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II

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

430th PLENARY SESSION HELD ON 26 OCTOBER 2006

Opinion of the European Economic and Social Committee on the Green Paper — Damages actions for breach of the EC antitrust rules

COM(2005) 672 final

(2006/C 324/01)

On 19 December 2005, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the *Green Paper — Damages actions for breach of the EC antitrust rules*

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 20 September 2006. The rapporteur was Ms Sánchez Miguel.

In view of the renewal of the Committee's four-year term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Ms Sánchez Miguel as rapporteur-general in accordance with Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 25 and 26 October 2006 (meeting of 26 October), the European Economic and Social Committee adopted the following opinion by 99 votes to 28 with 22 abstentions.

1. **Summary**

1.1 The Commission's presentation of the Green Paper on damages actions for breach of the EC antitrust rules has opened up a broad debate on the need for Community guidelines to make it easier for businesses, consumers and workers to bring liability actions against those in breach of Articles 81 and 82 TEC in the course of their business activity.

1.2 The EESC wishes to state, first of all, that the aim is to ensure the effective protection of everyone involved in the European internal market. Given the free movement of goods, there must be a degree of uniformity in all countries between rights and obligations deriving from contracts and services. Where cross-border transactions are concerned, some harmonisation between national legislation in the various countries must be promoted.

1.3 Secondly, account must be taken of the existence of both European and national competition authorities (NCAs), whose task it is to determine what are prohibited practices, and to establish the economic sanctions that could be imposed on companies in breach of the rules. The Green Paper is concerned with securing compensation for loss in the private sector, in other words through the courts, which means that this action must fit in with the action already being undertaken by the NCAs.

1.4 It should be stated that the EESC does not hold a blanket position covering all of the most important issues raised by the Green Paper; on each of these issues, it puts forward arguments that will help the Commission to take decisions aimed at establishing guidelines for future legislative action. All of these issues are responded to and discussed in section 5 of the opinion.

2. **Introduction**

2.1 The European internal market has undergone a substantial reorganisation where competition rules are concerned, which has helped firstly to give this market the rules needed to ensure that companies act within a framework of free competition. Secondly, this reorganisation has helped to adapt national competition rules between Member States, so that companies can exercise their right to freedom of establishment under the same conditions.

2.2 One of the issues facing the internal market is how to provide effective protection of the other part of the market, in other words, consumers — in the broadest sense of the word — whose rights are adversely affected when contracts and

services take on a cross-border nature. When the relevant companies are based in another Member State, consumers can only exercise their national consumer rights they enjoy in their own countries, whereas competition rules apply to the entire internal market.

2.3 Community competition legislation lacks an effective system for claiming damages for a breach of the rules laid down in Articles 81 and 82 TEC across the internal market. The Commission's new approach on competition policy and consumer protection has helped prompt the presentation of the Green Paper, which sets out the key issues, with a view to taking legislative action to protect the rights of those who have suffered loss as a result of the lack of free competition in the internal market.

2.4 Consideration must be given to the importance of Article 153(3) TEC [1], which provides for a horizontal consumer protection policy that applies to all policies.

2.5 In this context, the Green Paper raises the most important issues for introducing protection measures and for establishing damages claims for breaches of Community antitrust law, particularly in relation to Articles 81 and 82 of the Treaty and their implementing rules. Nevertheless, it must be borne in mind that the Green Paper covers a complex legislative framework, which could lead to a reform of national procedural rules — a matter that raises questions, mainly with regard to issues of subsidiarity and even affecting other issues of civil law.

2.6 The Green Paper takes as its starting point the dual application of competition law. On the one hand, the public authorities, i.e. not only the Commission but also the national authorities (NCAs), apply the rules individually, making use of the powers available to them. Firstly, the competition authorities are empowered both to declare infringements of the rules and to declare the invalidity of agreements restricting competition. Secondly, they have the power to impose financial sanctions based on the implementing regulations for competition law.

2.7 On the other hand, the private enforcement of competition law is allowed in ordinary courts, because the Courts of Justice have the right to enforce this law directly. In this private sphere, particular importance is attached to requests for precautionary measures forcing undertakings to discontinue any prohibited practices, in order to reduce the detrimental impact on competitors and consumers.

2.8 Nevertheless, the purpose of fully protecting the rights granted in the Treaty is to ensure that damages can be contested in court, and this is the basic aim of actions for damages caused by breaches of competition rules. Restricting free competition affects undertakings as well as consumers, who are at the end of the chain of market activity.

[1] See OJ C 185 of 8.8.2006.

2.9 The ECJ has issued an important judgment, giving private individuals who have suffered as a result of a breach of Articles 81 and 82 of the Treaty the right to claim for compensation. In cases where national legislation opposes this right [2], the articles of the Treaty are deemed to take precedence over national legislation.

2.10 The Green Paper offers different options for discussion, which help to determine the different forms of damages actions possible, on the basis of public actions brought by the competition authorities or private actions brought by individuals who have suffered damages. To this end, the Green Paper lists a number of questions that it considers to be fundamental and which put forward various options and focus the discussion in order to achieve the best possible results, so that these options can then be implemented and also adapted to national legal systems, which are not always in line with one another.

3. **Summary of the Green Paper**

3.1 The Green Paper is structured around a list of questions, aimed at stimulating a discussion of the legal nature of damages actions, providing a number of options circumscribing and shaping the Commission's future legislative action. It attempts to clarify under what circumstances a damages action could be brought, and what factors, bearing in mind existing legislation in some Member States, would make the process easier.

3.2 The Commission poses three questions providing a number of possible options:

Question A: Should there be special rules on disclosure of documentary evidence in civil proceedings for damages under Articles 81 and 82 of the EC Treaty? If so, which form should such disclosure take?

Question B: Are special rules regarding access to documents held by a competition authority helpful for antitrust damages claims? How could such access be organised?

Question C: Should the claimant's burden of proving the antitrust infringement in damages actions be alleviated? If so, how?

The second issue addressed is fault requirement, since in many Member States civil liability actions require fault to be proven. The question posed is:

Question D: Should there be a fault requirement for antitrust-related damages actions?

With regard to the third issue, the concept of damages, the following two questions are proposed:

[2] See the Judgment Courage Ltd v Bernard Crehan; C-453/99 of 20 September 2001. Reference by the Court of Appeal of England and Wales (Civil Division) for a preliminary ruling.

Question E: How should damages be defined?

Question F: Which method should be used for calculating the quantum of damages?

The passing-on defence and indirect purchaser's standing is also addressed:

Question G: Should there be rules on the admissibility and operation of the passing-on defence? If so, which form should such rules take? Should the indirect purchaser have standing?

One important question is whether this type of action could be used to protect consumers' interests, given that it is considered to be hard to apply to stand-alone actions. It would make sense, in this case, to bring collective actions, which already exist in some EU countries.

Question H: Should special procedures be available for bringing collective actions and protecting consumer interests? If so, how could such procedures be framed?

Costs play an important role in the success of proposed actions, since the high costs sometimes deter claimants from bringing an action, which leads to the question:

Question I: Should special rules be introduced to reduce the cost risk for the claimant? If so, what kind of rules?

The success of proposed actions can hinge on the coordination of public and private enforcement, hence the following question:

Question J: How can optimum coordination of private and public enforcement be achieved?

Jurisdiction and applicable law is another of the issues addressed. Given the cross-border nature of many practices prohibited under competition rules, the question is:

Question K: Which substantive law should be applicable to antitrust damages claims?

Other questions included in the proposal are:

Question L: Should an expert, whenever needed, be appointed by the court?

Question M: Should limitation periods be suspended? If so, from when onwards?

Question N: Is clarification of the legal requirement of causation necessary to facilitate damages actions?

4. **General comments**

4.1 Regulation 1/2003 ([3]) recognises that both the Commission and the NCAs are responsible for monitoring the proper implementation of Community competition law by the Community authorities and the Member States and, within the limits of their powers, they can declare a commercial practice prohibited or an abuse of a dominant position within the market, with the ensuing sanctions, in a form and on a scale appropriate to the damages caused.

4.2 The problem arises with regard to private enforcement, in the civil courts, where individuals who have suffered loss, including consumers, as a result of prohibited competitive practices, wish to bring a judicial action to seek compensation for damages caused by distortion to competition. This is the debate that needs to be resolved at EU level, because the free movement of goods and services in the European internal market requires Community measures, in particular bearing in mind that the situation varies considerably from one Member State to another and, since no European legislation exists on the matter, it is the national courts that have jurisdiction.

4.2.1 The solution to facilitating consumer damages actions cannot necessarily be used for disputes between businesses, which are the parties most often involved in disputes concerning restrictions to competition. The Commission's proposal must envisage an approach for such disputes. Similarly, the protection of workers in companies involved in antitrust practices must be provided for.

4.3 Nevertheless, given the absence of Community legislation on compensation for loss arising from breaches of Articles 81 and 82 of the Treaty, the ECJ ([4]), which had received a request for a preliminary ruling on the application of these rules by a national court, ruled that the articles of the TEC would apply directly. Claims for damages caused by restrictions on competition fall within the jurisdiction of national courts. Furthermore, the ECJ reiterated the principle already expressed in a number of rulings ([5]) according to which the Treaty has created its own legal system, which is incorporated into the Member States' own legal systems, and which is equally binding on states and private individuals.

4.4 The ECJ has also confirmed ([6]) that Articles 81(1) and 82 'produce direct effects in relations between individuals, and create rights for the individuals concerned which the national courts must safeguard' and even adds ([7]) that 'in the absence of Community rules governing the matter, it is for the domestic legal system of each Member State to designate the courts and tribunals having jurisdiction and to lay down the detailed procedural rules governing actions for safeguarding rights which individuals derive directly from Community law'.

([3]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1 of 4.1.2003, p. 1. EESC opinion in OJ C 155 of 29.5.2001, p. 73.

([4]) See the judgment referred to in footnote 3, paragraphs 17 to 19.

([5]) See paragraph 19 of the judgment cited above, which sets out a considerable number of judgments upholding the same principle on the direct application of the rules set out in the EC Treaty.

([6]) See paragraph 23 of the judgment cited above, along with a considerable body of case-law.

([7]) See paragraph 29 of the judgment cited above.

4.5 The EESC considers that Community guidelines could be drawn up establishing the conditions for bringing an action for damages arising from infringements of the Treaty. This action must compensate those who have suffered losses, within reasonable limits, for economic loss or loss of profit resulting from prohibited competition practices. Above all however, it must enable consumers — in the broadest sense of the word — to exercise their economic rights, recognised in the laws designed to protect them, and this is why we welcome the Green Paper on the matter. We do, however, wish to highlight the need for proceedings to be made shorter, in order to ensure the best outcomes as swiftly as possible.

5. **Specific comments**

5.1 The EESC considers it to be a priority to determine, from the outset of a private case brought in a civil court, future actions for damages caused by prohibited competitive practices.

5.2 The public competition authorities, both Community and national, have an instrument for implementing Community legislation — Regulation (EC) 1/2003 ([8]) — which gives them wide-ranging powers to act in claims against undertakings suspected of breaching competition law. Despite this considerable power to act, all the public authorities can do is declare that an undertaking has infringed antitrust legislation and then impose fines.

5.3 The problem becomes more complicated when, at Community level, competition authorities lack the power to bring damages actions. Furthermore, the ECJ can only act on references for preliminary rulings, because sole jurisdiction in this area lies with the national courts. With this in mind, the ECJ has stated the need for Member States to establish their own arrangements for bringing damages actions ([9]).

5.4 Private enforcement of Articles 81 and 82 TEC means that they can be used by national courts in civil proceedings to bring actions for damages for private individuals. The problem lies in determining what type of action is most appropriate and especially whether a special action should be brought. There are considerable problems and these can be seen in the wide range of questions raised by the Commission in its Green Paper. The EESC would like to help to guide the debate by making some remarks on the issues raised.

5.4.1 **Access to evidence.** The rules on evidence in civil proceedings raise two key questions: 1) the burden of proof and 2) evaluating this evidence. These issues should be considered in court cases likely to take place under various circumstances: a) following a competition authority ruling, b) before a competition authority ruling and even c) at the same time that the competent authority is carrying out an analysis of certain practices.

5.4.1.1 Regulation (EC) 1/2003 establishes each and every circumstance in which Community and national competition authorities can demand proof, in order to determine whether prohibited practices are taking place ([10]); the option of using competition authority files as evidence would thus be a way of solving private individuals' problem of obtaining proof. The question is, would the decision to grant access to files be left to the courts to which a request is made, or would the private individuals — the claimants — have the right to obtain them? The ECJ ([11]) has developed a substantial body of case-law on the Commission's commitment not to release contentious documents to third parties until the main proceedings are over.

5.4.1.2 Consequently, with regard to what are known as 'follow-up' actions, the following approach could be used: once a breach has been declared by the competition authorities and a damages action has been initiated by the individuals affected, the competition authority would provide the courts with the evidence, thus establishing a link between public and private enforcement ([12]).

5.4.1.3 In cases where damages actions for breach of antitrust rules do not apply as the result of a decision by the competent authorities, the EESC considers that presentation by the claimants of evidence adequate for a preliminary assessment of the likelihood of the action's success (establishing the facts) should be deemed sufficient to bring such an action. This argues for not only for the existence of special rules for releasing documentary evidence, but also for the courts to be granted an active role and broad powers, including the power to impose sanctions, with regard to fundamental aspects of the action and in particular as regards the finding, gathering and release of evidence.

5.4.1.4 Because the national courts that will hear antitrust damages cases have a parallel power concerning abuses of competition rules (Regulation 1/2003), their access to these documents, without prejudice to the duty to safeguard confidentiality referred to above, must not form an insurmountable obstacle. The rules of access must, as a matter of priority, obey the law of the forum, but the competition authorities must also be obliged to release to the courts any evidence that they request.

([8]) It is important to highlight the role taken on by the Network of Competition Authorities, (ECN) (OJ C 101 of 27.4.2004) in order to work with the Commission and the NCAs on implementing of competition law.

([9]) See the Courage judgment referred to above.

([10]) The scope of their powers has actually increased in this field, although in some cases, they require authorisation from the national judicial authorities to carry them out, for example with regard to company registration.

([11]) Judgment of 18 May 1982, Case 155/79, AM&S Ltd v. Commission (ECN.1982 p. 417).

([12]) Commission Communication on the co-operation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC (DO C 101 of 27.4.2004).

5.4.1.5 It should be emphasised that access to documents already held in a damages action is particularly important in actions for antitrust damages regardless of the investigating body (administrative or judicial) and regardless of the outcome of the case ([13]).

5.4.1.6 The possibility that the administrative bodies involved in an antitrust action might also select the evidence that can be accessed in a damages action is likely to create suspicion and liability as regards the criteria governing the selection process.

5.4.1.7 Lastly, on the assumption that the courts are to be given special and wide-ranging powers in this type of case, support should be given to the idea that the refusal of one of the parties to submit evidence could have a negative impact on its assessment, enabling the court to take this refusal into consideration in order to determine whether or not the case is proven.

5.4.1.8 Another possibility for cases involving consumers would be to reverse the burden of proof, by placing it on the defendant, meaning that, once a given practice has been declared anticompetitive by the competition authorities, they can only be exonerated from paying compensation for damages if it is proved that this does not apply to the claimants. Attention is drawn to this, as one of the main principles of consumer protection, and although most Member States enforce the rule that the burden of proof lies with the claimants, exceptions leading to the reversal of this burden of proof ([14]) are also recognised, as has occurred in court rulings ([15]) ([16]). If a prior ruling exists stating that an infringement has occurred, failure to reverse the burden of proof in damages actions where this infringement is the cause would represent an unacceptable duplication of proof which, in this case, would have to be produced not by an authority that has special investigative powers but by the injured parties, which would heighten the asymmetries between the parties in this type of action.

5.4.1.9 Also related to the submission of evidence is the issue of expert witnesses, whose services are often required, due to the complexity of damages actions. The multiplication of possibly contradictory experts should be avoided, however, as this would contribute little to the desired effectiveness of the proceedings. In line with the court's wide-ranging powers already argued for in this context, where the parties fail to reach agreement, it should fall to the court to appoint any experts required, possibly in cooperation with the administrative competition bodies.

5.4.2 **Damages.** The key issue is to consider the loss incurred by individuals and to quantify such loss. DG SANCO has carried out a study ([17]) in order to establish a concept of damage to consumers and to draw up a definition that could apply in different areas, including competition. The issue has wide repercussions, because an assessment of the loss will depend on the share of the market affected by the prohibited practices. In any event, deterring the losses incurred by individuals involves extremely difficult problems of assessment, because it has been recognised that it is very often easier to assess the advantages gained by companies from an antitrust agreement than the loss it has caused.

5.4.2.1 While the courts must be given broad powers when hearing this type of action, an equitable approach would be reasonable, although for reasons of the system's consistency and bearing in mind the trends-based development of case-law, guidelines must be provided on the criteria (proof of equity) to be used when determining the amount of damages.

5.4.2.2 Another related point concerns the limitation period ([18]) applying to the right to claim damages for antitrust practices, which cannot begin to be calculated, especially in actions brought following a competition authority ruling, before the final judgment has been handed down on the infringement, because this might cause further difficulties regarding access to evidence.

5.4.2.3 Lastly, the issue of the legal nature of a claim for compensation must be addressed because, in most cases, the absence of a contractual relationship between the business that has committed the breach and the consumer makes it harder to establish a legal base for the claim. To this end, applying the rules on non-contractual obligations ([19]) would enable use to be made of the damages action system, which is a deep-rooted tradition in national legislation.

5.4.3 **Collective actions compared to individual damages actions** ([20]). In the context of damages for breach of antitrust rules, group actions provide a perfect example of some key objectives: i) effective compensation for damages, facilitating

([13]) For example, the competition authorities' power to accept commitments, as set out in Article 5 of Regulation 1/2003.

([14]) See the examples: *Study on the conditions of claims for damages in cases of infringement of EC competition rules* — comparative report drawn up by Denis Waelbroeck, Donald Slater and Gil Even-Shoshan, of 31 August 2004 (p. 50 et seq.).

([15]) In line with Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12 of 16.1.2000, p. 1). EESC opinion OJ C 117 of 26.4.2000, p. 6.

([16]) Rules on the burden of proof and its reversal in fact already exist, in Article 2 of Regulation 1/2003: In any national or Community proceedings for the application of Articles 81 and 82 of the Treaty, the burden of proving an infringement of Article 81(1) or of Article 82 of the Treaty shall rest on the party or the authority alleging the infringement. The undertaking or association of undertakings claiming the benefit of Article 81(3) of the Treaty shall bear the burden of proving that the conditions of that paragraph are fulfilled.

([17]) An analysis of the issue of consumer detriment and the most appropriate methodologies to estimate it (2005/S 60-057291).

([18]) Point 4 of the conclusions, concerning suspension of a limitation period, to the ECJ Judgment of 13 July 2006, in Joined Cases C-295/04 to 298/04 (request from the Giudice di Pace di Bitonto (Italy) for a preliminary ruling) — Vincenzo Manfredi v Lloyd Adriatico Assicurazioni SpA (C-295/04), Antonio Cannito v Fondiaria Sai SpA (C-296/04), Nicolò Tricarico (C-297/04) and Pasqualina Murgolo (C-298/04) v Assitalia SpA.
Attention is drawn to the significance of this recent agreement of the ECJ for strengthening the case-law mentioned.

([19]) Proposal for a Regulation of the European Parliament and of the Council on the law applicable to non-contractual obligations — ('Rome II') — COM(2003) 427 final.

([20]) The practice of so-called 'class actions' in US law is not deemed to be appropriate either in Europe's legal systems or in its judicial model, at least in most countries, which have their own traditional systems for making claims for compensation.

claims for damages by organisations on behalf of the consumers affected, thus helping to provide real access to justice; ii) the prevention and deterrence of antitrust behaviour, given the greater social impact of this type of action. Furthermore, from the point of view of those breaching the rules, the possibility of concentrating their defence would have marked cost and efficiency gains.

5.4.3.1 The key point about collective action is that it recognises organisations' legitimacy to act, which makes it easier for them to bring a case before the courts, along similar lines to Directive 98/27/EC ([21]), in the area of injunctions for the protection of consumers' interests. Although this directive in the field of consumer protection, founded on the principle of the mutual recognition of organisations' legitimacy and their notification to the Commission ([22]), does not provide for damages or compensation for loss, it has opened the way at European level for the active legitimacy of various bodies and organisations and for bringing actions on behalf of collective interests ([23]).

5.4.4 **Funding damages actions.** The standard practice of bringing damage liability actions shows that the procedural costs act as a deterrent. First of all, the high costs required to bring proceedings can prevent an action from getting off the ground and secondly, the protracted nature of civil proceedings increases their costs. Consideration could be given to the idea of consumer authorities creating a fund to support collective claims.

5.4.4.1 Unless this happens, there is a risk that the injured parties would be dispersed, with individual, sometimes derisory payouts that would make it extremely difficult to secure funding for actions of this nature, in contrast with the defendants, who can readily pour further funds into their defence.

5.4.4.2 Practice has demonstrated that the difference in the costs born by the injured parties and by the undertaking or association of undertakings that has breached the rules puts the latter under pressure. It is considered that providing for exemptions from or reductions in legal costs for the claimants in damages actions for breach of antitrust rules — without prejudice to the right to penalise parties acting in bad faith, or payment of costs if a case is won — is a means of offsetting the asymmetries between parties in actions of this nature.

5.4.5 **The passing-on defence and indirect purchaser's standing** entails a complex procedure in that losses caused by a prohibited practice by an undertaking could have an impact further down the supply chain or even affect the end-consumer. This makes it still more difficult to bring damages actions, in particular due to the difficulty in proving a link between the loss and the prohibited practice. Difficulty in providing proof results in passing-on being excluded from damages actions.

5.4.6 **Jurisdiction and applicable law.** The Brussels Convention covers the issue of jurisdiction for hearing cases and the enforcement of judgments in civil and commercial matters. Subsequently, Regulation 44/2001 set out the implementing rules, within the EU, for cross-border disputes. This can solve most of the potential implementing difficulties in actions for damages caused by prohibited competition practices. Collective actions in the field of damages actions for antitrust practices are established practice in only a minority of Member States and when deciding on whether this is a useful option, consideration must thus be given to their specific characteristics, in particular in terms of the competent jurisdiction and the applicable legislation. The cost and efficiency gains for both claimants and defendants produced by this type of action will only be effective if the rules can be applied consistently, which depends on giving primacy to the law of the court having jurisdiction. Making information available not only on the bodies competent to bring actions of this nature but also on actions pending and the ensuing rulings would appear to be an important step in establishing genuine private enforcement of competition policy.

Brussels, 26 October 2006.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

([21]) Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests (OJ L 166 of 11.6.1998, p. 51). EESC Opinion in OJ C 30 of 30.1.1997, p. 112.

([22]) See the Commission Communication on injunctions for the protection of consumers' interests, concerning the entities qualified to bring an action under Article 2 of Directive 98/27/EC of the European Parliament and of the Council, listing a total of 276 entities. (OJ C 39 of 16.2.2006, p. 2).

([23]) (…) *collective interests mean interests which do not include the cumulation of interests of individuals who have been harmed by an infringement;* See paragraph 2 of the directive.

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version)

COM(2006) 226 final — 2006/0073 (COD)

(2006/C 324/02)

On 6 June 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 20 September 2006. The rapporteur was Mr Retureau.

In view of the renewal of the Committee's term of office, the plenary assembly decided to vote on this opinion at its October plenary session and appointed Mr Retureau as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 95 votes to none, with four abstentions.

1. **The Commission's proposal**

1.1 The proposal provides for a codification; despite some minor formal adjustments, the acts being codified do not make any change to the law as it stands.

1.2 In a 'people's Europe', it is important that Community law should be both understandable and transparent. The European Parliament, Council and Commission have therefore highlighted the need to codify legislative acts that have been frequently amended, and have agreed by inter-institutional agreement that an accelerated procedure may be used. Codification may not involve any substantive changes to the acts in question.

2. **General comments**

2.1 The EESC notes that the Commission proposal strictly adheres to the purpose of the accelerated procedure with regard to codification.

2.2 Nevertheless it may be asked whether having the legislation on copyright and related rights in a fixed form is appropriate; the usefulness of codification is only obvious when the law in the relevant area is no longer expected to change radically.

2.3 Given that Community law is still evolving (for example, the pending proposals on 'criminal measures') and differences between Member States in terms of transposition into national law, it is clear that the balance between, on the one hand, the rights of holders of copyright and, in particular, holders of related rights and, on the other hand, the rights of users of protected works (members of the public, the scientific and university community, etc.; i.e. 'consumers of cultural services') are not being respected, since in several Member States the rights of users are being increasingly curtailed. For instance, in many cases, the right to private copying is challenged by physical or software protection using DRM (*digital rights management*) technologies; reverse engineering as a means to achieve interoperability of software is being contested for the same reasons.

2.4 Exacerbating these adverse developments for 'consumers' is the introduction of stiffer penalties for circumvention of DRM in order to make private copies or backup copies.

2.5 The EESC feels that the codification measures in the field of copyright and related rights are premature, since Community law needs to be rebalanced, in particular to take into account the Lisbon Strategy. Moreover, a large number of key issues are left to subsidiarity, and differences in transposition into national legislation could constitute an obstacle to the free movement of works and 'cultural services'.

2.6 Thus, at the present stage, a simple technical consolidation by the Office for Publications would have made it possible to clarify the existing legal situation at the time of consolidation; in future, this technique could be applied whenever there is an important amendment to the applicable law, without appearing to constrain future changes to the law, as the choice of codification could presage.

3. **Specific comments**

3.1 In addition, the Committee would like to see the introduction in Community law of adequate recognition and protection of licenses such as the General Public License (GPL) or the Creative Commons License with regard to books and artistic creation; these licenses offer greater freedom to users and GPL, for example, governs a very large number of the software packages used in computer servers (Internet routers, administration, businesses).

3.2 These more permissive licenses help to promote the dissemination and appropriation of works by users and recipients, and are fully in line with the objectives of the rapid dissemination of knowledge and technology, which should be an essential element of the Lisbon Strategy.

3.3 The EESC therefore asks the Commission to re-open the debate on this matter, which seems likely to become sterile with codification, and consider initiatives for bringing works within the reach of a larger number of people, through recognition of free licenses and a rebalancing of rights between holders and users in the information society so as to strengthen competitiveness and innovation in the European Community.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the term of protection of copyright and certain related rights (codified version)

COM(2006) 219 final — 2006/0071 (COD)

(2006/C 324/03)

On 6 June 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 20 September 2006. The rapporteur was Mr Retureau.

Due to the renewal of the Committee, the plenary assembly decided to discuss this opinion at the October plenary session and to appoint Mr Retureau as rapporteur-general in accordance with Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 104 votes, with 1 abstention.

1. **The Commission's proposal**

1.1 The proposal provides for a codification; despite some minor formal adjustments, the acts being codified do not make any change to the law as it stands.

1.2 In a 'people's Europe', it is important that Community law should be both understandable and transparent. The European Parliament, Council and Commission have therefore highlighted the need to codify legislative acts that have been frequently amended, and have agreed by inter-institutional agreement that an accelerated procedure may be used. Codification may not involve any substantive changes to the acts in question.

2. **General comments**

2.1 The EESC notes that the Commission proposal strictly adheres to the purpose of the accelerated procedure with regard to codification.

2.2 Nevertheless it may be asked whether having the legislation on copyright and related rights in a fixed form is appropriate; the usefulness of codification is only obvious when the law in the relevant area is no longer expected to change radically.

2.3 The term of protection of copyright, originally ten years in the nineteenth century, is now seventy years after the death of the author; there is nothing to say that terms of protection will not increase still further in the future as a result of pressures from copyright holders and holders of related rights.

2.4 As it stands today the situation is heavily weighted in favour of the heirs of deceased authors (about three generations) and the holders of related rights. These terms have become disproportionate in relation to the needs of the public and the creators themselves and they should be revised. If, as seems likely, a WTO member, such as the United States, should decide to extend the original term of protection to 90 years, or even 100 years ('Disney amendment'), what will happen in Europe? Should we then revise trade agreements on intellectual property?

2.5 A very large number of works — literary, philosophical and others — are only published once, in their original language, and will not be published again during the lifetime of the author, or even of that of his/her heirs. Although these works may not have been best sellers in their time, a good number of them do nevertheless have some value, but they quickly become inaccessible to potential readers. The indefinite extension of rights would, in practice, benefit only a relatively small number of creators, whilst the protection system, because of the length of the term of protection, means that a far larger number of works become inaccessible to readers and students once the first edition is out of print.

2.6 Thus it may be asked whether having the legislation on copyright and related rights in a fixed form is appropriate; the usefulness of codification is only obvious when the law in this area is no longer expected to change radically.

2.7 Careful consideration needs to be given, in the digital era, to the diffusion of works and the public's right to be able to access creative works and universal culture. Thus the EESC feels that codification is premature, and it would have preferred a simple consolidation and a re-examination of the conditions and term of protection for copyright and related rights consistent with the Lisbon Strategy.

3. **Specific comments**

3.1 In addition, the Committee would like to see the introduction in Community law of adequate recognition and protection of licenses such as the LGPL (Lesser General Public License for technical documentation) or the Creative Commons License with regard to books and artistic creation; these licenses offer greater freedom to users and the GPL, for example, governs a very large number of the software packages used in computer servers (Internet routers, administration, businesses).

3.2 These more permissive licenses help to promote the dissemination and appropriation of works by users and recipients, and are fully in line with the objectives of the rapid dissemination of knowledge and technology, which should be an essential element of the Lisbon Strategy.

3.3 The EESC would therefore ask the Commission to reopen the debate on this matter, which seems likely to become sterile with codification, and consider initiatives for bringing works within the reach of a larger number of people, through recognition of free licenses and a rebalancing of rights between holders and users in the information society.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council concerning misleading and comparative advertising

COM(2006) 222 final — 2006/0070 (COD)

(2006/C 324/04)

On 6 June 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 20 September 2006. The rapporteur was Mr Westendorp.

In view of the renewal of the Committee's term of office, the plenary assembly decided to vote on this opinion at its October plenary session and appointed Mr Westendorp as rapporteur-general under Rule 20 of the Rules of Procedure. In the absence of Mr Westendorp, the opinion was presented by Mr Pegado Liz.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 86 votes in favour, with one abstention.

1. **Conclusions and recommendations**

1.1 In a 'people's Europe', it is important that Community law should be both understandable and transparent. The European Parliament, Council and Commission have therefore also highlighted the need to codify legislative acts that have been frequently amended, and have agreed by interinstitutional agreement that an accelerated procedure may be used. Codification may not involve any substantive changes to the acts in question.

1.2 The Commission proposal under discussion here is fully consonant with the objective of codification and with the rules involved. The EESC therefore endorses it.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council relating to the space for mounting the rear registration plate of two or three-wheel motor vehicles

COM(2006) 478 final — 2006/0161 (COD)

(2006/C 324/05)

On 27 September 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 Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare its work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Janson as rapporteur-general at its 430th plenary session, held on 26 October 2006, and adopted the following opinion by 104 votes to 0 with 1 abstentions.

1. **Conclusions and recommendations**

1.1 A codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

1.2 Codification must be undertaken in full compliance with the normal Community legislative procedure.

1.3 The purpose of the proposal is to undertake a codification of Council Directive 93/94/EEC of 29 October 1993 relating to the space for mounting the rear registration plate of two or three-wheel vehicles. The new Directive 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 bring them together with only such formal amendments as are required by the codification exercise itself.

1.4 The Commission proposal under discussion here is fully consonant with the objective of codification and with the rules involved. The EESC therefore endorses it.

Brussels, 17 October 2006.

The President

of the European Economic and Social Committee

Dimitrios DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks

COM(2005) 125 final — 2005/0028 (COD)

(2006/C 324/06)

On 25 January 2006 the Council decided to consult the European Economic and Social Committee, under Articles 95 and 251 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 8 September 2006. The rapporteur was Clive Wilkinson.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted Mr Dorda as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 76 votes to 3 with 11 abstentions.

1. **Summary and recommendations**

1.1 The Committee welcomes the initiative of the Commission to update the current rules on the definition, description and presentation of spirit drinks and in particular the proposed changes to the 'Geographic Indication' (GI) system, with applications being put forward by the relevant national authorities, and the proposed procedure for any amendment of the new regulation.

1.2 The Committee does not support categorisation as proposed in the draft proposal since it could be misleading.

1.3 Ingredient listing for spirit drinks is supported only if it is applied in the same way to all alcoholic beverages.

1.4 'Authenticity Indicators' (AIs) are important in the fight against fraud and counterfeit products and provisions for their use need to be included in the draft.

1.5 The definition of vodka is particularly contentious, notably as to the raw ingredients from which it may be produced. The Committee proposes that the raw materials used should be restricted to cereals, potatoes and beet molasses and that consequently there should be no need to indicate the raw materials used on the labels.

2. **Introduction**

2.1 The current rules on the definition, description and presentation of spirit drinks are to be found in Council Regulation (EEC) 1576/89 ([1]) and Commission Regulation 1014/90 ([2]). These rules have been successful in regulating the spirits sector. However, it is now necessary to clarify some points and to take account of developments since the rules were established. The current proposal for a regulation has therefore been produced.

2.2 This proposal aims to enhance the clarity of the current regulations (footnotes 1 and 2 below), adapt to new technical requirements and take account of additional factors, such as WTO requirements. It also aims to safeguard the existing good reputation of EU spirit drinks and provide consumers with the necessary information.

3. **General comments**

3.1 The European Economic and Social Committee (EESC) welcomes the proposal to amend and update the current regulations and it notes that the EU level organisation that represents the producers of spirit drinks ([3]) has been consulted at length and also supports the initiative.

3.2 In particular the Committee welcomes the changes to bring the system of Geographic Indications into line with WTO requirements and the proposal to allow a simple and transparent procedure for amendments of the proposed Regulation.

3.3 The fact that this new regulation will replace two existing regulations should be made clear in the first paragraph of the introductory recital by adding reference to Regulation 1014/90 to the existing reference to Regulation 1576/89 as being repealed and replaced by this proposed new regulation.

([1]) OJ L 160, 12.6.89. Last amended on Act of Accession 2003.
([2]) OJ L 105, 25.4.90. Last amended by Regulation (EC) 2140/98.
([3]) CEPS The European Spirits Organisation, which represents the industry organisations of 27 countries.

3.4 The industry is of very significant importance to the EU economy, contributing some EUR 5 billion in exports each year ([4]), directly employing about 50 000 people (and indirectly some 5 times that number) and making annual capital investments of over EUR 1 billion. It is also a major customer for EU agricultural producers. Before the most recent enlargement it used some 2 million tonnes of cereals, 2.5 million tonnes of sugar beet, 300 000 tonnes of fruit and 16 million hectolitres of wine each year; these figures are to be updated for the EU25. Since then, with the accession of ten new Member States, potatoes must also be included; annual use of potatoes as a raw material for spirits is about 100 000 tonnes.

3.5 The EU spirits industry is the most competitive in the world at present and any changes made must not cause it to lose this advantage. Of particular importance here will be the maintenance of its excellent reputation and the ability to continue to innovate.

3.6 It is important that the changes made in consolidating and updating the existing Regulations do not lose any of the key principles that these include. Of particular importance here are the current labelling provisions. Comments on these are included in the detailed comments included at Appendix I.

3.7 The individual definitions of spirit drinks are complex and the Committee discusses them only where this seems to be essential.

Specific comments

4. **Categories**

4.1 The proposal introduces the division of spirits into 'categories'; the proposals are to divide all spirit drinks in to categories 'A' ('spirits'), 'B' ('specific spirit drinks') and 'C' ('other spirit drinks'). It is not clear why there is considered to be a need for this division into categories, but we consider that confusion could arise because certain drinks could be placed in more than one category, depending on the method of production used. The Committee also notes that the explanatory memorandum refers to Category 'A' as 'an exclusive group' which includes 'only the purest form of product'. This could suggest that other categories are not pure, whereas the aim of the regulation is to ensure that all EU produced spirit drinks have an excellent reputation.

4.2 The EESC recognises that the proposed categorisation would not have any legal effect but the Committee does not consider that the proposed division into categories will help consumers or others. Nor does it seem necessary for the structural cohesion of the document. The Committee suggests that if categories are to be introduced they will need to be properly justified. Further, the EESC would then have concerns about the actual descriptions used for each category.

4.3 The EESC is also concerned that if placed in categories this could provide a basis for discrimination between various spirit drinks, possibly in labelling or in taxation. The Committee would oppose such discrimination.

4.4 The debate ([5]), until now, has shown that the proposed categorisation is controversial and therefore likely to be changed. If this happens, consideration must therefore be given to some redrafting to make generic allowance for various traditional practices; further, Annex II of the Proposal would need elaboration to define more clearly which practices are allowed for products.

5. **Consumer interests**

5.1 The EESC is not aware of any requests from consumer organisations in the area of spirit drinks. Their concern will probably remain that spirit drinks should be of very high quality and safe to consume (when used appropriately).

5.2 The question of ingredient listing is not included in the Commission draft and the EESC supports this as unnecessary and unrealistic at this time. The EESC would however support ingredient listing if it were to be applied to all alcoholic drinks in the same manner and if it could be done in such a way that it had meaning for the consumer.

6. **Geographic indications**

6.1 The EESC welcomes the clarification of the 'Geographic Indications' (GI) rules as they apply to spirit drinks. It would be helpful to state clearly that applications may only be made to the Commission by Member States, or where appropriate, by the authorities in third countries.

6.2 Some care will be necessary to avoid GI rules being established for too many products if GIs are to continue to be recognised as valuable.

6.3 The EESC assumes that the provisions in Article 5 allowing Member States to lay down and apply stricter rules than those necessary under this new regulation would apply primarily to products with an agreed GI but it would be helpful to clarify if this article could be applied to any product (whether or not it has a GI).

([4]) The industry makes a positive contribution to the EU's balance of trade of about EUR 4.2 billion each year.

([5]) See for example Report from the Working Party on Wines and Alcohol (Spirit drinks), Council of the European Union, on the Proposal for a Regulation of the European Parliament and the Council on the definition, description, presentation and labelling of spirit drinks. 9871/06, 8.6.06.

7. **Flavours/Flavouring/Sweetening**

7.1 There is a need to be very specific about 'flavours' and 'flavourings' ([6]) and which process may be used in which products. At present there appears to be confusion in the draft.

7.2 There may be a requirement for definitions of some additional flavoured spirit drinks. This should be considered.

7.3 In the case of sweetening the Commission should consider the need for clarifying the position on 'rounding' where a limited amount of certain sweetening agents are added to adjust the taste of the final product.

8. **Future Amendment of the Regulation**

8.1 The proposal by the Commission to place individual definitions of spirit drinks in an Annex and then to allow these to be changed after agreement in a Management Committee for Spirit Drinks without opening the full text of the regulation for discussion is supported. It will allow the regulations to be more responsive to innovation.

8.2 Consideration should be given to allowing no changes to be made to individual spirit drink definitions in Annex II of the Commission's proposal for a period of, say, five years after the new Regulation has come into force to provide a period of stability.

9. **Authenticity Indicators (AIs)**

9.1 The draft does not touch on the question of authenticity indicators. It should do so. The European Spirits organisation (CEPS) suggests that AIs should be food grade materials and must be present in concentrations of less than 0.1 % weight by volume in a product and must not impart any distinctive character to that product. The EESC supports their proposal.

9.2 AIs are increasingly important in the fight against fraud and counterfeit products. They are also used in products other than spirit drinks but it is important for their use to be agreed by producers of spirit drinks in the context of this proposal.

10. **Vodka**

10.1 While the EESC does not wish to become involved in too much detail over definitions of products, the case of vodka is of particular difficulty, as the Agriculture and Fisheries Council of 20 February showed ([7]). The Committee has therefore considered this case in order to give a view that might achieve consensus.

10.2 The Committee considers the case of vodka in Appendix II of its opinion and concludes that there is a case for some restriction of the raw materials that may be used in vodka production (to cereals, potatoes and beet molasses). The key is that it will allow this major category to be better protected, allowing commercial operators to build on its reputation and standing. However, provision must be made for those products that would no longer be eligible for the description 'vodka'; such products should be allowed a transitional period of about three years from agreement being reached on the new Regulation in order to change their category and to adjust their marketing.

Brussels, 26 October 2006.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

([6]) 'Natural flavour' is taken to be flavour extracted from the raw materials used in the production process and present in the distillate; 'natural flavouring' is the addition of natural flavours to the distillate.

([7]) Press release 6083/06 (Presse 39), 2708th Council Meeting, Agriculture and Fisheries, Brussels, 20.2.06.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation concerning use of alien and locally absent species in aquaculture

COM(2006) 154 final — 2006/0056 (CNS)

(2006/C 324/07)

On 2 May 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 8 September 2006. The rapporteur was Mr Tornberg.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted Mr Espuny Moyano as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 94 votes to none, with two abstentions.

1. **Introduction**

1.1 The Council has called on the EESC to issue an opinion on the proposal for a Council Regulation concerning use of alien ([1]) and locally absent ([2]) species in aquaculture.

1.2 The Commission's proposal is aimed at protecting the aquatic environment and its biodiversity from the risks that accompany the occurrence of alien species. The Commission has deemed the existing framework, which includes the Habitats Directive ([3]) to be insufficient.

1.3 The Commission is proposing to introduce a regulation, based on already existing practices and codes of practice, without prejudice to future strategies.

1.4 The proposed regulation does not deal with problems relating to, for example, angling, ornamental fish and other exotic animals, but aims to foresee, prevent and manage the future problems caused by alien species away from their natural habitats.

1.5 The Committee feels that there is a tendency to over-regulate within the European Union. This should not be the case for the proposed regulation.

1.6 The EESC recommends the drawing up of a list of established species (i.e. 'naturalised' alien species) in order to reduce the bureaucracy and red tape for these species.

1.7 The Committee recommends that the term 'locally absent species' be properly defined. The terms 'zones' and 'ecoregions' should also be defined in the context of the proposed regulation.

1.8 The EESC also feels that the EU is a single market, and that there should be a distinction between alien and locally absent species within the EU and outside of the EU.

1.9 The EESC notes the foreseeable problems small producers would face as a result of the introduction of this regulation. In particular, it notes the lengthy forms, as per Annex 1 of the proposal.

2. **General comments**

2.1 The proposal to regulate at EU level the import of alien species into the Community area for use in aquaculture, which will protect the variety of native aquatic fauna and flora ([4]) and at the same time promote the development of aquaculture, is very much welcomed by the EESC in principle.

2.2 The Committee acknowledges the high importance and need for a regulation concerning the use of alien species in aquaculture, in order to protect the aquatic environment and its biodiversity.

2.3 In the event of the proposed regulation's adoption, the Committee urges the Commission to launch an appropriate information campaign on the regulation in order to prevent it from being misused by the media seeking to scare consumers and to sell more newspapers.

([1]) Alien species as defined by the proposal for a Council regulation COM (2006) 154 final (Article 3).

([2]) Locally absent species as defined by the proposal for a Council regulation COM(2006) 154 final (Article 3).

([3]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

([4]) The study group discussed the example of the American bullfrog escaping into the Aquitaine region of Southern France and other parts of Europe with negative effects. Although the bullfrog is not a product of aquaculture, it may be assumed that it came from the ornamental sector, which is not covered by this regulation.

2.4 The EESC feels that it is essential for the regulation to favour the development of aquaculture in Europe ([5]), since it is a growing sector which will create many opportunities in the future, if it is not hampered by the current proposal in its present form.

2.5 The EESC notes the rapid progress and development of the sector outside the EU, noting also that the sector is saturated and in need of the development of new species. The EESC also points out that the aquaculture sector has the potential to be a success story within the framework of the CFP (Common Fisheries Policy), for the fishing sector.

2.6 The EESC feels that intra-EU trade should be simplified, with less red tape and documentation, and should not be over-regulated.

2.7 The Committee stresses the need to ensure that the regulation is not so cumbersome as to hinder the further development of the sector and has concerns regarding the unity between its ecological, economic and social aspects. Moreover, the Committee feels that translocation of species is sufficiently controlled within the EU.

2.8 The real difficulties for the aquatic environment in our regions are caused by the introduction of exotic or alien species in aquaculture. In order to simplify and shorten the proposal as much as possible, the Committee's proposal would be to concentrate efforts on this problem and deal with locally absent species separately. The use of locally absent species does not seem very important in aquaculture. Another related problem is that the regions where one species is absent, are not defined by the Commission.

2.9 A further simplification would be to distinguish between species within the EU and alien and locally absent species from outside of the EU. The EESC recommends that this be taken into consideration since the EU is moving towards a more integrated common market.

2.10 The Committee observes that, due to the volatility of the sector, it might not always be feasible and practicable for producers to plan as far ahead as deemed necessary by the Commission in order to receive a permit for import and movements.

2.11 For example, if a producer is breeding a certain stock from Israel and the stock dies, the producer needs to act quickly and, for instance, import from the USA in order to avoid losing valuable time. The current proposal would prevent the producer from carrying out his activities until he receives a new permit. Translocations and movements, and in particular trade movements, should be exempt from the proposed regulations after the general scientific statement that the 'risk' to cultivate an alien or locally absent species in aquaculture is low.

2.12 The EESC notes the frustration of professionals within the sector at the approach often taken by the Commission. Therefore it is also important to focus on ensuring that the regulation is simplified and practically-oriented and that costs are minimised for the parties concerned.

2.13 The Committee notes that ornamental fish and salmon are not dealt with in this proposal, but stresses that these are potentially large contributors to the overall problem.

2.14 The EESC stresses the importance of ensuring that the regulation is clear in its objectives and has a clear scope and limit. Given that there are no comprehensive and detailed rules concerning the sector, the EESC suggests that the Commission should propose such an overarching regulation, or at least launch an action plan for the future direction of the sector.

2.15 The EESC is aware that the proposal originated before the EU's 2005 simplification initiative but feels that the current proposal should take this into account by being simplified.

3. **Specific comments**

3.1 The proposal goes far beyond necessary and justified measures; the status quo regarding species some of which have been used in European aquaculture for centuries (e.g. carp, rainbow trout, char and others) is not taken into account. So far the cultivation of these species has not led to any damage to ecosystems. Risk assessments for the movement of these species at all stages of development and lengthy authorisation procedures are far removed from reality and not practicable. It is common practice for aquaculture firms in the Community area to cooperate across borders in compliance with the veterinary requirements and to move carp, trout and other established fish species on a short-term basis.

3.2 The Committee urges that established fish species ([6]) be excluded from the provisions of the draft regulation through a positive list or a list of exceptions by the individual member states. Equally, the issue of locally absent species should be excluded. It is incomprehensible to associate controlled aquaculture with the spreading or translocation of indigenous but locally absent fish or other species.

3.3 The issue of locally absent species is already regulated by specific regulations of the Member States. The proposed regulation should concentrate on the protection of the EU's aquatic biodiversity from the risks that accompany the import of alien species. In fact it would be very difficult to implement the proposed regulation concerning locally absent species because there is no generally accepted definition of local regions in this context. Omitting the provisions on locally absent species would make the proposed Council Regulation more readily comprehensible and much easier and cheaper to implement.

([5]) As stated in the EESC's opinion on sustainable development of aquaculture, CESE 595/2003, OJ C 208 of 3.9.2003.

([6]) For example, carp (cyprinus carpio) and rainbow trout (oncorhynchus mykiss) in Poland, to mention but a few.

3.4 The Committee points out that the decision period of up to a year on an application for movement (Article 10) would delay production decisions to an unacceptable extent and lead to unacceptable economic disturbances, and recommends that the period be shortened.

3.5 The EESC also stresses the importance of exploring the possibility of a 'what if' scenario under Article 10, to provide for cases where a permit application receives no response. For example, under Spanish law, silence equals consent if there is no reply within the proposed deadline of one year. The EESC feels that, if legally possible, the Spanish example should be applied to this Article of the proposal.

3.6 Applications for multiple movements over 5 years (Article 6) are not practicable, since very short-term unplanned decisions on purchases, sales and the exchange of fish at various development stages are frequently required. The proposed regulation would directly conflict with the planned provisions on the declared objectives of promoting aquaculture and promoting the diversification of the range of species in aquaculture.

3.7 Decisions on applications for the import and movement of aquatic organisms for aquaculture are important; they should be based on scientific reasons and announced as early as possible.

3.8 For the authorities concerned, the planned consultative committee and the aquaculture firms, the wide-ranging rules would mean immense personnel and financial expenditure, which cannot be met with the available human resources. That would conflict with the general drive to reduce bureaucracy both in the Member States and at EU level.

3.9 The EESC feels that the excessive quantity of rules should be reduced to what is strictly necessary. In particular, there should be fewer criteria in Annex 1 of the proposed regulation.

3.10 The import and movement of alien fish species can entail considerable risks. Thorough scientific knowledge is needed to assess these risks. The scientific data needed cannot, as suggested in Annex 1, be acquired by applicants from their work; the applicant would need expert advice.

3.11 The Committee feels that, in order to help producers, a list of EU scientists with the required knowledge should be made readily available to producers. At the same time, information or training on the application process should also be made available to producers.

3.12 It is proposed that instead of the planned individual assessments only one sample risk assessment for each ecoregion or Member State, to be carried out by a qualified scientific establishment, should be provided for. If the risk is estimated as 'slight' in such a sample assessment, any future application for a routine movement in that ecoregion can be confined to providing details on locality, personnel and dates. This proposal would lead, if implemented, to a better quality of risk assessment and at the same time to an enormous saving in bureaucratic expenditure for the aquaculture firms and the authorities. The costs of a sample assessment by a scientific establishment should be borne by the European Fisheries Fund (EFF).

3.13 The Committee further stresses the need for ecoregions to be defined by the Council Regulation for harmonisation between the Member States.

3.14 The EESC feels that it would be beneficial to have an interval of at least one year between the date of publication of the regulation and its entry into force, in order to bring national legislation into line and to inform the sector and people concerned of the changes that will be introduced.

3.15 The Committee draws attention to its previous opinions on the CFP ([7]), aquaculture ([8]) and biodiversity ([9]), and fully stands by them in the context and scope of this opinion.

3.16 The Committee draws the Commission's attention to GMO and polyploid species. Their potential danger to the aquatic environment should not be underestimated. There is a need for stricter regulation of genetically modified organisms as well as salmon in aquaculture and the introduction and translocation of ornamental species.

3.17 The Committee calls upon the Commission to take note of both this opinion and those previously mentioned in order to create a better working environment for the aquaculture sector with regard to the use of alien and locally absent species in aquaculture.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([7]) Simplification of the CFP, CESE 961/06, rapporteur: Sarró Iparraguirre (adopted on 5 July 2006).
([8]) Ibidem footnote no 5.
([9]) Conservation of biodiversity, CESE 752/2006, rapporteur: Ribbe (adopted on 18 May 2006).

Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament and the Council on a Community Action Plan on the Protection and Welfare of Animals 2006-2010

COM(2006) 13 final

(2006/C 324/08)

On 5 April 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 8 September 2006. The rapporteur was Mr Nielsen.

Due to the renewal of the Committee's term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Mr Nielsen as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 92 votes in favour with one abstention.

1. **Conclusions and recommendations**

1.1 Interest in the protection and welfare of animals is on the increase in many parts of the EU and in some non-EU countries as well. It is appropriate, therefore, to give support to market forces and to make any necessary adjustments to EU minimum requirements. This need not involve more restrictive requirements, but improved and more relevant rules based on scientific and socio-economic studies. It is also important to establish a joint quality labelling scheme for products that meet specific animal-welfare requirements. Substantial improvements are also needed for animals used in research and testing and in statutory safety tests.

1.2 In broad terms, the Commission action plan reflects these requirements and may form the basis for further priority-setting in this field. The Committee backs the proposed strategy as a starting point, but will, in due course, also be looking closely at the Commission's specific proposals with an eye to ensuring that a proper balance is struck between animal welfare on the one hand and social and economic factors on the other. It is, however, vital that imports from non-member countries with lower standards do not drive out EU products. If that were to happen, livestock farming would relocate to places with lower standards, thereby forcing EU players to cease production. In that respect, the Committee is not convinced that the Commission's action plan goes far enough in securing sustainable solutions.

1.3 The EESC very much regrets the impossibility of discussing this issue in the current negotiating round of the World Trade Organisation (WTO). Nonetheless, in trade in agricultural products, it is essential that, in the longer term, animal welfare be recognised as a non-trade concern. Otherwise, the EU could be compelled to take unilateral action to secure the requisite understanding of the need for law change. In the shorter term, the Commission and civil society must put pressure on the EU retail sector and food industry to impose equivalent requirements on imports from outside the Union through certification schemes and similar safeguards.

1.4 Research activities need to be coordinated and built upon so that resources can, as far as possible, be pooled and turned to good account. The provisions also need to be reviewed regularly, not least so that they continue to reflect technological developments and new knowledge.

1.5 The EESC welcomes the proposal to set up a centre or laboratory for the protection and welfare of animals. However, a more imaginative approach should also be considered, namely a global centre to help deal with animal-welfare issues at an international level, thereby supporting the work of the OIE [1] and the Council of Europe and providing assistance in EU bilateral agreements.

1.6 Moreover, the Commission, working together with the OIE and the Council of Europe, should take the initiative for an international conference to help build up a more sustainable network for researchers from outside the EU and foster a greater level of informal international cooperation in this field.

1.7 With regard to the use of animals in laboratories and for toxicological testing, the Committee thinks that the strategy should be broadened to include a 'need' provision whereby animals may only be used in this way if there is some kind of proven social need for the product in question.

2. **The action plan: a summary**

2.1 The main aim of the action plan is to secure animal welfare in the EU and at the international level, to identify future needs and to provide for the more effective coordination

[1] The French acronym by which the World Organisation for Animal Health is known.

of existing resources. Under the plan, the following five main areas of action for 2006-2010 are to be monitored and evaluated, not least with a view to follow-up beyond 2010:

— to adjust existing minimum standards to reflect new scientific evidence and socio-economic assessments;

— to promote future research;

— to introduce standardised indicators;

— to ensure the availability of information on current standards; and

— to implement further international initiatives to raise awareness and create a greater consensus on animal welfare.

2.2 The plan also sets out 28 initiatives that the Commission is intending to implement between now and 2010. These include 21 actions already underway, already announced or specifically provided for under Community legislation.

2.3 The Commission has also published working documents setting out the strategic basis of the initiatives and the core element underpinning the measures proposed in the action plan. The Commission also considers compliance with the 3Rs declaration on animal testing adopted in 2005 ([2]) to be a key component of the action plan.

2.4 The Commission feels that its animal-welfare role could be made easier through more effective coordination between the various departments concerned. This would help to ensure a more consistent and coordinated approach across Commission policy areas, just as measures with an animal welfare impact are to be vetted both to demonstrate compliance with the EC Treaty Protocol on protection and welfare of animals and to identify their socio-economic impact.

3. **General comments**

3.1 As the representative of civil society — and given the diversity of its membership — the EESC clearly bears a share of responsibility for framing the relevant provisions of animal welfare as part of the European social model ([3]). It is important to press ahead with the current approach and to secure, within the EU, sound and acceptable levels of animal protection, without thereby generating any unnecessary distortions of competition or undermining protection levels by imports from non-member countries where standards are lower. The overall strategic plan boosts transparency in this area and improves the scope for constructive cooperation on the part of all stakeholders. This applies, in particular, to agricultural producers who, with an eye to their long-term investment, motivation and management, should be involved in shaping the future strategy.

3.2 Broadly speaking, therefore, the EU farming sector is in favour of reasonable and well-balanced animal welfare provisions, but would also draw attention to the concomitant risks of distorted competition arising, in part, from the fact that Member States are able to introduce additional national requirements, but also a corollary of the practice of importing from non-member countries that have lower standards, or none at all. The risk of competition being distorted by additional national rules is, moreover, made all the greater by the 'cross-compliance' requirement under the Common Agricultural Policy. The result is legal uncertainty in the Member States — hence the need for clarification of the legal position in this regard.

3.3 With regard to third-country imports, common EU rules applying across an internal market of thirty countries with a combined population of 500 million ([4]) will also have a knock-on effect both in non-EU countries themselves and in relation to their imports into the EU. For instance, the World Bank's International Finance Corporation recently pointed to the growing global interest in animal welfare and the need to adapt to developments in this area in both primary production and industrial processing ([5]).

3.4 In the short term, however, it should also be brought home to retail chains and processing industries within the EU that, when importing agricultural goods and processed animal products from non-EU countries, it is in their own interests — and is also conducive to their public image — to ensure compliance with an appropriate code of conduct in the country of production, including animal-welfare requirements that are consistent with EU rules in this area. This may, for instance, involve mandatory cooperation with suppliers ([6]). The Commission should, in any event, take the initiative in this regard. Civil society too should draw attention to the issue via the media. It must be made clear to retail chains and the food industry in the EU that, in future, more attention will be paid to the production

([2]) Declaration on animal testing adopted in Brussels on 7 November 2005, on implementing the '3Rs' action programme, i.e. *reduction* (i.e. a cut in the number of laboratory animals); *refinement* (i.e. the further development of animal-testing models involving less strain on laboratory animals) and *replacement* (i.e. the development of alternatives to animal testing).

([3]) It is thus to be regretted that the EESC was not consulted on this issue until three months after the action plan was published.

([4]) Including Norway, Iceland and Liechtenstein, which are part of the EU internal market (European Economic Area) and also Romania and Bulgaria.

([5]) *Creating Business Opportunity through Improved Animal Welfare*, International Finance Corporation (IFC), World Bank Group, April 2006. The IFC covers 178 member countries and it is calling specifically for investments in developing countries so as promote exports to developed countries.
A number of countries also have an animal welfare code of conduct rather than any specific legislation. This is the case, for instance, in Switzerland, Australia, New Zealand, Argentina and Brazil.

([6]) Mandatory cooperation may include, for instance, joint action by the producer (from outside the EU) and the EU importer to promote research and development, and certification of compliance with production and processing standards in the same way as increasingly happens within the EU.

conditions of imported agricultural goods and processed animal products from non-EU countries. Consumer bodies and farmers' organisations should jointly undertake to pursue activities along these lines at national level. However, in trade in agricultural products, it is also absolutely vital in the longer term to secure recognition of animal welfare as a non-trade concern (cf. below).

3.5 As for the risk of EU-internal distortions of competition, it would be irrational — and unacceptable to the public in a number of Member States — to harmonise the provisions, thereby ruling out the possibility of more far-reaching standards being introduced at national level. If, however, at EU level, the minimum requirements concerned were, in future, to a greater extent based on more objective criteria underpinned by research and scientific studies, then understanding and acceptance of them would be bound to increase, thereby giving less cause for the introduction of more far-reaching national rules. To ensure, therefore, that a proper regulatory environment is put in place in this area, it is essential that any new initiatives be backed up by scientific data and appropriate socio-economic assessments. Steps should also be taken to ensure that, with a view to putting in place the suggested indicators, the research findings are assessed and applied in a competent way. At the same time, Member States should have some scope for flexibility to reflect, for instance, environmental and climactic conditions.

3.6 The Commission feels that the adjustment, management, and dissemination of these standards as well as the preparation of relevant socio-economic studies and impact assessments could be facilitated by the creation of a European centre or laboratory for the protection and welfare of animals. The EESC would ask that consideration be given to a more imaginative approach, namely a global centre to help deal with animal-welfare issues at international level, and thus support the work of the OIE and the Council of Europe and provide assistance in any bilateral agreements that might be made.

3.7 The EESC agrees on the need to foster partnership between the Commission and industry in order to promote alternatives to the use of laboratory animals in industry, in conjunction, for instance, with the setting-up of the centre and the submission of a strategy on the application of the so-called '3Rs' principle which can provide guidance for the use of laboratory animals in the EU ([7]). The Commission initiative may also give a fillip to the activities currently underway elsewhere to promote alternative methods ([8]). The EESC, however, feels that the strategy should be broadened to include a 'need' provision, permitting animal testing only in cases where there is a proven social need for the product for which the chemical or substance concerned is to be used.

Distortions of competition in the case of third-country imports

3.8 The intense competition and opening-up of the EU market involves a substantial risk that products from countries outside the Union with lower standards or no standards at all will gradually drive out EU production and sales, including those on non-EU markets The very tight squeeze on farm profits, coupled with the additional costs of animal welfare, may thus be a vital factor in farmers' capacity to remain in business. Moreover, in most cases, it will be too risky for farmers to base their production around the relatively small group of consumers who are willing to pay more ([9]).

3.9 Imports from non-member countries with lower animal-welfare requirements thus raise highly complex issues and the Committee is not convinced that the Commission's action plan goes far enough in securing adequate and sustainable solutions. The EESC very much regrets the impossibility of discussing this issue in the current WTO negotiating round, but, in terms of trade in agricultural products, the EU must nonetheless continue to press to have animal welfare recognised as a non-trade concern.

3.10 If, however, it proves impossible to achieve adequate sustainable solutions in this way or to secure the necessary understanding of the issue within the auspices of the WTO, the EU must, even without prior international agreement, require that imports from non-member countries comply with equivalent rules. A degree of provocation may thus be needed to draw the requisite attention to the issue and promote understanding of the need for a change in the law.

4. **Specific comments**

4.1 Compliance with EU rules in this area means that the EU institutions and Member States must meet the deadlines they themselves have set for the submission, adoption and implementation of the specific provisions. This has not always been the case in the past — hence also the failure, relative to earlier decisions, to meet the deadline for a number of initiatives set out in the action plan.

4.2 The action plan does not address the difficulties surrounding long-distance animal transport, which is a corollary of the EU single market and the abolition of veterinary borders. In 2004, the Council adopted an amendment to the rules on the protection of animals during transport, which is due to enter into force in 2007 ([10]) and the Commission has announced its intention of submitting a proposal after 2010. In

([7]) Some 90 % of laboratory animals are used for research and development, and around 10 % for statutory toxicological safety tests on new drugs and chemical substances. The increasing attention being paid to animal welfare is reflected in the EU cosmetics directive which enjoins industry to find alternatives to animal testing.

([8]) Including in particular the European Centre for the Validation of Alternative Methods (ECVAM) and the European Consensus Platform for Alternatives to Animal Experimentation (ECOPA).

([9]) Although the public are more often than not positively disposed towards higher consumer prices to pay for welfare measures, consumers often behave differently in practice.

([10]) Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97.

this and in other areas, it is important that the rules are based on scientific findings and that the key provisions on transport time and space requirements during transport are subject to more effective monitoring.

4.3 All experience shows that *management* is the key factor in animal welfare. This element should be the focus of future animal-protection and animal-welfare provisions, through, among other things, requirements for training and guidance, combined with ongoing animal-welfare checks within the different production systems. That should also mean less detailed rules for production systems and legislation that is easier to handle.

4.4 Thanks to structural developments in animal production, with the establishment of bigger and ever more specialised production units and the application of new technology, it is now possible to monitor animal welfare more closely than ever before through a range of indicators. The increasingly detailed knowledge about objective, quantifiable animal-welfare indicators can also be factored into the design of new production buildings. The proposed centre could devise benchmarks, backed by scientific fact, to foster progress in this area. When laying down any fresh requirements, however, consideration should be given to the long payback period on agricultural investments.

4.5 The EESC backs the establishment of a specific Information Platform for Animal Welfare to facilitate dialogue and the exchange of expertise/experience on this issue between stakeholders such as consumers, producers, retailers, industry etc. ([11]). However, there are substantial limits as to what can be done here and, in practice, it is impossible for consumers in the EU to get any clear picture of the differences between various production systems and their in-built benefits and drawbacks. Consumer organisations, therefore, want to see the EU and the Member States take responsibility in this area and lay down minimum standards.

4.6 The EESC also backs the establishment of a joint marketing system to foster the application of higher than minimum welfare standards. It is vital that this system be based on joint, objective criteria and documented knowledge. The EU may well make such a labelling scheme available to producers and distributors, but what really counts is that the development of products complying with higher standards should, as far as possible, be market-driven. To be successful, however, any labelling scheme must be backed up by checks and accompanied by a carefully conducted, credibility-enhancing information campaign.

4.7 The introduction of a labelling scheme indicating the country of origin of goods imported from outside the EU is dealt with in general terms in a separate document. Such a scheme is particularly relevant for animal products and industrially processed goods derived from them. Under such a scheme, it should be possible to identify goods not produced in line with EU animal welfare standards.

4.8 According to the action plan, the quest for high standards is a hallmark of environmentally sound production. The Commission feels that such production should also be taken as a benchmark for the highest animal-welfare standards too ([12]). Experience shows that environmentally sound production does, in some areas, have the potential to improve animal welfare, but that unfit conditions also remain and that further knowledge is needed.

4.9 At all events, it is important to make the best possible use of resources within the EU. This applies not only to research and scientific studies where national resources should, as far as possible, be coordinated so as to permit pooling and optimum utilisation. Resources could therefore be used more effectively if, among other things, they were coordinated by a joint advisory committee composed of representatives with expertise in this area. Moreover, the Commission, working together with the OIE and the Council of Europe, should take the initiative for an international conference to help build up a more sustainable network of researchers both inside and outside the EU and to foster greater informal international cooperation in this field.

4.10 EU veterinary and disease-control measures incorporate a range of welfare aspects, even although there is not always any incontrovertible link. The public, moreover, are concerned when they see sizeable numbers of healthy animals being slaughtered and disposed of during outbreaks of dangerous contagious diseases. It is important, therefore, to focus more on preventive measures and to work closely with scientists and veterinarians to develop viable alternative methods of controlling animal diseases of this kind.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([11]) A home page setting out the standards and indicators — and exactly what they mean — could be part of the information platform, particularly in conjunction with a labelling scheme.

([12]) The Commission's proposed definition of organic products is given in the Proposal for a Council Regulation on organic production and labelling of organic products and the Proposal for a Council Regulation amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto in agricultural products and foodstuffs COM(2005) 671.

Opinion of the European Economic and Social Committee on the Proposal for a Council Decision amending Decision 90/424/EEC on expenditure in the veterinary field

COM(2006) 273 final — 2006/0098 (CNS)

(2006/C 324/09)

On 22 June 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 8 September 2006 The rapporteur was Mr Leif E. Nielsen.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted Mr Nielsen as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion unanimously:

1. **Conclusions and recommendations**

1.1 The EU co-financing mechanism for veterinary prevention and control measures has developed gradually over time and been adapted to reflect experience gained in the field to date. However, this mechanism should now be subject to a more fundamental rethink to take account of prospective developments, not least increased trade. The EESC will be monitoring the way forward in this regard and wants to play a constructive role in giving the process form and practical substance.

1.2 The EESC endorses the Commission's proposal, which, for the time being, involves only limited changes and adaptations. These tie in with the proposals set out in the preliminary evaluation of overall policy in this area, and simplified administrative arrangements and scope for multi-annual planning are, at any event, desirable objectives. The EESC likewise backs the proposal to provide for financial assistance for the computerisation of trade and import procedures and integrated computerised veterinary systems. The proposed list of diseases and zoonoses, and the simplified procedure for modifying that list, also appear expedient.

2. **Background**

2.1 The Commission has launched an evaluation of the EU's overall animal health policy. This includes a cost-effectiveness assessment of the current financial instruments that are designed to cover the surveillance, control and eradication of animal disease and zoonoses. Consideration is also being given to the most effective ways of inducing producers to take the requisite preventive measures. Based on the outcome of this evaluation, alternatives to the current way in which Community financial support is granted to the Member States might be proposed ([1]). For the time being, the Commission has opted to propose only a few, limited adjustments involving no change of policy on the eradication, control and monitoring of animal diseases and zoonoses. The proposal merely seeks to make directly applicable and obviously necessary changes that have been shown to be useful as part of the ongoing evaluation.

2.2 The Commission proposal simplifies the approval and financing procedures for national programmes for the eradication, monitoring and control of animal diseases and zoonoses. Under the proposal, programmes may be approved and financed for up to six years at a time. Up to now, although the Member States have been entitled to submit multi-annual programmes, the Commission has been unable to approve the financing of such programmes for more than one year at a time. There is also a proposal to broaden the scope of the financial provisions to improve information policy on animal health and food safety in products of animal origin and the use of integrated computerised veterinary systems ([2]).

2.3 Under the existing rules, financial assistance may be provided to cover expenditure incurred by the Member States for the financing of national programmes for the eradication, control and monitoring of 23 endemic animal diseases and 8 zoonoses or epizootics ([3]). The list may be added to or modified

([1]) As a basis for this evaluation, a wide-ranging report has been drawn up by outside experts (*Evaluation of the Community Animal Health Policy (CAHP) 1995 — 2004 and alternatives for the future*, 25 July 2006, http://ec.europa.eu/food/animal/diseases/strategy/final_report_en.htm).

([2]) Article 37a of Decision 90/424/EEC provides for Community financial assistance for computerisation of veterinary import procedures. This so-called *Shift* project and the corresponding computerised instrument linking veterinary authorities (*Animo*) have been replaced by the integrated system *Traces*, which has been mandatory for all Member States since 1 January 2005.

([3]) The contribution to national control measures and programmes usually covers 50 % of expenditure, or 60 % for foot and mouth disease.

by the Council acting by a qualified majority on a proposal from the Commission. With a view to securing sharper prioritisation, the Commission is proposing a shorter list of diseases eligible for co-financing. The Commission explains that the list has been drawn up to a greater extent on the basis of the impact of the diseases both on public health and on international and intra-Community trade. It is also proposed to merge the lists of diseases and of zoonoses and to subject them to the same procedure for the granting of any financial contribution ([4]). As the Commission says, this is designed so as to make better use of resources and to ensure that Member State priorities tie in with those of the EU and are consistent with other national programmes. It is also proposed that any future modifications to the list be adopted under a regulatory committee procedure. The Commission feels that this is particularly relevant in respect of emerging diseases that pose a risk for both animal and public health.

3. **General comments**

3.1 Community co-financing of measures to eradicate, control and monitor infectious animal diseases and zoonoses has always attracted considerable interest, given the complex nature and impact of the diseases involved and the substantial costs that such activities incur. To control serious infectious animal diseases, however, clear financial procedures need to be in place and assurances must be given from the outset and in all cases that full compensation will be paid in cases where, for instance, animals have to be slaughtered or products destroyed. Otherwise there is a risk that, at the start of any outbreak or suspected outbreak of a serious infectious animal disease, the action taken will be too ineffectual, thus making the impact more far-reaching than need be the case. This applies in particular to the national policy-making process. Also, any outbreak of a serious infectious animal disease often attracts a great deal of public attention, provoking major consumer reaction even in the absence of any direct and incontrovertible link to food safety issues.

3.2 Greater market access and trade, longer transport times and the concentration of livestock in various different ways increase the risk of diseases spreading and raise the economic impact involved in prevention and control. For that reason too, there is a need for an overall evaluation of Community animal health policy, including a more detailed assessment of the cost-effectiveness of the current financial instruments that are designed to cover animal disease surveillance, control and eradication, and of the prevention measures required in herds. The EESC wants to play an active part in framing the requisite co-financing models in respect of national programmes, not least to provide a more coherent and effective framework for food safety policy ensuring a higher level of transparency.

3.3 In this connection, the EESC laments the opaqueness and complexity of the existing rules and will thus, as part of the upcoming revision, be calling for a more readily understandable and cohesive system and a better classification of the co-financing rules. There is a need, therefore, to identify and facilitate the use of the relevant legislation throughout the EU in the wide field of animal health and food safety. This will also support the activity of the Commission and the Member States in the international framework by improving the understanding and transparency of EU legislation vis-à-vis the EU's trade partners and neighbours. Information gathering and dissemination will also help secure more effective implementation of the rules.

4. **Specific comments**

4.1 The EESC feels that the proposal giving scope to approve and finance national programmes for a number of years at a time will clearly make for administrative simplification and help ensure the more effective achievement of the programme objectives. It will also help make for a better and more transparent administration, thus securing better use of Community funds.

4.2 The collection and dissemination of current information relating to animal health and food safety is needed for the better development and implementation of legislation in this field. In future, it will be particularly important to put in place more transparent Community legislation and to communicate that legislation to the authorities, producers and consumers concerned.

4.3 The EESC thus backs the proposal that the EU make a financial contribution to the establishment of an information policy in the field of animal health, animal welfare and food safety in products of animal origin including the installation and development of information tools, such as, for instance, an appropriate database for gathering and storing information relating to Community legislation.

4.4 Likewise, it is appropriate to take into account the technical developments achieved in the computerisation of the

([4]) The existing list covers the following production-related diseases: IBR/IPV, enzootic bovine leukosis, Aujeszky's disease, salmonella pullorum, salmonella gallinarum, Maedi/Visna and CAEV, Johne's disease (paratuberculosis), mycoplasma gallisepticum and certain diseases transmitted by vector insects in the French overseas departments.

veterinary procedures and to provide for the resources needed for the hosting, management and maintenance of the integrated computerised veterinary systems.

4.5 The list of animal diseases and zoonoses that may give entitlement to co-financing should, it goes without saying, reflect the priorities set in line with the potential impact of such diseases and zoonoses both on public health and on international and intra-Community trade in animals and products of animal origin. The EESC agrees that, as proposed, the focus should be placed more on zoonoses and public health rather than on more production-related animal diseases, and endorses the proposal to merge the lists of diseases and of zoonoses and to provide for the same procedure for the granting of any Community financial contribution.

4.6 Naturally, the technical and information requirements for the eradication, control and monitoring programmes for which Community financing is sought should be updated and adjusted in a regular and timely fashion in order to match technical and scientific progress and feedback from experience in the implementation of the programmes. It is therefore appropriate, in line with the proposal, to enable the Commission to adopt those technical criteria — and update them as necessary — using a regulatory committee procedure.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a directive of the European Parliament and of the Council on the quality required of shellfish waters (codified version)

COM(2006) 205 final — 2006/0067 (COD)

(2006/C 324/10)

On 6 June 2006 the Council decided to consult the European Economic and Social Committee, under Article 175 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 8 September 2006. The rapporteur was Seppo Kallio.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted Mr Kallio as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 111 votes with one abstention.

1. **Introduction**

1.1 The purpose of this proposal is to undertake a codification of Council Directive 79/923/EEC of 30 October 1979 on the quality required of shellfish waters. The new Directive 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 bring them together with only such formal amendments as are required by the codification exercise itself.

2. **General comments**

2.1 The Committee regards it as very useful to have all the texts integrated into one Directive. In the context of a People's Europe, the Committee, like the Commission, attaches great importance to 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.

2.3 It has been ensured that this compilation of provisions contains no changes of substance and serves only the purpose of presenting Community law in a clear and transparent way. The Committee expresses its total support for this objective and, in the light of these guarantees, welcomes the proposal.

Brussels, 26 October 2006.

The president
of the European Economic and Social Committee
Dimitrios DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Council Directive laying down minimum standards for the protection of calves (codified version)

COM(2006) 258 final — 2006/0097 (CNS)

(2006/C 324/11)

On 22 June 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 8 September 2006. The rapporteur was **Mr Nielsen**.

Due to the renewal of the Committee's term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Mr Nielsen as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion unanimously.

1. **Background**

1.1 The Commission proposal seeks, using the accelerated procedure provided for in the interinstitutional agreement of 20 December 1994, to codify Directive 91/629/EEC laying down minimum standards for the protection of calves. Codification is used for legal instruments that have become difficult to understand as a result of frequent amendments.

1.2 The directive in question has been thoroughly revamped on a number of occasions, making it difficult for the intended users of the legislation to understand its content and scope without legal research and clarification of the text currently in force.

2. **The EESC's comments**

2.1 For these reasons, the European Economic and Social Committee endorses the proposal for codification, which makes it easier for Europe's citizens to access EU law and helps secure better lawmaking — a concern advocated and voiced by the Committee in earlier opinions ([1]).

2.2 Under Article 6 of the Directive, the Commission was supposed, not later than 1 January 2006, to submit to the Council a report, drawn up on the basis of an opinion from the European Food Safety Authority (EFSA), on the intensive farming system(s) which comply with the requirements of the well-being of calves from the pathological, zootechnical, physiological and behavioural point of view, as well as the socio-economic implications of different systems. The report was also to include proposals relevant to its own conclusions. The Council was then to act by a qualified majority on these proposals no later than three months after their submission.

2.3 This did not happen, yet, despite the fact that the deadline has long since expired, the Commission now appears to be proposing that codification be carried out with effect from that date, thereby, in effect, ruling out the use of the simplified procedure since any amendment would require a fresh decision.

2.4 As the EESC has frequently pointed out, it is unacceptable for institutions and the Member States to lay down deadlines they themselves are unable to meet. This undermines respect for — and confidence in — EU rules, with the upshot that other stakeholders also feel under no obligation to meet the specified deadlines either.

2.5 In its proposal for an Action Plan on the Protection and Welfare of Animals, the Commission also announced the 'submission of a report to Council and the European Parliament on the protection of calves kept for farming purposes' for 2008 ([2]). This draft report will be based on the EFSA report published in June 2006 ([3]). The Commission will now be studying the report, gathering additional data, assessing the social and economic aspects and consulting with experts, Member States and other stakeholders before the submission of any tangible proposals. The EESC welcomes the basic preliminary work, but deplores the failure to meet the deadline.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([1]) Including the EESC's 2005 exploratory opinion on *Better Lawmaking* — OJ C 24, 31.1.2006, p. 39.

([2]) COM(2006) 13 final, 23.1.2006.

([3]) http://www.efsa.europa.eu/science/ahaw/ahaw_opinions/1516_en.html.

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the contained use of genetically modified micro-organisms (codified version)

COM(2006) 286 final — 2006/0100 (COD)

(2006/C 324/12)

On 4 September 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 8 September 2006. The rapporteur was Franco Chiriaco.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted Mr Chiriaco as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 97 votes with three abstentions.

1. **Introduction**

1.1 The purpose of this proposal is to undertake a codification of Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms. The new Directive will supersede the various Directives incorporated in it; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

2. **General comments**

2.1 The Committee considers it extremely helpful that all the legislation on this matter is being consolidated into a single directive. Keeping in mind the goal of a people's Europe, the Committee agrees with the Commission on the importance of simplifying and clarifying Community legislation so as to make it clearer and more accessible to ordinary people, thus opening up new opportunities to them and enabling them to benefit from the rights that legislation gives them.

2.2 To protect human health and the environment, all measures to ensure the optimum use of biotechnology, in particular for human foodstuffs, need to be taken, and all use of genetically-modified micro-organisms (GMMs) must be contained so as to avoid any negative consequences.

2.3 The EESC emphasises that the control of GMMs can only be effective if it is applied consistently in all Member States of the Community, as GMMs, once used, can reproduce across borders.

2.4 The EESC recalls that a genetically modified micro-organism (GMM) is 'a micro-organism in which the genetic material has been altered in a way that does not occur naturally' and agrees with the Commission's stated position relating to occupational safety and hygiene and to prevention of accidents and control of dissemination.

2.5 The Committee has satisfied itself that this codification does not involve any substantive change to the provisions it consolidates and simply serves to present Community legislation in a clear format. The Committee fully supports this aim, and, having satisfied itself as stated above, is in favour of the proposal under consideration.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Council Decision laying down Community criteria for the eradication and monitoring of certain animal diseases (codified version)

COM(2006) 315 final — 2006/0104 (CNS)

(2006/C 324/13)

On 11 July 2006 the Council decided to consult the European Economic and Social Committee, under Article 24 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 8 September 2006. The rapporteur, working without a study group, was **Mr Coupeau**.

In view of the renewal of the Committee's term of office, the Plenary Assembly has decided to vote on this opinion at its October plenary session and has adopted **Mr Coupeau** as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion unanimously.

1. **Introduction**

1.1 The purpose of the Commission proposal is to undertake a codification of Council Decision 90/638/EEC of 27 November 1990 laying down Community criteria for the eradication and monitoring of certain animal diseases. The new Decision will supersede the various acts incorporated in it. It preserves their content and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

2. **General comments**

2.1 Accordingly, the Committee approves the proposed codification, which will give the public easier access to the law and contribute towards better lawmaking.

3. **Specific comments**

3.1 The issue of whether other simplification procedures could be used without undermining the effectiveness of the current system of monitoring and eradicating animal diseases should also be addressed.

3.2 Increasingly, the pathogens which affect animals tend to come from countries outside the European Union. In the very near future, the European Union and its Member States will need to become more vigilant and to pool their skills in the area of combating animal diseases in order to preserve public health and ensure that citizens can eat meat products safely.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council and the European Parliament on an EU Forest Action Plan

COM(2006) 302 final

(2006/C 324/14)

On 19 July 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.

On 4 July 2006 the Committee Bureau instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Wilms as rapporteur-general at its 430th plenary session, held on 26 October 2006, and adopted the following opinion unanimously.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) points out that an EU Forest Action Plan must be drawn up in an economically, ecologically and socially (sustainably) balanced and equivalent way. The same applies to the practical implementation of the key functions.

1.2 The Committee takes the view that the number of objectives should be increased from 4 to 5, by adding 'Promotion of the forest as a workplace' which would include the 'safeguarding and extension of the vocational skills of those employed in forests' and the 'strengthening and maintenance of rural areas'.

1.3 The Committee proposes that the subject of safeguarding and extending vocational skills of those employed in forests should be taken into account when considering the forest as a workplace. This is a reasonable proposal, since it is ultimately the employees of forest enterprises, ministries and administrations of the Member States who will be expected to put the Action Plan into practice in the rural areas alongside the forest owners.

1.4 The EESC sees the strengthening and maintenance of rural areas as an important factor in ensuring that the EU Forest Action Plan can be successfully implemented on the spot in the Member States. The rural areas chapter of the Action Plan actively ensures that these areas in Europe have a future and do not atrophy and lag behind as ecological and social wastelands.

1.5 The Committee attaches importance to the fact that the EU Forest Action Plan is a totally reliable project and not a mere declaration of will. Reliability is the key to the acceptance and credibility of an EU Forest Action Plan.

2. **Introduction**

2.1 In drawing up the EU Forest Action Plan the Commission and the Member States formulated a common vision of forestry and the contribution of forests and forest management to modern society:

2.2 Forests for society: long-term, multi-functional forestry, which fulfils current and future social requirements and guarantees forest-related livelihoods.

2.3 Multi-functional forestry offers economic, ecological, social and cultural advantages. It provides renewable, environment-friendly raw materials and plays an important role in economic development, employment and well-being in Europe, particularly in the rural areas. Forests contribute to the quality of life, in that they provide a pleasant living area, leisure and recreational opportunities and at the same time represent conservation and ecological values. Forests should conserve the spiritual and cultural heritage which they represent.

2.4 In line with the above, the Action Plan pursues four objectives:

— improving long-term competitiveness;

— improving and protecting the environment;

— contributing to the quality of life;

— fostering coordination and communication.

2.5 The five-year Action Plan (2007-2011) consists of a range of key actions which the Commission would like to put into practice together with the Member States. It also contains additional actions which can be carried out by the Member States in accordance with their specific conditions and priorities with the support of existing Community instruments; the implementation of these may also make national instruments necessary.

2.6 With a view to the practical implementation of the EU Forest Action Plan a transparent framework is needed for forest-related measures and decisions at Community and Member State level.

2.7 The Action Plan should serve to inform and develop further targeted forest policy activities between Community measures and the forest policies of the Member States.

2.8 The objectives of the EU Forest Action Plan are the maintenance, support and extension of economic, ecological and social (sustainable) forest management and of the multifunctional role of forests.

2.9 The principle would be to lay down nationally comparable forest programmes as a binding framework for the implementation of international forest-related obligations and rules. The growing importance in forest policy of global and cross-sectoral themes, such as the use of wood as an energy source, requires better consistency, information and coordination.

2.10 Against the background of the great variety of ecological, social, economic and cultural features and the different forms of forest ownership in the EU, the EESC believes that the Action Plan should take account of the need for specific regional incentives and measures for the various kinds of forest management and property relationships. It brings out the important role played by forest owners, forest management employees and the rural area in the sustainable management of EU forests.

2.11 The Committee recommends the Commission to take into account the following five objectives in its EU Forest Action Plan:

— improving long-term competitiveness;

— improving and protecting the environment;

— improving the quality of life through sustainable forest management;

— fostering coordination and communication;

— promoting the forest as a workplace.

3. **Actions**

3.1 *'Improving long-term competitiveness'*

3.1.1 The Committee believes that potential forest products other than wood, such as the provision of high-quality drinking water or the relationship between CO_2 and the trade in emissions, should in this connection be taken into consideration under this objective.

3.1.2 On Key action 2: 'Encourage research and technological development to enhance competitiveness of the forest sector'

3.1.2.1 In addition to encouragement, the general exchange/knowledge transfer of results of research and technological development between European research centres should also help to strengthen the competitiveness of the forest sector.

3.1.2.2 To improve the general competitiveness of forestry the Action Plan should clarify scientifically, in cooperation with the individual Member States, how many employees with relevant qualifications are needed in the Member States to carry on sustainable forest management on the basis of national laws and regulations in an economically viable way.

3.1.3 On Key action 3: 'Exchange and assess experiences on the valuation and marketing of non-wood forest goods and services'

3.1.3.1 The EESC considers that the forest owner should not be compensated through subsidies for currently non-marketed forest goods and services. The payment for services should be made directly to the forest owner by the individual users and beneficiaries.

3.1.3.2 The Committee advises the Commission to propose to the Standing Forestry Committee that an ad hoc working group be set up to find out and document what activities and experiences in connection with additional marketing possibilities for forest products and services exist in the individual Member States. All forest owners and Member States will benefit from such an exchange of documentation.

3.1.4 On Key action 4: 'Promote the use of forest biomass for energy generation'

3.1.4.1 In the processing of wood residues for energy generation it must be ensured that this use does not lead to impoverishment of soil quality and consequent reduction in the variety of species.

3.1.4.2 When chemically treated wood waste is used as an energy source it should be ensured that in the combustion process dangerous residues are not released into the air and soil.

3.1.4.3 The EESC believes that European decisions must be taken on the basis of scientifically based research results as to who (Member States) uses wood as an energy source, and how and where it is used in a sustainable way. In the developing countries alone 50 % of wood consumed is used up as irreplaceable fuel (energy source) with no corresponding added value. This should not be allowed to happen in the Member States of the EU; it should be ruled out. The most favourable strategic choice in ecological, economic and social terms for European energy production using wood should be assessed in a long-term perspective and put into practice.

3.1.4.4 Before any genetically manipulated seed or plant material is used in forestry it must be ensured that it is ecologically acceptable.

3.1.5 On Key action 5: 'Foster the cooperation between forest owners and enhance education and training in forestry'

3.1.5.1 Cooperation should be encouraged not only with forest owners but also with those employed in forestry. Here the forester and middle management in the rural area have a special role as a link between forest owners and industry; this role should be maintained and promoted through appropriate structures. The mobilisation of wood resources and forest management depend on the availability of qualified management on the spot.

3.1.5.2 Against this background, the EESC argues that the Member States should promote the vocational training and further training of forest owners, forest management, forest workers and forestry enterprises. The Member States should encourage not only forest owners' associations but also employees' professional organisations by setting up advisory services. This encouragement is a component of sustainable (social) development, which is particularly needed in the rural environment.

3.1.5.3 To increase the competitiveness and the economic viability of forestry the Member States can also, as part of their priorities,

— support the development of professional organisations;

— involve professional forestry associations as a matter of course in forest policy decisions;

— promote the individual job profiles of forestry on the basis of the EU Forest Action Plan;

— support the voluntary certification of forestry in recognised systems.

3.2 *'Improving and protecting the environment'*

3.2.1 The Committee believes that the maintenance, protection and extension of ecological sustainability in forestry and conservation are essential to achieve this objective proposed by the Commission.

3.2.2 The EESC sees voluntary certification of forest enterprises in recognised certification systems as very helpful in guaranteeing, promoting and extending sustainability.

3.2.3 On Key action 8: 'Work towards a European Forest Monitoring System'

3.2.3.1 The EESC welcomes the concept of a European Forest Monitoring System. The relevant international organisations to be involved should be listed by name to ensure that important actors and expertise are not omitted.

3.2.3.2 A European Forest Data Centre should present the collected, scientifically evaluated data to a wide public and make it available as needed in accordance with the guidelines of data protection.

3.2.4 On Key action 9: 'Enhance the protection of EU forests'

3.2.4.1 The important basis for current information on the state of forests is the annually drawn up and published forestry reports of the individual Member States. Therefore, the Committee believes that the drawing up of the individual reports should be promoted through the EAFRD and the Life+ instrument.

3.2.4.2 The transition from single crops, which are susceptible to fire, to mixed stands as a precaution against forest fires should be used and promoted more intensively.

3.3 Concerning the third objective of the Action Plan proposed by the Commission ('Contributing to the quality of life'), the Committee proposes the following new wording: **'Improving the quality of life through sustainable forest management'**.

3.3.1 In its communication, the Commission notes that Member states can encourage investment to enhance the public amenity of Forests. The Committee considers the EAFRD should as well provide support in maintaining and strengthening rural areas, as forests play a very important role in it.

3.3.2 On Key action 10: 'Encourage environmental education and information'

3.3.2.1 The promotion of training and information measures should not be confined to the environmental field; the social field should also be promoted. The two fields overlap, for example the social responsibility of teachers or the cultural dimension require a maximum of training and information in the social field.

3.3.3 On Key action 12: 'Explore the potential of urban and peri-urban forests'

3.3.3.1 In urban areas and conurbations woodland and the stock of wood are clearly decreasing in all Member States. Woodland is at risk both from greater emission damage and particularly from clearing activities. Compensatory land in the same natural area is rarely available, owing to the above average demand for residential and industrial land and the constant extension of infrastructure. Roads, railways and airport extensions play an important part in this trend.

3.4 *'Fostering coordination and communication'*

3.4.1 On Key action 13: 'Strengthen the role of the Standing Forestry Committee'

3.4.1.1 The EESC considers that, during the implementation of the Action Plan joint meetings, should be organised in which associations and actors from the entire sustainable forest management of Europe meet and represent their respective fields. The same applies to the setting up of ad hoc working groups. These measures would ensure that the Action Plan would be accepted and supported by many actors in forest management.

3.4.2 On Key action 16: 'Strengthen the EU profile in international forest-related processes'

3.4.2.1 A measure to reduce worldwide deforestation would be to establish a European primeval forest protection law laying down among other things under what legal conditions wood from tropical and primeval forests arrives in the EU and is processed and used there. The Commission should examine an appropriate legal initiative and achieve the adoption of a European primeval forest protection law by 2012. The EESC would like to emphasise that the ongoing EU FLEGT process can be a tool to combat worldwide deforestation and deterioration of primeval forests. The FLEGT legislation should work as a system to prevent illegally logged timber entering the EU markets and processing industry.

3.4.3 On Key action 18: 'Improve information exchange and communication'

3.4.3.1 To achieve a multiplier effect, all stakeholders in forest management should be involved and financially supported in events likely to have great influence on the public in the Member States.

3.5 In order to guarantee sustainable forest management in the EU, The EESC believes that the vocational skills of those employed in the forest should be ensured. The strengthening and maintenance of rural areas also plays a decisive role in this connection. Therefore, the EESC calls upon the Commission to take into consideration the following new objective:**'Promoting the forest as a workplace'**.

3.5.1 The Committee stresses that the forest can fulfil all its functions and social tasks only if enough people (forest workers, machine operators, forest management officials and forest managers) are employed in its management and care. These employees should have a basic specialised qualification and receive continuing further training. Of course this also applies to forest owners working with their employees. The qualification should be adapted to the economic, ecological and social requirements of the job. This applies particularly to ensuring conservation in forests.

3.5.2 To achieve this objective, the EESC proposes following new Key actions:

— Key action 19: Promotion of training and further training

— Key action 20: Investigation of the connection between sustainable forest management and vocational training/qualification in the forest sector

— Key action 21: Rural areas

3.5.3 On Key action 19: Promotion of training and further training

3.5.3.1 The Commission and the Member States should increase their promotion of training/further training, research, development and technology transfer in the field of forestry, wood and conservation.

3.5.3.2 The Committee defends that the Commission must support recognised forest management certification systems, which help to guarantee and extend employment by providing indicators of sustainable personnel planning and development in forest enterprises.

3.5.4 On Key action 20: Investigation of the connection between sustainable forest management and vocational training/qualification in the forest sector

3.5.4.1 The Commission should support scientific research on the connection between sustainable forest management and the vocational training/qualification of forest owners and employees in forest management (clarification of requirements).

3.5.4.2 The EESC advises the Commission to make a study of what specific job profiles are needed to ensure that the forest sector is competitive in the long term.

3.5.5 On key action 21: Rural areas

3.5.5.1 Woodland in the Member States is mainly found in structurally weak rural areas. In these areas the forest sector ensures the maintenance of the infrastructure and the employment and income of the forest owners and the rural population. Without economically intact forestry these ecologically valuable tourist areas would be uncoupled from the general development of a country. Likely consequences of this would be migration of population away from the land, an ageing population, neglected woodlands or decline in infrastructure. The destruction of rural structures leads inevitably to difficulties in the use of wood as a raw material at a time of increasing global demand.

3.5.5.2 The Commission should promote and support investigation and research on the importance of forestry for rural areas.

3.5.5.3 The EESC believes that the Member States should be called upon to guarantee and improve the labour market situation in rural areas. Social hardship arising from continuing structural change is to be avoided. If necessary such developments should be counteracted through coordinated programmes. The attractiveness of rural areas for the population, particularly young people, should be increased.

3.5.5.4 The Committee urges the Commission to support rural areas financially through the EAFRD. On receipt of a request financial support should be given directly to forest owners/enterprises or to combinations of forest enterprises.

4. **Evaluation**

4.1 The Commission should ensure that all stakeholders of European forestry are represented in the Advisory Group on Forestry and Cork.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Decision of the European Parliament and of the Council correcting Directive 2002/2/EC amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs

COM(2006) 340 final — 2006/0117 (COD)

(2006/C 324/15)

On 10 July 2006 the Council decided to consult the European Economic and Social Committee, under Article 152 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2006. The rapporteur was Mr Nielsen.

Due to the renewal of the Committee's term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Mr Nielsen as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 85 votes in favour with one abstention.

1. **Background**

1.1 The 1979 rules on the production and circulation of compound feedingstuffs for livestock have been subject to a number of amendments relating, among other things, to labelling and composition information ([1]). As a result, the balance between confidentiality (as advocated by the feedingstuffs industry) and full disclosure of content and composition (as advocated by the farming sector) has also shifted a number of times.

1.2 The labelling rules were harmonised in 1990 and stipulated that the relevant feed materials should be listed out in descending order by weight, without any obligation to declare the actual quantities involved. Following the BSE (bovine spongiform encephalopathy) and dioxin crises, it was decided in 2002 to introduce so-called 'open labelling' to provide both quantitative and qualitative content information. Under these arrangements, it became mandatory to declare the percentages of materials used in descending order by weight, with a tolerance of 15 % of the declared value. Provision was also made to communicate the exact percentages by weight of feed materials used in the compound feedingstuffs, at the customer's request ([2]).

1.3 This requirement was referred to the Court of Justice for a preliminary ruling in the context of the examination of a number of requests by the feedingstuffs industry for the annulment or suspension of the relevant national rules. In its judgment handed down on 6 December 2005 ([3]) the Court of Justice largely supported the position of the EU institutions, not least as regards the validity of the directive. However, under the principle of proportionality, the Court did declare invalid the obligation to inform customers, on request, of the exact percentages by weight of feed materials used in the compound feedingstuffs. Among other things, the Court found that the obligation could not be justified by the objective of protecting public health and went beyond what is necessary to attain that objective.

1.4 Against that backdrop, the Commission is therefore proposing a 'correcting Decision' taking account of the principle that amending acts should not be amended themselves but that they may, however, be corrected. According to the Commission, this 'will guarantee transparency and clarity of Community law while at the same time not imposing a direct obligation on the Member States to change their national legislation, as they are in any case obliged to take all appropriate measures under their national legal systems to ensure fulfilment of the Court's judgment'.

2. **The EESC's comments**

2.1 The EU feedingstuffs industry is well aware of the Court of Justice ruling and, from the comment cited above, the Commission recognises that the correction has no practical implications. However, the EESC feels that the rules must reflect the current legal position and thus supports the Commission's proposed correction.

2.2 The EESC also supports the principle of 'open compounds' which facilitates user choice and is also conducive to competition in this area. It is important for agricultural producers to know as accurately as possible what is contained in the compounds, not only in terms of the actual feed composition alone, but also so as to be able to compare prices and quality. The arguments advanced by the feedingstuffs industry — including the demand for confidentiality in the interests of market competition and possible patenting — appear to carry less weight in the light of the experience gained to date in the compound feedingstuffs market.

([1]) Council Directive 79/373/EEC on the circulation of compound feedingstuffs and subsequent amendments.

([2]) Directive 2002/2/EC of the European Parliament and of the Council of 28 January 2002, which entered into force in the Member States from November 2003.

([3]) Joined cases C-453/03, C-11/04, C-12/04 and C-194/04.

2.3 That said, the EESC does recognise that special arrangements apply in individual cases and to quite specific compound feedingstuffs used, for instance, in fish farming ([4]). The EESC would therefore ask the Commission, in interests of confidentiality vis-à-vis ongoing technological developments, to consider exempting a small number of special compounds from the requirement to declare the percentages of materials used in descending order by weight. However, any such provision must be applicable in exceptional cases only and only where absolutely necessary.

2.4 In practical terms, the provision to declare the percentages of materials used by weight, with a tolerance of 15 % of the declared value, is by and large warranted. Where it is, in practice, impossible to check lower quantities (e.g. 10 %) with this kind of accuracy, the national inspection authorities must be able to carry out checks using company documentation.

2.5 It is sometimes claimed that it is, in practice, impossible to analyse the content of a compound. This is not true — allowing for the exception mentioned above — since laboratories are in place in all the Member States that are perfectly able to perform this task quite satisfactorily.

2.6 Last but not least, the EESC feels that, in the interests of intra-Community trade and compliance with EU rules in this field, it is vital that Member State authorities monitor the relevant provisions and observe them fully — something that has not always been the case in the past. The Commission should, with the help of the Food and Veterinary Office (FVO), show more commitment to meeting its obligations in this regard than it has done so far.

Brussels, 26 October 2006.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

([4]) In fish farming, for instance, the different fish species have specific needs. There are also considerable differences in the composition of the by-products from the fisheries sector and the fish industry used as raw materials in the compounds.

Opinion of the European Economic and Social Committee on the Proposal for a Decision on a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States

COM(2006) 284 final — 2006/0099 (COD)

(2006/C 324/16)

On 23 June 2006 the Council decided to consult the European Economic and Social Committee, under Article 157(3) of the Treaty establishing the European Community, on the abovementioned proposal.

On 4 July 2006, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Tóth as rapporteur-general at its 430th plenary session, held on 26 October 2006 and adopted the following opinion by 110 votes with 5 abstentions.

1. **Introduction**

1.1 The proposed decision [1] aims to repeal the Council Decision of 21 March 1962 [2] instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States.

1.2 The purpose of the proposed decision is to codify the Council Decision of 21 March 1962, and hence it fully preserves the content of the acts being codified and does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

1.3 The current codification proposal follows from the Commission's decision of 1 April 1987 [3] in which it instructs its staff to undertake the codification of all legislative acts after no more than ten amendments in order to ensure that the Community rules are clear and readily understandable.

2. **General comments**

2.1 The Committee is particularly concerned about recent trends that alienate European citizens from the European idea and more importantly from the European legislative and decision making process. The Committee's mission is to help bridge the widening gap between Europe and organized civil society, that is to say its citizens.

2.2 Clearly, as long as several provisions that have been amended several times remain in fragmented form, so that they have to be sought partly in the original instrument and partly in the latter, amending one, the considerable research work will prevent ordinary citizens and numerous civil society organizations to find easily the legal information they need.

2.3 Therefore the Committee fully endorses the current proposal, in the particular hope that it will help all citizens and civil society interest groups to get better and more precise information concerning a given European legislative instrument.

Brussels, 26 October 2006

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

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[1] COM(2006) 284 final.
[2] OJ 23 of 3.4.1962, p. 720-721.
[3] COM(87) 868 PV.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation amending the Statutes of the Galileo Joint Undertaking annexed to Council Regulation (EC) No 876/2002

COM(2006) 351 final — 2006/0115 (CNS)

(2006/C 324/17)

On 19 July 2006 the Council decided to consult the European Economic and Social Committee, under Article 171 of the Treaty establishing the European Community, on the abovementioned proposal.

On 4 July 2006, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Pezzini as rapporteur-general at its 430th plenary session, held on 25 and 26 October 2006 (meeting of 26 October), and adopted the following opinion by 116 votes with two abstentions.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee reiterates the great importance it attaches to the success of the Galileo satellite radio-navigation programme. The EESC has emphasised in several opinions ([1]) on the matter that Galileo is the European Union's flagship scientific and technical project, particularly in terms of the strategic challenge that the civilian-managed European satellite radio-navigation system represents, not just for the global system of satellite navigation and positioning, but also for services to business, citizens, society and for a more globally competitive European industry.

1.2 The Committee believes it is essential that the strategic value of the Galileo programme should be universally recognised, given that it is the biggest public-private partnership project ever undertaken thus far on a European scale, and the first public infrastructure with a constellation of thirty satellites over three different orbits. It is the property of the European institutions and can offer a new global public service with a market that is increasing exponentially ([2]), and with accurate space and time positioning over the entire planet.

1.3 The Committee cannot conceal its concern regarding the delay in completing the development and in-orbit validation phase for the satellites and ground components of the system, which was meant to have been concluded under the responsibility of the Galileo Joint Undertaking during 2006 and which will now last until the beginning of 2009. The successive phases involving positioning the satellite constellation, full installation of the ground components and the operating phase — particularly commercial — cannot therefore be completed before the end of 2010.

1.4 The Committee fully agrees with the need to avoid the waste of resources and expertise that would derive from extending the work of the Galileo Joint Undertaking, which was tasked with covering the entire development and in-orbit validation phase, following the establishment of the European GNSS Supervisory Authority, which already started operations in mid-2006, in accordance with the Council Regulation of 12 July 2004 ([3]).

1.5 The Committee believes, however that it is essential, as it emphasised in a recent opinion: '… for the hand-over period between the Galileo Joint Undertaking (GJU) and the Galileo Supervisory Authority (GSA) to be effected smoothly', and to ensure:

— legal certainty in the transfer of activities from the GJU to GSA;

— scope for the GSA to intervene in the development phase;

([1]) Opinion of the European Economic and Social Committee on the European satellite navigation programme (Galileo) OJ C 311 of 7.11.2001 p 19.
Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation on the establishment of the GALILEO Joint Undertaking OJ C 48 of 21.2.2002 p 42.
Opinion of the European Economic and Social Committee 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 OJ C 302 of 7.12.2004 p 35.
Opinion of the European Economic and Social Committee 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 of 2004, OJ C 221 of 8.9.2005 p 28.
Opinion of the European Economic and Social Committee on the GALILEO programme: successful establishment of the European supervisory authority.

([2]) By 2020, the annual worldwide turnover of these markets is estimated at EUR 300 billion, with 3 billion receivers in operation. Within the European Union alone, it is expected that 150 000 jobs will be created. Cf. Communication of the Commission to the European Parliament and the Council on Taking stock of the Galileo programme, COM (2006) 272 final.

([3]) OJ L 246 of 20.7.2004, the role of the Supervisory Authority is to manage the public interests connected with the European GNSS programmes and to be the regulatory authority for these. The bodies of the Supervisory Authority are the Administrative Board and the Executive Director. The Administrative Board is composed of one representative appointed by each Member State and one representative appointed by the Commission.

— solutions to the problems deriving from the European Space Agency/GJU Convention and from the transfer of the activities carried out by GJU third countries ([4]) to the GSA;

— adequate numbers of experienced staff;

— clarity on international liability for the satellite launching States.

1.6 While the Committee endorses the guiding principles of the proposal to amend the statutes of the GJU ([5]), on which referral to the EESC is mandatory under Article 171 of the Treaty, it would highlight the following points and make the recommendations outlined below.

1.6.1 While the Committee endorses the amendments to the above Regulation, it feels it is insufficient to propose modifications to the annexed statutes alone. It believes it should also provide for:

— amendment of Article 1 of the Regulation as follows: 'For the *implementation of the development activities* of the Galileo programme, *and their transfer to the GSA*, a Joint Undertaking within the meaning of Article 171 of the Treaty is hereby set up *until 31 December 2006*';

— the addition of a final subparagraph to the said Article 1 of the Regulation: *'From 1 January 2007 the GSA replaces the former Joint Undertaking in all its rights and obligations, including those deriving from the European Space Agency Convention';*

— insertion of the following new provision in Article 21 of the Statutes of the Joint Undertaking: *'Prior to the start of the liquidation procedure, agreements will be concluded with the Community regarding the arrangements for third country members of the GJU Administrative Board and ESA third countries to take part in the activities of the GSA'.*

1.6.2 Regarding the Galileo Supervisory Authority (GSA), the EESC believes it is essential to amend the original 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'.

1.6.2.1 The GSA was established under Council Regulation No 1321/2004/EC of 12 July 2004 and has been operational since mid-2006. It was set up to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts. However, the regulation does not provide for the GSA to manage the development phase or any research work or activity during such or successive phases, nor does it provide the human and financial resources required to cope with such tasks.

1.6.2.2 The Committee has not been consulted on the Council's draft Regulation COM(2006) 261 final of 2 June 2006, amending Regulation No 1321/2004/EC on the establishment of structures for the management of the European satellite radio-navigation programmes. Consequently, a discussion of its content is beyond the scope of the present opinion.

1.7 The Committee believes, however, that it is essential to amend Regulation No 1321/2004/EC in order to ensure the continuity of the Galileo programme and the appropriate transfer of activities from the Galileo Joint Undertaking to the Supervisory Authority, and to provide the best guarantee of completion for the development phase of the Programme once the Joint Undertaking has been wound up. Similarly, the legal, technical and financial arrangements and questions must be clarified, after 31 December 2006, in order to facilitate the completion of the various phases and to ensure the system can be fully operational.

1.8 The Committee would stress the need for 'the Commission, the Galileo Joint Undertaking, the European GNSS Supervisory Authority and the European Space Agency to make every effort to ensure that the Galileo system is fully operational by the end of 2010', as called for in the Conclusions of the Transport, Telecommunications and Energy Council of 12 October 2006. The Council also welcomed the Commission's legislative proposals aiming to transfer the remaining activities of the Galileo Joint Undertaking to the Authority during 2006.

1.9 The Committee requests that it be kept updated on Galileo Programme developments and on the crucial role of the ESA in designing and developing European GNSS programmes. Furthermore, the EESC would like to be consulted on the Green Paper on Galileo applications which the Commission intends to publish before the end of 2006 ([6]).

2. **Reasons**

2.1 The EESC has followed the creation and development of the Galileo European satellite radio-navigation and positioning programme from its very beginnings, recognising the strategic, fundamental role it plays in the competitiveness of the European system, both in terms of its innovative, occupational and social implications, and improved quality of life for citizens.

([4]) A Chinese body, the National Remote Sensing Centre of China, and an Israeli company, MATIMOP, are members of the GJU. They have seats on the Administrative Board and have voting rights in proportion to their financial contribution. They have each provided start-up capital of EUR 5 million.

([5]) Annexed to Regulation 876/2002.

([6]) Cf. Council Conclusions on the progress of the Galileo programme, 12 October 2006.

2.2 The Galileo programme provides for four successive phases:

— The definition phase, which ran from 1999 to 2001, during which the system architecture was designed and the five types of service to be offered (listed below) were identified; this phase was mainly financed through the 5th RDT Framework Programme 1998-2002.

— The development and validation phase, launched in 2002 and initially intended to run until 2005, which includes the development of the system's satellites and ground components as well as in-orbit validation; owing to accumulated delays, it will last until early 2009. Public funding from the EU and the ESA — initially set at EUR 1.2 billion, in addition to the EUR 100 million from the 6th RDT Framework Programme 2002-2006 — will amount to EUR 1.5 billion, managed until 31 December by the Galileo Joint Undertaking and, from 1 January 2007, the Supervisory Authority. The first experimental satellite, GIOVE A, has already completed its main mission; some technical issues now need to be finalised, as they are crucial to carrying the project forward.

— The deployment phase, involving the construction and launching of the constellation satellites as well as the full establishment of the earth segment of the infrastructure. This phase was meant to last from 2006 to 2007, but will be carried out in 2009 and 2010 instead. A total of EUR 2.1 billion of funding was initially earmarked, with one third, equal to EUR 700 million, coming from the Community budget, and two-thirds, or approximately EUR 1.4 billion, from private consortia. The deployment and subsequent commercial operating phases are covered by a concession for a period of approximately 20 years. The Supervisory Authority will be the licensing authority.

— The commercial operating phase cannot begin before the end of 2010. Estimated annual management and maintenance costs amounting to approximately EUR 220 million are to be borne entirely by the private sector, except for an exceptional Community contribution to cover the first years of this phase, in accordance with decisions taken under the new Community financial perspectives for 2007-2013.

2.3 The Committee is extremely concerned at the delays accumulated in the development and in-orbit validation phase and, consequently, in the subsequent commercial exploitation phases. This is a setback that compromises the general timetable that was established for the project, and holds up the delivery of an exceptional instrument that combines the expertise and results of European research, and that can provide for successful participation in the global market for satellite radio-navigation related products and services. In 2005 this market was worth EUR 60 billion, with an annual growth rate of 25 %; it generated, in the EU alone, 150 000 jobs, mainly in the high-tech, research and services sectors.

2.4 As it stressed in a recent opinion [7], the EESC is even more concerned about the current uncertainty surrounding the legal, technical and financial arrangements and questions. This uncertainty affects both the Galileo Joint Undertaking (GJA) and the Supervisory Authority (GSA) and could, if not resolved by the end of 2006, compromise the satisfactory completion of the different phases which were planned in order to ensure the system can be fully operational, and which can play a fundamental role in delivering a European economy based on more competitive knowledge, on a global level.

2.5 The EESC has previously highlighted the need to involve — from the very launch phase of the Galileo Joint Undertaking — private partners in the development and exploitation of the system, and to provide continuous support when the project is underway, given that Galileo is the biggest European public-private partnership ever.

2.6 At the end of the definition phase in May 2002, the Galileo Joint Undertaking was established in accordance with Article 171 of the EC Treaty by Regulation 876/2002/EC, with the EU and the ESA [8] as founding members, for a four-year period 'to ensure the unity of the administration and financial control of the project for the research, development and demonstration of the Galileo Programme and to this end mobilise the funds assigned to that programme'.

2.7 The Galileo Joint Undertaking was set up to complete the development phase and to prepare the subsequent phases of the Galileo programme, with two main tasks:

— to direct and coordinate the necessary development and research work, through an agreement with the European Space Agency, tasked with the performance of such duties;

— to manage the procedure for selecting the future concessionaire.

2.8 In its Resolution on the Action Plan for implementing the European Space Policy [9] of 29 January 2004, the European Parliament also noted the vital importance of the Galileo Programme for the development of industry, transport, environmental protection and the delivery of the Lisbon Strategy objectives, and called on the Commission and the Council to provide Galileo with efficient structures, and for the creation of a Supervisory Authority to ensure, in addition to transparent operations, the safety of the system [10].

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[7] EESC opinion on the GALILEO programme: successful establishment of the European supervisory authority — CESE 1179/2006 of 13.9.2006.

[8] ESA: European Space Agency.

[9] European Parliament P5_TA(2004)0054 of 29 January 2004.

[10] Supervisory Authority and safety system, Council decisions of 12 July 2004.

2.9 The Supervisory Authority was established under Council Regulation No 1321/2004/EC of 12 July 2004 and has been operational since mid-2006, to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts.

2.10 The current regulation does not provide scope for management of the development phase or any research work or activity during such or successive phases, nor does it provide the human and financial resources required to cope with such tasks.

2.11 The regulations of the GJU ([11]), on the other hand, provide for a four-year timeframe, which expired in mid-2006. The regulation should, therefore, be extended so that the entire satellite and ground component development phase and the 'in-orbit' system validation phase can be completed, along with negotiations for selecting the future concessionaire.

2.12 In order to avoid any further project delays and any uncertainty in relations between the different parties, the Committee believes there is a need to proceed with a rapid, transparent review of both the GJU and the GSA regulations, in order to provide the parties with clear ground rules when expertise is transferred between the two bodies.

2.13 The Committee endorses the objectives of the proposal under discussion, which aims to avoid the waste of resources and expertise that would derive from extending the work of the Galileo Joint Undertaking following the establishment of the European GSA Supervisory Authority, which already started operations in mid-2006.

2.14 The EESC considers, however, that the content of the proposal is inadequate, partly because it confines itself to the GJU statutes annexed to Regulation 876/2002/EC, and partly because the proposal should tie in with the review of the GSA regulation, on which the Committee has not thus far been consulted.

2.15 Given the current state of play, the Galileo development phase will not be completed before the end of 2008. Only then will the four satellites that are to be built and launched by the European Space Agency as part of the 'in-orbit validation' phase be operational. Consequently, and in accordance with the current statutes, the Galileo Joint Undertaking should continue to operate until the end of 2008, i.e. with a lifecycle approximately three years longer than initially intended.

2.16 Furthermore, the GSA was set up to provide for management of public interests relating to the European EGNOS and Galileo satellite radio-navigation programmes, and to act as contracting authority for future satellite radio-navigation services concession contracts, but not to manage the development phase or any research work or activity during that phase. In addition, the GSA has not been provided with the human and financial resources required to cope with such tasks.

2.17 The Committee shares the Council's stance on 'the importance of promoting the European satellite radio-navigation system in order to achieve commercial success, particularly by research activities.' The Council considers that 'the largest proportion of the economic benefits of Galileo comes primarily from downstream applications' ([12]).

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([11]) GJU: Galileo Joint Undertaking.

([12]) Cf. Council Conclusions on the progress of the Galileo programme, Luxembourg, 12 October 2006.

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation amending Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio-navigation programmes

COM(2006) 261 final — 2006/0090 (CNS)

(2006/C 324/18)

On 29 September 2006 the Council decided to consult the European Economic and Social Committee, under Article 171 of the Treaty establishing the European Community, on the abovementioned proposal.

On 25 October 2006 the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

In view of the urgent nature of the work, the European Economic and Social Committee appointed Mr Buffetaut as rapporteur-general at its 430th plenary session, held on 26 October 2006, and adopted the following opinion by 111 votes to one with two abstentions.

1. **Conclusions and recommendations**

1.1 As it has stated on a number of occasions, the European Economic and Social Committee attaches the utmost importance to the success of the GALILEO programme.

1.2 In its own-initiative opinion *The Galileo programme: the successful establishment of the European Supervisory Authority*, the Committee also emphasised that the hand-over from the GALILEO Joint Undertaking to the Galileo Supervisory Authority must be effected smoothly and with legal certainty.

1.3 The Committee thus approves of the Council's legal approach, which aims to amend *Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio-navigation programmes* in order to ensure the continuity of the GALILEO programme and the successful transfer of activities from the GALILEO Joint Undertaking to the Supervisory Authority.

1.4 The Committee considers that the proposed amendment to Article 2(1) of Regulation (EC) No 1321/2004, which sets out the tasks of the Supervisory Authority, effectively meets the need to enable the Supervisory Authority (a) to ensure the completion of the development phase and (b) to carry out research activities that are useful and necessary to the European GNSS programmes.

1.5 The Committee also considers that the new wording proposed for Article 3(1) of Council Regulation (EC) No 1321/2004 adequately meets the need to ensure the necessary legal certainty as regards the ownership of the system — before the end of the development phase — and of tangible and intangible assets created or developed before the Joint Undertaking is wound up and during the ensuing development phase.

1.6 Like the Council, the Committee also stresses that it would be advisable to avoid pointless and costly organisational overlap as far as possible and that constructive cooperation between the organisations during the transitional period must be ensured.

1.7 Finally the EESC welcomes the fact that the proposed text includes the recommendations that it made in its own-initiative opinion (TEN/246).

2. **Council proposal**

2.1 The proposed Council Regulation aims to regulate the legal and ownership-related problems that might arise, on the basis of the wording of current texts, as a consequence of the winding-up of the Joint Undertaking before the end of the development phase and before its activities are taken over by the European Supervisory Authority.

2.2 In order to prevent these difficulties arising, the draft Regulation proposes to add text to the current wording of Article 2(1) of Regulation (EC) No 1321/2004 and to replace Article 3(1) of that Regulation with a new text.

3. **General comments**

3.1 When the GALILEO programme started up, the tasks allocated to the Joint Undertaking and to the European Supervisory Authority were different, both in their nature and in their timetable for implementation. Today, due to the approximately two-year delay in starting the development phase and in actually establishing the European Supervisory Authority, it has been necessary for economic, legal and technical reasons to enable the Supervisory Authority to intervene in the development phase and to wind up the Joint Undertaking. This, of course, has required changes to existing law, specifically to Regulation (EC) No 1321/2004.

3.2 During this inevitable transitional period, these two bodies must work in close cooperation in order to ensure a smooth transfer of activities.

3.3 The transfer of activity and of know-how can only be successful if the legal framework is clearly defined and legal certainty is ensured.

3.4 The aim of the proposal is precisely to establish this legal framework and to ensure this legal security on the essential issues, which are:

— the taking-over of the Joint Undertaking's activities for the development phase, which does not currently fall within the European Supervisory Authority's remit;

— the possibility that the European Supervisory Authority might be able to carry out research activities;

— to find a legal solution to the issue of the ownership of the system and of the intangible and tangible assets, which must be transferred to the European Supervisory Authority.

3.5 The proposed Regulation meets these requirements and the Council's clear willingness to avoid any organisational overlap, which would be both pointless and costly, must be welcomed.

3.6 With regard to another legal aspect, which is not directly related to the Regulation in question, the Council should consider the issue of the launching States' international liability for the satellites in the GALILEO constellation.

Brussels, 26 October 2006.

The President of the
European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on roaming on public mobile networks within the Community and amending Directive 220/21/EC on a common regulatory framework for electronic communications networks and services

COM(2006) 382 final — 2006/0133 (COD)

(2006/C 324/19)

On 4 September 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.

On 12 September 2006 the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Hernández Bataller as rapporteur-general at its 430th plenary session, held on 25 and 26 October 2006 (meeting of 26 October), and adopted the following opinion by 131 votes to seven with 12 abstentions.

1. **Conclusion and recommendations**

1.1 The Committee shares the views of the Commission which, in the light of the high prices that mobile users pay for the 'international roaming' service on their mobile handsets, has presented a proposal for a regulation to provide a harmonised legal basis for action to facilitate the completion of the internal market for electronic communications and, at the same time, put citizens at the centre of Community policy.

1.2 The proposal is necessary and proportionate, and raises the level of consumer protection by effectively extending their right to access to information through its transparency measures, and defending their economic interests by introducing a mechanism applying maximum price limits for the provision of roaming services for voice calls between Member States at retail and wholesale level.

1.3 The Committee would prefer the Commission, in its review of the functioning of the regulation, to base its ensuing proposals on the 'calling party pays' principle. and the 'home pricing' principle under which the prices paid by roaming customers are similar to those applied by their home network.

2. **Introduction**

2.1 Europeans' increasing mobility outside their own countries and, in particular, within the EU, has generated an increasing need to ensure telephone communication through the ever-growing numbers of mobile handsets. Users' ability to make and receive calls when travelling abroad, thanks to agreements between the operators in different countries, is known as 'roaming'.

2.1.1 This involves services provided by a national mobile network operator (visited network) to a mobile operator in another country (home network). The market usually comprises the following services:

— to mobile operators of another Member State or a third country of access from a mobile location;

— to mobile operators of another Member State or a third country from which calls are made from a mobile location;

— to mobile operators within a Member State or a third country from which data is being transmitted from a mobile location;

— to mobile operators within a Member State or a third country of transit of both voice calls and data transmission to users of mobile or fixed, national or international networks.

2.1.2 It is estimated that almost 150 million Europeans are already using this service, either when on holiday or, to a much greater extent (accounting for some three-quarters of the total), for work purposes.

2.2 Roaming unarguably offers economic and social benefits to users, but has also been repeatedly criticised by users, consumer organisations, regulatory authorities and politicians on account of its prices, which are much higher than those paid for national calls. Critics also point out that roaming prices are far from transparent for end users; they are unjustified in view of the costs involved in providing the service, and vary widely between countries and operators: broadly speaking, prices range from EUR 0.20 paid by a Finnish user calling home from Sweden, and EUR 13.05 paid by a Maltese user in Latvia. According to several studies of the sector, operating companies are earning some EUR 8.5 billion a year across the EU for this service, representing between 3 % and 7 % of their turnover — and which is still rising.

2.3 The Commission has been expressing its concern at the high prices of roaming for mobile users travelling in Europe since the end of the last decade, through a number of initiatives:

— In mid-1999, the Commission decided to carry out a sector enquiry covering national and international roaming services, and opened proceedings against certain mobile operators in the United Kingdom and Germany.

— After establishing, in 2002, the regulatory framework for electronic communications ([1]), the Commission Recommendation of 11 February 2003 ([2]) on relevant product and service markets within the electronic communications sector included the national wholesale market for international roaming on public mobile networks among the relevant services for the purposes of *ex ante* regulation.

— In May 2005, the European Regulators Group ([3]) noted that retail charges were very high without clear justification; that this appeared to result both from high wholesale charges levied by the foreign host network operator and also, in many cases, from high retail mark-ups charged by the customer's own network operator; that reductions in wholesale charges were often not passed through to the retail customer; and that consumers often lacked clear information on the charges for roaming.

([1]) Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services, the 'Framework Directive' (OJ L 108 of 24.4.2002, p. 33). The following were also adopted on the same day: Directive 2002/19/EC on access to, and interconnection with, electronic communications networks and associated facilities, the 'Access Directive' (OJ L 108 of 24.4.2002, p. 7); Directive 2002/20/EC on the authorisation of electronic communications networks and services, the 'Authorisation Directive' (OJ L 108 of 24.4.2002, p. 21); and Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, the 'Universal Service Directive' (OJ L 108 of 24.4.2002, p. 51). Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201 of 31.7.2002, p. 27) should also be added to this list.

([2]) Commission Recommendation of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and the Council on a common regulatory framework for electronic communication networks and services — C(2003) 497, OJ L 114 of 8.5.2003, p. 45. It identifies 18 markets which are presumed to have been defined in accordance with the provisions of Community law.

([3]) See Commission Decision 2002/627/EC of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services (OJ L 200 of 30.7.2002, p. 38), as amended by Commission Decision 2004/641/EC of 14 September 2004 (OJ L 293 of 16.9.2004, p. 30).

— In October 2005 the Commission drew attention to the problem of high international roaming charges and the lack of price transparency by publishing a consumer information website that not only corroborated the fact that charges are in many cases manifestly excessive, but showed a variation in prices across the Community that could not be justified for calls with the same characteristics.

— The European Parliament, in its resolution of 1 December 2005 ([4]) on European electronic communications regulation and markets 2004, welcomed the Commission's initiative on transparency in the international roaming sector and called on the Commission to develop new initiatives in order to reduce the high costs of cross-border mobile telephone traffic.

— In December 2005, the European Regulators Group alerted the European Commission to its concern that measures being taken by national authorities would not resolve the problem of high prices, noting that roaming creates a clearly exceptional instance where an apparent case of consumer detriment is not prospectively solved simply by applying the above-mentioned framework.

— In March 2006 the European Council noted the importance for competitiveness of reducing roaming charges, in the context of the need for focused, effective and integrated information and communication technology (ITC) policies both at European and national level, in order to achieve the renewed Lisbon Strategy goals of economic growth and productivity ([5]).

2.4 In spite of the clear diagnosis provided by the criticisms, the initiatives of the European institutions, the measures adopted by some Member States and even the reductions in charges made by certain operators, it has not yet been possible to adopt effective and speedy measures to achieve a substantial and harmonised reduction of roaming prices in the EU.

2.5 After examining various regulatory options and their consequences, on 12 July 2006 the Commission eventually presented a proposal for a regulation on roaming on public mobile networks in the EU, which seeks to limit the prices that operators can charge each other for handling mobile calls, and the price charged to the user for making and receiving such calls outside their home country but within the European Union. The regulation would amend the present framework regulation for electronic communications, laid down by Directive 2002/21/EC.

([4]) EP Resolution 2005/2052 (INI).

([5]) Communication to the Spring European Council — Working together for growth and jobs — A new start for the Lisbon Strategy, COM(2005) 24 of 2.2.2005 and the Presidency Conclusions of the Brussels European Council, 22-23 March 2005.

3. **The Commission's proposal**

3.1 The Commission's purpose with the proposed regulation is to establish a harmonised, objective, coherent and proportionate legal basis which facilitates the completion of the internal market in electronic communications, is in keeping with the renewed Lisbon Strategy for promoting growth and employment through greater competitiveness, and responds to the Commission's associated i-2010 initiative.

3.2 Such a basis would enable maximum limits to be set for the charges applied by terrestrial mobile operators within the European Community for the provision of roaming services for voice calls between Member States regarding both wholesale charges between network operators, and the retail charges of the original provider. The maximum price limits would have to take account of the different elements involved in making an international roaming call (including overheads, signalling, call origination, transit and termination) and the differences in the underlying costs of providing the service.

3.3 Under the 'European Home Market Approach', the aim is to ensure a high level of protection for users of public mobile telephone networks travelling within the Community, while safeguarding competition between mobile operators, allowing them to differentiate the products they offer and to adapt their pricing structures to market conditions and consumer preferences.

3.4 Price limits are to be set as follows:

— Wholesale prices for calls made to a destination within a visited country cannot be more than twice the Community average mobile termination rate for mobile network operators designated as having significant market power. The average mobile termination rate is considered to be a reliable benchmark, as these termination rates are already subject to regulatory supervision in accordance with the 2002 regulatory framework for electronic communications, and should be determined by reference to the principle of cost-orientation.

— For calls made from the visited country back to the home country or a third Community country, the price may not be more than three times the above-mentioned average rate.

— At retail level, for the same categories of roaming call, a limit of 130 % of the applicable wholesale limit is set, excluding VAT but including any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees. The price limits laid down for retail charges for making regulated roaming calls will take legal effect six months after the entry into force of the proposed measure, so that service providers can make the necessary adaptations.

— The proposal also sets a limit of 130 % of the average mobile termination rate for the charges paid by roaming customers for receiving calls when in a Community country other than their home country, excluding VAT but including any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees.

3.5 The draft regulation also addresses the need for price transparency, by introducing an obligation upon mobile providers to give personalised information on retail roaming charges to their roaming customers on request. This information is to be free of charge, and customers may choose whether to receive the information by Short Message Service (SMS) or orally over their mobile telephone. Mobile providers will also be obliged to provide information on roaming charges when subscriptions are taken out, on a periodic basis and when there are substantial changes to roaming charges.

3.6 The pricing requirements of the proposed regulation should apply regardless of whether roaming customers have a pre-paid or a post-paid contract with their home provider, to ensure that all users of mobile voice telephony may benefit from its provisions.

3.7 The draft regulation gives the national regulatory authorities the power to enforce compliance, in line with their existing roles under the Community regulatory framework for electronic communications. As well as being responsible for communicating the average mobile termination rate, to be published on a regular basis by the Commission, they are also given the task of monitoring developments in retail and wholesale prices for the provision of voice and data communications services, including SMS and Multimedia Message Service (MMS), to mobile customers when roaming in the Community. This applies in particular to the outermost regions, in order to assess viability and recovery of costs by operators and, where appropriate, to determine the penalties for infringement.

3.8 The measures necessary for the implementation of the regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([6]). The period laid down in Article 5(6) of Decision 1999/468/EC is three months. The Commission is to be assisted by the Communications Committee set up Article 22 of Directive 2002/21/EC.

3.9 The proposal provides for a review of the regulation after two years. This means that if at that time market developments show that the regulation is no longer required, the Commission will consider proposing its repeal, in line with the principles of better regulation.

([6]) OJ L 184 of 17.7.1999, p. 23.

4. **General comments**

4.1 The Committee appreciates the effort made by the Commission to lay down a legal basis enabling the adoption of effective measures to reduce charges for roaming on mobile voice telephony services in Europe. It is worth noting that the Commission calculates that a reduction of up to 70 % in roaming prices would be possible, representing a saving for consumers of some EUR 5 billion.

4.1.1 The Committee considers that the proposed measure brings a high level of consumer protection in two ways: firstly in terms of their economic interests, by reducing roaming costs; and secondly, by increasing price transparency by means of promoting users' right to access to information. It agrees with the criteria which have prompted the Commission to present this proposal, which it supports.

4.2 The Committee is also aware of the difficulty in reaching agreement on these measures to reduce roaming prices, given the reluctance of certain regulatory authorities and operators. The main criticisms have been that the Commission's proposal goes too far along the regulatory path; there has not been enough consultation with the relevant actors; the deadlines for application are too short, not allowing operators to adjust; the companies involved should be given an opportunity to practice self-regulation; action could have been taken on retail prices but not wholesale charges; the initiative could be particularly prejudicial to operators in countries with large numbers of visitors, or could have the unwanted effect of generating higher prices for other telecom services and jeopardising future investment needs for the development of electronic communications (3G, broadband, etc.).

4.3 On the other hand, it should be pointed out that telephone operators' earnings are so high that their economic viability is guaranteed even with a reduction in roaming rates, as recognised in operators' own sectoral studies.

4.3.1 The choice of a regulation is justified since, while the efforts to reduce roaming prices on the part of some operators are recognised, experience shows that such initiatives fail to guarantee either the rapidity or the degree of harmonisation required for a solution to the problem.

4.3.2 The Committee considers that a regulation is needed, as it can then be applied directly by the Member States. This makes it preferable to simple market self-regulation or measures that Member States might themselves adapt, given the transnational character of roaming. This is a cross-border issue which national regulatory authorities are unable to tackle.

4.4 Moreover, the possibility in the future of creating virtual operators points to the dangers of adopting different decisions for different parts of the EU, which could compromise the overall development of electronic telecommunications throughout Europe.

4.5 Together with all the above points, the EESC regrets that the Commission's measures to bring an end to the excessive charging for this service by operators fall far short of users' expectations, and indeed short of the measures that the Commission itself had originally envisaged.

4.6 The Committee believes that the aim should be to remove all differences in roaming-related charges between Member States, without undermining whatever competition may develop between the products offered by the different operators. In practice, this means customers pay the same price as in their home country, regardless of where they are (the 'home pricing' principle). The goal of domestic and roaming price parity is not achieved with the draft regulation, in spite of the reduction in charges.

4.7 The proposed regulation sets limits on the prices to be paid by roaming customers for calls received, but does not abolish such payments, as long demanded by user companies and consumers, and as the Commission had originally envisaged. The Committee believes that future efforts should be directed to introducing the 'caller pays' principle, which is fairer.

4.8 The Committee regrets that the Commission has not assessed the possible social impact on employment of adopting this measure, and hopes that its implementation will not undermine either employment or working conditions in the sector: on the contrary, it hopes that the expectations raised by the European Social Agenda ([7]) can be upheld.

4.8.1 The Committee views the six month delay before the entry into force of the retail charge limits — the price paid by final users — to be excessive, given that operators can easily adapt to the new situation, and calls for this delay to be removed.

4.8.2 It is however considered more reasonable for the proposed regulation to include a number of transitional measures for a period of six months, introducing measures to offset the imbalances which might result for some operators from the implementation of the regulation, especially in the new Member States — provided that such transitional arrangements are not discriminatory towards consumers in these countries.

4.9 The Committee hopes that the implementation of the regulation will not lead to an adjustment in mobile charges, whereby certain operators, under specific circumstances, attempt to recover costs by increasing their gains from other services. For this reason, it must be ensured that the mechanisms for setting wholesale and retail charges cover all service costs.

4.9.1 However, given the highly dynamic nature of the electronic communications market, the Committee agrees with the Commission's intention to review the functioning of the regulation no later than two years after its entry into force. In the planned report, the Commission must include its reasoning regarding the continued need for regulation or the possibility of its repeal, in the light of developments in the market and with regard to competition.

4.9.2 When the functioning of the regulation is reviewed, its impact on employment and working conditions, and on operators' investment, must be assessed in order to identify the consequences.

4.10 The Committee believes that the opportunity provided by the adoption of the regulation should be used to resolve other roaming-related problems, apart from unfair pricing of services, such as the equally unfair activation of roaming services in border areas between EU countries.

Brussels, 26 October 2006.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

([7]) COM(2005) 33 final. Communication from the Commission on the Social Agenda.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport (codified version)

COM(2006) 432 final — 2006/0146 (COD)

(2006/C 324/20)

On 27 September 2006, the Council decided to consult the European Economic and Social Committee, under Article 71 of the Treaty establishing the European Community, on the abovementioned proposal.

On 12 September 2006, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Simons as rapporteur-general at its 430th plenary session (meeting of 26 October 2006), and adopted the following opinion by 133 votes in favour, with three abstentions.

1. **Conclusions and recommendations**

1.1 The Committee agrees with the European Council presidency on the importance of codification, as this offers certainty as to the law applicable to a given matter at a given time and helps make Community law more transparent and accessible for the European public.

1.2 The purpose of the present proposal is to codify Council Regulation (EEC) No 4060/89 of 21 December 1989, as amended by Regulation (EEC) No 3356/91, on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport. The Committee feels that consideration should be given to how far this codification exercise should also include legislation relating to other transport modes, such as rail, intermodal transport, short sea shipping and air transport.

1.3 The Committee welcomes the proposed codified version, provided that the content of the acts being codified is preserved and that any changes do no more than bring those acts together, with only such formal amendments as are required by the codification exercise itself.

1.4 Given how important it is for the European public to have access to transparent Community legislation, the Committee would urge the Commission to consider whether, and to what extent, other legislation might also be codified.

1.5 Member States should coordinate the checks, verifications and inspections that are performed. Failing that, Member States should at least share the findings so as to allow transport to flow freely and to avoid fresh inspections or checks being carried out by each individual country. With RIS (River Information Services) in place, this should pose no problem at all for inland waterway transport.

2. **Introduction**

2.1 The sheer volume of Community law with which Europe has to deal and the frequent amendments to existing legislation mean that the information is scattered, making it difficult for the public to keep track.

2.2 The European Commission evinces great interest in making Community law simpler and clearer, and thus more accessible to the public.

2.3 For that reason, the Commission has instructed its staff that all legislative acts should be codified after no more than ten amendments.

2.4 The presidency conclusions of the December 1992 European Council in Edinburgh underscored the importance of codification as this offers certainty as to the law applicable to a given matter at a given time, and thus also helps boost transparency.

2.5 Since codification may not involve any substantive changes to the acts in question, the European Parliament, Council and Commission decided in the interinstitutional agreement of 20 December 1994 that an accelerated procedure may be used in this case.

2.6 The present proposal seeks to codify Council Regulation (EEC) No 4060/89 of 21 December 1989 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport. The new regulation brings together Regulation (EEC) No 4060/89 and the various amendments to it.

2.7 The Commission proposal preserves the content of the amendments, and does no more than bring them together, with only such formal amendments as are required by the codification exercise itself.

3. **General comments**

3.1 The Committee notes that the present Commission proposal seeks to codify only Council Regulation (EEC) No 4060/89 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport, but does not cover other transport modes such as rail, intermodal transport, short sea shipping and air transport, for which border controls continue to apply. The Committee feels that these other transport modes should be taken into consideration as well.

3.2 The Committee would stress that Regulation (EEC) No 4060/89 and the codification proposal seek to eliminate systematic controls at the frontiers of Member States. As Article 3 of the proposed regulation makes clear, checks may still be made as part of the normal control procedures applied in a non-discriminatory fashion throughout the territory of a Member State.

3.3 The Committee welcomes the Commission's codification proposal. The more transparent European legislation is for the public the better. The Committee would therefore urge the Commission to consider whether, and to what extent, other legislation might also be codified.

3.4 Recital 4 of the proposal states that, under existing Community legislation, Member States are free to organise and perform checks, verifications and inspections where they so wish. They should, however, coordinate these activities, or, failing that, at least share the findings so as to allow transport to flow freely and to avoid fresh inspections or checks being carried out by each individual country. With RIS (River Information Services) in place, this should pose no problem for inland waterway transport.

4. **Specific comments**

None.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Broad economic policy guidelines and economic governance — The conditions for more coherence in economic policy-making in Europe

(2006/C 324/21)

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 *Broad economic policy guidelines and economic governance — The conditions for more coherence in economic policy-making in Europe*

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 September 2006. The rapporteur was **Mr Nyberg**.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 86 votes to 9 with 10 abstentions.

Summary and recommendations

The EESC has decided not to comment on the three-yearly economic guidelines in this year's opinion on economic policy. Instead it will address the formal basis for the guidelines. The basis for European Union action in monetary and fiscal policy matters is to be found in the Treaty rules on the single currency decided upon in Maastricht, in the Stability and Growth Pact and in the Treaty rules on economic policy guidelines. The objective is to arrive at rules that can impact as positively as possible on the overarching objectives of price stability, growth and employment.

In order to avoid one policy area imposing too tight constraints on the other, the European Central Bank and ECOFIN should consider the same set of policy objectives. It is especially important for the ECOFIN euro group and the ECB to take the same approach.

The opinion is divided up into different subject areas: monetary policy, the Stability and Growth Pact, the economic guidelines, wage formation and the link between inflation and growth. However, we have chosen to make our recommendations according to who is expected do what: the European Central Bank, ECOFIN, the Commission and the social partners.

The ECB

— The price stability objective should become a symmetrical objective, e.g. 2 percent +/- 1 percentage point. An objective with a midpoint makes it easier to judge how close to the objective we are, and can also be useful if you want an equal response from the ECB when the inflation rate changes because of falling or rising demand.

— If a policy aims to take greater account of the connection between monetary policy measures and fiscal policy measures, then core inflation is the measure that should be used, as it does not include price changes that the ECB cannot influence or which may be temporary. It is more an indication of the price change trend. Moreover, when assessing price changes, the ECB should consider whether they might be a result of tax changes.

— The price stability requirement for common currency candidates must be reviewed. Officially, this requires a change to the Treaty. However, given that such a change was not even included in the Constitutional Treaty, a flexible interpretation of the Treaty would be appropriate, so that eurozone entry would depend on respecting the spirit rather than the letter of the requirement. The logical solution would be to set the same price stability objective as for eurozone members.

— Stability and a credible monetary policy are not dependent on keeping inflation below 2 %. A somewhat higher level as a measure of price stability would not be a threat to stability. It is more important to know that the authorities are willing and able to control inflation, so that the chosen target can be achieved.

— The ECB should publish the minutes of its meetings.

ECOFIN

— There is little call for a pro-cyclical policy as long as capacity utilisation has not yet reached a level likely to give rise to inflationary pressure. Unemployment is still at unreasonable levels and there is considerable scope for more labour market participation. In years when the economic climate is healthy, economic policy should focus on planning for the economic problems that will flow from demographic trends. The general EU budget and deficit objectives are not enough when the economy is on an upward trend. Member States that have already achieved these objectives cannot rest on their laurels.

— The EESC believes that the indicators for budget balance and national debt should be maintained, but the discussion must be taken a step further, taking the real objectives of economic policy into account.

— The main focus of the three-yearly economic guidelines should be a minimum level of economic growth, a downward trend for unemployment and the Lisbon Agenda percentage objective for the workforce. National objectives should be set, although these must not be lower than the objectives for the EU as a whole.

— Finance ministers must be consistent: they cannot say one thing in Brussels and then do another at home.

The social partners and the Cologne Process

— The interval between Cologne Process meetings should be used to carry out joint studies on economic links, the impact of various policy measures and similar questions.

— The Cologne Process could be the appropriate forum for applying sufficient weight to the requirement for all parties to fulfil their obligations on economic statistics.

— Prior to each meeting the European Parliament should adopt a resolution on the economic situation and the policy required.

— Both ECOFIN and the euro group should be present in order to provide input from Finance Ministry circles and from the Finance Ministers that are directly responsible for the fiscal policy that is to be combined with the European Central Bank's monetary policy.

The Commission

— A further analysis should be carried out for core inflation. A more detailed study of the specific policies pursued by countries with a good inflation/growth ratio (i.e. low inflation compared to the growth rate) should provide a basis for future benchmarking.

— It might be useful to carry out an analysis of, for example, the extent to which productivity changes have been responsible for the differences in growth rates? How far do productivity gain differentials depend on different levels of investment and innovation? What methods are generally available for increasing productivity? The EESC therefore calls on the Commission to look into the link between the primary growth and employment objectives and, for example, productivity gains and inflation levels.

Conclusion

Better coordination between monetary and fiscal policy is achieved when price stability, growth and employment are valuable objectives for all economic policy decision-makers: the European Central Bank, the Commission, ECOFIN, the social partners and the Member States. When all the players base their proposed measures on the same three objectives, they are forced to look at all the consequences of their proposals. This produces a more unified policy that gives a better overall result.

1. **Introduction**

1.1 The European Union's economic guidelines — Broad Economic Policy Guidelines — are now set for a three year period. This year's guidelines contain only minor changes to the 2005 guidelines.

1.2 The EESC has therefore decided not to comment on these changes in this year's opinion on economic policy and to address instead the formal basis for the guidelines. A study such as this cannot be restricted to the formal content of the economic guidelines; it also has to address monetary policy and its links with fiscal policy.

1.3 The basis for European Union action in monetary and fiscal policy matters is to be found in the Treaty rules on the single currency decided upon in Maastricht, in the Stability and Growth Pact and in the Treaty rules on economic policy guidelines. Following the changes introduced in 2005, these guidelines are dealt with under the annual Lisbon Process.

1.4 The aim is to look at the interplay between these rules and their impact on actual policy both in the European Union as a whole and nationally. In order to get a comprehensive analysis, wage formation will also be addressed. The analysis will necessarily be somewhat theoretical in nature, in order to advance the debate and improve policies. The objective is to see whether the current rules are having the best possible impact on the broad objectives for price stability, growth and employment.

1.5 Our recommendations, however, are not confined to current policy but also address rule changes. These changes can be implemented immediately, particularly those relating to the conduct of decision makers. Only in one case do our recommendations involve changes to the Treaty.

2. **Maastricht and the common monetary policy**

2.1 The European Central Bank's primary objective is price stability. The Treaty rules adopted in Maastricht set a second objective, namely that the European Central Bank is to support growth when price stability has been achieved. In this context, a comparison is usually made with the US Federal Reserve, whose objective is based more on a global view of price stability as well as employment and growth. The wording used might appear to imply only a difference of degree but the differences are clearer in terms of the actual monetary policy pursued. The Federal Reserve is more likely to use employment trends as a reason for interest changes. For the European Central Bank, price stability seems to be the only basis for interest changes.

2.2 In addition to actual monetary policy measures, the way the objective is worded is, consequently, also important to its impact on overall policy.

2.3 In a complete picture of economic policies — including both monetary policy and fiscal policy — it is not just interest rate policy that is crucial to how fiscal policy can be pursued; the choice of monetary policy objectives is equally important. A Finance Minister probably often thinks, 'If I do this, will it be countered by interest changes to curb its impact?' In order to avoid one policy area imposing too tight constraints on the other, the European Central Bank and ECOFIN should consider the same set of policy objectives. It is especially important for the ECOFIN euro group and the ECB to take the same approach. The monetary policy objective should be set with the long term in mind. The European Central Bank has often stated that the 2 percent objective was based on previous ECOFIN positions. Opinions as to what might constitute a desirable level of inflation do not differ significantly, but the objective and measures must be respected by all.

2.4 When the European Central Bank set the objective for price stability, an inflation level of less than 2 percent was chosen. Already in 2003 the objective was changed to below but close to 2 percent. The objective is thus somewhat more realistic since the first objective of under 2 percent could mean that even deflation was acceptable.

2.5 There remain, however, two problems with this definition: it is almost impossible to decide how far we are from the objective and what distance is acceptable. A symmetrical objective leaves a space around the most desirable rate of inflation. Given the European Central Bank's call for a level close to 2 percent, the best formulation of the objective would be 2 percent +/- 1 percentage point. Such an objective would also remove some of the concerns that arise around occasional changes at promille level. The EESC believes there is every reason to change the European Central Bank's objective to a symmetrical objective. An objective with a midpoint can also be useful if you want an equal response from the ECB when the inflation rate changes because of falling or rising demand. In the past, the interest rate rose quickly when the European economy was doing well before the turn of the millennium, whereas rates fell considerably more slowly when there was a downturn a couple of years later.

2.6 The remaining problem is, what type of inflation is being measured? The European Central Bank's formal objective uses the HICP (Harmonised Index of Consumer Prices), i.e. it measures the overall level of inflation. Items such as energy prices or food prices can be removed from this in order to produce inflation levels that can be considered to be more sensitive to monetary policy and that do not depend on factors beyond our control. This is mainly to offset the impact of oil price increases, which are temporary changes which can head off in the opposite direction quite suddenly. A modified price index is necessary in order to avoid temporary changes impacting directly on the European Central Bank's policies. Notwithstanding the likely long-term increase in energy prices, temporary oil price rises can never be offset by interest rate changes, which are only thought to have an impact after 1-2 years.

2.7 What is usually referred to as 'core inflation' is the measure of inflation trends in the domestic economy (the euro area for the European Central Bank). These price level changes are more symptomatic of trends, and it these that the European Central Bank needs to work on most. The most direct impact of interest rate changes on the rate of price increases ought logically to be found between this inflation measure and the European Central Bank's interest rate policy. If the European Central Bank accepts a rate of inflation above its stated objective then this is most probably because it has also taken one of these reduced inflation scenarios into account. If core inflation is also referred to, the ECB will find it easier to get its policy across. If a policy aims to take greater account of the connection between monetary policy measures and fiscal policy measures, then core inflation is the measure that should be used. This would make it easier for macro-economic policy to impact more positively on growth and employment.

2.8 A comparison between the official inflation rate according to the HICP and the measures that apply to core inflation shows (see Appendix) only small variation. The only appreciable difference was in 2005, when energy prices impacted on general prices. A comparison of inflation with the European Central Bank's target shows that core inflation only came in well below target in 2000 and 2005. If a core inflation target had been set, policy in 2005, for example, should have been less restrictive.

2.9 Another factor that affects the inflation level, without being a direct consequence of domestic demand, is changes to taxes and duties. If, for example, the Member States increase VAT in order to reduce the budget deficit, inflation also rises. This could induce the European Central Bank, if using the HICP to measure inflation, to raise interest rates. But VAT increases stifle consumer demand and should therefore, taking a holistic approach to economic policy, actually be accompanied by a cut in interest rates. In situations such as these, e.g. when Germany raises VAT from 16 % to 19 % at the end of this year, the European Central Bank should look closely at the causes of inflation and remember that a one-off event will not result in a trend towards higher inflation. Furthermore, if the ECB allows this type of tax hike in one country to influence monetary policy, it will also have a negative impact on all the other eurozone countries.

2.10 In order to join the single currency, the Member States that are not yet part of the eurozone must, according to the Treaty, have an inflation rate that is 'close to that of, at most, the three best performing Member States in terms of price stability'. 'Close to' means a maximum differential of 1.5 %. 'Best' in

this context means the lowest inflation level. This objective is not as logical today as it was at the start of the 1990s. Given the situation over the last few years, this could mean a lower inflation rate than in the eurozone countries. The requirement is even more absurd given that it is based on inflation in the EU Member States rather than just on that in the eurozone countries. In recent times, non-eurozone members have been the three to follow for the price stability requirement for countries that wish to adopt the euro. The price stability requirement for single currency candidates therefore needs reviewing. Officially, this requires a change to the Treaty. However, given that such a change was not even included in the Constitutional Treaty, this change would take so long that most eurozone applicant countries would be forced to try to meet the current requirement. A flexible interpretation of the Treaty would therefore be appropriate, so that eurozone entry would depend on respecting the spirit rather than the letter of the requirement. The logical solution would be to set the same price stability objective as for eurozone members. If this objective were to be adjusted to 2 percent +/- 1 percentage point, then the same should apply to euro candidates.

2.10.1 A more flexible approach to price stability might also be needed in countries with rapid economic growth. Ireland, for instance, is an example of the need for somewhat higher inflation as a necessary adjustment in a strongly expanding economy.

2.11 Inflation is a statistical measure needed to underpin economic policy, but the public sees price rises differently, reacting strongly to rises in rent, food and petrol prices, etc., whereas few people even notice that some goods have come down in price. What is more serious, however, is the fact that different people are affected in very different ways. When it is chiefly basic essentials that rise in price, it is the poor that suffer the most, as a general price rise of 2 %-3 % can mean a significant increase in their cost of living. Politicians must take note of these effects and counteract them by means of various policy measures. This is not so much a question of the scope of budget policy as its specific content.

3. **The 2005 Stability and Growth Pact**

3.1 Have Member State policies changed since the Stability and Growth Pact was reviewed, and has the Commission's and subsequently the Council's assessment of the countries changed? It would seem that only Lithuania has clearly used the new Pact's explanations for a deficit. Nevertheless the new Pact has resulted in all Member States establishing medium/long-term national objectives for public finances. The objectives are framed according to the individual country's actual situation.

3.2 Given the economic developments following the review of the Pact, it is logical that it has not had any visible effect. Most of the changes introduced referred almost exclusively to periods of major economic problems, whereas we have just seen a revival of the economy and improvements that can also be discerned in the Pact's indicators.

3.3 Economic expectations for 2005 and 2006, particularly in the light of more positive developments in Germany, point to a generally improved compliance with the Stability and Growth Pact indicators. The fact that this is taking place against a backdrop of very high oil price rises shows that the economic improvements are quite robust. The extent to which oil price rises will impact on individual countries will depend on how far they are dependent on oil imports. Even in 'good' years, however, some countries are still some way from achieving the budget balance target. They should benefit from the positive trend in other EU countries.

3.4 In most countries, however, the growth rate achieved or expected is not at a level that would call for the Pact's more stringent stance on budget measures during economically 'good' years to come into effect. There is little call for a procyclical policy as long as capacity has not reached a level likely to give rise to inflationary pressure. Unemployment is still at unreasonable levels and there is considerable scope for more labour market participation. The interplay between fiscal policy and monetary policy is under fresh strain compared to the very weak economic situation of previous years. In years when the economic climate is healthy, economic policy should focus on planning for the economic problems that will flow from demographic trends.

3.5 The general EU public sector budget and debt objectives are not enough when the economy is on an upward trend. Member States that have already achieved these objectives cannot rest on their laurels. It is important that they should use the national objectives in accordance with the new Stability and Growth Pact to improve their economic situation.

3.6 In addition to the fact that the difficult economic situation prior to 2005 was the main source of problems in clarifying the Pact's indicators, there are statistical explanations that are seldom noted. When there is low inflation in the economy, national debt retains its value. Specific measures are needed to reduce it. When growth is strong the national debt as a percentage of GDP is reduced without any need for action, and budget balance improves. When inflation is high, the cost of the public sector's economic subsidies as a share of GDP falls, giving a statistical improvement in budget balance and national debt. When there is growth, revenue increases without any need to

raise taxes. To some extent then, the difficult statistical impact on national debt and budget balance in recent times has been succeeded by positive statistical effects.

3.7 Another of the consequences of the bad years is that saving has been unusually high. The lack of investment opportunities in Europe has given rise to capital flight to the US. With the growing confidence in the economy that comes with better times, it is to be expected that reduced concern about the future will mean that people will save less. A virtuous circle could be created through even stronger demand.

3.8 Finally, it can be said that EU level fiscal policy has a special problem, i.e. that the people responsible for framing it and ensuring it is complied with are constantly changing. It can happen that a quarter of finance ministers are changed in any one year, and the new ministers do not feel the same sense of responsibility for the policies of the previous incumbents. ECOFIN therefore needs more long-term decisions so that a new set of ministers cannot stymie a policy that is already up and running. The constant change of ministers also makes it difficult to get an ECOFIN with the political will to implement a common policy.

4. **The Economic Guidelines and the Lisbon Process**

4.1 The Broad Economic Policy Guidelines have existed since 1993. They initially dealt with fiscal policy only, but employment issues were included later and since 2005 they have been grouped together with the employment guidelines and the Lisbon Agenda as part of a comprehensive process. This is basically a national policy matter, where the Commission and the Council provide guidelines. There is nothing about pecuniary sanctions, unlike with the Stability and Growth Pact.

4.2 Ever since EMU was created, the discussion has been dominated by the imbalance between a central monetary policy and a fiscal policy that continues to be national. The Stability and Growth Pact is a 'hybrid' that also contains elements of common policies and pecuniary sanctions, while the economic guidelines are underpinned by recommendations.

4.3 What avenues are open for developing the economic guidelines? In order to find them, we need to distinguish clearly between the establishment of economic policy objectives and the means used to try to achieve them.

4.4 With regard to the Stability and Growth Pact, budget balance and government debt as a proportion of GDP have, in the general debate, come to be considered as objectives. However, these two elements do not, in themselves, constitute ultimate objectives. They are more indicators of the direction policy is taking. A balance or surplus in the official budget is targeted in order to be able to make use of it in an economic recession. A budget surplus thus becomes a means to boost the economy at some later date. The EESC considers that the indicators for budget balance and national debt should be maintained, but the discussion must be taken a step further, taking the real objectives of economic policy into account.

4.5 The broad objectives for all economic policy — both monetary and fiscal — are price stability, growth and full employment. These objectives must be formulated. Price stability has already been addressed. The basis for the economic guidelines should therefore be that the European Union also defines desirable growth and full employment. In practical terms, there are real problems associated with this. If the objectives are to be realistic, they must be seen in relation to the current economic situation. This means that they may need revising rather often, and not be set for such a long term as the price stability objective.

4.6 It is debatable how far growth can be used as a measure of economic development. The measures normally used do not take social and environmental effects into account. However, when considering purely economic growth, there are two established measures: an increase in real GDP per inhabitant and the same measure in terms of purchasing power parity (PPP). The latter attempts to equate the actual economic situation in various countries. It does not matter which measure is used as it is the rate of increase that is targeted. It hardly differs from year to year depending on which type of GDP is measured. Some years ago attempts were made to establish the rate of increase at which unemployment starts to fall. The objective then was to achieve that growth rate for GDP (approximately 3 %) at the very least. However, this type of growth objective can vary over time, as it can between different economies. In view of the problems in reducing unemployment, it is, however, difficult to imagine a growth objective that is lower than when unemployment is starting to fall. Not many countries have actually achieved a minimum growth level such as this in recent years.

4.7 When comparing countries and growth-oriented policy options, its is important to make a distinction between the two chief methods to secure growth. Either growth increases when more is produced using the same technology, usually by employing a bigger workforce; or through productivity gains, where more is produced using the same workforce. Over the next few years it will still be possible to use the first method, whereas a few years hence only the latter method will be available, owing to demographic trends.

4.8 It is considerably more difficult to find an objective for employment. The objective must be twofold: it is partly a question of the proportion of the working age population in the labour market (employment level); and partly of how many are unemployed. The Lisbon Agenda set objectives for the employment level as a whole (70 %), for women (60 %) and for people between 55 and pensionable age (50 %).

4.9 No percentage goals were set for unemployment. To begin with, there are various methods for measuring unemployment. However, owing to the existence of open unemployment and the fact that some people are covered by some form of labour market policy measures, at least two objectives are necessary. Given that very few countries are close to what might be called full employment (i.e. just a few percentage points of unemployment, which is always to be found in a dynamic economy, where change must be a constant), it might be appropriate to set — as an objective for the long term — a certain percentage reduction in unemployment.

4.10 Given this reasoning, the main proposal of the three-yearly economic guidelines should be to focus on a minimum level of economic growth and a downward trend in the unemployment rate. The Lisbon Agenda percentage objective for the workforce can be maintained until further notice. The situation that applies to monetary policy — with clear objectives against which policies can be assessed — is also needed for fiscal policy.

4.11 The role of the economic guidelines should subsequently be more a matter of the Member States reporting what they are doing to achieve the objectives, with the Commission and the Council assessing how adequately the objectives have been achieved. If the objectives have not been reached the EU should be able to criticise the policies chosen and make proposals based on benchmarking of successful policies pursued in other countries. Each country must, however, be assessed on the basis of its circumstances and its current economic situation.

4.12 Since fiscal policy continues to be a national question, the current emphasis on the broad economic situation within the European Union is not particularly relevant when assessing each country's policies. The economic guidelines should therefore be amended. Future guidelines should set national objectives for the overall objectives, which should not, however, be less ambitious than those for the EU as a whole, and countries should be assessed in terms of how they meet their objectives.

4.13 With greater emphasis on what individual Member States are doing, based on their economic circumstances, and with stronger links with the Lisbon Agenda's clearer employment objectives, the economic guidelines can tie in more closely with the broad thrust of the Lisbon Agenda. Broad economic policy could be more of a natural feature of the Lisbon Agenda national reform programmes, and thus speed up implementation of the Lisbon Agenda as a whole.

5. **Wage formation and the economic guidelines**

5.1 The year 1999 saw the creation of what has come to be known as the Cologne Process. This annual forum for discussing current policies for ECOFIN, the European Central Bank, the Commission and the social partners (ETUC,UNICE/CEEP) is little-known. It has, however, probably played an important role in raising the awareness of those involved of each other's policies and their opinions with regard to economic policy.

5.2 These discussions take place on two levels: an expert level and a high level group. The meetings usually take place every six months and focus on views of the current economic situation and the policies needed.

5.3 The discussions and conclusions from 2005 show how far perceptions and suggested measures diverge. The Commission highlights the improved economic situation. The European Central Bank stresses how important it is to have wage moderation, which is, of course, a feature of UNICE's contribution. The CEEP talks about the need for public investment. The UEAPME does not only talk about the need to look after small businesses but also says that higher inflation might have to be accepted. ETUC highlights the need to stimulate the general economy in order to kick-start domestic demand, and says that salaries are not just a cost but the main prerequisite for demand and that salaried workers have done their bit over the years to keep inflation down through salary increases that are lower than productivity gains.

5.4 Given this scenario, one might wonder whether the Cologne Process might be in need of a fresh start. How can it be moved forward? Thus far, the Cologne Process dialogue has been a matter of getting together and exchanging opinions. This could be improved by, for example, using the time between meetings to draft joint studies on economic relations, on the impact of various policy measures and similar questions. This could move the parties closer together in their understanding of the economic reality that must be the starting point. This proposal could also tie in with the EESC's earlier proposal for a body for independent economic studies ([1]).

5.5 A less ideological question — but one that is nevertheless crucial to the choice of policies pursued — is the reliability of statistics. It goes without saying that all Member States should manage to make the necessary statistics available at the same time. To choose policies on the basis of faulty statistics wreaks havoc. Perhaps the Cologne Process conversations are the best place to bring home to those involved the need to fulfil their obligations on economic statistics. The European Parliament has also repeatedly called for better statistics.

5.6 With regard to the formal structure, change might also provide a more lively discussion. The European Parliament's role could be strengthened. Instead of a merely formal presence, prior to each meeting the EP could adopt a resolution on the economic situation and the policies required. An appraisal such

([1]) OJ/2006/88 68 Strengthening economic governance — The reform of the Stability and Growth Pact.

as this could be set against the more formal review that the Commission can be expected to deliver. Both ECOFIN and the euro group should be present in order to provide input from Finance Ministry circles and from the Finance Ministers that are directly responsible for the fiscal policy that is to be combined with the European Central Bank's monetary policy.

5.7 Although each party — the European Central Bank, Finance Ministers and the social partners — pursues its policies independently, the improved cooperation we advocate is urgently needed. Independence does not mean absence from the general debate, nor does it mean not listening to good advice. Neither is independence undermined if a party goes public instead of always pointing out that it makes all its assessments entirely alone and is not influenced by anyone. Finance ministers must be consistent: they cannot say one thing in Brussels and then do another at home. The European Central Bank should be able to publish their minutes, as do the central banks in the United Kingdom and Sweden.

6. **The inflation-growth link?**

6.1 The European Parliament had this to say about the integrated guidelines for growth and jobs on 26 May 2005: *'… growth in the euro area and the 25-member European Union is failing to achieve its potential on a sustained basis and is still too weak, particularly in the four leading economies in the euro area; … household consumption is still faltering and the economic outlook for 2005 and 2006 continues to be unsatisfactory, contributing to a continuing high level of unemployment which will decline only slowly; … despite the lowest interest rates since the Second World War, there is little willingness to invest.'*

6.2 The classic dichotomy in economic literature is inflation and unemployment. A good result for one seems, statistically, to lead to a poor result for the other. We have decided, using *inter alia* scenarios such as that described by the European Parliament, to try instead to establish relationships between inflation and growth.

6.3 In a given economic situation it is possible to compare growth in countries with low inflation and in countries with high inflation. We can also see how growth varies in a country in various situations when inflation varies. Our tables may not be scientific, but they do point clearly to the fact that an awareness of the relationship between inflation and growth is important in order to find the right policy mix.

6.4 When we see countries with relatively high inflation and high growth and, on the other hand, countries with low inflation and low growth, it would seem only logical to ask whether there is more than a statistical connection between inflation and growth. In order to see whether these really are causal connections, some statistical correction is first necessary, as economic situations can differ, especially where development levels (GDP) are concerned. It also has to be ascertained whether some specific economic policy might have led to high or low growth when different inflation levels are present. This means that the focus is often on certain countries so it is perhaps not possible to draw conclusions about general connections between inflation and growth.

6.5 The growth rate is a real problem, at least for the 'old' EU-15 countries. According to Commission statistics, their growth has been so low that they have lost approximately half of one percent of GDP per year compared with other industrialised countries (1995 — 2005) [2]. (N.B. a reference to the Commission document is needed below.) During the same period, domestic demand in these countries fell by around one percent compared to other industrialised countries. The relatively good years after the turn of the millennium were entirely dependent on increased demand for European products from other countries. An analysis of the reasons behind this almost catastrophic growth rate must be carried out in order to find a better policy for the future.

6.6 This description of the 'costs' of low inflation can be compared to another description of the costs of high inflation in a letter from the former ECB president Wim Duisenberg to the European Parliament: *'The ECB's quantitative definition of price stability reflects sound and well-established economic criteria. By allowing for only low rates of increase in the price level, it permits the minimisation of the costs of inflation, which are well-known to the general public and which have been extensively documented in the literature.'*

6.7 When searching for the optimum inflation target, it is important to remember the need to preclude costs induced by high inflation, as well as those resulting from the difficulty in securing satisfactory growth. It is also important to realise that inflation in itself is neither a solution nor a problem; it is rather a question of the flexibility that a certain level of inflation brings to the economy and the catastrophic impact of high inflation on confidence, long-term thinking and incomes distribution.

6.8 The Appendix contains information on inflation (HICP and 'core inflation') and growth (real increase in GDP) for the EU countries. The figures go back to the year the European Central Bank became operational.

6.8.1 Generally speaking it was a period of low inflation and low growth. Only in 2001 and 2002 was the growth rate almost acceptable, and from 2004 for some countries. For nearly all of these countries inflation and growth go together. Following the growth levels seen in the initial years (1999-2000) as a result of demand from the rest of the world, EU

[2] Commission database AMECO (http://ec.europa.eu/economy_finance/indicators/annual_macro_economic_database/ameco_en.htm). EU15 GDP growth in comparison to a reference group of industrial countries (comprising the US, Canada, Japan, Korea, Australia, New Zealand, Norway and Switzerland.

internal demand has been unable to create a satisfactory growth rate. During those years and since the recent improvement, inflation has not risen much above 2 %.

6.8.2 We could comment on the situation in various countries, but we will restrict ourselves to the following:

Some countries are at odds with the low inflation/low growth climate experienced by the majority of countries. Ireland — with high inflation and high growth — has been able to maintain a higher growth rate while inflation has slowed. Greece combines high inflation with high growth. In Italy and Portugal inflation is somewhat too high, while growth is virtually non-existent. Spain has satisfactory growth, with inflation above 2 %. The Spanish debate reveals that growth is noticed by the public, but such a high level of inflation only concerns the economists. Finland is extremely unusual in combining high growth in 2004 with zero inflation (partly as a result of reduced alcohol duty). Slovenia has managed to gradually reduce the inflation rate while maintaining fairly high growth. Lithuania has had high growth and low — but rising — inflation. The Czech Republic has improved growth without increasing inflation, whilst Estonia has pushed growth even higher but at the price of rising inflation. Latvia has increased its growth to the highest level in the EU, but inflation has shot up.6.8.3 If inflation is the yardstick against which general demand in the economy is measured, then both of them have — with a few exceptions — been too low. Given that it is difficult for the economy to readjust satisfactorily when overall price changes are small, inflation has been an obstacle to growth. This has been too uncomfortable for some to contemplate, despite the fact that it is generally accepted that a certain level of inflation is needed to oil the wheels of a dynamic economy. In the current globalised economy, dynamic changes have become essential in order to cope with international competition.

6.8.4 Stability and a credible monetary policy are not dependent on keeping inflation below 2 %. A somewhat higher level as a measure of price stability would not be a threat to stability. It is more important to know that the authorities are willing and able to control inflation, so that the selected target can be achieved.

6.9 A further analysis can be carried out using time series for core inflation. With the exception of 2005, the differential between the consumer price index and price trends excluding energy prices has been rather small. A more detailed study of the specific policies pursued by countries with a good inflation/growth ratio (i.e. low inflation compared to the growth rate) should provide a basis for future benchmarking.

6.10 The Appendix also contains figures for labour productivity per hour worked. The figures do not refer to individual national trends but to performance as compared to the EU15 average. The table shows how close a country is to the average.

6.10.1 There ought not be any rapid change in the ranking over a six-year time period, and this is true for most countries. There are, however, a few exceptions. Greece, with low productivity, is rapidly catching up with the rest. Ireland is now above average and continues to see productivity gains. During the same period Italy has fallen behind the rest, as has Portugal, which started off from a low base.

6.10.2 A more detailed analysis could be useful here, too. For example, to what extent have productivity changes been responsible for the differences in growth rates? How far do productivity gain differentials depend on different levels of investment and innovation? To what extent do different education systems lead to innovation differentials? What methods are generally available for increasing productivity? The EESC therefore calls on the Commission to look into the link between overall growth and employment objectives and, for example, productivity gains and inflation levels.

6.11 However, a preliminary conclusion that can already be drawn from the inflation and growth statistics is that there must be better coordination between monetary and fiscal policy, with price stability, growth and employment becoming valuable objectives for all economic policy decision-makers: the European Central Bank, the Commission, ECOFIN, the social partners and the Member States. When all the players base their proposed measures on the same three objectives, they are forced to look at all the consequences of their proposals. Measures that are excellent for achieving price stability in one economic situation can be entirely wrong in another. In certain contexts they can boost growth and employment, while having the opposite effect in others.

6.12 The European Central Bank's February 2004 edition of its Monthly Bulletin seems to point to a new understanding, which could be a starting point for a new integrated policy approach. It lists the most important factors for kick-starting investment: satisfactory profitability, sufficiently available financing and the right conditions for demand.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

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, the Committee of the Regions and the European Central Bank 'Third report on the practical preparations for the future enlargement of the euro area'

COM(2006) 322 final

(2006/C 324/22)

On 13 July 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.

On 4 July 2006 the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Roksandić as rapporteur-general at its 430th plenary session, held on 26 October 2006 and adopted the following opinion by 102 votes to 1 with 4 abstentions.

1. **Summary**

1.1 The EESC believes that the Commission Communication accurately and exhaustively sets out the current process of preparing for the Euro in Slovenia, as well as the progress made by the ten other Member States that are due to adopt the Euro once they meet the necessary conditions. It therefore endorses the Commission Communication.

1.2 The EESC recommends that the Commission think carefully about the matter and, where possible, takes account of the Committee's recommendations in its future reports and recommendations.

2. **Commission Communication**

2.1 The Commission document is the regular annual report on progress made by the eleven Member States ([1]) that are due to adopt the Euro and become members of the Euro area once they have met the necessary conditions. It is already the third of its kind since 2004. The present report was drawn up ahead of the normal November deadline because of the anticipated enlargement of the Euro area with the entry of Slovenia on 1 January 2007 ([2]); it provides a detailed review of current preparations in that Member State. Ongoing practical preparations at national level in the other ten Member States are also set out in the report.

2.2 With regard to the process of enlarging the Euro area, which is the political and economic responsibility of Member States, the Commission emphasizes the importance of careful forward planning and in-depth, comprehensive preparation which should involve both the public and private sector, as well as the wider public. In its conclusions, the report lists further steps that need to be taken in Slovenia. It also stresses the need to step up preparations in the other Member States and to consolidate the majority of the national plans for the adoption of the Euro.

3. **General Conclusions**

3.1 This is the first Commission report to be examined by the EESC on the practical preparations for the future enlargement of the Euro area, although it is already the third in a row to be issued since the Euro area was established in 2002. Nonetheless, it should be emphasised that the introduction of the Euro must not be considered and dealt with merely as a technical project, but rather as a major change with significant economic, monetary and social consequences.

3.2 Member States are, without a doubt, the ones responsible for making sure that the adoption process is a success. However, it should be emphasized that all civil society organisations need to be involved, given that they represent individual interest groups and ensure the active involvement of such groups in that process throughout the Member States due to adopt the Euro. The current enlargement will take place in individual Member States and not in twelve all at once, as was the case in 2002 when the Euro was introduced. In 2001, the EESC noted that not only had a significant amount of resources been mobilised for that process, but that also all the interested parties had been active in the changeover, and that the public had been well prepared and fully involved ([3]). It is particularly important, and, indeed, urgent, to ensure that the same conditions prevail in Slovenia, given that the country is less than three months away from adopting the Euro.

3.3 Opinion polls ([4]) show that the Slovenian public is the best informed about the Euro, out of all the Member States due to enter the Euro area. The information campaign carried out with national and European funding contributed significantly to this. It is nevertheless worrying that the Slovenian public,

([1]) All the new Member States which joined on 1 May 2004 are Member States with a derogation by virtue of Article 4 of theAccession Treaty. Sweden became a Member State with a derogation in May 1998.

([2]) Council Decision 2006/495/EC and Council Regulation (EC) No. 1086/2006, both dated 11 July 2006.

([3]) OJ C 155 of 29.05.2001.

([4]) Annex to the third Commission report, working document, SEC(2006) 785, 25.

according to the latest Eurobarometer opinion poll carried out in April 2006, is also the most sceptical about the effects on inflation of the Euro's introduction, even more so than in those Member States deemed to be the most sceptical about the Euro ([5]).

3.4 Monitoring the prices of both goods and services, especially public sector services, in the run up to the introduction and for a specified period afterwards, can significantly help reduce public scepticism about the negative effects of adopting the Euro. It also reduces the possibility of unjustified price hikes and 'rounding up' in currency conversion. The European Parliament resolution on the enlargement of the Euro zone ([6]) draws attention to similar problems.

3.5 Voluntary cooperation between consumer organisations and traders is appropriate, but not sufficient. Publishing a monitoring review on the price of goods every three months in the final run up to the Euro does not seem enough to minimise the negative public perceptions about the effects of introducing the Euro.

4. **Specific recommendations**

4.1 The Committee proposes that the Commission recommend that in their preparations for adopting the Euro and in addition to the necessary information campaigns, Member States pay special attention to ensuring that all interest groups are involved in the process, with the support of civil society organisations. To this end, Member States and the EU should provide financial resources to train and prepare the various interest groups for work and life with the new Euro currency.

4.2 Serious consideration should be given to the introduction of arrangements for monitoring the prices of public sector services, as well as monthly price changes for goods and services generally, during the six month period prior to the Euro's introduction and for at least one year afterwards. Member States could thus in future avoid the shortcomings detected during the 2002 introduction of the Euro and again during subsequent enlargements of the Euro area.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([5]) Ibid, 31.

([6]) European Parliament resolution on the enlargement of the Euro zone of 1 June 2006, pt. 12.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems

COM(2006) 16 final — 2006/0006 (COD)

(2006/C 324/23)

On 24 February 2006 the Council decided to consult the European Economic and Social Committee, under Article 149 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 6 September 2006. The rapporteur was **Mr Greif**.

Due to the renewal of the Committee, the plenary decided to discuss this opinion at the October plenary session and to appoint Mr Greif as rapporteur-general in accordance with Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 118 votes to 0 with 3 abstentions:

1. **The EESC's key political messages**

1.1 The EESC welcomes the presentation of the implementing regulation for the new Regulation 883/2004 on the coordination of national social security systems as an important step towards improving free movement within the EU.

1.2 The EESC considers it appropriate, particularly in the current European Year of Workers' Mobility, to call on Member States to work towards bringing the implementing regulation into force as quickly as possible. Only then can the new Regulation 883/2004 be implemented and the attendant improvements and simplifications come into effect.

1.3 Rapid adoption would be more than a symbol, as the aim is in fact to take a concrete step towards giving the citizens of Europe greater opportunities for mobility. The implementation of Regulation 883/2004 and the implementing regulation under discussion here would substantially simplify, clarify and improve the coordination of social security systems for all beneficiaries and users.

1.4 In particular, the EESC welcomes the wider scope of the regulation — to cover more persons and more areas of social security — and all the provisions to improve cooperation between social security institutions.

1.5 The EESC calls on the Commission to take the necessary steps to adapt all the regulations and treaties that extend the coordination of social security systems to the European Economic Area, Switzerland, Greenland and nationals of third countries as soon as possible. All of the above-mentioned regulations and treaties contain references to Regulation 1408/71 and its implementing regulation 574/72. The appropriate changes with reference to new Regulation 883/2004 must be complete by the time it comes into force.

1.6 With regard to better and faster procedures for the exchange of data, the EESC recognises the potential for cost savings in administration and the advantages to insured persons of speeding up procedures for cross-border cases. However, the EESC also points out that speeding up the transfer of data alone will not constitute a breakthrough. The desired efficiency in processing times will only be achieved if the institutions in the Member States have sufficient and properly qualified staff with appropriate technical resources.

1.7 In connection with the future transfer of data largely by electronic means, the EESC also emphasises its concerns that the data in question are of a sensitive, personal nature (relating, for example, to health, incapacity and unemployment). It is therefore essential to ensure that these data are properly secure and cannot fall into the wrong hands.

1.8 The EESC also calls for lessons to be learnt from the implementation of the European health insurance card, inter alia as regards the ongoing shortcomings in its practical use in individual Member States. Member States are encouraged to take appropriate steps to ensure that European citizens can make full use of the advantages of the new arrangements, especially in the area of health insurance.

1.9 The EESC expressly welcomes all those measures in the implementing regulation that are intended to offer more legal certainty and transparency to all users of the new coordinating regulation. In the past, there have been instances between Member States where debts arising between institutions were not paid even after several years. The EESC hopes that payment practice between states will be significantly improved, although shortcomings in enforcing the collection of outstanding debts between social security institutions still remain.

1.10 The EESC wonders whether the provisions in the regulation and the implementing regulation — in particular the inclusion of economically inactive persons in its scope — might give rise to a process whereby the EU's generous social security systems were weakened and benefits gradually eroded. In this connection, the EESC believes that steps must be taken to produce comparable and meaningful data showing the current and expected future cross-border drawing of health and social security benefits in the EU. Changes relating to the applicability of Regulation 883/2004 are particularly interesting.

1.11 Finally, the EESC calls on the Commission and the Member States to strengthen measures to raise awareness among all potential users of the regulation of the arrangements for and advantages of coordination of social security systems. The necessary preparations for this should, in the Committee's view, be started immediately.

2. **Introduction**

2.1 The Community rules on the coordination of national social security systems are currently laid down by Regulation (EEC) No 1408/71 and its implementing regulation, Regulation (EEC) No 574/72. Over the years, these two regulations have been modified and updated several times. Regulation 1408/71 is to be replaced by Regulation (EC) 883/2004 of the European Parliament and the Council, which was adopted on 29 April 2004.

2.2 These regulations on the coordination of national social security systems are intended to define the measures necessary for the persons covered to travel, stay or reside in another Member State without losing their social security entitlements. To ensure that rights are safeguarded, the regulations provide for different procedures to meet specific needs in the various branches of social security and for the practicalities of coordination. It is thus a matter of coordinating rather than harmonising the systems.

2.3 Article 89 of new Regulation 883/2004 provides that a further regulation shall lay down the procedure for implementing the said regulation. Only when this implementing regulation (COM(2006) 16 final), which was published in draft form on 31 January 2006 and is the subject of this EESC opinion, comes into force, can the new Regulation 883/2004 be implemented after entering into force. Until such adoption, Regulation 1408/71 and its implementing Regulation 574/72 remain fully in force.

2.4 The separation between basic regulation and implementing regulation has become established practice in the way Community law deals with coordinating the social security systems in the Member States. The basic regulation sets out principles, whereas the implementing regulation is more technical.

2.4.1 The current draft of the implementing regulation can therefore be seen as a user manual, so to speak, for Regulation (EC) 883/2004. Thus, the idea is to clarify any remaining questions of an administrative or procedural nature and to deal with certain aspects of Community-wide coordination that require specific procedures.

2.4.2 For example, in the area of old-age pensions, it is necessary to specify what steps insured persons must take in order to apply for payment of their pensions, to which institution the claim must be submitted (where they have worked in several Member States), how the institutions are to exchange information to ensure that the insured person's full career is taken into account, and how each institution is to calculate the pension to be paid for the relevant period.

2.5 However, the separation between fundamentals and technical aspects is not very clear in practice. The current implementing regulation contains a number of points that belong more logically in the basic Regulation 883/2004.

2.5.1 The negotiations concerning Regulation 883/3004, which took more than six years, were fortunately brought to a positive conclusion in April 2004 before the last round of EU enlargement, and were thus saved from being delayed still further. A consequence of this was that parts of Regulation 883/2004 were unfinished (for example some empty annexes, in particular Annex XI). Thus, some substantive issues that more logically belong in basic Regulation 883/2004 are left to be dealt with in the current implementing regulation. This relates in particular to aspects of financial settlement between social security institutions. There are no outstanding substantive issues relating to the rights of citizens.

2.5.2 This EESC opinion will pay particular attention to the above-mentioned substantive issues.

3. **Key points of the implementing regulation**

3.1 The proposed implementing provisions are intended to:

— Simplify and streamline legislation and administrative procedures

— Clarify the rights and obligations of all those affected by the coordination of social security systems (social security institutions, competent authorities, employers and insured persons, employees and self-employed people)

— Improve the coordination between social security institutions so as to prevent the administrative burden falling primarily on insured persons

— Simplify the procedures for insured persons for the reimbursement of payment of benefits in cross-border cases, and reduce response and processing times

— Implement better and faster procedures for exchanging data (in particular by promoting the electronic exchange of information and work on electronic documents)

— Cut administration costs (inter alia through more efficient reimbursement of claims between social security institutions)

— Bring about progress in the fight against fraud and abuse (inter alia through more effective mechanisms for cross-border recovery of claims).

3.2 The new implementing regulation differs significantly in terms of its structure from Regulation 574/72 implementing Regulation 1408/71. This is largely because the structure of the new implementing regulation follows that of the new basic Regulation 883/2004, which differs substantially from basic Regulation 1408/71 on a number of points. The most significant difference is that the new Regulation 883/2004 is wider in terms of the persons and areas of social security covered than the current Regulation 1408/71. In addition, the focus in the new Regulation 883/2004 has been put on general provisions and definitions, which differs from the special provisions contained in the chapters on individual classes of insurance in Regulation 1408/71.

3.2.1 Regulation 1408/71 was originally only designed for employees and their dependants. At the beginning of the 1980s, the scope was extended to include self-employed people. At the end of the 1990s, this was further extended to cover civil servants and students.

3.2.2 In order to fall within its scope, a person had to be a citizen of a Member State or resident in a Member State as a stateless person or refugee. Family members and survivors are also included.

3.2.3 Survivors are also included if they are citizens of a Member State, in which case the nationality of the person from whom the rights are derived is not relevant.

3.2.4 Regulation 883/2004 now applies to all EU citizens who are insured under national legislation, as non-employed persons are also fully covered.

3.2.5 The scope of what is covered is also wider than under Regulation 1408/71. In new Regulation 883/2004, in addition to the existing arrangements, early retirement pensions and paternity benefits equivalent to maternity benefits are included. However, in contrast to Regulation 1408/71, advances on maintenance payments are no longer included within the scope of Regulation 883/2004.

3.2.6 Regulation 883/2004 now applies to all legislation that affects the following areas of social security: a) sickness benefits; b) maternity and equivalent paternity benefits; c) invalidity benefits; d) old-age pensions; e) survivor's pensions; f) benefits in respect of accidents at work and occupational diseases; g) death grants; h) unemployment benefits; i) early retirement pensions; j) family benefits.

3.3 The extension of the scope necessitates certain new rules and procedures that are tailored to these groups of people, including, for example, provisions defining the legislation applicable for taking account of the periods that people who have never been employed or self-employed devoted to bringing up children in their various countries of residence.

3.4 The structure of the current implementing regulation follows that of the basic Regulation 883/2004: Title 1 deals with general rules, Title 2 deals with the applicable legislation, and Title 3 covers specific provisions for the various categories of benefits, followed by financial provisions (Title 5) and transitional and final provisions. In its specific comments on individual articles of the regulation, the Committee will concentrate on the general rules and the applicable legislation rather than on the details of the individual types of benefits.

3.4.1 The annexes to the implementing regulation are currently empty and must be completed. They include implementing provisions for agreements that remain in force, and new implementing provisions for agreements (Annex 1), special schemes for civil servants (Annex 2), Member States reimbursing the cost of benefits on a lump-sum basis (Annex 3) and the list of competent authorities and institutions already mentioned (Annex 4).

3.5 In addition, many measures and procedures provided for in the regulation are intended to ensure greater transparency of the criteria which the institutions of the Member States must apply under Regulation 883/2004.

3.5.1 Thus, numerous definitions that have been grouped together in the general provisions in Title 1 of Regulation 883/2004 were spread over different categories of social security in Regulation 1408/71, which in some cases dealt with them inconsistently. There is more emphasis on general definitions and fewer definitions in the individual chapters. Thus, the new regulation does not treat each category of insurance as a different world with its own rules.

3.5.2 Article 5 (equal treatment of facts) is also a significant step. This stipulates that Member States are to take account of facts or events occurring in another Member State as though they had taken place in their own territory.

3.6 The content of the basic regulation and implementing regulation only applies to cross-border matters between at least two Member States. Only in these cases are there any additional requirements for insured persons or employers, such as informing the social security institution of a posting abroad. What other responsibilities insured persons and employers have in the competent Member State remains a matter for the Member States and is not affected by the basic regulation or the implementing regulation.

4. **General comments**

4.1 The EESC welcomes the presentation of the implementing regulation for the new Regulation 883/2004 on the coordination of national social security systems. This proposal is a step towards better conditions for free movement within the EU. It does not contain any significant problems for the various bodies responsible for implementing the laws and administrative procedures for coordinating social security systems in the Member States, nor does it appear to contain any provisions that might cause problems for insured persons.

4.2 On the contrary, the draft regulation contains many simplifications, clarifications and improvements. In particular, the EESC welcomes its wider scope — to cover more persons and more areas of social security — and all the provisions to improve cooperation between social security institutions.

4.2.1 The expansion of the scope to cover more persons will have the greatest effect on the numbers of people covered in those countries in which insurance cover is based on residency. In countries in which insurance cover is linked to employment, the effect is less noticeable, as hardly any new groups of people are included.

4.3 Therefore, the EESC repeats its call, aimed in particular at the Member States and made in previous opinions, to push forward with processing the draft implementing regulation as quickly as possible and to work to ensure that it enters into force as soon as possible. The new regulation on coordination and the attendant improvements and simplifications must be put into effect as quickly as possible ([1]).

4.4 The current draft for the implementation of Regulation 883/2004 has taken some time to see the light of day, around a year and a half having passed since the adoption of Regulation 883/2004. It has been on the table since the beginning of 2006. In view of the complexity and breadth of the subject matter, and of the large number of questions remaining, it will certainly take some time for all the practical and procedural details in the individual Member States to be dealt with by the Council and the Administrative Commissions.

4.4.1 It is planned that the implementing regulation will come into force at the beginning of 2008. As stipulated in Article 91, the regulation comes into force six months after its publication in the Official Journal of the European Union. This length of time seems necessary, but also sufficient for adapting systems to the new regulations. An extension of the six-month period between publication and entry into force should certainly be avoided.

4.4.2 To facilitate the rapid implementation of the basic regulation, the EESC therefore calls on the Member States to provide their social security institutions, without delay, with the necessary resources in terms of staff and equipment to enable them to adapt quickly. Existing instruments at national level — in particular the existing TRESS networks ([2]), which bring together the interested parties and players in the Member States — should be used to carry out an appropriate evaluation of the practical implementation of this regulation in individual Member States once it enters into force. The EESC calls on the Commission to support these measures. An extension of the six-month period between publication and entry into force should certainly be avoided.

4.5 Moreover, work is still being done on Regulation 883/2004 itself. In particular, Annex XI needs mentioning here. When the regulation was adopted in 2004, this annex was not completed and is now being dealt with and discussed alongside the draft implementing regulation in the Council working group.

4.5.1 Annex XI does not only affect Regulation 883/2004, but also the implementing regulation itself. The two documents cannot be viewed separately from each other. Annex XI deals with *Special provisions for the application of the legislation of the Member States*. The content of this annex must be determined by the European Parliament and by the Council before the date of application of the implementing regulation.

4.5.2 This annex may define specific procedures for implementing certain laws. In it, the Member States try to uphold certain national provisions. Annex XI is one of the most controversial parts of the regulation, in that it may contain quite a number of entries. The EESC will express a separate view on this matter directly after this opinion.

([1]) EESC opinion on *Social security schemes for employed and self-employed persons* (rapporteur: Mr Rodríguez García-Caro), OJ C 24, 31.1.2006.

([2]) Training and Reporting on European Social Security (see also: http://www.tress-network.org/).

4.6 In particular, the pursuit of vested interests must not, inter alia in the context of the European Year of Workers' Mobility 2006 proclaimed by the Commission, further delay the entry into force of the new coordinating Regulation 883/2004 and with it the application of all the improvements already adopted. Rapid adoption would be more than a symbol, as the aim is in fact to take a concrete step towards giving the citizens of Europe greater opportunities for mobility ([3]).

4.7 The EESC points out that Regulation 1408/71 and its implementing regulation 574/72 remain in force for certain groups of people even if Regulation 883/2004 enters into force, unless other regulations or agreements are also altered. (See Article 90 of the basic regulation and Article 90 of the implementing regulation.)

4.7.1 The scope of the rules for coordinating social security set out in 1408/71 was widened to additional groups of people over the years. This inclusion of additional groups of people was not, however, laid down in Regulation 1408/71 or 574/72 itself, but in specific additional regulations or agreements.

4.7.2 Firstly, this affects the applicability of the rules on coordination for third country nationals, their family members and their survivors, which is covered by Regulation 859/2003. Since 1 June 2003, third country nationals lawfully resident in a Member State are covered by the coordination rules in the same way as EU citizens. An important point to remember is that the inclusion of third country nationals within the scope applies only to cross-border issues between at least two Member States involving these insured persons, and not to cross-border issues between their home country and an EU country.

4.7.3 Secondly, the provisions of Regulations 1408/71 and 574/72 have applied to EEA Member States and their citizens since 1994. The agreement with Switzerland on the free movement of persons, which has been in force since 1 June 2002, expands the scope of the coordinating rules to Switzerland. Regulation 1661/85 led to the inclusion of Greenland and its citizens.

4.7.4 All of this also meant that EU citizens also benefited from wider geographical scope. EEA countries and Greenland were put on the same footing as EU countries. In the spirit of equal treatment of EU nationals and third country nationals in social matters, this state of affairs should be preserved. Appropriate changes to these regulations are also needed if this extension of scope is also to apply to Regulation 883/2004.

4.8 With this in mind, the EESC calls for all the relevant regulations and treaties that relate to Regulation 1408/71 to be amended as soon as possible, and certainly by the start date of the new coordination arrangements. It should then be possible to apply Regulation 883/2004 in the same wider geographical area and to the same wider group of people. Otherwise, the affected third-country nationals and citizens of the EEA, Switzerland and Greenland would not come under its protection. It is also possible that EU citizens would be put at a disadvantage in certain cross-border matters involving these countries. Regulation 1408/71 would continue to apply to such cases.

4.8.1 The Commission is urged to take the necessary steps as soon as possible. Firstly, there is unequal treatment of different citizens resident in the European Union. Secondly, having to apply two such complex regulations simultaneously would also be a disproportionate burden on social security institutions in the Member States.

4.8.2 It should also be pointed out that if Regulation 1408/71 and its implementing regulation 574/72 are to continue to apply, even if only to a small group of beneficiaries, they will need constant renewing and adapting to changes. This would be an unacceptable burden for the administration of the European Union and for all users of the regulations.

4.9 Regulation 883/2004 also provides for better procedures for faster and more reliable exchange of data between social security institutions in the Member States. In particular, this is to involve the promotion of electronic data exchange and working with electronic documents.

4.9.1 Whilst procedures involving paper documents have hitherto been the norm, and electronic processing only happened by mutual agreement between two Member States, the electronic exchange of all data between institutions is now to be the rule.

4.9.2 As well as savings in administrative costs, this is expected to have advantages in terms of faster procedures for insured persons, shorter response and processing times, and faster reimbursement or payment of benefits in cross-border cases.

4.9.3 The proposed regulation stops a long way short of saying that every institution must communicate electronically with every institution in the EU. Instead, a minimum of one access point in one institution per Member State, which is equipped to receive and send electronic social security data and forwards the data to the competent national institution, is sufficient. However, Article 83 of the draft states that, for the purposes of identifying the communication partner, a public database must be created. This includes the 'competent authorities', 'competent institutions', 'institutions of the place of residence', 'institutions of the place of stay', 'access point' and 'liaison body' as defined. This access makes it possible to replace previous annexes to the regulation with lists of institutions updated as appropriate.

([3]) See also opinion on *Amendment Regulation 1408/71* (SOC/213, CESE 920/2006, rapporteur Mr Rodríguez García Caro, point 5).

4.9.4 In this context, the EESC calls for lessons to be learnt from experience with the implementation of the European health insurance card, inter alia as regards the ongoing shortcomings in its practical use in individual Member States. In particular, the extent to which it would be possible to use health insurance institutions' existing databases should be looked into. It will be up to the Administrative Commission to identify the data that are essential for communication. In addition, Member States should be encouraged to take appropriate steps so that European citizens can make full use of the advantages of the new arrangements, especially in the area of health insurance.

4.10 The EESC recognises that electronic data transfer enables processing to be speeded up, which is in the interests of insured persons. To that extent, this change is welcome. At the same time, however, the EESC is concerned that this involves sensitive personal data (relating to such matters as health, incapacity and unemployment). It is therefore essential to ensure that these data are properly secure and cannot fall into the wrong hands.

4.10.1 All of the guarantees provided for in the Community provisions on the protection of natural persons with regard to the processing and free movement of personal data also apply here. These were regulated by Article 84 of Regulation 1408/71 and are set out in Article 77 of Regulation 883/2004. Nonetheless, in particular in the light of electronic data transfer between institutions in Member States becoming the rule, the EESC calls for the implementing regulation to make explicit reference to the sensitivity of the data and to provide for appropriate mechanisms to ensure their security.

4.10.2 At all events, the EESC regrets the absence of a form of words similar to that in Article 84(5)b of Regulation 1408/71, which strictly forbids the use of these data for purposes other than social security. Such a provision should be explicitly included in Article 4 of the implementing regulation.

4.11 The advantages of using electronic means for the exchange of data between social security institutions should not, however, be exaggerated. There is no doubt that data will be transferred more quickly. In many cases, national institutions also need to be restructured.

4.11.1 It is questionable, however, as to whether faster transfer times will really bring about significant benefits to insured persons. As a rule, the time taken for data transfer is relatively short in comparison to the total time taken to process a file. Due to the complexity of the matters involved (take pensions for example: contribution paid in more than one country, pro rata calculations, etc.), some cases will still require special processing and cannot be dealt with by computer programmes without disproportionate cost or indeed at all. In such cases the files will still need to be dealt with by officials.

4.11.2 Consequently, the EESC does not believe that speeding up the transfer of data and facts will in itself bring about a breakthrough. The desired efficiency in processing times will only be achieved if the institutions in the Member States have sufficient and properly qualified staff with appropriate technical resources.

4.11.3 The EESC therefore calls on the Member States to begin immediately preparing staff in social security institutions for the new arrangements in the basic regulation and the implementing regulation. Appropriate staff training is indispensable. The EESC calls on the Commission to take appropriate initiatives within its competence to support the Member States in carrying this out. In particular, it calls for Community resources to be made available for training programmes and, where appropriate, assistance with training to be provided.

4.12 Because the social security schemes covered by Regulation 883/2004 are based on solidarity between all insured persons, provision should be made for mechanisms to ensure more effective recovery of claims relating to benefits not due or contributions not paid by the insured person or the contributions payer.

4.12.1 The EESC agrees with the Commission that more binding procedures to reduce the time needed for payment of these claims between Member States' institutions are essential in order to maintain confidence in the exchanges.

4.12.2 For example, the implementing regulation provides for setting common deadlines for fulfilling certain obligations or completing certain administrative tasks, which are intended to help clarify and structure relations between insured persons and institutions.

4.12.3 Furthermore, procedures for mutual assistance between institutions, based on Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, are planned. In addition, interest on contributions owed is to be introduced, which is expected to improve payment practice.

4.12.4 The EESC expressly welcomes all of these measures set out in the implementing regulation that are intended to offer more legal certainly and transparency to all those involved in implementing the new coordinating regulation. In the past, there have been instances between Member States where debts arising between institutions were not paid even after several years. The EESC hopes that payment practice between states will be significantly improved, although shortcomings in enforcing the collection of outstanding debts still remain.

4.13 The EESC also welcomes the greater flexibility of the new implementing regulation when compared to Regulation 574/72, which fixed the procedure for implementing 1408/71. This will continue to allow Member States to implement somewhat better at bilateral level than is required in the implementing regulation, provided that doing so is not detrimental to the interests of beneficiaries and to coordination. However, on the basis of this principle, according to which this flexibility should not be detrimental to beneficiaries, the EESC advocates a stronger form of words in Article 9 than the current one, which states that 'these procedures [must] not adversely affect the rights of beneficiaries'. In particular, it should be explicitly stated that other forms of implementation must not lead to longer deadlines or additional administrative procedures.

4.14 The EESC calls on the Commission and the Member States to strengthen measures to ensure that all users of the regulation are better informed about the rules and benefits of coordinating social security systems, including the changes brought about by the applicability of 883/2004. The information should be sent to businesses and all insured persons, in particular to those active in a wide variety of forms of employment, from employees to the informal sector. The necessary preparations for this should, in the Committee's view, be started immediately.

4.15 Regulation 883/2004 provides that procedures must reflect the need for a balanced sharing of costs between Member States. However, the EESC wonders in this context whether the provisions in the regulation and the implementing regulation might give rise to a process whereby the EU's generous social security systems were weakened and benefits gradually eroded. In particular, with regard to the inclusion of economically non-active persons within the scope of the regulation and to the free movement of persons within the EU, the EESC insists that coordination should not lead to any levelling down or dismantling of social standards.

4.15.1 In this connection, the EESC believes that steps must be taken to produce comparable and meaningful data documenting the current and expected future cross-border drawing of health and social security benefits in the EU. Changes resulting from Regulation 883/2004 are particularly relevant.

5. **Further specific comments on individual articles**

5.1 *Article 2: Rules for exchanges between institutions*

The EESC calls for clear deadlines to be set for responses and processing. If these deadlines are not met, insured persons must receive compensation for any damages they suffer. The rights of insured persons must be enforceable. Appropriate legal instruments should be created. Any detriment that may arise must not be suffered by insured persons. Compensation must be paid by the institution in whose sphere of responsibility the damage occurred. Such a provision should be inserted into Article 2 of the implementing regulation.

5.2 *Article 3: Scope and rules for exchanges of data between beneficiaries and institutions*

Article 3.4: For the purposes of speeding up procedures, incentives should be given to ensure that both documents and, in particular, acknowledgements of receipt are sent electronically. Paper documents should be sent only in exceptional cases.

5.3 *Article 4: Format and method of exchanging data*

With regard to electronic information, in addition to the data protection mentioned in point 3.10.2, it should also be ensured that electronic communication with insured persons only takes place with the latter's consent. With regard to pensions in particular, many of the people concerned have led their entire lives without electronic communication. They cannot be forced to start now. Moreover, many have no access to electronic media. Other groups for whom access to computers is limited or difficult (such as people with disabilities) should also be given due consideration. Steps should be taken to promote public access to the appropriate technologies and to make such access as universal as possible.

With this in mind, the EESC calls for the following wording to be added to Article 4.2: 'All measures and arrangements for electronic data exchange must meet the requirements of universal accessibility'. The EESC also has difficulty with the wording in Article 4(3), which states that in their communications with beneficiaries, the competent institutions shall favour the use of electronic means. The EESC calls for the words 'provided that the beneficiaries express their agreement' to be added to this clause.

5.4 *Article 5: Legal value of documents and supporting documents issued in another Member State*

Article 5(2): This states that the institution of a Member State may contact the institution of another Member State that issued a document in order to ask it for clarification of that document. If, as set out in Article 5(1), the document was issued by a tax authority, should the social security institution of one country contact another country's tax authority in order to receive clarification? This appears impracticable and burdensome.

What are the liaison bodies for? The EESC suggests that the information and assistance powers of the liaison bodies be strengthened so that they can perform the appropriate task. The institutions then need only contact the liaison body to get answers to their questions.

Article 5(3):The fact that the administration commission has six months to adjudicate between two or more institutions from two or more countries does not appear to constitute a simplification or an improvement of coordination between social security systems. This time frame is excessive. The EESC calls for the maximum time for the processing of an application, including all communication between institutions, to be set at three months altogether.

5.5 *Article 8: Administrative arrangements between two or more Member States*

This authorises Member States to conclude arrangements between themselves, provided that these arrangements do not adversely affect the rights of beneficiaries. For the purposes of transparency and legal certainty for those affected, the EESC calls for the Commission to be informed and sent a copy of all such agreements. A list of these agreements in an annex to the implementing regulation would create greater legal certainty.

5.6 *Article 11: Elements for determining residence*

Article 11(1)a)-e) set out objectively determinable facts for determining residency, with the person's intention considered to be an equally decisive criterion. The EESC believes that residency should be established first and foremost by objectively determinable facts. Only if this is not possible should reference be made to the intention expressed by the person concerned, i.e. as a secondary criteria as set out in point 2.

Moreover, the EESC has its doubts as to whether enquiries into individual reasons for changing place of residence might constitute unlawful prying into citizens' private lives.

5.7 *Article 12: Aggregation of periods*

Article 12(3) states that where a period of compulsory insurance coincides with a period of insurance completed on the basis of voluntary insurance in another Member State, only the period completed on the basis of compulsory insurance shall be taken into account. The EESC takes the view that this must not in any circumstances lead to any voluntary contributions paid becoming worthless. In such cases, the implementing provision should provide that the full value of the contributions paid is refunded to the insured person.

5.8 *Article 16: Procedure for the application of Article 12 of Regulation 883/2004*

This requires employers who post workers to another Member State to inform the competent institution of the posting, 'where feasible' in advance. The EESC calls for the words 'where feasible' to be deleted, as they leave too much room for interpretation.

It should be ensured that the competent institution is informed in advance as a rule, the aim being to create legal certainty for insured persons posted abroad and to avoid problems that they may face if an insured event takes place during their posting and if the institution of the Member State to which the worker is posted is not informed.

5.9 *Article 21: Obligations of the employer*

Article 21 makes it possible for the obligations to pay contributions to be fulfilled by the employee if the employer does not have an establishment in the Member State whose legislation is applicable to the employee. The employer must agree this with the employee.

The EESC considers it important that, whatever happens, the responsibility remains with the employer. Thus, this possibility of transferring the obligation to pay contributions must not lead to employees being burdened with employer's contributions, thus reducing their net remuneration. The employee must receive full compensation from the employer for any employer contributions he pays.

The EESC calls for a requirement for the agreement mentioned in Article 21(2) to be made in writing in order to avoid any legal uncertainty. The employer's obligation to inform the competent institution of this agreement should, in the EESC's view, be worded more strongly. The information should be sent immediately (within a short period to be fixed) and in writing.

5.10 *Article 25: Stay in a Member State other than the competent Member State*

For the purposes of a stay in a Member State other than the competent Member State, Article 25 (A)(1) calls for a document to be issued proving the entitlement to benefits in kind. The EESC believes that it should be made clear that the European health insurance card fulfils these requirements and that no additional certification is required. If another form of proof should be introduced in the future, there is nothing to stop this article being amended.

It is unclear whether, under Article 25(B), the insured person is entitled to choose whether to apply for reimbursement from the institution in the place of stay or from the competent institution.

5.11 *Article 26: Scheduled treatment*

The EESC takes the view that the wording of Article 26 (B), 'Meeting the cost of benefits in kind as part of scheduled treatment' is open to misinterpretation and should be clarified. In line with the Commission's intention, the EESC suggests the following beginning to the paragraph: 'When an authorisation is granted and the insured person has met the cost of treatment him or herself, the competent institution shall meet the costs of the expenses at the highest rate and shall pay this sum to the insured person…'.

Otherwise, one could infer that the competent institution reimburses the implementing institution and that the insured person could then claim any difference that may remain. This is not the intention as regards meeting the costs of scheduled treatment.

5.12 *Article 88: Amendment of the Annexes*

As already stated in point 4.5, the currently empty Annex XI, which is to set out certain procedures for the application of certain national legislation, is being dealt with and discussed alongside the draft implementing regulation in the Council. In it, the Member States try to uphold certain national provisions. Annex XI is a sensitive part of Regulation 883/2004, as it may contain quite a number of entries.

The EESC calls for any entries in this annex to be limited to what is strictly necessary. It will issue a separate opinion on this matter.

5.13 *Article 91: Final provisions*

In view of the public significance of rapid implementation of the implementing regulation, the EESC — as already stated in point 4.4 — calls on the Member States to set a clear deadline by which the negotiations in the Council on the implementing regulation must be completed. In the case of the European health insurance card, such a politically agreed deadline proved useful and attainable. Basic regulation 883/2004 must enter into force as quickly as possible.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitrios DIMITRIADIS

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 new framework strategy for multilingualism

COM(2005) 596 final

(2006/C 324/24)

On 22 November 2005 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 6 September 2006. The rapporteur was Ms Le Nouail Marlière.

In view of the renewal of the Committee's term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Ms Le Nouail Marlière as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 26 October 2006, the European Economic and Social Committee adopted the following opinion by 105 votes to one, with five abstentions.

1. **Conclusions**

1.1 The EESC recommends that:

— the Commission should give *the Member States* precise indications about the *links which could be established and additional measures which could be taken in the national plans,* stressing that multilingualism or plurilingualism can help to promote cultural and political integration, and foster understanding and social inclusion;

— in order to achieve long-term results, *the language training on offer* needs to be coordinated at EU level, with the potential pool of language skills spanning a wide range of languages;

— *multilingualism in the professional, cultural, political, scientific and social fields should be developed and promoted*;

— the *experts involved in this work should be drawn not just from the ranks of specialists in social and scientific disciplines but should also include* linguists, interpreters, translators, teachers and other language professionals;

— greater account be taken of today's young and older adult generation in developing this action, via *life-long learning* and, when the Commission reaches the programming stage, through *their cultural rights;*

— the Commission not only draws on university research but also on the work carried out by the networks of *associations working* in this area, and that it supports the grassroots initiatives taken within the civil society network.

2. **Introduction: Summary of the Commission's communication**

In its communication, the Commission defines a new framework strategy for multilingualism and reaffirms its own commitment to multilingualism. This document is described as 'the first communication in the history of the Commission to tackle this subject'. The communication examines various aspects of European policies on the subject and proposes a number of specific actions.

The Commission calls upon the Member States to play their role and to promote the teaching, learning and use of languages. The Commission launches the event by bringing into operation a new institutional consultation portal, available in 20 languages.

In this initial policy document dealing with the subject of multilingualism, the Commission sets out a new framework strategy, backed up by proposals for specific actions in the social and economic fields and in the field of relations with citizens. The Commission is pursuing the following three objectives: to encourage language learning and to promote linguistic diversity in society; to promote a healthy multilingual economy; and to give citizens access to European Union legislation, procedures and information in their own languages. The Commission draws attention to the fact that the Barcelona European Council in 2002 highlighted the need to promote the teaching of at least two foreign languages. In the light of this call, the Commission asks the Member States to take the following steps: to adopt action plans for promoting multilingualism; to improve the training of language teachers; to mobilise the necessary resources for enabling pupils to learn foreign languages from the earliest possible age; and to step up the teaching of subjects through the medium of a foreign language. The Commission draws attention to the fact that European enterprises need people skilled in the use of the languages of the EU and those of its trading partners throughout the world and points out that language-related sectors of the economy are undergoing rapid development in most European countries; in the light of these considerations, the Commission proposes a number of actions designed to strengthen the multilingual aspect of the EU

economy. With regard to its own multilingual communication policy, the Commission plans to strengthen the multilingual nature of its many Internet sites and publications by setting up an internal network with responsibility for ensuring that linguistic practices are applied in a coherent way by the Commission's departments. The Commission also proposes the establishment of a High Level Group on Multilingualism, made up of independent experts, to help it analyse the progress made by the Member States. It makes two further proposals: to hold a ministerial conference in the near future on the subject of Multilingualism to enable the Member States to take stock of the progress which they have made in this field; and to prepare a new communication setting out a comprehensive approach to multilingualism in the European Union.

3. **General comments**

3.1 The EESC endorses the Commission's initiative and notes that this strategic framework is described as a new departure and the communication is defined as the first policy document on the subject of multilingualism. In this context, the many references made to the former strategic framework ([1]) fall short of what is required to provide a clear appraisal of this strategy. In the EESC's view, it would be helpful if the Commission could summarise the contribution which the new framework strategy is expected to make in terms of added value and summarise its comparative impact. Will an impact assessment be made, along the lines defined in the inter-institutional agreement between the European Commission and the EESC ([2]) and as part of the drive to bring about legislative simplification and to simplify governance? The EESC suggests that, by itself, the communication might fail to give the proposed measures the prominence required by the Member States to enable them to approve the programmes in question which are, furthermore, not binding. Although the framework strategy has been requested by the Council, harmonisation is required in order to make optimal use of the resources which may be allocated by both the Member States and the EU itself. Such harmonisation can only take place if there is a clear awareness of the measures which have already been carried out by the Member States and the EU.

3.2 The Commission 'reaffirms [its] commitment'; the EESC therefore notes that this commitment has already been expressed on an earlier occasion. The EESC notes that the state of play as regards internal practice at the Commission with regard to multilingualism does not give rise to unanimous satisfaction both within the Commission's departments and in its relations with outside bodies.

3.3 The EESC notes the discrepancy and lack of equal treatment between the Institutions, on the one hand, and European civil society in all its component forms (autonomous social dialogue and civil dialogue), on the other hand. All the memos, studies and documents which are both useful and necessary for drawing up European legislation and holding consultations and discussions on this legislation are produced and are available to a disproportionate extent in English. Likewise an increasing number of internal meetings organised by the Commission are held in English. In order to work as a Commission expert one therefore has to speak English, and the same applies in the case of persons wishing to represent civil society in Brussels. Furthermore, many of the statistical and qualitative studies referred to in this opinion are available only in English ([3]).

3.4 A number of documents are not always available in the language of the institutional rapporteurs or the players who are usually consulted, which shows that the agreement on the use of the three pivot working languages of the EU institutions is far from being respected, whether at an institutional or at an informal level; the upshot is that several interlocutors can easily find themselves excluded from an increasing number of debates. It is therefore not surprising to discover in the various statistical studies presented that the sample of persons questioned prefer to pursue their studies in English, since this is *de facto* the language which is likely to be increasingly used when taking key decisions. This is exactly the line of reasoning which has led several generations of parents and governments to focus on the learning of English as the preferred language and it has also brought about the present situation.

3.5 Furthermore, the annex to the present communication demonstrates that the 'foreign' language most commonly used in the EU is not the one spoken by the largest mother tongue group. The most commonly used language in the EU is said to be spoken (and the term 'said to be' is employed because Eurostat does not specify the definition used with regard to the level of knowledge or vocabulary deemed to be required before people can be regarded as speakers of the language in question) by 47 % of the sample of persons questioned, even though it is apparently the mother tongue of only 13 % of them.

3.6 In the EESC's view, this situation represents a *de facto* impediment to the right of citizens and their representatives, i.e. the European Parliament and the consultative committees (EESC and CoR), for direct and indirect democratic participation in drawing up the rules that apply to them. In reality, when rapporteurs within the institutions, who as representatives of civil society are asked to give their views as members of democratic, legal bodies and institutions, they are frequently only able to grasp what the Commission is proposing at the price of undue effort and guess-work. How can the fact that citizens have, at no point, had proper access to information, be overlooked? This situation is particularly illogical in the case of a communication on this subject. Finding a way out of this collective, intellectual and cultural predicament and this economic dependence at the expense of essential good participation requires resources and a political will.

The EESC is therefore pleased to note that the Commission intends to mitigate these problems by setting up a more effective portal; this portal does however concern multilingualism, rather than all its communication. The objectives presented by the Commission in the chapter entitled 'Multilingualism in the Commission's relations with citizens' are not very clear when it comes to institutional communication: the communication might just appear to be an extension of Plan-D for Democracy, Dialogue and Debate. Communicating in 20 official languages does not change the nature of institutional communication which takes place retrospectively and is based on decisions in which citizens do not participate; such communication does not, in itself, strengthen public involvement.

3.7 Many observers have pointed out that the first pages of the institutional portals or websites may contain documents which appear to be multilingual but, on further consultation, turn out to be available only in English.

([1]) COM(2002) 72/ COM(2003) 449/ COM(2005) 24 of 2.2.2005 / 2005/29/EC/ COM(2005) 356/ COM(2005) 229 and 465.

([2]) Protocol of cooperation between the European Commission and the European Economic and Social Committee (November 2005).

([3]) See footnotes [2], [12], [17], [19], [24], [25], [26], [30], [31], [32], [37] in the communication under review COM(2005) 596.

3.8 The EESC stresses that all languages are rightfully part of the cultural human heritage and observes that imposing the use of English for technical reasons rather than as a cultural asset could be detrimental to it if, despite being widely used, it is poorly mastered. The EESC has taken its cue from this observation to set out, further below, specific comments on language status and use.

3.9 The EESC notes that there is an imbalance in the restrained approach based on the economic aspects of multilingualism (consumers, the information society, professions and industries, and the knowledge-based economy) and that it could be skewed more towards human, social, sociological, cultural and political considerations. If it is the case, as mentioned during the press conference which launched this Commission communication, that what lies at the heart of the difference between human beings and other animals is language and the exchanges between human beings which it gives rise to, then the communication should duly bear in mind that human exchanges are not solely geared to trade or the defence of existing territory and its resources. The communication would thus benefit from referring to the work carried out by UNESCO in this field, with a view to putting forward positive recommendations ([4]).

3.10 The EESC endorses the link between the Lisbon strategy, its implementation, the European employment strategy and the new framework strategy but proposes that the Communication define in greater detail the concrete measures which have to be taken (with more coordination between the Commission's internal departments and the DGs responsible for employment, culture etc.). The EESC asks the Commission to give the Member States precise indications about the links which could be established and the additional measures which could be taken, stressing that multilingualism or plurilingualism can help to promote EU political and cultural integration and foster understanding and social inclusion. A sectoral impact assessment should cover the number and quality of jobs that are preserved or created and the real impact on wages which is expected to occur.

The EESC supports the call for Member States to 'establish national plans to give structure, coherence and direction to actions to promote multilingualism…' but observes that, in order to achieve long-term results, this must be coordinated at EU level, in order to draw on a potentially much wider pool of language skills.

Within the framework of the strategy aiming to create 'the most competitive knowledge-based [European] economy in the world', it would seem appropriate — in order to ensure that the European Union does not become constrained by its language barriers — to think along the lines of the full range of languages present within the European Union and ensure that this figure exceeds the number of languages currently available and used within the internal market.

The right of immigrants to learn the language of their host country should be exercised in tandem with the right to maintain their own language and culture ([5]). The European Union should consider these languages as additional human resources in its quest towards 'global competitiveness'. A number of enterprises have already contemplated these issues, but workers, trade unions and targeted consumer associations should be involved as well. Advantage should also be taken of support provided by local authorities which have introduced concrete measures, such as reception services aimed at promoting 'integration' and made available in the languages most commonly spoken by recent immigrants.

3.11 Another area of the economy which should be further developed in the communication is that of the needs of workers and ways of motivating them in the pursuit of their respective occupations and in consultative bodies, such as the European Works Councils. It is in the EESC's view regrettable that the communication is able to envisage advocating harmonised programmes which fail to take account of these particular needs. Such a wide-ranging communication should propose areas which would provide enterprises and workers with both the prospects and the means of becoming the principal agents for building the most competitive knowledge-based economy in the world, whilst fully respecting the remit of social dialogue and fundamental rights ([6]).

3.12 The EESC recognises that multilingualism makes the EU special ([7]). Nonetheless, Europe is not the only continent, country or political entity where a large number of different languages are spoken.

4. **Specific comments**

4.1 The debates and the European Charter for Regional or Minority Languages of the Council of Europe ([8]) must not hide other issues, such as:

a) The status of languages: Languages may be classified as: official, working, Community, minority, dominant, languages used in various forms of exchange — cultural, scientific or commercial, institutional and diplomatic — languages in everyday use and languages for professional use (in the fields of health, education, construction, industry, fashion industry and arts, etc.). Respect for linguistic diversity, which the European Union recommends and defends, dictates that different and balanced solutions need to be proposed in order to respond to these situations and needs: a single

([4]) UNESCO Universal Declaration on Cultural Diversity, adopted on 2 November 2001; Convention on the Protection and Promotion of the Diversity of Cultural Expressions (10 December 2005) — these Conventions underline the need for linguistic diversity and diversity as regards means of expression with a view to establishing diversity and cultural pluralism as inalienable, universal rights which are inseparable and interdependent. The Universal Declaration of Linguistic Rights, which was adopted in Barcelona at the World Conference on Linguistic Rights held between 6 and 8 June 1996, and which was signed by 66 national and international NGOs and legal networks, must also be mentioned.

([5]) CoR opinion CdR 33/2006 adopted at its 65th plenary session, 14 June 2006, rapporteur: Mr Seamus Murray, point 2.7.

([6]) Article 21 of The *Charter of Fundamental Rights of the Union* stipulates that any discrimination based on the grounds of language shall be prohibited and Article 22 stipulates that the Union shall respect cultural, religious and *linguistic* diversity. There are already court cases involving instances at the workplace where these rights, though guaranteed by national law, have not been respected (General electric medical systems GEMS, judgment of the Versailles Appeal Court, 2 March 2006, France).

([7]) Point IV.2 of the communication.

([8]) *European Charter for Regional or Minority Languages* of 5 November 1992, which was ratified by 21 members of the CoE, 13 of which are EU Member States.

proposal which treated the language issue solely in terms of education/jobs, or of 'language use — new products market — internal market' would miss the objective of ensuring that every EU citizen is able to speak two foreign languages in addition to their mother tongue, and paradoxically could reduce the number of languages that are effectively mastered or spoken within the European cultural area. The EESC recommends that all professional, cultural, political and scientific use within its area be allowed and encouraged, and it supports the large number of grassroots initiatives that have originated within civil society. Accepting and supporting written or oral communication in the original language extends the public area of freedoms, without however necessarily requiring recourse to translation or interpretation. The issue of the number of languages in use is thus not contingent on language translation, interpretation or teaching costs.

b) The degree of social power which is conveyed by the ability to use a given language or languages. Access to, and the distribution of, multilingual-learning resources determines to a certain extent social exclusion or inclusion and material or cultural poverty since language knowledge provides access to professional, social, and particularly, cultural and solidarity networks. The fact of belonging to a network also contributes towards greater individual autonomy, while constituting an aspect of integration in contemporary society. Some population groups will be excluded if an effort is not made, as of now, to extend multilingualism at all the relevant levels of society, including vulnerable or disadvantaged groups.

c) Democracy: The EESC supports the recommendation to ensure that people are able to speak in or have a working knowledge of two foreign languages in addition to their mother tongue; however, how many people today have a realistic chance to achieve this in their lifetime? Even for the professional, political and economic 'elite' of the current adult generation, this is a difficult objective to attain in the framework of the 2004-2006 action plan Promoting Language Learning and Linguistic Diversity and the Culture 2007 programme (2007-2013) ([9]), both for EU and national institutions, but if the ambitious target of 'every citizen' is maintained, the EESC would stress the extent of the challenge involved. We know, for example, which foreign language has gained the upper hand at the earliest level of foreign language learning. The rare or less common languages ([10]) are known by a smaller number of people because, in these cases, language-learning starts at a later stage in school or university courses. The EESC thus supports the recommendation that people be given the opportunity to learn a foreign language from the earliest possible age, provided that the choice of languages on offer is devised as part of an overall framework, which should be the main issue to be addressed by the communication. What is at stake here is the future of the EU and the kind of society which we pass on to future generations.

d) The survival of languages as Eur°pe's linguistic heritage: Wanting to see a large number of people learn a second or third language is not the same as wanting to ensure the survival of a large number of European languages in Europe or the world. Whilst these two goals do not clash, they nonetheless require two separate approaches and means of implementation. In this particular context, the Commission's initiative in respect of standardisation, aimed at making the use of languages compatible with the new information and communication technologies, should take account of the danger of linguistic impoverishment if the efforts are concentrated disproportionately on this particular field ([11]). The EESC recommends that the experts involved in this work should be drawn not just from the ranks of specialists in social and scientific disciplines but should also include linguists, interpreters, translators, teachers and other language professionals. The abovementioned UNESCO declarations and conventions clearly demonstrate, among other things, that too few languages are already used on the internet, bearing in mind the global linguistic heritage, and further demonstrate that this limited use of languages has an effect both on the quality and the number of languages which still exist.

e) Conservation of the use of minority and/or regional (or even local) languages in Europe should not be evaluated in terms of teaching-cost criteria. Not only — as supported by a large body of literature — does language teaching at a very young age foster an intellectual flexibility which develops cognitive capabilities that are useful for future learning, but it also serves as a bridge to learning sister or cousin languages. Thus, it is not enough simply to preserve the linguistic heritage by teaching a language at a very early age or by rehabilitating it in both private and public spheres; in order to survive, a language must be spoken and it needs to have the right conditions so that it can thrive in the public and social domain: it serves no purpose to learn languages at primary school if one has to give them up in the secondary years because no course is provided ([12]). Economic dynamics can be taken into account in education systems if the necessary links to other languages are developed and if the learning of a minority or regional language can be harnessed in the later school years as support towards a second language. To this end, the study of the links between languages is as vital as the number of languages spoken ([13]).

f) Proximity: This term does not only imply making official and institutional texts accessible via the internet; it also means enabling EU citizens living in countries which are geographically in close proximity to get to know each other and to acquire a better understanding of their respective mother tongues and to engage in exchanges, since language is not just a channel of communication but also a representation of the world. Language shares this characteristic with other media, such as painting, music, the graphic arts, mime and dance, and the plastic arts. These same citizens must be enabled to learn and communicate in languages belonging to different linguistic groups, whilst respecting the cultures and identities which make up the European identity (and underlie

([9]) COM(2004) 469.
([10]) 'Minority languages'.
([11]) Les processus de modernisation dans l'enseignement des langues pour adultes (*The process of modernisation in adult language teaching*), thesis of Ms Judith Barna, Charles de Gaulle University, Lille, France, 2005.
([12]) Opinion of the CESR of Aquitaine-France, adopted at its plenary session on 14 December 2005, *Langues et cultures d'Aquitaine*, rapporteur: Mr Sèrgi Javaloyes.
([13]) Council conclusions on the European Indicator of Language Competence (OJ C 172 of 25.7.2006).

European values). The EESC stresses the positive role of exchanges and twinning schemes mentioned by the Committee of the Regions ([14]) and stresses that, irrespective of the strategy involved, when it comes to learning languages, demand is just as necessary as supply. The motivation for learning languages should therefore be considered from other standpoints than solely that of how useful a language is (in terms of the economy and employment).

g) Needs: Our needs in terms of cohesion and European identity do not involve just commercial aspects or identity aspects. There are also real needs for mutual understanding, which are felt by people who may or may not share the same geographical, social and cultural backgrounds. No impact assessment has been carried out to take stock of the way in which different aspects have been taken into account, including even minor aspects which may turn out to be important in the long term. The time frame in respect of supply and demand in the field of language training can be measured in terms of years and generations.

From a more general standpoint, the commitment expressed in the communication lacks a reference time frame: are we talking about a commitment in the past, the short-term future, the medium term or vis-à-vis future generations?

The same considerations apply in the case of the following aspects: humanitarian and cultural aspects; asylum and immigration; the needs and the role of local authorities in this field; and socio-economic aspects. The socio-economic partners (UNICE, the European Centre of Public Enterprise (ECPE/CEEP) and the ETUC), together with NGOs working in the field of human, social and cultural rights and universities and administrations, should all be consulted on an equal footing, thereby developing a strategy which, far from excluding them, is decided jointly with them and by them. This would guarantee the wide-ranging consensus that is required for these ambitious initiatives to succeed. The successful implementation of the Council's '1 + 2' strategy ([15]) requires resources that transcend the institutional framework. The largest possible number of EU citizens must be able to participate and feel personally concerned.

The EESC approves the action framework to promote the teaching and learning of languages and observes that its success will depend on the support of those most immediately concerned with the issue, i.e. the teachers themselves and the students.

Accordingly, before embarking on new initiatives, the Commission and the Council should consolidate the strategy by ensuring that the general public and young people are more fully aware of the specific reasons which led them to choose the path of multilingualism, rather than promoting the use of a single common language, whether living or dead, modern or artificial.

The main reasons can be summed up as follows:

— Encouraging the use and propagation of a hegemonic living language gives rise to unfair economic advantages for the main country of origin and can undermine cultural rights and the world heritage.

— The cost of learning and disseminating a scientifically and artificially designed European language such as Esperanto would be less (learning time and converting the current language ([16])) than that for a living language but, to date, the political and cultural conditions in the European Union have not been met ([17]).

— The compromise scenario which involves *increasing the number of languages that are spoken* and *used* in the European geographical and political area needs to be consolidated by *increasing the number of people speaking them*.

In view of the above, the EESC recommends that future measures take greater account of today's young and older adult generation, via life-long learning and, when the Commission reaches the programming stage, through their cultural rights.

Young people should be informed about and motivated to seek jobs involving multilingual or plurilingual 21st century media ([18]). More should be done to promote professions which require an in-depth knowledge of languages (linguists, interpreters, translators and teachers): one sure step towards achieving this is to recognise their social role and to involve the current practitioners.

([14]) Abovementioned opinion, CdR 33/2006.

([15]) Mother tongue and two foreign languages, Barcelona European Council, *15-16 March 2002*, Presidency Conclusions, Part I, point 43.

([16]) L'enseignement des langues étrangères comme politique publique *(Teaching foreign languages as public policy)*, François Grin, 2005.

([17]) Grin, 2005, cf. abovementioned work, footnotes 59 and 84 'it has been forgotten that a large number of states had, at the time of the League of Nations, supported the introduction of Esperanto as an international language, and that UNESCO, at its plenary sessions in 1984 and 1985 adopted resolutions in favour of Esperanto. At the time (September 1922), France, which had banned teaching and advertising [Esperanto] on the grounds that it was a dangerous instrument of internationalism and that it would diminish the strength of the French language on the international scene' had rejected the document. Moreover, Mr Umberto Eco, who held the European Chair at the Collège de France, Paris, delivered his inaugural lecture on 'the quest for a perfect language in the history of European culture' in 1992.
The EESC would like to point out that the so-called dead ancient languages have gradually ceased to be taught. Nonetheless, over and above the issue of researching which *lingua franca* (common language) would potentially best respond to the requirements of contemporary European society, these languages provided the foundation for easier mutual understanding between Europeans, given that a large number of European languages — Indo-European and Finno-Ugric — have their roots in these languages; furthermore, knowledge of these ancient languages is a help when learning other languages.

([18]) There are several definitions of plurilingualism and multilingualism. For some, plurilingualism defines the personal skill of being able to speak several languages, whereas multilingualism refers to the social environment of a given geographical area where several languages are in use (European Conference on Plurilingualism, 2005). For others, the inverse is true (Grin, 2005). The Commission considers that multilingualism refers to both individual skills and the community.

As the Commission itself fully recognises, its recommendation to start learning languages at an early age requires resources and properly trained staff, and that parents support the diversified choice on offer.

The EESC also recognises the positive role of the family in promoting language learning at an early age and stresses the cultural support of 'mixed' culture families, such as when the parents come from different countries. These families generally have a culture of openness and tolerance extending over several generations, which has been confirmed by several European and Canadian studies.

h) With regard to the chapter dealing with translators and interpreters, the EESC draws attention to the fact that needs do not arise solely in the institutional, professional and economic fields; the views of other stakeholders must also be heard. Social and cultural requirements deserve to be taken into account, both as basic human rights and as essential components of the internal market.

By way of example, everywhere one goes, one hears that translation and interpreting requirements cannot be met either because of a shortage of interpreters and translators or for financial reasons. In the light of this situation, the EESC proposes that consideration be given to the responsibilities of both the Member States and the EU in respect to the following aspects: provision of training for an adequate number of interpreters and translators; language diversification; the cost of providing training and paying salaries and costs linked to statutes. The EESC would refer, once again, to all the various aspects which it raised earlier in this document and would also point out that this sector is not the only one to suffer from a shortage of trained professionals; the demographic deficit cannot be blamed for all these shortages. The balance between supply and demand in this segment of the labour market has undoubtedly not been adequately foreseen, even though the European venture and successive EU enlargements, together with the issue of globalisation, would have provided scope for learning lessons from the past.

To sum up, the EESC recommends that the Member States make an active contribution towards shaping the future in this context and it endorses the views expressed by the Commission on this point.

4.2 Lastly, the EESC urges the Commission to collate the information which it has or could have at its disposal as regards follow-up to the earlier language policies pursued by the Member States in order to be in a position to make an appraisal of the actions to which it is committing the Member States.

4.3 The EESC acknowledges the efforts made by the Commission and endorses its intentionally innovatory approach. It supports linguistic diversity in its role as an instrument for promoting cultural, social and political diversity and pluralism, and is aware of the counter-productive risk that the use of a limited number of languages will be further institutionalised. The EESC expects that, in connection with the next communication announced on this subject, a broader consultation of civil society players will be carried out.

4.4 The EESC endorses the Commission's initiative to increase support for university research on higher education under the 7th research framework programme and suggests drawing not only on the university research but also on the work carried out by the networks of associations that are involved in the area ([19]).

In the Appendix to this opinion, the EESC sets out the proceedings of the European Conference on Plurilingualism, which was held in November 2005 by civil society organisations ([20]) in conjunction with the Forum of Cultural Institutes ([21]). The conference drew up a European Charter on Plurilingualism, which was posted on the ASEDIFRES website for debate. This association intends to present the charter to European parliamentary and institutional representatives. In its role of 'bridge between civil society and institutions', the EESC supports and encourages such initiatives, as they constitute identified good practice.

Brussels, 26 October 2006.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

([19]) For example: Linguamón — Casa de les Llengües (House of Languages), an organisation with the aim of protecting languages in danger of extinction, linguamon@linguamon.cat; Babel, which is an organisation that brings together translators and interpreters working within international and regional social forums on a voluntary basis; ASEDIFRES www.europe-avenir.com, the association which co-organised the European Conference on Plurilingualism held in November 2005.

([20]) Details of participants, results and records of proceedings are posted on the website mentioned in footnote 20.

([21]) The forum comprises the following members: Alliance française, Swedish Institute, Italian Language and Culture Centre, University of London Institute in Paris, Camoes Institute, Cervantes Institute, Finnish Institute, Goethe Institute, Hungarian Institute and Dutch Institute
http://www.forumdeslangues.net.

Opinion of the European Economic and Social Committee on The Green Paper — European Transparency Initiative

COM(2006) 194 final

(2006/C 324/25)

On 12 May 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 *Green Paper — European Transparency Initiative*

Under Rule 19(1) of its Rules of Procedure, the Committee decided to establish a subcommittee to prepare its work on the matter.

In view of the renewal of the Committee's term of office, the Plenary Assembly decided to vote on this opinion at its October plenary session and appointed Ms Sánchez Miguel as rapporteur-general under Rule 20 of the Rules of Procedure.

At its 430th plenary session, held on 25 and 26 October 2006 (meeting of 26 October), the European Economic and Social Committee adopted the following opinion by 132 votes to 7, with 12 abstentions.

1. **Background**

1.1 The European Commission is aware of the need to establish a framework for improving transparency between the EU institutions and lobby groups, whilst providing the public with better information on the beneficiaries of the funds that the EU distributes under its various policies.

1.2 Against this backdrop, the Commission put in place the European Transparency Initiative, although it must be said that this concern had already been voiced in the White Paper on European Governance and subsequently built on in:

— Regulation 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;

— a special register for documents relating to the work of the Committees;

— Commission databases providing information about consultative bodies and advisory groups;

— the Commission's 'Code of Good Administrative Behaviour', which sets the standards for its relations with the public.

1.3 The Green Paper thus puts forward three aspects to take into account in a public debate on transparency in the activities of the EU institutions, specifically:

— the need for a more structured framework for the activities of lobbyists;

— feedback on the Commission's minimum standards for consultation;

— mandatory disclosure of information about the beneficiaries of EU funds under shared management.

2. **Summary of the aims of the Green Paper**

2.1 *Transparency and lobbying*

2.1.1 The Commission is of the view that, in order to better assess the results of the standards that have been set, and to ensure greater transparency in its relations with lobby groups or with any other member of the public who turns to the European institutions, there must be a clear definition of what is meant by 'lobbyists' and 'lobbying'.

2.1.2 The basic framework for relations between the institutions and lobbyists must, the Commission believes, contain a number of essential components which, working from the basic assumption that lobbying is a legitimate activity, promote transparency in relations. Therefore, no questionable influence or economic pressure on decision-making or financial, material or personal inducements should be permitted under any circumstances. It is essential to prevent the distribution of deliberately ambiguous or false information from doubtful sources. At all events, it is the 'general interest of the Community' that must be safeguarded, and not the specific interests of the lobbyists.

2.1.3 First and foremost, any lobbying practice which could give rise to fraud or corruption, or which could be misleading, either in the information it provides or in the legitimacy of the lobbyists, must be considered to be unlawful. An important issue is the representativeness of these groups.

2.1.4 Measures currently in place, especially those concerned with external scrutiny, can improve transparency in relations between the institutions and lobby groups. To this end, a number of 'general principles and minimum standards for consultation' were established, improving communication by means of the CONECCS database on European civil society organisations, which contains the data necessary to prove that they are indeed representative.

2.1.5 At all events, there appears to be a need to step up external scrutiny, even though some of the measures proposed by the Commission to achieve this are already in force in many Member States. The first measure suggested concerns the information provided by lobby groups, which would be improved by means of a dedicated questionnaire on the Commission website.

2.1.6 The most important tool is the voluntary Internet-based register, which would help to provide the information required for assessing organisations' stated aims and sources of funding. It should be noted at this point that many of the European Commission's Directorates-General already have a system for recognising accredited organisations, which helps to facilitate relations with them.

2.1.7 Another issue worth highlighting is that of the codes of conduct, which would apply equally to all lobby groups and their representatives, regardless of their category. The idea is that these codes, which would be adopted on a voluntary basis and drawn up independently by the groups themselves, would share a number of minimum requirements.

2.2 *Feedback on the minimum standards for consultation*

2.2.1 It should be pointed out that under its annual work programmes, the Commission has laid down a number of minimum standards for consultation, in order to improve the quality of legislative proposals; hence the importance of the final results for the impact assessment. Nevertheless, there is a set of decisions that remain outside the scope of this consultation, such as the comitology procedure and social dialogue, as set out in Articles 137 to 139 of the EC Treaty, referred to below.

2.2.2 Since this procedure was put in place, the Commission has found it satisfactory, not only in terms of the number of proposals consulted on, but also in terms of the results, especially through its Internet portal.

2.3 *Disclosure of beneficiaries of Community funds*

2.3.1 To date, most Member States have developed information channels for publishing lists of beneficiaries of Community funds that they co-finance. The most noteworthy example is the publication of beneficiaries of the CAP. Nevertheless, it is a fact that the data obtained varies from one country to another, as does the information concerning the use of funds in policies directly funded by the EU.

2.3.2 The proposal is for the Commission to make this information available centrally. The issue is the complexity of categorising the different beneficiaries and the administrative costs that this might entail. One solution might be, whilst complying with data protection standards, to establish minimum information requirements.

3. **The most important issues contained in the Green Paper**

3.1 In relation to the first of the issues raised — transparency and lobbying, the following questions arise:

3.1.1 Measures to improve transparency in the activities of lobbyists.

3.1.2 Are lobbyists to be consulted automatically if they feature on a register?

3.1.3 Would there be unrestricted public access to the register? Who would oversee this register?

3.1.4 Should the codes of conduct currently in force be amended?

3.1.5 Should compliance with the codes of conduct be monitored and should it even be possible to impose sanctions?

3.2 As regards feedback received during the consultation process, there is only one issue:

3.2.1 Is the Commission's application of the general principles and minimum standards for consultation satisfactory?

3.3 Disclosure of beneficiaries of EU funds raises the following questions:

3.3.1 Should all Member States be obliged to provide information on the beneficiaries of EU funds?

3.3.2 If the answer is yes, should this be done at national level and have a set content?

4. **General comments**

4.1 The EESC welcomes the European Commission's Green Paper on Transparency. The existence of many interests that seek to influence Community policy requires the Commission to establish standards regulating the way in which this influence can be exerted and also the requirements that must be met by the individuals and organisations representing these interests.

4.2 However, the term 'lobbyists' and the nature of their relationship with the Commission must be defined in advance and this definition should leave no room for misunderstanding.

4.2.1 The Green Paper's ([1]) definition of 'lobbyists' is confusing to say the least, because it lists socio-professional organisations, NGOs, trade associations, etc., that carry out activities 'with the objective of influencing the policy formulation and decision-making processes of the European institutions'. The EESC has already developed the concept of 'civil society organisations' ([2]) in order to differentiate these from lobby groups. Furthermore, Articles 137 to 139 TEC lay down the conditions under which 'management and labour' can enter into social dialogue ([3]). Organisations which carry out lobbying activities in the EU differ in their aims, their structures and in

([1]) Green Paper II. 1. p. 5.

([2]) See, in particular, the Committee Opinions on 'The role and contribution of civil society organisations in the building of Europe' of 23 September 1999 (OJ C 329, 17.11.1999), 'Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper' of 26 April 2001 (OJ C 193 of 10.7.2001), 'European Governance — a White Paper' of 21 March 2002 (OJ C 125 of 27.5.2002), and 'The representativeness of European civil society organisations in civil dialogue' of 14 February 2006 (OJ C 88 of 11.4.2006).

([3]) It should be taken into account that Article I– 48 of the European Constitution sets out the role of social partners and autonomous social dialogue, differentiating it from consultation of the so-called interested parties named in preceding articles.

the interest groups they support. Industrial, employers' and employees' associations, which represent the interests of thousands, if not millions, of European companies or employees should, therefore, not be counted amongst organisations and interest groups that carry out lobbying activities in pursuit of narrow commercial or other interests, given that they represent a broad range of common, public interests in society and enhance industrial and economic development, as well as economic and social progress. These organisations are not profit oriented. The public are well aware of their activities, which are aimed at the common good; the press reports on these in detail; and they themselves have an interest in ensuring that as much information as possible is provided on their activities. These organisations are, in fact, social partners who take part in social dialogue at European level, together with state institutions.

4.2.2 It would therefore be advisable to state precisely who is meant by the term 'lobbyists', and especially to acknowledge that their existence is part and parcel of participatory democracy in the EU.

4.2.3 In order to ensure the principle of participatory democracy, Article I-46.3 of the draft Constitutional Treaty states that '*Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.*' In addition, Article I-47.3 recognises that '*The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.*'

4.2.4 With regard to the activities of 'lobbyists', a distinction should be made between access to information and consultation. EU citizens have a right to information; this is an integral part of the transparency that all EU institutions must demonstrate. Consultation is limited to those that have a legitimate interest in Community policies.

4.2.5 The Commission adopted 'minimum standards for consultation' ([4]) an attempt to establish a general transparent, coherent and yet flexible framework that would allow for consultation on policies in specific areas, especially in those requiring an impact assessment. The Green Paper takes a new approach to, and improves some of, the conditions for the participation and consultation of interested parties. This is reflected in the transparent results of these processes.

5. Specific comments on the questions raised in the Green Paper

5.1 **Register.** The registration requirement should be considered a precondition for the acquisition of a right, such as the right to compulsory consultation of the interested parties on the subjects that concern them. In this respect, the EESC considers that a compulsory register is a minimum requirement for the transparency with which consultation on Community policies should take place and above all to ensure that this is not done to benefit in ways that run counter to the general interest.

5.1.1 The public nature of any register is beyond question. Furthermore, this register should be overseen by the Commission, its public nature excluding any other form of management. Finally, regardless of the compulsory registration system selected, the extent of the information to be provided by the interested parties must be proportionate to the objective pursued, namely enabling European citizens to be informed about the interest groups which wish to influence the policies and decisions of the Union.

5.1.2 With this in mind, it should be made clear what contribution lobbying groups make to EU bodies and institutions, who they represent, what objectives that pursue and how they are financed. As a minimum requirement, this information should include, in addition to the organisation's name and headquarters, its business name, in line with the aims pursued by the organisation in question, the names of the persons authorised to represent it and to speak on its behalf, and any relevant information which might shed light on its statutes and revised financial accounts.

5.2 **Code of conduct.** The existence of a code of conduct should be linked to compliance with various minimum conditions for the acquisition of a certain professional or political status. This condition must be seen as an instrument related to the compulsory nature of the register. Compliance with it by those requesting inclusions will guarantee the right to consultation by the Commission and the other Community bodies.

5.2.1 The EESC is of the view that the Commission should adopt a binding code of conduct, thereby ensuring de facto and de jure equal treatment between all parties concerned, linked with a compulsory registration system, similar to the one established by the European Parliament ([5]), adapting its content to the type of consultation sought and in particular with regard to the consequences of failure to comply.

([4]) COM(2002) 704 final — 11 December 2002.

([5]) European Parliament Rules of Procedure, Annex IX. Article 3 : Code of conduct

'1. In the context of their relations with Parliament, the persons whose names appear in the register provided for in Rule 9(4) shall:
(a) comply with the provisions of Rule 9 and this Annex;
(b) state the interest or interests they represent in contacts with Members of Parliament, their staff or officials of Parliament;
(c) refrain from any action designed to obtain information dishonestly;
(d) not claim any formal relationship with Parliament in any dealings with third parties;
(e) not circulate for a profit to third parties copies of documents obtained from Parliament;
(f) comply strictly with the provisions of Annex I, Article 2, second paragraph;
(g) satisfy themselves that any assistance provided in accordance with the provisions of Annex I, Article 2 is declared in the appropriate register;
(h) comply, when recruiting former officials of the institutions, with the provisions of the Staff Regulations;
(i) observe any rules laid down by Parliament on the rights and responsibilities of former Members;
(j) in order to avoid possible conflicts of interest, obtain the prior consent of the Member or Members concerned as regards any contractual relationship with or employment of a Member's assistant, and subsequently satisfy themselves that this is declared in the register provided for in Rule 9(4).

2. Any breach of this Code of Conduct may lead to the withdrawal of the pass issued to the persons concerned and, if appropriate, their firms.'

5.3 **Feedback on the minimum standards for consultation**: every DG is obliged to undertake an impact assessment of the consultation, accompanied by a list of those who have been consulted, but only for the Commission's strategic proposals. The EESC considers that this evaluation or feedback should be provided for all proposals on which public consultation takes place. To improve consultations, the Commission should address certain important issues, such as:

— the languages in which the consultations are carried out

— the neutrality of questions asked

— the weighting of individual positions and comments of organisations taking part in the consultations according to their representativeness.

5.3.1 We believe that the information on general consultation is insufficient, that each organisation consulted should receive the relevant specific information, and that longer deadlines should be established to allow for debate within the organisations themselves. Broad consultation via the Internet could result in the same weight being given to the opinions of individuals or non-representative organisations as to those of organisations whose viewpoint reflects a position shared by member organisations in a number of countries.

5.4 **Disclosure of beneficiaries of Community funds** The EESC proposes that, just as the beneficiaries of funds managed by the Commission are disclosed, the beneficiaries of funds managed by all the European institutions should also be disclosed, as should the beneficiaries of funds jointly managed by the Member States, as the latter are responsible for allocating these funds.

5.4.1 Some Member States are exemplary in the way they comply with current publishing obligation, in the area of EU agricultural assistance for example; others less so. The EESC calls for it to be made compulsory for all Member States to disclose all information relating to beneficiaries in the framework of the EU funds under shared management and also to publish this information on the internet.

5.5 The EESC would like the Commission to consider whether it would be advisable for any monitoring of the outcome of the consultation procedure also to apply to the members of the Commission performing these tasks, as set out in Article 213(2) TEC; it also calls for strict compliance with Articles 11 and 16 of the Staff Regulations. All parties involved in a consultation and decision-making procedure must be considered, so as to ensure transparency and that the institutions act correctly.

Brussels, 26 October 2006

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Proposal for a Decision of the European Parliament and of the Council establishing an action programme for customs in the Community (Customs 2013)

COM(2006) 201 final — 2006/0075 (COD)

(2006/C 324/26)

On 22 June 2006 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Batut as rapporteur-general at its 430th plenary session, held on 26 October 2006, and adopted the following opinion by 108 votes in favour, with four abstentions.

1. **Introduction**

1.1 In all countries, the customs administrations protect national economic interests and traditionally make on-the-spot seizures of goods in transit using procedures based on the principle of immediate intervention. Following the establishment of the Common External Customs Tariff in the 1960s, the creation of the internal market in 1993 abolished border controls between the EU Member States, making the free movement of goods and services possible. Intra-Community trade in goods, the volume of which has practically doubled since the removal of the internal borders, makes up the largest share of Member State trade.

1.2 The national customs administrations operating within the European Community remained virtually unchanged for many years. The structure of the customs authorities and their staff were organised on a national level in each Member State.

1.3 The activity of the customs authorities has, however, become less clearly defined in the wake of the creation of the European Union, the digital revolution and the development of networks, where borders do not apply. The Commission's 'Customs 2013' proposal advocates the more active integration of customs practices, in line with the objectives of the Lisbon Strategy, without integrating the customs administrations themselves, whose national role remains fundamental. Nonetheless, the interests to be protected are those of the Union and the citizens and consumers who live there.

2. **Background of the proposal**

2.1 *Customs 2000*

2.1.1 **As early as 1995**, the European Commission put forward a five-year programme called *Customs 2000* which was subsequently followed by *Customs 2002*. Over time, the national customs authorities were to start working as a 'single administration' with regard to the procedures used. '*The trading area without internal customs frontiers within the 15 Member States requires uniform customs clearance for equivalent transactions in all places in the customs area*'. The methods advocated were cooperation, the uniform application of customs law within the EU and at its perimeters, the creation of a communications network accessible to all economic stakeholders, the improvement of customs administrations and their staff, and the development of IT systems and electronic customs clearance systems ([1]).

2.2 *Customs 2002*

2.2.1 ***Customs 2002*** set up a Customs Policy Group and Customs Committee in 2002, bringing together the various approaches of the representatives of the Commission and of the Member States with regard to methods, measures, assessments, investments, IT platforms, the modernisation of procedures, monitoring standards, cooperation against counterfeiting, support for candidate countries and the exchange of customs officials.

2.2.2 At the time, the EESC endorsed the creation of an IT customs communications system at EU level with '*the active involvement of business and professional circles — firms, associations, Consultative Customs Committee, ESC — in the official decision-making process*' which '*encourages mutual understanding and prevents unnecessary difficulties in implementation*'. It highlighted the potential simplification that this would introduce. At that time, the Committee recommended examining the possibility of the Commission pooling information at central level, and establishing a European Community customs investigation service (EUROCUSTOMS, similar to EUROPOL) over the medium term, taking account of the '*undeniable need for 'a common core of training' in customs law and procedure for customs officials in the Member States*' which, '*besides respecting the subsidiarity principle, should take account of the different careers open to customs officials*' ([2]). The decision-making institutions did not act on the Committee's recommendations.

([1]) OJ L 33 of 4 February 1997 and OJ L 13 of 19 January 2000.
([2]) OJ C 174/14 of 17 June 1996.

2.3 *Customs 2007*

2.3.1 A new five-year programme, entitled **Customs 2007** ([3]), was subsequently adopted, which revised and expanded the previous programme. Its objective was not limited solely to trade and customs activity but also focused on the need to protect the EU's financial interests and on the creation of a secure, risk-free environment for its citizens. The globalisation of the world's economy proceeds apace, along with the upheavals that this entails. Customs has an important role to play in the regulation of the commercial environment. Rapid advances in technology have made the ambition of integrated customs procedures achievable. The objective of Customs 2007 is to ensure that all EU Member States implement Community legislation in the field of customs policy in a consistent and professional manner. Accordingly, best practices, exchanges of personnel, seminars and follow-up activities occupy an important place in this process, alongside increased use of IT.

2.3.2 For its part, the Committee recommended that *'the Commission should play a more pro-active role in monitoring standards of control in Member States'* and that *'this could be achieved, in part, by the appointment of a system of Community-wide customs inspectors'* ([4]).

2.3.3 In its opinion, the EESC acknowledged that one of the objectives of enhanced customs services could be to improve the competitive environment for business and foster employment, whilst supporting legitimate commercial and trading activity. It believed there was a need for a means of monitoring progress in the early stages and taking corrective action if necessary. Its recommendations were taken on board ([5]).

2.3.4 **The intermediary report** showed that, as a rule, operators and stakeholders were generally satisfied with the Customs 2007 programme, but that it would be necessary to reconcile the Community's ambition to foster commerce with existing security requirements, and that there was some concern regarding the computerisation of customs. The programme significantly contributed to the aim of the national customs authorities to work as a single administration.

2.4 *2006*

2.4.1 **Three major European texts** on customs were published in 2006:

— the proposal for a Regulation on *Modernised Customs Code*;

— the proposal for a Regulation on Paperless environment for customs and trade;

— the document presently being examined in this opinion.

2.4.2 **The Community Customs Code**, which is to be modernised by a Regulation of the European Parliament and of the Council and on which the EESC issued an opinion on 5 July 2006, is also a key reference document for understanding the Customs 2013 programme, which aims to help keep legislation in step with evolving markets and technologies, and successive EU enlargements. IT use is becoming increasingly widespread; administration *will have to be* on line; computerised procedures that were previously optional are now *compulsory* under the new code, making the task easier for large operators, possibly at the expense of smaller businesses. Moreover, non-tariff related measures have come to the fore, covering issues such as combating counterfeiting, security, controlling illegal immigration, money laundering and drug trafficking, hygiene, health, the environment and consumer protection, as well as measures relating to VAT and excise collection. The Member States continue to be the driving force behind the plan; they bear the costs of the scheme — particularly as regards IT interoperability — and their customs authorities are empowered to carry out all manner of controls; nonetheless, the Commission is gradually increasing its own regulatory powers (Art. 196 of the proposed regulation) particularly with regard to the customs systems, the Member States and international agreements. The modernised code will redefine the roles and the status of all stakeholders involved in customs procedures.

2.4.3 The requirement to be online will, naturally, lead to the **introduction of a paperless environment**.

2.4.3.1 The proposal for a decision on electronic customs administration provided for a series of measures and timelines for making the electronic customs systems of the various Member States compatible with one another, thereby creating a single shared IT portal. Communication would thus become more efficient between operators and the customs authorities, and help speed up the exchange of information between these authorities. Paper versions of documents would only be drawn up in exceptional circumstances. The Commission also plans to set up a *single interface* that would allow *reliable operators* (intervening parties and 'recognised operators' — Articles 2, 4, 13 and 16 of the proposal for a regulation on the modernised Customs Code) to have dealings with only one institution and not, as is currently the case, a variety of border control authorities. Information, particularly customs related information, would thus only be transmitted once. This would mean the inspection of goods by customs authorities and others (police, border police, veterinary and environmental services) at the same time and in the same place, in accordance with the 'one-stop' principle.

2.4.4 In its opinion of 13 September 2006, the EESC stated that Community customs management should be one of the long-term objectives of the European Union: *'this has advantages in terms of simplicity, reliability and cost, as well as the possibility of interconnecting with other EU and third country systems'*.

3. **Customs 2013 Programme**

3.1 Interoperability, cost reduction, best practices: the Customs 2013 Programme currently being examined represents the continuation of the previous programmes outlined above and is the successor to Customs 2007. Its aim is to contribute to further progress in this area which is characterised both by fragmented yet closely interlinked procedures and by modern

([3]) COM (2002) 26 final — 2002/0029 (COD).
([4]) OJ C 241/8 of 7 October 2002.
([5]) Idem footnote 4.

procedures that aim to speed up the trade in goods and to facilitate trade and the freedom to trade, whilst maintaining controls. The European Commission ([6]) believes that customs is the only means of providing an overall and cross-sectoral snapshot of the economy. The situation is much more complex than previously due to the interaction between flows of goods and persons. According to its representatives, managing this complex situation will necessitate a flexible approach and means in order to ensure the competitiveness of the EU's businesses both on the internal and the global markets.

3.1.1 The new programme's period of application runs from 1 January 2008 to 31 December 2013, a six year period, bringing its duration in line with the multi-annual financial framework.

3.1.2 The objectives of the programme outlined in Article 4 (1) of the proposal, aim, through assistance to its addressees, to:

a) guarantee that the customs activities match the needs of the internal market, including supply chain security;

b) ensure interaction and performance of the duties of the customs administrations as efficiently as though they were one administration;

c) provide necessary protection for the financial interests of the Community;

d) strengthen the security and safety of citizens;

e) prepare for enlargement, including the sharing of experience and knowledge with the customs administrations of the countries concerned.

3.1.3 Joint actions and IT actions

The actions to be undertaken to implement the programme (Art. 2) reflect and build on those put in place by Customs 2007 and adopt a twin-track approach based on: material resources (hardware and software) and human resources (joint action and training):

a) communication and information-exchange systems;

b) benchmarking;

c) seminars and workshops;

d) project groups and steering groups;

e) working visits;

f) training activities;

g) monitoring actions;

h) any other activities required for the realisation of the objectives of the programme.

Accordingly, they aim to create a computerised, pan-European customs system.

3.1.4 **The addressees** of the actions (Article 3 — participants) are primarily the Member States, and then, given the role of customs in the international economy, to varying degrees the candidate countries, potential candidates, countries linked to the European Union through the European Neighbourhood Policy, and third countries.

3.1.5 The various **stakeholders** are defined in several articles in the proposal.

3.1.5.1 Recital 6 ([7]) states that there is a need to '*strengthen relations between the customs* ***administrations*** *of the Community, as well as with* ***business***, ***legal*** *and* ***scientific circles***, *or other* ***operators*** *engaged in foreign trade*'. The 2013 programme should allow people representing these groups or entities to participate, if necessary, in activities covered by the programme.

3.1.5.2 The following should be considered to be stakeholders: firstly, national administrations, as defined in Article 2 (2), namely '*the public authorities and other bodies in the participating countries which are responsible for administering customs and customs related activities*'; next, at Community level, **the Commission, assisted by the 'Customs 2013 Committee' (Art. 19), the Customs Policy Group** made up of the various national institutions, then, in accordance with Article 14, '***representatives of international organisations, administrations of third countries, economic operators and their organisations*** *who may take part in activities organised under the programme whenever this is essential*' to carry out the objectives mentioned in Articles 4 and 5. Lastly, '*the Commission may make the communication and information exchange systems available to* ***other public service*** *for customs or non-customs purposes provided that a financial contribution is paid to the programme*' (Art. 7(6)). Taken as a whole, and considering the regulatory role that customs plays in international commerce, there is a substantial number of stakeholders.

3.1.5.3 Finally, the Commission suggests that the 'implementation of this Community programme should rest on recourse to service suppliers by means of technical and administrative assistance contracts' ([8]) and, in the future, 'reserves itself the possibility of examining whether certain tasks of implementation of this programme could be entrusted to an executive agency'.

3.1.6 *The budget*

3.1.6.1 Interoperability will facilitate the exchange of information between different countries' authorities; through interfaces with commercial operators, Customs 2013 contributes to the implementation of the decisions on the *Modernised Customs Code* and *Paperless customs*. Once it is fully operational, the new computerised system will complete the single internal market, whose only borders will be the external ones. The 2013 programme takes into account the global dimension of markets and the relationship with third countries which may become 'participating countries' and be eligible for aid.

([6]) Hearing of 18 September 2006 of TAXUD — A/2 — Directorate General for Taxation and the Customs Union.

([7]) COM(2006) 201 final, p. 11.

([8]) In: Explanatory memorandum, 4) Budgetary implication.

3.1.6.2 Implementing the programme is primarily the responsibility of the participating countries (11th recital). The total funding from the EU budget amounts to EUR 323.8 million (explanatory memorandum, point 4, and Article 16(1)), but this will not cover the full cost, which will largely be borne by the Member States. In theory, the aid provided by the Customs 2013 programme would represent EUR 2 million per Member State per year over six years, but the 'participating countries' will be greater in number than the 27 Member States.

3.1.6.3 The costs will be shared between the EU and the participating countries in the following way (Article 17):

— '2. The Community shall bear the following expenditure:

a) the cost of the acquisition, development, installation, maintenance and the cost of the day-to-day operation of the Community components of the communication and information exchange systems set out in Article 7(3);'

and the costs of organising meetings required for the purposes of joint actions;

— '6. Participating countries shall bear the following expenditure:

a) the cost of the acquisition, development, installation, maintenance and the cost of the day-to-day operation of the non-Community components of the communication and information exchange systems set out in Article 7(4);

b) the costs relating to the initial and continuing training, including the linguistic training, of their officials.'

3.1.7 *Staff*

3.1.7.1 The draft emphasises the **need for robust training** and skills to make the whole thing work. The needs of national customs staff in this area are taken into account by Article 12 of the draft. The idea is that *'structured'* cooperation between national training bodies responsible for training in customs administrations will set off a chain reaction: programmes and *'training standards'* will be drawn up at Community level *'to provide a common core of training for officials relating to the full range of customs rules and procedures so as to enable them to acquire the necessary professional skills and knowledge'* (Article 12(a)). The training courses provided may be opened up to officials from other countries (Article 12(b)), and the core tools will have to be fully integrated within their national training programmes by national customs authorities (Article 12(2)), who of course are also to ensure that *'their officials receive the initial and continuous training necessary to acquire the common professional skills and knowledge'* and linguistic training, at their own expense (Article 12(2)).

3.1.7.2 Thus, the training itself will not be provided by the EU, but the content will be. The Commission opts for a tree structure, but does not rule out, *'where appropriate', 'the development of the necessary infrastructure and tools for common customs training and customs training management'* (Article 12(1)(c)).

3.1.7.3 In addition, in order to achieve the complementarity already advocated by the EESC, the draft mentions *'the consideration of the opportunities to develop training activities with other public services'* (Article 12(d)). Thus, the cost of the acquisition, development, installation, and maintenance of training systems and modules could, to the extent that they are common to all participating countries, be financed by the programme (Article 17 (d)).

3.1.8 *The Commission's role*

3.1.8.1 This is at the heart of the tree structure. There is no Community structure, but the Commission is the central stakeholder. It will itself determine who are the approved operators for whom the criteria are not yet defined (Article 196 of the Modernised Community Customs Code, MCCC), which public services other than customs could have access for non-customs purposes (explanatory statement to Article 7) to secure data, training, what new private operators (legal and scientific areas) could get involved.

4. **General comments by the Committee**

4.1 The Committee regrets that, despite the obviously interconnected nature of the above-mentioned dossiers and their importance both for authorities and for the women and men who serve them, they were presented by the Commission over the course of 2006 in no particular order, even though they deal with issues that are neither urgent nor entirely new, but are all interlinked.

4.2 It thus regrets even more deeply that it had to rush to draft this opinion for reasons linked to the current budget preparation agenda when, as has already been said, this proposal has to be seen in a very wide context, the impact of which in relation to this procedure was entirely predictable.

4.3 The EESC believes that it would inevitably be damaging if customs union, which has been the spearhead of European economic integration, were now to fall behind the world of international trade that it is supposed to regulate and which is in a state of constant change. IT is of course part of its armoury and the infinite possibilities it offers must serve both operators and supervisory authorities. Consequently, the Committee supports the Customs 2013 programme and the budget increase enabling aid to participating countries to continue, inter alia to modernise their tools, make stakeholders accountable and train their officials.

4.4 Sharing knowledge, joint actions, follow-up actions: these are good things both for the proper functioning of interoperability and for helping stakeholders to get to know one another, but which will be reserved for a small number of customs officers.

4.5 The EESC notes that, as it requested in the past in respect of previous programmes, an evaluation process is to be put in place. It supports this, but regrets that, for the time being, there is no indication as to what indicators will be used.

4.6 However, the Committee has some reservations:

4.6.1 *'There is a need for customs action to give priority to improve controls and anti-fraud activities'* but, at the same time, *'minimise the cost of compliance with customs legislation for economic operators', 'ensure an efficient management of the control of goods at the external borders and protect the citizens of the Community as regards safety and security of the international supply chain'* (3rd recital).

4.7 However, the EESC believes:

4.7.1 That proposing the objective of *'provid[ing] an equivalent level of protection to the citizens and economic operators of the Community at any point in the Community customs territory'* (see 2nd recital) is a laudable objective, but an insufficient one for the taxpayer, the operator and, above all, the citizen, if 'equivalence' is not synonymous with 'excellence' of the highest level. Safety, for example, is a teddy bear that has been inspected in accordance with EU standards and has thus been authorised to enter the EU because the customs officers have established that its eyes cannot be torn out and will thus not choke a child. The text of the proposal posits the principle of control and safety without going into detail; it should be equivalent at any point in the territory, and also be as good as possible.

4.7.2 The objective of reducing administrative costs and automating tasks by means of expensive computer systems, when coupled with the obligation on Member States' budget authorities to comply with the maximum levels of public deficit and debt permitted by the Treaties, may lead managers of national authorities to reduce staffing levels independently of one another, thus making cooperation difficult, and/or to externalise their costs by means of a degree of privatisation, which may cause legal uncertainty for operators and citizens vis-à-vis services with significant powers.

4.7.3 That the freeing up of trade that is being sought may lead to an increase in fraud (legal commercial goods) and trafficking (illegal goods), against which there would be fewer physical checks; it would have been useful to demonstrate if the fight against fraud by means of electronic checks can work effectively and in an equivalent way in all the participating countries with few officials. The Committee believes that the number of checks always depends on political decisions and the desired relationship between free trade and public safety, but is aware that their implementation depends on officials and the resources available to them. Moreover, the balance between freedom and security is lost if the desire to free up trade by a de facto reduction in the number of checks and the staff who carry them out overrides security imperatives, which the EESC notes are not mentioned in detail in the draft. The Union defines customs policy, but national authorities are responsible for running their structures; they could advantageously reorganise these without destroying them.

4.7.3.1 The Committee stresses that, on two earlier occasions in relation to the above-mentioned previous texts on customs, it advocated a certain degree of centralisation of action and of structures. However, since 2005 ([9]), the European Commission has gone down the road of a network based on greater cooperation between national customs computer systems, believing that this should lead to increased checks at the same time as simplifying procedures. Interoperable, paperless procedures in practice mean significant restructuring of customs services at national level, with the closure of offices open to those making declarations and a commensurate reduction in the intervention force available to customs in the event of a public health (mad cow disease) or security (terrorism) emergency, and upheaval for staff.

4.7.3.2 The Committee also repeats a criticism made when the previous texts were published ([10]): *'there is no proper awareness of the interdependence between different public administrations in the fight against crime'*, though this may be mitigated here by the fact that provision is made for a possible opening to other public services (Article 7(6)).

4.7.3.3 In general terms, recognising the pivotal role in worldwide trade of the Customs Union and the national administrations that enforce it ought perhaps to have led the Commission to state that this role can only be devolved to the public authorities.

4.7.3.4 The interim evaluation report for Customs 2007 has highlighted the severity of the language problem that hinders customs officers in their trans-national activity; the EESC believes that this is not sufficiently taken into account in the 2013 programme, which leaves it up to participating countries. This issue should be a European concern.

([9]) Communication from the Commission on Fiscalis 2013 and Customs 2013. COM(2005) 111 final, 6.4.2005.
([10]) COM(2005) 608 final.

4.7.3.5 Against the backdrop of a globalised economy, the Commission could have included a reference to an action with respect to educating third countries and emphasised prevention and training for national authorities of certain countries that are known for harbouring fraudulent channels (in particular counterfeit goods) so that they are able to see the extent to which this harms their own economies and to teach them techniques for carrying out internal checks on this phenomenon.

5. **Specific comments**

5.1 *Article 3 of the proposal: Participation in the programme*

5.1.1 The Commission proposal sets out the actions to be carried out on both the old and the new borders of the Union and with the ENP countries and to increase cooperation with non-EU countries. They could be involved in certain activities under certain conditions. The Committee believes that this is very important to ensure the fastest possible compliance with the principle of equivalent treatment if and when these countries join the EU. However, the conditions that must be met in order for them to receive aid under Customs 2013 are not specified in the text.

5.2 *Article 5(1)(i): Improving cooperation*

5.2.1 The Commission rightly wants 'to improve cooperation between customs administrations of the Community and third countries'. It might perhaps have mentioned the World Customs Organisation as one of the international organisations that might take part in the programme (Article 14).

5.3 *Articles 3, 10, 14, 19, 6th recital*

5.3.1 These set out the stakeholders who, alongside the Commission, the Customs 2013 Committee (Article 19) and national authorities will make the programme work by continuing actions already undertaken. The type of contribution they will make and the relationships they will have to one another is not precisely set out in the text. Whilst providing expertise, some of them remain 'indebted' users; participating countries are not all on the same level. Representatives of international organisations, of third country authorities, of economic operators and their organisations (Article 14) can participate in the programme, but only Member States will be part of 'project groups… and steering groups which shall perform activities of a coordinating nature' (Article 10).

5.3.2 Where the texts are not specific, the Commission decides. In accordance with the Modernised Customs Code, it will determine the conditions for becoming an approved operator; in accordance with Article 194 thereof, it can decide alone to change the standards for interoperability of customs systems, and determine itself the instances in which it wishes to request Member States to alter their decisions. It will decide on which public and private services will participate in Customs 2013 and will thus, free of charge or on a fee-paying basis, benefit from its databases, and on what the conditions are for eligibility for aid under the programme (participating countries).

5.3.3 Whilst it is aware that such an undertaking needs to have an efficient driver, the Committee wonders to what extent the integrated system will be publicly accountable, and would like everything possible to be done to avoid ending up with a network in the hands of super-technicians that would turn the tree structure into a nebulous one over which citizens and their representatives would cease to have any control. It believes that dismantling customs organisations and handing their tasks to independent or private organisations such as agencies or to subcontractors would constitute an additional risk.

5.4 *Article 17 The budget*

5.4.1 Implementing the programme is primarily the responsibility of the participating countries (11th recital). The total funding from the EU budget amounts to EUR 323.8 million (explanatory memorandum, point 4, and Article 16(1) and, as stated above, this will in theory represent only EUR 2 million per Member State per year over six years. The biggest contribution to finally achieving an integrated European customs service will come from the Member States who manage the staff and the infrastructure, both from the public and private sectors.

5.4.2 The Committee notes that the draft text does not specify the technical distribution of sums allocated that the *Impact Assessment* ([11]) study put at EUR 259.6 million for IT and only EUR 57.4 million for activities aimed at people.

5.5 *Article 8 and Article 12(d) Training activities*

5.5.1 The EESC believes that, in the Member States, the people who work in business and for operators, as well as in the customs authorities, will be faced with an acceleration of the reforms that have already been started and that, despite the training that they will be offered, some of them, including officials, should have the option of benefiting from some kind of social package if they are unable to cope with the changes. This should be offered for a transition period that takes account of the period in history during which this programme is being implemented (the baby boomer generation leaving the labour market).

5.5.2 In addition, in order to achieve the complementarity already advocated by the EESC, the draft mentions *'the consideration of the opportunities to develop training activities with other public services'* (Article 12(d)). It would have been helpful if the Commission had specified which services, and which participants in the programme were to provide the training.

([11]) Commission staff working document *Customs 2013 — Impact Assessment*, p.30 — document Commission SEC(2006) 570.

5.6 *Article 13: Monitoring actions*

5.6.1 As knowing one's interlocutor leads to greater trust and greater efficiency in cross-border relations, the Committee believes that these joint visits should be for the most part be made by rank and file officers, and not just by the customs services, as was the case in the old Mattheus programme.

6. **The Committee's recommendations**

6.1 In 2005, the Commission Communication announcing the Customs 2013 programme said that the future programme should 'allow for co-financing from first and third pillar programmes' on the grounds that it was impossible to confine customs actions to a specific pillar. However, this is not the case for Customs 2013. This seems to be at odds with the task that falls in part to customs to fight large-scale trafficking and to human and territorial safety, a mission that comes under the JHA pillar. The Committee would like this possibility of financing based also on the third pillar to be looked at in order to facilitate complementarity between anti-fraud services and to avoid duplication of costs.

6.2 The EESC believes that it is necessary to look at how customs law — where common law is inadequate — can be developed to reflect the way customs now operate, in particular in the areas of computer fraud, piracy, and of penalties: the Union will have a single market, an interoperable customs network, authorities working in unison, common definitions of offences, but customs penalties that remain different, which would only lead to diversion of traffic and thus different treatment according to the point of entry to the customs territory, which would defeat the object of the whole programme.

6.3 Replacing the Mattheus programme with working visits demonstrates the abandonment of the notion of interchangeability of officials within the territory of Europe that motivated the said former programme. Mobility is now across the network, but the Committee believes that working visits should not be any shorter than the exchanges that took place in the past and should be carried out by as many officials as possible so that they can get to know their counterparts and their methods.

6.4 The EESC believes that research should be done into how the programme might contribute to the provision of assistance, during the 2008-2013 transition period, to staff affected by the restructuring brought about by the introduction of permanently computerised customs services in Member States; if necessary, through some form of social package.

6.5 The Committee would like the following to be clarified for the public in the Customs 2013 programme:

a) the position of actions by customs, with details of the public services that may be given access to their commercial or other data, whether free of charge or otherwise;

b) the position of European customs vis-à-vis other customs systems in the world (in relation to security issues);

c) the (qualitative and quantitative) degree of cooperation expected from potential candidate countries, neighbouring countries and third countries, and the part of the budget that will be devoted to this;

d) the nature and the expected role of international organisations that may take part in activities organised under the programme.

Brussels, 26 October 2006

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS