notes that over the last six years the number of ships covered by the mandatory detailed inspections has risen from 700 to 4 000.

4.3.2 The EESC supports the intention to reward quality ships with fewer inspections, to focus inspection efforts on high-risk ships and to deter the operation of sub-standard ships by denying access to EU ports. Since the new system will be based on the principles incorporated in Annex III, the recasting of the Directive offers the unique opportunity to introduce and apply the new system without delay.

4.3.3 The EESC notes with satisfaction that the role of pilots in the early detection of possible defects will be stepped up, but is concerned that the confusion of commercial functions with inspection functions will not make the work easy for pilots, nor for deep-sea pilots who depend on a company providing non-compulsory pilotage services.

4.3.4 It also welcomes the inclusion of inspection of the working conditions onboard, since the human factor often plays an important role in maritime accidents. Inspection of seamen's onboard living and working conditions and their qualifications requires an increase in the number of inspectors with specific skills in this area; it would be difficult for a single inspector, often working to very short deadlines, to carry out an in-depth dual inspection embracing both technical and social aspects.

4.3.5 The Committee further welcomes the requirement of Article 20 for the Commission to establish each year a black-list showing the performance of ship operators and companies.

4.4 *Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system*

4.4.1 It is gratifying that the EESC's repeated earlier calls for the establishment of a system for ships in distress have been finally heard (Article 20). Therefore, the EESC supports the proposal to strengthen the Directive by reinforcing and harmonising the requirements on 'places of refuge' ⁽³⁾. A certificate of entry in a P & I (protection and indemnity) Club should be sufficient financial guarantee for admission to a place of refuge. In this connection, absence of a certificate should not be an excuse to deny admission of a ship to a place of refuge.

4.4.2 The Committee feels that the independent competent authority responsible for handling accidents and directing ships in distress towards a place of refuge should concentrate the necessary powers in its hands, independently of the obligations to consult the parties concerned, and be able to take decisions and bear all essential responsibilities, including those relating to the financial consequences of decisions taken as a matter of urgency.

4.4.3 The EESC notes that fishing continues to be one of the most vulnerable sectors of activity and welcomes the compulsory fitting of AIS on board fishing vessels. Small and medium-sized companies, including those in the coastal fisheries sector, should be allowed to benefit from aid or facilitations in order to equip themselves ⁽⁴⁾.

4.4.4 It also supports the provisions enabling coastal states to take appropriate measures to limit possible dangers to shipping of ice formation in certain maritime areas in the North of the EU. This is a particularly important issue given the increased risks arising from the greater volumes of oil carried in the Baltic Sea area. However, to avoid possible problems with the ice rules laid down by some classification societies it would be helpful to have States standardise their own ice rules.

⁽³⁾ The best practices of the UK SOSREP system are a major source of inspiration in this field.

⁽⁴⁾ The European Fisheries Fund, which was established by the Council on 16 June 2006, introduces the possibility of funding up to 40 % of the cost of safety equipment; complementary measures at Member State level could also be considered.

4.4.5 The EESC agrees that the implementation of the information exchange system SafeSeaNet will contribute greatly to enhancing maritime safety in EU waters.

4.5 *Proposal for a Directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC*

4.5.1 The EESC supports this proposal as it is only through independent technical investigations of accidents that appropriate action can be taken to reduce the chances of reoccurrence. In addition, the Committee supports the establishment of independent specialist bodies to carry out such investigations as well as the clear distinction from investigation for punitive reasons.

4.5.2 The EESC welcomes the provision of Article 7 which allows for the conduct of joint safety investigations.

4.5.3 The EESC feels that the provision of Article 9 on the non-disclosure of records for purposes other than the safety investigation is essential. The provision allowing a judicial authority to permit disclosure is a source for concern. Consequently, the Committee believes that it would be helpful if those giving evidence to such technical accident investigations were granted immunity, even anonymity, from their testimony. As in the case of the airline industry, the participation in the investigation process of representatives of the shipping industry and representatives of organised civil society in the affected areas would be valuable in order to draw all possible lessons with a view to better prevention in the future and for the sake of transparency. The Commission also wisely provides for feedback in order to accumulate experience.

4.6 *Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterway in the event of accidents*

4.6.1 The EESC supports the basic aim of this proposal to enable all passengers to benefit, at EU level, from the same protection regime in the event of an accident. The essential feature of the regime are modernised carrier liability rules, a mandatory insurance system and a satisfactory compensation ceiling. These protection rules also apply to all passengers who have purchased their tickets in Europe, even if they travel outside Community waters and even onboard a ship flying a third-country flag.

4.6.2 The EESC recalls that under a draft Decision (2003) Member States were invited to ratify the Athens Protocol before the end of 2005. Unfortunately, the ratification process was blocked. The current proposal is a means whereby the provisions of the Athens Protocol become uniformly applicable throughout the EU. Incorporating the Athens Protocol into EC law will not prevent Member States from ratifying the Protocol in order to make sure that it will ultimately be applied at an international level.

4.6.3 The EESC notes two important issues that remain to be resolved regarding the proposed ratification by the Member States of the IMO and entry into force of the 2002 Athens Protocol. First, the war/terrorism issue: the EESC draws attention to the IMO resolution enabling states to enter a reservation in their ratification in order to issue the requested insurance certificates with the exclusion of war/terrorism issues. Second, the limitation amount: the International Group of P & I Clubs has stated that it is able to cover the highest limits laid down by the Protocol, provided a solution is found to the problem of terrorism. Alternative proposals have been placed on the table for consideration and workable solutions could be achieved at international and/or European level. The current reform of the Community solidarity fund (Regulation 2012/2002), which should come into force in 2007, could provide emergency aid in the case of natural disasters, including disasters resulting from acts of terrorism. But this could not be a substitute for a negotiated solution to the issue of insurance cover for damage caused by a possible terrorist act, which the Committee believes is urgently needed.

4.6.4 The EESC recognises the merits of the aim to apply identical compensation for passengers on board ships operating on intra-Community and international routes. However, serious difficulties might result for some smaller companies or in connection with the provision of certain services.

4.6.5 Regarding domestic passenger services, the EESC proposes a phasing in (transitional) period in the application of this proposal so as to minimise any adverse impact on short sea passenger services. Otherwise, the economic viability of services in local ferry routes would be seriously reduced, to the detriment of the regular servicing of islands.

4.6.6 With regard to advanced payments to accident victims or their dependants, the EESC supports the proposal on advanced payment in respect of shipping incidents for which the Athens Protocol provides for a strict liability regime.

4.6.7 The provisions on disabled people and pre-journey information should be seen as complementary and not as a

deviation from the Athens Protocol. Similar provisions have been introduced in the Regulation on Air Passenger rights referring to the Montreal Convention.

4.6.8 Regarding inland navigation, the EESC believes that the Third Maritime Safety Package fails to take into account the differences between inland waterways (rivers and deltas, canals, lakes) and maritime transport (inland — to islands, with the public service of assuming territorial continuity — and international). Both the nature and use of these routes are different, thus justifying a different legal regime (navigational/safety/liability rules, mandatory liability and insurance).

4.7 *Proposal for a Directive of the European Parliament and of the Council on the civil liability and financial securities of shipowners*

4.7.1 The EESC supports the proposed ratification by the Member States of the 1996 LLMC Protocol, which would double the levels of civil liability of shipowners compared to the 1976 LLMC levels. The 1976 LLMC is an umbrella convention covering all maritime claims. The EESC, however, takes note of the proposal for all ships (irrespective of flag) entering EU waters to carry a financial responsibility certificate for double the amount laid down in the 1996 LLMC Protocol.

4.7.2 Under the United Nations Convention on the Law of the Sea (UNCLOS), coastal states can go beyond the provisions of the Convention provisions only in respect of third vessels calling at their ports. P & I Clubs have declared that they are not willing to provide certificates exceeding the level laid down in 1996 LLMC Protocol.

4.7.3 Insurance is preferable to insolvency and insurance depends on clear liability criteria. A consequence of abandoning limitation in case of gross negligence will be to reduce the insurance market and increase the number of one-ship companies utilising the law governing limited liability companies.

4.7.4 The EESC nevertheless notes that the perception and estimation of the extent of damage and responsibility have changed a great deal over recent years; very often compensation paid for damages is perceived as being far less than the amounts of direct or, in particular, indirect damage suffered. There is certainly room for improvement in this area. The Committee proposes that the Commission carry out an economic analysis of its proposal. Such analysis should determine what would be the economic effect of abandoning limitation of liability altogether and whether there is a case for increasing the levels of limitation.

4.7.4.1 The EESC recalls its earlier opinions on the Erika I and II packages and reiterates that the basic yardstick should be the rapid and guaranteed compensation of victims for the damage suffered and not an invitation for more litigation and procrastination of trials. A ratification of all existing IMO Conventions should allow for a more adequate civil liability, for compulsory insurance and direct action for specifically defined claims, as envisaged in the proposed Directive.

4.7.4.2 The EESC believes that civil liability should be governed by clear and transparent rules. Under maritime law, 'gross negligence' is a legal concept commonly applied in disputes about damage caused to cargo. At international level, the concept used to exclude strict liability is 'recklessness with knowledge', a solution that the Committee advocated in its opinion on Erika II, in relation to oil pollution. The Committee therefore recommends that the proposal for a Directive include some objective factors in order to guide the Member States and their courts as to when the 'gross negligence' test is satisfied. Otherwise there may be a risk of Member States implementing the Directive in different ways.

4.7.4.3 The EESC maintains that financial security certificates should be evidenced by a certificate of entry into a P&I Club rather than by a certificate issued by a EU Member State. A certificate of entry into a P&I Club will meet the purposes of the proposed instrument and is readily available from P&I Clubs.

4.7.5 The EESC feels that the proposal, in its present form, is in conflict with Directive 2004/35/EC of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, which recognised the primary application of IMO Conventions, including the LLMC. This could cause problems with regard to the international law of treaties for Member States which are parties to the 1976 and 1996 LLMC Conventions.

4.7.5.1 The EESC supports the proposal for ships to carry financial security certificates for abandonment of seafarers and notes that a joint IMO-ILO working group is working on this subject, which falls within its remit at international level.

4.7.6 Liability and compensation for spills of chemicals and bunker fuels are governed by the Hazardous and Noxious Substances and Bunker Oil Spills Conventions and reflect a

consensus of opinion of the international community. The EESC strongly recommends the Commission to undertake all efforts for an early entry into force of the HNS and Bunker Oil Spills Conventions in the EU through their prompt ratification by EU Member States.

5. Specific comments

5.1 The Committee notes with interest the recent 94th International Labour Conference (Maritime Session) of the ILO, which adopted a single maritime labour convention in the form of legally binding provisions and a section containing recommendations. The new convention consolidates and updates the existing body of maritime conventions adopted since the 1920s and modified on various occasions over the years into a clear and comprehensive maritime labour code. The EESC also notes the intention of the Commission to incorporate the ILO Convention (maritime code) into EU law and supports the ongoing efforts of the study group on social dialogue with a view to implementing the Convention and identifying how best to address the question of its transposition into Community law.

5.2 Reflecting its ongoing concern about the human element in maritime transport, the EESC calls on the Commission above all to make it a priority to encourage all Member States to ratify this convention in order to have a harmonised legislative basis, as soon as possible; before it can enter into force the convention must be ratified by 30 states with at least a third of world gross tonnage. The EU could also give a strong boost to these efforts by promoting ratification by EEA countries and third countries with which there are economic cooperation agreements.

5.3 The cumulative impact of the proposed measures on the administrations of port and flag states (issue of statutory certificates, social inspection, expanded inspection, the objective of 100 % inspection of ships, etc.) should be swiftly assessed by the relevant authorities so that they can take the necessary steps regarding organisation, funding and recruitment as soon as possible.

5.4 In view of the key responsibilities falling within its remit, it is important that the European Maritime Safety Agency also have adequate resources to enable it to fulfil them to the best of its ability.

Brussels, 13 September 2006.

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 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

COM(2005) 646 final — 2005/0260 (COD)

(2006/C 318/33)

On 7 February 2006, the Council decided to consult the European Economic and Social Committee, under Articles 47(2) and 55 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 the Committee's work on the subject, adopted its opinion on 18 July 2006. The rapporteur was Mr Hernández Bataller.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September), the European Economic and Social Committee adopted the following opinion by 53 votes to seven, with ten abstentions.

1. Introduction

1.1 On 13 December 2005, the European Commission presented a proposal intended to update the Community Directive on Television without Frontiers, the first version of which dates from 1989 ⁽¹⁾ and was amended in 1997 ⁽²⁾. The provisions of this Directive are to prevail in the event of conflict with general regulations on service provision, as regards those aspects relating to access to and pursuit of a services activity ⁽³⁾.

1.2 The stated aim of this amendment (provided for in the procedures for monitoring and assessing compliance with the regulation) is to bring the directive into line with the realities of technological convergence. In this new context, audiovisual material and services go far beyond the traditional scope of television broadcasting, creating new regulatory requirements in order to guarantee the smooth running of the single market, the existence of a strong, creative European industry, and citizens' rights. The modernisation of EU rules on audiovisual media content also falls within the i2010 strategy, which aims to build an information society that will boost growth and jobs ⁽⁴⁾.

1.2.1 In the wake of the Liverpool conference ⁽⁵⁾ the proposed amendment re-establishes the regulatory scope of the directive (which originally covered all audiovisual services) to cover so-called 'audiovisual media services', with different regulatory levels according to whether the service is linear or non-linear. The directive would thus cover the coordination of

certain legal, regulatory and administrative provisions relating to the provision of audiovisual media services in Member States, and would be known as the Audiovisual Media Services Directive, rather than the Television without Frontiers Directive.

1.2.2 The directive would continue to exclude private messages, electronic versions of newspapers or magazines, websites not primarily devoted to broadcasting audiovisual material, and radio broadcasts.

1.3 The proposed amendment falls within the scope of the interinstitutional agreement on Better lawmaking, adopted in 2003, with a dual goal: firstly, to simplify, loosen and reduce the regulatory obligations of European audiovisual service providers; secondly, to promote self-regulation and co-regulation in the sector. The proposal also aims to lay down a more basic, fundamental regulatory framework, strengthening the country-of-origin principle after the directive has been incorporated into Member States' legal systems.

2. Commission proposal

2.1 As mentioned, the Commission proposes to extend the scope of the directive to all audiovisual media services ⁽⁶⁾, which are understood to be moving image services, with or without sound, designed to inform and entertain the public via so-called electronic networks ⁽⁷⁾.

⁽¹⁾ Directive 89/552/EEC — OJ L 298, 17.10.1989, p. 23.

⁽²⁾ Directive 97/36/EC — OJ L 202, 30.7.1997, p. 60.

⁽³⁾ COM (2006) 160 final.

⁽⁴⁾ See IP/05/643.

⁽⁵⁾ Liverpool Audiovisual Conference on the Television without Frontiers Directive, organised by the Commission.

⁽⁶⁾ See the definition of these services in Articles 49 and 50 of the Treaty.

⁽⁷⁾ See the definition of these networks in Article 2(a) of Framework Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services. OJ L 108 of 24.4.2002, p. 33.

2.2 These audiovisual media services may be:

- linear, when the user must meet the provider's established time constraints for the broadcasting of services, whatever the distribution channel (terrestrial, satellite or cable television, Internet, mobile telephony, etc.);
- non-linear, when the user decides when to access the service or specific content made available by the provider.

2.2.1 In accordance with this distinction, television broadcasting is defined as 'a linear audiovisual media service where a media service provider decides upon the moment in time when a specific programme is transmitted and establishes the programme schedule'. The broadcaster is defined as 'any provider of linear audiovisual media services'.

2.3 In line with this extended scope, the proposed amendment to the directive introduces the general concept of audiovisual commercial communication, which refers to moving images, with or without sound, which accompany audiovisual media services and are designed to promote, directly or indirectly, the sale of goods or services. Television advertising is understood as forming part of audiovisual commercial communication, when it relates to announcements broadcast on television either to promote the supply of goods or services in return for payment or for similar consideration, or for self-promotional purposes by the broadcaster. The same applies to teleshopping.

2.3.1 The current ban on television advertising and televised sales of cigarettes and other tobacco products is extended to all forms of audiovisual commercial communication. The ban is also upheld on advertising and televised sales of prescription medicine, and the advertising restrictions on alcoholic drinks are maintained in order to prevent the encouragement of immoderate consumption and to protect minors:

- it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;

- it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

2.3.2 The proposal maintains the ban on surreptitious advertising, which is understood to mean 'the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer or provider when such representation is intended by the broadcaster to serve advertising and might mislead the public' as to its nature, generally by failing to give identification or warning. In this context, it is established that television advertising must be 'readily recognisable and kept quite separate from other parts of the programme service by optical and/or acoustic means.'

2.3.3 Nonetheless, a new definition is introduced for product placement, which is distinguished from surreptitious audiovisual commercial communication despite being defined in a similar way: 'the inclusion of or reference to a product, service or trademark forming part of audiovisual media services, normally in return for payment or for similar consideration'. In order to be lawful, product placement must meet a series of requirements. For instance:

- it 'must not encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services';
- viewers must be clearly informed of the existence of a product placement agreement, and placement must be clearly identified;
- audiovisual media services 'must not contain placement of tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products';
- product placement is banned from news and current affairs programmes, documentaries and audiovisual media services for children.

2.3.4 The proposal maintains the references to sponsorship and the conditions under which it is allowed, with some basic changes to bring the activity into line with the new field of application. The ban is also maintained on the use of subliminal techniques in audiovisual commercial communications.

2.4 With regard to Member States' rights and duties, and in keeping with the current directive, the proposal stipulates that:

- Member States must ensure freedom of reception of audiovisual communication media from other Member States;

- they must ensure, within the framework of their legislation and by appropriate means, that media service providers under their jurisdiction effectively comply with the directive;
- they 'remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules in the areas covered by [the] Directive';
- they have the power to ensure that the public can freely access events of high public interest, preventing them from being retransmitted exclusively by broadcasters under their jurisdiction;
- they must ensure that broadcasters under their jurisdiction do not transmit cinematographic works outside periods agreed with the rights holders;
- they must ensure (whenever possible and, in some cases, in a progressive fashion) that broadcasters reserve a majority proportion of their transmission time for European or related works, and 10 % of this time (or 10 % of their scheduling budget) for European works by producers that are independent from the broadcasters, with a sufficient proportion being reserved for recent works. The time calculated excludes certain content such as news, sports events, games, advertising, teletext services and teleshopping.

2.4.1 It remains possible for a Member State to adopt measures against a media service provider established in another Member State, in order to prevent certain provisions of the directive being breached, as long as the provider directs all or most of its activity to the territory of the first Member State, the Member State in which the provider is based does not take such measures despite having been required to do so, and the Commission's approval is received.

2.4.2 The proposal upholds the quotas set down by the current directive for national and European audiovisual productions and independent audiovisual productions. These quotas have been met satisfactorily in recent years, according to impact assessment reports.

2.4.3 The proposal introduces the following provisions concerning Member States:

- they must ensure that broadcasters based in other Member States have access to events of high public interest, transmitted by a broadcaster under the Member State's jurisdic-

tion, in order to produce short news reports with the indication of their source;

- they must guarantee easy, direct and permanent access to information on the name, postal and electronic address of the audiovisual media service providers under their jurisdiction, and the competent regulatory authority;
- they must guarantee that media service providers under their jurisdiction promote, where practicable and by appropriate means, production of and access to European works;
- they must ensure that media service providers under their jurisdiction do not transmit cinematographic works outside periods agreed with the rights holders;
- they are expressly asked to encourage co-regulation in the fields coordinated by the directive, so that it may be effectively enforced and accepted by the main stakeholders.

2.5 The proposal reformulates the current directive's provisions on the regulation of the values broadcast by audiovisual media service providers.

2.5.1 The proposal states that these services must not:

- seriously impair the physical, mental or moral development of minors;
- contain any incitement to hatred based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

The proposal maintains the current express reference to the non-transmission of programmes that include scenes of pornography or gratuitous violence. Also, for programmes that might impair the physical, mental or moral development of minors, technical coding, watershed or content classification measures must be adopted so as to guarantee that minors in the area of transmission will not hear or see such broadcasts.

2.5.2 Audiovisual commercial communications must not:

- include any discrimination on grounds of race, sex, or nationality;
- be offensive to religious or political beliefs;
- encourage behaviour prejudicial to health or to safety;
- encourage behaviour prejudicial to the protection of the environment;

— cause moral or physical detriment to minors. Therefore, they must not 'exhort minors to buy a product or service by exploiting their inexperience or credulity, encourage minors to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations'.

2.6 The proposed amendment reduces the legislative requirements for advertising breaks, simplifying and relaxing many of the application criteria.

2.6.1 The exceptional nature of isolated advertising and tele-shopping spots is maintained, apart now from in sports programmes. The preference is also maintained for advertising breaks between programmes, although breaks are admitted during programmes provided that the integrity of the programmes and the rights of the right holders are not undermined.

2.6.2 The various criteria for admissible advertising breaks, the spacing between these breaks and exceptions depending on the type of programme are replaced by a general rule, under which the transmission of films made for television, cinematographic works, children's programmes and news programmes may be interrupted by advertising or teleshopping once for each period of 35 minutes. The insertion of advertising during the transmission of religious services remains forbidden.

2.6.3 With regard to the transmission time devoted to advertising in its various forms, the proposal only maintains the general criterion of 20 % per clock hour for advertising, tele-shopping and other short promotional formats, and continues to exclude from this calculation 'announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes,' and sponsorship, which now also includes product placement.

3. General comments

3.1 The EESC considers it necessary to amend the current Television without Frontiers Directive in order to bring it into line with the new context of technological convergence and the new advertising and promotional practices. It also recognises the need for more applicable, effective legislation that will help to increase trade in audiovisual media services on the European single market, strengthening and boosting its development. However, it feels that the amendment should respond equally to the demands of technological and economic development and to the need to protect human dignity and personal integrity.

3.2 Similarly, it regrets that the Commission has not seized the opportunity to get rid of certain shortcomings and ambiguities in the current directive, which have proved difficult to interpret and apply, and have led to legal insecurity both in the implementation of the directive and in the laws transposing it to the legal systems of the different Member States.

3.2.1 For example, no definition is given of the forms of advertising regulated by the directive, including some of the unlawful practices covered therein. Although this matter will be covered in greater detail in the specific comments below, it is worth pointing out here, by way of example, that in recital 44, telepromotions are excepted from the sphere of advertising; however, at no point in the text are the characteristics and limitations of this form of advertising defined.

The EESC does not believe there are any grounds for this omission and that, in any case, telepromotions should be included within the sphere of advertising. Otherwise, this would serve only to penalise advertising and transfer commercial communications to other formats, thus maintaining or even increasing advertising saturation levels.

3.2.2 Moreover, far from promoting legislative harmony between Member States, the combination of increasingly basic regulations and the reinforcement of the country-of-origin principle could cause major legislative differences in this area, particularly as regards advertising and the protection of minors, hindering the development of the single market or substantially reducing consumer protection.

3.3 Although the aim is to clarify the difference between audiovisual media services (which would be regulated by the amended directive) and other audiovisual services (which fall within the general scope of electronic communications regulations), it is likely that the scope of the directive will become harder and harder to define as formats are developed with an increasingly indiscriminate mix of text, sound and images.

3.4 The EESC believes that the amendment to the directive should at least maintain (and, if possible, extend) the guarantees protecting viewers of these audiovisual media services, particularly minors. As pointed out, in addition to the objectives pertaining to the single audiovisual market, the directive must promote a series of social and cultural values relating to diversity, identity, personal development, human dignity (as mentioned in the recitals of the proposal), and the rights to information and freedom of expression, all of which are enshrined in the EU Charter of Fundamental Rights⁽⁸⁾. Moreover, the case law of the European Court of Justice⁽⁹⁾ considers television operation to be a service of general economic interest.

⁽⁸⁾ OJ C 364 of 2000.

⁽⁹⁾ Judgment of 30 April 1974 in case C-15/73, ECR 203 *et seq.* Judgment of the Court of First Instance of 10 July 1991 in case T-69/89, ECR II-525. Judgment of the Court of First Instance of 18 September 2001 in case T-112/99, ECR II-2549 *et seq.*

3.5 The EESC believes that the proposed amendment should go a step further, by proposing specific measures in areas such as pluralism and concentration of the media. When it comes to the promotion of European productions, the EESC would have expected a more decisive stance vis-à-vis the Member States, without making such promotion subject to 'where practicable', and vis-à-vis the gradual application, to non-linear services, of the criteria requiring productions to be European and independent, as far as possible.

3.6 As regards the right of reply provided for in the proposal, the Commission has not taken account of the EESC's position⁽¹⁰⁾ on the need to make provision for a 'right of correction', with the same general scope and in the same conditions, in order to combat false, incorrect or inaccurate content that affects people's rights.

3.7 The EESC believes that the proposal should make it necessary or mandatory for there to be regulatory authorities in all Member States, displaying not only impartiality and transparency, but also independence from governments in the way they are created, established and exercise their functions. We are convinced that in the future thought will have to be given as to whether a European agency, institution or similar supranational body should be set up.

4. Specific comments

4.1 The EESC believes that the definition of 'audiovisual commercial communication' proposed by the Commission is too restrictive, mechanically reproducing the definition of 'audiovisual media services'. It seems logical to define them as 'moving images with or without sound', making moving images a necessary condition for these audiovisual media services, and leaving the Internet-based press and radio broadcasting outside the scope of the directive. However, as the scope has been defined, audiovisual commercial communications linked to audiovisual media services can use static images (e.g. logos or advertising posters) or sounds on their own, without images (e.g. a spoken reference to a brand or an advertising jingle). It would be preferable to define audiovisual commercial communication as 'images and/or sounds accompanying audiovisual media services designed to promote, whether directly or indirectly, the goods, services or image of a physical or legal person for economic purposes'.

4.2 The proposal maintains the current criterion which considers television advertising as material transmitted in return for payment. The EESC believes that the intention to promote products and services should be established as the defining criterion, rather than payment, as this would be consistent with other Community definitions such as that used in the Misleading Advertising Directive. This would avoid the risk of transmitting advertisements for products banned from being

advertised on television or unlawful advertisements, which can currently be screened provided that there is no conclusive demonstration of payment and, therefore, of their nature as a television advertisement. The same should apply to the reference to the payment requirement in the definition of teleshopping.

4.2.1 If the proposed criterion is maintained, the directive should allow Member States to empower courts (in the event of civil or administrative proceedings) to demand that broadcasters prove that no payment has been received for audiovisual communication, as indicated in Directive 84/850/EEC. Otherwise, this communication would be presumed to be commercial in nature.

4.3 The proposal's definition of surreptitious advertising is very similar to the current version. However, the EESC believes that the definition of 'surreptitious' should be applied to audiovisual commercial communication overall, and not just to television advertising, given that the provision expressly prohibits surreptitious audiovisual commercial communication.

4.3.1 The EESC also believes that the concept of surreptitious audiovisual commercial communication should be extended beyond that which is currently expressed in the proposal:

- it should include presentation or reference to goods and services not just through words or images, but also through sounds (e.g. an advertising jingle associated with a particular brand or product);
- with regard to the content of this presentation or reference, it should not just include the name, brand or activities of the provider, but also other distinctive features of the goods or services, if unequivocally related (e.g. a particular type of packaging or a slogan, even when the brand is not mentioned).

4.3.2 Furthermore, it should be clearly stated in the directive that product placement will not be considered as surreptitious audiovisual commercial communication provided that it complies with the legal requirements set down therein.

4.4 The EESC welcomes the express reference to product placement in the proposed amendment to the directive. Although at present any product placement can, theoretically, be considered as surreptitious advertising and therefore prohibited, in practice it has not even tended to be seen as television advertising, thus remaining outside the scope of regulation. However, the EESC believes that the definition of product placement should clearly indicate, as distinguishing features of this practice, intentional promotion by the broadcaster and the failure to warn the public by visual or acoustic means of the promotional nature of this placement for its duration (i.e. simultaneously), as is the case for other formats such as telepromotions.

⁽¹⁰⁾ OJ C 221 of 8.9.2005, p. 17 (Rapporteur: Mr Pegado Liz).

4.4.1 The text should stipulate that product placement cannot influence scheduling to such an extent that its independence and integrity are affected, in line with the provisions set down for other promotional formats. The relevant restrictions should be extended so that product placement is prohibited not just in the case of advertising bans, programmes aimed at minors or news programmes, but also in the case of advertisements for medicine and, as mentioned below, alcoholic beverages.

4.5 In line with the current directive, the proposal prohibits the use of subliminal techniques in audiovisual commercial communication. However, at no point does the text define these techniques. The EESC believes that the concept should be clearly developed, making reference to the use of visual or acoustic stimuli broadcast at levels that border on the limits of sensory perception and are perceived subconsciously.

4.6 The proposal stipulates that the promotion of products in audiovisual commercial communication can be direct or indirect. In some instances, such as cigarettes and other tobacco products, commercial communication is also prohibited when it is indirect. However, the text gives no definition of this means of audiovisual commercial communication. The EESC believes that the concept should be clearly developed; it should be pointed out that, even when products are not directly presented or referred to, use is made of brands, symbols and other distinctive features of products or companies whose main or known activities include the production or marketing of these products.

4.7 Article 3g(c) of the amended directive sets out the list of values with which audiovisual commercial communications must comply. The list repeats the requirements for advertising and teleshopping stipulated in the current text, but the reference to human dignity has been removed. The EESC believes that, in the light of the European Convention on Human Rights and the EU Charter of Fundamental Rights, this important reference should be maintained.

4.8 The proposal maintains the requirement that Member States take appropriate measures to ensure that audiovisual media services under their jurisdiction are not made available in such a way that might seriously impair the physical, mental or moral development of minors. It also maintains the time constraints that must continue to apply to content that could (even slightly) affect this development, and renews the extensive ban on pornography and gratuitous violence. It would be useful to examine the actual effectiveness of this ban by evaluating the extent to which the directive has been followed since 1989, and to consider whether the ban could be eliminated, basing the protection of minors from violent or pornographic material on the measures (encoding, watershed, warning) that are already included in the text.

4.8.1 The EESC regrets that the Commission's proposal does not include more tutelary protection schemes as have proved effective in some Member States (for example, stepping up the protection of minors from advertising content, or restricting misleading advertising and teleshopping practices).

4.9 When it comes to establishing restrictions for audiovisual media services and related audiovisual commercial communications, the proposal contains some differences which lack justification. With regard to media services, the proposal mentions 'incitement to hatred based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation', and in reference to commercial communications it mentions 'discrimination on grounds of race, sex, or nationality'. The reference to human dignity has disappeared. In relation to audiovisual media services, the proposal mentions the serious impairment of 'the physical, mental or moral development of minors'; for audiovisual commercial communications, this is limited to 'moral or physical' detriment to minors. There is no ban on these communications encouraging or promoting violent and antisocial behaviour or cruelty to animals. The EESC believes that these restrictions should be extended as fully as possible to both audiovisual media services and audiovisual commercial communications.

4.10 With regard to the basic information that broadcasters must supply, the EESC believes that, when a regulatory authority exists, they should be expressly required to provide at least their postal and electronic addresses.

4.11 Audiovisual commercial communication for alcoholic beverages is restricted in its target audience (it cannot be aimed at young people) and its content, which must not promote immoderate consumption of such drinks. However, the EESC believes that the serious problems linked with alcohol consumption, particularly among young people, would justify stricter regulation by the Commission. This could be established in line with:

- programmes/content (e.g. not just for programmes aimed specifically at young people, but also sports);
- broadcasting schedules in the case of linear services (e.g. no audiovisual commercial communication relating to these products before 10 p.m.);
- the alcohol content of products (e.g. prohibition of audiovisual commercial communications for alcoholic beverages of 18° vol. or above);
- the concentration of advertisements in slots, in the case of television advertising (e.g. no more than one per advertising break/advertiser/programme);

— the promotional and advertising format adopted (e.g. prohibition of product placement and sponsorship by manufacturers of alcoholic beverages or, at least, the application of scheduling restrictions as indicated above).

4.12 For example, it should mention the possibility of seeking injunctions on the grounds of infringement of the provisions of the directive (in accordance with Directive 98/27/EC) which, despite being mentioned in other relevant legislation such as Directive 2005/29/EC on Unfair commercial practices, is not even mentioned in the recitals of the proposal.

4.13 The proposal should increase the duties of the Contact Committee, in areas such as:

- establishment of common rules for identifying the regulatory body responsible for audiovisual media services;
- establishment of common rules for informing viewers of the existence of product placement and sponsorship;
- establishment of common rules for developing self-regulation and co-regulation schemes;

Brussels, 14 September 2006.

- establishment of common rules for transmission by other broadcasters of events or summaries thereof, which are of general interest;
- establishment of common rules to enable citizens to exercise their right of reply and correction.

Consumers' and viewers' organisations should be recognised as having an active role in both self-regulation and co-regulation ⁽¹⁾.

4.14 The proposal should require all Member States to set up regulatory authorities with powers in the fields covered by the directive, establishing their independence, impartiality and transparency in their membership and the implementation of their duties, under the criteria of Recommendation 23(2000) of the Council of Europe.

4.15 Lastly, it would be advisable for the proposal to include measures to promote the accessibility of digital television and its interactive content to people with disabilities, thus harnessing the potential brought by technological convergence.

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

⁽¹⁾ Information report on the Current state of co-regulation and self-regulation in the Single Market (Rapporteur: Mr Vever).

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendments were rejected but received at least a quarter of the votes cast:

Point 4.1

Amend as follows:

'4.1 The EESC believes that the definition of "audiovisual commercial communication" proposed by the Commission is too restrictive unclear, mechanically reproducing the definition of "audiovisual media services". It seems logical to define them as services identical in nature to scheduled broadcast television, "moving images with or without sound", making moving images a sine qua none for these audiovisual media services, and leaving the Internet-based press and radio broadcasting outside the scope of the directive. However, as As the scope has been defined, audiovisual commercial communications linked to audiovisual media services can use static images (e.g. logos or advertising posters) or sounds on their own, without images (e.g. a spoken reference to a brand or an advertising jingle). It would be preferable to define audiovisual commercial communication as "images and/or sounds accompanying audiovisual media services designed to promote, whether directly or indirectly, the goods, services or image of a physical or legal person for economic purposes"

Reason

In this area it is difficult to draw clear lines. The definitions proposed in 4.1. are even wider than those of the draft Directive, and therefore add to the difficulty of clear implementation. In order not to hamper the development of the services in question, the definitions should be as clear as possible, while serving the objectives of protecting minors and human dignity, clearly identifying commercial communications, provide a right of reply and providing basic identification requirements.

Voting:

For: 32

Against: 40

Abstentions: 3

Point 4.2.1

To be deleted:

'4.2.1 If the proposed criterion is maintained, the directive should allow Member States to empower courts (in the event of civil or administrative proceedings) to demand that broadcasters prove that no payment has been received for audiovisual communication, as indicated in Directive 84/850/EEC. Otherwise, this communication would be presumed to be commercial in nature.'

Reason

The proposal that courts could demand the broadcaster to produce evidence that no payment has been received for audiovisual communication would open up for an easy possibility of abuse. It is furthermore practically impossible for a broadcaster to present proof of not having received payment.

Voting:

For: 35

Against: 40

Abstentions: 1

Opinion of the European Economic and Social Committee on the GALILEO programme: successful establishment of the European supervisory authority

(2006/C 318/34)

On 19 January 2006 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on the *GALILEO programme: successful establishment of the European supervisory authority*.

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 18 July 2006. The rapporteur was Mr Buffetaut.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 200 votes to four with two abstentions.

1. Conclusions and recommendations

The European Economic and Social Committee attaches great importance to the success of the Galileo programme, and accordingly emphasises the need for the hand-over period between the Galileo Joint Undertaking (GJU) and the Galileo Supervisory Authority (GSA) to be effected smoothly. To this end, it recommends:

- setting up a plan for the transfer of activities from the Joint Undertaking to the Supervisory Authority in order to ensure the legal certainty of the operation;
- providing legal and practical solutions for the issue of the transfer of activities carried out by third country entities (China and Israel) associated with the Joint Undertaking to the Supervisory Authority;
- ensuring that the Joint Undertaking's remaining appropriations are effectively handed over to the Supervisory Authority;
- making sure that there is no overlap of responsibilities between the Joint Undertaking and the Supervisory Authority before the date of winding up of the Joint Undertaking;
- avoiding any interruption in the negotiations on the concession contract;
- guaranteeing the international liability arrangements for the launching States of the Galileo constellation satellites.

2. Introduction

2.1 The transfer of business between the Galileo Joint Undertaking (GJU) and the Galileo Supervisory Authority (GSA) must be completed by the end of 2006. For the future success of the Galileo programme, it is crucial that the transfer should take place under the best possible conditions from the legal, human, financial and budgetary points of view.

2.2 Similarly, it is preferable that the negotiations on the concession contract begun by the Joint Undertaking, and to be

taken up by the supervisory authority, should continue seamlessly.

2.3 Lastly, the specific issue of the international liability of states under the Galileo programme needs to be addressed, as it must be resolved before the concession contract discussions end and the forthcoming launches of the Galileo constellation satellites.

3. General comments

3.1 Summary description of the Galileo programme

3.1.1 Galileo is the European Union's flagship scientific and technical project. Satellite radionavigation systems are an issue of strategic importance to Europe, which it cannot afford to neglect. Europe has consequently decided to fund and deploy its own global navigation satellite system (GNSS) similar to its US and Russian counterparts.

3.1.2 Galileo will provide a highly accurate, robust and guaranteed worldwide positioning system, containing an integrity message. It will supply independent navigation and positioning services under civilian control, while remaining compatible and interoperable with the two existing military systems: the American GPS (Global Positioning System) and the Russian GLONASS system. Galileo will also provide a secured governmental service which will be accessible to authorised users under all conditions.

3.1.3 The European system will comprise a constellation of thirty satellites and ground stations, which are necessary for optimum system functioning, and should be operational by the end of 2010.

3.1.4 The programme is being carried forward and supported by two major players: the European Union, represented by the European Commission, and the European Space Agency (ESA). The European Commission and the ESA set up the Galileo Joint Undertaking (GJU) with the task of supervising the programme and management the EU's funding for Galileo.

3.1.5 At the end of the in-orbit validation (IOV) phase, the entire system will be transferred from the GJU to the Galileo Supervisory Authority (GSA), a Community regulatory agency, which will be responsible for signing a concession contract with a group of private companies.

3.1.6 The total cost of the Galileo programme for the design, development and in-orbit validation phase, is estimated at EUR 1 500 million.

3.1.7 The concession contract is currently being negotiated between the GJU and a consortium of European companies (Anea, Alcatel, EADS, Finmeccanica, Hispasat, Immarsat, Teleop and Thales).

3.1.8 Arrangements for the transfer of activities between the GJU and GSA are being defined at present: it must be ensured that they do not entail any delays, complications or duplication of costs.

3.2 *The Galileo Joint Undertaking (GJU)*

3.2.1 The Joint Undertaking was set up by decision of the Council of the European Union in Regulation No 876/2002 of 21 May 2002, on the basis of Article 171 of the Treaty establishing the European Community, which provides that 'the Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes'. The annex to the regulation contains the statutes of the GJU.

3.2.2 The members of the GJU are:

- the European Community, represented by the Commission,
- the European Space Agency (ESA).

3.2.3 Article 2 of the Statutes allows undertakings, including those from third countries, to become members of the Joint Undertaking. It now in fact includes a Chinese body (the National Remote Sensing Centre of China — NRSCC) and an Israeli commercial company (MATIMOP). Both these entities sit on the Administrative Board with voting rights in proportion to their contributions.

3.2.4 The GJU's legal nature is complex as a result of the membership of its Administrative Board. The regulation stipulates that it is to be considered as an international organisation for the purposes of European legislation on turnover taxes and excise duty. It also specifies that it is not designed to fulfil an economic purpose. According to the Commission, the GJU's legal character is closer to that of an association than a commercial undertaking, as the GJU receives only contributions from its members and does not make a profit. Moreover, the Belgian tax

authorities (the GJU being subject to Belgian law for aspects not covered by the above-mentioned regulation) have deemed it not to be a commercial enterprise but a legal person (falling into the same category as an association in Belgian law).

3.2.5 The GJU's capital breaks down as follows:

- European Commission EUR 520 million
- ESA EUR 50 million
- NRSCC EUR 5 million
- MATIMOP EUR 5 million.

3.2.6 Because of the GJU's specific legal nature and the fact that it only receives contributions, the Commission has proposed that the word 'capital' be replaced by 'contribution', which requires an amendment of the Statutes. This was approved by the GJU Administrative Board on 2 June 2006. The European Court of Auditors had also pointed out that use of the word 'capital' was inappropriate, since the GJU's budget line did not allow for capital contributions.

3.2.7 The main task of the GJU is successfully to complete the development of the Galileo programme during its development phase by combining public and private sector funding, and to ensure the management of major demonstration projects. A further mission of the GJU is to undertake the research and development steps needed to ensure the success of the development phase and of the coordination of national activities in this field and, consequently, to manage the contracts concluded under the European Commission's framework programme for research and technological development (FP6).

3.2.8 The GJU is directed by:

- an Administrative Board,
- an Executive Committee, and
- a Director.

3.2.9 The Council of the European Union also established a Supervisory Board and a Security Board to monitor its activities.

3.2.10 The GJU was set up for a period of four years from 28 May 2002 (date of publication in the Official Journal), covering the initial duration of the Galileo programme development phase. The regulation makes provision for extending this period until the development phase is completed, but without defining how the extension is to be carried out. In the light of the establishment of the GSA, the Commission has proposed winding up the GJU on 31 December 2006, requiring an amendment to the Statutes annexed to Council Regulation N°

876/2002 of 21 May 2002 and the opinions of both the European Parliament and the EESC. At the end of the procedure for consulting the GJU's Supervisory Board and the ESA's navigation steering committee, commenced on 10 March 2006, the GJU's Administrative Board approved the amendment to the Statutes on 2 June 2006, enabling the Commission to adopt the proposal for a regulation amending the Statutes of the GJU on 29 June 2006. This regulation is in the process of being approved by the Council of the EU.

3.2.11 In order to promote the widespread use of satellite navigation systems and to allow third country entities to take part in the GJU, a number of international agreements have been signed between the European Union and third countries (China, Israel, India, Ukraine and others), with others in the process of negotiation (Morocco, Korea, Russia and Argentina). These agreements explicitly exclude any cooperation in aspects concerning the service reserved for government applications. Two technical cooperation agreements have been concluded between the GJU and bodies representing two countries (the National Remote Sensing Centre for China and MATIMOP for Israel) which, under the GJU Statutes, enables representatives of these entities to sit on the Administrative Board of the GJU.

3.2.12 Lastly, arrangements for winding up the Joint Undertaking are set out in Article 21 of the Statutes.

3.3 The Galileo Supervisory Authority (GSA)

3.3.1 This body was set up by decision of the Council of the European Union in Regulation No 1321/2004 of 12 July 2004. It is a Community agency having legal personality.

3.3.2 Its task is to manage the public interests relating to the GNSS programmes and to be their regulatory authority.

3.3.3 Its tasks, defined in Article 2 of the regulation, are:

- managing and controlling the use of the European funds specifically allocated to it for GNSS (Global Navigation Satellite System) programmes;
- concluding a concession contract with the consortium selected for the deployment and operation of Galileo;
- taking over the management of the agreement with the economic operator charged with operating EGNOS (European Geostationary Navigation Overlay Service);

- managing frequencies (coordination, rights of use, relations with the concession holder);
- modernising and further developing the system;
- ensuring certification of system components;
- dealing with aspects relating to the system's security.

3.3.4 It should be emphasised that the GSA will own the system and in particular the property developed by the concession holder, and will be responsible for protecting and valorising investment already made by the Community.

3.3.5 The GSA is directed by an Administrative Board (one representative for each Member State and one for the Commission), a System Safety and Security Committee and a Scientific and Technical Committee. An Executive Director represents the authority and is in charge of its management.

3.4 Legal, technical and financial questions and risks involved in the GJU-GSA transfer

3.4.1 Implementing the GJU-GSA transition

The arrangements for the transition and transfer of activities from the GJU to the GSA have not been clearly defined by the Commission. A non-paper from the Commission's Transport and Energy DG ⁽¹⁾ has however suggested that an exchange of letters or a Memorandum of Understanding might take place between the two bodies in order to lay down the cooperation arrangements, ensuring complementarity of activities and preventing duplication.

3.4.2 Although the tasks allotted to the two bodies when the Galileo programme was launched were different in kind and in the implementation deadlines, in the light of the delay in the development phase (approximately two years) and of the effective establishment of the GSA (the director was appointed in May 2005) it is now necessary for economic, legal and technical reasons to authorise the GSA to intervene immediately — well before the end of the development and validation phase — and to wind up the GJU as soon as possible ⁽²⁾. To this end, the progressive transfer of activities from the GJU to the GSA, including work arising from the management of the contracts concluded by the GJU, must be put in motion; it is also important that GSA teams be very closely involved, as of now, in the negotiations for the concession contract which is to be signed and managed by the regulatory authority.

⁽¹⁾ Setting up of the Galileo Supervisory Authority, Document for discussion at the executive Committee of 24 June 2004, TREN E/4/OO/bp D 11090 (2004) of 24 June 2004, p. 1.

⁽²⁾ It is recalled that the initial date for the end of GJU activity was 28 May 2006 (see above — duration of the GJU).

3.4.3 The GJU is now expected to cease activity on 31 December 2006, subject to acceptance by its members of the amendment to the GJU Statutes. An initial plan for the transition and the transfer of GJU activities and know-how has been drawn up between the Directors of the GJU and the GSA and was submitted to the Supervisory Board and the Administrative Board of the GJU in February 2006. This transition plan will have to be worked out in detail and adapted in order to ensure the transfer takes place as quickly and smoothly as possible.

3.4.4 During this transitional period, the two bodies must work in close cooperation to ensure a smooth, problem-free transfer of activities and know-how. This period should also enable the GSA to become fully operational in order to avoid the risk of personnel shortages at a time when the main tasks on which the programme's success depends are to be carried out.

3.4.5 The actions should be planned with a view to ceasing activity at the end of December 2006. This would enable the winding-up phase to commence at the beginning of 2007. This transition must also be completed as soon as possible so that the regulatory authority can define and implement Galileo's security and safety rules, define the relevant rules governing intellectual property rights and coordinate Member States' actions and positions regarding the frequencies needed to use the Galileo system.

3.4.6 The transition plan must contain measures to ensure that the actions carried out by the two entities are compatible, and provide procedures for settling any disputes that may arise between them. It has so far been agreed that the Director of the Energy and Transport DG should serve as a mediator between the GJU and the GSA in the event of difficulties in carrying out the transfer.

3.5 *Ensuring legal certainty in the transfer of assets from the GJU to the GSA by drawing up a practical transfer of activities plan*

3.5.1 As presently worded, the regulation establishing the Supervisory Authority does not permit it to intervene during the development phase, which is the responsibility of the ESA. The regulation should therefore be amended to grant this power to the Supervisory Authority. An opinion of the European Parliament (but not necessarily of the EESC) will be required for this purpose. The agreement between the GJU and the GSA should guarantee the legal certainty of operations to transfer GJU assets to the GSA, by drawing up a practical transfer of activities plan which comprises an identification of the roles of the different bodies and entities concerned, an accurate catalogue of assets and liabilities, practical transfer arrangements, a timeframe for the transitional phase, the essential steps to be taken, the financial and fiscal consequences of the transfer, etc. The decisions to be taken regarding the arrangements for transferring assets from the GJU to the GSA should require the active involvement of a range of bodies such as the GJU Supervisory

Board, the GJU Administrative Board, the ESA Council, the Administrative Board of the Galileo Supervisory Authority, the European Commission, the EU Council and the European Parliament.

3.5.2 It should be pointed out that, despite the fact that Article 6 of the GJU Statutes lays down that the Joint Undertaking shall own all the tangible and intangible assets created or transferred to it for the development phase of Galileo, most of the items developed under the programme, including satellites, appear to belong not to the GJU, but rather to the ESA under the GalileoSat programme. Article IV of Annex III of the ESA Convention clearly shows that the Agency, acting on behalf of the participating States, is the owner of the satellites, space systems and other items produced under the ESA programme as well as of the facilities and equipment acquired for its execution. Any transfer of ownership is decided on by the ESA Council. Thus, it would seem that until such times as the ESA Council decides on a transfer of ownership or grants a licence for use to the GJU, the GJU will not have any right to these items. For its part, the Commission considers that Community law is applicable and that, following the amendment of the GSA and GJU Statutes, and the winding-up of the latter, all the assets will automatically be transferred to the Supervisory Authority. The ESA's and the Commission's interpretations could therefore differ.

3.5.3 It would consequently appear that this state of affairs might give rise to discussion on how to interpret Article 7 of the GJU-ESA contract, which states that the ownership of the satellites and other physical and immaterial property produced in the framework of the programme shall be vested in ESA, acting on behalf of the JU.

3.5.4 The meaning of 'on behalf of' is in fact interpreted by the ESA on the basis of the wording of Article IV of Annex III to the ESA Convention. In this context, the expression means that the ESA acquires the results of developments carried out on behalf of the States participating in the relevant ESA programme, and that the latter may ask the Agency for a licence to use the results; this licence is more or less restrictive depending on the requirements which the States specify (use for commercial or scientific purposes, etc.).

3.5.5 This position seems to be confirmed in the text of the GalileoSat programme Declaration, Article 12 of which stipulates that the ESA is the owner of all tangible and intangible items of the GalileoSat programme.

3.5.6 For EGNOS, in contrast, the ESA is only the owner of the tangible items on behalf of the States participating in the programme, with intellectual property rights remaining with the ESA contractors under the Agency's rules.

3.5.7 The expression 'vested in ESA, acting on behalf of the JU' is consequently interpreted by the ESA as 'vested in ESA in the interests of the GJU'.

3.5.8 Discussions with the ESA, however, do not suggest that the ESA does not wish to transfer assets to the GJU or the GSA. Nevertheless, the ESA has made it known that this transfer requires the authorisation of the ESA Council (by a simple majority) and that the transfer arrangements have still to be defined. The ESA would prefer the option of a direct transfer from the ESA to the GSA for both fiscal reasons and because it would be more appropriate, insofar as in this case third countries holding GJU capital would have no rights over items whose ownership was transferred by the ESA. These items would not be counted among the GJU's assets and would therefore not be subject to its winding-up procedures.

3.5.9 The specific question of the intellectual property rights and items developed by third countries is governed by the international agreements concluded between firstly, the EU and non-EU third countries and secondly, between third party bodies and the GJU ⁽³⁾.

3.5.10 However, the GSA regulation would appear to clearly show that the Supervisory Authority is the owner of all the tangible and intangible assets which are transferred to it by the GJU on completion of the development phase or which may be created or developed by the concession holder during the deployment and operational phases. The GSA regulation provides that the procedures governing ensuing transfers of property will, in the case of the GJU, be set out in the course of the winding-up proceedings laid down in Article 21 of the GJU Statutes. For EGNOS, the Authority is the owner of all the tangible and intangible EGNOS assets subject to agreement with the EGNOS investors on the terms and conditions of the transfer from the ESA of ownership of all or part of the EGNOS facilities and equipment. This could be interpreted to mean that, from the Commission's point of view, no transfer procedure between the GSA and the ESA would be necessary, since all the tangible and intangible assets belong to the GJU (in contrast to the ESA's current interpretation based on its Convention and on the programme Declaration).

3.5.11 The following legal steps in particular must be taken:

- amendment of the GJU Statutes to establish the closure of the GJU on 31 December 2006, complete operations to

⁽³⁾ The involvement of non-EU third countries in the Galileo programme is covered by international agreements negotiated and concluded by the EU on behalf of the Member States, following negotiation of the provisions of the Agreement by the European Commission acting on the instructions of the Council. The first agreement was signed with China in October 2003, and is in the process of being ratified by the Member States. These agreements call on third countries to appoint an entity to participate in the Joint Undertaking (see above — International cooperation).

transfer the GJU's activities to the GSA, and provide for a winding-up period the duration of which will remain to be defined;

- amendment of the GSA regulation in order to introduce the tasks transferred from the GJU to the GSA, such as steering the development and in-orbit validation phase, managing the activities emerging from the European R&D framework programmes, and monitoring and managing technical developments in the operational system ⁽⁴⁾.

3.6 *Plan for transfer of activities from GJU third countries to the GSA*

Negotiations for the transfer of activities carried out by third country entities, by means of additional transfer clauses between the GSA, the GJU and the bodies concerned, must get under way rapidly. Contact must be made with these bodies to sound out their positions regarding the closure of the GJU and their future place and role within the GSA. The provisions of the regulation establishing the GSA stipulate that it should be possible for third countries, particularly those which have been involved in the programme's previous phases, to participate in the GSA provided they have concluded an agreement with the Community. Such agreements must specify, in particular, the nature, extent and manner in which these countries are to participate in the work of the Authority, including provisions relating to participation in the initiatives undertaken by the Authority, financial contributions and staff. It would seem that the reaction of third-country entities to the decision to wind up the GJU before the end of the IOV (in-orbit validation) phase might depend on the place accorded to them in the GSA. The NRSCC and MATIMOP could, for example, demand repayment of a part of their contributions as a result of GJU closure. The question of third party participation on the GSA Administrative Board will inevitably arise during the negotiations. Initial contacts on this question with the Community bodies seem to indicate differing views between the Member States: some do not wish to grant voting rights to third countries, while others point to the danger of compromising system security if it is opened up too widely to third countries. All, however, appear to agree that third party involvement in the GSA's Administrative Board must under no circumstances jeopardise EU control over the system. A special position might be granted, under certain conditions, to non-EU European countries (Norway and Switzerland). One solution might be to group third countries together within a dedicated structure to allow them to state their positions regarding decisions taken by the GSA.

⁽⁴⁾ Two information memos have been drawn up by the Commission on this question for the members of the GJU Administrative Board: 'Changes to the GJU Statutes and GJU/GSA transfer', TREN B5 D(2006) of 18 January 2006; 'Envisaged changes to the GSA Regulation and GJU/GSA transfer', TREN B5 D(2006) of 19 January 2006.

3.7 Limiting overlap of responsibilities

3.7.1 A plan to reduce the GJU establishment plan should be put in place, with firm step-by-step deadlines in keeping with the timetable for the transfer of activities, in order to avoid the presence of a large number of staff at the end of December 2006, take stock of the employment contracts and ensure that there is no risk of end-of-contract disputes which might block the transfer of assets. It should be noted that some 24 people are expected to continue working up to the date of the end of negotiations on the concession contract, no later than 31 December 2006. The GJU winding-up phase after 31 December 2006 is to be carried out by approximately six people.

3.7.2 It is also necessary to have a clear picture of how the GSA is to grow, and particularly of the staff recruitment plan, in order to check on its compatibility with the plan for the transfer of GJU activities. It should be noted that the GSA must comply with Community procedures and deal with a number of constraints concerning staff recruitment (level of salaries, contracts limited to three years, final location of the agency as yet undecided) which are holding back the process of setting up the GSA organisation.

3.8 Financial and budgetary aspects

3.8.1 It is important that the remaining appropriations at the closure of the GJU (estimated at some EUR 46 million) should be transferred to the GSA. The Commission would like the transfer of funds from the GJU to the GSA to take place as soon as the Supervisory Authority is empowered to manage the end of the development phase. In this way, the only funds remaining available to the Joint Undertaking at the time of closure of activities would be those required for the winding-up process.

3.8.2 The revised GJU budget for 2006, incorporating an increase of EUR 7 million over the budget adopted in 2005, when it was expected that closure would take place in May 2006 (instead of the EUR 14 million originally requested by the GJU without taking account of the transfer of activities to the GSA), means that the transfer of activities to the GSA by the end of 2006 at the latest can be covered with maximum flexibility: this revised budget was adopted by the GJU Administrative Board and Supervisory Board at the end of February.

3.8.3 The 2006 GSA budget, for its part, must take account of additional staff recruitment requirements in the course of 2006 and must be increased accordingly. Following the adoption of the new draft 2006 budget of some EUR 8 million (instead of an initial budget of EUR 5 million for 2006 voted in 2005) by the GSA's Administrative Board on 23 January 2006, the revised draft budget is to be examined by the Ecofin Council and then by the European Parliament in the second half of

2006. The increase in the GSA's budget to the suggested amount is a precondition for the GSA's ability to recruit the necessary staff and conduct the transferred activities. The final savings made on the GJU's budget, as a result of the progressive transfer of activities to the GSA should ideally cover the increased GSA budget: this should serve to reassure MEPs regarding the proper use of European funds in the transfer operation even in, in practice, the funds and budgets in question come from different sources.

3.8.4 An assessment of the costs of winding up the GJU (in particular, staff kept on to complete the winding-up operations) and the financial impact in terms of VAT and other taxes (e. g. transfer of ownership duties) must be made as soon as possible. Since the GJU, to which the Belgian authorities have sent a comfort letter, is regarded by them as a legal person under Belgian law (falling into the same category as an association) rather than a commercial enterprise, it should not be liable to any tax on the liquidation surplus. The amount of tax levied should therefore be small, especially if most of the funds have been transferred prior to winding up. Such issues must, of course, be dealt with in advance in order to avoid any unpleasant surprises.

3.9 Negotiation of the concession contract and finalisation of technical activities

3.9.1 The GJU's revised 2006 budget will enable it to continue negotiations on the concession contract, the aim being to complete them by 31 December 2006 at the latest, while facilitating the transfer of know-how to the GSA and progressively involving it in the negotiations as it gathers speed.

3.9.2 It should be pointed out that it is stated in the records of the various GJU and GSA control bodies that if the negotiations have not been finished by 31 December 2006, responsibility for conducting them will pass to the GSA on 1 January 2007.

3.9.3 The GJU will also have to introduce a procedure or action plan so that the technical files can be closed and technical documents finalised before its closing date.

3.9.4 The role and responsibilities of the ESA during the reception and system validation phase, and subsequently for technical developments of the system and maintaining the system in operational condition following validation, will have to be specified in a framework contract between the GSA and the ESA. The ESA's role in the GSA Administrative Board as an observer rather than as a full member as in the GJU means it will no longer be able to play such an active role in decision-making. The GSA regulation provides that cooperation with the ESA should exploit to the fullest the possibilities offered by

the framework agreement concluded between the European Community and the ESA on 25 November 2003, where relevant ⁽⁵⁾, and that the ESA may be requested to provide the Authority with technical and scientific support ⁽⁶⁾. In any case, an agreement must be reached between the Supervisory Authority and the ESA before the end of 2006 to cover activities concerning the end of the development phase, and another agreement will have to be concluded by 2008 to organise relations between the Supervisory Authority and the ESA after the development phase has ended, during the reception and system validation phase and possibly beyond, for the operational phase.

4. Further points for consideration: International liability of launching States for Galileo constellation satellites

4.1 The satellites launched during the IOV phase are at present owned by the ESA (development of satellites under the ESA GalileoSat programme). Their ownership is to be transferred to the GSA at the end of the in-orbit validation phase.

4.2 Under the GJU/ESA agreement, the ESA is responsible for launching the first IOV phase satellites and for registering them with the United Nations Office for Outer Space Affairs in Vienna. The first satellite in the constellation (GIOVE-A) was launched in December 2005 by the Starsem operator from Baikonur using a Soyuz-ST launch vehicle.

4.3 In practical terms, the ESA should proceed in the same way as for the transfer of ownership of the satellites it develops on behalf of third parties, as in the case of Meteosat or MetOp, for example (ESA-Eumetsat transfer). Notification of the transfer of ownership of the orbiting satellites should then be made to the appropriate authorities.

4.4 Given the provisions of the 1967 Outer Space Treaty and the 1972 Liability Convention, the liability arrangements following the launch and use of the satellites in orbit need to be examined.

4.5 In the light of the criteria for defining a country as a 'launching State', which may incur international liability in the event of damage on the ground or in orbit caused by space objects, the ESA could be considered as a *de facto* 'launching State', as it is considered as a State which 'procures the launching' of satellites in the IOV phase and concludes the launch contract with the launch operator.

4.6 Similarly, the question could arise as to whether Belgium could be considered as the launching State, since the GJU — closely involved in developing and launching satellites for the IOV phase — lies within its jurisdiction (the GJU is based in Brussels). Under Belgian national law, it would appear that the Belgian Federal State can only incur liability for space

activities carried out from its territory or from installations owned by the Belgian State or placed under its jurisdiction or control ⁽⁷⁾, which is not the case here. However, the question remains entirely valid in terms of international law.

4.7 Moreover, following the winding-up of the GJU and the transfer of its activities to the GSA, the GSA will become the entity on behalf of which the satellites are launched; in consequence the international legal person to which it is attached could also be considered to be the launching State. The definition of the EU launching State should therefore be analysed, with a view not only to the launch of the IOV phase satellites, but also to the launch of the other satellites of the Galileo constellation during the deployment and operational phase.

4.8 In the deployment and operational phase, the country in which the head offices of the operator in charge of the constellation (the company holding the concession) — which will launch the satellites — are located could also incur liability. Since the head offices of the concession holder are located in France (Toulouse), under the terms of the agreement of 5 December 2005 between the main parties involved in the concession, France could in consequence incur liability.

4.9 Lastly, the country under whose jurisdiction the launch operator falls will also be considered to be a launching State, as may any country whose territory or installations are used. If the operator selected is the French company Arianespace, France could be considered to be the launching State.

4.10 Given that several launching States are involved, the relations between the various entities in terms of liability and sharing of risk between the various launching States in the event of damage during the launch and working life of the satellites need to be clarified.

4.11 It should be noted that there is an agreement between the ESA and France (agreements on the *Centre Spatial Guyannais* [French Guiana Space Centre]). This agreement contains clauses on international liability, particularly in the event of launches carried out by Arianespace, and would appear to be applicable to Galileo. The issue of the international liability of the launching States during the working life of the satellites in orbit remains open: the question of whether to conclude an agreement on this matter between France and the other launching States (the ESA, Belgium and the EU) may arise.

⁽⁵⁾ Recital No 12 of the GSA regulation.

⁽⁶⁾ Article 2(2) of the GSA regulation.

⁽⁷⁾ The Belgian law on the launch, flight operations or guidance of space objects of 17 September 2005, published in the *Moniteur* of 16 November 2005, No 348. Article 2(1) of the law states that it covers the launch, flight operations or guidance of space objects performed by natural or legal persons in areas under the jurisdiction or control of the Belgian state or by means of mobile or fixed installations which belong to the Belgian state or are under its jurisdiction or control.

Reference documents

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- 2) Council Decision 98/434/EC of 18 June 1998, OJ L 194 of 10.7.1998, p. 15
- 3) Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking (GJU Statutes in annex), OJ L 138, p. 1
- 4) Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations, OJ L 101 of 11.4.2001, p. 1
- 5) Agreement between the Galileo Joint Undertaking (GJU) and the ESA — ESA/C(2002)51, rev 1 of 23 April 2002
- 6) Galileo Joint Undertaking Organisation and Decision Process — ESA/PB-NAV(2003)20 of 5 September 2003
- 7) Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes, OJ L 246 of 20.7.2004, p. 1
- 8) Communication from the Commission — The operating framework for the European Regulatory Agencies, COM (2002) 718 final of 11.12.2002
- 9) Agreement between the EU and China of 30 October 2003
- 10) Agreement between the EU and Israel of 13 July 2004
- 11) Agreement between the GJU and the NRSCC of 9 October 2004
- 12) Agreement between the GJU and MATIMOP of 6 September 2005
- 13) Agreement between the GJU and ESA for the NRSCC of 9 October 2004
- 14) Agreement between the GJU and ESA for MATIMOP of 18 October 2005
- 15) Droits et obligations des nouveaux membres de l'entreprise commune Galileo (Rights and obligations of new members of the Galileo Joint Undertaking) — ESA/PB-NAV(2004) 18 rev. 2 of 23 June 2004
- 16) Galileo IPR: Ownership and protection — ESA/PB-NAV (2004)26 of 23 September 2004
- 17) International Property Rights for the Galileo Programme — GJU-EXC-2004-50 of 2 September 2004
- 18) Agreement between the Partners of the prospective Galileo Concession, 5 December 2005
- 19) Transition Plan of GJU activities and know-how to the GSA — GJU-ADB-2005-13 rev of 11 February 2006
- 20) Communication from the Commission to the European Parliament and the Council — Integration of the EGNOS programme in the Galileo programme, COM (2003) 123 final of 19.3.2003
- 21) Framework Agreement between the ESA and the European Community signed on 25 November 2003 — ESA/C-M (2004)4
- 22) EESC opinion on the European programme of radio satellite navigation (GALILEO) — TEN/077 (12/09/2001)
- 23) EESC opinion on the Proposal for a Council Regulation on the establishment of the GALILEO Joint Undertaking (COM (2001) 336 final — 2001/0136 CNS) — TEN/089 (28/11/2001)
- 24) EESC opinion on the Communication from the Commission to the European Parliament and the Council — Progress report on the GALILEO research programme as at the beginning of 2004 (COM(2004) 112 final) — TEN/179 (20/06/2004)
- 25) EESC opinion on the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the deployment and operational phases of the European satellite radionavigation programme (COM(2004) 477 final — 2004/0156 COD) — TEN/203 (09/02/2005).

Brussels, 13 September 2006.

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 on the promotion of Inland Waterway Transport 'NAIADES' — An Integrated European Action Programme for Inland Waterway Transport

COM(2006) 6 *final*

(2006/C 318/35)

On 3 February 2006 the Commission 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 Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 September 2006. The rapporteur was Mr Simons.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 14 September 2006), the European Economic and Social Committee adopted the following opinion by 64 votes to two, with two abstentions.

1. Conclusions and recommendations

1.1 It is imperative to strengthen the position of Inland Waterway Transport (IWT) by formulating a European inland navigation policy in the framework of the revised White Paper. The creation of a level playing field, the removal of the existing infrastructure and institutional bottlenecks, along with provision of the necessary political support, constitute the preconditions for the future development of this mode of transport.

1.2 The proposed *Integrated European Action Programme For Inland Waterway Transport* can be considered as a solid basis for the development of IWT. The proposed measures — taking also into account the EESC's comments on the proposal — need to be implemented without delay in order to exploit the full potential of this sector.

1.3 The EESC reproaches the Commission for failing to pay attention to the recommendations set out by the EESC in its opinion on social policy ⁽¹⁾. When applying these recommendations, close, reciprocal coordination between the various DGs involved is essential in order to enable all relevant aspects to be properly considered and given full justice.

1.4 The legal framework for IWT in Europe has been broadly formulated by the Central Commission for Navigation on the Rhine (CCNR). With a view to improving the administrative and regulatory framework, the River Commissions for the Rhine and Danube, in particular the CCNR, have already endeavoured to harmonise the laws governing manning requirements, vessels, boatmasters' certificates and liability. These River Commissions must, therefore, also be listed, as 'responsible actors', in the tables of instruments set out in the Communication.

1.5 The EESC calls upon the European Commission not to subject the liability of carriers of passengers in inland waterways to a new regime, as proposed in the Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterways

in the event of accidents (COM(2005) 592). The EESC would refer in this context to its own-initiative opinion entitled 'Towards a pan-European system of inland waterway transport' and would, however, recommend promoting the course of action pursued by the River Commissions, namely renegotiating the treaty which has already been concluded at international level in this field ⁽²⁾.

1.6 The *modal shift* towards inland shipping brings about not only an improvement in the environmental performances of the transport chain but also helps to achieve sustainable transport in general. Adequate financial and fiscal means must therefore be made available to promote investment in this transport sector and to enable all its potential to be exploited.

1.7 A constructive social dialogue must be entered into at European level as a means of mapping out a strategy for locating people who wish to work in inland shipping and for establishing comparable social conditions and working conditions in all EU Member States. There is also a need to invest in training and traineeships in inland navigation with a view to offering prospects and career possibilities to persons undergoing training.

1.8 IWT is a reliable, safe, environmentally-friendly and inexpensive mode of transport. In order to change traditional patterns, general awareness and knowledge of the real potential of this sector in terms of quality and reliability need to be promoted.

1.9 The proper maintenance of the infrastructure by Member States as well as the necessary financial support, together with the immediate realisation of the Inland Waterway Priority projects, as defined on the priority list of the TEN-Ts, need to be guaranteed, as does a maximum co-financing for

⁽¹⁾ See OJ No C 24 of 31.1.2006.

⁽²⁾ Strasbourg Convention on the Limitation of Liability in Inland Navigation (CLNI).

these projects, as foreseen in the revised guidelines of the TEN-Ts. The appointment of a European Coordinator for the inland waterway projects, as defined in the TEN-T list of priority axes and projects (18. Rhine/Meuse-Main-Danube inland waterway axis and 30. Inland waterway Seine-Scheldt) must speed up the removal of the bottlenecks.

1.10 The EESC regards the creation of an appropriate institutional framework as an adequate instrument for implementing the proposed Integrated European Action Programme for IWT and reinforcing the position of IWT. In its recent own-initiative opinion, the EESC recommended that endeavours be made to achieve the ultimate aim of establishing an independent organisation, enshrined in a treaty, which could embrace at least the international organisations, such as the EU itself, EU Member States involved in inland waterway transport and also non-EU states, such as Switzerland, and the non-EU Danube riparian states.

2. Introduction

2.1 The European Union aims to develop an integrated transport policy in order to promote the movement of goods and persons quickly, efficiently, cheaply and in a sustainable way. This is a key aim in the light of the EU's goal of achieving a dynamic and competitive economy, as set out in the Lisbon Strategy, and in the light of the sustainable development strategy, defined at the Gothenburg Summit in 2001; in this context economic, environmental and social aspects have to be addressed on an equal footing.

2.2 In those areas where it exists, inland navigation offers numerous possibilities in terms of innovation, growth and capacity, environmental friendliness, safety and security. Besides, it has sufficient capacities to absorb the increasing freight streams in Europe and to help free Europe from permanent road congestion.

2.3 In its opinions of 16 January 2002 on *'The future of the trans-European inland waterway network'* and of 24 September 2003 entitled *'Towards a pan-European system of inland waterway transport'*, the European Economic and Social Committee assessed the situation of inland waterway transport in Europe⁽³⁾. The second opinion examined the bottlenecks of inland waterway transport and addressed the need to harmonise rules in this field, in respect of both the public-law and private-law aspects. This opinion also tackled issues such as the environment, safety, the labour-market situation and social aspects. The latter issue is further expanded upon in the own-initiative opinion of September 2005 entitled *'Social policy within a pan-European system for regulating inland waterway transport'*⁽⁴⁾.

⁽³⁾ OJ C 80 of 3.4.2002 and OJ C 10 of 14.1.2004.

⁽⁴⁾ OJ C 24 of 31.1.2006.

The EESC has recently adopted an own-initiative opinion on **'The institutional framework for inland waterway transport in Europe'**⁽⁵⁾; this opinion addresses the very issue of the public organisational structure — an issue which is left open in the Communication under review.

2.4 In its present Communication, the Commission has put forward an ambitious action programme for promoting inland shipping. Actions, based on an extensive survey, are proposed in five areas; taken together, these actions should bring about an improvement in the position of inland shipping, as such, and its position as part of the logistic chain.

2.5 The proposed actions cover the following fields:

- markets;
- fleet;
- jobs and skills;
- image; and
- infrastructure.

In a separate chapter, the Commission's Communication addresses the issue of the modernisation of the organisational structure, examining four options without coming out in favour of any given one.

In the chapters set out below, each of the abovementioned five actions, together with the issue of the modernisation of the organisational structure, will be addressed individually.

2.6 The action programme covers a wide range of measures, for which the European Union itself, the Member States and the business community⁽⁶⁾ should undertake concrete and, if necessary, concerted efforts. This coherent and open approach aims to contribute to a development of inland waterway transport, which itself contributes to a sustainable development of the European Transport policy.

3. General comments

3.1 The establishment and maintenance of a level playing-field between modes of transport and between Member States is a precondition for the proper functioning of an internal market, in which IWT is liberalised and fully competitive.

3.2 IWT is seen as a way of achieving a more balanced transport market. In order to be able to exploit the full potential of this mode, a number of obstacles need to be removed which are currently impeding the full development of the sector. Obstacles are encountered, in particular, in the fields of infrastructure and the development of the Trans-European Networks, as well as in relation to the lack of legal and institutional harmonisation and unification of IWT.

⁽⁵⁾ OJ C 185 of 8.8.2006.

⁽⁶⁾ In this opinion, the term 'the business community' is deemed to include, amongst others, employers, self-employed persons and employees working in this sector.

3.3 In the Communication under review, the European Commission has recognised the need to promote inland shipping and has therefore drawn up an integrated action programme, placing particular emphasis on the concrete measures which are necessary in order to make optimal use of the market potential of this mode of transport and to increase its attractiveness. The Commission's proposals are welcomed by the EESC which regards them as constituting a positive contribution towards resolving transport problems and positioning inland shipping accordingly.

3.4 The EESC is disappointed to note the absence of any proposals in respect of social policy. In the own-initiative opinion which it adopted on this subject in 2005, the EESC put forward a number of concrete recommendations. The EESC strongly urges that this gap be bridged along the lines described in the abovementioned own-initiative opinion.

4. Specific comments

4.1 Markets

4.1.1 To support entrepreneurship in the inland waterway sector, the necessary circumstances and favourable conditions must be created, that enable the proper functioning of the industry and guarantee a level playing field, as regards economic, environmental and social considerations, vis-à-vis other transport sectors. As a consequence, a better coordination of all relevant public services and policies must streamline the necessary formalities.

4.1.2 In order to make the market more attractive to newcomers and at the same time enable existing businesses to extend, fiscal incentives must be used to stimulate (re-)investment. These incentives should include, in particular, the proposed actions and instruments, mainly in the field of state aid guidelines and EU RTD, aimed specifically at inland navigation. It is the high investment costs that may hamper the expansion and renewal of the sector.

4.1.3 The legal framework of Inland Waterway Transport (IWT) in Europe has been broadly developed by the Central Commission for Navigation on the Rhine (CCNR). To improve the administrative and regulatory framework, the River Commissions for the Rhine and the Danube, mainly the CCNR, have already undertaken efforts to harmonise the legislation for manning, vessels, boatmasters' certificates and liability and must be listed as 'responsible actors' in the tables of instruments set out in the Communication ⁽⁷⁾.

4.1.4 In this context, attention is also drawn to the Proposal for a Regulation of the European Parliament and of the Council

on the liability of carriers of passengers by sea and inland waterways in the event of accidents (COM(2005) 592 final). In submitting this proposal for a Regulation, the European Commission is seeking to introduce the same system of liability in respect of carriers of passengers by both sea and inland waterways.

4.1.5 These two modes of transport do, however, differ to such an extent that differing provisions are required in order to take account of the specific conditions applying to these two modes of transport. The overall limit in respect of liability in IWT is currently regulated by an international treaty ⁽⁸⁾ with a view to raising this limit, negotiations are at present taking place, under the leadership of the River Commissions, on amendments to the Convention. These amendments also seek to extend the field of application of the Convention, currently confined to the Rhine riparian states, to include the other IWT States in Europe.

4.1.6 Referring to its own-initiative opinion entitled 'Towards a pan-European system of inland waterway transport', the EESC therefore recommends that this line of negotiation be continued.

4.2 Fleet

4.2.1 Inland vessels are characterised by long lifetime. Therefore fleet innovation and modernisation need support through programmes that facilitate adaptation to new technical standards, and which are based on state aid guidelines. RTD- and support programmes specifically for inland navigation must be provided to support the most important innovation needs in the sector and to adapt the existing fleet to new environmental and safety and security standards.

4.2.2 Inland navigation is a mode of transport which, against the background of a growing transport market, can offer a means of tackling the problem of congestion on the roads and can, by virtue of its safety record and environmentally friendly nature, help to bring about a sustainable solution to the transport problem. Emission standards, fuel quality, noise protection and treatment of ship waste have always been important issues to the business community. Currently, new methods to further reduce emissions even in the next decade are being discussed by ship operators, engine producers and authorities. Inland shipping holds a positive record regarding environmental performance compared to other modes of transport and aims to keep this position. The sector is committed and should be further encouraged to move forward on emission-low concepts in order to maintain its environmentally friendly image.

⁽⁷⁾ Attention is drawn to the call made by the EESC in its own-initiative opinion on social policy for adequate consultations, including by the River Commissions.

⁽⁸⁾ Strasbourg Convention on the Limitation of Liability in Inland Navigation (CLNI).

4.2.3 The benefits from inland navigation are the result of the overall concept and advantages of inland shipping in terms of congestion, maintenance and use of infrastructure, accidents and other relevant elements. Modal shift to inland shipping therefore does not only contribute to an improvement of the environmental performance of the transport chain but also to the development of a sustainable transport system in general.

4.2.4 Inland navigation plays an important role in the intermodal transport chain. As alternative to road transport, the further development of intermodal concepts deserves full support. Whereas these concepts already have been developed in the past years in the field of container transport, additional measures need to be undertaken in order to fully exploit the possibilities of intermodal transport involving a.o. inland navigation.

4.2.5 In concrete terms, centres of loading or discharging need to be located along rivers. Existing and new ports must be developed as intermodal ports. The efficiency of port infrastructure and excellent fairway conditions, a.o. sufficient height of bridges along the rivers and canals, largely determine the efficiency of intermodality.

4.3 *Jobs and skills*

4.3.1 Inland navigation is a highly professional sector. It requires increasing professional skills in the nautical and technical field as well as regarding security, information and communication technologies (ICT) and logistics. The education needs to be adapted to the advanced demands in order to realise and encourage a future-oriented profession. Standardisation of education and training concepts comparable to standards in maritime transport can contribute to further professionalise mainly in the field of transport of dangerous goods. Programmes of recruitment, education and training need to be developed to attract young people in the sector and maintain the necessary skills.

4.3.2 There must be a constructive social dialogue at European level to develop a strategy designed to: make working in IWT an attractive proposition; find suitable people wishing to work in this sector; and create equivalent working and social conditions throughout the Member States of the EU.

4.3.3 As already mentioned, it is the Central Commission for Navigation on the Rhine (CCNR) that has developed the legal framework of IWT in Europe to a high extent. Harmonisation of manning requirements and boatmasters' certificates also is dealt with by the CCNR and the Danube Commission. Together with the European Commission, the River Commissions should work on further unification in this field.

4.3.4 The application of the national social legislation should be controlled more severely. The Commission should promote

the coordination among the controlling authorities of Member States. With regard to this subject, special attention should be given to ship hotels.

4.3.5 Whilst referring to its own-initiative opinion entitled 'Social policy within a pan-European system for regulating inland waterway transport', the EESC takes the view that the European Commission is the body, par excellence, for driving social policy, in the broad sense of the term, at the same time also capitalising on the long tradition, experience and expertise acquired by the CCNR and the Danube Commission, which have, indeed, also paid heed to social policy.

4.4 *Image*

4.4.1 Inland navigation is a reliable, safe, environmental friendly and cheap mode of transport. To change traditional patterns going in the opposite direction, general awareness and knowledge of the real potential of the sector in terms of quality and reliability need to be promoted.

4.4.2 By monitoring trends and developments within the sector and releasing them amongst the key role players, the already introduced Market Observation System might play a crucial role. With support from the River Commissions and the business community, the European Commission must provide the necessary information.

4.4.3 On the other hand, the establishment and support of promotion centres can be seen as a means of spreading the relevant sector information to the business community, which — to be successful — has to translate the sectors' possibilities, under the governance and supervision of the professional organisations.

4.5 *Infrastructure*

4.5.1 The recent flooding in states situated on the Danube has, once again, revived the discussion on the question of environmentally responsible infrastructure measures. A report commissioned by the German authorities following the flooding along the Elbe in 2003 showed that inland shipping in no respect contributed to the situation which had arisen and was therefore not to blame for the flooding and the consequences of this phenomenon.

4.5.2 The functioning of freight and passenger transport depends on an excellent infrastructure. The proper maintenance of the existing waterway infrastructure, the removal of the major bottlenecks and the construction of the missing links are a sine qua non. Consideration also needs to be given to revitalising outdated infrastructure.

4.5.3 The trans-European transport network has been declared a key element in the relaunched Lisbon strategy for competitiveness and employment in Europe. Only two out of the 30 priority projects are, however, inland waterway priority axes, nr. 18. Rhine/Meuse-Main-Danube inland waterway axis and nr. 30. Inland waterway Seine-Scheldt.

4.5.4 Following the adoption of the EU budget for the period 2007-2013, the allocations proposed by the European Commission for the TEN-Ts have been considerably reduced. With a view to avoiding jeopardising the planned co-financing of designated inland waterway projects, the EESC calls upon the EU Member States concerned to make a start, without delay, on carrying out the activities defined in the TEN-Ts.

4.5.5 The EESC also calls upon the European Commission to follow the examples set in respect of railway projects by appointing a coordinator for the two inland waterway projects; the person appointed should be able to play both a coordinating and stimulating role.

4.5.6 The EESC awaits the publication of the process announced by the Commission in connection with infrastructure charging.

4.6 *Modernisation of the organisational structure*

4.6.1 One of the main outcomes of recent investigations in the sector, set out in the report of the European Framework for Inland Navigation (EFIN) entitled 'A new institutional framework for [the] European Inland Navigation' and in the Prospects for Inland Navigation in an Enlarged Europe (PINE) report commissioned by the European Commission, proved that the impact of inland waterway transport at political level is comparably low and its strategic policy management is insufficient. Therefore the EESC recently took the initiative to draw up an own initiative opinion on The Institutional framework for inland waterway transport in Europe. For the sake of brevity, reference is made here to this opinion.

Brussels, 14 September 2006.

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 to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Bridging the Broadband Gap

COM(2006) 129 *final*

(2006/C 318/36)

On 5 April 2006, the Commission 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 Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 September 2006. The rapporteur was Mr McDonogh.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September 2006), the European Economic and Social Committee adopted the following opinion by 193 votes to one, with four abstentions.

1. Introduction

1.1 The Committee is pleased that the critical problem of a broadening in the digital divide between the developed and less-developed areas of the European Union is being addressed in a coordinated approach by the Commissioners for Information Society and Media, Competition, Regional Policy and Agriculture and Rural Development.

1.2 However, the Commission's Communication — COM (2006) 129 '*Bridging the Broadband Gap*' — lacks sufficient

ambition, and it doesn't include enough concrete recommendations to demonstrate a serious commitment to closing the broadband gap.

1.3 The Digital Divide Forum (DDF) report ⁽¹⁾ presented an analysis of the territorial broadband digital divide in Europe

⁽¹⁾ Digital Divide Forum Report: Broadband Access and Public Support in Under-served areas, Brussels 15 July 2005.

and it identified possible EU initiatives to bridge the gap. Considering the seriousness of the problem identified by the DDF, and taking account of the retarding effect on economic and social development caused by the broadband gap, the Commission should be taking more aggressive steps to deal with the problem of the growing digital divide.

1.4 The Committee welcomes the Riga ministerial declaration on e-Inclusion of 11 June 2006 ⁽²⁾, which commits member states to significantly reduce regional disparities in Internet access across the EU by increasing broadband coverage in under-served locations, and to halve the gap in Internet usage by 2010 for groups at risk of exclusion. The Commission now needs to give force to this declaration with policy initiatives and recommendations that will quickly close the digital divide.

In this opinion, the Committee wants to emphasise areas of specific concern and to recommend further actions.

2. Recommendations

2.1 The Committee believes that because of the growing importance of broadband service to economic and social development, broadband connectivity should be included within the scope of the universal service definition ⁽³⁾ as the service of significant public interest.

2.2 The Commission should take whatever measures possible to ensure that Member States rigorously enforce the regulatory framework for electronic communications ⁽⁴⁾.

2.3 The Commission should consider special measures and sanctions to accelerate the process of effective Local Loop Unbundling LLU in Member States. Delays and technical obstructions to the implementation of effective LLU is a major obstacle to the introduction of much needed competition for service provision, especially broadband connectivity.

2.4 Member States should be encouraged by the Commission to assert their national interests to retain or recover influence over core telecommunications infrastructure — trunk-level transmission and switching networks. Government influence is necessary to ensure the development and use of this strategic asset for the achievement of national policy objectives: like closing the broadband gap.

⁽²⁾ Ministerial Declaration, Riga 11 June 2006, IP/06/769.

⁽³⁾ COM(2005) 203, and EP and Council Directive 2002/22/EC on universal service and user's rights relating to electronic communications networks and services.

⁽⁴⁾ Directive 2002/21/EC on a common regulatory framework; Directive 2002/19/EC on access and interconnection; and Directive 2002/77/EC on competition in the markets for electronic communications services.

2.5 National broadband strategies of member states should be reviewed for specific actions to close the broadband gap by 2010. The strategies should be benchmarked against best practice.

2.6 The Commission should put-in-place an effective broadband planning and management process throughout the EU to future-proof the delivery of this essential infrastructure at local level. The process would integrate all National Broadband Strategies and local plans into a European-wide operational plan for the delivery of broadband across the Union. This process would pay particular attention to the delivery of broadband to rural and disadvantaged areas to close the digital divide.

2.7 The Commission should consider how member states could provide financial incentives to telecommunications companies ⁽⁵⁾ to make infrastructure investments in underdeveloped regions; namely by means of strong fiscal incentives for public-private-partnerships (PPP).

2.8 The Commission should explore the mechanisms by which municipal and local government authorities can play a more proactive role in the provision of broadband services and the stimulation of demand for broadband in their regions. These authorities should be fully included in the development and execution of the National Broadband Strategies, as mentioned in 2.6 above. In addition, other mechanisms should be explored — for example, perhaps these authorities might become commercial participants in PPP initiatives; or perhaps member states might impose broadband cabling or service provision regulations for all new housing developments.

2.9 To facilitate the exchange of technical and commercial knowledge between SMEs across the EU, the Commission should launch a web site about world-wide developments in broadband technology and services. It is believed that a knowledge network like this would stimulate more entrepreneurial activity around the provision of broadband connectivity and services.

2.10 To bring clarity to the reality of broadband availability in Europe, the Commission should stipulate the minimum acceptable effective download speed for a connection to be called broadband. This would facilitate proper benchmarking of the territorial divide in broadband access across the Union.

⁽⁵⁾ 'Telecommunications companies' includes every company that offers two-way telecommunications services, including fixed-line and mobile phone companies, and cable television companies providing such services.

2.11 Structural Funds and Rural Development Funds should be used for targeted public information campaigns to stimulate market demand for broadband, especially in rural areas and among specific consumer groups where take-up of the technology is a problem. This will have the dual effect of educating potential consumers about the technology, and it will also increase the market pressure on suppliers to deliver the broadband services needed.

2.12 The Commission should emphasise support for R&D efforts into finding broadband technologies for effective solutions to the problem of providing high speed broadband connectivity in areas not served by adequate telecommunications infrastructure.

2.13 Policy makers should issue consumer protection guidelines on broadband services which simplify the terminology and explain the service offerings and benefits in clear language. This would make it easier for consumers to make good buying decisions.

2.14 Every secondary-level school child should have broadband in their school to include them in the information age.

2.15 The Commission should support initiatives across the EU to introduce school children, older citizens, and socially disadvantaged citizens, to the use of broadband technology (e.g. Web-based learning, video conferencing, on-line public services, etc.).

2.16 The Commission should ensure that all future statistics relating to the provision of broadband services and the measurement of the digital divide and the broadband-gap, should be collected and prepared in accordance with the recent Commission Regulation concerning Community statistics on the information society ⁽⁶⁾.

3. Background

3.1 On 20 March, 2006 the Commission adopted its communication 'Bridging the Broadband Gap'. This Communication focuses on the territorial divide regarding broadband access. It aims to make governments and institutions at all levels aware of the importance of this divide and of the concerns about the lack of adequate broadband services in the less developed areas of the Union. The Communication implements one of the priorities of the i2010 initiative — a European Initiative for growth and employment ⁽⁷⁾.

⁽⁶⁾ Commission Regulation (EC) No 1031/2006 of 4 July 2006 implementing Regulation (EC) No 808/2004 of the European Parliament and of the Council concerning Community statistics on the information society.

⁽⁷⁾ COM(2005) 229 'i2010 — A European Information Society for Growth and Employment'.

3.2 Broadband enables new ICT applications and enhances the capacity of existing ones. It stimulates economic growth through the creation of new services and the opening up of new investment and jobs opportunities. But broadband also enhances the productivity of many existing processes, leading to better wages and better returns on investment. Governments at all levels have recognised the impact that broadband may have on everyday lives and are committed to ensuring that its benefits are made available to all ⁽⁸⁾.

3.3 Securing long term sustainability of remote and rural areas requires a strategic approach to the development of the information society. The availability of broadband services is one critical element in assisting local communities in attracting businesses, in enabling tele-work, providing healthcare, improving education and government services. It provides a critical link to information.

3.4 Demand for residential broadband services in the EU has been growing fast. The number of broadband access lines has almost doubled in the past two years. In October 2005 there were about 53 million connections in the EU25, corresponding to a penetration rate of 11.5 % in terms of population and to roughly 20 % of households. These developments have been mainly market driven and enhanced by increases in competition.

3.5 Despite the general increase in broadband connectivity, access in more remote and rural regions is limited because of high costs due to low density of population and remoteness.

3.6 The Communications stresses that the European Union must step up its efforts to encourage take-up of broadband services and stimulate further deployment, in particular in the less developed areas of the Union. The scope for public intervention in under-served areas was emphasised in 'Europe 2005' ⁽⁹⁾, which highlighted the role that Structural Funds can play in bringing broadband to disadvantaged regions.

3.7 The Communication emphasises the critical role of local/regional authorities in the development of broadband in their areas. They are best placed to plan a broadband project that takes into account local needs and technological requirements. National broadband strategies need to be strengthened to involve and reflect local needs.

⁽⁸⁾ COM(2004) 369 'Connecting Europe at High Speed: National Broadband Strategies', COM(2004) 369.

⁽⁹⁾ COM(2002) 263 'Europe 2005: An Information Society for All'.

3.8 The Communication identifies number of policy instruments available to governments at EU level to close the broadband gap:

- (i) Implementation of the regulatory framework for electronic communications.
- (ii) Public funding.
- (iii) EU funding: Structural Funds and Rural Development Fund.
- (iv) Demand aggregation and procurement.
- (v) Fostering the creation of modern public services.

3.9 In summary, this Communication invites all levels of government in the European Union to be more active in using the available instruments and technologies to close the growing digital divide. Member States are invited to update their existing National Broadband Strategies to provide additional guidance to all stakeholders. Their documents may well define targets in terms of coverage as well as take-up, on the basis of an active partnership with regional authorities, and exploiting synergies between alternative sources of funding (national, Structural Funds, Rural Development Fund). National broadband strategies should also set clear targets for the connectivity of schools, public administrations and health centres.

4. Comments

4.1 *Specific comments*

4.1.1 The universal availability of high speed broadband connectivity is essential to the economic and social development of every region in the EU — urban and rural. This is especially true in the global, knowledge-based economy that now drives so much development. Knowledge-based businesses will grow where the skills and infrastructure exist to support them. Low-cost, world-class broadband infrastructure is a fundamental component of a vibrant 21st Century economy. And an increasing amount of advanced services in health, education and social services will depend on broadband availability. Without such availability the citizens of disadvantaged communities will be further discriminated against.

4.1.2 In contrast with the United States and some Asian countries, most European countries have been too slow to provide broadband to their citizens. Even the modest penetration figure quoted in the Communication for broadband connectivity of 20 % of households in the EU25 by October 2005 masks the fact that the quality of connectivity (speed of

access) is poor in many cases — with download speeds well below 512kbps in both urban and rural regions, and that most of the broadband density is in the urban areas with only 8 % of households in the rural areas connected.

4.1.3 Rural communities are particularly vulnerable to the rapid macroeconomic shifts that are taking place; unless these communities get parity of access to broadband connectivity they face inevitable decline. In the knowledge-economy countries, regions, cities and towns are competing to attract and grow information-intensive businesses that will increase their prosperity, and broadband infrastructure is a key enabler.

4.1.4 Reasonable access, in the home and at work, to high speed broadband Internet access should be a 'right' for every EU citizen, and we reject the Commission's assertion that '... Broadband has not yet become necessary for normal participation in society, such that a lack of access implies social exclusion'. The Commission should reconsider the inclusion of broadband within the scope of the universal service definition at the earliest opportunity.

4.1.5 Also the Commission should stipulate the minimum acceptable effective download speed for a connection to be called broadband internet connection. This is necessary to ensure that the infrastructure and service standards are good enough to support the delivery of emerging Internet services. A direction like this from the Commission would clarify the real situation in Europe regarding the provision of broadband connectivity — today we have inflated connection statistics because the quality of broadband service provided to end-customers is too low to be truly considered broadband — and it would also put appropriate pressure on service companies to provide genuine broadband to their customers.

4.2 *Technology barriers to broadband connectivity*

4.2.1 Although broadband can be provided on a variety of platforms, limitations with some existing technologies are inhibiting the provision of connectivity to many rural locations.

4.2.2 The high-speed transmission capacity of cable television systems can provide an excellent carrier for broadband services. Unfortunately, many rural areas do not have cable television systems, and even when cable TV is available the systems often need an expensive upgrade to be able to provide broadband.

4.2.3 Digital Subscriber Line (DSL) is the dominant subscriber broadband technology in much of Europe, and variants of DSL can provide very high bandwidth at low cost. However there are a number of limitations:

- Implementation of DSL requires upgrading of the local exchanges to which customers are connected. Operators are often reluctant to make the investment needed because they have higher return investment opportunities elsewhere in their business. So, the customers don't get broadband.
- Most implementations of DSL can only support customers located within 3-5km of the DSL-equipped exchange. Customers further away cannot get broadband using DSL.
- DSL uses the existing copper cable infrastructure in the local network to provide broadband service; however, often this cable is old and needs to be upgraded for DSL to work properly. Operators can be reluctant to invest in this upgrade. So, even when the local exchange is broadband equipped and the customer is less than 5km from the exchange, the local loop copper cable into the home or business may be of no use for DSL broadband provision.

4.2.4 Legacy backbone infrastructure can be an obstacle to the provision of high-speed broadband services, especially in areas of low population density. For example, in the 1980s and 1990s many countries used digital microwave technology to provide their telecommunications backbone networks. This radio technology was effective in providing high quality digital telephony and low-speed data services to many rural locations. However, numerous implementations of digital microwave technology have left a legacy of backbone infrastructure that is unsuitable for providing the high speed Internet services now defining broadband connectivity — Internet video services. In the case of Ireland it is estimated that up to 50 % of exchanges nationally (those in rural locations), serving about 15 % of telecommunications customers, are fed off this digital radio backbone and will never be able to get high speed broadband using the existing national telecommunications infrastructure. Solving this legacy problem by serving rural areas with a fibre backbone is extremely expensive and could not be justified on a purely commercial basis; the government would have to subsidise the network up-grade.

4.2.5 The Commission should give special consideration to how the expensive problem of upgrading existing infrastructure (backbone trunk circuits, exchanges and local loop) to provide high-speed broadband services could be supported at national and EU levels — perhaps through fiscal incentives and/or public-private-partnerships.

4.2.6 Satellite and proprietary wireless technologies have been used to provide broadband service in areas where the public telecommunications infrastructure is unable to support the provision of broadband connectivity. However, cost and technology problems limit the usefulness of these technologies to bridge the broadband gap. R&D is progressing in a number of areas to find low-cost, high-bandwidth wireless technologies that will provide effective broadband connectivity. Policy makers should proactively support these developments, and should address the problems of radio spectrum availability to make these solutions viable.

4.2.7 Innovation in the provision of broadband services to everyone could be further stimulated by the development of a knowledge network among SMEs across Europe on state-of-the-art technology for broadband. The creation of the knowledge network would be facilitated by a web site that collates and disseminates the information.

4.3 *Problems with the supply of broadband*

4.3.1 With the emergence of high-bandwidth networks and Internet Protocol (IP) networking technology, network costs have plummeted and the flexibility to offer customised services is almost unlimited. In countries like Italy, France, Spain and the UK, telecom companies have implemented all-IP based networks yielding massive savings in network operating costs. The lower costs of building new IP networks, and deregulation, have weakened the power of dominant service providers, and there has been a huge increase in telecom companies offering retail services.

4.3.2 This technology shift has changed the business model for telecommunication companies; the new model separates network ownership from end-customer service delivery. In efficient, developed markets, the emerging model divides telecom companies into wholesale companies and retail companies, with multiple wholesale service providers competing to sell bandwidth to the myriad of retail service providers. This reflects the new technologies, cost-dynamics and regulatory frameworks that are changing the business of telecommunications from being network-centric to service-centric. However, in the less-developed and less efficient markets telecommunications service provision is still controlled by dominant service providers who have no incentive to separate their wholesale and retail businesses and allow real competition to emerge. Such separation will only happen if policy makers encourage separation through appropriate competition policy measures.

4.3.3 In Europe 25 years ago most of the telecommunications infrastructure was owned by national governments, and these assets were developed for the common good. Since that time there has been progressive privatisation of the telecommunications industry in the EU, which has been mostly a positive experience for industry, customers and society. However, commercially-driven telecommunications companies do not have social, health, education or even economic development objectives — profit maximisation, efficient asset management and the growth of their own business is their focus. Now, where we have a deficiency in the network facilities necessary for the provision of broadband services to underdeveloped regions, the commercially focused telecommunication providers do not have any incentive to invest in this socially-essential infrastructure. Where possible, governments should retain strong influence over the provision and maintenance of national telecommunications infrastructure, balancing the high-returns to be earned from infrastructure investment in areas with high population density with the much less financially attractive investment required in underdeveloped regions.

4.3.4 The roll-out of broadband around Europe, especially to underdeveloped areas, has been hampered by widespread market failure. Uncompetitive conditions for potential new service providers still exist in many markets, with dominant infrastructure providers delaying Local Loop Unbundling (LLU) for as long as they can, and restrictive practices inhibiting access to national backbone networks. Also, where broadband provision has been non-existent or poor, there is often insufficient investment incentive for the exiting infrastructure providers.

4.4 *Problems with the demand for broadband*

4.4.1 The problem of latent demand for broadband services, and especially the differential between the take-up of available services in developed areas with the much lower adoption rates in less-developed areas, has many contributory causes: socio-economic; low quality of available connectivity; poor competition; high costs; and lack of knowledge about the benefits of the technology or how to use it.

4.4.2 Policy makers and governments can have a major impact on the demand side for broadband, and the Committee welcomes the Commission's recommendations that the use of fiscal incentives for subscribers be explored in Member States to lower the real cost of adopting broadband, and that governments should prioritise the development of online public services, and the provision of connectivity for public administrations, schools and health centres to educate users to the benefits of broadband and drive demand.

4.4.3 Consumer demand for broadband is adversely affected by lack of clarity around broadband terminology, and confusion

over the service packages on offer by suppliers. Efforts should be made to simplify terminology and explain services and benefits in easy-to-understand language.

4.4.4 Public information campaigns could be used to stimulate market demand for broadband, where take-up of the technology is a problem. This will have the dual effect of educating potential consumers about the technology, and it will also increase the market pressure on suppliers to deliver the broadband services needed.

4.5 *Broadband vision for a connected Europe*

4.5.1 Broadband connectivity is an essential utility in our information age. The need for faster, cheaper and ubiquitous broadband services is growing exponentially as the knowledge economy develops and the richness of the Internet experience grows.

4.5.2 By 2010 we will need universal broadband service in Europe with sufficient bandwidth to support a true multimedia experience for all users; then business and society can take giant steps in the Information Society.

4.5.3 The Commission can bring this vision to life by defining it in meaningful technical and commercial criteria, and by promoting policies that overcome the obstacles in our way.

4.6 *The need for government planning and action*

4.6.1 Competitive broadband providers want to see an organised market demand: a market where the customers know what services they want and how much they want to pay, and a market where the demand is aggregated into an attractive service proposition for a new supplier. Organised demand would help real competition to grow. And it would help service providers to see the benefits of providing service to the less developed regions of the Union. The Committee welcomes the Commission's initiative to launch a web site that will facilitate the aggregation of demand and facilitate supply.

4.6.2 For every region, the EU needs a coherent, integrated plan for the development of broadband infrastructure and broadband services. The National Broadband Strategies must be augmented by detailed plans for local provision of broadband services in all areas. And the Committee agrees with the Commission that Local Government must own and drive these detailed plans. Such a plan would include a detailed map of the complete broadband infrastructure in the region, and a detailed (down to street level) view of how the desired infrastructure should evolve — what, when and how. The plan would also specify the minimum range of broadband services to be provided for different user-groups and different locales.

4.6.3 The quickening pace of telecommunications technology innovation and the increasingly dynamic nature of the telecommunications industry, means that the Commission and the governments of Member States, will have to manage a continuous process of ensuring that every area of the EU is served with the best, most cost-effective broadband infrastructure available.

4.6.4 Local government and municipal authorities can play an important role in promoting the provision of broadband connectivity in their regions — by leading public-private-partnership initiatives and by implementing regulations that require property developers to include telecommunications infrastructure for broadband in their schemes.

4.6.5 It is notable that certain member states have done a better job than others at addressing the digital divide and have included specific actions in their national broadband strategies to close the territorial broadband gap ⁽¹⁰⁾.

4.6.6 Through policy on National Broadband Strategies, the Commission can coordinate and stimulate coherent action on the development of broadband by national governments across the Union. This policy should be further developed to ensure that governments follow best practice in developing their plans, so that a comprehensive plan is developed for the EU that will close the broadband digital divide by 2010.

Brussels, 13 September 2006.

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

⁽¹⁰⁾ The new broadband plan (September 2004) from Comité Interministériel pour l'Aménagement Du Territoire (CIADT), France, is a good example of a comprehensive strategy.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers and repealing Council Regulation (EC) No 2978/94

COM(2006) 111 final — 2006/0046 (COD)

(2006/C 318/37)

On 25 April 2006, 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 4 September 2006. The rapporteur was Mr Simons.

At its 429th plenary session, held on 13 and 14 September 2006 (meeting of 13 September), the European Economic and Social Committee adopted the following opinion by 187 votes to four with eight abstentions.

1. Conclusions and recommendations

1.1 The EESC agrees that EU Member States must adhere to their political agreements. Providing support, by means of the present proposal for a Regulation, to those EU Member States which fulfil this requirement and demonstrating to a world-wide audience that the EU is serious about also complying in practice with the commitments entered into in connection with the IMO are measures which are very much more important than any — purely speculative and very limited — negative consequences, which may or may not arise.

2. Introduction

2.1 Regulation (EC) No 417/2002, as amended by Regulation (EC) No 1726/2003, introduced measures prohibiting the carriage of heavy grade oil in single-hull oil tankers leaving or bound for ports in the European Union in order to reduce the risk of accidental oil pollution in European waters.

2.2 A similar ban, based on the measures adopted by the EU, has been imposed on a worldwide basis by the International Maritime Organisation (IMO) through the new regulation 13G and 13H of Annex I to the International Convention for the Prevention of Pollution by Ships 73/78 (MARPOL). However, under paragraphs 7 of 13G and 5, 6 and 7 of 13H of the said MARPOL regulation administrations may under certain conditions exempt tankers from the ban. This was the compromise which had to be accepted as the price for the adoption of a worldwide provision. Directly afterwards, the Italian presidency of the EU, speaking on behalf of all EU Member States and the European Commission, declared, following the elaboration of the then customary and mutually binding prior coordination agreement, that they would all not invoke the exemption provisions. Following the entry into force of the IMO regulation on 5 April 2005, one Member State notified the IMO, as early as 18 April 2005, of its intention to invoke the exemption provision which is the subject of the Commission proposal under

review. In the following months, many Member States notified the IMO, in accordance with the coordination agreement, that they would not invoke the exemption provisions. Four Member States have yet to make an official announcement to this effect but they have announced in COREPER, and therefore to the European Commission and the other Member States, that they will shortly be following the example of the other 19 Member States.

2.3 The European Commission recalls political agreements prior and soon after the adoption of the IMO ban and the statement in IMO in December 2003 by the Italian Presidency of the EU expressing a commitment of the then 15, now 25, Member States to refrain from making use of the MARPOL Convention exemptions.

2.4 The European Commission proposes an amendment to Regulation (EC) No 417/2002 to translate the political commitment into law that would extend the scope of the Regulation by prohibiting the carriage of heavy grades of oil in all single-hull tankers flying the flag of a Member State irrespective of the jurisdiction governing the ports, offshore terminals or the maritime area in which they operate.

3. General comments

3.1 The EESC recalls that with its opinion on Erika II ⁽¹⁾ it supported the banning of single-hull tankers for the carriage of the most polluting heavy grades of oil.

3.2 It is a matter of principle, that the Member States should adhere to their political commitments made at international level and should ensure the coherence of the Community policy. However, the proposal is preceded by a short explanatory memorandum focusing only on the political commitments and in particular on the EU statement at the time of adoption of the new regulation 13H of MARPOL.

⁽¹⁾ OJ C 221, 7.8.2001, p. 54.

3.3 With its opinion on Erika II the EESC recommended that the EU should propose to the IMO the designation under the MARPOL Convention of highly sensitive environmental areas as 'areas to be avoided' by tankers carrying heavy fuel oil and the establishment of mandatory routing systems under the SOLAS ⁽²⁾ Convention. Subsequently, IMO responded to proposals by interested states and established a number of Particularly Sensitive Sea Areas (Western European Waters, Baltic Sea, Canary Islands, Galapagos Archipelago) and extended the Great Barrier Reef Area to include the Torres Strait (Australia-Papua New Guinea). These areas, as well as the areas of the Sabana-Camagüey Archipelago (Cuba), the Malpelo Island (Colombia), the sea around the Florida Keys (USA) and the Paracas National Reserve (Peru) established between 1997 and 2003 are protected by associated measures such as areas to be avoided by tankers and other ships, routing measures, reporting systems and pilotage. The establishment of these or such areas should be seen as a reflection of policies of coastal states to minimize the risk of pollution from single hull oil tankers.

3.4 According to the statistics, presented in April 2003 ⁽³⁾ to IMO by the Member States and the European Commission, in November 2002 there were in operation approximately 660 single hull oil tankers of category 2 (20.000dwt and over) out of which 160 super tankers (VLCC and ULCC, tankers of 200.000dwt and over) mostly engaged in the transport of crude oil from the Persian Gulf area to USA and Japan. Oil tankers may be taken out of service for many different reasons or may be laid up at any specific time. By the end of 2006 the maximum number of these super tankers in operation will be less than 50, decreasing every year according to the phasing-out schedule ending in 2010. These figures reveal nothing about

any economic and social concerns which may play a role in the case of the one Member State which opted to invoke the exemption. It is still not possible to obtain precise data in respect of the ships which may be involved by consulting the register of shipping of the state concerned, with the result that any such information continues to be nothing more than speculation, which is unworthy of the EESC. Even if, as an overall figure, 23 ships and between 300 and 400 national seamen may be involved, the danger of 'flagging-out' is not the first option; shrewd entrepreneurs/ship-owners will just seek other oil products to transport and the market for these products is equally buoyant.

3.5 The field of application of the present proposal is based on existing regulations for tankers of more than 5000t. However, it should be reconsidered whether a special regulation for tankers with less than 5000t should be foreseen.

4. Specific comments

4.1 Finally, the EESC believes that there is a need to clarify, or define, what is meant by the 'heavy grade oil **products**' in the proposed new paragraph 3a to Article 1 (English version).

4.2 Articles 4(4) and (5) of the (amended) Regulation (EC) No 417/2002 make reference to Article 4(3) of this Regulation. Under the proposal for a Regulation under review, the Commission proposes that a paragraph 3a) be inserted in Article 4, which would render the abovementioned references no longer applicable; this is in no way one of the objectives of the proposal for a Regulation.

Brussels, 13 September 2006.

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

⁽²⁾ SOLAS: Safety of Life at Sea Convention.

⁽³⁾ IMO document MEPC 49/16/1.