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III

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

435th PLENARY SESSION HELD ON 25 AND 26 APRIL 2007

Opinion of the European Economic and Social Committee on the Value and supply chain development in a European and global context

(2007/C 168/01)

On 6 July 2006 the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Value and supply chain development in a European and global context*.

This decision was confirmed on 26 October 2006.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 March 2007. The rapporteur was Mr van Iersel. The co-rapporteur was Mr Gibellieri.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 130 votes to one, with four abstentions.

Part I — Conclusions and recommendations

A. The EESC requires the focused attention of decision-makers, together with interactive EU and national approaches, on the concept of value and supply chain development or, rather, that of networked industry and corporate interaction.

B. These dynamic processes call for adaptation and adaptability in running all aspects of companies, including product definition and design, services, marketing and management of financial and human resources. These tasks are often outsourced. Networking means that companies are becoming more and more interwoven worldwide and that manufacturing and services are becoming ever more integrated.

C. There are substantial differences in how companies are affected by this state of affairs, depending on their size, their position in supply chains/networks and the sectors in which they operate. Large multinational companies are generally well placed in this networking process at all stages. By contrast, relatively small and medium-sized suppliers, which intervene at initial or intermediate stages (first, second, third ... supplier), often come up against obstacles, as set out in Part II. In this document, they are referred to as IICs (initial and intermediate

companies — a term coined specifically for the purposes of this opinion) ⁽¹⁾.

D. The overwhelming majority of jobs in the private sector are in 'less-than-large' companies (see item C). The most innovative and creative of these firms are of decisive importance in the networked economy. The volume of this development is so significant that it has not only a considerable impact at microeconomic level, but also in macroeconomic terms.

E. The EESC deems it necessary to improve the environment in which IICs operate. This opinion (see sections 3 and 4 in Part II) identifies the main challenges and puts forward a number of policy proposals such as:

— changing attitudes towards IICs;

⁽¹⁾ Accordingly, this opinion does not refer to small and medium-sized enterprises as defined by the European Commission and most Member States ('SMEs'). The smaller companies referred to are suppliers that may have several hundreds of employees, whilst medium-sized suppliers may have as many as thousands of employees. Both of these occupy an initial or intermediate position in value chains; in other words, they are not the final — usually larger — producers/providers. These companies are not defined in terms of measurable corporate data (turnover, employment) but rather in terms of their position in the value and supply chains. Suppliers of raw materials, tending to be large companies, do not fall within the scope of this opinion although they occupy the opening stage in production processes.

- improving cooperation and mutual trust amongst these companies;
- facilitating access to finance;
- reducing lock-in/lock-out effects;
- enforcing intellectual property rights;
- combating distortions of competition by the consistent, more efficient and timely use of EU trade defence instruments in order to avoid unfair imports;
- fostering skills and entrepreneurship;
- attracting qualified young people, especially in engineering fields, to IICs;
- implementing the EU new-style industrial policy, including its sectoral approach;
- making optimum use of FP7;
- enacting focused legislation and cutting red tape.

F. The lack of an established definition of IICs makes it difficult to grasp their full significance in industrial change and globalisation processes. Much more should be done to increase the awareness of the part they play. If any/all of the proposals under E are to be implemented, a number of prerequisites must be met by companies themselves, others by policy makers and yet more by a combination of the two. In any event, any such implementation must be carried out in close cooperation with all relevant stakeholders. In the same vein, sectoral dialogue committees operating at European and national levels should be able to provide a credible shared orientation to policy makers.

Part II — Reasons

1. Introduction

1.1 Talk of the advent of supply chains as a modern phenomenon is misguided, as these have existed, in one form or another, since the onset of organised production.

1.2 It is fair to note, however, that a keen interest in supply chains has developed in the last few decades as an offshoot of the fierce environment engendered by technological progress and globalisation, and all the associated effects of these on markets. This topic is discussed extensively in countless publications and conferences around the world. Conventional linear sequencing is replaced by complex networks and integrated manufacturing processes that often operate across multiple companies and countries.

1.3 Nowadays, value and supply chains are increasingly interwoven and a genuinely global network now exists in many areas. This justifies the use of the term 'networks' rather than 'chains', the former being undoubtedly more ephemeral than the latter.

1.4 Networks of value creation (or, quite simply, 'value networks') are themselves becoming more global and extensive. Part of this process is a pan-European value network, enhanced by the recent enlargement of the EU.

1.5 It is now realised that self-improvement is no longer sufficient to meet companies' needs. The gains derived from introspective programmes within companies, whilst helpful and desirable, do not enable them to seize the opportunities posed by a genuinely global system of doing business. Companies must look outside of themselves if they are to survive in the modern world.

1.6 As a result, network management and logistics have gained pride of place, as companies spend increasing amounts of time and money on ensuring optimum returns through streamlining and coordinating the ever more complicated web of activities and services that are crucial to modern industrial and commercial operations.

1.7 The nature of managerial responsibility and of the requisite skills of the workforce at all levels has changed drastically, as decisions and attitudes are required that ensure optimum levels of cooperation between buyers, suppliers and companies.

1.8 This is the state of the art for all categories of companies, big, medium-sized and small, notwithstanding differences and interaction between sectors. It appears, however, that large multinational companies are better placed in the current processes than IICs ⁽²⁾.

1.9 In fact, two-thirds of private-sector employees in Europe work for small and medium-sized companies. Many of these are IICs. Accordingly, the well-being of this type of companies has not only a microeconomic dimension, but also a macroeconomic impact.

1.10 Although the subject of this opinion is value and supply chain development, the focus is primarily on innovative (high-tech and high-quality) IICs with the potential to grow and to operate internationally or those that are already present on the global market ⁽³⁾.

1.11 Consequently, ways and means must be developed and improved to create a healthy and sustainable environment for this type of company to thrive and to make the most of their potential.

1.12 Although supply chains/networks differ from one sector to another, it has been deemed appropriate to illustrate the analysis carried out in this paper by focusing on one sector. Appendix 2 of this opinion is therefore devoted to presenting a case study in the automotive sector, which illustrates well some of the issues at stake. This sector has been chosen because it is conspicuous by the complexity of its supply chains/networks, as shown in Appendix 1.

⁽²⁾ See item C and footnote 1.

⁽³⁾ See footnote 1.

1.13 European companies are often choosing to outsource one or several links in supply chains. Subsequently they import the outcome thereof and add value to this before passing it on in the value network. It is important to create the conditions that ensure, throughout the process, the retention of the greatest possible levels of profit, employment and know-how in Europe. This is critical as know-how is increasingly becoming a factor of production in its own right, which is driven across value-creation networks principally by borderless rather than simply cross-border finance ⁽⁴⁾.

1.14 This paper discusses the way the EU can better contribute to maintaining important (value-added) parts of the supply chain in Europe ⁽⁵⁾.

2. Value networks and industrial change

2.1 Industrial change is closely linked to value creation in the network society, involving a significant role for services, such as consulting, engineering, logistics or marketing. As vertical integration is reduced, the value creation in processing often shifts to the supplier. This process becomes all the more multidimensional as many of these suppliers are also part of global networks, which creates new interdependencies between suppliers.

2.2 But what does the term 'global' really entail? Along with the obvious role played by the USA and Japan, other world regions have burst on to the scene over the last decades such as the so-called BRIC nations (Brazil, Russia, India, China). However, it should be pointed out that a two-tier membership of this group exists, with the influence, particularly, of India and China 'dramatically shaking up the entire supply chain and value-creation landscape' ⁽⁶⁾.

2.3 Taking this into account, the EU must strengthen its ability to compete by adding value, since purely cost-based competition is not realistic and does not meet the Union's social and sustainability values.

⁽⁴⁾ See, along these lines, 'The Three Rounds of Globalisation', Ashutosh Sheshabalaya (author), *The Globalist*, ed. Thursday 19 October 2006 (<http://www.theglobalist.com/DBWeb/printStoryId.aspx?StoryId=5687>).

⁽⁵⁾ The scope of this opinion builds on earlier and ongoing opinions: 'Services and European manufacturing industries: Interactions and impacts on employment, competitiveness and productivity' (CCMI/035 — CESE 1146/2006 — OJ C 318, 23.12.2006); 'Innovation: Impact on industrial change and the role of EIB' (CCMI/038, ongoing); 'The territorial governance of industrial change: the role of the social partners and the contribution of the Competitiveness and Innovation Programme' (CCMI/031 — CESE 1144/2006 — OJ C 318, 23.12.2006); 'European logistics policy' (TEN/240, CESE 210/2007, not yet published in the OJ); 'Proposal for a Regulation of the European Parliament and of the Council on enhancing supply chain security — transport of goods' (TEN/249 — CESE 1580/2006, OJ C 325, 30.12.2006); 'The large retail sector — trends and impacts on farmers and consumers' (NAT/262 — CESE 381/2005 — OJ C 255, 14.10.2005).

⁽⁶⁾ See footnote 4.

2.4 Supply chains and networks are expanding, as industrial processes are increasingly characterised by the fragmentation of production lines and the specialisation of products by means of technologies and customisation. Producers may standardise core parts of products and, at the same time, leave room for customisation. This is known as '**mass customisation**'.

2.5 These factors are stimulated by the interaction between manufacturing industry and services ⁽⁷⁾, which leads to a **blurring of boundaries between sectors**. Information and communication technologies (ICT) contribute to this state of affairs by increasing interoperability and electronically-provided services.

2.6 European firms should aim at creating supply networks that process 'extended products' (a system of products and services) targeting high value-added niche markets. Even factories themselves have become tradable complex products.

2.7 New technological cycles put an ever-greater emphasis on **human resources management** at all levels and stresses the urgency of lifelong learning as an essential component of competitiveness and employability.

2.8 The **life cycle of products** is shortening and changing due to increasing interaction between services and manufacturing and as competition and (pre-competitive) cooperation in many areas becomes global.

2.9 The structure of companies and the dynamic relationship between companies are strongly influenced by these ongoing changes. They constantly require **adaptation and reorganisation**. Specialisation of production processes, customisation, and the development of manufacturing-related services increasingly lead to outsourcing. Conversely, outsourcing can result in further specialisation and decentralisation.

2.10 **Concentration** through mergers and acquisitions is occurring in parallel to these processes; the further one gets away from the consumer, the more concentration and consolidation take place.

2.11 **Outsourcing and offshoring** are taking place on a global scale ⁽⁸⁾. Emerging economies in the new Member States as well as in Asia are heavily involved in this process, each

⁽⁷⁾ This topic has been dealt with extensively in the EESC opinion on 'Services and European manufacturing industries: Interactions and impacts on employment, competitiveness and productivity' (CCMI/035; CESE 1146/2006; OJ C 318, 23.12.2006).

⁽⁸⁾ The CCMI has examined in depth company relocation, its scope and effects, challenges and opportunities. The outcome of this work (opinion, information report, external study, conference) is presented in a publication entitled 'Relocation — Challenges and Opportunities'. (ISBN: 92-830-0668-2; http://www.eesc.europa.eu/documents/publications/index_en.asp?culture=EN&id=141&details=1).

offering its own cost advantages and its own market potential. Asia is becoming the undisputed centre of low-cost production and service provision. In China and India, independent technology is being developed. Such processes may involve relocation of activities, with real job losses. This can create a feeling of precariousness among employees. On the other hand, relocation can also boost employment in companies in Europe ⁽⁹⁾.

2.12 Complicated developments arising from the countless transactions, mergers and acquisitions taking place around the world show that **relocation**, as a result of changes in production and service lines is not a linear or unidirectional process. Production costs make for only a part of the wider spectrum of considerations. A number of other factors, which do not form the subject-matter of this opinion, enter the equation. These include complex logistics, high transport costs, environmental concerns, regulatory frameworks, protection of intellectual property and availability of raw materials as well as technology and specific expertise. When all these considerations are taken into account, it is sometimes beneficial for manufacturing and services to return to Europe.

2.13 On the other hand, relocation may also concern innovative activities, which would entail a loss of know-how for Europe. Indeed, relocation can erode the capacity for innovation of European industries in the long term if the knowledge and research base in the EU is not reinforced. In this perspective the growing number of engineers in India and China (45 % of all engineers worldwide) is a telling point.

2.14 Furthermore, the fact that young highly qualified people are leaving Europe or are displaying preference for working in big companies ⁽¹⁰⁾ may result in a shortage of qualified people in European IICs.

2.15 Large companies are often better placed than IICs to deal with the above-mentioned challenges. In general, they have relatively easy access to banks and capital markets, are involved in all sorts of interaction and interoperability with other companies, have access to a broad range of markets and lead the way in the process of outsourcing. However, they are less flexible than smaller companies.

⁽⁹⁾ The Offshoring Research Network, a transatlantic consortium of 6 research institutes, recently carried out its latest biennial study on the developments in business relocations. The Rotterdam-based Erasmus Strategic Renewal Centre conducted the research for Dutch companies and concluded the following: 'Transferring business activities had no effect on the number of jobs at the Dutch company for 57 % of the offshore implementations. In 39 % of the transfer activities it did mean losses in employment however, and new jobs were created in the Netherlands in only 4 % of the transfers. The research shows that an average of 37.8 new jobs are created at the offshore location and an average of 3.5 are lost in the Netherlands. In other words, for every job which is lost in the Netherlands, 10.8 new ones are created at the foreign location'.

⁽¹⁰⁾ See point 3.22.

3. Challenges for IICs

3.1 All indicators show that the process of fragmentation of production, of customisation and of global networks will continue. In most areas, large multinational companies act as strategic leaders, but much of the work is done by an increasing number of IICs.

3.2 Sometimes, IICs, despite high potential, out of necessity adopt shorter-term approaches, have to work very hard to access new markets, are frequently dependent on regular orders from certain large customers and often do not have such good access to capital markets. Moreover, they are highly exposed to the risk of disruptions in the supply chain, associated with cost reductions constantly demanded by the major clients. In the following points, attention is drawn to the most significant challenges they encounter.

Finding the right mindset

3.3 Many improvements in the framework conditions of relatively small and medium-sized companies simply depend on attitudes in society and within companies themselves. In some Member States and regions attitudes to this type of companies are more positive than in others. Best practice exchange should therefore be encouraged.

Mutual trust and cooperation amongst IICs

3.4 IICs must be encouraged to be open to cooperation and to develop joint projects. Such cooperation and projects can strengthen market positions and support suppliers' negotiations with big customers. They could also help to offset the harmful effects of being locked in or locked out.

3.5 Use of open source software ⁽¹¹⁾ and free access to engineering technologies and standards should be encouraged. Effective interfacing of IICs with research institutes is very important.

3.6 Clustering and networks around leading companies and industrial zones in highly industrialised and high-tech environments can be very supportive to that end ⁽¹²⁾, as they will encourage collaborative schemes between companies. Open

⁽¹¹⁾ See a recent study on the impact of open source software on the ICT sector in the EU, published by MERIT for the European Commission (DG ENTR) on 26.1.2007 (final report prepared on 20.11.2006): <http://ec.europa.eu/enterprise/ict/policy/doc/2006-11-20-flossimpact.pdf>

⁽¹²⁾ One example amongst many is the Eindhoven-Leuven region, where interaction between universities and companies (centred on the leading multinational company Philips) creates a beneficial environment for many high-tech SMEs.

attitudes at neighbouring universities and technological institutes, coupled with an appropriate approach by local and regional authorities, are crucial. 'Industrial zones' around technological centres, scientific parks and universities can be very beneficial to smaller companies.

Financial environment

3.7 Banks and financial stakeholders at large should be encouraged to adopt a more positive attitude to risk-taking. Statistical evidence shows that in the US financial world there is a more positive stance on risk that yields rich rewards. Open access to the capital market in Europe is, in any event, necessary — all the more so since in many cases the financial burden in production processes tends to shift from large companies to smaller suppliers.

3.8 In the automotive industry, for example, outsourcing has created a financing problem for many companies, since both the development process and the pay-back period are long, often involving a 3 to 5-year development period and a 5 to 7-year pay-back period. In the USA, this problem is partly solved by easier access to private capital and, in many developing countries, by very generous tax rules and state aid. In this area, conditions in Europe badly need to be improved, particularly as concerns IICs and their needs to finance R&D for technological innovation. Apart from measures by governments, banks — including the European Investment Bank (EIB) working in close cooperation with banking partners across Europe — and private equity must also play their roles.

3.9 The EESC notes with great interest the orientations contained in the Commission Communication entitled 'Implementing the Community Lisbon Programme: Financing SME Growth — Adding European Value' ⁽¹³⁾. A more convenient bridge is needed between financial institutions and private equity, on the one hand, and SMEs, on the other.

Lock-in/lock-out effects

3.10 Dependence on major customers is a cause for concern, particularly in mono-industrial regions, when IICs are locked in or out of supply chains. When cooperating with large companies, the supplier will often have to make use of the required technology. Supplying one big client can lock a supplier into using one specific technology.

⁽¹³⁾ COM(2006) 349 final, which is being examined by the Committee in the framework of its own-initiative opinion entitled 'Business potential, especially of SMEs (Lisbon Strategy)' (INT/324, ongoing). This opinion is part of the work undertaken in response to a request by the European Council of 23-24 March 2006 to the EESC (point 12 of the Presidency Conclusions) to draw up a summary report in support of the Partnership for growth and employment in early 2008.

3.11 The same can happen to suppliers who are locked out because they do not have the tools needed to access additional markets and to participate in other supply chains or networks.

3.12 Large companies, however, do not want to be entirely dependent on one supplier, although this sometimes happens. In a number of cases, the major car manufacturers prefer single suppliers, particularly as concerns research, development and production of new components and systems for the end product. The normal scenario, though, is that competition between suppliers is fierce.

3.13 In some instances, mainly in the automotive industry, it has been noted that technical development costs have been handed on to the supplier, which has also been asked to share knowledge with competitors. This can be a problem, especially for non-monopolistic suppliers.

3.14 Lock-in and lock-out effects tend to grow as the number of ICT applications increases, although the lock-in/lock-out effect is certainly not an IT issue alone. Licences are often difficult to acquire. The lack of standardisation and of interoperability, on the one hand, and the scarce use of open-source technology, on the other, hamper investments.

3.15 Here again (see point 3.6), cooperation and clustering can help to overcome shortcomings arising from the above-mentioned processes, notably in mono-industrial regions.

Intellectual property rights (IPR)

3.16 Intellectual property is key ⁽¹⁴⁾. Protection of IPR poses a particular challenge to IICs, many of which are small and medium-sized companies. The problems encountered by these firms in financing R&D generally have already been alluded to and things should not be made worse by the creation of a situation that results in their competitors reaping the rewards.

3.17 Patents play a vital role. The EESC has expressed in numerous opinions its deep concern about 'the repeated setbacks over the introduction of the Community patent', which have dented the credibility of the EU research policy and have failed to encourage 'innovative research geared to improving competitiveness' ⁽¹⁵⁾. Failure to address this important issue makes the protection of innovation very expensive (notably when compared to the USA and Japan), indeed sometimes unaffordable for IICs.

⁽¹⁴⁾ See point 16 of the Annex 2, which refers to IPR abuse/counterfeiting in automotive supplies.

⁽¹⁵⁾ See opinions CESE 89/2007 (not yet published in the OJ), point 1.1.4, and CESE 729/2006 (OJ C 195, 18.8.2006), point 3.3.4.

3.18 The problem of costly IPR protection procedures is further compounded by a level of ineffectiveness often brought about by a lack of enforcement. In trade relations with China, counterfeiting should be addressed as a matter of priority. As a result of this counterfeiting problem, many high-tech companies are unwilling to increase their investments in China or even withdraw them ⁽¹⁶⁾.

3.19 Appendix 2 illustrates the gravity of IPR abuse and counterfeiting in automotive components.

Seizing new opportunities — the importance of skills and entrepreneurship

3.20 Specialised IICs have their own assets. New opportunities arise in the switch from large-scale operations to decentralisation and tailor-made approaches, providing that the corresponding skills are also developed.

3.21 A point of concern is that across Europe the majority of young graduates prefer to work for large companies. There is an obvious need to encourage people to work in IICs by improving career prospects. The problem for IICs is especially acute when the overall number of graduates is insufficient, e.g. in engineering disciplines.

3.22 So-called 'dual-training systems' — learning and working — currently employed in some Member States such as Germany, Austria and Luxembourg (*duale Ausbildung*) may prove very valuable for IICs.

3.23 Enhancing employees' qualification and skills is essential; people themselves as well as business can contribute to rising standards ⁽¹⁷⁾. Improvement of the workplace environment can be beneficial in this regard. Modern concepts of human resources management, including the systematic review of educational and training schemes, may help to create jobs. These points have to be addressed in the framework of sectoral approaches, including dialogue between social partners.

⁽¹⁶⁾ NRC *Handelsblad*, a leading Dutch newspaper, 4 November 2006.

⁽¹⁷⁾ 'Knowledge must be identified, acquired, stored, developed and shared to increase the value and effectiveness of a firm. This means that companies must develop into "learning organisations" and workplaces must be changed into a continuous working-learning environment'. To this purpose, the KNOWMOVE Project 'has developed and pilot-tested knowledge management approaches that can map, organise and store older workers' experiences and examples of good practices in a repository ready for use by every employee in the company.'
(See http://www.clepa.be/htm/main/promo%20banner/CLEPA%20events/maintopics_KnowMove%20%20Final%20Event.htm, which presents the conference 'Securing Growth, Innovation and Employment in a Changing Automotive Industry', organised by CLEPA as part of the final dissemination phase of KNOWMOVE).

3.24 In addition to the direct correlation between efficient education systems and quality of employee skills, the importance of the education/innovation/research triangle cannot be overestimated. In this connection, the new EU initiative 'Regions for economic change' can be most helpful as it emphasises the regional dimension and impact of research, technological skills and economic clusters ⁽¹⁸⁾.

3.25 In order to take full advantage of the opportunities offered to IICs through improving skills and entrepreneurship, the importance of the territorial dimension cannot be disregarded. Globalisation, which implies an ever-increasing internationalisation, brings with it a requirement for the corresponding reinforcement of regional proximity. This could be brought about through:

- regional strategic programmes;
- territorial social dialogue;
- bottom-up initiatives and regional partnerships driven by regional specialities;
- mobility of researchers between companies and universities.

3.26 Entrepreneurship is very important and so are creativity and flexibility, i.e. the capacity to adapt quickly to changing circumstances. Small and medium-sized companies have often a greater capacity to respond to challenges than large ones. These factors may well help the former to profit from the fragmentation and customisation of networks ⁽¹⁹⁾.

4. Policy proposals

4.1 In order to enhance value and supply chain efficiency it is essential to create a sound business environment for IICs. The EESC is of the opinion that there are two main instruments that will support the presence of European IICs in worldwide networks: new-style **industrial policy** (including its sectoral approach) and the **FP7**.

Industrial policy

4.2 IICs should be more systematically involved in the framework of industrial policy. The Commission and the Council should carry out prior and more accurate assessments of the impact on high-tech companies of upcoming legislation in areas

⁽¹⁸⁾ This initiative for the period 2007-2013 was adopted on 8 November 2006 by the European Commission under the 'Territorial Cooperation' objective. (http://ec.europa.eu/regional_policy/cooperation/inter-regional/ecochange/index_en.cfm).

⁽¹⁹⁾ See, for example, *Hidden Champions, Lessons from 500 of the World's Best Unknown Companies*, by Hermann Simon (Harvard Business School Press, 1996). *Hidden Champions* provides a description of mostly German world leaders in their markets, such as bottle-labelling machines, model railways, incense, potting soil and museum display cases.

such as technical development and standard-setting. 'Industry' is too often limited to large companies. IICs — often overlooked — should be consulted separately.

4.3 The EESC stresses the importance of ICT for IICs. It fully agrees with the objectives the Commission has defined in its Communication, entitled 'Enhancing Trust and Confidence in Business-to-Business Electronic Markets' ⁽²⁰⁾.

4.4 The Commission has also established a European e-Business Support Network for SMEs (eBSN). The EESC agrees with the main objective of eBSN, which is to bring together e-business experts in Europe and to share experience and good practice.

4.5 A vital aspect of EU industrial policy is an open dialogue about future directions and technologies from a sectoral perspective, as foreseen in the ongoing European technology platforms. Although the boundaries between sectors are fading, a sector-specific approach is still quite appropriate in this area and offers welcome opportunities for IICs.

4.6 The importance of innovation cannot be overemphasised. The EESC supports the Commission proposal to develop innovation-friendly markets by launching a new lead-market initiative aiming at facilitating the creation and marketing of new innovative products and services in promising areas ⁽²¹⁾.

4.7 It is important that IICs participate in technology platforms. Hopefully, further ways and means will be found to remove obstacles in this area. A Strategic Research Agenda must be set up, including IICs. Nonetheless, traditional weaknesses of many of these firms, such as a lack of mutual trust, time, available representatives and, often, of strategic focus are also visible in the day-to-day experience of those platforms.

4.8 In order to define a Strategic Research Agenda, the Manufacture High-Level Group ⁽²²⁾ has made an analysis that contains similar ideas on change regarding new added-value

⁽²⁰⁾ COM(2004) 479 final.

⁽²¹⁾ See the Commission Communications entitled 'Putting knowledge into practice: A broad-based innovation strategy for the EU' (COM(2006) 502 final), 'An innovation-friendly, modern Europe' (COM(2006) 589 final) and 'Economic reform and competitiveness: key messages from the European Competitiveness Report 2006' (COM(2006) 697 final). The CCMI, for its part, is drafting an own-initiative opinion entitled 'Innovation: Impact on industrial change and the role of EIB' (CCMI/038).

⁽²²⁾ The Manufacture HLG is the governing body of the Manufacture European Technology Platform, launched in December 2004 with a view to propose a strategy based on research and innovation, capable of speeding up the rate of industrial transformation in Europe, securing high added value employment and winning a major share of world manufacturing output in the future knowledge-driven economy. For more information: <http://www.manufacture.org/platform.html>.

products and the mixture of manufacturing and services, on the one hand, and regarding innovative forms of production, on the other ⁽²³⁾.

4.9 Moreover, lock-in and lock-out effects concerning supply chains often hamper effective participation in the platforms when IICs — even those with considerable potential — are not able to participate in interoperable systems.

4.10 The EESC is of the opinion that a strategic vision should be developed for IICs, which might help to overcome handicaps that arise as a result of being locked-in or locked-out. Interoperability should be the objective. This could be attained by:

- a) an ad-hoc initiative aimed at collaboration between software suppliers so as to service more clients;
- b) lowering the price of, or even providing for free, the tools required by those firms ⁽²⁴⁾, the goal being to enable IICs to supply more clients ⁽²⁵⁾.

4.11 According to the EESC, the same goal could be promoted by the creation of EU fora for cooperation between IICs in order to pool creativity and innovation across Europe.

4.12 A main issue is to **ease access to finance markets**.

4.12.1 The EESC considers that banks and other financial stakeholders, such as venture capital funds, should be encouraged to adopt a more positive attitude to risk-taking, for example by investing in high-tech IICs.

4.12.2 A specific example would be to give IICs easier access to the capital market and private equity alike in adapting the delays that can result from long development and pay-back periods, which can cause problems. In this context the role of

⁽²³⁾ In its report published in September 2006 (available in English only), the Manufacture High-Level Group argues that, because of the demand for customised products with short delivery times, business must shift from designing and selling physical products to supplying a system of products and services that are jointly capable of fulfilling users' demands, while also reducing total life-cycle costs and environmental impacts (see point 4, page 15). *Innovating production* embraces new business models, new modes of "manufacturing engineering" and an ability to profit from ground-breaking manufacturing sciences and technologies' (executive summary, page 9). 'Networked and integrated manufacturing' replaces the conventional linear sequencing of processes with complex manufacturing networks that often operate across multiple companies and countries (point 5, page 15).'

⁽²⁴⁾ An existing example is *Digital Business Eco-systems*.

⁽²⁵⁾ Two successful examples are the *universal diagnostic machine*, which makes garages interoperable, and the *GSM*, whose success is due to the fact that the industry agreed right from the beginning on basic formats, standards and exchange methods.

the European Investment Bank (EIB) and the European Investment Fund (EIF) should be reinforced to facilitate access to risk-lending instruments, venture capital and guarantee schemes ⁽²⁶⁾.

4.12.3 The EESC believes that financial institutions such as the EIB can play a wider supportive role, especially in consortia that include local banks, which have a good knowledge of the companies in their area.

4.12.4 In view of new-style industrial policy and of industry-research partnerships the EIB is now working on a new joint financial instrument with DG RTD, called the Risk Sharing Finance facility (RSFF). Its objective is to improve access to debt financing, notably for private sector research and related activities with a higher than average risk profile, that is not covered by the market

4.13 **Tax policy** is the responsibility of Member States. This notwithstanding, it would be most welcome to discuss at EU-level desirable tax measures aimed at reinforcing the position of European business in worldwide value and supply networks.

4.14 The EU must integrate in its **trade policy** objectives the protection of smaller and medium sized companies' IPR, given the often unfair and unreliable attitudes of (large) emerging markets towards European companies.

4.15 **Human** resources are crucial. More than ever, education systems are an indispensable pillar of sustained economic growth. Education, vocational training and life-long learning are a shared responsibility of individuals, companies, social partners and public authorities ⁽²⁷⁾.

4.16 Sectoral discussions between social partners should encompass tailor-made approaches to human resources management, including the development of training schemes designed to confer the requisite professional qualifications. They should also take into account the regional dimension of industrial change and the EU initiative 'Regions for economic change' ⁽²⁸⁾.

⁽²⁶⁾ Access to finance for SMEs should be improved through the new opportunities offered by the Competitiveness and Innovation Programme (CIP) in terms of venture capital and guarantees, managed by the European Investment Fund (EIF), as well as the new initiative developed in partnership between the EIF and DGREGIO (JEREMIE) for enhancing the access to finance for SMEs in Regional Development areas.

⁽²⁷⁾ EU structural funds (chiefly the European Social Fund) and programmes (such as Lifelong Learning 2007-2013) endorse a strategic approach towards strengthening human and physical capital. Furthermore, the European Globalisation adjustment Fund (EGF) is designed to provide additional support in re-training and job-seeking for workers made redundant as a result of major structural changes in world trade patterns.

⁽²⁸⁾ See footnote 13.

FP7

4.17 In the FP7, which is related to the objectives of new-style industrial policy, special attention should be given to links with small and medium-sized companies, including appropriate use of the new RSFF instrument developed jointly with the EIB ⁽²⁹⁾. In advanced ICT projects sponsored by FP7, the participation of IICs is critical in order to enable them to join advanced networks and to enter into cooperation.

4.18 In the EESC's view, the FP7 can contribute to the creation of a permanent innovation policy involving close links between knowledge centres (universities, technology institutes, vocational training schools) and industrial activity. Value and supply chains or networks are essential to such a policy, since the programme is aimed at helping the development of new 'extended products' (also known as 'product/services' or 'product-integrated services') and new processes. The purpose of all of this is to create a single viable network environment in Europe, which is also beneficial to IICs.

4.19 The EESC notes that it is difficult to engage small and medium-sized companies in R&D programmes due to red tape. Selection procedures of at least one year are far too long for these companies.

4.20 It is highly desirable that the right conditions for the development of strong network enterprises with transparent inter-connecting structures are created. The EESC advocates that the FP7 should help to develop systematically optimal network designs and operations in a dynamic and complex industrial environment.

4.21 Similarly, the creation of logistic and supply chain management structures at both strategic and operational levels should be encouraged.

4.22 In the case of less technological industries that are physically tied to Europe, research programmes can support continuous gains in productivity and efficiency in order to maintain a competitive edge.

4.23 Among the many aspects that businesses have to take into account in order to take full advantage of EU research programmes is the importance of establishing adequate networks. Although not currently part of the mindset of IICs in Europe, pre-competitive cooperation between companies may prove very useful, and the same applies to promoting cooperative relationships.

⁽²⁹⁾ In order to develop more risk-oriented financial products, the EIB is working on a new joint financial instrument with the Commission (DG RTD), called the Risk Sharing Finance Facility (RSFF). The objective is to improve access to debt financing, notably for private sector research and related activities with a higher than average risk profile not easily covered by the market. RSFF will be available for eligible beneficiaries irrespective of their size and ownership. This Facility will also support European research initiatives such as Research Infrastructures, European Technology Platforms (ETP), Joint Technology Initiatives or projects undertaken under Eureka.

4.24 Accordingly, the FP7 aims to contribute to a knowledge-oriented network industry, based on European standards, which are an important element for cooperation, connection and interoperability.

4.25 The EESC is of the view that the FP7 offers a great opportunity to enhance the efficiency of value and supply networks and calls upon relevant stakeholders to ensure its full implementation. This applies not only to technologies that improve network interconnectivity (mainly ICT) but also to

other enabling technologies — such as nanotechnology.

4.26 In parallel to developments in industrial policy, *regional and local* contexts and actions are also important in the FP7, in particular as regards cooperation of IICs with large companies, neighbouring universities, technological institutes and vocational training centres ⁽³⁰⁾.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽³⁰⁾ See EESC Opinion on 'The territorial governance of industrial change: the role of the social partners and the contribution of the Competitiveness and Innovation Programme' (CCMI/031 — CESE 1144/2006; OJ C 318, 23.12.2006), in particular its sections 1 ('Conclusions and recommendations') and 4 ('The integrated territorial approach (ITA) and foresight systems for local and regional research and innovation').

Opinion of the European Economic and Social Committee on European metropolitan areas: socio-economic implications for Europe's future

(2007/C 168/02)

On 7 November 2006, the Federal Ministry for Transport, Construction and Urban Development asked the European Economic and Social Committee, on behalf of the German Presidency, to draw up an opinion on *European metropolitan areas: socio-economic implications for Europe's future*.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 March 2007. The rapporteur was Mr van Iersel.

At its 435th plenary session, held on 25 and 26 April (meeting of 25 April), the European Economic and Social Committee adopted the following opinion *nem. con.* with 125 votes in favour and five abstentions.

This opinion is a follow up to the opinion on 'European Metropolitan Areas: socio-economic implications for Europe's future' (ECO/120) ⁽¹⁾. The two opinions form a consistent whole.

1. Conclusions

1.1 Over the last fifty years, Europe has been changing and globalisation is accelerating the process, with substantial consequences for Europe's centres of gravity, i.e. its metropolitan areas ⁽²⁾. It is the metropolitan areas that are best equipped to respond to these challenges and make the most of the opportunities they present.

1.2 The EESC believes that the Council and the Commission should discuss and draw up a series of general guidelines for the development of metropolitan areas and national initiatives in this field. A well-structured European debate would situate national approaches in a shared perspective, which could also motivate regional stakeholders.

1.3 The EESC is of the opinion that a better structured debate on and between metropolitan areas in Europe should contribute to encouraging these regions to involve themselves successfully in the Lisbon-Gothenburg agenda, which could also be reflected in the National Reform Programmes.

1.4 The EESC notes that recent years have witnessed intense debate. The link between large metropolitan areas and the Lisbon Strategy places greater emphasis than in the past on the socio-economic implications of these large metropolitan areas. This is a step forward.

1.5 In many countries and regions, the public authorities, the private sector and civil society are trying to create the conditions required for the sustainable development of metropolitan areas, and to ensure their competitiveness in Europe and the world. In particular, the trend observed in Germany deserves attention. University studies as well as studies carried out at a federal level

contribute to the objectivity of the debate. Interministerial conferences on the metropolitan areas involved national and regional authorities.

1.6 The Commission's urban policy and the Council's draft Territorial Agenda are signs of progress. They provide a framework for an ambitious urban policy. The Agenda underlines some characteristics that are specific to large metropolitan areas. Nevertheless, the EESC notes that the draft Territorial Agenda is still too hesitant in this regard.

1.7 Despite differences in national structures and approaches, the challenges and ambitions of major urban regions are generally the same.

1.8 The lack of identity and inadequate *governance* stand in the way of balanced development in metropolitan areas. Existing administrative bodies often go back a very long time. They prevent flexible adjustment.

1.9 The involvement of several levels of authority — national, regional and urban — is indispensable if metropolitan areas are to succeed. This means that decentralised authorities must have legitimacy, which would also facilitate private sector and non-governmental initiatives.

1.10 The EESC once again draws attention to the absence of comparable socio-economic and environmental data on metropolitan areas at EU level. It considers that since this should be addressed at EU and national levels, the economic, social and environmental performances of European metropolitan regions must be monitored annually in order to broaden our knowledge on each of their situations and enable the relevant metropolitan areas to take action.

⁽¹⁾ OJ C 302, 7.12.2004, p. 101.

⁽²⁾ It is important to distinguish between a metropolis and a metropolitan area. Generally speaking, a metropolis is laid out as a large city or agglomeration, whereas a 'metropolitan area' is an area made up of one very big city or a number of major polycentric cities surrounded by other municipalities or rural areas. As a result, a metropolitan area covers a much wider area than a metropolis.

2. Recommendations

2.1 The EESC calls on the Commission to draw up a Green Paper on metropolitan areas complementing the Territorial Agenda and the Strategic Guidelines on Cohesion in order to encourage European debate on the basis of an objective analysis.

2.2 The EESC argues that the challenges and aspirations of the large metropolitan areas as well as the knowledge and experience of Member States should be pooled to provide a shared European perspective and that best practices should be disseminated.

2.3 The EESC is convinced of the need for a policy decision by the Commission tasking Eurostat with producing reliable and comparable data on all EU metropolitan areas annually and providing it with additional funds to carry out its new task.

2.4 In order to ensure that Eurostat can assume its new role as soon as possible, the EESC recommends that a pilot study be carried out by ESPON or another organisation with relevant expertise to test possible methods for setting the boundaries of metropolitan areas according to common criteria and to propose a limited list of data which could be produced without delay for metropolitan areas with populations of over one million between 1995 and 2005, namely by referring to existing detailed data from European surveys on the labour force ⁽³⁾.

3. Reasons

3.1 In its 2004 opinion, the EESC drew attention to the socio-economic implications of European metropolitan areas ⁽⁴⁾, which it considered to be largely under-estimated.

3.2 This opinion sought to draw the attention of the EU institutions to the ongoing, and sometimes striking, concentration of people and economic activity in the metropolitan areas of Europe and the world.

3.3 In its 2004 opinion, the EESC argues in favour of placing the development of European metropolitan areas on the EU agenda. The EESC was the first to stress the direct link between metropolitan areas and the implementation of the Lisbon Strategy. Metropolitan areas are the laboratories of the global economy. They are the powerhouses of the economy and centres of creativity and innovation.

3.4 At the same time, the main challenges facing Europe in the coming years are concentrated in metropolitan areas. In particular, these areas are often faced with poverty, social exclusion and spatial segregation, with implications for employment and (international) criminality ⁽⁵⁾.

3.5 The influence of metropolitan areas is reinforced by the multiplicity of interactions between them at European as well as international level. The networks they form help to strengthen European integration.

3.6 In its 2004 opinion, the EESC notes that there is a shortage of comparative studies with satisfactory data on their strengths, weaknesses, constraints and opportunities.

3.7 It is for this reason that in 2004 the EESC insisted on the need to define European metropolitan areas and to produce relevant and comparable data, including the evaluation of the Lisbon Strategy key indicators, for each such area.

3.8 The knowledge-based economy and the networked society increase the attraction of metropolitan areas for people and economic activities. Some Member States have engaged in lively national and regional debates on the policy to adopt for large metropolitan areas, especially with regard to their governance. These discussions are sometimes followed by concrete actions from both the bottom up and the top down.

4. The Commission's reaction in 2004

4.1 In 2004, the EESC called on the Commission to carry out integrated studies with the participation of the relevant Commissioners and to present regular reports on the socio-economic situation in metropolitan areas and their ranking on a European scale. This would make it possible to assess the strengths and weaknesses of large metropolitan areas in order to improve the framing of European and national policies and facilitate the dissemination of best practice.

4.2 In its reaction to the EESC's recommendations, the Commission stated that it 'agrees with both the EESC's points concerning the key role of metropolitan areas in achieving the objectives of the Lisbon Strategy and the absence at European level of reliable and comparable data on these territorial units' ⁽⁶⁾.

4.3 Despite this shared view, a targeted and more integrated approach to metropolitan areas by the Commission has not materialised. An urban policy is gradually being implemented but it does not distinguish between 'cities and metropolitan areas'. The data supplied by statistics offices are incomplete and produced on the basis of national definitions. As a result, they are still not always comparable at European level.

⁽³⁾ A first successful study on 14 European metropolitan areas has already been carried out under the INTERREG II C programme (in 2000). The EESC is referring to a study by GEMACA, Group for European Metropolitan Areas Comparative Analysis.

⁽⁴⁾ EESC opinion on *European metropolitan areas: socio-economic implications for Europe's future*, OJ C 302, 7.12.2004, p. 101.

⁽⁵⁾ EESC opinion on *Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations*, OJ C 318, 23.12.2006, p. 128.

⁽⁶⁾ Reference to the reaction of the Commission's DG REGIO to the EESC's own-initiative opinion on *European metropolitan areas: socio-economic implications for Europe's future*, OJ C 302, 7.12.2004, p. 101.

5. National debates and initiatives

5.1 Several national and regional initiatives have been taken recently which highlight the way metropolitan areas are evolving. These initiatives often include a range of measures to support a more harmonious development of infrastructure, spatial planning, the economy and social aspects, as well as the development of transport and telecommunications infrastructure between the metropolitan areas themselves. Examples of some initiatives in several countries are provided below. This overview is by no means exhaustive.

5.1.1 An in-depth discussion on metropolitan areas has been ongoing in **Germany** since 1993. University studies and debates were conducted with the aim of drawing up, in an appropriate and objective manner, a list of functions carried out by large metropolitan areas and to identify such areas by reference to the list.

5.1.1.1 These German studies led to a shift from the traditional approach, with a national map showing the cities and municipalities and *Länder*, to an alternative approach that presents a new map of Germany with *Leitbilder* or patterns. On the basis of guidelines and spatial planning policy action plans (dating back to 1992 and 1995), which had stressed the importance and roles of the metropolitan areas, Germany has had eleven metropolitan regions since the decision of the interministerial conference of the *Bund* and *Länder* ministers for spatial planning of 30 June 2006. The first interministerial conference on this matter took place in 2003.

5.1.1.2 The map of German metropolitan regions reveals incompatibilities between existing administrative organisation and the geographical boundaries of the metropolitan regions. For instance, the metropolitan region of Nuremberg includes Nuremberg city and an agglomeration of neighbouring urban and rural municipalities. Others, Frankfurt/Rhine-Main and Hamburg for instance, partially cover the territories of several *Länder*, whereas others, Munich and the Ruhrgebiet for instance, are part of one *Land*. In several cases, thematic regionalisation is already in place, e.g. in the areas of culture, sport, sustainability and the countryside. In all cases, the territory includes major and minor towns, and rural areas. In this way, it is possible to define clearly the territories of the metropolitan areas in question.

5.1.1.3 No specific national measures have been planned (as yet). Metropolitan areas have been asked to define their own specificities and showcase them. The objective is to develop German metropolitan areas as autonomous entities within the European and international context. Needless to say, national policies, such as rail or aviation policies, could be used to support these areas' ambitions.

5.1.1.4 In order to support the legitimacy of this new approach, metropolitan areas were asked to set up democratic representational systems in line with their specificities and vision for the future. They are free to define the procedures,

either by direct suffrage, as in Stuttgart for example, or by indirect representation, as in the cities and municipalities of the Nuremberg region.

5.1.1.5 The policy objectives which have to be discussed and realised in the case of these metropolitan areas — whose characteristics vary — are as follows: ensuring the necessary critical mass for competitiveness; creating conditions for effective governance; clarifying the division of responsibilities; developing polycentric spatial organisation; finding a satisfactory balance between urban development and the protection of rural areas; developing transport infrastructure and ensuring mobility; supporting innovation and economic clusters; managing technological 'risks' and natural risks; obtaining the necessary public investment resources; improving international accessibility; ensuring the region's promotion.

5.1.2 In the **United Kingdom**, interest in strengthening the development of metropolitan areas began at the beginning of the century. In 2004, a government memo was published on the competitiveness of the metropolitan areas other than London (?). The aim was to create conditions for strengthening the autonomy of the 'city-regions' in an international context. However, the process was blocked, mainly due to the negative outcome of a referendum on setting up a regional assembly in the Newcastle region.

5.1.2.1 At present, debate in the UK focuses on sharing responsibilities between the national and regional levels on the one hand, and the cities and municipalities in the most populated regions identified as future metropolitan areas on the other. The idea of setting up city-regions still has relevance. Despite the ambiguity in the ongoing debate, a White Paper on the subject will soon be published and a new form of spatial organisation based on recognised criteria, similar to the German model, is in the pipeline.

5.1.2.2 We need to distinguish between decentralisation policy and support for the development of metropolitan areas. The latter is characterised by flexibility and alliances formed between municipalities in order to make the most of opportunities and overcome challenges together. A good example of this is the development in the North of England (Manchester, Liverpool, Leeds, Sheffield, Newcastle and York), a bottom-up initiative called Northern Way. This development is characterised by a number of agreements within the metropolitan area.

5.1.2.3 A top-down approach in response to local and regional initiatives is considered indispensable because many strategic decisions can only be taken by common accord. These decisions could take the form of three agendas: a competitiveness agenda for supporting the best and least performing regions; a social cohesion agenda for disadvantaged populations; and an environment agenda comprising measures for improving quality of life and preserving natural resources. In these three fields, the metropolitan area is considered to be the most appropriate geographical level for implementing these policies.

(?) Competitive Cities: where do the core cities stand? (Core cities refers to the metropolitan areas outside London mainly located in the North West of the country).

5.1.3 In **France**, the debate has been ongoing since 1960. Until recently, very few concrete measures had been taken because the political dimension of the debate had been underestimated. On a more general level, this lack of political dimension has been apparent throughout Europe.

5.1.3.1 In 2004, DIACT ⁽⁸⁾ launched a call for proposals for metropolitan projects with a view to encouraging cooperation between major cities and supporting the economic development of metropolitan regions. Fifteen metropolitan projects prepared by the local authorities were selected by a panel comprising the directors of the relevant ministries and experts. The projects were finalised in 2006. In 2007, metropolitan contracts will benefit from State financial support for implementing structural measures. Through this initiative DIACT recognises the importance of metropolitan regions as having a key role in the competitiveness of the regions.

5.1.4 In **Italy** and **Spain**, regionalisation is making progress. This trend, which does not directly concern metropolitan areas, nevertheless creates new (legal) opportunities for the governance of metropolitan areas.

5.1.4.1 In Italy, a law passed in 1990 set out a top-down approach identifying 14 metropolitan areas. It was not implemented. A new law in 1999 authorised bottom-up initiatives for creating metropolitan areas. A single assembly comprising 20 municipalities and with a budget was set up in the Bologna region. Finally, a constitutional reform in 2001 authorised the establishment of three metropolitan areas around Rome, Naples and Milan. The implementation of this reform has been relaunched recently.

5.1.4.2 In Spain, the spatial debate is overshadowed by regional autonomy. The autonomous regions have sole authority in this area. As a result, they are responsible for metropolitan areas. An ongoing process to strengthen major cities co-exists alongside a trial of strength between the central government, autonomous communities and metropolitan areas such as Madrid, Barcelona and Valencia. Bilbao, a case apart, has been a success in terms of metropolisation.

5.1.4.3 The existence of metropolitan areas is not restricted to large countries or even to individual countries. Metropolitan areas such as Centrope, i.e. Vienna-Bratislava-Brno-Gjör, a region covering no less than four countries, and Copenhagen-Malmö (Denmark and Sweden) are among the best known examples. Both areas are progressing. In the Netherlands, there is in-depth discussion on the most appropriate governance for the Randstad in order to eliminate the administrative fragmentation impeding infrastructural, spatial and socio-economic development.

⁽⁸⁾ *Délégation interministérielle à l'aménagement et à la compétitivité des territoires* [Interministerial Delegation for Land Planning and Regional Competitiveness] (ex DATAR).

5.1.5 In the new Member States there have been comparable developments to those in the above-mentioned countries. In Poland, the government has identified a number of metropolitan areas or city-regions. One example is the Katowice region, which recently acquired the specific status of a metropolitan area. Nevertheless, urban and metropolitan development is non-controlled as a rule, and therefore arbitrary due to lack of appropriate regional governance. This is why some metropolitan areas are looking for inspiration to the practices and expertise of countries with a tradition in decentralised policies.

5.1.6 Chambers of Commerce and Industry, being high profile and active representatives of the business world at local and regional levels, are also involved in the process of metropolisation, especially Chambers in capitals and city-regions. They contribute everywhere to the attractiveness and economic and cultural influence of their regions without losing sight of the need for quality of life and respect for the environment.

6. Pan-European trends

6.1 At EU level, implementing the Lisbon Strategy is the Barroso Commission's priority objective. All Commissioners are involved. DG REGIO has placed the Lisbon Strategy at the heart of the 'new brand' of regional policy, spearheaded by urban development.

6.1.1 'Lisbon' and urban development have become priorities for all regions benefiting from EU programmes. These programmes do not explicitly target metropolitan areas. URBACT is among the more appropriate programmes for the latter ⁽⁹⁾.

6.1.2 In addition to DG REGIO, other DGs, for instance DG Research, DG Environment and DG Transport, run specific programmes that are often important for metropolitan areas because they too are more than ever influenced by the Lisbon objectives. Metropolitan areas *per se* are not specifically targeted, but all programmes to strengthen the performance of cities are relevant to metropolitan areas too.

6.1.3 In June 2006, a Council working group published a first proposal for a Territorial Agenda ⁽¹⁰⁾. The document gives a good description of trends towards urbanisation in European society. Nevertheless, a clear distinction between cities and metropolitan areas is still lacking.

⁽⁹⁾ The Commission is currently preparing a guide on urban issues.

⁽¹⁰⁾ The Territorial State and Perspectives of the European Union: Towards a Stronger European Territorial Cohesion in the Light of the Lisbon and Gothenburg Ambitions, First Draft, 26 June 2006.

6.2 Several Informal Councils of Spatial Planning Ministers have focused on the challenges of (big) cities ⁽¹¹⁾. Spatial planning is a competence of the Union under the present Treaty, Title XIX (Environment), Article 175(2) ⁽¹²⁾.

6.3 The **European Parliament** ⁽¹³⁾ emphasises that 'towns and cities and urban agglomerations or areas, where 78 % of the European Union population is concentrated, are the place where most problems are concentrated and the place where the future is built'. It considers them key players in regional and local development and in achieving the revised Lisbon and Gothenburg objectives.

6.3.1 The European Parliament calls on all the Commission DGs directly or indirectly concerned with urban issues to coordinate their efforts in order to identify specific urban problems in each field of action and jointly to present the positive impacts of their policies. It proposes setting up an interdepartmental task force and argues in favour of setting up a 'territorial dialogue'.

6.4 The **Committee of the Regions** is increasingly insistent in drawing the attention of the European institutions to the challenges facing urban regions. Its conclusions are based on the same concerns and principles underlying the EP's and the EESC's conclusions.

6.4.1 The Committee of the Regions stresses the realities of 'functional regions' and cooperation between partners across administrative borders — national, regional, and local — which should be promoted by means of special incentives in EU policies, such as the promotion of strategic development projects for large areas. It is particularly important that new cooperation networks should be set up between metropolitan and urban areas, and existing ones strengthened, in particular through the cooperation currently being developed under the INTERREG III

⁽¹¹⁾ The first Informal Council of Spatial Planning and Home Affairs Ministers, where the challenges facing cities were discussed in detail, was held in Rotterdam in November 2004. It was followed by the Informal Council of Luxembourg in May 2005 on 'The Territorial State and Perspectives of the European Union'. The next Informal Council will take place in Leipzig in May 2007.

⁽¹²⁾ Article 175

'1. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Community in order to achieve the objectives referred to in Article 174.

2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

(a) provisions primarily of a fiscal nature;
(b) measures affecting:
— town and country planning,
— quantitative management of water resources or affecting, directly or indirectly, the availability of those resources,
— land use, with the exception of waste management;
(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.'

⁽¹³⁾ European Parliament: *Resolution on the urban dimension in the context of enlargement*, adopted on 13.10.2005, OJ C 233, 28.9.2006, p. 127.

initiative, which will take effect during the 2007-2013 period through the territorial cooperation objective ⁽¹⁴⁾.

6.5 In its March and September declarations, the METREX network ⁽¹⁵⁾ emphasises the need to define metropolitan areas and recognise them as key components of the EU's Territorial Agenda. It calls for comparable data on metropolitan areas to be produced at European level. It calls on the Commission to draw up a Green paper with three key dimensions: economic competitiveness, social cohesion and environmental protection. METREX believes that several major problems facing Europe, such as climate change, demographic ageing or immigration, can only be solved effectively and comprehensively with the support of the metropolitan areas. Finally it considers that metropolitan areas can play a key role in implementing the Lisbon objectives, especially with regard to ensuring Europe's competitiveness at an international level.

6.6 The number of **regions represented in Brussels** has greatly increased over the last 15 years ⁽¹⁶⁾. They hold conferences where the development and challenges faced by metropolitan areas are a focus for intensive discussion.

6.7 Indeed, a group of regions represented in Brussels has been set up under the name 'Lisbon Regions'.

6.8 The ESPON programme has produced extensive information, data, indicators and reports on European regions in recent years. Nevertheless, in view of the fact that regional administrative boundaries are very different from those of metropolitan areas, the results of this high-quality work do not provide those responsible for development, planning, and management of metropolitan areas with the information and studies they need to identify the most suitable policies for maximising the potential of these areas.

6.9 DG Regional Policy and Eurostat launched the Urban Audit project in order to provide reliable and comparable indicators for a number of cities ⁽¹⁷⁾. The EESC welcomes efforts made to produce data on urban zones. However, the nature of the information provided does not as yet lend itself to widespread use ⁽¹⁸⁾.

⁽¹⁴⁾ CoR opinion on *Cohesion Policy and cities: the urban contribution to growth and jobs in the regions*; OJ C 206, 29.8.2006, p. 17.

⁽¹⁵⁾ METREX: Network of European Metropolitan Regions and Areas, an association of fifty major urban regions.

⁽¹⁶⁾ From 20 in 1990 to 199 in 2006.

⁽¹⁷⁾ The Urban Audit identifies three spatial levels: the Core City, Larger Urban Zone (LUZ) and Sub-City District. According to the project organisers, the LUZ corresponds roughly to the functional urban zone.

⁽¹⁸⁾ Relatively few indicators are in fact provided for LUZ for the same year. The geographical boundaries of LUZ are set according to national criteria. This does not guarantee the comparability of the indicators at EU level. These boundaries are still unpublished. The indicators do not refer to recent years (2001 is the most recent). Eurostat's present resources for carrying out this important project covering 27 countries, 258 cities, 260 LUZ and 150 indicators are manifestly insufficient.

7. Intense ongoing debate

7.1 The EESC notes that the debate on metropolitan areas has grown far more intensive in recent years for two main reasons: (i) the growing number of metropolitan areas around the world has made it clear that a new form of urban organisation is developing very rapidly ⁽¹⁹⁾; (ii) acknowledgement of the link between the economic, social and environmental development of large metropolitan areas and the Lisbon Strategy has fuelled the debate.

7.2 Political and social discussions on the most appropriate approach are underway in all Member States, irrespective of their size and stage of development.

7.3 These discussions occur primarily in a national context. Nevertheless, in many cases, the authorities acknowledge that the actual territory of some metropolitan areas is not contained within national borders. The examples of Copenhagen-Malmö and Vienna-Bratislava have already been cited, but other metropolitan areas identified by the French authorities, namely Metz-Luxembourg-Saarbrücken and Lille-Courtrai, should also be mentioned. The number of cross-border regions in the EU with the characteristics of metropolitan areas is on the increase.

7.4 Despite intensified debate over the years, the EESC notes that these new structures are in their first infancy.

7.5 The vast majority of cities and metropolitan areas wishing to assert their importance at European and international level present their own situation using national and regional figures, without always being aware themselves of the actual size of the area they are referring to. This is one of the consequences of the difference which exists between metropolitan areas and the administrative region(s) they are part of.

7.6 The EESC notes that despite different national and regional approaches and structures, there seems to be clear agreement on the problems involved. The following are among the most frequently discussed:

- the critical mass of a metropolitan area, city-region or network of cities and municipalities;
- the balance between urban and rural districts comprising metropolitan areas;

- the various roles of metropolitan areas;
- education and training;
- creativity, research and innovation;
- clusters and the competitiveness of businesses on international markets;
- attracting international investment;
- major infrastructure, its financing and public-private partnerships;
- transport and telecommunications networks linking large metropolitan areas in Europe and around the world;
- cultural influence;
- multicultural societies (immigration) and the challenges of poverty and exclusion;
- employability of the workforce and job creation;
- industrial production and services with high added value;
- climate change, energy efficiency, pollution reduction and waste management;
- de-pollution and redevelopment of brownfield sites in connection with the restructuring of production;
- reduced insecurity, criminality and international terrorist risks;
- reduced inequalities between infra-regional territories and a partnership between the centre and the periphery;
- the thorny issue of governance.

7.7 People do not always have a sense of belonging to a metropolitan area. European metropolitan areas lack political legitimacy. The administrative structures of the past are no longer adequate — they date back to previous eras — but national governments are very sensitive to resistance to new arrangements among stakeholders, in particular existing regional political and administrative bodies. In addition, the challenges facing metropolitan areas are immense. In order to overcome them and manage development appropriately, governance needs to be re-organised almost everywhere as part of an overall strategy.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁹⁾ The urban population worldwide exceeds 3 billion. The population of 400 metropolitan areas is over 1 million in comparison with 16 such areas a century ago.

Opinion of the European Economic and Social Committee on the Territorial Agenda

(2007/C 168/03)

On 7 November 2006, the Federal Ministry for Transport, Construction and Urban Development asked the European Economic and Social Committee, on behalf of the German Presidency, to draw up an opinion on the *Territorial Agenda*.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 March 2007. The rapporteur was **Mr Pariza**.

At its 425th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion unanimously.

1. Conclusions and recommendations

1.1 The EESC wishes to thank the German Presidency and congratulate it on its preparatory work and on its efforts in ensuring transparency and consultation on the Territorial Agenda.

1.2 The EESC considers that the time has come to move beyond the current phase of informal coordination within the Council and enter a new phase based on closer political cooperation. On the basis of the work that has already been done and with the new contributions planned by ESPON, a further step towards integration should be taken, giving the Commission a clear mandate under which it can exercise its right of initiative.

1.3 The EESC considers that discussions on the Territorial Agenda within the Council should result in more precise policy decisions and to achieve this, greater involvement on the part of the European Commission is needed, because the Commission is better placed than anyone to ensure that the different approaches to territorial cohesion in the European Union are coherent and compatible with one another.

1.4 The objective of territorial cohesion at EU level requires the Commission to have a specific and robust unit analysing, assessing and presenting policy proposals that confirm the added value of a European approach to territorial cohesion.

1.5 The Committee proposes that continuity should be ensured when the German Presidency comes to an end. The Commission should study, synthesise and implement the Territorial Agenda by means of an action programme that respects the Member States' and regions' spatial planning competences.

1.6 The fourth report on cohesion currently being drawn up by the European Commission should analyse the territorial impact of Community funds and establish links between cohesion policy and the objectives of the Territorial Agenda. The EESC considers that cross-border cooperation programmes should be enhanced, once the Constitutional Treaty has been adopted.

1.7 Balance between the different levels of administration working on the ground — local, regional, national and Community — should be ensured for the Territorial Agenda's governance and organised civil society, which must be consulted in advance, should also be involved in this task.

1.8 The EESC proposes that the Council of Ministers engage the open method of coordination, providing precise guidelines, for the Territorial Agenda as a first step towards bringing these issues under the Community method, following approval of the Constitutional Treaty.

1.9 The EESC would like the EU in the near future to adopt the Constitutional Treaty, which includes the objective of territorial cohesion and proposes that, on the basis of the real consensus that exists on the Territorial Agenda, the conclusions of the Leipzig Informal Council should recommend that it is implemented gradually rather than emphasising its non-binding nature.

1.10 The EESC, therefore, calls on the European Commission to propose that the Council of Ministers push ahead with implementing the Territorial Agenda on the current legal bases.

2. Referral from the German presidency

2.1 On 7 November 2006, the Federal Ministry for Transport, Construction and Urban Development asked the European Economic and Social Committee, on behalf of the German Presidency, to draw up an **exploratory opinion on the Territorial Agenda**.

2.2 At the informal ministerial meeting on territorial cohesion and urban development that will be held in Leipzig on 24 and 25 May 2007, European ministers will adopt a policy document entitled *The Territorial Agenda of the EU* (TAEU) ⁽¹⁾, which is based on a paper entitled *The Territorial State and Perspectives of the European Union* ⁽²⁾. This background document analyses the main spatial-planning challenges facing the EU and uses examples to illustrate ways in which the potential of Europe's territorial diversity could be better exploited for sustainable economic growth. The TAEU contains **recommendations** for the more effective use of Europe's territorial diversity and **proposals** for a spatial-planning policy action programme.

⁽¹⁾ <http://www.bmvbs.de/territorial-agenda>.

⁽²⁾ http://www.bmvbs.de/Anlage/original_978555/The-Territorial-State-and-Perspectives-of-the-European-Union-Dokument.pdf.

2.3 Since 1995, the EESC has stated its support for closer cooperation on European spatial planning policy in the following documents:

- *Europe 2000+ Cooperation for European territorial development* — OJ C 133, 31.5.1995, p. 4.
- *Spatial planning and inter-regional cooperation in the Mediterranean area* — OJ C 133, 31.5.1995, p. 32 + Appendix (CES 629/94 fin).
- *Europe 2000+ Cooperation for European territorial development* — OJ C 301, 13.11.1995, p. 10.

Other, more recent opinions also support closer involvement in and greater consideration of the territorial dimension of European integration, including:

- *European Metropolitan Areas: socio-economic implications for Europe's future* — OJ C 302, 7.12.2004, p. 101.
- *A Thematic Strategy on the Urban Environment* — OJ C 318, 23.12.2006, p. 86.
- *The impact and consequences of structural policies on EU cohesion* — CESE 84/2007.
- *Housing and regional policy* — CESE 42/2007.

3. The Territorial Agenda — turning words into action

3.1 The first informal meeting of ministers responsible for spatial planning and territorial policy in general was held in Nantes in 1989.

3.2 This type of meeting is held at the initiative of the successive six-month EU presidencies. In 1993, at the meeting held in Liege, it was decided to draw up the **European Spatial Development Perspective (ESDP)** ⁽³⁾, which was adopted in 1999 at Potsdam and which provides a **common reference framework** for informal meetings of ministers responsible for spatial planning and territorial policy.

3.3 At the informal ministerial meeting on territorial cohesion held in Rotterdam in November 2004, ministers agreed to add the preparation of a summary paper entitled **The Territorial State and Perspectives of the European Union**, the document on which the Territorial Agenda is based, to the agenda.

3.4 The **Territorial Agenda constitutes a strategic framework** setting the priorities for the EU's territorial development. It contributes to economic growth and sustainable development by strengthening territorial cohesion, which can be defined as cohesion policy's ability to adapt to the specific needs and characteristics of geographical challenges and opportunities, in order to ensure that the EU's territory develops in a balanced and sustainable way.

3.5 The **objective of territorial cohesion** was incorporated into Article III-116 of the June 2003 draft Treaty establishing a Constitution for Europe, as the third dimension of economic

and social cohesion. The territorial dimension of Community policies is also analysed in the Third report on cohesion, which was presented by the Commission in 2005. The Community Strategic Guidelines for cohesion, which were adopted in 2006, also include this new territorial dimension of cohesion.

3.6 At the informal ministerial meeting held in Luxembourg in May 2005, ministers adopted the following **themes and priorities set out in the Territorial Agenda**:

- Promoting Urban Development in line with a Polycentric Model.
- Strengthening Urban-Rural Partnership.
- Promoting Trans-National Competitive and Innovative Regional Clusters.
- Strengthening Trans-European Technological Networks.
- Promoting Trans-European Risk Management.
- Strengthening Ecological Structures and Cultural Resources.

3.7 **Key actions** include the following:

- Actions for Promoting More Territorially Coherent EU Policies.
- Actions for Providing European Tools for Territorial Cohesion.
- Actions for Strengthening Territorial Cohesion in the Member States.
- Joint Activities by Ministers.

4. The European Spatial Development Perspective (ESDP)

4.1 The ESDP is a **common reference framework** for the different stakeholders involved in spatial development and planning (the EU, Member States, regions and other local bodies), which supports the territorial dimension of a polycentric Europe and the much-needed 'territorialisation' of EU sectoral policies. This is an intergovernmental initiative, adopted at the Potsdam ministerial meeting held in 1999 and which is not binding. In practice, the ESDP has only been implemented in the context of setting up the European Spatial Planning Observation Network (ESPON ⁽⁴⁾) and, indirectly, under the three INTERREG programmes.

4.2 The ESDP has the following **aims**:

- To define at EU level, the main principles of territorial action, in the aim of achieving a sustainable and balanced development of European territory.
- To contribute to the economic and social cohesion that is taking shape and becoming a reality in the territory.
- To conserve Europe's natural resources and cultural heritage.
- To ensure a more balanced competitiveness of the European territory.

⁽³⁾ <http://europa.eu/scadplus/leg/en/lvb/g24401.htm>.

⁽⁴⁾ <http://www.espon.eu>.

4.3 Four **main areas** interact with one another and exert considerable pressure on territorial development:

- Development of urban areas. More than three-quarters of Europe's population lives in cities.
- Development of rural and mountainous areas, which cover around three-quarters of Europe's territory.
- Transport and infrastructure distribution across the territory.
- Conservation of Europe's natural and cultural heritage.

4.4 Building on the above ideas, the ESDP has established the following **guidelines**:

- Polycentric spatial development.
- Stronger rural-urban partnerships.
- Parity of access to transport and telecommunications infrastructure and knowledge.
- Prudent management of Europe's natural and cultural heritage.

4.5 Some **concrete measures** that have been planned are to:

- Take account of the ESDP's policy guidelines when implementing Structural Funds and spatial planning policy in each Member State.
- Experiment with cross-border, transnational and inter-regional cooperation under INTERREG.
- Take account of the territorial impact of other sectoral policies, such as transport.
- Strengthen European cooperation in the field of urban policy.
- Launch ESPON — the European Spatial Planning Observation Network.

4.6 *ESPON — the European Spatial Planning Observation Network*

4.6.1 ESPON, the European Spatial Planning Observation Network, is an applied research programme in the field of territorial development financed by INTERREG and the Member States. The aim of the programme is to provide policy makers on the European, national and regional level with systematic and new knowledge on territorial trends and impacts of policies that affect regions and territories within Europe, a knowledge which can directly support the formulation and implementation of policies.

4.6.2 All of the applied research undertaken within the ESPON programme covers the territory of 29 European countries, including the 27 Member States of the EU, as well as Norway and Switzerland.

4.6.3 The budget is envisaged to expand substantially, from the EUR 7 million for the period 2000-2006, the new ESPON 2013 Programme (for the period 2007-2013) now stands at EUR 34 million and could reach EUR 45 million with national contributions.

5. Comments

5.1 *Legal base and the Community method*

5.1.1 In all territory-related issues, the added value of a common European approach is crucial. The experience gained in recent decades and the need to take account of the territorial dimension of European integration mean that policies affecting the overall European territorial approach should gradually be 'communitarised'.

5.1.2 The European Union pursues numerous Community policies that have an effect at territorial level. These include competition policy, trans-European transport networks, telecommunications and energy, environmental policy, agricultural policy, research and technological development policy, regional policy, EIB investments, etc. What the EU lacks, however, is a common approach that addresses, assesses and coordinates the implications of these policies for Europe's territory.

5.1.3 A common European territorial approach requires common European objectives and guidelines. The added value of these European territorial guidelines in objectives such as environmental protection, polycentric and sustainable urban development, trans-European networks and European-level plans to prevent natural, technological and climate change-related disasters is clear to see.

5.1.4 Under the 'Community method' ⁽⁵⁾ the Commission, on its own initiative or at the initiative of other Community bodies, draws up concrete proposals to be adopted by the Council of Ministers and, where appropriate, under the co-decision procedure with the European Parliament.

5.1.5 For some policies, the Council has implemented what is known as the 'open method of coordination', which involves a less intense and precise form of political action than the Community method. The EESC considers that for the issues on the Territorial Agenda, the open method of coordination could provide a useful first step before resorting to the Community method. The open method of coordination can be used until the adoption of the Constitutional Treaty, which allows for use of the Community method.

5.1.6 As European experience in other policies has shown, however, this system is only of benefit when the Commission has a very active role and when very precise objectives and guidelines are set.

5.1.7 Irrespective of the eventual fate of the draft Treaty establishing a Constitution for Europe, section III of which includes territorial cohesion in its title — a development supported by the EESC — the following articles of the Treaty currently in force (TEC) should serve as the legal base for drawing up a common European territorial approach, if it is accepted that this remains a competence of the European Union:

- Article 2 states that '*The Community shall have as its task ... to promote throughout the Community a harmonious, balanced and sustainable development of economic activities*'.

⁽⁵⁾ MEMO/02/102 — <http://europa.eu/rapid/searchAction.do>

- Article 16 refers to social and territorial cohesion in the context of services of general economic interest.
- Article 71 in the context of a common transport policy.
- Article 158 states that: *'In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion'*.
- Article 175(2)(b) states that the Council shall, on a proposal from the Commission, adopt measures affecting town and country planning.

5.2 Regional policy

5.2.1 Community regional policy is a key instrument supporting economic and social cohesion, economic convergence and, in general, the process of European integration.

5.2.2 The EESC has always supported this policy, which aims — with success — to reduce disparities between European regions.

5.2.3 This regional policy, which is one of the most successful of all Community policies, must remain in operation, given the new disparities that exist as a result of the enlargement process.

5.2.4 This regional policy is not incompatible — indeed quite the opposite — with an effective territorial cohesion policy, as proposed in the Territorial Agenda, which is to be implemented under the new 2007-2013 period.

5.3 Enlargement

5.3.1 The two latest rounds of enlargement have created new challenges for the European territory, which since 2004 has increased from 15 to 27 Member States, with its population increasing by 28 % (from 382 to 490 million inhabitants) and its territory by 34 % (from 3.2 to 4.3 million km²). This new dimension and the diversification of the EU's territorial characteristics mean that there is an urgent need for an overview of this territorial and geographical situation and of potential changes to it.

5.3.2 The two latest rounds of enlargement represent a major territorial challenge, which the European Commission must analyse thoroughly.

5.3.3 The number of internal and external border regions has increased considerably. Border regions present a challenge and also a genuine opportunity for the process of integration to produce real change.

5.4 Europe's territory

5.4.1 The challenges and risks affecting Europe's territory must be addressed by means of a European approach. The added value of a shared vision of the European territory is undeniable and a shared vision of this nature should be acknowledged to be a key strategic need.

5.4.2 It is worth highlighting some characteristics of this territory. It is:

- **continuous:** it has no borders;
- **finite:** it is not renewable;
- **diverse:** it is not homogeneous;
- **stable:** it does not change suddenly;
- **vulnerable:** it is not free from risk and disaster;
- **irreversible:** it cannot easily change use.

As a physical and geographical entity, the territory is thus of fundamental strategic importance. The Commission's impact assessments should include this territorial approach, which would require cooperation with ESPON.

5.5 Governance

5.5.1 The EU should have an appropriate system of governance, in which the right balance is struck between the different levels of territorial government, because within European territory, local, regional, national and EU-level governments all play a role. The principle of subsidiarity must be respected, whilst guaranteeing coherence and a holistic, common and shared approach.

5.5.2 Civil society should also participate at the different levels through the structured procedures for social and civil dialogue. Many Member States and many European regions now have economic and social councils (or similar bodies) which should be engaged so that, in conjunction with the social partners and other civil society organisations, they play an active role in the systems for consultation and governance with regard to territorial affairs.

6. The Territorial Agenda: The Territorial State and Perspectives of the European Union

6.1 The Territorial Agenda is based on the document entitled *The Territorial State and Perspectives of the European Union* which, rather than a summary document, is one to which successive six-month presidencies have added their different contributions. The document gives a 197-point presentation of all the challenges facing the territory and is thus an extremely useful guide, on the basis of which the Commission should propose an action plan.

6.2 The Territorial Agenda should incorporate Member States' territorial strategies, take account of the territorial dimension of other Community policies and seek out areas of complementarity and synergy in order to achieve a European synthesis, by means of guidelines for a territorial strategy for the EU, which are set out in point 8.

6.3 Development of the EU's Territorial Agenda should focus on an approach based on economic, social and environmental sustainability.

7. Territorial Agenda objectives

7.1 Territorial cohesion

7.1.1 Territorial cohesion aims to introduce a European territorial approach that provides a framework for and renders compatible the territorial strategies drawn up and implemented by the Member States and regions.

7.1.2 Territorial cohesion should focus on the issues that affect territorial planning, first of all, and secondly, urban and regional planning. As stated by CEMAT ⁽⁶⁾ in 1994, spatial planning is the ideal instrument for implementing sustainable development at territorial level.

7.1.3 Efforts must therefore be made to clarify the concept, methodology and terminology of spatial planning. Spatial planning is a multidisciplinary approach and is a cross-cutting priority that affects a range of issues, especially the environment, transport and communications, housing and human and industrial settlements, etc.

7.2 Economic and social cohesion

7.2.1 In line with the Lisbon strategy, the EESC proposes that more balanced economic development should be ensured for the European territory to the benefit of all of its citizens and regions, including regions with permanent natural and structural handicaps ⁽⁷⁾.

7.2.2 All European policies should promote the objective of social cohesion. The EESC proposes that the Territorial Agenda's objectives include those of social cohesion, because the European territory is where people live, where they find opportunities and where they face their problems.

7.2.3 The polycentric development of urban and metropolitan areas and a constructive relationship between these and peripheral and rural areas can help to achieve greater economic and social balance in Europe. Combating poverty and social exclusion, integrating immigrants ⁽⁸⁾, boosting housing policy, equal opportunities and establishing high-quality public services should also form some of the basic aims of the territorial approach.

7.3 Climate change and natural risks

7.3.1 All of the most recent reports on climate change draw attention to the gravity of the problem. Global warming is clearly a fact and not a matter of opinion. Many effects of climate change are beginning to appear on the ground. Spatial

planning must take up this new challenge in an attempt to mitigate and remedy some of the effects that climate change is having on the territory.

7.3.2 A European plan for dealing with risks and natural disasters must be drawn up. This is not a question of writing science fiction. The recent report by the economist Sir Nicholas Stern ⁽⁹⁾, commissioned by the British government, starkly illustrates what is at stake for the planet: at least 1 % of the world's GDP would need to be invested in the fight against climate change to prevent global costs and risks of climate change from causing a loss of 5 % in world GDP, a figure that could reach 20 % if the most harmful effects of warming continue to worsen at their current pace.

7.3.3 Climate change could have a detrimental effect on cohesion and competitiveness, on the quality of life and on sustainable development sooner than has been predicted to date, as confirmed in the recent report by the United Nations' panel of experts on climate change, which was presented in Paris on 2 February 2007. The EESC proposes that account be taken of the effects of climate change on spatial planning.

7.3.4 The risks to be considered should include those caused by technological disasters (radioactive, chemical or bacteriological crises) caused by accidents or terrorist attacks and provision should be made for the potential mass displacement of the population.

7.4 Trans-European Networks

7.4.1 The idea of Trans-European Transport Networks (TEN-T) was first mooted in the late 1980s, in the context of the single market. Talk of the single market and freedom of movement only made sense if the different national and regional transport networks were linked to one another by means of a modern and efficient Europe-wide infrastructure system.

7.4.2 Since 1992, Title XV of the Treaty (Articles 154, 155 and 156) has been dedicated to Trans-European Networks. The record of the last fifteen years is disappointing, even alarming. Funding difficulties and lack of political will partially explain this poor record. The EESC regrets the fact that governments have consigned to political oblivion the 2003 Initiative for Growth ⁽¹⁰⁾, which included the construction of major trans-European networks. The EESC would ask: to what extent does the absence of an overview of European territory and its infrastructure account for the poor record of the Trans-European transport, telecommunications and energy networks?

7.4.3 One of the basic objectives that the EESC wishes to highlight is that all individuals and all regions should have proper access and links to transport networks, through a balanced pan-European network that has good connections to small towns, rural areas and island regions.

⁽⁶⁾ The Council of Europe's European Conference of Ministers responsible for Regional Planning.

⁽⁷⁾ EESC opinion on *How to achieve better integration of regions suffering from permanent natural and structural handicaps* — OJ C 221, 8.9.2005, p. 141.

⁽⁸⁾ EESC opinion on *Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations* — OJ C 318, 23.12.2006, p. 128.

⁽⁹⁾ STERN report — Sir Nicholas Stern — 30.12.2006 — 'Stern Review executive summary' — New Economics Foundation.

⁽¹⁰⁾ Conclusions of the Brussels European Council, 12 December 2003, points 2, 3, 4 and 5.

7.4.4 Europe today does not have an adequate energy network (for electricity, oil and gas). The lack of such a network could seriously undermine economic activity, and leads to unequal opportunities for the regions and territories that do not currently enjoy access to these networks.

7.4.5 European energy policy must take on board the territorial approach both in order to protect natural resources and to ensure social and territorial cohesion.

7.4.6 To implement the Lisbon Strategy too, all territories and all citizens should have access to the information society and its networks, free movement of knowledge and training. The EU Territorial Agenda should consider this to be a priority approach.

7.5 *Environmental protection*

7.5.1 The aim of protecting Europe's physical and natural environment and biodiversity can only be achieved if a common political approach is adopted across the territory. From this point of view, European added value is crucial.

7.5.2 The Territorial Agenda should form the basis for a new, more effective policy for protecting the environment and for preserving biodiversity ⁽¹⁾.

7.6 *Cultural heritage*

7.6.1 Europe has a cultural heritage of enormous importance, which the EU must protect. Europe's regions offer great cultural diversity, which forms the cornerstone of Europeans' history and identity.

7.6.2 The Territorial Agenda should support the conservation of this rich and diverse cultural heritage, which should also

be promoted as an endogenous factor for economic development and social cohesion.

8. **Guidelines for an EU territorial strategy**

8.1 The guidelines for an EU territorial strategy should endeavour to achieve maximum economic efficiency, social cohesion and environmental sustainability, whilst respecting the principles of subsidiarity and proportionality.

8.2 Without impinging on the competences of Member States' and regions' spatial planning policies, the guidelines for a sustainable territorial strategy for the Community territory constitute a reference framework for the European territory that must provide content and meaning for territorial cohesion.

8.3 The guidelines for a territorial strategy to achieve economic, social and territorial cohesion should, as a matter of priority, address:

- a European approach to the transport and communications infrastructure that makes the Trans-European Transport Networks (TEN-T) possible;
- a European approach to energy policy and, in particular, to the Trans-European Energy Networks (TEN-E);
- a European approach to protecting and conserving the physical and natural environment, paying particular attention to natural biodiversity and cultural wealth;
- a European approach to combating the detrimental effects of climate change and, by means of a common policy, potential risks and disasters on European territory;
- a polycentric and sustainable approach to regional and urban planning.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁾ EESC opinion on the *Communication from the Commission on Halting the loss of biodiversity by 2010 — and beyond — Sustaining ecosystem services for human well-being* COM(2006) 216 final — OJ C ...

**Opinion of the European Economic and Social Committee on the Report from the Commission:
Report on Competition Policy 2005**

SEC(2006) 761 final

(2007/C 168/04)

On 15 June 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 *Report from the Commission: Report on Competition Policy 2005*.

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 27 March 2007. The rapporteur was Mr Garai.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted the following opinion by 115 votes to 40 with 12 abstentions.

1. Conclusions and recommendations

1.1 It was not possible for this opinion to cover all DG COMP's activities ⁽¹⁾. Only a limited number of selected cases could be discussed briefly, and judicial rulings on antitrust, merger and State aid cases were not dealt with at all, since this would have required a separate, in-depth study of detailed market conduct and how it is viewed by the authorities. However, the Report makes it clear that DG Competition's approach to handling cases is characterised by perseverance in carrying out procedures and a concern to find suitable and practicable solutions to the problems which are encountered. If something could be criticised, then perhaps some selected subjects might be mentioned where the importance of the sector from the point of view of fulfilling the requirements of international competitiveness outlined by the Lisbon agenda and accompanying documents did not warrant the attention paid to it by the Commission. For the EESC, one example is the '2005 Report on Professional Services — Scope for more reform' follow-up paper and the staff working document entitled 'Progress by Member States in reviewing and eliminating unjustified restrictions to Competition in the area of Professional Services'. In the Committee's view, the Lisbon agenda's call for liberalisation of services mainly applies to services of international relevance (infrastructure, telecommunications, transport, etc.), and is much less concerned with the 'liberal' professions (including architects, lawyers, doctors, engineers, accountants and pharmacists); most of the latter are small-scale entrepreneurs of mainly local importance, and in keeping with the subsidiarity principle they fall within Member State competences (see the Cipolla-Macrino case, Joined Cases C-94/04 and C-202/04) ⁽²⁾. It cannot be denied that certain restrictions are necessary to ensure that practitioners meet society's expectations of high professional standards, experience and trustworthiness. The Committee welcomes in-depth studies of the relevant markets for the various liberal professions in the Member States; these studies assess the extent and seriousness of existing restrictions. At the same time it must be emphasised that not only the economic effects of proposed liberalisation on competition

patterns should be analysed, but also their probable repercussions on the fabric of society. This does not preclude NCA anti-trust procedures, mainly directed against the efforts of professional associations to fix prices.

1.2 The EESC has been advised to place greater reliance on the vast professional expertise and experience of the civil society associations and organisations represented in the Committee in monitoring the activity of DG COMP; it has even been suggested that the Committee could occasionally carry out investigations with a view to initiating antitrust and State aid cases. The Commission's DG Competition could assist in this by supplying regular information on its policy-making objectives and even case-handling activity, within the constraints of confidentiality.

1.3 Regular meetings between EESC representatives and DG Competition's Consumer Liaison Officer should be introduced. Exchanging information could promote ongoing dialogue with consumer protection organisations. Whenever DG COMP summarises the findings of sector inquiries ⁽³⁾ into energy (gas and electricity) and financial services (retail banking and business insurance), they should be made available to EESC representatives (preferably in a working group) for study and comment.

1.4 The EESC recognises the need to summarise its views on the impact of competition policy on the economic and social values set out in the Committee's remit. To this end, work should soon begin on issuing the a study interpreting the concepts of competition and competitiveness (including their actual content) in the spirit of the Lisbon agenda, and assessing their probable social impact in Member States.

1.5 When DG COMP launched a debate on application of Article 82 TEC (abuse of a dominant position), it published a paper on exclusionary conduct, which is harmful to competitors and competition itself. This paper has been widely discussed. The Commission has promised to follow this up by looking at exploitative abuses which is an even more sensitive issue from the point of view of consumers and (SME) suppliers of

⁽¹⁾ DG COMP's international activity is worth mentioning in this context since in many fields and subjects it represents a form of 'applied economic diplomacy' on the part of the EU.

⁽²⁾ OJ C 94, 17.4.2004 and OJ C 179, 10.7.2004.

⁽³⁾ See page 23 paragraph 35 and page 42, paragraph 115 of the Report.

companies with a dominant position. The Committee is of the opinion that the Commission should now draft a discussion paper on exploitative conduct within the meaning of Article 82 TEC; this paper could serve as a basis for discussions, and, once sufficient shared characteristics have been identified for both types of abusive conduct (exclusionary and exploitative), unified guidelines should be established incorporating conclusions on interpretation of the rules on abuse of a dominant position.

2. Introduction

2.1 The free market does not always lead to the best result possible. Distortions of competition hit employees and consumers as well as businesses and the economy in general. Competition law is a tool for governments to set and enforce fair market conduct by means of substantive and procedural rules of administrative law.

2.2 When expressing the opinion of the EESC on the Report, it is worth mentioning that modern market-oriented democratic States possess two main sets of tools for influencing the economy:

- *Industrial policy*, which involves influencing market players by means of tax breaks, subsidies and other forms of support, and which amounts to direct intervention in the economy.
- *Competition policy in the narrower sense*, which not only defines which types of practices are considered undesirable, but in order to ensure a level playing field for competition also offers access to legal proceedings, including enforcement, which entails sanctions.

2.2.1 DG Competition is in a position to employ both policies: the application of Articles 81, 82 and 86 (*) of the EC Treaty represents the typical activities of a competition authority.

2.3 Another important consideration is that it is widely accepted that fair, undistorted and viable competition between market players is probably the best guarantee for consumers that the quality and choice of goods will come up to their expectations. Nevertheless, it should not be forgotten that many other circumstances influence so-called consumer benefit: the general state of society, favourable or disadvantageous material and moral/spiritual factors, etc. The European Economic and Social Committee (henceforth referred to as the EESC or the Committee) would like to put the Report by DG Competition in a general context, and to discuss it from the perspective of the Committee's values as set out in its remit.

3. Application of Articles 81 and 82 TEC

3.1 When the EU Commission exercises law enforcement powers under the antitrust provisions (on anti-competitive

(*) Article 86 (EC Treaty) is applied by the Commission to Member States and not enterprises.

behaviour) of Articles 81 and 82 of the Treaty of Rome, these are directed towards undertakings ⁽⁵⁾ in Member States; the Commission's actions can therefore be compared to the exercise of a quasi-judicial competence, in that it judges the market conduct of companies *ex post*, according to the provisions of competition law. This activity, which has been the task of the Commission's Directorate-General for Competition (DG COMP) since the early 60s, is reflected in the Commission's decisions, which, together with the judgements of the Court of First Instance and the European Court of Justice (on appeals), has developed a legal system of authoritative precedents over a period of forty-five years. The case-law accumulated in this way by judging different market situations is one of the most valuable achievements of the *acquis communautaire*.

3.2 The 2005 Report makes it clear that DG COMP is well aware of all the important aspects of economic competition within and outside the EU and of its role in ensuring the legal protection thereof. This is all the more so because EU substantive case-law can also be applied by national competition authorities and courts; therefore, these rules are continuously shaping EU and national legal practices.

With regard to 2005, the EESC would like to comment on the following initiatives, proposals and measures:

3.2.1 Rules for access to European Commission files in anti-trust and merger cases: This is always a delicate question in procedures and the relevant details are continuously being fine-tuned by the Commission. The Commission considers it important to ensure that businesses interested in antitrust or merger procedures have access to files in both paper and electronic versions. The new rules replace an earlier text adopted in 1997.

3.2.2 A request to potential complainants to supply information to help effective enforcement of competition rules: Interestingly enough, this request was published in the Report under review. It highlights the difficulties associated with the monitoring of markets by competition authorities, and calls on civil society organisations and professional associations to play an active role in initiating and conducting investigations (e.g. gathering evidence) into major competition law infringements.

3.2.3 Discussion paper on the application of Article 82 TEC (abuse of dominant position): DG COMP's aim was to generate specialist debate on the exclusionary anti-competitive conduct of companies that have sufficient market power to influence the behaviour of their competitors to gain unilateral advantages over them. More than 100 contributions were made to the discussion paper (which serves as a basis for future guidelines). The majority of these stress the need for an economic analysis of the relevant market and players. The truth of these observations cannot be denied. However, many of the contributions

(5) Undertakings do not necessarily have to be present on the territory of a Member State. A major strength of European competition law is that it can apply sanctions simply on the basis of the effects of restrictive behaviour or agreements.

emphasise that it is important to acknowledge the principle of not hindering efficient companies in their execution of market strategies. Hence, this currently fashionable theory, instead of strictly condemning unfair market conduct, advocates greater indulgence ('rule of reason') for effective, though aggressive business strategies. However, according to European case-law⁽⁶⁾ such ideas are inconsistent with the intolerance of unfair market conduct aimed at eliminating unwelcome competitors, which is the most widespread approach at European level⁽⁷⁾. There can be no doubt that defining the borderlines which key market players must not cross is a fundamental dilemma for competition policies. Given the EESC's role in defending the interests of civil society (SMEs⁽⁸⁾, workers, consumers, etc.) it keenly awaits the outcome of this debate.

3.2.4 The Impact Assessment Guidelines provide for screening of all legislative and policy initiatives included in the European Commission's Annual Work Programme from the point of view of probable positive or negative impacts on competition: The aim is 'to avoid unnecessary or disproportionate restrictions of competition', right from the EU legislative phase. Efforts to gauge probable impacts on markets (which ones?) are proof of how deeply engrained the notion of 'vigorous' or 'perfect' (i.e. fair and undistorted) competition has become in the Commission's approach. The EESC is of the opinion that 'competition' should be perceived in a much broader sense and that, especially in the case of consumers, workers and small and medium enterprises, long-term interests could diverge considerably from the immediate interests of ensuring conditions which are conducive to 'perfect' competition⁽⁹⁾.

3.2.5 Green Paper on damages actions for breach of the EC antitrust rules: The EESC's recent opinion of 26 October 2006 on the Green Paper was positive about the Commission's efforts in this field. The Commission's publication of the Green Paper on damages actions for breach of the EC antitrust rules has opened up a broad and welcome debate on the need to make it easier for those injured by anticompetitive practices to recover damages. In its opinion of 26 October 2006 (INT/306), the EESC states, inter alia, that the aim is to ensure the effective protection of everyone concerned by the European Single Market. Given the free movement of goods, there must be a degree of uniformity in all countries in terms of contractual rights and obligations. Where cross-border transactions are concerned, efforts should be made to achieve a certain degree of harmonisation between various systems of national law.

⁽⁶⁾ Paragraph 341 of the Judgment of the Court of First Instance (Third Chamber) of 28 February 2002 — *Compagnie générale maritime and Others v Commission of the European Communities*, ECR 2002 PII — 01011.

⁽⁷⁾ See the AKZO case, 31.12.1985, OJ L 374/1, paragraphs 74-79.

⁽⁸⁾ Which very often fall prey to unrestrained manoeuvres by companies in a dominant position.

⁽⁹⁾ See the opinion of the Zentralverband Gewerblicher Verbundgruppen F.V. Berlin: 'Stellungnahme zum Diskussionspapier der Kommission zur Anwendung von Art 82 EG auf Behinderungsmissbrauche' 21.3.2006.

3.2.5.1 Secondly, account must be taken of the existence of both European and national competition authorities (NCAs), whose task it is to determine what prohibited practices are, and to establish the economic sanctions that could be imposed on companies in breach of the rules.

3.2.6 Launching sector inquiries into the recently liberalised gas and electricity sectors: These examinations will certainly help to clarify what is really happening in these very important and wide-ranging sectors — sectors in which liberalisation has long been perceived as a panacea. It is high time to subject local, nationwide and even broader markets to unbiased scrutiny in order to shed light on numerous monopolistic situations which are detrimental to consumers, workers and businesses.

3.2.7 Electronic communication: There is growing dissatisfaction with the increasingly integrated European electronic communications markets. Mobile network operators' wholesale rates for international roaming services are too high. For this reason, DG COMP has initiated investigations by submitting statements of objections to the operating companies. The provisional conclusion of the investigation was that two out of the three leading German companies were abusing their dominant position by charging 'unfair and excessive prices'.

3.2.7.1 The EESC would take this opportunity to state frankly that interpretation of Article 82 TEC⁽¹⁰⁾ has progressively been infiltrated by 'excessive pricing', both as a concept and expression, whereas the actual wording of the Treaty only refers to 'imposing unfair prices', i.e. unjust or unjustified prices. The reason why the European Commission has so far refused to investigate and take action against exploitative price-raising market conduct by dominant companies is its reluctance to define 'right' and 'wrong' prices⁽¹¹⁾ (especially with regard to services provided in different countries). However, the demand for international services (roaming) from mobile phone operators is intensifying, and customers are becoming increasingly cost-sensitive in their attitudes. They rightly feel that even slight price-increases might be 'unfair', without actually being 'excessive'. The EESC eagerly awaits the findings and decisions of the Commission in this and other similar cases.

3.2.8 Decision fining the AstraZeneca company for misuse of the regulatory system: The Commission adopted a new approach to interpreting Article 82 (EC) when it fined AstraZeneca AB and AstraZeneca Plc (AZ) EUR 60 million for infringements of Article 82 TEC (and Article 54 of the European Economic Area Treaty). The abuse committed by the merged companies was that they — in order to maintain intellectual property rights protection enabling them to maintain high product prices on many markets — initiated official procedures based on a Council regulation and thus obtained a supplementary protection certificate relating to the patent of their anti-ulcer product Losec. The abuse involved supplying misleading information to the relevant decision-making

⁽¹⁰⁾ See Article 82 TEC.

⁽¹¹⁾ See 'Commission Practice concerning excessive pricing in Telecommunications', Competition Policy Newsletter, p. 36, Issue No. 2, June 1998.

authorities and bodies, resulting in extension of the patent. Consequently, the validity of the Losec patent could not be deemed to have expired. As a result, Losec did not become a generic product, and smaller companies capable of marketing this anti-ulcer product were prevented from manufacturing it at a much lower price than the AstraZeneca companies. Thus, the effect of delaying the patent's expiration indirectly harmed consumers.

3.2.8.1 The novelty of this antitrust procedure was that in its decision the Commission ruled that even if remedies under the patent extension procedure were open to competitors, this did not exclude the application of Article 82 (EC). The AstraZeneca companies were in a dominant position in the relevant European (and other) markets and the abuse had been committed through fraudulently initiated procedures.

3.2.8.2 The EESC would take this opportunity to point out that this type of market conduct would fit much better into the category of 'unfair marketing practices' ⁽¹²⁾, which as yet do not fall within the remit of DG Competition. On this particular occasion the abuse was pushed through from a dominant position, but there are many other instances of companies acting in a similar way, irrespective of their market power, without being punished. If we are thinking in terms of integrated European markets, we also need to put in place better protection for consumers and competitors, which are often SMEs. The Commission's decision in the AstraZeneca case heralds likely progress in this direction.

3.2.9 Decision concerning the monitoring trustee in the former Microsoft case: This well-known case had significant repercussions and lessons for American companies, who realised that the European legal system acts as watchdog even vis-à-vis powerful non-EU market players. The latest decision shows how flexible the European Commission is in searching for and devising mutually acceptable solutions enabling companies in breach of Community law to re-align themselves within normal competitive conditions. In fact, nomination of the trustee ⁽¹³⁾ to monitor the IT giant's endeavours to comply with the remedies prescribed by the Decision is a tool borrowed from merger control practice and reflects the good intentions of DG COMP in terms of cooperation on settling disputes.

3.2.10 Launching sector inquiries in financial services: The Committee endorses the inquiries which have been initiated in the field of payment cards and retail banking services (current accounts and SME financing tools), as well as investigation into a particular case involving business insurance (see point 3.2.10.2).

3.2.10.1 With regard to the above-mentioned banking services, competition seems to be impaired by barriers to entry, lack of real choice and, presumably, existing dominant positions.

⁽¹²⁾ Directive 2005/29/EC of 11 May 2005, on unfair trade practices between businesses and consumers, recital 8.

⁽¹³⁾ In full agreement with Microsoft on the choice of the person acting as trustee, whose costs are even covered by the company.

3.2.10.2 With regard to business insurance, the sector investigation 'will examine in particular the extent of cooperation among insurers and insurance associations in areas such as the setting of standard policy conditions ⁽¹⁴⁾. While in many cases such cooperation may create efficiencies, possibly distortive forms of cooperation may limit the potential for the demand side to negotiate terms of coverage and may also restrict competition and innovation in the market'.

3.2.11 Commission proposal on public service requirements and contracts in passenger transport by road, rail and inland waterway: The revised proposal on public service requirements and contracts in passenger transport may promote the involvement of SMEs active in these fields, thereby placing them in a better position to participate in local transport.

3.2.12 Setting up of the Cartels Directorate specialised in the fight against hard-core cartels: the EESC wholeheartedly supports the progress made in the professional handling of cartel cases.

3.2.13 Since 1 May 2004, Regulations 1/2003 and 773/2004 on antitrust procedures have introduced a new system for identifying the possible anticompetitive intentions and effects of agreements to be concluded by market players. Notifications to obtain a preliminary position of the competition authority on the possible anti-competitive nature of planned joint venture and (horizontal and vertical) cooperation agreements may no longer be submitted either to the European Commission or to the Member States competition authorities. This means that instead of an individual exemption, in the form of a 'comfort letter' or 'negative clearance' as issued by DG COMP before 1 May 2004, it is up to the companies themselves to carefully scrutinise all aspects of the planned agreement to establish compliance with any (or all) of the conditions set out in Article 81(3) TEC ⁽¹⁵⁾ for beneficial effects on the relevant markets. One of these conditions is that if such an agreement (usually a joint venture agreement) is concluded in a certain market and is advantageous to the participants, the benefits must be shared with consumers.

3.2.13.1 The EESC would emphasise that failure to fulfil the condition set out in the final sentence of the previous paragraph should be grounds for considering a given conduct as anticompetitive. When evaluating agreements which are in breach of Article 81(1), the Commission should qualify any evidence proving that the conduct was intended to disadvantage consumers as an aggravating circumstance.

⁽¹⁴⁾ http://europa.eu.int/comm/competition/antitrust/others/sector_inquiries/financial_services/decision_insurance_en.pdf.

⁽¹⁵⁾ §81. (3) The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings;
- any decision or category of decisions by associations of undertakings;
- any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while **allowing consumers a fair share of the resulting benefit**, and which does not:
 - (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
 - (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

4. Merger control

4.1 An important task for the Commission is to examine the foreseeable market structures and dominance arising from mergers by companies intending to concentrate development, manufacturing and marketing capacities in order to enhance their position and power on the market. Not only company mergers but even joint ventures between enterprises can be regarded as concentrations if executive powers are concentrated in a single unified management structure and if the various participants act as a single market player in the relevant market. The benefits of concentrations include increased efficiency, accelerated product development, lower costs and management-level synergies. However, from the competition policy perspective concentrations can be disadvantageous, given that aggregation of market powers often gives rise to dominance, which in turn is associated with a high risk of abuse. Sometimes mergers can have a negative impact. Several studies have shown that they do not always enhance efficiency or growth; in the long run, a company's profits and value may even suffer as a result. Mergers can also lead to substantial job losses. Hence, when evaluating mergers, it is also important to take employment and social policy aspects (e.g. jobs) into account. The best means of assessing whether the effects of a planned concentration might distort competition is to check various aspects of the relevant merger against the conditions set out in Article 81(3) TEC (see footnote 12). If the market structure and market power of the companies involved in the merger complies with the conditions set out in this article, then the concentration is considered as acceptable. This is an important link between merger control (which is essentially an industrial policy tool) and antitrust rules, which help authorities to apply competition policy in the stricter sense of the term.

4.1.1 Companies in excess of certain thresholds for annual EU and/or global turnover must notify the European Commission of their serious intention to bring about joint market power (concentrations), whereupon DG Competition initiates Phase I and occasionally Phase II procedures. The obligation to notify the Commission is not conditional on market strength; what the Commission considers is whether the relevant concentration would significantly reduce competition, for example by creating or strengthening a dominant position.

4.2 One of the main objectives (or expected outcomes) of merger control is to promote the international competitiveness of European manufacturers and distributors⁽¹⁶⁾. The inherent problem associated with EU practice is that companies achieve such a strong market position by means of mergers that they may be tempted to restrict competition in the common market. The Commission has made noticeable efforts to offset that risk by imposing various conditions for clearance (i.e. 'remedies') prescribing divestitures, the sale of intellectual property rights, discontinuation of distribution in certain countries, etc. Be that as it may, after a study of the impressive statistics on mergers

⁽¹⁶⁾ The main objective of merger control is to ensure that concentrations do not significantly impair competition in large sections of the common market. For example, under European competition law the enhanced competitiveness of a particular company on global markets is not admissible as an argument for authorising a merger which would distort competition within the EU.

one may conclude that they do not give any indications as to whether:

- all or most concentrations which actually take place and are in excess of the threshold figures have been notified by companies;
- DG Competition is able to prove whether companies which carried out approved concentrations over the last few years have abused their enhanced market power or not.

4.3 In October 2005, DG Competition published a Merger Remedies Study detailing the commitments imposed on companies and prerequisites for clearance in order to lessen presumed anticompetitive effects, together with detailed *ex post* evaluations of those commitments. In over 40 percent of the approved cases, serious unresolved issues (incomplete transfer of divested businesses, incorrect carve-out of assets, etc.) have emerged. This can be taken as a reminder of the need to assess any potential anti-competitive behaviour infringing Article 82 (EC) in the light of the interested parties' increased market power arising from cleared mergers.

5. State aid

5.1 One of the main tasks of DG Competition is monitoring the activity of Member States: which businesses receive financial support, and on what basis? Since the European Union aims to ensure a 'level playing field' for all companies active in the common market, the notion 'State aid' has been carefully defined and consistently interpreted in relation to government industrial policies. Scrutiny extends not only to direct financial interventions, but also to tax breaks, as well as to any other kind of advantage granted to businesses on a selective basis; these may be deemed unacceptable by the European Commission if they distort competition.

5.2 In 2005, DG Competition attempted to reach a better understanding of the objectives of State aid in Member States and the rules which apply to its allocation. The aim of this initiative was to contribute to the success of the Lisbon agenda by using aid to enhance the competitiveness of the EU economy as a whole. With a view to improving coordination among stakeholders (i.e. State bodies, enterprises and their associations) and directing public funds to sectors where they could be used efficiently, it launched a State Aid Action Plan⁽¹⁷⁾. The guiding principles of the Plan do not break with existing practice but aim to help shape better practices which Member States can adapt to. Some remarks:

5.2.1 The 'good and bad' examples outlined in the Report reflect the variety of reasons for which aid can be granted. The aim of using public money 'effectively to the benefit of EU citizens in terms of improving economic efficiency, generating more growth and sustainable jobs, social and regional cohesion, improving services of general economic interest, sustainable

⁽¹⁷⁾ http://europa.eu.int/comm/competition/state_aid/others/action_plan/

development and cultural diversity' ⁽¹⁸⁾ is, of course, fully endorsed by the EESC. However, taking into consideration poor conditions due to under-developed infrastructure and an unfavourable business climate for small and medium-sized enterprises, as well as other disadvantages — especially in the new Member States — the EESC cannot support the objective of distributing less State aid.

5.2.2 It seems that creating financially favourable conditions for conventional companies in crisis by extending aid to rescue or restructure them is still an important issue in several Member States. From the point of view of employment, the EESC cannot criticise this. However, there have been several cases in which the Commission has expressed its doubts as to the viability of aid that serves to restore rescued companies to a balanced economic position.

5.2.3 According to a package of legal measures launched in July and coordinated with the State Aid Action Plan, 'companies can receive public support to cover all costs incurred, including a reasonable profit, when carrying out public service tasks as defined and entrusted to them by public authorities'. In helping to tide companies (probably SMEs of local importance) over financial difficulties, such possibilities may be good examples of how public money can be used effectively to the benefit of EU citizens and enterprises.

6. Running of the European Competition Network (ECN)

6.1 2005 was the first full year in which the changes to anti-trust procedures introduced by Council Regulation No 1/2003 became operable. What this means is that

- if trade between Member States is affected, EU antitrust substantive law directly applicable to enterprises (Articles 81 and 82) together with case-law is to be enforced by competition authorities and courts in the Member States;
- at the same time, the Commission has made efforts to establish close, ongoing contacts with each national competition authority (and vice versa), while encouraging NCAs to do likewise with each other, in order to ensure that a suitable forum exists for general policy issues and that suitable tools are available to support cooperation on dealing with actual cases.

Brussels, 26 April 2007.

6.2 The Report under review in this opinion makes it clear that national courts rarely become involved in the enforcement of EU competition law, and there is no immediate prospect of overcoming problems in this area. One of the main reasons may be that first instance jurisdiction in competition law varies from country to country. Another reason is that so far only national competition law has been available, whereas — despite the fact that legislative harmonisation has had a very significant impact on Member States' legal systems — differences between EU law and national laws remain in many Member States. For the time being, it seems that even litigant parties are reluctant to lodge cases with national courts ⁽¹⁹⁾.

6.3 A hidden reason is that European case-law, which is in fact one of the real sources of competition law, is not readily accessible to judges in the Member States. As far as procedural law is concerned, concise summaries of different procedural situations together with references to precedents are available, but similar handbooks for substantive law ⁽²⁰⁾ have not been compiled as yet by the Commission or the European Court of Justice. The first step towards wider application of current EU antitrust articles by Member State courts should be compilation of the most important (and often cited) sample cases together with explanatory concepts and definitions in a handbook, supplemented by statements and conclusions from the judgements of the Court of First Instance and the European Court of Justice. The compilation should of course be translated into all national languages, and updated regularly. The Committee firmly believes that unless case-law collections are compiled and published in all the languages used in Member States and training in EU competition law is organised for all interested national judges, lawyers and experts, correct application of EU competition rules in Member States will not gain ground.

6.4 With regard to establishing a network to communicate and cooperate with national competition authorities, the Commission (and of course, DG COMP in particular) has succeeded in placing the European Competition Network (ECN) on a firm footing within a relatively short time. The fora and working groups described in the Report are effective links in a well-established cooperation system in which NCAs very often establish direct contacts with each other (even at the level of case-handlers) without any need for Brussels to act as a go-between. It may well be asserted that integration has not been this far-reaching in any other part of the official organisation of the EU.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁸⁾ SEC(2006) 761 final.

⁽¹⁹⁾ If the litigant companies are registered in several Member States and the market conduct has extended to more than one country, it might not even be clear which country's courts have jurisdiction over a case.

⁽²⁰⁾ Leading lawyers' offices have already put together comparable texts, but they are of course for their own use.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendments, which received at least a quarter of the votes cast, were rejected in the course of the debate:

Point 3.2.10.1.

Delete point.

~~'3.2.10.1 With regard to the above-mentioned banking services, competition seems to be impaired by barriers to entry, lack of real choice and, presumably, existing dominant positions.'~~

Reason given by Mr Sartorius:

The point is unclear, as it is hard to understand what barriers, real choices or dominant positions are being referred to. This could lead to confusion unless a detailed explanation is provided, without generalisations.

The European banking sector is probably one of the most competitive sectors in the European economy. This competition benefits both consumers and the sector.

If the point is referring to the obstacles to greater integration of retail banking within Europe, then the main hurdles result from the lack of harmonisation of regulations for consumer protection and tax regimes. This harmonisation should be emphasised. One important step will be the implementation of the Single Euro Payments Area (SEPA), which will bring fundamental changes to credit cards and cross-border payments.

Reason given by Mr Pater:

This paragraph should be deleted for the following reasons:

- the text is vague and could therefore give rise to the impression that the Committee is opposed to natural barriers to entry into the banking services market, which are meant to ensure an adequate level of protection,
- it is unclear what the comment on the lack of real choice refers to, as the banking services market is one of the most competitive European economic sectors,
- if dominant positions actually existed in the sector (at the expense of clients), DG COMP — which the opinion praises over 20 times — would of course immediately take the necessary steps to prevent negative effects,
- the point digresses from the main line of reasoning in the opinion, and thus deleting it — far from introducing additional complexity — renders the whole opinion clearer and more concise.

Reason given by Mr Burani:

The claim that competition in banking services is 'impaired' is simply not borne out by the facts, as anyone can easily check. There is no indication of what, or of what kind, these 'barriers to entry' are — in any case, they do not exist (if they did, they should be pointed out). Regarding 'freedom of choice', there are thousands of banks throughout the EU in fierce competition with each other in terms of both quality of service and prices. As for 'dominant positions', consumers continue to have a choice between banks of all types and sizes, ranging from multinationals to private banks and local cooperatives. If such positions existed, both the national and the European competition authorities would certainly long since have taken action: this has not happened to date. The entire point simply repeats a number of clichés about restrictions on freedom to provide services in respect of public works contracts, with no supporting evidence or instances.

Voting:

For: 66

Against: 71

Abstentions: 25

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC

COM(2006) 232 final — 2006/0086 COD

(2007/C 168/05)

On 10 November 2006 the Council decided to consult the European Economic and Social Committee, under Article 175 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 March 2007. The rapporteur was **Mr Nilsson**.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 118 votes to 2 with 7 abstentions.

1. Gist of the opinion

1.1 The EESC welcomes the EU-level thematic strategy for soil protection and endorses, in principle, the establishment of a framework directive.

1.2 The strategy must focus on areas where the problem is the most serious and where the threat to arable land is greatest, e.g. change of soil use (where arable land is taken over for building, roads, etc.), polluted industrial areas and sealing of ground surfaces. The EU strategy must respect the subsidiarity principle.

1.3 The costs of soil degradation must be borne by those who are responsible for the damage in cases where this is proportionate, rather than primarily by the land user.

1.4 If the reason for using a framework directive is to ensure common ground, the Member States must have similar levels of ambition, in order to avoid any distortion of competition.

1.5 Good agricultural and forestry practices maintain and improve the soil.

1.6 By definition, when farmland is used for food production, natural land has been taken for cultivation purposes. Consequently, some impact is unavoidable.

1.7 The EESC condemns the Commission's failure thus far to present its redrafted proposal for a new revised sludge directive and calls on the Commission to present it without delay, as it is one of the mainstays in soil protection for agricultural land and for ensuring that contamination by dangerous substances does not increase.

1.8 Restoration of soil under Article 1 (subject-matter and scope) must be managed with regard to specific situations and assessed on a case-by-case basis.

1.9 The National sectoral policies identified in Article 3 must not lead to distortions of competition between the Member States.

1.10 Member State requirements under Article 4 must be reasonably proportionate.

1.11 Article 12 must be reworded with regard to the prospective buyer's obligation to provide a report in certain cases.

1.12 The penalties provided for under Article 22 must also be in reasonable proportion to the damage inflicted. The EESC believes it is unacceptable that the same damage can give rise to several different penalties.

1.13 The requirement for the operator to undertake remedial measures under Article 23 can only be justified if the operator has actually caused the damage.

1.14 The establishment of an independent committee of experts from the private and public sector would facilitate implementation of the soil strategy.

2. Gist of the Commission proposal

2.1 Soil can be considered a non-renewable resource, yet soil is rapidly degrading in many places across the EU exacerbated by human activity, such as industrial activities, tourism, urban development, transport infrastructure and certain agricultural and forestry practices.

2.2 Soil is a resource of common interest to the EU and failure to protect it at EU level will undermine sustainability and long term competitiveness in Europe. Different EU policies already contribute to soil protection but no coherent policy exists. Only nine Member States have specific legislation on soil protection, often covering a specific threat, in particular soil contamination. Soil degradation has strong impacts on other areas of common interest to the EU, such as water, human health, climate change, nature and biodiversity protection, and food safety.

2.3 Against this background, the Commission proposes a Soil Strategy for Europe. It is set out in a communication, accompanied by a proposal for a framework directive and an impact assessment. The framework directive sets out common principles, objectives and actions. It requires Member States to adopt a systematic approach to identifying and combating soil degradation, tackling precautionary measures and integrating soil protection into other policies. But it allows for flexibility; it is for the Member States to decide the level of ambition, specific targets and the measures to reach those. This is because soil degradation offers a very scattered picture throughout Europe, where 320 major soil types have been identified.

2.4 Member States are required to identify areas where there is a risk of erosion, organic matter decline, compaction, salinisation and landslides. They must set risk reduction targets for those areas and establish programmes of measures to achieve them. They will also have to prevent further contamination, establish an inventory of contaminated sites on their territory and draw up national remediation strategies. When a site is being sold, where a potentially contaminating activity has taken or is taking place, a soil status report has to be provided by the seller or the buyer to the administration and the other party in the transaction. Finally, the Member States are required to limit or mitigate the effects of sealing, for instance by rehabilitating brownfield sites.

3. General comments

3.1 The EESC welcomes the Commission Communication on a Thematic Strategy for soil protection, which is the follow-up to the previous 2002 ⁽¹⁾ communication, and the proposal to establish a framework directive on soil protection. As early as the year 2000, an EESC own-initiative opinion on sewage sludge in agriculture ⁽²⁾ called on the Commission to introduce minimum requirements for soil protection.

3.2 In taking forward the soil protection strategy, the Commission has held a comprehensive, open consultation process involving many different parties over almost four years, and which the EESC was also able to follow. The comments contained in this opinion refer first and foremost to the proposed framework directive, on which the EESC has been consulted, but also, where applicable, to the Commission communication.

3.3 Soil and soil functions provide a precious resource for nature, and human and ecosystem survival. Human activity affects soil functions and soil use in various ways. An EU strategy must focus on areas where the threat to arable land is greatest, e.g. change of soil use, polluted industrial areas, sealing of ground surfaces and erosion.

3.4 Soil and soil functions are connected with several other policy areas which are variously regulated by both EU- and national legislation, e.g. the Water Directive, the Nitrates Directive, chemicals legislation, etc. Some countries already have various arrangements for regulating, monitoring and identifying soil and soil degradation; consequently the Commission proposal must not lead to a worsening of the situation but rather provide sufficient flexibility for these countries.

3.5 The Commission points out that the cost of soil degradation is not borne by land users but by society or other players. The EESC would point out that those who cause damage must be liable for it; generally speaking, it is not always land users who are at fault. In many cases, land users are subject to the effects of airborne pollution, pollution from other areas via industrial emissions, flooding and other polluting emissions; here, land users suffer adverse effects for which they are clearly not responsible.

3.6 The EESC notes, however, that the Commission consistently emphasises that protection measures must be implemented at source; this is clearly the correct approach, and will lead to a proper balance of responsibilities. It also means that legislative areas other than soil-specific areas are affected.

3.7 The EESC endorses the adoption of a specific strategy for soil protection, and the fact that this is to be delivered through a framework directive. This provides the basis for equal protection with common rules for problems which, by their very nature, can extend across borders. If, however, soil protection is to be genuinely enhanced, this policy area must also be integrated into other legislation.

3.8 The Commission also states that costs and benefits will vary depending on ambition levels and the extent to which existing potential is harnessed in, for example, the Common Agricultural Policy's environmental provisions. The EESC would stress that the problem of a uniform, safe legal interpretation and application of the Member States' cross-compliance requirements, as introduced into the Common Agricultural Policy, remains unresolved. If the aim of the framework directive is to provide a common basis for soil protection and to prevent operators from having to bear the brunt of greatly varying economic obligations, then the ambition levels must also be similar in order to prevent any distortion of competition.

3.9 As a first example, the Commission points out that factors such as unsuitable agricultural and forestry methods can contribute to soil degradation. On the contrary, when good farming practice is applied in agriculture and forestry, it helps to maintain or improve the soil. The threat to farmland comes from change of use, industrial expansion, transport installations, atmospheric pollution, ground level ozone and other pollutants. Although spatial planning (urban planning) is a Member State rather than an EU competence, this area must also be targeted.

⁽¹⁾ COM(2002) 179 final.

⁽²⁾ CES 1199/2000, OJ C 14 of 16.1.2001, pp. 141-150.

3.10 Market forces and the present agricultural policy have also contributed to the increase in structural development and specialisation, and to separating, to a large extent, crop production from animal husbandry, which can lead to a reduction in organic waste in the soil. The new common agricultural policy with its decoupled payments actually makes this more likely.

3.11 The Commission considers that agriculture can have a positive effect on soil condition if the soil is managed ecologically, extensively and using an integrated approach. This is somewhat simplistic. Everything depends on the expertise and technology used in soil management. By definition, when farmland is used for food production, natural land has been taken for cultivation purposes. Consequently, some impact is unavoidable and must therefore be accepted if foodstuffs are to be produced. The impact on farmland depends on annual seasonal variation, climate, etc., but this does not mean that industrial substances, erosion, humus concentration, etc., must be accepted. Normal agricultural activity, using the expertise we have today, can in fact help to maintain and enhance soil quality. Few entrepreneurs take such a long-term approach to both investment and soil management as farmers and foresters. This high level of awareness of soil protection among farmers should be supported and complemented by advisory systems as well as voluntary measures and incentives.

3.12 The Commission further states that environmental protection is enhanced through the environmental liability directive⁽³⁾. This is a fair comment, but at the same time it should be pointed out that the fact that the same damage can give rise to up to three different penalties (withdrawal of aid, liability and administrative fees) as is currently the case, cannot be compatible with accepted legal opinion.

3.13 The EESC agrees that sustainable use of soil requires a comprehensive EU strategy for soil protection.

3.14 Implementation could be strengthened by creating an independent group of soil protection experts, with representatives from the public and private sector.

4. Specific comments

4.1 The EESC condemns the Commission's failure to present the proposal to amend the directive on the use of sewage sludge in agriculture and permissible concentrations of heavy metals, which the Commission has been preparing for several years. In its communication on soil protection, the Commission states its intention to present such a proposal in 2007. The 2002 communication on a thematic strategy for soil protection stated that the review would be included in the soil strategy. This means that one of the most important measures for enhancing soil protection and safe food production has been considerably

delayed. It is therefore essential to publish the amended directive on the use of sewage sludge simultaneously with the adoption of the soil protection strategy.

4.1.1 The current sewage sludge directive⁽⁴⁾ still permits high concentrations of heavy metals and other pollutants in sewage sludge that can be spread on farmland. The EESC would refer to the own-initiative opinion it adopted in the year 2000 on the revision of Council Directive 86/278/EEC on the use of sewage sludge in agriculture, which called for tougher requirements on permissible concentrations of heavy metals. Also, far too little is known about the content of chemical pollutants in general, how they interact and how they affect soil and food safety when spread on cultivated land.

4.1.2 The EESC takes this very seriously and would refer to a study presented by two researchers in *The Lancet* in November 2006. Although this is a one-off study the results show that well-known contaminants can have a hitherto unnoticed effect on brain development in foetuses and small children. The researchers believe that this could be linked to serious conditions such as autism, ADHD and retarded development. Many of these chemical also occur in household products. In various ways they end up in sewerage systems and we know far too little about how they affect the soil when sludge has been used as a fertilizer.

4.1.3 The EESC welcomes the fact that the Commission seems to have abandoned its previous position that the best use of sewage sludge, from an environmental perspective, is to spread it on arable land. The wording of the waste strategy communication⁽⁵⁾ would seem to indicate this. The Commission also confirms here that it intends to put forward proposals for a revised sewage sludge directive, following on from the soil protection strategy. The EESC considers, however, that it should not have waited for this; it should have presented much earlier a radically revised directive on permissible concentrations of heavy metals and other pollutants in sewage sludge, particularly since the proposed directive states that this is needed in order to limit the introduction of dangerous substances into the soil.

4.1.4 Use of sewage sludge in agriculture and its concentrations of contaminants is one of the most important issues in soil protection and food safety. It also begs the question of whether soil users or sewage sludge producers, i.e. towns and municipalities, should be liable for any soil degradation. Liability and damages issues must be clarified in a revised sewage sludge directive.

⁽³⁾ Directive 2004/35/EC.

⁽⁴⁾ 86/278/EEC.

⁽⁵⁾ COM(2005) 666 final.

4.1.5 New, safer chemicals legislation is also imperative for soil protection in general, and in particular to how society disposes of sewage sludge by spreading it on soil. It is essential to replace dangerous chemicals with less dangerous ones in order to achieve the required level of soil protection.

4.1.6 The EESC calls on the Commission to present forthwith the proposal for a revised directive and also to provide risk analyses for more substances than currently covered by the directive. This should be one of the most important factors in soil protection for arable land, to avoid any increase in contamination and to ensure satisfactory food safety levels.

4.2 Article 1 of the soil protection directive provides that degraded soil must be restored to a level of functionality consistent at least with the current and approved future use. The EESC endorses the principle but would question whether the framework directive really needs to specify 'at least'. The specific situation should be taken into account and decisions made on a case-by-case basis.

4.3 The EESC believes that the current wording of Article 3 could leave scope for the Member States to formulate a national sectoral policy that distorts competition. It is important that the article be confined to analysis, but any measures must comply with the requirements of a properly functioning internal market, common rules and fair competition.

4.4 The EESC also considers that Article 4 leaves scope for almost unbridled intervention. With regard to farmland, the EESC has pointed out above that cultivation has a de facto impact on the soil, one which varies with factors that the land user cannot influence, such as annual seasonal variation,

climate, etc. Member State requirements must be reasonably proportionate to this. Similarly, there must be reasonable compliance between Member State measures. This is also consistent with the provisions of Article 9 on proportionate measures to preserve soil functions.

4.5 Article 12 provides that in certain cases a landowner or prospective buyer must provide a soil status report. The EESC believes it would be wrong to require a prospective buyer to provide the report. Flexibility is needed to allow for differences in Member State legislation. Consequently the article must be reworded.

4.6 Article 17 refers to the voluntary platform that the Commission intends to establish. The Commission must actively ensure that this really does lead to an exchange of similar methods so that the approach will be uniform and a level playing field ensured. Since information is to be exchanged on a voluntary basis, active participation will also be required from the Commission.

4.7 Article 22 states that the Member States shall lay down the rules on penalties. The EESC considers that it is important, for the sake of legal certainty, that the penalties should be in reasonable proportion to the damage inflicted. It is also unacceptable that the same damage can give rise to several different penalties.

4.8 Article 23 proposes an amendment to Directive 2004/35/EC to enable the authorities to require the operator to undertake remedial measures. The EESC believes this can only be valid if the operator has actually caused the damage. This does not emerge clearly from the text.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

APPENDIX

to the Committee Opinion

The following amendment was rejected by the assembly, but was supported by more than a quarter of the votes cast:

Point 1.1

Amend as follows:

'The EESC welcomes the EU-level thematic strategy for soil protection and endorses the aim behind the Commission proposal, namely the protection and sustainable use of soil. The EESC wishes that the proposed framework directive takes thoroughly into account the principles of subsidiarity and proportionality; in principle, the establishment of a framework directive ...'

Voting

For: 47

Against: 54

Abstentions: 13

The following Section Opinion text was rejected in favour of an amendment adopted by the assembly, but was supported by more than a quarter of the votes cast:

Point 1.15:

'The EESC calls on national and regional legislators and the Commission to systematically evaluate existing legislation of relevance to soil protection.'

Outcome:

74 votes for deleting the phrase, 33 against and 15 abstentions.

Opinion of the European Economic and Social Committee on the:

- **Proposal for a Regulation of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings**
- **Proposal for a Regulation of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, and Council Directive 2001/112/EC**
- **Proposal for a Regulation of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1576/89, Council Regulation (EEC) No 1601/91, Regulation (EC) No 2232/96 and Directive 2000/13/EC**
- **Proposal for a Regulation of the European Parliament and of the Council on food additives**

COM(2006) 423 final — 2006/0143 (COD)

COM(2006) 425 final — 2006/0144 (COD)

COM(2006) 427 final — 2006/0147 (COD)

COM(2006) 428 final — 2006/0145 (COD)

(2007/C 168/06)

On 11 September 2006 the Council decided to consult the European Economic and Social Committee, under Articles 37 and 95 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 March 2007. The rapporteur was **Mr Pezzini**.

At its 435th plenary session held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 127 votes in favour with four abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the package of proposals on additives, enzymes and flavourings and on common authorisation procedures, in the context of an effective and competitive internal market that ensures a high level of protection for human life and health.

1.2 The Committee believes that a series of clear and harmonised rules on the way safety assessments are carried out, with definite timeframes and reasonable costs, is of benefit to consumers and producers alike, particularly small-scale producers.

1.3 The Committee welcomes the Commission's plan to simplify and harmonise the additives, flavourings and enzymes sectors and to promote consistency between them by adopting a single common procedure for their approval.

1.4 In the Committee's view, while the possibility of a single authorisation procedure for the entire EU may be of great benefit to the single market in the medium to long term, consideration must nevertheless be given to the impact of the new regulations on imported products.

1.4.1 Europe is in constant competition on the global market in terms both of exports and imports, and the rules proposed

are in many cases more burdensome than those laid down by the Codex Alimentarius, potentially distorting competition to the detriment of European companies, small ones in particular.

1.5 The Committee welcomes the choice of procedure, namely that of submitting changes to the Community list to the comitology process, providing that there are high levels of transparency, constant dialogue with producers and consumers and swift mechanisms for innovation and product development.

1.6 The Committee supports the bolstering of the work of the EFSA (European Food Safety Authority), in order to promote transparent risk assessment based on scientific data and objective reasoning, with a view to protecting consumers.

1.7 The Committee recommends fleshing out the procedures and human and financial resources available to the EFSA, with a view to ensuring high quality, transparent and independent assessments, with full respect for confidentiality.

1.8 The Committee also believes it would be worthwhile stepping up the monitoring done by Member States on the consumption and use of additives, enzymes and flavourings, by means of effective methodologies incorporating data supplied by industry.

1.9 The Committee is in favour of a periodical review of the positive lists of additives, enzymes and flavourings, providing this is based on an ongoing structured dialogue with consumers and producers and does not generate an additional burden in terms of time and money.

2. Reasons

2.1 Scientific and technological advances offer better quality food products thanks, not least, to the use of small quantities of enzymes, flavouring and additives. These advances also provide means of ensuring that such substances are not used inappropriately.

2.2 In its White Paper on Food Safety, on which the Committee issued an opinion ⁽¹⁾, the Commission announced its intention to update and flesh out existing legislation on additives and flavourings and to prepare specific provisions on enzymes (White Paper — actions 11 and 13), in the context of work to improve Community legislation on the basis of the 'farm to table' principle.

2.3 The Committee has always supported the objective of securing the smooth running of the internal market, while also ensuring a high level of protection for human life and health, and has repeatedly supported the need to adopt a global and integrated approach to food safety in the EU.

2.4 In the Committee's view, 'The European food chain must be legislated in its entirety — from "farm to table". Each link in the food chain must be as strong as the next and the Commission should assure reliable enforcement of Community legislation' ⁽²⁾.

2.5 The adoption of a common procedure for the approval of enzymes, flavourings and additives is a key innovation in the Commission's package of proposals and the Committee welcomes the plan to simplify and harmonise these sectors. This will do away with multiple authorisation procedures by individual Member States, remove parallel authorisation systems and considerably reduce administrative burdens and red tape.

2.6 Legislation on food **additives** has already been harmonised at European level. Presently, there are around 330 food additives permitted under the legislation, and requests to allow additional additives or new uses of additives continue to abound.

2.6.1 Sufficiently detailed information on the use and properties of the substances concerned is required when evaluating these requests, particularly for decisions that relate to risk management.

⁽¹⁾ See opinion CES 585/2000 of 26.5.2000, rapporteur: Mr Ataíde Ferreira. OJ C 204, 18.7.2000.

⁽²⁾ See footnote 1.

2.7 Harmonising procedures for flavourings and enzymes will make for more streamline authorisation procedures, cutting the cost of updating technical data sheets and of changing labelling.

2.8 The current legal uncertainty resulting from differences in national legislation on **food enzymes** is threatening to distort the market for food enzymes and increase the administrative and financial burden in the various Member States. Furthermore, in the absence of a harmonisation initiative, there will continue to be differences in protection levels, owing to the differences between the Member States when it comes to risk perception, safety assessment and legislation on food enzymes.

2.8.1 It should be noted that while the absence of EU-level harmonised rules threatens to pose obstacles to the free movement of goods and to trade in the industry, harmonisation — both of safety assessments and of the authorisation of food enzyme use — could entail a major investment, owing mainly to the cost of authorisations, estimated to be in the order of EUR 150-250 000 ⁽³⁾ per enzyme.

2.8.2 The food enzymes industry is continually developing technologies and processes to innovate and improve food production. It should not, however, underestimate the possible chemical risks in terms of allergies, toxicity and residual microbiological activity. These potential risks require ongoing consumer safety assessments, in particular regarding enzymes from genetically modified organisms.

2.9 As regards legislation on **flavourings** and certain food ingredients with flavouring properties destined for use in and on food products, a more efficient authorisation procedure is needed for the management of a 'positive list' containing approximately 2 600 flavouring products.

2.9.1 Harmonisation of the legislation on flavourings will clearly put the European Union in a stronger position in negotiations with third countries, as the flavourings will have to be entered into the Codex Alimentarius system, not least in order to prevent European companies, SMEs in particular, from being penalised.

2.9.2 By creating a uniform and integrated market for flavourings in the EU, the European industry will be able to maintain its leading position as a producer and developer of flavourings.

2.9.3 On the other hand, the additional work that will be required to meet the new standards on flavouring labelling should not be underestimated.

2.10 The Committee believes that the European Food Safety Authority should be given more resources and means and that new procedures should be devised to ensure an independent, transparent and high quality assessment of the safety of additives, enzymes and flavourings.

⁽³⁾ See SEC(2006) 1044, point 3.3.

2.11 The shift from decision-making based on co-decision with the European Parliament to the comitology procedure, using committees for authorisations, will demand clear and transparent criteria for the safety assessment of claimed benefits to consumers.

2.12 As the Committee has already stressed in previous opinions ⁽⁴⁾, in order to be able to evaluate progress on food safety matters and to judge whether the new system is living up to its expectations, there is a need for assessment criteria, such as increased/decreased consumer confidence, the occurrence and handling of food crises, closer cooperation between stakeholders, etc.

3. The Commission proposal

3.1 The package of proposals put forward by the Commission is designed to clarify existing legislation on food additives and food flavourings and introduces new rules on enzymes. A further proposal aims to establish common procedures for authorisations in all three sectors on the basis of scientific opinions given by the European Food Safety Authority (EFSA).

3.2 **Additives** The new rules are designed to simplify and pare down the authorisation system for food additives, currently governed by Directive 89/107/EEC. Authorisations for the inclusion of additives in the new positive list would be based on a food safety risk assessment by the EFSA, in accordance with Regulation 178/2002/EC. There is also a proposal for a review of the technical aspects of the current authorisation system and new harmonised Community provisions are set out for additives used in other additives.

3.3 **Enzymes** A new legislative framework is proposed for the assessment, approval and monitoring of food enzymes and for the establishment of a positive list of all enzymes with a technological function in the final food, on the basis of a favourable scientific opinion from the EFSA. There are also provisions for the labelling of food enzymes, with the exception of those used as processing aids.

3.4 **Flavourings** Provision is made for a review of the general rules established by Directive 88/388/EEC, bringing them up to date with technological and scientific developments. The directive will be replaced by a new regulation, setting out clearer rules on:

- maximum admissible levels of certain substances, in accordance with opinions from the EFSA;
- a 'Community list' of flavourings and source materials approved for use in and on foods;
- tighter conditions for the use of flavourings and food ingredients with flavouring properties;
- clear and uniform labelling rules.

⁽⁴⁾ See Opinion CES 404/2001 of 28 March 2001, Rapporteur: Mr Verhaeghe. OJ C 155, 29.5.2001.

3.5 **Common authorisation procedure** The proposal suggests introducing a common authorisation procedure for food additives, food flavourings and food enzymes, based on risk assessments conducted by the European Food Safety Authority and a risk management system. The authorisation stages involve the Member States and the Commission within the framework of a regulatory committee procedure. The proposal gives the Commission the task of drafting and updating various 'positive lists', one for each category of substance concerned, on the basis of the EFSA's scientific assessments. The inclusion of a substance on one of these lists means that its use has been authorised on a general level and for all operators on the Community market.

4. General comments

4.1 For the most part, the Committee welcomes the Commission's proposals, providing there are safeguards for the efficiency and competitiveness of the internal market and a guaranteed high level of protection for human life and health.

4.2 The Committee considers that the proposed instrument — a regulation — will provide a better guarantee than would a directive, as the latter would allow for differing interpretations regarding the implementation of the rules.

4.3 The possibility of obtaining a single authorisation valid for the entire European Union may, in the Committee's view, be highly advantageous to the internal market in the medium to long term.

4.3.1 Consideration must, however, be given to the impact of the new regulations on imported products and to the fact that Europe is a major importer competing on the global market, as the Community rules are more burdensome than those currently set out in the Codex Alimentarius. The Codex should therefore be amended, to prevent European companies from being penalised.

4.4 The Commission's choice of the comitology procedure for amending the Community list may prove to be a positive step, both for industry and for civil society, on condition that high levels of transparency are ensured and it remains possible to keep step with innovation and the development of new and improved products, not least in the fight against allergies.

4.5 The Committee welcomes the fact that the EFSA's risk assessments are to be based on transparent procedures, scientific data and objective reasoning.

4.6 The new responsibilities entrusted to the EFSA should be matched by more robust procedures and human and financial resources, with a view to ensuring high quality, transparent and independent assessments, with full respect for confidentiality.

5. Specific comments

5.1 *Common authorisation procedure*

5.1.1 The Committee believes that the implementing measures, including the content, drafting and presentation of the application, arrangements for checking the validity of applications and the type of information, as set out in Article 9, should be included in the EFSA's opinion.

5.1.2 As regards updating the Community list, the deadlines for the authorisation system should be shorter, cutting the time taken by the Commission to issue its draft regulation from nine to three months, so as to enable the entire examination and approval cycle to be completed within 12 months.

5.1.3 Similarly, the possibility offered by Article 10 for the EFSA or the Commission to extend the assessment period in certain cases should not be open-ended. A maximum period should be specified in the regulation.

5.1.4 The Committee believes that the common authorisation procedure should provide for a periodical review and update of the lists, at a limited cost and effort and on the basis of an ongoing structured dialogue with producers and consumers.

5.1.5 Under no circumstances should the Community authorisation system be used to justify the creation of technical barriers to trade. Costly tests and certification procedures for imports and exports should not therefore be allowed.

5.2 *Additives*

5.2.1 The criteria of 'reasonable technological need' and 'advantages and benefits for the consumer' (Article 5) need further clarification.

5.2.2 The information provided in the labelling mentioned in Article 20 must be clearly comprehensible and recognisable to the general public and uniform throughout the Community.

5.3 *Enzymes*

5.3.1 The Committee welcomes the fact that all food enzymes with a technological function are covered by the regulation and will be subject to approval before being added to the Community's positive list.

5.3.2 The Committee believes that the assessment criteria for enzymes should include 'advantages and benefits for the consumer' in the same way as for additives.

5.3.3 With regard to labelling, the Committee would stress the need for clarity and uniformity at Community level, without unnecessary complexities, for the benefit of producers and consumers alike.

5.3.4 The Committee believes that use of positive lists in vertical legislation should be avoided as that would create a double authorisation system for the same enzymes. Previous directives and regulations must be modified as soon as possible in order to make uniform reference to the new regulation.

5.4 *Flavourings*

5.4.1 In the Committee's view, the assessment criteria should mirror those set out for additives, including 'advantages and benefits for the consumer'.

5.4.2 The Committee would underline the need for clearer information for consumers, as set out in Article 14 regarding the nature and origin of food flavourings.

Brussels, 25 April 2007.

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 — Implementing sustainability in EU fisheries through maximum sustainable yield

COM(2006) 360 final

(2007/C 168/07)

On 4 July 2006, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 March 2007. The rapporteur was **Mr Sarró Iparraguirre**.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion with 131 votes in favour and 3 abstentions.

1. Conclusions and recommendations

1.1 The EESC considers that, although the new maximum sustainable yield (MSY)-based policy guideline for EU fisheries management will be beneficial in the long term, it could have economic and social consequences that Europe's fisheries sector would find very hard to accept. The Committee therefore recommends that the pros and cons of implementing this guideline be considered extremely carefully from the economic, social and environmental points of view.

1.2 Because it is hard accurately to estimate the maximum sustainable yields of the different fish stocks, the EESC recommends that in its long-term plans the Commission set reasonable, gradual and flexible annual adjustments, on which all the sectors concerned agree. The Regional Advisory Councils, the EU Advisory Committee on Fisheries and Aquaculture (ACFA) and the Social Dialogue Committee for Maritime Fisheries should, therefore, be consulted at the earliest opportunity, giving them sufficient time to ensure that their members can discuss the terms of the proposals that have been put forward.

1.3 The EESC thus recommends that the Commission take particular care over setting the annual mortality rates per fish, with the aim of obtaining the maximum sustainable yield for mixed fisheries in the long term.

1.4 The Committee does not agree with the European Commission's argument that this fisheries management policy will improve the balance of trade, because the gap left in market supply by Community enterprises will be filled immediately by imports from outside the Union. The EESC therefore urges the Commission to be particularly vigilant in observing and monitoring these imports into the Community market.

1.5 The Committee considers that the Commission and the EU Member States should take account of the 'other environmental factors' referred to in this opinion and which also influence changes in marine ecosystems. The Committee also recommends that they impose restrictions equivalent to those sought for the fisheries sector on economic players whose activities affect marine ecosystems.

1.6 With regard to the adjustment requested in order to achieve the maximum sustainable yield, the Committee considers that the two approaches proposed by the Commission could complement one another, because the Member States will have to implement the measures that are most appropriate bearing in mind the economic and social effects in their respective fisheries sectors. The EESC wishes to express its concern at the fact that the European Fisheries Fund (EFF) does not have sufficient means to cope with the impact of this new management system's implementation.

2. Reasons

2.1 The Commission Communication on *Implementing sustainability in EU fisheries through maximum sustainable yield* (¹), the subject of this opinion, sets out the Commission's position on improving the economic performance of the fisheries sector in accordance with the common fisheries policy.

2.2 The Commission's way of achieving this improvement in economic performance is gradually to phase out overfishing, because it takes the view that this would bring about economic benefits for the fishing industry in terms of reducing costs, improving catches, improving the profitability of the fishery and reducing discards.

2.3 To achieve these goals, the Commission considers that it is time to manage European fisheries in a different way, actively looking for success rather than merely seeking to avoid failure.

2.4 The Communication sets out a new policy guideline for EU fisheries management, based on obtaining the maximum sustainable yield from fish stocks by setting long-term mortality rates.

2.5 This new policy guideline is based on the international political commitment, given by EU Member States at the World Summit on Sustainable Development (WSSD) held in Johannesburg in September 2002, to 'maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015'.

(¹) COM(2006) 360 final of 4.7.2006.

2.6 The aim is therefore to move towards a longer-term management system that focuses on obtaining the best from the productive potential of Europe's living marine resources. This approach is fully consistent with the broader objective of the common fisheries policy, which is to ensure sustainable economic, environmental and social conditions.

2.7 As the Communication states, the economic benefits can only be obtained by exercising more restraint in fishing during a transitional period. All parties concerned should be involved in the process of deciding the pace of this change. Financial assistance, such as that provided for under the proposal for a European Fisheries Fund, must help to mitigate the social and economic repercussions during the transitional phase.

3. General comments

3.1 The principle guiding the Commission's decision to implement MSY-based fisheries management in the Community is that there has simply been too much fishing in relation to the productive potential of some stocks.

3.2 Recognising that some fish stocks in European waters have declined very severely over the last 30 years, principally as a result of over-fishing, the Committee agrees that it will be desirable to move to more sustainable levels of fishing.

3.3 The Commission considers that implementing MSY-based fish stocks management systems will ensure that stocks do not collapse and at the same time allow larger fish stocks to build up.

3.4 The EESC considers that the principle is correct, because the maximum sustainable yield of a fish population is the quantity of biomass (quantity of fish) that can be exploited in such a way that future production is not affected. Consequently, it fully supports basing fisheries management policy on this principle.

3.5 Nevertheless, the Committee wishes to point out to the Commission that any change of management system entails risks and that the advantages and drawbacks should therefore be weighed up extremely carefully.

3.6 The Communication discusses the advantages of the MSY-based fish stocks management system in considerable detail, especially the environmental advantages, but does not dwell on the system's economic and social advantages for the fisheries sector and in particular fails to mention the drawbacks.

3.7 One of the advantages highlighted by the Commission that the EESC does not agree with is the argument that this fisheries management policy will improve the balance of trade; this is because the void left by Community enterprises going out of business as a result of complying with MSY targets will be filled immediately by operators from outside the Union, as the fisheries products market is driven by the need to ensure a constant supply.

3.8 The Communication's overall approach for the new management system is to reduce the fishing mortality rate. In order to allow fish to grow more and achieve a higher value and yield when they are caught, the proportion of fish captured from the sea must be reduced.

3.9 Nevertheless, the Communication acknowledges that fish populations are difficult to measure, and while fishing (fish mortality) is the major influence on stock health, other factors such as environmental changes and the influx of young fish also play a role.

3.10 The Communication therefore puts forward a long-term strategy for rebuilding fish stocks based on seeking to balance fishing activity against the productive capacity of the stocks and suggests that this can be done gradually, by reducing the number of vessels fishing or the vessels' fishing efforts.

3.11 In order to implement this strategy in such a way that fishermen are able to obtain the maximum sustainable yield from the stock, the appropriate target rate of fishing and the annual mortality rate must first be set for each stock, per fish, on the basis of the best available scientific advice. The rate at which annual adjustments will be made to reach this target rate must also be decided on. As set out in the common fisheries policy, these decisions should be implemented through long-term plans.

3.12 Community fisheries management is currently implemented in line with the principles of safety and precaution for fish stocks. Annual TACs (Total Allowable Catches) and catch quotas are based on comparative scientific reports, and recovery plans provided for under the common fisheries policy are implemented for some fish stocks that have deteriorated in order to return them to sustainable biological levels.

3.13 The EESC considers that the change of management system is significant, because it means adopting a biological target that is more ambitious than that under the current management system. In turn, this change will also mean, with each annual adjustment, considerable fish mortality reductions, which will undoubtedly require reductions in fleets and fishing efforts and therefore considerable sacrifice on the part of Community fishing enterprises. The EESC wishes to express its concern at the fact that the European Fisheries Fund (EFF) does not have sufficient means to match this considerable sacrifice. Nevertheless, if the targets are achieved, the situation could be extremely favourable to those fishing enterprises that continue to operate.

3.14 In the light of this approach, the EESC wishes to point out to the Commission that there is a high degree of uncertainty as regards the MSY estimates for the different species stocks. Given this uncertainty, the Committee recommends that the Commission strive to make the annual adjustments in its long-term plans reasonable.

3.15 The challenge therefore is to find ways of helping fishing communities and businesses to get through the adjustment phase in good order. The Committee believes that this will require more generous and imaginative support measures than the Commission has so far put forward. Such measures are fully justified as a means of securing early transition to a more sustainable pattern of fisheries activity for the future.

3.16 In any event, the Committee considers that, as stated in the Communication, it is necessary that all those affected be involved in the decision-making on long-term plans, the pace at which they are implemented and their impact; thus the Regional Advisory Councils (RAC) should be frequently consulted. The EESC also considers that the EU Advisory Committee on Fisheries and Aquaculture (ACFA) and the Social Dialogue Committee for Maritime Fisheries should be included in these discussions.

4. Specific comments

4.1 Putting in place an MSY-based fisheries management system requires analysing — as the Communication does — another set of issues that have a direct impact on this type of management:

- environmental effects and their impact on changes in marine ecosystems;
- applying the management system to mixed fisheries;
- managing long-term plans.

4.2 Environmental effects and their impact on changes in marine ecosystems

4.2.1 The Communication accepts that it is highly uncertain how marine ecosystems will develop in relation to changes in climate and weather and that these and other environmental factors may certainly affect fish stocks.

4.2.2 Although it cannot determine the impact of all environmental effects, the Commission considers that fishing itself is often the most influential factor and that exploiting fish stocks at a lower rate of fishing will make stocks more resistant to ecological change.

4.2.3 The Communication therefore advocates reducing fishing at a steady and sustainable rate, to ensure that, as fishing mortalities are reduced and stocks rebuilt, more knowledge will be gained about ecosystems and their productive potential, which will help with the process of adjusting long-term management targets.

4.2.4 The EESC agrees with this principle, provided that fishing mortalities are indeed reduced at a steady and sustainable rate in species where this is needed. The Commission recognises that attempting to manage a fish biomass towards a target size could generate unacceptable instability for the industry in the short term.

4.2.5 Nevertheless, the Committee considers that 'other environmental factors', which the Communication does not

even mention, such as predator behaviour, pollution, the exploration and exploitation of oil or gas deposits, offshore windparks, marine sand and aggregate extraction, etc., also influence changes in marine ecosystems.

4.2.6 The EESC calls on the Commission and the EU Member States to impose restrictions equivalent to those sought for the fisheries sector on economic players whose activities also influence the size of fish stocks and changes in marine ecosystems.

4.3 Applying the management system to mixed fisheries

4.3.1 The area where the MSY-based fisheries management system is most difficult to apply is that of mixed fisheries.

4.3.2 The Communication recognises how difficult this is and it does not consider the management system for mixed fisheries in any great detail. The EESC considers that contacts between the Commission and the RAC and ACFA should be strengthened regarding this type of fisheries.

4.3.3 The Communication states that it is important to keep marine ecosystems in balance and the EESC fully agrees. Fishing down one species in order to favour the yield of another would be a high-risk approach.

4.3.4 The complexity of the system lies in the fact that, as the Communication states, fishing on all species in an ecosystem should normally take the form of catches (target rate) that correspond to obtaining a maximum sustainable yield in the long run. This means that, with regard to the maximum sustainable yield rates set for the different stocks within an ecosystem forming a mixed fishery, under the long-term plans the maximum catch will be determined by the species for which the lowest long-term rate is set for obtaining a maximum sustainable yield.

4.3.5 The Communication also states that, in order to avoid the accidental overfishing of a species as by-catch, additional measures such as modifications to fishing gear and closed areas and seasons may be necessary components of some long-term plans.

4.3.6 In the EESC's view, although this management system approach tallies with the broader aim of the common fisheries policy, the Commission should carry out a very detailed evaluation of the different rates used to obtain the MSY and should consult all parties involved with mixed fisheries on the economic and social repercussion of long-term plans.

4.4 Managing long-term plans

4.4.1 Long-term plans

4.4.1.1 The Communication states that these will be drawn up by the Commission in consultation with the sectors concerned, on the basis of impartial scientific advice and taking fully into account the economic, social and environmental repercussions of the proposed measures.

4.4.1.2 They will define a fishing target rate, and a means to reach that target gradually, diminishing any harmful impact of fishing on the ecosystem. Plans for mixed fisheries should include technical measures aimed at ensuring that the different fish stocks are harvested in line with their respective targets and the possibility of exploiting some stocks more lightly than at MSY levels in order to achieve some productivity gain in other species.

4.4.1.3 Where scientific advice does not help to quantify the measures needed to reach maximum sustainable yield conditions, the long-term plans will adopt the precautionary approach.

4.4.1.4 Lastly, the plans and their targets will be subject to periodic review.

4.4.1.5 The EESC considers that this new fisheries management policy guideline, which could have clear advantages once the MSY of all fish stocks has been achieved, could have drastic consequences for the fisheries sector: catches would be lower, which would lead to fleet reductions and job losses in the short term, thus weakening the economic fabric of fishing communities.

4.4.1.6 The Committee therefore urges the Commission to ensure that the consultations it intends to hold with the fisheries sector are reasonably flexible as regards the pace of implementing the long-term plans, to enable fishermen to adjust gradually to this new management system.

4.4.1.7 With regard to mixed fisheries, the EESC considers that the greatest flexibility should be shown where stocks can be fully exploited because they are in good condition.

4.4.2 Managing change

4.4.2.1 Once long-term plans establishing appropriate stock targets are drawn up and adopted, Member States will have to decide on the pace of change for reaching these targets, and how to manage the transition.

4.4.2.2 The Communication puts forward two broad approaches for managing this change:

- Reducing fishing capacity (catches) to the levels strictly necessary to achieving the MSY rate. In very broad terms, this approach would require greater economic efficiency on the part of fleets remaining in business, with a consequent loss of fishing vessels and jobs.

- Maintaining the size of the fleet but limiting vessels' capacity to catch fish (e.g. by limiting their size, power or fishing gear) and possibly imposing limitations on days-at-sea. This approach would maintain current employment levels but implies economic inefficiency.

4.4.2.3 Each Member State is free to choose its economic approach or strategy, whilst the Community will provide the management framework for gradually phasing out overfishing, through the financial instrument provided by the European Fisheries Fund.

4.4.2.4 The Communication reveals the Commission's clear preference for the first approach, based on reducing national fleet capacity, because it would be easier to monitor and because experience teaches that reducing fleet capacity is more readily accepted by the public and is less difficult to implement than other solutions.

4.4.2.5 The EESC recognises that reducing fleet capacity is the most effective way of gradually phasing out overfishing. Nevertheless, the Committee considers that each Member State should select the approach that best suits it, having analysed the economic and social effects, not forgetting that both options could be used concurrently until the MSY target for fish stocks is reached.

4.4.2.6 The EESC agrees with the proposal for the economic and social effects of change to be analysed at regional, rather than at European level, because the specifics of each fleet can vary greatly between the Member States.

4.4.2.7 Long-term plans will be fishery-based, addressing groups of fish stocks that are caught together, and should include elements such as limits on the extent to which fishing opportunities can change from one year to the next, thus ensuring a stable and smooth transition.

4.4.2.8 Lastly, the Communication considers that putting a complete set of long-term plans in place to achieve the MSY target will take time. The Community should, therefore, with effect from 2007, adopt management decisions that ensure that there is no increase in the fishing rate for any stock that is already overfished. The EESC considers that the European Commission should consult the Regional Advisory Councils, the EU Advisory Committee on Fisheries and Aquaculture (ACFA) and the Social Dialogue Committee for Maritime Fisheries before taking any decisions for 2007.

Brussels, 25 April 2007.

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 banning the placing on the market and the import of or export from the Community of cat and dog fur and products containing such fur

COM(2006) 684 final — 2006/0236 (COD)

(2007/C 168/08)

On 4 December 2006 the Council decided to consult the European Economic and Social Committee, under Articles 95 and 133 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 March 2007. The rapporteur was Mr Retureau.

At its 435th plenary session, held on 25-26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 128 votes to one with five abstentions.

1. Conclusions and recommendations

1.1 The EESC endorses the legal basis (Article 95 EC Treaty) and the kind of instrument (regulation).

1.2 The Commission has no power under the EC Treaty to take action to combat cruelty to animals, inflicted outside the EU moreover, and can only address the issue by using its powers in the area of trade and the internal market in fur and on the grounds of the need to harmonise differing national laws.

1.3 The EESC shares the Commission's view that only a total ban can succeed in dissuading importers of garments or toys from bringing large quantities of cat and dog fur and fur-based items into the EU, thus impeding the large-scale trafficking of banned fur.

1.4 The EESC would like the concept of 'fur' to be legally clear, referring explicitly to fur itself and to its different components (hair, skin), so that all possible uses of cat and dog fur are covered by the ban.

1.5 The EESC stresses the importance of effective monitoring methods and of using comitology to establish the most appropriate monitoring arrangements.

2. Reasons

2.1 By means of a draft regulation based on Article 95 of the EC Treaty (internal market), the Commission proposes to ban the production, sale, import and export of cat and dog fur, into and from the European Union.

2.2 The draft regulation comes in response to demands from civil society and the European Parliament, and is one of the German presidency's priorities.

2.3 In Asia, in particular, cats and dogs are reared and slaughtered under appalling conditions so that their fur can be

used to make garments, accessories and toys. Such fur has been detected on the European internal market.

2.4 The fur is usually chemically treated or dyed, and sold under designations which conceal its origin; scientifically, it is difficult to identify the exact animal origin of fur processed in this way, either from its appearance and texture or through DNA analysis, since DNA is destroyed by processing. Apparently, only a comparative mass spectrometry technique would make it possible to identify the exact animal origin of such a product. Customs control could therefore be extremely difficult, and that is the reason for the derogations laid down in Article 4 of the draft, in particular.

2.4.1 Article 4 states that the possession for personal use of clothes or items incorporating banned fur may be tolerated. The EESC feels that the ownership and personal use or possession of these private items in very limited quantities should be clearly excluded from the scope of the regulation in order to avoid any increase in red tape.

2.4.2 Any use of skins not obtained from cats or dogs bred for fur production and labelled to this effect may, where necessary, be addressed under the comitology procedure.

2.5 From the point of view of proportionality, a total ban on production, import and trading is the only measure possible, given that such imports are illegal or undeclared and consumers are misled by the unreliable labelling of garments and items which might contain dog or cat fur.

2.6 Many Member States and some third countries have already adopted laws introducing bans of different kinds and scope; Community action is justified by the need to harmonise the internal market.

2.7 An information and follow-up system relating to the detection of banned fur and the detection methods used is being established. A list of appropriate monitoring arrangements can be drawn up under the comitology procedure.

2.8 Proportionate, dissuasive penalties must be laid down by Member States.

3. General comments

3.1 The EESC endorses the legal basis and form of the regulation: the animal welfare provisions applied to farm animals cannot be applied as such to dogs and cats.

3.2 It is a social reality that in Europe these animals have become pets, not reared for their meat or fur or to work, with the exception of certain breeds of dog used to help and guide people with disabilities, to find people who are missing or buried under rubble or snow, or to assist people in other tasks, all of which only serves to endear them more to the public.

3.3 The Commission has no power under the EC Treaty to take action to combat cruelty to animals, inflicted outside the EU moreover; it can only address the issue by using its powers in the areas of trade and harmonisation of the internal market in fur and of removing barriers to trade in fur on the grounds of the need to harmonise differing national laws to prevent market fragmentation.

3.4 Given the major technical difficulties involved in identifying processed cat and dog fur, a proposal limited to labelling

requirements would, in practice, have been ineffective. The EESC shares the Commission's view that only a total ban can succeed in dissuading importers of garments or toys from bringing large quantities of cat and dog fur and fur-based items into the EU, thus impeding the large-scale trafficking of banned fur.

3.5 The WTO should be notified of the regulation as a non-tariff barrier (NTB), once it has been adopted. It is in line with international trade rules.

4. Specific comments

4.1 The EESC would like the concept of 'fur' to be legally clear, referring explicitly to fur itself and to its different components (hair, skin), so that all possible uses of cat and dog fur are covered by the ban.

4.2 The EESC feels that it should be specified that customs controls must be avoided on individuals carrying strictly personal items that they possess in very limited quantities when crossing internal borders or coming from a third country; nor must the exchange or sale of a garment or a gift to a charity be deemed to be trade falling within the scope of the regulation.

Brussels, 25 April 2007.

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 the Council on the banning of exports and the safe storage of metallic mercury

COM(2006) 636 final — 2006/0206 (COD)

(2007/C 168/09)

On 15 November 2006 the Council decided to consult the European Economic and Social Committee, under Articles 133 and 175(1) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 March 2007. The rapporteur was Mr Osborn.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April 2007), the European Economic and Social Committee adopted the following opinion by 126 votes and 4 abstentions.

1. Conclusions and recommendations

1.1 The Committee supports the European Union's active engagement with international efforts to restrict the production, and use of mercury throughout the world and to ensure safe methods of storage and disposal. Towards this end, it is important that Europe sets a good example in its own handling of the mercury problem within the Union, and to support better control measures throughout the world.

1.2 The Committee therefore supports the general objective of the specific Commission proposal in the current proposed Regulation to ban the export of mercury from Europe and to require the safe storage of surplus mercury within Europe. The EESC believes that banning the export of metallic mercury from Europe and requiring that it be safely stored pending disposal is particularly relevant and timely in current circumstances as the mercury based chlor-alkali process is now being phased out in Europe.

1.3 Looking ahead, the Committee urges the Commission to implement the other elements of its mercury strategy as soon as possible, and to develop measures to further reduce the use of mercury in processes and products within Europe, and to ensure that mercury in waste streams is disposed of safely.

1.4 The Committee believes that the legal ban should come into effect at as early a date as is reasonably possible, and that until that time the Commission and the firms concerned should be encouraged to do whatever they can to reduce exports to a minimum.

1.5 The Committee supports the storage arrangements proposed by the Commission in this Regulation as being the best available for the present. Safety assessments must be carried out by the competent authorities of any proposed storage facilities, and they should provide for regular monitoring of the sites once they are in operation. The Committee urges the Commission to seek reports from Member States about progress concerning this issue, and further measures must be proposed if storage arrangements prove unsatisfactory.

2. Background to the opinion

2.1 Mercury is a natural component of the earth, with an average abundance of approximately 0.05 mg/kg in the Earth's crust, with significant local variations. Mercury is also present at very low levels throughout the biosphere. Its absorption by plants may also account for the presence of mercury within fossil fuels like coal, oil and gas.

2.2 Environmental mercury levels have increased considerably since the on-set of the industrial age. The burning of fossil fuels releases significant quantities of mercury. In addition mercury is extracted from minerals (principally cinnabar) and is used in a variety of industrial applications. Mercury from industrial processes and from waste products also diffuses into the environment. Past practices have left a legacy of mercury in landfills, mine tailings, contaminated industrial sites, soils and sediments. Even regions with no significant mercury releases, such as the Arctic, are affected due to the transcontinental and global transport of mercury.

2.3 Once released, mercury persists in the environment where it circulates between air, water, sediments, soil and biota in various forms. Its form can change (primarily by microbial metabolism) to methylmercury, which has the capacity to collect in organisms (**bioaccumulate**) and to concentrate up food chains (**biomagnify**), especially in the aquatic food chain (fish and marine mammals). Methylmercury is therefore the form of greatest concern. Nearly all of the mercury in fish is methylmercury.

2.4 Mercury is now present in various environmental media and food (especially fish) all over the globe at levels that adversely affect humans and wildlife. In some parts of the world, including parts of Europe, significant numbers of the human population are exposed to mercury significantly above safe levels. There is widespread international agreement that releases of mercury to the environment should be minimised and phased out wherever possible, and as quickly as possible.

2.5 Despite a decline in global mercury consumption (global demand is less than half of 1980 levels) and low prices, production of mercury from mining is still occurring in a number of countries around the world. In Europe, primary production has now ceased, but mercury is still isolated as a by-product of other extractive processes.

2.6 Large quantities of mercury are also coming onto the global market as a result of the conversion or shutdown of chlor-alkali facilities in Europe that have used the mercury process. This residual mercury is typically sold at a low price to Miñas de Almadén in Spain, which then sells it to countries around the world.

2.7 Despite best efforts, neither Euro Chlor nor Almadén can ensure that the mercury exported from the EU under this agreement will not contribute to further global pollution because of loss of control once it leaves Almadén's facilities. It could thus encourage greater use of mercury in unregulated processes and products in other countries and to greater quantities of mercury contaminated waste or emissions. It is therefore desirable that this substantial influx of surplus mercury from discontinued mercury based chlor-alkali processes be prevented from coming onto the global market.

3. Summary of the Commission's proposal

3.1 On 28 January 2005, the Commission adopted the Communication to the Council and the European Parliament on a Community Strategy Concerning Mercury (COM(2005) 20 final). The Strategy proposed twenty actions addressing all aspects of the mercury life cycle. Two of the actions proposed by the Strategy concern exports and storage of mercury.

3.2 The Commission's Proposal for a regulation on the banning of exports and the safe storage of metallic mercury now takes these actions forward. The Proposal aims at banning the export of metallic mercury from the Community as well as at ensuring that this mercury does not re-enter the market and is safely stored, in line with actions 5 and 9 identified in the Community Strategy Concerning Mercury. The fundamental purpose is to limit further additions to the 'global pool' of mercury already released.

3.3 The proposed Regulation would ban mercury exports from the EU from 1 July 2011. From the same date, mercury no longer used in the chlor-alkali industry as well as mercury gained from the purification of natural gas or production of non-ferrous metals would have to be safely stored.

3.4 The Commission has consulted widely on its proposal and MAYASA, the Spanish government and the European chlor-alkali industry — the stakeholders most directly affected — have agreed to the ban from the date proposed. The Commission has taken note that CEFIC, the European chemical industry organisation, has given a voluntary commitment to ensure safe storage of mercury from the chlor-alkali industry from 1 July 2011.

4. General comments

4.1 The Committee strongly supports the objective of making Europe a leader in global efforts to reduce releases and

emissions of mercury to the environment by restricting production and consumption of mercury, and encouraging substitution by other safer materials, processes and products. The Committee believes that the REACH Regulation would facilitate such endeavours.

4.2 The Committee is glad to note that the mining and extraction of mercury from mercury bearing ores has now ceased within the European Union. The Committee considers that the Commission should continue to keep this matter under review and to stand ready to impose a ban if there were ever any prospect of resumption of such extraction of mercury within Europe for commercial reasons. The EESC also recommends the Commission to consider further measures to discourage the production of mercury as a by-product from the extraction of other minerals, and to ensure the safe storage and disposal of surplus mercury.

4.3 Looking outside Europe, the Committee supports the European Union's active engagement with international efforts to restrict the production, and use of mercury throughout the world and to ensure safe methods of storage and disposal. Towards this end, it is important that Europe sets a good example in its own handling of the mercury problem within the Union, and supports better control measures throughout the world.

4.4 In this context, banning the export of metallic mercury from Europe and requiring that it be safely stored pending disposal is one useful step. It is particularly relevant and timely in current circumstances when the phasing out of the mercury based chlor-alkali process in Europe might otherwise have released large quantities of surplus mercury onto the world market. The Committee therefore supports the general objective of the specific Commission proposal in the current proposed Regulation to ban the export of mercury from Europe and to require the safe storage of surplus mercury within Europe.

4.5 This cannot however be the end of the story. The Committee looks to the Commission to undertake further work with a view to developing measures to further reduce the use of mercury in processes and products within Europe, and to ensure that mercury in waste streams is disposed of safely. The EESC also urges the Commission to consider further what steps can be taken internationally to promote better management of mercury throughout the world, including the negotiation of appropriate measures of cooperation to support the transfer of mercury-substituting technologies and mercury capture and storage solutions, and possibly an international agreement on the management and control of mercury.

5. Specific comments

5.1 The Committee notes that the present proposal applies only to the export of metallic mercury (Article 1). The EESC believes that it is urgent to give further consideration to the possibility of extending the ban to mercury compounds and mercury-containing products as provided by Article 5. It would be desirable to specify a timetable for this review. Further measures should also be considered to require the replacement of mercury with less toxic or polluting materials in products and processes within the Union.

5.2 The Commission originally proposed that the ban should become effective in 2011. The Parliament recommended bringing this forward to 2010. The NGOs continue to press for the ban to become effective at an earlier date. The Committee believes that the legal ban should come into effect at as early a date as is reasonably possible, and that until that time the Commission and the firms concerned should be encouraged to do whatever they can to reduce exports to a minimum.

5.3 The Commission proposes (Article 2) that mercury arising from discontinued chlor-alkali processes, mercury gained from cleaning of natural gas, and mercury gained from non-ferrous mining and smelting operations should be stored safely. Article 3 specifies storage either in an underground salt mine or in a facility specially designed for the temporary storage of metallic mercury. Such facilities must demonstrate prescribed safety and management practices. It should be the responsibility of a member state to establish such facilities, or, to join other MS with more favourable conditions to do this. Together with the export ban, these provisions are intended to ensure that these surplus quantities of mercury from major industrial processes are removed altogether from the market and are held in a safe way.

5.4 The Committee supports these storage arrangements as being the best available for the present. The Committee considers it very important that EIA and the safety assessments to be carried out by the competent authorities of any proposed storage facilities be conducted thoroughly and rigorously, and that they should provide for regular monitoring of the sites once they are in operation. The Committee urges the Commission to seek reports from Member States about progress concerning this issue, and to stand ready to propose further measures if storage arrangements prove unsatisfactory.

5.5 It is important that the operators that have used the mercury should bear the cost of storing it in a safe way. The Committee notes that the storage arrangements for the surplus mercury arising from the discontinuation of the chlor-alkali processes are to be implemented in consultation and agreement with relevant industrial firms, and that Eurochlor are developing

a voluntary agreement in parallel with the Regulation committing their members to using safe storage facilities. The Committee welcomes this initiative by a responsible industry grouping. Provided that these arrangements embrace all the relevant firms and can be made secure in a transparent way that can be monitored, the Committee agrees that this will be the best way to secure effective implementation. The Committee recommends that the Commission should explore the possibility of reaching similar agreements with other major industrial producers of metallic mercury such as the power industry and the non-ferrous mining and smelting industry.

5.6 The Committee emphasises that monitoring and enforcement of the new arrangements will be particularly important. Requiring mercury to be stored and disposed will in effect turn mercury from being an asset that can be marketed into a liability that will impose costs on its holders. In such circumstances there will be temptations for unscrupulous operators to try to avoid channelling the mercury to proper disposal routes, and to divert it towards illegal landfills. Rigorous record-keeping and oversight will be necessary in order to avoid such untoward outcomes.

5.7 The Committee urges the Commission to consider further action to implement other elements of the mercury strategy as soon as possible. In particular the EESC regards it as important to encourage the phasing out of mercury from lighting products, from jewellery, from dentistry and cosmetic products as soon as possible, and to accelerate measures to reduce or eliminate mercury emissions from large combustion plants, from crematoria and from other significant sources of mercury air pollution. Further measures may also be needed to ensure that when significant quantities of mercury are found to be present in other waste streams these are captured for storage or disposal rather than left to diffuse and pollute the wider environment. All such further measures should of course be fully evaluated in terms of the extent of the contribution of the activity concerned to the global mercury problem, and to the costs and impacts of the proposed solutions.

Brussels, 25 April 2007.

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 on guidelines for the Employment Policies of the Member States

COM(2006) 815 final — 2006/0271 (CNS)

(2007/C 168/10)

On 12 January 2007 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 March 2007. The rapporteur was Ms O'Neill.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April 2007), the European Economic and Social Committee adopted the following opinion by 129 votes to 4 with no abstentions.

1. Conclusions and recommendations

1.1 In accordance with Article 128(2) of the Treaty the current Employment Guidelines require confirmation by a Council decision to be maintained for 2007 following consultation with the European Parliament, the Committee of the Regions and the EESC.

1.2 The EESC supports the proposal that the Employment Guidelines 2005-2007 be maintained for 2007 bearing in mind the highlighted areas of concern and recommendations.

1.3 The EESC strongly recommends that the timetable and process to be adopted is widely and timeously circulated to the range of stakeholders in order to maximise the benefit from this process, to build on good will and to ensure the maximum participation by stakeholders and to allow sufficient time for responses at EU and national level at the development stage.

1.4 The EESC recommends that there is stronger emphasis on the inclusion of people with special needs into the new Employment Guidelines with specific targets and greater recognition of social policy requirements. The EESC stresses the importance of the involvement of social partners and civil society at the earliest possible time in the development of the guidelines by the Commission as well as being consulted on the final document.

1.5 The EESC recommends that the Commission takes steps immediately to engage with the EESC on the development of the Employment Guidelines by establishing formal and informal contacts in order to take a proactive approach to the development of the Employment Guidelines for the next three years.

1.6 The EESC calls for much more ambitious, measurable targets which can be benchmarked in the new guidelines at EU and member state level, and for more enforcement powers for the Commission.

1.7 The EESC recommends that appropriate ICT systems are available in all member states to ensure an improvement in the collection of data and to facilitate monitoring and evaluation by both member states and the Commission.

1.8 The EESC continues to recommend that National Reform Programmes must include more concrete evidence of defined objectives, timescales, cost and budget provision.

2. The Commission's proposal for a decision

2.1 At the beginning of 2007 the Commission sent the EESC a proposal as part of the consultation process to validate the 'Guidelines for the employment policies of the Member States' for 2007 which require to be confirmed by a Council decision.

2.2 The Commission proposes that the employment guidelines set out for period 2005-2008 ⁽¹⁾ based on Article 128 of the Treaty, be maintained for 2007 and shall be taken into account by Member States in their employment policies ⁽²⁾.

2.3 In proposing this decision, the Commission is taking account of the Lisbon Strategy from 2005 which is based on the new cycle of governance with an integrated package of guidelines which remain valid until 2008. These encompass economic, social and environmental dimensions.

2.4 The Member States are required to prepare National Reform Programmes which have been assessed by the Commission. This annual review sets out the progress that has been made in meeting the guidelines and provides the conclusions from which the proposal to continue with the guidelines has been drawn.

3. Previous observations from the EESC

The EESC has commented upon the guidelines in two previous opinions ⁽³⁾. The specific areas of concern were as follows:

— The timetable for the development and adoption of the guidelines was very tight and did not allow for real debate and involvement on this important topic with a range of stakeholders both at EU and national level which had an impact on the democratic processes in relation to the development of the national programmes.

⁽¹⁾ COM(2005) 141 final, *Integrated Guidelines for Growth and Jobs (2005-2008)*.

⁽²⁾ COM(2006) 815 final, *Proposal for a Council Decision on guidelines for the Employment Policies of the Member States*.

⁽³⁾ EESC opinion on *The Employment Guidelines 2005-2008* (rapporteur: Mr Malosse), OJ C 286 of 17.11.2005 and EESC opinion on *The Employment Guidelines* (rapporteur: Mr Greif), OJ C 195 of 18.8.2006.

- With the emphasis within the current guidelines for Member States to set their own targets there is continuing concern that the employment policy measures can no longer be judged against specific and quantifiable targets as was the position in previous programmes which has resulted in the National Reform Programmes being less ambitious in relation to employment policy, workers rights and obligations.
- There needs to be a much stronger emphasis on the integration of young people into the labour market, with some guarantee for a first job with future prospects.
- There needs to be continued emphasis in combating discrimination in relation to age, disability or ethnic origins.
- That the transition to the knowledge economy requires a much more rigorous and focused approach to vocational training and lifelong learning in order to adapt to new technologies, restructuring of the industrial base, and enabling individuals to acquire transferable skills.
- That there should be more consistency in integrating investment in research and development and innovation both to stimulate the economy and to develop new jobs.
- That there was insufficient attention being given to gender equality and the need to balance work and family life.
- That more attention is required in relation to the impact of demographic change and the challenges of an ageing workforce.
- The need to strengthen and monitor the implementation of immigration policies and the impact on national workforce planning.
- The importance of having appropriate funding at national and EU level in order to implement the employment policy measures.

4. General comments

4.1 The EESC has in previous opinions welcomed the adoption of the integrated guidelines for 2005-2008 and continues to emphasise that success depends on the Member States taking their responsibilities seriously and putting the agreed priorities into practice at national level. There must be a strong emphasis on all the social partners and civil society being genuinely involved at all stages in the development and implementation.

4.2 The EESC recognises that progress has been made in relation to economic growth in the EU 25 and with the specific employment measures⁽⁴⁾, but remains concerned that there continues to be a disparity between the implementation of the different measures within and between different member states and remains of the opinion that there is a lack of urgency and prioritisation to effect significant change.

4.3 The EESC would wish to see the Commission taking a stronger role in developing European wide and national targets, and monitoring and evaluating progress which would add

⁽⁴⁾ Implementing the renewed Lisbon Strategy for Growth and Jobs — 'A year of delivery', COM(2006) 816 final.

strength and value to the Annual Reports from the National Reform Programmes in each member state.

4.4 The EESC welcomes the proposals from the Commission to commit funding from the Structural, Social and Globalisation Funds to support the implementation of the Employment Guidelines. The EESC continues to emphasise the importance of appropriate funding being made available at European and national level in order to prioritise employment initiatives.

4.5 The EESC in reiterating its concerns about lack of progress would wish to see measures and amendments in the Employment Guidelines for 2008-2010 to reflect the need for improvement.

5. Continuing areas of concern

In the guidelines for growth and jobs set out in 2005 specific areas for improvement were set out and the EESC remains concerned that a range of targets continue not be met, that there is a lack of prioritisation at national level, and would wish to see measures to tackle these deficits put in place for the new guidelines to be issued in 2008.

- The overall target of 70 % for overall employment is unlikely to be reached within this period. Although the rate set for the employment of women will have reached the proposed 60 % this is comprised of part-time, flexible and temporary work.
- The target for older workers (people between 45 — 65 The Commission's definition) will also not reach the proposed target of 50 % although progress has been made.
- The development of strategies for and the inclusion of people with disabilities or special needs in employment still remain poor.
- There is on-going concern about the level of youth unemployment which continues to increase and that appropriate measures are being taken to improve the situation.
- The basis of education as it relates to the modern labour market is a major issue in that basic and intermediate skills are lacking and there is a mismatch between skills and qualifications in relation to the employment market.
- There remain significant concerns that vocational training and lifelong learning measures are being implemented effectively and that there is real commitment to financial support by either the public or the private sector.
- There is a continued lack of emphasis on life long learning at all ages but particularly in relation to older workers. This is of particular concern in relation to the adaptability of the labour force.
- Concerns remain around the integration of migrant workers across the member states who are filling major skills gaps in the job market.

- Whilst the EESC supports the mobility of workers across the Member States, it is concerned about the impact that the transfer of skilled workers and the withdrawal of competence from one EU country to another has on the country of origin. This must be monitored and action taken in order to ensure a balance of skilled and qualified workforce is retained to ensure sustainability.
- The effect on local employment opportunities needs to be examined in relation to why unemployed people are not pursuing local vacancies.
- The realisation that the knowledge economy based on research and innovation is still lagging behind.
- There is a lack of attention afforded to the integrated 'life-cycle' approach by Member States. The EESC urges the Member States to continue with their efforts to make the world of work compatible with family life. This is a task for society as a whole. In particular, the provision of child-minding facilities makes it possible to reconcile family and occupational obligations and enables women to continue to work in gainful employment, or to rejoin the labour market quickly after a break ⁽⁵⁾.
- The need for Member States to move forward on strategies to improve the adaptability of workers and enterprises and in particular the potential of the concept of flexicurity ⁽⁶⁾.
- Issues around the impact of 'undeclared work' as it impacts on the Member State and the individual still requires to be addressed.
- The adoption and implementation of the 'Decent Work' ⁽⁷⁾ agenda and the Quality of Work ⁽⁸⁾ principles is still outstanding in some Member States.
- In comparison to the US average the productivity rates in Europe remain poor which is a reflection of the rate and level of investment in people and ideas.

Brussels, 25 April 2007.

- Although the rate of public investment in the EU is comparable to the US investment from the private sector is significantly lagging behind.

6. Action taken by the Commission

6.1 The Commission has undertaken a review following receipt of the Annual Reports from the Member States which has resulted in the Communication Implementing the Renewed Lisbon Strategy for Growth and Jobs 'A Year of Delivery' which charts progress to date. This year there is a detailed annex which sets out the recommended actions specifically required by each member state. Whilst this is of critical importance in contributing to the overall impact evaluation of the guidelines it underlines the concerns of the EESC that there is lack urgency and a disparity in the implementation of the guidelines. The Commission must have more authority to set measurable targets, co-ordinate activity and to enforce progress.

6.2 The EESC welcomes the proposed 'Impact Evaluation' which the Commission will be undertaking on the three year programme in conjunction with a range of agencies to measure its effectiveness and to influence the development of the new employment guidelines for 2008-2010.

6.3 The EESC welcomes the proposed consultation process on the new employment guidelines which will commence following the publication of the Commission's draft in December 2007 with a view to presenting the final proposal to the Council in June 2008 for adoption. The EESC emphasises the importance of consulting and involving the Member States and all stakeholders during this process both at EU and National level as soon as possible.

6.4 The EESC stresses the importance of having the opportunity to consider the 'Impact Assessment' as early as possible during 2007 in order to consider the contents, to receive information and to take a proactive part responding in order to influence the development of the guidelines and the drawing up of national programmes.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

⁽⁵⁾ EESC opinion on The Employment Guidelines 2005-2008 (rapporteur: Mr Malosse), OJ C 286 of 17.11.2005, page 41, point 3.2.3.

⁽⁶⁾ EESC opinion on *Flexicurity: the case of Denmark* (rapporteur: Ms Vium), OJ C 195 of 18.8.2006.

⁽⁷⁾ EESC opinion on *Promoting decent work for all*, 19 December 2006 (CESE 92/2007), rapporteur: Mr. Etty.

⁽⁸⁾ Improving quality in work, COM(2003) 728 fin, *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Improving quality in work: a review of recent progress.*

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 — Towards a future Maritime Policy for the Union: A European vision for the oceans and seas

COM(2006) 275 final

(2007/C 168/11)

On 7 June 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 above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was Dr Bredima Savopoulou and co-rapporteurs Mr Chagas and Mr Nilsson.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted the following opinion by 157 votes with two abstentions.

1. Conclusions and recommendations

1.1 The Green Paper creates a new understanding of the sea in the EU, which should be welcomed. It is the first time that the land based mentality of EU policies is reversed. The symbolic message of the Green Paper that Europe is and has been above all a maritime nation turns a new page in the EU regarding the seas.

1.2 The Green Paper promotes a holistic, cross sectoral, strategic approach vis-à-vis the oceans. The rationale of replacing fragmentation by a broad vision deserves widespread support.

1.3 The positive elements of the Green Paper outnumber by far the potential negative ones. The EESC endorses most of the proposals contained in the Green Paper (on fisheries, ports, shipbuilding, maritime transport, coastal regions, offshore energy, R&D, environment, tourism, blue biotechnology) subject to specific comments.

1.4 The EESC endorses the essential role acknowledged for EU maritime services and ports in a globalised economy. It welcomes the recognition in the Green Paper that shipping is international requiring global rules. Positive action is required by the EU to reverse the negative public image of shipping and the lack of appreciation for the contribution of ships and seafarers to society. The EESC shares the view that Member States should promptly ratify key international maritime Conventions (IMO/ILO) and ensure that they are properly enforced.

1.5 Maritime clusters should occupy a central position in the future EU maritime policy. The EESC believes that the EU should commission a study in order to define them and compare them to maritime clusters of other areas. Maritime clusters will be instrumental in maintaining the maritime know-how in the EU.

1.6 An integrated maritime policy must have at its heart an increase in investment in maritime education and training to underpin the delivery of safe, efficient and high-quality services. The potential scarcity of skilled seafarers presents alarming consequences for the EU's marine safety infrastructure and will increase without concerted efforts by the EU and governments to address it. Without such a supply, Europe will increasingly lack the knowledge and experience required for key safety-critical maritime activities (ship inspection, surveying, law, insurance, vessel traffic services, salvage, coastguards and pilotage). Moreover, entire maritime clusters may fragment or relocate to other regions.

1.7 The EESC notes the exclusion of fishermen and seafarers from European social legislation on a number of issues (e.g. the Directive on collective redundancies ⁽¹⁾, on transfer of undertakings ⁽²⁾, on information/consultation ⁽³⁾ and for posting of workers in the framework of the provision of services ⁽⁴⁾). Irrespective of the reasons behind these exclusions, it is important to put an end to that discrimination where appropriate. It, therefore, invites the Commission to reassess these exclusions in close cooperation with the social partners.

1.8 Global warming and the consequent climate change entails scenarios whereby islands might disappear, coastal areas be flooded, fish stocks be depleted, marine micro-organisms be extinguished with an impact on the food chain, and the seawater level might rise by 7 metres by 2050. The EESC urges the Commission to address the overall issue in the context of international organisations. The Commission itself should lose no time in taking on board an integrated environmental approach in all of its actions — not only in those which concern maritime issues, but also in all of the proposals which it submits to the Parliament and the Council.

⁽¹⁾ Council Directive 98/59/EC of 20 July 1998 relating to collective redundancies OJ L 225, 12.8.1998, p. 0016-0021.

⁽²⁾ Directive 2001/23/EC relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

⁽³⁾ Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community [Official Journal L 80, 23.3.2002].

⁽⁴⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996. OJ L 18, 21.1.1997, p. 0001-0006.

1.9 The EESC maintains that the tackling of air emissions may create unintended consequences and inconsistencies between policies. Air pollution is a complex issue and reducing one pollutant may have a negative effect on other pollutants such as green house gases (GHGs). A holistic international approach to find an overall environmental benefit for the long term is the preferred solution.

1.10 The EESC notes that the shipping industry burns as bunkers the lower end of oil due to non availability of better quality of bunkers by refineries. It invites the Commission to address the quality for bunkers in order to make a breakthrough in the issue of air emissions from ships.

1.11 The EESC understands that the idea of 'common European maritime space' refers only to a virtual maritime space in which there will be a simplification of administrative and customs formalities for intra EU maritime services giving them a similar regime as transport by truck or train within the internal market. Following clarifications of the Commission, expressing this clearly in the Communication, the concept can be supported by the EESC provided that it respects in international waters (High Sea) the UNCLOS and IMO Conventions including the 'freedom of navigation' and 'right of innocent passage' within the Exclusive Economic Zone (EEZ).

1.12 The EESC strongly advocates the establishment of 'quality coastal' states which are the missing link in the quality chain. 'Quality' coastal states should deliver essential services to ships: adequate waste reception facilities, places of refuge for ships in distress, innocent passage, fair treatment of seafarers, and aids to navigation. This concept should be raised by the EU in IMO in order to develop appropriate measurable criteria of coastal state performance.

1.13 The EESC welcomes recognition in the Green Paper of the role it can play in the implementation of maritime policy-making including spatial planning. It can also be instrumental in promoting the EU maritime identity and maritime cultural heritage and to sensitize the public opinion on global warming.

1.14 The Green Paper is the first attempt in the EU policy-making shifting emphasis from land to sea. The EESC wishes to congratulate the Commission for this restoration of balance and to respond by paraphrasing the saying of Themistocles 'Europe will have a future as long as it has ships and seas' ('we will have a land and homeland as long as we have ships and seas').

1.15 The EESC requests the Commission to be consulted on its future Action Plan on the Green Paper.

2. Introduction

2.1 Over a life span of fifty years, the EU has developed several policies involving the seas: maritime transport, ports, shipbuilding, fisheries, marine environment, coastal regions, offshore energy. However, these policies have developed sepa-

rately without capitalising on their synergies. The time has come to bring all these elements together and forge a new broad vision for the future.

2.2 On 7 June 2006 the European Commission published a Green Paper entitled 'Towards a future Maritime Policy for the Union: A European vision for the oceans and seas'. The initiative of President Barroso should be seen in the context of the Strategic Objectives of the European Commission (2005-2009) which noted the need for an all-embracing maritime policy aimed at developing a thriving maritime economy and the full potential of sea-based activity in an environmentally sustainable manner. Commissioner Borg was entrusted to steer a Maritime Policy Task Force of Commissioners to this effect.

2.3 The Green Paper raises crucial questions in a variety of areas using an integrated holistic approach which allows inter-linkages between sectors. Already the result of a consultation process with stakeholders, the Green Paper launched one of the largest consultation exercises in the EU history asking citizens how they want to deal with oceans and seas.

2.4 Since the early eighties, the EESC has followed closely the EU's path in establishing these sectoral policies and has contributed with its consistent opinions in their shaping up. It now shares the Commission's assessment that there is need for a new strategic vision for the future.

3. General comments

3.1 Context

3.1.1 The Green Paper creates a new understanding of the sea in the EU, which should be welcomed. 'How inappropriate to call our planet Earth, when in essence it is an ocean'. The subtitle of the Green Paper is significant and indicative of the intentions of the Commission in launching the Green Paper. It is the first time that the land based mentality of EU policies is reversed. The symbolic message of the Green Paper initiative is the most important: Europe is above all a maritime nation. The EU has a rich maritime culture which should not be overlooked. Since antiquity we have witnessed the emergence of several seafaring nations having their cradle in Europe: Greeks, Italians, Spanish, British, Portuguese, Scandinavian nations (Vikings), Germans (Hanseatic League), Dutch. Nowadays, Greece, Cyprus and Malta are in the top ten list of ship registers worldwide.

3.1.2 The Green Paper comes at a time of profound structural changes in the movement of world trade by sea: Giant ships, giant ports and terminals, modern logistics, paperless trade, continued development of cellular containerships, but increased formalities for crews to be expedited in record time in ports, modern piracy/terrorism on the increase and mounting pressures on corporate social responsibility. Globalisation with all its ramifications (positive and negative) is evident in this sector.

3.1.3 The Green Paper must also be seen against the background of emergence of new trading powers (BRICs — Brazil, Russia, India, China), the collapse of WTO talks, the ownership of 40 % of the world fleet by Pacific rim countries and another 40 % by Europeans. The whole debate comes at a time of surging oil prices, continuous talk about security of energy supplies, alternative sources of energy and fears of global warming.

3.1.4 There are multiple aspects and human activities related to the sea (fisheries, environment, transport, R&D, sea bed exploration, energy, shipbuilding, ports, tourism). The Green Paper examines the complicated interrelationship between marine and maritime activities and advocates a more integrated form of policy making.

3.2 *Economic aspects*

3.2.1 The EESC welcomes the increasing importance of the maritime dimension of Europe in the Green Paper, which turns a new page in the EU regarding the sea. The Communication stresses the essential role that shipping services have for the European economy and for the daily life and wealth of EU citizens often ignored by them. The EESC supports the assertion regarding the international competitiveness of shipping and ports in a globalised environment and the need for an international level playing field in a global market. Maritime transport and ports are recognised as key elements in the logistic chains which link the single market to the world economy. Indeed, they are world leaders and not sunset industries. Both are identified as key elements of the Lisbon Policy making Europe the most competitive trading entity in the world. The EESC notes that recently EU shipbuilding has become a success story in specialized categories of ships.

3.2.2 The Green Paper will also have positive ramifications for the image of shipping and the development of maritime clusters which are the biggest in the world. Maritime clusters should occupy a central position in the future EU maritime policy. The EESC believes that the EU should commission a study in order to define them and compare them to maritime clusters of other areas. Maritime clusters will be instrumental in maintaining the maritime know-how in the EU.

3.2.3 The EU should stimulate initiatives aimed at creating a positive image of shipping and ports with the general public. Congestion in ports and other bottlenecks that hinder efficient services should be taken care of. Investments in ports and in hinterland connections should be made giving Europe efficient and seamless logistic chains. The growth of short sea shipping during the last decade should be further enhanced in an integrated European transport system.

3.2.4 Although it is recognised that nearly 90 % of the EU external trade is seaborne, that the percentage of intra-Community trade is higher than 40 % and that European residents control more than 40 % of the world's merchant fleet, emphasis in the Green Paper is given only to the short sea shipping and to the concept of 'Motorways of the Sea'. However, the increased participation of the EU shipping in cross-trading activities between third countries and other continents should not be underestimated.

3.3 *Social aspects*

3.3.1 Globalisation presents particular challenges in the area of maritime employment. The EESC fully recognises the importance of maintaining European maritime know how; it is essential for both the industry itself and for the maintenance of the maritime clusters that are vital to the economic and social interests of the Community. There are a number of actions being pursued both at national, EU and international level which can usefully be built upon; and there is an important role for the social partners in this regard. Together, they can make a significant contribution to enhancing European maritime know how and the employment opportunities of EU seafarers. The EESC urges the Commission to join forces with Member States with a view to raising awareness and improve the profile of the industry and of its workers.

3.3.2 An integrated maritime policy must have at its heart an increase in investment in marine education and training to underpin the delivery of safe, efficient and high-quality services. The potential scarcity of skilled seafarers presents alarming consequences for the EU's marine safety infrastructure and will increase without concerted efforts by the EU, governments and the industry to address it. Without such a supply, Europe will increasingly lack the knowledge and experience required for key safety-critical maritime activities (ship inspection, surveying, law, insurance, vessel traffic services, salvage, coastguards and pilotage). Without such a supply, entire maritime clusters may fragment or relocate to other regions.

3.3.3 The possibilities of shore-side employment for former seafarers is an important factor in attracting persons into a seafaring career. The European Community Shipowners Association's (ECSA) and the European Transport Workers Federation (ETF) Career Mapping project would be helpful in demonstrating the possible career planning opportunities for European seafarers in order to make shipping an attractive career option. The concept should be promoted and used nationally.

3.3.4 An appropriate EU framework promoting European maritime know-how and training, will have positive effects for

the entire maritime cluster ⁽⁵⁾. Action is required to provide further support to encourage the training of ratings that wish to become officers and investment in nautical colleges (Maritime Education & Training) throughout the EU, to ensure the delivery of 'best practice' training and skill sets that match technological development (e.g. 'e-navigation').

3.3.5 The ILO Maritime Labour Standards Convention 2006 (MLC) ⁽⁶⁾ adopted unanimously and replacing 30 key ILO Conventions, will provide a solid, comprehensive and global basis for seafarer labour standards. The EESC supports the ongoing negotiations between the EU social partners with a view to having EU legislation transposing the MLC via a Social Partners Agreement taking into account the non-regression clause included in the ILO Convention. Future EU maritime policy should require Member States to ratify and implement the MLC, the Bill of Rights of Seafarers. Similarly, the Commission is encouraged to develop all possible contacts in order to ensure the adoption in 2007 of the ILO Convention on working conditions on board fishing vessels which failed to be adopted in 2005.

3.3.6 The EESC believes that there is scope for improving the general perception of shipping and seafarers profession by appropriate campaigns tailored to meet the national circumstances. The EESC can be instrumental in promoting the EU maritime identity and cultural heritage. On the occasion of the European Year of Intercultural Dialogue ⁽⁷⁾, the creation of a European Maritime Day or European Day of the Oceans could contribute to a better awareness of Europeans regarding the importance of this sector.

3.3.7 The idea of having the different parties in maritime clusters financing the creation of training schemes in order to ensure the maintenance of an adequate offer of European maritime know-how which can later be employed in related activities ashore should be further explored.

3.3.8 The EESC regrets the absence in the Green Paper of the social aspects concerning workers employed in various marine activities, apart from transport and fisheries. It urges the Commission to address social aspects of other marine activities (e.g. shipbuilding, pilotage, ports, energy, sea bed explorations).

3.4 Environmental aspects

3.4.1 The EESC shares the view in the Green Paper that the preservation of Europe's marine resources is vital for improving its competitiveness and employment. It expresses its concern

⁽⁵⁾ According to a BIMCO/ISF (BIMCO: Baltic and International Maritime Conference/ISF: International Shipping Federation) study, the age profile of officers in traditional maritime nations is continuing to rise even though there is no evidence to suggest that demand for their services will decline.

⁽⁶⁾ <http://www.ilo.org/public/english/standards/norm/mlc2006/index.htm>.

⁽⁷⁾ UK Presidency paper (December 2005), there are many innovative initiatives being taken throughout the EU, and a greater emphasis on the exchange of best practices would be worthwhile.

that the maritime environment is under increasing threat from human activities and natural disasters. Its protection is a sine qua non for the long term sustainability of our planet. The EESC believes that an integrated cross sectoral approach could be an important tool for all stakeholders to handle the environmental management in a sustainable way and maximize synergies between sub-sectors.

3.4.2 The biological diversity in maritime environment must be safeguarded by coherent EU policies, which provide responsibilities for all stakeholders, the responsibility chain. The Commission is invited to undertake a research to provide scientific knowledge on how the maritime environment and biological diversity could better contribute to human life. A holistic international approach to find an overall environmental benefit for the long term is the preferred solution.

3.4.3 In the context of the holistic approach, the EESC invites the Commission to address maritime pollution from land based sources (industrial, urban, rural activities) which account for 80 % of the overall pollution of the seas. Moreover, the Green Paper seems to ignore the important share of pollution of the seas due to leisure crafts. This should be urgently addressed. The EESC considers that there is a need to establish an EU policy to combat the trafficking of toxic waste by sea (exported to third countries). Implementation of the HNS Convention, the ship monitoring Directive and the proposed Directive for protection of the environment through criminal law go in this direction

3.4.4 One of the unintended consequences and inconsistencies between policies relates to the tackling of air emissions. The G8 identified (July 2006) the air emissions from transport as a priority area for urgent action in order to address global warming. The recent Communication on Limiting Global Climate change ⁽⁸⁾ provides specifically limiting transport emissions and other greenhouse gas emissions. Air pollution is a complex issue and reducing one pollutant may have a negative effect on other pollutants such as green house gases (GHGs). The EESC supports reductions in CO₂ emissions by ships. However, their impact will be of little consequence unless equivalent reductions are achieved in shore-based activities, which are by far the greatest contributor to global warming. According to the recently released UK Stern Report ⁽⁹⁾, transport accounts only for 14 % of green house gas emissions, out of which maritime and rail transport equate 1.75 % of world emissions.

⁽⁸⁾ (COM(2007)2 (10.1.2007). NAT/310: Opinion on the challenges of climate change — The role of civil society (27.9.2006). NAT/276: Opinion on Sustainable development in agriculture, forestry and fisheries and the challenges of climate change (27.1.2006).

⁽⁹⁾ http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm. The Stern Review estimates that the cost of inaction amounts to 5-20 % of the global GDP.

3.4.5 In a string of past opinions, the EESC has stressed that EU Member States should promptly ratify international Conventions on maritime safety and environmental protection and ensure that they are properly enforced. Although maritime transport is the most energy efficient and environmentally friendly mode of transport, the EESC supports the view prevailing internationally for lower limits of air emissions than those recently made mandatory by MARPOL Convention⁽¹⁰⁾ Annex VI. Measures to reduce maritime emissions must be cost-effective and not result in a modal shift in Europe from waterborne transport to a less environmentally credible mode of transport. The EU — after consultation with the social partners — should encourage a policy of establishing dismantling yards for ships (both merchant and military) that have reached the end of their lives.

3.4.6 The EESC supports the objective of the Thematic Strategy on the Protection and Conservation of the Marine Environment. From an environmental point of view, it may be sensible to subdivide the overall marine area of EU into regions in order to establish what is required for each region (marine spatial planning), acknowledging that what is necessary or best in one region may not be necessary in another region. The EESC welcomes recognition in the Green Paper of its role as a forum of exchange of views regarding implementation of general principles of maritime policymaking including spatial planning.

4. Specific comments

4.1 Better regulation

4.1.1 The recognition of the need for better regulation in order to avoid inconsistencies among common policies (e.g. transport/environment, transport/competition) and the intention to work for an international level playing field in the regulatory and enforcement sphere are commendable. Moreover, the idea of self-regulation as a supplement to legislation should be supported.

4.1.2 The EESC fully endorses the approach of the Green Paper that action at EU level should be undertaken only when it contributes value-added. The EU has been criticised for the tendency to Europeanise several issues which can be dealt with adequately nationally or internationally. This criticism should be taken seriously into account when thinking of future policies in the context of 'better regulation'.

4.2 External relations

4.2.1 Regarding the proposal for future participation of the EU in international maritime organizations as an entity in

parallel to its Member States, the expertise input of EU member states in international organizations (such as IMO, ILO) is of high repute and this should not be undermined but rather enhanced. At present, there is scope for an enforced cooperation/coordination of EU Member States in the context of international organizations. The EESC supports the goal of exercising the EC clout vis-à-vis third countries with a view to encourage them to enforce and ratify major international maritime Conventions (e.g. Bunkers Convention, HNS Convention, LLMC 1996 Convention).

4.2.2 An efficient and effective EU maritime external relations policy should safeguard a good working international framework for shipping services. The WTO negotiations on services (GATS) have been important to guarantee market access. Though the Doha Round negotiations have been suspended, the maritime standstill agreement (preventing new protectionist measures by WTO member states) should remain in force. The maritime bilateral agreement with China has established a good working framework for constructive relations with China and a similar one with India should be agreed upon.

4.2.3 The Green Paper maintains that the legal system based on the UN Convention on the Law of the Sea (UNCLOS)⁽¹¹⁾ needs to be further developed to face new challenges. The EESC believes that the UNCLOS Convention is the request of a delicate balance of interests which should not be upset, in particular the concepts of 'freedom of navigation' and 'right of innocent passage' within the Exclusive Economic Zone (EEZ). Other coastal states could follow suit and override 'freedom of navigation' for less benign motives. This could have serious consequences for maritime trade in some of the world's major strategic waterways.

4.3 Common European Maritime Space

4.3.1 The idea of considering the EU as one country for customs/administrative purposes only can be welcomed, provided that it respects in international waters (High Seas) the UNCLOS and IMO Conventions including the 'freedom of navigation' and the 'right of innocent passage' within the Exclusive Economic Zone (EEZ). The EESC understands that the idea of 'common European maritime space' refers only to a virtual maritime space in which there will be a simplification of administrative and customs formalities for intra EU maritime services giving them a similar regime as transport by truck, train or inland navigation in the internal market. Following clarifications of the Commission, expressing this clearly in the Communication the idea can be supported by the EESC⁽¹²⁾.

⁽¹⁰⁾ International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) see: http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258.

⁽¹¹⁾ http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm.

⁽¹²⁾ Cf. TEN/258, Opinion on European Seaport Policy (OJ C 325, 30.12.2006).

4.4 *Marine environment*

4.4.1 Regional and local air quality should be addressed through the mechanisms provided by the MARPOL Convention via the possible creation of additional Sulphur Emission Control Areas (SECA). Low sulphur fuel requires additional investment in refineries and energy to remove sulphur which may increase CO₂ emissions and contribute to global warming. Moreover, it is unsustainable to apply a myriad of differing levels of emission control in different areas and ports around the world.

4.4.2 Regarding air pollution from vessels the assertion that 'NO_x air emissions from vessels will be higher compared to all land-based activities together in 2020' is questionable. The EESC invites the Commission to take into account the repercussions from climate change to navigation and examine the routing of vessels in the Arctic.

4.4.3 Protecting the marine environment and biodiversity in waters beyond national jurisdiction has become an important priority for the international community. In this context, the relationship between UNCLOS and the Convention on Biological Diversity needs clarification. The EU and its Member States should participate actively in developing the UN global marine assessment.

4.4.4 The European Commission has proposed a long-term environmental strategy for cleaning up and protecting the Mediterranean Sea. This unique ecosystem is deteriorating as environmental pressures increase threatening the health of people and economic activities depending on the sea. Similarly, the Baltic Sea and the Black Sea, virtually closed seas, merit special attention in view of the large quantities of Russian oil transported through them, an overall increase of traffic and eutrophication from land based sources and rivers. There is also a sensitive debate regarding the environmental impact of the proposed pipeline in the Baltic Sea (Russia/Germany). The above problems are exacerbated by the activities of military vessels — escaping from the scope of EU rules — which are increasingly detrimental to the environment and tourism.

4.5 *Fisheries*

4.5.1 The fisheries sector⁽¹³⁾ is deeply depending on a sustainable maritime environment and its future should be an optimal functioning maritime eco-system, from the biologic, economic and social point of view.

4.5.2 The 'Code of Conduct for Responsible Fisheries' (FAO) could serve as a background for all fisheries administrations. The fisheries sector must develop better tools (e.g. equipments, fishing gears) to increase selectivity and reduce damage to the seabed. In the context of an integrated approach, there is need to establish maritime protected areas to save biotope threats from unregulated and illegal fishing, and have better statistics on the catch of fisheries. A better spatial planning could

⁽¹³⁾ NAT/333: Opinion: Sustainability in EU fisheries. NAT/316: Opinion (25.9.2006): Improving the economic situation in the fishing industry. NAT/280: Opinion (16.12.2005): The Common Fisheries Policy and Law of the Sea. OJ C 318, 23.12.2006 and OJ C 65, 17.3.2005.

develop sea tourism, safeguard fisheries and create regional development and higher employment within the maritime sector in rural areas.

4.6 *European Coast Guard*

4.6.1 The EESC wonders about the added value in promoting at this stage the idea of a European Coast Guard. The feasibility study that will be presented soon will provide valuable information about the Commission's thinking in this respect. Taking into account the existing differences as to the structure, functions and responsibilities of the different national bodies of Member States, the EESC believes that the desired objectives can equally be obtained by an enhanced cooperation of the appropriate authorities of Member States in particular regarding security, illegal immigration, trafficking and joint investigation of accidents.

4.7 *European register*

4.7.1 The proposal for a complementary and optional European register (e.g. EUROS) is a matter of concern. Whilst attractive as a symbol of European unity and excellence, the EU flag is a premature move when the economic, tax and social policies of the Member States are not harmonised. Such a proposal could be envisaged as the capping stone of a general EU harmonisation in the remote future, which currently is not yet visible. In addition, the use of the word 'complementary European register' is confusing, begging the question what additional advantages such a register might provide beyond the national register through the EC Guidelines to shipping. Positive measures and other incentives may be streamlined through the Guidelines and may be available to all national registers. In any event, the creation of a specific European register would need to be accompanied by a recognition and strengthening of European social legislation applicable to this new register.

4.8 *'Quality' Coastal State*

4.8.1 The EESC strongly advocates the establishment of 'quality' coastal states which are the missing link in the quality chain. 'Quality' coastal states should deliver essential services to ships. For instance, a 'quality' coastal state: fulfils its international obligations by ratifying and implementing internationally agreed conventions, follows the IMO/ILO Guidelines on the fair treatment of seafarers, provides adequate waste reception facilities, maintains its aids to navigation and nautical charts, provides ships in distress with a place of refuge (rather than risking environmental disaster by denying it), ensures that all steps are taken to facilitate the safe innocent passage of ships through its waters and gives incentives to quality ships calling at its ports or navigating within its waters. Unfortunately, there seems to be a general lack of commitment to this important role by some coastal states.

4.8.2 The Green Paper offers the opportunity to develop measurable criteria and 'best practice' for coastal states. This concept should be raised by the EU Member States in IMO with a view to developing appropriate measurable criteria in evaluating coastal state performance.

4.8.3 The EESC supports the proposal of the Committee of Regions ⁽¹⁴⁾ to establish a European Coastal and Island Fund encompassing several maritime activities.

4.9 Coastal tourism

4.9.1 The EESC notes that Europe is the first tourist destination in the world. It supports the idea of developing alternative quality tourism in coastal areas. The Green Paper acknowledges that sustainable tourism will differentiate tourist services with the goal of decongesting the sea shores, provide alternative sources of income to fishermen and develop activities maintaining the cultural heritage. The EESC cannot but subscribe to the above initiatives.

4.10 Social affairs

4.10.1 The EESC notes the exclusion of fishermen and seafarers from European social legislation on the following

directives: on collective redundancies, on transfer of undertakings, on information/consultation on posting of workers). Such an exclusion was originally justified due to the fact that the social legislation was primarily designed for land based industries rather than the particularities of the employment at sea. The EESC, invites the Commission to reassess these exclusions in close cooperation with the social partners.

4.11 Ship boarding agreements

4.11.1 Enhanced security considerations have prompted several EU Member States to conclude bilateral ship boarding agreements with third countries. The EESC believes that a coordinated approach of EU Member States to such initiatives is desirable as well as a coordinated division of labour between Member States including their navies in the application of such rules. An alternative could be the early ratification of the Suppression of Unlawful Acts (SUA) Protocols by EU Member States. The SUA Protocols have similar objectives to the Proliferation Security Initiative but include important safeguards to protect the legitimate commercial interests of shipping operators and the human rights of seafarers.

Brussels, 26 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁴⁾ CoR opinion 258/2006 (13-14.2.2007).

Opinion of the European Economic and Social Committee on A common EU ports policy

(2007/C 168/12)

On 6 July 2006, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *A common EU ports policy*.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was Mr Jan Simons.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted the following opinion by 137 votes to two, with seven abstentions.

1. Conclusions

1.1 The present own-initiative report focuses on aspects of European seaport policy on which stakeholders in the port sector should be able to reach consensus. That is why the report is being drawn up in close consultation with concerned stakeholder organisations which were invited to express their view during two public hearings held on 20 November 2006 and 20 February 2007 ⁽¹⁾.

1.2 The hearing confirmed that a European seaport policy should address the following themes:

- a) Ensuring sustainable development of port and port-related capacity
- b) Creating a clear and transparent framework on financing of port investments
- c) Clarifying procedures regarding market access for port services
- d) Solving operational bottlenecks that hamper port efficiency
- e) Promoting good and safe working conditions and constructive labour relations in ports
- f) Promoting the overall competitiveness and positive perception of ports.

⁽¹⁾ The following organisations were invited to the hearings: European Association for Forwarding, Transport, Logistic and Customs Services (CLECAT), European Community Shipowners' Association (ECSA), European Community Association of Ship Brokers and Agents (ECASBA), European Shippers' Council (ESC), Association of European Chambers of Commerce and Industry (EUROCHAMBRES), European Maritime Pilots' Association (EMPA), European Boatmen's Association (EBA), European Tugowners Association (ETA), European Transport Workers' Federation (ETF), International Dockers' Council (IDC), European Sea Ports Organisation (ESPO), European Federation of Inland Ports (EFIP), Federation of European Private Port Operators (FEPOR), European Harbour Masters' Committee (EHMC) and Federation of European Tank Storage Associations (FETSA), EUROGATE.

1.3 These themes broadly correspond with the themes put forward by the European Commission in its consultation process on a future European seaport policy. This consultation was initiated following the withdrawal of the two Commission's draft Directives on market access to port services ⁽²⁾, and is likely to be concluded by June 2007.

1.4 The debate on the port services' Directive has already thrown up extensive information on areas such as port financing and procedures on market access to port services. Any progress that is made on these areas should therefore lead to tangible results in the short term.

1.5 Operational bottlenecks, especially those related to administrative procedures and hinterland transport, can be addressed in the context of existing initiatives, such as the programmes on customs modernisation, railway liberalisation and inland navigation (NAIADES). They also fit within the broader context of the review of the Transport White Paper ⁽³⁾ and the Commission's Communication on Logistics ⁽⁴⁾.

1.6 The EU can stimulate high reliability and safety standards in European ports by providing adequate (financial) support to training and education programmes and by enforcing applicable safety legislation.

1.7 Developing a good social policy for ports is of great importance. It must be developed in close cooperation with the social partners who bear primary responsibility in this matter.

⁽²⁾ See the following two EESC opinions on the subject: EESC opinion on the 'Proposal for a Directive of the European Parliament and of the Council on market access to port services' OJ C 48, 21.2.2002, p. 122-129 and EESC opinion on the Proposal for a Directive of the European Parliament and of the Council on market access to port services (COM(2004) 654 final — 2004/0240 (COD)) OJ C 294, 25.11.2005, p. 25-32.

See also the EESC opinion on the 'Communication from the Commission to the Council and the European Parliament on the training and recruitment of seafarers' OJ C 80, 3.4.2002, p. 9-14; and the EESC opinion on 'Europe's accessibility by sea in the future: developments and how to anticipate them' OJ C 157, 28.6.2005, p. 0141-0146.

⁽³⁾ Communication from the Commission to the Council and the European Parliament, *Keep Europe moving — sustainable mobility for our continent — Mid-term review of the European Commission's 2001 Transport White Paper*, COM(2006) 314 final.

⁽⁴⁾ Communication from the Commission to the Council, European Parliament, the European Economic and Social Committee and the Committee of the Regions, *Freight Transport Logistics in Europe — key to sustainable mobility*, COM(2006) 336 final.

Important instruments which the national authorities and social partners can use to frame a good social policy are the International Labour Organisation (ILO) conventions on work in ports, which can also make a significant contribution to creating a level playing field. The Commission must encourage the Member States to ratify these conventions.

1.8 The EU can further stimulate young people to pursue a career in ports, similar to its actions to attract youngsters to sea. High-level nautical training helps to ensure that in future there will be enough high-quality pilots, harbour masters and other professionals in ports.

1.9 In addition, a European social dialogue for seaports may have added value, provided relevant representative European stakeholder organisations can agree on an agenda of common interest.

1.10 A fundamental debate on sustainable port development is of vital importance in the context of European seaport policy. Ports have an important responsibility to achieve high environmental standards and should be encouraged to make further investments in this field. However, it has become quite clear in the meantime that problems are to a large extent also caused by the ambiguity of EU environmental legislation.

1.11 Further investigation will be required to establish whether spatial planning programmes can help create greater legal certainty and more opportunities for port development. At the same time, it must be recognised that ports are frequently sited close to nature conservation areas of outstanding importance which need to be protected and properly balanced with port development.

1.12 The EESC understands that the concept of 'common European maritime space' in the Green Paper on maritime policy refers to a virtual maritime space. If this is indeed what the Commission means and it is expressed clearly and unequivocally, the concept can be supported by the EESC provided that in international waters (high seas) it respects the UNCLOS and IMO Conventions including the 'freedom of navigation' and the 'right of innocent passage' within the Exclusive Economic Zone (EEZ).

1.13 Finally, the EU should play a supportive role in preserving the overall competitiveness of EU ports in a global context and stimulating initiatives aimed at restoring the positive perception of ports thus generating broad public support for them. This requires an innovative approach involving the cultural, tourist and recreational potential of port cities.

1.14 A European policy for seaports does not necessarily imply producing new legislation. 'Soft law' ⁽⁵⁾ in particular may be a valuable alternative to legislation on the one hand and a case-by-case approach on the other.

⁽⁵⁾ Soft law refers to rules of conduct that are laid down in instruments which are not legally binding but may have certain indirect legal effect and are aimed at producing practical effects. Examples include interpretative communications, guidelines and codes of practice.

1.15 A European seaport policy should generally refrain from unnecessary interventionism but focus on: a) applying Treaty rules where necessary, b) ensuring that ports can adequately fulfil their public role, c) stimulating market-oriented behaviour and d) promoting a positive public image of the sector. Existing EU legislation which hampers the sound and sustainable development of seaports should be revised where appropriate.

2. Challenges facing European seaports

2.1 The most fundamental criticism on the draft port services' Directive was that it did not take into account market developments and the challenges these represent for European ports, that it tried to impose a 'one size fits all' model regarding port management and ignored the social component of ports. Such factors must not be overlooked when a more comprehensive analysis of European seaport policy is drawn up ⁽⁶⁾.

2.2 Seaports are one of the strong growth sectors in the transport field of the European economy. This is especially the case for container traffic. Capacity is lagging behind in several European regions causing substantial congestion problems ⁽⁷⁾.

2.3 This calls for the optimal use of existing port facilities and the development of new port capacity ⁽⁸⁾ where necessary. Equally, optimal maritime access routes to ports (dredging), as well as hinterland infrastructure need to be ensured. Ports can for obvious reasons only be located in coastal regions, including estuaries, which are characterised by fierce competition for space. Ports are aware of their impact on the environment and have made considerable investments to achieve high environmental standards over the past years. This however does not exclude resistance from local communities and cities which tend to focus on the negative externalities of seaports and are not always aware of the added value and positive aspects associated with ports. More importantly, the legal uncertainty caused by EU nature conservation legislation adds to the strain on vital port development plans causing serious delays.

2.4 Port capacity development requires substantial investment. The restraining of government budgets means private capital is vital for the financing of port infrastructure and superstructure. This requires long-term commitment from private investors in ports.

⁽⁶⁾ For a more extensive overview on market developments and challenges, see: ESPO and ITMMA, Factual Report on the European Port Sector, 2004.

⁽⁷⁾ For a recent analysis see: Ocean Shipping Consultants, The European and Mediterranean Container port Markets to 2015, 2006.

⁽⁸⁾ EESC opinion on 'Europe's accessibility by sea in the future: developments and how to anticipate them' OJ C 157, 28.6.2005, p. 0141-0146.

2.5 Besides strong growth, the European port sector is also characterised by the processes of globalisation and consolidation. European seaports deal with international shipping groups and large terminal operator groups have emerged which now provide services in several European ports ⁽⁹⁾.

2.6 European port competition should focus on logistics chains ⁽¹⁰⁾. The traditional division of tasks within the logistics chain has become blurred by vertical integration strategies. European ports are increasingly competing from within supply chains and have become 'natural habitats' for logistics services. Seaports need all transport modes to function optimally.

2.7 As intermodal connecting points, the efficiency of seaports depends very much on the efficiency of services provided both in the hinterland and the maritime foreland. Seaports are moreover favoured locations for carrying out frontier controls on ship safety, security, customs, public health, environmental and social provisions and conditions on board; many of these controls are unique to the maritime sector and are not always properly coordinated and harmonised.

2.8 As a consequence of the processes described above, managing bodies of seaports are in many cases reviewing their traditional port authority role as part of reform processes.

3. Themes for a European seaport policy

3.1 As has been highlighted above, European seaport policy should focus on stimulating sustainable growth, creating an attractive investment climate in ports, enhancing legal certainty, optimising the integration of seaports in the supply chain, enhancing overall competitiveness and providing for a good social policy and constructive labour relations so that these aspects can make a contribution to the positive image of ports as attractive places to work.

3.2 This overall objective can be divided into six thematic areas, which have been acknowledged by the European Commission:

- a) Ensuring sustainable development of port and port-related capacity
- b) Creating a clear and transparent framework on financing of port investments
- c) Clarifying procedures on market access to port services

⁽⁹⁾ This is especially true in the field of containerized cargo, where already in 2002 70 % of the market was already controlled by six major operators (ESPO and ITMMA, p. 38) but the phenomenon is equally present in markets such as dry bulk and general cargo.

⁽¹⁰⁾ For details see the opinion TEN/262 of the EESC on the Commission proposal 'Freight Transport Logistics in Europe — the key to sustainable mobility' COM(2006) 336 final.

- d) Solving operational bottlenecks that hamper port efficiency
- e) Supporting safe and reliable operations and optimal working conditions in ports
- f) Promoting the overall competitiveness and positive perception of ports.

The section that follows expands on these thematic areas.

4. Ensuring sustainable development of port and port-related capacity

4.1 Ports are frequently sited close to nature conservation areas of outstanding importance. Harmonising ecological and economic values has proved to be a difficult learning exercise for many ports, often resulting in conflict situations. European seaports have however made considerable progress in achieving high environmental standards and improving environmental management ⁽¹¹⁾ and have over the years succeeded in developing constructive agreements with NGOs and local stakeholders leading to win-win situations for nature and ports.

4.2 Nevertheless, legal uncertainties with regard to the application of nature conservation legislation continue to cause substantial delays for many projects. It is generally recognised that these delays are, to a large extent, caused by ambiguities in the applicable EU legislation, such as the Bird and Habitats Directives and the Water Framework Directive. The definition of essential concepts remains vague ⁽¹²⁾, leading to different interpretations in Member States.

4.3 The Commission can help remedy this situation by providing guidance on the interpretation of existing legislation. At the same time it should stimulate European seaports to take up their responsibility in the field of environmental management, for instance by encouraging the dissemination of best practices through sector-driven initiatives such as ECOPORTS ⁽¹³⁾.

4.4 However, the lack of consideration given to economic factors and conflicts with pre-existing legal regimes applying to zones earmarked for port development within the legislative framework itself is also a major cause of problems. Sustainable development means a balance between economic, social and ecological considerations which is currently not entirely achieved.

⁽¹¹⁾ For an overview see for instance: ESPO Environmental Survey 2004 — Review of European Performance in Port Environmental Management.

⁽¹²⁾ The European Birds and Habitats Directives for instance lead to different interpretations regarding appropriate assessments, pre-existing agreements, analysis of alternatives, so-called 'Imperative Reasons of Overriding Public Interest' (IROPI), compensation requirements etc.

⁽¹³⁾ The Commission-supported ECOPORTS project ran until 2005 and stimulated port managers towards self-regulation on environmental matters. Its work is now carried out by the ECOPORTS Foundation. www.ecoport.com.

4.5 The fundamental shortcomings of existing EU environmental law have been highlighted in a recent study sponsored by the European Commission under its Maritime Transport Coordination Platform (MTCP) project ⁽¹⁴⁾. The study also lists a number of concrete policy recommendations to achieve greater legal certainty for port development projects, including the creation of a coherent network of strategic port development areas.

4.6 In its recent Green Paper on Maritime Policy ⁽¹⁵⁾ the European Commission introduces the concept of maritime spatial planning ⁽¹⁶⁾ which, in combination with Integrated Coastal Zone Management (ICZM), as we understand in territorial waters, is aimed at controlling the increasing competition between maritime activities for the use of European coastal waters and providing greater legal certainty.

4.6.1 The idea of considering the EU as one country for customs/administrative purposes only can be welcomed, provided that in international waters (high seas) it respects the UNCLOS and IMO Conventions including the 'freedom of navigation' and the 'right of innocent passage' within the Exclusive Economic Zone (EEZ). The EESC understands that the concept of 'common European maritime space' refers to a virtual maritime space in which there will be a simplification of administrative and customs formalities for intra-EU maritime services giving them a similar regime to transport by lorry, train or inland navigation in the internal market. If this is indeed what the Commission means and it is expressed clearly and unequivocally, the concept can be supported by the EESC ⁽¹⁷⁾.

4.7 Finally, the current approach towards seaports under the Trans-European Transport Networks (TEN-T) could be revised to generate greater European support for vital hinterland infrastructure projects of relevance to ports. Projects of common interest under the TEN-T may be considered as being of overriding public interest in the context of environmental legislation ⁽¹⁸⁾ since TEN-T status already takes into account environmental considerations.

4.8 Solutions described above should however abstain from centralised port planning at EU level nor lead to strict national port planning policies. In essence, they should foster the bottom-up principle that project proposals should be designated by the managing body of a port in conjunction with regional or national authorities where applicable and taking into account objective economic assessments that confirm to common methodological standards and respect the applicable legislative framework.

⁽¹⁴⁾ E. Van Hoydonk, MTCP Report on the impact of EU environmental law on waterways and ports, 2006.

⁽¹⁵⁾ Green Paper 'Towards a future Maritime Policy for the Union: A European vision for the oceans and the seas', COM(2006) 275 final.

⁽¹⁶⁾ According to the Green Paper, Maritime Spatial Planning has a key role to play in reducing the vulnerability of marine and coastal areas. A comprehensive system of spatial planning could improve a stable regulatory environment for sectors where large investments have to be made affecting the location of economic activity. Coordinating all maritime activities by innovative marine spatial planning could help to ensure an economically and environmentally sustainable development of coastal regions.

⁽¹⁷⁾ Cf. TEN/255, Opinion on Green paper towards a future Maritime Policy for the Union (OJ C 93, 27.4.2007).

⁽¹⁸⁾ As recommended by the above-mentioned MTCP study.

5. Creating a clear and transparent framework for the financing of port investments

5.1 The substantial investment needed in seaports calls for a clear financial legal framework at EU level. Legal certainty is particularly needed on the conditions for allowing public funding in ports without distorting competition. The consensus is that the most effective way of achieving this would be through State aid guidelines.

5.2 The purpose of State aid guidelines should be to clarify the EU Treaty rules on State aid (notably articles 73, 86, 87 and 88) that apply to ports. Guidelines should indicate the cases in which public funding is deemed to be State aid and must be notified to the Commission for examination. If the aid meets the criteria provided in the exemptions of the Treaty, the Commission can declare it compatible with the Treaty.

5.3 It is generally accepted that public funding of the following investments and activities is not considered to be State aid and Member States should, therefore, not notify such funding schemes to the Commission:

- a) The provision and operation (including maintenance) of infrastructure outside the port area connecting the port to land and maritime access routes. Maintenance of maritime access routes includes dredging and keeping these routes open with the aid of icebreaking services.
- b) Compensation for activities of the managing body of the port which are not of an economic nature and which are normally the responsibility of the managing body of the port in the exercise of its official powers as a public authority both outside and in the port.

5.4 The provision and operation of port infrastructure, however, is a more complex issue. A distinction can be made here between access and defence infrastructure on the one hand, and port-internal infrastructure on the other. The former can be defined as all infrastructure that grants sea and land access to a port area, including maritime access and defence works, land access connections to general public transport facilities, and infrastructure for utilities required in the port area. Port-internal infrastructure can be defined as civil works within the port area that facilitate supply of services to ships and cargoes.

5.5 An important factor here is whether port infrastructure is in the general interest of the port, or is reserved for a specific user or operator. Guidelines would have to introduce a workable distinction.

5.6 There is consensus on the granting of aid for the provision and operation of port superstructure, i.e. surface arrangements, buildings, mobile and fixed equipment needed to produce services. Public financing in these areas is generally considered to be State aid.

5.7 Assuming that a clear distinction can be established between investments and activities, whether these are publicly funded under State aid rules or not, it seems logical to adhere to the principle that the managing body of the port should have full financial autonomy to recover from users the cost of investments and activities that are not covered by eligible State aid.

5.8 Equally, the Transparency Directive should be amended in order to make it applicable to all ports⁽¹⁹⁾. In this way, managing bodies of ports would be required to indicate flows of public money in their accounts and keep separate balance sheets if they provide both public and regular economic services. The latter is especially relevant given the possibility of obtaining public funding as compensation for public service obligations.

6. Clarifying procedures for market access to port services

6.1 In view of the experiences made with the two legislative EU Commission proposals on market access to port services, it may be worthwhile to provide guidance on the basis of the existing EU legal framework, and to examine which instruments could be of use to ports and how they should be applied.

6.2 For many ports, guidance or recommendations, contrary to legislation, on the use of selection procedures, such as tenders or other acceptable instruments, conditions for concessions and land-lease agreements etc. would be very useful.

6.3 Such guidance may also be useful to clarify the legal status of those services (e.g. parts of the pilotage task) which serve as a public service, for example for the overall safety in ports.

7. Solving operational bottlenecks that hamper port efficiency

7.1 In addition to the structural problems relating to a lack of adequate infrastructure capacity which have already been mentioned above, reference is frequently made to bottlenecks of a more operational kind that hamper port efficiency. Broadly speaking, they occur in a) administrative bureaucracy, controls

and inspections and b) inefficiencies in hinterland transport.

7.2 There is a consensus that the EU should make further progress with the modernisation of customs⁽²⁰⁾ and ensure that its policies on customs, maritime safety, security, public health and environmental quality are properly coordinated and harmonised and do not unduly transfer government responsibilities to ports.

7.3 The idea of a 'Common Maritime Space' suggested by the Commission could help in ensuring that short sea shipping will receive a more equal treatment with inland transport in terms of administrative and customs procedures. No attempt should, however, be made to introduce legislative restrictions in international EU waters (high seas) which contradict the principle of free navigation and the right of innocent passage or impose restrictions which are not compatible with international rules and regulations. The idea of considering the EU as one country for customs/administrative purposes only can be welcomed. The EESC understands that the concept of 'common European maritime space' refers to a virtual maritime space in which there will be a simplification of administrative and customs formalities for intra EU maritime services giving them a similar regime as transport by truck or train in the internal market.

7.4 In addition, the Commission should step up its efforts to solve remaining bottlenecks in the hinterland through the implementation of the NAIADES programme for inland navigation its railway packages and its efficiency policies with regard to road transport. In considering these modes of transport it would be wrong to pay scant attention, or none at all, to social policy, as has unfortunately been the case in recent Commission documents on inland waterway transport (Mid-term Review of the Transport White Paper; NAIADES programme).

8. Promoting good safe working conditions and surroundings, and constructive labour relations in ports

8.1 The efficiency of operations in ports depends both on a reliability and safety component which are, despite technological progress, to a large extent determined by the human factor. This explains the need for a qualified and well-trained workforce in ports covering all services and operations, both landside and on board ships. This prerequisite applies regardless whether ports and port service providers are in public or private ownership.

8.2 The social partners should play an important role in creating and maintaining this. At European level, the Commission should support their input by facilitating social dialogue.

⁽¹⁹⁾ Directive 1980/723/EEC, amended by Directive 2000/52/EC.

⁽²⁰⁾ Several proposals are currently pending which aim to modernise customs, including two legislative proposals to revise the Customs Code and the Customs 2013 action programme:
http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_strategy/index_en.htm

8.3 European ports have the responsibility to maintain high reliability and safety standards. The European Union can stimulate these by providing adequate (financial) support to training and education programmes and by enforcing applicable safety legislation. The EU can further stimulate young people to pursue a career in ports, similar to its actions to attract youngsters to sea. The latter has an impact on work in ports as well. High-level nautical training helps to ensure that in future there will be enough high-quality pilots, harbour masters and other professionals in ports.

8.4 Constructive labour relations are crucially important for a proper ports policy. The Commission should also create favourable conditions for such relations in close cooperation with the governments of the Member States.

8.4.1 With this aim in mind, the European Commission should first set out its views on whether ILO Conventions 137 and 152 on dock work are in line with the principles set out in the European Treaties and the existing body of EU law (the 'acquis communautaire') before calling upon the Member States to ratify these two Conventions.

8.5 To achieve optimal working conditions in ports and a positive social climate in general, a proper social dialogue is vital. Such dialogue exists in most European ports and should be established where it is not the case already. Provided relevant

representative European stakeholder organisations can agree on a common agenda, such a dialogue may also have added value at European level.

9. Promoting the overall competitiveness and restoring a positive perception of ports

9.1 Given their vital interest for Europe, the European Union has a task to enhance the overall competitiveness and promote a positive image of the port sector, mainly by addressing the above-mentioned themes, but also through specific actions listed in this section.

9.2 Through its external relations policy, the EU should pay particular attention to cases of unfair competition by neighbouring non-EU ports. This is especially relevant for ports in the Baltic Sea, Black Sea and Mediterranean.

9.3 The EU should also restore the positive perception of seaports with the European citizen, emphasising the added value of ports for European trade, welfare, cohesion and culture, thus generating wider public support for ports.

9.4 Finally, the EU can stimulate cooperation and exchange of best practice and innovation between ports by supporting pragmatic, non-theoretical and industry-driven research projects.

Brussels, 26 April 2007.

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 and the Committee of the Regions — Freight Transport Logistics in Europe — the key to sustainable mobility

COM(2006) 336 final

(2007/C 168/13)

On 28 June 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 above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was **Mr Barbadillo López**.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted the following opinion by 150 votes to two with five abstentions.

1. Conclusions and recommendations

1.1 An efficient transport sector is essential in order for the EU to maintain and strengthen its competitiveness. Freight transport is considered to be a driving force for trade and prosperity. Modern management of complex transport flows is necessary in order to achieve efficiency and cooperation between different modes.

1.2 Logistics play a key role in guaranteeing sustainable mobility, as well as helping to improve the environment and energy efficiency, making freight transport more efficient, effective and competitive. Logistics cannot be seen as an entity that controls and manages the transport chain; advanced logistics solutions can allow effective planning, management, control and execution of unimodal and multimodal transport chains.

1.3 Infrastructure forms the physical network necessary for the development of the internal transport market, and in order to optimise it, two challenges must be met: reducing congestion and increasing accessibility, by mobilising all funding sources. The efficient, rational use of infrastructures is a guarantee for achieving sustainable mobility. However, any measure undertaken to streamline the use of infrastructures should also include logistical measures for private passenger transport. The key to sustainable mobility does not reside solely in freight transport.

1.4 Both transport suppliers and users make use of logistical tools to optimise transport and make commercial transactions more efficient and effective, minimising empty mileage.

1.5 Transport logistics requires competent and well-prepared workers and managers, who are trained in their profession and able to comply with health and safety regulations; basic and advanced training plans should therefore be drawn up in the field of logistics, with the active involvement of the social partners.

1.6 Transport consumes a great deal of fossil fuel, and priority should therefore be given to reducing its dependence

and cutting CO₂ emissions; therefore, a specific transport R&D and innovation programme should be created, and given adequate funding, in order to promote the use of alternative energies. A policy that distinguishes — particularly in tax terms — between modes should also be implemented, which would boost the adoption and use of new environmentally-friendly technologies.

1.7 Logistics should be seen as a commercial activity which is carried out by the sector; the authorities should be responsible for creating appropriate general conditions to ensure that goods can circulate as efficiently, effectively and competitively as possible.

1.8 In the case of short sea shipping, the sector was successfully involved in identifying bottlenecks and solutions; this practice should be extended to the other transport modes, in order to achieve similar results.

1.9 New technologies, particularly the European satellite navigation system, Galileo, which will provide future applications for tracking and tracing cargo, make a significant contribution to the development of effective, efficient modern logistics. However, technological developments should not become barriers to trade, but should be interoperable throughout the EU, and accessible by SMEs. R&D and innovation should be a priority in the Seventh Framework Programme, as technological innovation could open up new avenues for the sector.

1.10 Statistics on transport logistics should cover in depth all modes of transport and their transport activities, in order to gain a reliable picture of the situation and its evolution.

1.11 The problems resulting from the interoperability of rail transport need to be solved, in order to create a dedicated network for freight, and to improve the management systems in order to increase its efficiency, performance and competitiveness in relation to other transport modes.

1.12 The creation of quality benchmarks and one-stop shops will help to develop transport logistics in the EU, because measuring quality at EU level will bring a certain uniformity in the assessment of logistics performance, and the implementation of administrative procedures in a coordinated, uniform manner will simplify customs formalities.

1.13 It is essential for the different transport modes to be involved in the drafting of the future action plan being drawn up by the Commission, in order for its objectives to be achieved.

2. Introduction

2.1 Logistics play a key role in guaranteeing sustainable mobility, as well as helping to ensure a cleaner environment and greater energy efficiency, making freight transport more efficient and effective.

2.2 In its mid-term review of the 2001 White Paper, the Commission implicitly recognised the importance of the freight transport sector as a driving force for trade and economic prosperity in the EU.

2.3 The experience acquired between the publication of the White Paper in 2001 and its midterm review in summer 2006 has shown that road haulage cannot be dispensed with; attempts to channel traffic to other transport modes have met with very little success.

2.4 The EU's social and economic development depends heavily on the mobility of people and goods, with the aim of protecting the environment. It would be inconceivable to talk about development without considering the need to create and maintain an infrastructure network in line with the growing requirements of the EU.

2.5 Sustainable mobility is guaranteed in particular by using transport networks in an efficient and streamlined manner to transport both passengers and goods.

2.6 Freight transport plays an important role in guaranteeing sustainable mobility. The fast growth of freight transport certainly contributes to economic development and employment; however, it is less certain that freight alone causes congestion, accidents, noise, pollution, increased reliance on imported fossil fuels, and energy loss.

2.7 Therefore, any initiative designed to streamline infrastructure use should also include logistical measures for private passenger transport use, so as to create favourable conditions for mass transport to be used in a natural way. The key to sustainable mobility does not reside solely in freight transport.

2.8 Moreover, it has been shown that society does not demand road transport for arbitrary reasons, but because it has

proven to be the fastest, most flexible and efficient mode of transport to date. Although efforts have been made to transfer traffic to railway and maritime routes, the results have been anything but favourable, other than in short sea and river shipping.

2.9 It seems unreasonable to assume that transport suppliers and users have not already made use of the logistical transport optimisation tools needed to improve the effectiveness and efficiency of their transactions. However, advanced logistical solutions will help to improve the efficiency of the different transport modes and combinations.

2.10 In the medium and long term, certain transport modes will have to be much more operational and competitive if a transport combination policy is to arise spontaneously as a result of the convictions of transport users. The inefficiency of certain transport modes must be remedied in order to achieve greater competitiveness and increase their share in the modal balance.

2.11 Transport fleets optimise their loaded mileage, keeping their empty mileage down to the minimum needed for day-to-day operation.

2.12 It will always be difficult to correct the imbalance in cargo supply between the points of origin and destination of freight, even by applying advanced logistical solutions: there will always be an imbalance between incoming and outgoing freight, regardless of the transport solutions. No transport mode can avoid the need to find return loads.

2.13 With regard to the use of more environmentally friendly modes, in line with the Commission's action plan for energy efficiency ⁽¹⁾, it should be noted that the studies provided by the Commission on transport and the environment do not make a distinction in road transport between public and private modes, which would illustrate the negative repercussions that intensive, limitless car use has on congestion, pollution, energy consumption, etc.

2.14 There is nothing new about integrating logistics into transport policy. The main step forward in the logistics sector has mostly been brought about by the traditional transport firms' adaptation to market requirements. The main progress in logistics comes essentially from the flexibility and adaptability of transport firms in dealing with external factors caused by other production sectors.

2.15 Transport firms and their customers are the first to apply logistical support measures. Logistics cannot be seen as an entity that controls and manages the transport chain: it is the firms that incorporate logistical measures into their decisions and actions, within the context of their commercial relations.

⁽¹⁾ COM(2006) 545 final: Communication from the Commission — Action Plan for Energy Efficiency: Realising the Potential.

2.16 Owing to the multi-million-euro turnovers involved, there is often a tendency to overstate the value of the logistics sector and consider it as a separate activity. However, such a view overlooks the fact that most of this turnover comes from transport and related activities; it is this sector that actually invests in fixed assets, bears the fixed costs and moves the goods.

2.17 The Commission and the Parliament could add value to the development of Freight Transport Logistics in Europe if they manage to create an operational framework with no friction between transport modes. They must create a favourable climate enabling modes to be brought closer together, without measures that will be harmful to any transport mode.

3. General comments

3.1 As has been expressed elsewhere, the key to the mid-term review of the White Paper lies in co-modality, in other words, the efficient use of different modes on their own and in combination, which is the best guarantee of achieving a high level of mobility and of environmental protection at the same time.

3.2 The EESC welcomes the fact that the communication highlights the need to optimise the complementarity of different transport modes within an effective, seamless European transport system, providing users with the best possible transport services. However, it would be premature to state that, given current production systems, competitive alternatives to road freight transport exist today, other than on specific routes.

3.3 The EESC also agrees that the development of Freight Transport Logistics should, above all, be a commercial activity and a duty to be fulfilled by the sector; the authorities should be responsible for creating an adequate framework of conditions, leaving the internal workings of commercial logistics up to the companies.

3.4 The EESC believes that the introduction of a logistics perspective into transport policy will require due respect for the different transport modes; logistics considerations should simply be an underlying factor in decision-making.

3.5 The EESC also believes that proper complementarity of modes and advanced logistics solutions can allow effective planning, management, control and execution of unimodal and multimodal transport chains.

3.6 The Commission should place greater emphasis on the efforts that each transport mode should make to optimise its efficiency and performance. There is, therefore, a need to boost both maritime and rail transport by focussing on the competitiveness (not the deregulation) of these sectors rather than pena-

lising other transport modes. Road transport must be seen as an essential ally for other modes of transport, strengthening coordination and intermodality, with measures in place enabling it to continue to provide its services with the appropriate flexibility and pricing.

3.7 Transport policy must demonstrate commitment to quality, safety, the environment and transport efficiency, and ensure that the user is free to decide on the mode that suits them best.

3.8 As stated in the communication, certain interesting trends have emerged in recent years, such as the outsourcing of logistical activities. This cooperation between shippers and service providers is accompanied by the extensive integration of organisational and IT structures.

4. Areas of action

4.1 Identification of bottlenecks and their solutions

4.1.1 The EESC considers that to define the potential bottlenecks and solutions it is essential to have the participation of the players involved, as well as sharing knowledge and best practices, and cooperating on drawing up policies.

4.1.2 While bottlenecks have been successfully identified and managed in the short sea shipping sector, for the moment, as stated in the communication, there is no comprehensive picture of the concrete obstacles that hinder Freight Transport Logistics from developing faster in Europe.

4.1.3 However, it is recognised that there are various aspects that directly affect the road freight sector, restricting its operability, and a lack of harmonised legislation on the issues that are important for the creation of a fair, competitive market within the enlarged EU.

4.2 Information and communications technology (ICT)

4.2.1 Intelligent transport systems help to ensure a more efficient and rational use of infrastructure and therefore to reduce accidents and congestion and to protect the environment.

4.2.2 The European satellite navigation system, Galileo, which will be operational as of 2010, will provide future applications for all modes of transport, such as tracking and tracing of cargo, the Intelligent Car (?), promoting the new technologies in vehicles, the SESAR programme, which will help to improve air traffic management in the single European sky, and the ERTMS system, which will enhance interoperability between national rail networks and will have a positive impact on logistics.

(?) Communication on the Intelligent Car Initiative — 'Raising Awareness of ICT for Smarter, Safer and Cleaner Vehicles' — COM(2006) 59 final.

4.2.3 It would seem reasonable that, to guarantee the integrity of the single market, the technical solutions imposed should not become barriers to trade but develop in complementary ways across the EU, based on interoperable standards. Common standards widely accepted by manufacturers and operators, and synergies between different systems, are the keys to making logistics more efficient.

4.2.4 It is important to gauge the start-up costs, both in terms of technology and software, without this hampering SMEs' full participation in the market.

4.2.5 The EESC agrees that Freight Transport Logistics should continue being a research priority under the 7th Framework Programme because modern technological innovation can open up new avenues for the sector.

4.3 *Logistics training*

4.3.1 The EESC considers that training in transport logistics should not be limited: indeed, its scope should be extended to cover transport and logistics as different, complementary subjects.

4.3.2 It would be useful to work to achieve a clear definition of the competences that fall within the scope of logistics, for there are no statistical data or clear definitions in this field to date. The social partners therefore have a key role to play in drawing up an appropriate framework for training.

4.4 *Statistical data*

4.4.1 The EESC believes that we should not be content with a restricted statistical view of logistics, without looking in depth into the different transport modes and their related activities.

4.4.2 It is useful to have a reliable picture of the situation and its evolution over time, but the role of transport and warehousing therein should not be overlooked. The Community statistical programme 2008-2012 ⁽³⁾ points out that one of the aspects to be improved in EU statistics is the breakdown by transport modes, particularly road transport.

4.5 *Utilisation of infrastructure*

4.5.1 The quality of infrastructure is a key to logistics in freight transport.

4.5.2 The EU's social and economic development depends heavily on the mobility of people and goods.

4.5.3 The trans-European Transport Networks are an essential factor in the development of the internal transport market, but the underlying situation of these networks is not the same in all EU Member States. In this context, it should also be noted that not all trans-European Transport Networks suffer from congestion, and thus there are different problems to be faced.

4.5.4 The EESC agrees that co-modal logistic chains can help to remove congestion from certain corridors in such a way that optimal use is made of the infrastructure of different modes, following both a unimodal and multimodal approach.

4.5.5 The EESC believes it would be a good idea to take into account the problem arising from the situation of certain remote and outermost regions and countries. In order to provide adequate cover for these zones, it is vital to speed up the timescales and increase EU budgetary funds earmarked for the construction of trans-European networks, facilitating transit through the Pyrenees and the Alps, amongst other areas, being of particular importance here. Better overall accessibility will improve the prospects for regional development, with the increase in competitiveness that this entails.

4.5.6 Together with these budgetary increases, the European Union should consider promoting the mixed-financing system for the construction and maintenance of infrastructure, something which would offer stability and legal guarantees for the involvement of private capital, provided that the pricing policies respect the interests of all players.

4.5.7 When the bottleneck results from a lack of suitable infrastructure or its improper use, then a solution is required.

4.6 *Service performance*

4.6.1 *Recognition of quality*

4.6.1.1 It could prove useful for the sector to introduce benchmarks for Freight Transport Logistics in order to assess and control service quality at European level, provided that it remains a comparative tool that can be utilised by companies and users.

4.6.1.2 Indeed, establishing a set of European benchmarks would create uniformity in assessing logistics performance.

4.6.1.3 However, the EESC believes that the creation of new quality labels must not generate more red tape and new unnecessary costs for the sector.

⁽³⁾ COM(2006) 687 final: Proposal for a Decision of the European Parliament and of the Council on the Community Statistical Programme 2008-2012.

4.6.2 A network for rail freight services

4.6.2.1 The EESC agrees that, despite being an improvement, the measure to create a rail freight-oriented network allowing for dedicated freight corridors would not in itself resolve the lack of reliability and efficiency caused, inter alia, by insufficient technical and administrative interoperability.

4.7 Promotion and simplification of multimodal chains

4.7.1 One-stop administrative shopping and 'Common European Maritime Space'

4.7.1.1 The EESC supports the creation of 'one-stop administrative shopping' or single windows for logistics flows, in particular multimodal flows, where all customs (and other related) formalities are carried out in a co-ordinated way.

4.7.2 Multimodal promotion

4.7.2.1 The EESC supports the development of the network of 21 Shortsea Promotion Centres to also encompass the promotion of multimodal logistics solutions in inland transport chains.

4.7.3 Multimodal liability

4.7.3.1 The EESC agrees that, further to a comprehensive liability solution for Europe, the Commission could also look into the added value of standardising a transport document for multimodal transport operations.

4.8 Loading standards

4.8.1 The Commission's initiative to propose common European standards for intermodal loading units in intra-EU transport⁽⁴⁾, is a means of harmonising the current situation for weights and dimensions of loading units, but to achieve this it will be necessary to take account of the current features of transport networks and the possibility of using these measures without detriment to safety.

5. The way forward

5.1 The Action Plan for Freight Transport Logistics to be drawn up in 2007 should consider the proposals from the different transport modes involved prior to any regulatory initiatives by the Commission.

Brussels, 26 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

APPENDIX

The following Section Opinion text was rejected in favour of amendment adopted by the assembly but obtained at least one-quarter of the votes cast:

Point 4.5.8:

'4.5.8 The EESC proposes that temporary traffic restrictions imposed by national authorities be replaced with restrictions coordinated by the Union, something which would require the adoption of Community rules. This measure would need to be coordinated with the declaration of a minimum trans-European road network free of such restrictions, on which road traffic could move without hindrance, while ensuring compatibility with the needs of network users other than road hauliers.'

Outcome:

93 votes for deleting the phrase, 49 against and 10 abstentions.

⁽⁴⁾ COM(2003) 155 final, as amended by COM(2004) 361 final.

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 — Mid-Term Review of the Programme for the Promotion of Short Sea Shipping [COM(2003) 155 final]

COM(2006) 380 final

(2007/C 168/14)

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 above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was Mr Chagas.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 108 votes with two abstentions.

1. Conclusions

1.1 The EESC has consistently supported measures aimed at developing short sea shipping on account of its potential for growth and job creation and as an alternative to other, less environment-friendly modes of transport, thereby helping to reduce road congestion, accidents and noise and air pollution.

1.2 In its opinion on the programme that was presented in 2003, the EESC emphasised the need to ensure the vital role of the focal points as a bridge to the industry, and to facilitate integration into an intermodal logistics system. The EESC calls for greater efforts on the part of the Member States and the social partners to develop the network of focal points.

1.3 The Commission and the Member States must, as a matter of urgency, assume responsibility for creating conditions conducive to the development of different transport modes, not only by providing infrastructure to facilitate intermodality, but also by filling the gap left by the industry's inability to deal with the lack of real additional cooperation for not only economic, but also social and environmental sustainability.

1.4 The EESC notes the progress achieved with the actions proposed in the 2003 programme for the promotion of short sea shipping, and calls for the rapid implementation of the other planned actions, especially the removal of identified obstacles. Developing the focal points and extending their scope to encompass the promotion of inland multimodality and related logistics could help to achieve the desired results.

1.5 The EESC considers that the present communication should mention creating a Common EU Maritime Space, a step which could make a decisive contribution to giving short sea shipping a prominent role in intra-Community goods transport. It would be entirely logical for shipping between EU ports to be

treated as domestic rather than international transport, with obvious benefits in terms of simpler customs procedures.

2. Background

2.1 In 2003 the European Commission adopted a programme to promote short sea shipping ⁽¹⁾, in response to an invitation by the Council of Transport Ministers to the Commission and the Member States with a view to ensuring both its growth and also its effective integration into existing intermodal transport chains.

2.2 This programme comprised 14 actions, five of them of a legislative nature, four technical and five operational, subdivided into practical measures and accompanied by deadlines.

2.3 In the opinion it adopted at the time ⁽²⁾, the EESC highlighted the need for 'strict implementation of the deadlines proposed by the Commission', and pointed out that 'without certain bottlenecks being removed short sea shipping cannot evolve into intermodality'.

3. The Communication from the Commission

3.1 The present Communication from the Commission reviews the state of implementation of the measures set out in the programme presented in 2003, evaluating the progress achieved on these actions to date, and advocates a way forward.

3.2 Legislative actions

— Directive on certain reporting formalities for ships (IMO-FAL) ⁽³⁾: transposition of the directive into national legislation is almost complete;

⁽¹⁾ COM(2003) 155 final.

⁽²⁾ CESE 1398/2003, rapporteur: Mr Chagas. OJ C 32, 5.2.2004.

⁽³⁾ International Maritime Organisation's Facilitation Forms.

- the Marco Polo subvention programme (identifying Motorways of the Sea as a specific new action, in which definition of the concept is complete; the first Motorways of the Sea will be operational in 2010) is mid-way to completion;
- the final adoption of the Commission proposal for a Directive on Intermodal Loading Units is still pending;
- Directive 2005/33/EC introduces improved environmental performance, in particular in the areas of SO_x, NO_x and particulates.

3.3 Technical actions

- the Guide to Customs Procedures for Short Sea Shipping has been completed;
- identification and elimination of obstacles to making short sea shipping more successful than it is today (e.g. removing administrative obstacles): half-way to completion;
- approximation of national applications and computerisation of Community Customs procedures: the New Computerised Transit System (NCTS) has been operational since 2003; the action is half-way to completion;
- Research and Technological Development: the Thematic Network of Short Sea Shipping, REALISE, finalised its work at the end of 2005. The action is half-way to completion.

3.4 Operational actions

- one-stop administrative shops: the action is more than half-way to completion;
- the Short Sea Shipping Focal Points are representatives of national maritime administrations that consult the Commission: the action is more than half-way to completion;
- the Shortsea Promotion Centres operating in Europe offer neutral, impartial advice on the use of short sea shipping. The action is more than half-way to completion. Extension of the centres' geographical scope will continue in order to secure at least their financial security;
- improving the image of short sea shipping (e.g. through the European Shortsea Network): the action is more than half-way to completion;
- statistical information: a first tool, already being tested in Eurostat, would allow coherent comparisons between modes; the currently available conversion matrix will need to be further refined.

3.5 The Commission concludes that the proposed actions were the right ones, but considers that new targets with new deadlines are needed in some cases. In others, it seeks to make targets more precise or to broaden them. It also indicates that Community ports need to be better integrated into the logistics chain.

4. General comments

4.1 The EESC has consistently supported measures aimed at developing short sea shipping on account of its potential for growth and job creation and as an alternative to other, less environment-friendly modes of transport, thereby helping to reduce road congestion, accidents and noise and air pollution.

4.2 Successive programmes and measures to promote short sea shipping have produced significant results which are reflected firstly, in average per annum growth of 3.2 % since 2000 (8.8 % for containerised cargo) and secondly, in the removal of a considerable number of obstacles identified as hampering greater development of the sector: of the initial 161 such bottlenecks, only 35 remain. This number presumably includes those which are most difficult to remove, meaning that this path must be vigorously pursued.

4.3 At its meeting of 11 December 2006, the Council adopted a series of conclusions concerning the Communication from the Commission, together with recommendations on the legislative framework, strengthening the development and promotion of short sea shipping and cooperation between the Member States and the Commission, and in general supporting the measures proposed in the mid-term review.

4.4 In evaluating the results of the programme some three years after its adoption, the Commission considers that it is 'more than half-way to completion', although it states that short sea shipping needs to be more tightly integrated into the 'logistics supply chain'. It emerges however that a significant proportion of the proposed measures should already have been completed. One example of such delay is Action No. 14 on statistical information, which was proposed in a communication as far back as 1992. An initial tool is now being tested in Eurostat.

4.5 In its opinion (*) on the programme that was presented in 2003, the EESC emphasised the need to ensure the vital role of the focal points as a bridge to the industry, and to facilitate integration into an intermodal logistics system. The EESC calls for greater efforts on the part of the Member States and the social partners to develop the network of focal points.

4.6 It is not clear that a 'multimodal ... supply chain' actually exists, although the Commission uses the expression: the aggregate of various logistics systems and intermodal networks cannot be taken to be a multimodal chain as such. The lack of coordination and cooperation between the different transport segments is clearly the main obstacle to establishing and developing a coherent and sustainable Community transport policy.

(*) See footnote 2.

4.7 The Commission and the Member States must, as a matter of urgency, assume responsibility for creating conditions conducive to the development of different transport modes, not only by providing infrastructure to facilitate intermodality, but also by filling the gap left by the industry's inability to deal with the lack of real additional cooperation for not only economic, but also social and environmental sustainability.

5. Specific comments

5.1 Legislative actions

5.1.1 Of the measures proposed, only the introduction of new European Intermodal Loading Units has not been carried out. A number of economic actors expressed serious reservations about the proposal, arguing that the adoption of new models for loading units should take place at international, rather than purely European, level. The EESC also voiced some of these concerns to which adequate answers are required. The Commission recently re-opened the debate on this proposal, and it appears that a readjustment, intended to ensure that the introduction of a new container model does not necessarily entail changes to existing models, could meet some of the concerns expressed.

5.1.2 The Marco Polo programme must continue to play an important part in funding and developing new and existing lines. Including Motorways of the Sea as a specific new action could help to bring this about. However, some uncertainty persists regarding the Motorways of the Sea concept. While the idea of not restricting their application to TEN-T is to be supported, their introduction must be transparent and not generate any distortion of competition.

5.1.3 The industry's efforts in the area of environmental performance are producing positive results. However, further improvements in performance are needed, regardless of comparisons with other transport modes. Investment in research and development for cleaner fuel and engines must be stepped up and actively encouraged. Community legislation in this area should be reviewed in line with possible developments. Investment should also be made in modernising certain segments of the Community fleet.

5.1.4 The EESC does not understand why the present communication makes no mention of the creation of a Common EU Maritime Space, as discussed in other documents such as the Green Paper on a future maritime policy, the mid-term review of the 2001 White Paper, and the Communication on goods logistics. To do so could make a decisive contribution to giving short sea shipping a prominent role in intra-Community goods transport. It would be entirely logical for shipping between EU ports to be treated as domestic rather than international transport, with obvious benefits in terms of simpler customs procedures.

5.2 Technical actions

5.2.1 The EESC notes the progress achieved with the proposed technical actions, and urges the Commission and the Member States to press ahead with implementing them. It is particularly important that the contact groups between the different administrations continue their work to identify common solutions to deal with the remaining obstacles.

5.3 Operational actions

5.3.1 One of the Commission's main conclusions regarding the application of the measures is that the scope of the Shortsea Promotion Centres should be extended to encompass the promotion of inland multimodality and related logistics. It is vital to step up cooperation between the various logistics segments by promoting cooperation between them.

5.3.2 Similarly, the contact groups could help to devise local and/or regional solutions to remove obstacles to enhanced short sea shipping performance. The involvement of the social partners, as well as of the Maritime Industries Forum (MIF), should be encouraged.

5.3.3 The provision of reliable, harmonised and full information is an important element. As mentioned above, this need was identified in an earlier communication in 1992. The EESC recognises the progress made recently, and calls upon the Commission and the Member States to focus more attention on this issue.

Brussels, 25 April 2007.

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 road infrastructure safety management

COM(2006) 569 final — 2006/0182 (COD)

(2007/C 168/15)

On 10 November 2006 the Council decided to consult the European Economic and Social Committee, under Article 71(1)(c) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March. The rapporteur was Mr Simons.

At its 435 plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted unanimously the following opinion.

1. Conclusions

1.1 The Committee welcomes the Commission's initiative to flesh out the third pillar of road safety policy: road infrastructure safety management. As an adjunct to driver-related action and measures to improve vehicle safety, the directive now on the table seeks to integrate safety into all phases of the planning, design and operation of road infrastructure in the Trans-European Network (TEN-T). In road safety policy, all these factors are equally important.

1.2 Although the Committee is aware that, in places where infrastructure is already well developed, road infrastructure measures will, generally speaking, have less of an impact than action on the driver or the vehicle, it is convinced that every available means must be used in this field too to improve road safety and bring down victim numbers.

1.3 The Committee feels that the proposed measures for the third pillar of road safety policy should not be restricted to the TEN-T alone, but should be extended to include all roads in the Member States outside urban areas on which many accidents clearly occur. Given that the aim is to minimise the number of road traffic victims and that most gains on this front — 1 300 fewer fatalities instead of 600 — are to be made on non-TEN-T infrastructure, this is one aspect to which the Commission might be expected to give much more attention. The Committee feels that EC Treaty Article 71(1)(c) provides a sound basis for this.

1.4 The Committee would therefore ask the Member States to agree to extend the scope of the proposed measures to all roads outside urban areas.

1.5 The Commission is proposing action on the basis of a directive. With an eye to the effectiveness of the proposed measures, the Committee does not feel that a directive will have the desired impact as it gives Member States too much discretion, thus ruling out any uniform application. The Committee feels that, to achieve its objective of halving the number of road fatalities by the year 2010 compared with the 2000 figures, the

Commission must come up with a more binding legal instrument than a directive, the provisions of which will have to be complied with by all government players and private stakeholders concerned.

1.6 The fact that the subsidiarity principle has to be complied with under the legal basis mentioned in point 1.3 above is no hindrance. On the contrary, a European approach is vital to be sure of the uniform application that is so necessary in this field.

1.7 The Committee also notes the importance of analysing the causes of road traffic accidents. This is the only way to identify the precise extent to which such accidents are caused by road infrastructure design and, on that basis, to put effective measures in place.

2. Introduction

2.1 Until the 1990s, road traffic accidents were seen as a phenomenon inherent to mobility in our economy and society.

2.2 The European Community's role was also limited. With no explicit responsibilities in this area, it had little scope to act. It was, however, possible to adopt directives, particularly in the field of technical standards designed to improve vehicle safety (obligatory use of seatbelts, speed limiters for lorries, etc.)

2.3 Since the turn of the millennium, however, there has been a sea change in thinking in this field. Studies have shown that road safety is one of the European public's principal concerns. This applies particularly to road transport — the mode in which most fatalities occur.

2.4 In 2000, more than 40 000 people were killed and more than 1.7 million injured in road accidents in the then fifteen-Member-State European Union. The direct measurable cost of road traffic accidents is put at EUR 45 billion, while the indirect cost, including physical and psychological damage to victims and their families, comes to EUR 160 billion per year.

2.5 Since the Maastricht Treaty, the European Community has also had more effective regulatory tools at its disposal to take action in the field of road safety, although application of the subsidiarity principle continues to hinder any genuine common policy in this area.

2.6 The 2001 White Paper *European transport policy for 2010: time to decide* and the June 2003 Communication on a European Road Safety Action Programme devote a great deal of attention to measures designed to improve road safety. The third key component — alongside driver- and vehicle-related measures — is action relating to the physical infrastructure.

2.7 No European-level initiatives are yet in place for road safety infrastructure. Some roads equipped with traffic management and control systems based on information and communication technologies (ICT) have indeed become safer, but there is a long way to go before all roads are fitted with ITC systems.

2.8 Much remains to be done, therefore, to improve the safety of the physical infrastructure. The trend, however, is for national governments to provide less funding for road infrastructure — despite the increasing importance attached by road users to road standards and road safety.

2.9 The Commission's aim, therefore, in submitting this directive is to integrate safety into all phases of road infrastructure in the Trans-European Network (TEN-T). Its intention is to introduce road safety impact assessments alongside economic and environmental analyses.

3. General comments

3.1 In a point already made in its opinion of 10 December 2003 on the *Communication from the Commission: European Road Safety Action Programme: Halving the number of road accident victims in the European Union by 2010: A shared responsibility*, the Committee considers the Commission's objective of halving the number of road fatalities by the year 2010 compared with the 2000 figures (from 40 000 in 2000 to 25 000 in 2010) to be somewhat ambitious.

3.2 That is clearly the case, given that, in 2005, road accident victim figures in the European Union were still running at 41 500 — despite the raft of driver- and vehicle-related road safety measures now in place at EU level. The Committee thinks that each and every road traffic victim is one victim too many, and thus expects the Commission to be much more forceful in its efforts to achieve the desired objective, for instance by launching a major European road safety campaign and giving Member States recommendations on the use of tougher instruments to cut the number of road traffic victims.

3.3 The Committee believes that Community action on drivers and vehicles is most effective in improving road safety. Measures to improve the road infrastructure — the third pillar of road safety policy — are, in the Committee's view, less effective and, depending on the circumstances prevailing in the

Member State concerned, will have less of an impact on cutting the number of road accident victims. That said, the Committee does feel that every available means must be used to bring down victim numbers, for instance by introducing standards for road infrastructure design and signposting in the EU Member States.

3.4 The Committee's view as to the effects of the measures on the table is confirmed by the impact analysis of the proposed directive conducted in 2003 by the thematic network ROSEBUD. This study found that implementation of the directive on TEN roads would — at a realistic estimate — lead to more than 600 fewer fatalities and more than 7 000 fewer injury accidents per year. If, however, the directive were also to be applied to all roads outside urban areas, the number of victims would be cut by some 1 300 per year, equating to an annual saving of EUR 5 billion.

3.5 The Committee feels that EC Treaty Article 71(1)(c) provides a sound basis for this. The Committee would therefore ask the Member States to agree to extend the scope of the proposed measures to all roads outside urban areas.

3.6 The draft directive sets out a minimum set of elements that the Commission feels are necessary to have an impact on safety and to spread procedures that have shown to be effective. In that connection, the Commission cites the following four procedures that are central to any system of road infrastructure safety management: road safety impact assessments; road safety audits; identification of black spots; and safety inspections as part of regular road maintenance. The Committee has serious doubts about the effectiveness of any such measures in the form of a directive as these four procedures will most definitely not be applied in a uniform way in all the EU Member States.

3.7 The Commission feels that this directive strikes a good balance between improving safety, limiting administrative burdens and respecting the different traditions, values and standards in the Member States. The Committee disputes this, for the reasons set out in points 3.4 and 3.5 above.

3.8 A directive will not have the desired impact as it gives Member States too much discretion, thus ruling out any uniform application. The Committee feels that, to achieve its objective of halving the number of road fatalities by the year 2010 compared with the 2000 figures, the Commission must come up with a more binding legal instrument than a directive, the provisions of which will have to be complied with by all government players and private stakeholders concerned.

3.9 The Commission thinks that cost increases as a result of the proposals contained in the draft directive will be no more than marginal and will be offset within a short time through savings made as a result of the reduced number of accidents. The Committee wonders on what basis the Commission makes this assertion.

4. Specific comments

4.1 The Committee thinks that, like action relating to vehicles and drivers under the first two pillars, the proposed measures on the third pillar of road safety policy — road infrastructure — should cover not just the TEN-T, but should be extended to include all roads outside urban areas on which many accidents clearly occur.

4.2 This is also one of the findings of the internet public consultation held from 12 April to 19 May 2006. A significant number of respondents suggested extending the provisions of the directive to roads not part of the trans-European road network, since it is precisely on those roads that most lives could be saved.

4.3 The proposed directive lays down procedures for road safety assessments, audits and inspections. Member States are expected to use the elements listed in the annexes to provide the requested information in a uniform way. In the Committee's view, however, the fact that the provisions are laid down in a directive gives Member States too much leeway for any sound comparison to be made of the impact of the measures contained therein.

4.4 Annex I, for instance, sets out a number of components and elements to be used by Member States in road safety impact assessments. This list gives Member States so much discretion in the conduct of such assessments that it is highly doubtful whether they will produce comparable data.

4.5 The same can also be said of the list of elements for road safety audits set out in Annex II. Here too Member States have broad scope for their own interpretation.

4.6 The same shortcoming also applies to the safety inspections, with the additional difficulty that, in Annex III of the directive, one of the elements for reporting by the inspection team is given as 'analysis of the accident reports'. The

Committee feels that the focus should not be so much on analysing the accident reports as on identifying what actually causes the accidents in the first place. This consideration is, regrettably, also missing from Article 7 of the draft directive and from Annex IV, which deals in greater detail with the accident data to be included in accident reports.

4.7 As the Committee already pointed out in its opinion of 10 December 2003 on the *Communication from the Commission: European Road Safety Action Programme: Halving the number of road accident victims in the European Union by 2010: A shared responsibility*, a great deal of information may be obtained by giving closer consideration to black spots, with an analysis of the causes of accidents for each one. In the same opinion, the Committee also notes the work of the 'Euro-RAP' organisation which publishes a road map of various European countries indicating the level of danger on different roads, based on accidents that have actually occurred.

4.8 The Committee recommends that the Commission include in its proposal a provision enjoining the Member States to increase the number of parking areas for all users, including those with disabilities, along major infrastructure routes. Such parking areas should be secure as otherwise drivers will simply carry on with their journey, resulting, among other things, in non-compliance with the rules on driving time and rest periods and thus compromising road safety.

4.9 The Committee feels that not enough attention has been paid to the issue of road lighting. With a view to improving road safety, it is recommended that Member States coordinate their policy in this area.

4.10 A final point the Committee would draw to the Commission's attention is that a visual presentation of black spots by Member States — i.e. infrastructure on which accidents frequently occur — is an important tool in raising road users' awareness.

Brussels, 26 April 2007.

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 amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services

COM(2006) 594 final — 2006/0196 (COD)

(2007/C 168/16)

On 1 December 2006 the Council decided to consult the European Economic and Social Committee, under Articles 47(2), 55 and 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was Mr Hencks.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 26 April), the European Economic and Social Committee adopted the following opinion by 131 votes to 26 with 8 abstentions.

1. Recommendations

1.1 In the draft directive under review, the Commission envisages proceeding to the final stage of opening the postal market on 1 January 2009, while maintaining the principal aspects of universal service at current levels in all EU Member States, and abolishing the exclusive rights (the reserved sector) used to finance the universal service.

1.2 The main challenge presented by organising this final stage is to identify the way forward to an effective and competitive postal sector which will continue to provide high-quality, affordable services to individuals and businesses in Europe, in the interests of economic competitiveness, of serving citizens' needs, irrespective of their geographical or financial situation or other factors, and in the interests of employment and sustainable development.

1.3 The EESC feels that the Commission's ideas would not ensure the necessary degree of security for long-term financing of a universal service in all Member States, particularly where there are difficulties caused by the physical or human geography, and thus at present are not preferable to financing by means of a reserved sector, which in many Member States has proved to be an effective and fair system.

1.4 For the EESC, compensating for the residual costs of a universal service by imposing a levy or higher tariffs on users or by means of public subsidies would be unacceptable, whereas the present universal service does not involve any specific charges for users/taxpayers.

1.5 At this stage, the EESC is not won over either to a 'play or pay' system, with an obligation on each operator to provide a universal service, from which it can be exempted by participating in the financing of the universal service, or to the use of a compensation fund.

1.6 The Commission should explain in detail the framework within which liberalisation of postal services will take place.

This is a precondition for abolishing the reserved sector, which is necessary for financing the universal service.

1.7 Given the uncertainties and risks associated with complete liberalisation of the postal market, the deadline of 1.1.2009 seems unrealistic, especially in view of the fact that postal operators in Member States which only joined the EU in 2004 would have insufficient time to adapt to the new circumstances.

1.8 The EESC urges that:

- the current Directive be extended;
- plans be made for possible full liberalisation of the postal sector by 1.1.2012, provided that credible financing options which represent an improvement on the reserved sector have been found by then, in close consultation with all those concerned;
- specific deliveries sent or received by blind and partially sighted persons and their organisations be incorporated into the universal service.

2. Introduction

2.1 From a socio-economic perspective, postal services are very important for economic, social and territorial cohesion and for implementation of the Lisbon strategy. They directly contribute to social relations and fundamental rights, while enhancing solidarity and integrating people and regions; they also stimulate European economic competitiveness and sustainable development.

2.2 The Commission estimates that the postal services handle 135 billion items per annum, generating a turnover of about EUR 88 billion or 1 % of EU GDP. About two-thirds of this turnover is generated by mail services; the remainder comes from parcels, express mail and related services.

2.3 A universal postal service ensuring the availability of high-quality, reliable and affordable postal services irrespective of geographical or financial situation or other factors is a key element of the European social model and of the Lisbon strategy. A high-quality universal service is a necessity both for members of the public and economic players, who are the main clients of postal services and who need parcels and letters to be delivered to recipients irrespective of where they are situated or who they are.

2.4 Reforms, technological developments and increased automation in the postal sector have led to substantial improvements in quality, increased efficiency and a more customer-oriented approach.

2.5 Contrary to more pessimistic forecasts of continuing decline in the postal services market, these changes reflect the growth potential perceived by operators in the development of new services such as home shopping, electronic commerce and hybrid mail.

2.6 In contrast to other network industries, postal work, and delivery in particular, still involves a great deal of manual labour and direct contact with customers. The sector is therefore very important for employment; it is estimated that over 5 million jobs in the EU are directly dependent on the postal sector or closely linked to it. Labour costs, which are usually fixed costs, represent the lion's share (+/- 80 %) of total costs; the workforce is therefore particularly vulnerable to the effects of streamlining measures in the course of liberalisation and improving competitiveness.

2.7 Finally, the EESC would also like to point out that regular Eurobarometer surveys indicate that a large majority of users are generally satisfied with the quality of postal services.

3. Background

3.1 On 11 June 1992 the Commission presented a Green Paper on the Development of the Single Market for Postal Services, followed on 2 June 1993 by a communication on guidelines for the development of Community postal services; almost ten years ago, gradual, controlled liberalisation of the sector postal was launched by Directive 97/67/EC, commonly known as the 'Postal Directive'.

3.2 The Postal Directive, which expires on 31 December 2008, laid down common rules on the following aspects of a single market for postal services:

- universal services;
- a reserved sector (monopolies);
- tariff principles and principles governing transparency of accounts for universal service providers;

- quality standards;
- harmonisation of technical standards;
- creation of independent national regulatory authorities.

3.3 Universal service

3.3.1 According to the Directive, Member States will be required to ensure that a universal service at affordable prices is available, every working day and not less than five days a week, to all users at all locations, with at least

- collection, sorting, transport and delivery of mail weighing up to two kilograms and of parcels weighing up to ten kilograms;
- services involving registered and insured items;
- suitable access points to the postal network throughout the country.

3.3.2 Community legislation therefore ensures that everyone living in the EU has access to genuine communication services, regardless of the geographical or human make-up of their place of residence.

3.3.3 Universal service as defined above, which includes both national and cross-border services, has to comply with quality standards on delivery times and the regularity and reliability of services in particular; these standards are set by Member States in the case of national services, and by the Parliament and Council in the case of Community cross-border services.

3.4 Reserved sector

3.4.1 If Member States believe that the universal service obligations represent an unfair financial burden on providers of such services, they may be awarded a monopoly on collection, sorting, transport and delivery of domestic mail and, subject to the need to maintain universal service, cross-border mail and direct mail:

- weighing up to 50 grams (or with postage costs of no more than two-and-a-half times the public tariff for an item of correspondence in the first weight step of the fastest category).

4. The Commission's draft directive

4.1 The prospective study which the Commission contracted out to an international consultant ⁽¹⁾ concludes that accomplishing the postal internal market in all Member States in 2009 is compatible with maintaining high-quality universal services. However, this study points out that, in view of the risks which this poses for maintenance of the universal service, 'flanking measures' will be needed in most Member States.

⁽¹⁾ The Impact on Universal Service of the Full Market Accomplishment of the Postal Internal Market in 2009/Price Waterhouse & Coopers.

4.2 The draft directive under review envisages complete liberalisation of the postal market by 1 January 2009, while safeguarding the principal common standards of universal service at current levels for all users in all EU Member States.

4.3 With effect from 1 January 2009 Member States will no longer be allowed to grant exclusive or special rights (reserved sector) for the establishment and the provision of postal services.

4.4 Member States will no longer necessarily have to designate the provider(s) of a universal service, but may leave provision of such service — subject to a time limit — to market forces; they may also identify the specific services or regions where the universal service cannot be ensured by market forces and procure those services in a cost effective manner through public tendering.

4.5 In cases where there is a need for external financing of the universal service, Member States can choose from the following options:

- public procurement;
- public compensation by means of direct State subsidies;
- a compensation fund supported by levies on service providers and/or users;
- a 'play or pay' type system tying the granting of authorisations either to universal service obligations or to financing of a compensation fund.

4.6 The directive under review also introduces a new provision obliging Member States to evaluate the need to ensure transparent and non-discriminatory access for all operators to the following services and postal infrastructure elements: post-code system, address database, post office boxes, collection and delivery boxes, information on change of address, re-direction service, return to sender service. These provisions are not intended to ensure downstream access to 'sorting' and 'delivery' segments.

5. General comments

5.1 The EESC has always realised that, unlike other sectors, postal services have not been liberalised precipitously, but — so far — in a gradual, controlled manner. It is pleased that the draft directive confirms that the principal aspects of the universal service are guaranteed for all users. However, the EESC requests that free services relating to specific deliveries sent or received by blind and partially sighted persons be incorporated into the universal service.

5.2 For the Commission, the main challenge presented by organising the final stage of full liberalisation of EU postal markets is to identify the way forward to an effective and competitive postal sector which will continue to provide high-quality, affordable services to individuals and businesses in Europe.

5.3 The EESC feels that the Commission's ideas would not ensure the necessary degree of security for long-term financing of a universal service in all Member States, particularly where there are difficulties caused by the physical or human geography, and thus at present are not preferable to financing by means of a reserved sector, which in many Member States has proved to be an effective and fair system.

5.4 For the EESC, compensating for the net residual costs of a universal service by imposing a levy or higher tariffs on users, or financing by means of public subsidies, would be unacceptable, whereas the present universal service does not involve any specific charges for users.

5.5 At this stage, the EESC is not won over to a 'play or pay' system, with an obligation on each operator to provide a universal service, from which it can be exempted by participating in the financing of the universal service. This system has only been tested in practice in Finland, where it was not particularly successful. It appears that a compensation fund is not a solution either. In fact, a system of this type has only been tested in Italy, and turned out to be a failure there.

5.6 The same applies to the financing of a universal service by means of public subsidies, which would mean putting a strain on already tight public finances, at the expense of — once again — users and taxpayers.

5.7 Finally, the EESC would point out that the Commission's proposals for financing options have not been analysed in terms of feasibility or effectiveness. Implementing these options under such conditions would expose Member States to the risk of reaching a point of no return, with fully liberalised markets but no guarantee of a universal service.

5.8 Thus, before embarking on any new stage of liberalisation, a clear and stable framework will have to be put in place, and rules will have to be laid down. If necessary, the reserved sector should only be abolished once this framework is in place, including in particular genuinely effective and sustainable provisions for the financing of the universal service; these should be clearly identified and analysed for each Member State. This should be a precondition for the abolition of the only means of financing which has proved its efficacy to date, i.e. an appropriate reserved sector.

5.9 Over the last ten years or so, tens of thousands of jobs (0.7 % according to the Commission's figures) have already been lost, and many other jobs have been replaced by precarious or low-quality jobs, in sorting centres, delivery services and post offices.

5.10 Although this trend can be partly explained by various factors such as new technologies and competition from other forms of communication such as email, market liberalisation is still the main cause.

5.11 Hence, the Commission's statement that, thanks to greater competition, accomplishing the postal services internal market will unlock job creation potential in the sector to offset job cuts by the traditional operators has yet to be substantiated.

5.12 As far as the sector's growth potential is concerned, the only option suggested by the proposal is to manage what is apparently seen as irreversible decline in conventional postal services, without placing them in the context of communication needs arising from the Lisbon strategy and the knowledge-based society, and without analysing the impact in terms of energy efficiency.

5.13 The Commission's proposals envisage regulation essentially as a Member State responsibility, which would ultimately mean 27 national organisations and markets existing alongside one another in the postal services internal market, without

Community cohesion. The EESC reiterates its support for a Community postal service with community-wide rules on both competition and universal service provision.

5.14 Given the uncertainties and risks associated with complete liberalisation of the postal market, the EESC cannot agree that there is an urgent need to fix right now a deadline of 1.1.2009, especially in view of the fact that postal operators in Member States which only joined the EU in 2004 would have insufficient time to adapt to the new circumstances.

5.15 The EESC urges that the current Directive be extended, with plans for possible full liberalisation of the postal sector by 1.1.2012, provided that credible options which represent and improvement on the reserved sector have been found by then, in close consultation with all those concerned.

Brussels, 26 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on Transport in urban and metropolitan areas

(2007/C 168/17)

On 19 January 2006, the European Economic and Social Committee, acting in accordance with Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on the above-mentioned proposal.

On 7 November 2006, shortly before completion of work on the Committee's own-initiative opinion, the German presidency requested it to draw up an exploratory opinion on *Transport in urban and metropolitan areas*.

The EESC Bureau decided that five of the total of twelve issues which had been raised should be dealt with by the TEN section, which for its part felt that it would be useful to incorporate these into ongoing work on The situation of public passenger transport and local rail passenger transport in Europe, especially the new Member States, and to expand the subject accordingly.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 March 2007. The rapporteur was Mr Ribbe.

At its 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), the European Economic and Social Committee adopted the following opinion by 106 votes to 2, with 30 abstentions:

1. Conclusions and recommendations

1.1 The EESC is very concerned to note the sharp decline in the share of local public transport (LPT) in total urban transport volume, which is growing fast; this decline is not confined to EU-15 but is also proceeding at an especially rapid pace in the new Member States.

1.2 Traffic flows, from cars in particular, are placing an increasing burden on cities, causing a large number of mostly

unresolved problems; concerted action by the Commission, the Member States and local authorities is therefore needed to reverse this trend.

1.3 40 % of all traffic-related emissions of greenhouse gases come from Europe. Thus, the repercussions of urban transport policies are felt far beyond city limits.

1.4 The EESC feels that improving the quality of life and environmental protection in cities and achieving climate change and energy efficiency objectives are doubly necessary: in the Committee's view, top priority for any urban planning or transport policy should be, first, to prevent traffic 'arising', or at least to limit it; a second priority should be meeting or enabling the meeting of mobility needs wherever possible through environmental means of transport such as LPT, cycling or walking.

1.5 Cities must remain liveable; car-oriented cities are not an option. Given the scarcity of funding and space, the time when equal support could be given to all forms of transport has gone. The EESC therefore calls on local authorities, national governments and the Commission to ensure that this principle is taken into account in all legislation and support programmes.

1.6 In future, urban and land-use planners in local authorities must curb continued uncontrolled development and functional separation of urban areas, so that, wherever possible, traffic can be prevented. To this end, higher-level regional and land-use planning instruments should also be used, with coordination of housing in cities and surrounding areas enabling prevention of traffic from the outset.

1.7 The Committee also calls for clear prioritisation of objectives, with precedence for LPT, walking and cycling over car infrastructure. This is the only way to improve living and environmental conditions in metropolitan areas.

1.8 The Committee therefore feels that extending the supply of public transport services is a key area in which action should be taken by the Commission, the European Parliament, national governments and local authorities. There are a number of reasons for this, namely: the need to take precautionary measures to safeguard the environment and public health; the need to ensure basic mobility; and the need to provide essential services for all groups in the population, in particular for hand-capped persons.

1.9 *'If further consequences for our quality of life and for the environment are to be avoided then the development of public passenger transport systems must be given higher priority as part of an integrated approach. This is true for everyone and particularly, the estimated 40 % of European households which do not have private cars.'* This realisation and awareness on the part of the European Commission, formulated almost ten years ago in the Communication entitled *Developing the citizens' network* ⁽¹⁾ have, up to now, regrettably had virtually no influence on actual policy. The EESC is indeed forced to conclude that there are yawning gaps between the many pronouncements in favour of LPT and the translation of these pronouncements into real political action.

(1) Developing the Citizens' network — Why local and regional passenger transport is important and how the European Commission is helping to bring it about; COM(1998) 431 final of 10.7.1998.

1.10 The EESC asks the Commission to submit an appropriate package of political measures setting out clear guidelines and programmes promoting the achievement of the requisite objectives, as part of its planned Green Paper on urban transport. Such a package should also make a reappraisal of the reasons why many of the good measures which were announced in the 'citizens' networks' failed to be implemented.

1.11 The Member States should be aware of their obligation to contribute financially to the social services which they require transport enterprises to provide (such as lower fares for school children, pensioners, persons with disabilities, etc.), and to support local authorities in their investment projects. As discussed in the 'Thematic strategy on the urban environment', municipalities should draw up transport plans for sustainable urban transport, with a binding objective of a modal shift to environmentally friendly transport (local public transport, cycling, walking), in accordance with minimum European requirements, which have not yet been established. Among other things, these should include quantitative goals for increasing the shares of LPT, walking and cycling in total traffic. If they fail to draw up such plans, they should be barred from receiving support from Community funds.

1.12 Also with a view to meeting EU target values and complying with EU rules on inner-urban air quality and reducing fine-particle and noise pollution, it is essential to give priority to the development of an attractive public transport system incorporating information systems and offers based on new technology (such as mobile phone ticketing, dial-a-bus and dial-a-taxi services) and mobility advisory and marketing services. There is an urgent need for strengthening of the environmental alliance (e.g. bus, train and bike) and for closer synchronisation of timetables.

1.13 The EESC would recommend that the Commission, the Council, and in particular the Committee of the Regions investigate the reasons why some cities have succeeded in progressing towards sustainable urban transport, whereas in others the situation continues to deteriorate. What is clear to the EESC is that this is not just a matter of money, but also to a very large extent of political awareness and of decisions taken in the fields of transport and housing policy. Working on this is at least as important as the compilation and dissemination of best practice, as in the case of the EU's Civitas Project.

2. Main elements of the opinion and the background to the opinion

2.1 Both within and outside urban areas, the last few years have witnessed a generally strong growth in traffic and often a dramatic change in the modal split, with car journeys constantly on the increase and those by public transport constantly

declining in relative or absolute terms. This applies to the vast majority of cities and conurbations throughout Europe. In this opinion, local public transport (LPT) refers to bus, tram and rail transport organised or outsourced by the public sector and provided by private, municipal or State companies,

2.2 From the 1950s up to the 1990s, the transport policy strategy pursued by the majority of western European states and many municipalities was geared almost exclusively to the development of the road infrastructure and increased use of motor vehicles, whilst much of the public transport sector had to contend with significant cut-backs. Numerous additional factors such as differing land prices in urban and rural areas, inappropriate land-use and regional planning, tax law, and corporate decisions on siting industrial and commercial premises on the outskirts of cities have resulted in growing volumes of traffic and longer journeys between workplaces, schools, services and leisure facilities.

2.3 The consequences of this are manifold, in both economic and social as well as health and environmental terms: jobs have been lost, those unable to have their own cars or choosing not to be car-owners find it more difficult to get around, in many European cities the disabled are still largely excluded from public transport, and the environmental impact has become intolerable — this includes global climate change, which threatens to have both environmental and economic consequences.

2.4 The situation is particularly apparent in many urban and metropolitan areas, with deteriorating living conditions due to increasingly heavy traffic; local residents complain of noise and air pollution, while large areas have been sacrificed to cars and the accompanying infrastructure, at the expense of quality of life. The EESC would point out that about 80 % of Europeans live in urban areas, and are therefore very much affected. Drivers are also dissatisfied: to take just two common problems, long traffic jams have become part of daily life, and parking places are difficult to find.

2.5 40 % of all transport-related greenhouse gas emissions originate from European cities⁽²⁾, mainly from cars. During rush hours, when traffic problems in urban areas are at their worst, local public transport is ten times more energy-efficient (and therefore generates fewer emissions) than driving⁽³⁾. A shift from cars to LPT, cycling and walking could help considerably to relieve pressures. Only if there are more efforts to prevent traffic and to bring about a modal shift from private motor vehicle transport to public transport will Member States and the EU be able to meet their commitments to reduce emissions under the Kyoto Protocol and any future agreements.

⁽²⁾ GD TEN Roadmap 2006/TREN/029.

⁽³⁾ See UITP: 'The role of public transport to reduce greenhouse gas emissions and improve energy efficiency', March 2006.

2.6 Numerous official papers and scientific studies have been written over the past few years, most of which argue that cities must remain liveable; therefore, important as cars are in modern society, car-oriented cities are neither possible nor desirable. Instead, public transport and environmentally friendly private transport (e.g. cycling or walking) should be the mainstays of modern urban transport planning.

2.7 'A well functioning European transport system needs good, sustainable local and regional passenger transport. This contributes to economic development and employment and reduces congestion. It helps to clean up the environment by using less energy, making less noise and producing fewer pollutants. It reduces social exclusion by allowing people without the use of a car to gain access to jobs, schools, shops, medical facilities and leisure activities — recognising that women, the young, the elderly, the unemployed and disabled people are particularly dependent on public transport. Good, sustainable passenger transport is vital in the urban areas.' These remarks from the Commission's communication on Developing the Citizens' network⁽⁴⁾ dating back almost ten years basically sum up everything that needs to be said politically. At the time, the Communication met with the EESC's approval, and the Committee still stands by the arguments set out in that document; it acknowledges the importance of local public transport and of zero-emission transport modes.

2.8 Hardly any changes have, however, taken place. On the contrary, the car-centred road-building trend, which has lasted for decades, has in many cases since led to the development of physical and economic structures in and outside cities which are, to a maximum degree, geared to or dependent on car transport and which would be hard to change. In view of these entrenched structures — which are now also emerging in the new Member States — and also because of the fact that there is no real political will to initiate structural changes in transport policy⁽⁵⁾, there is a challenge, which has up to now remained largely unresolved, as regards halting or even reversing negative transport development trends. The successful reversal of the trend noted in a small number of cities (e.g. Freiburg and Münster in Germany and Delft in the Netherlands) and achieved by means of a clear 'push and pull' transport policy does, however, demonstrate that it is possible to bring political influence to bear on developments and to reverse them.

2.9 In its document on 'citizen's networks'⁽⁶⁾, the Commission declared its intention to give priority to the development of LPT and local and regional passenger rail transport and even

⁽⁴⁾ COM(1998) 431, 10.7.1998.

⁽⁵⁾ Inter alia because of the importance of the motor vehicle industry to the overall economy of the EU.

⁽⁶⁾ See COM(1998) 431 final.

drew attention to the need to introduce a 'push and pull' strategy designed to deliberately displace cars from conurbations and to strongly promote the use of LPT. In the light of current and continuing developments, it must, however, be concluded that the Commission has not been very successful in translating its own demand into action. The EESC deplores the failure of the policy to go much beyond making pronouncements and introducing research projects and pilot schemes.

3. General comments

3.1 *The current situation as regards public transport in the new EU Member States and the acceding states*

3.1.1 In comparison with the countries of western Europe, many Central and Eastern European Countries (CEECs) enjoy a more favourable situation as regards environmentally compatible and socially acceptable traffic management. The development of the transport sector in the CEECs has, for historical and political reasons, been organised along different lines than in west European countries. For many years, far more passengers travelled by public transport than by car; this applied equally to urban, regional and long-distance transport.

3.1.2 Despite the fact that, following the removal of the 'Iron Curtain' in Europe, an extremely sharp trend towards following the western European pattern of development became apparent, a series of environmental indicators linked to land utilisation and transport do, at present, demonstrate that, in comparison to western European countries, the CEECs still remain in a better situation.

3.1.3 Nonetheless, trends in the transport sector of the CEECs are giving rise to concern. The level of car-ownership is constantly increasing, whilst uncontrolled development and suburbanisation, which also have a damaging effect on public transport and the maintenance of existing city centres, are reaching alarming proportions. The EESC feels that action by local authorities, Member States, the European Commission and the European Parliament is urgently needed in order to counter these unwelcome tendencies in the CEECs too.

3.1.4 The transport policy pursued by CEEC governments has focused mainly on the building of new express roads and motorways. In the case of urban transport, it may be noted that most central governments have completely disengaged themselves from LPT, which used to be centrally organised and state-run; they now feel themselves completely exempt from any responsibility. Investment aid of the type granted in Germany, e.g. under the Municipal Transport Financing Law, with funding from the federal budget supporting local authorities in developing public transport and making it more attractive, does not exist in many CEECs. The EESC feels that it would be useful to develop such support systems. In comparison with the situation in EU-15, most CEECs are also lagging far behind

in the fields of customer guidance, comfort, information and marketing in respect of public transport; a solution is needed.

3.1.5 The allocation of such limited EU funding for LPT projects as is available from the ERDF and other sources can also create problems. One difficulty is that central governments have their own priorities, which they present in Brussels as part of their operational programmes; these do not necessarily tie in with the priorities set by municipalities. Moreover, the study group has been reliably informed that application procedures for funding are much more difficult and complicated in the case of LPT and regional rail passenger transport than for investment in road infrastructure. In addition, not only are LPT projects fairly limited in number, but there is sometimes competition between, on the one hand, large-scale projects such as the construction of underground railway systems, and, on the other, tram and bus systems, which are significantly cheaper.

3.1.6 The EESC feels that as public funding becomes scarcer, the costs and benefits of public transport options should be weighed up, and funds should be used to ensure that as many as possible attractive transport options are available, with numerous stops, a dense route network and good connections between urban and regional networks. Tram networks are often just as effective as underground railways, but only require 10 % as much investment and have lower maintenance costs. The mistakes of many western European cities such as Nantes in France, which dismantled an excellent tram and trolleybus system and is now spending millions of euros to bring trams back as a solution to traffic problems, must not be repeated in CEECs.

3.1.7 The abovementioned developments in the CEECs are therefore resembling, to an ever increasing extent, the developments in EU-15 which for years have been recognised as being unsustainable and irresponsible.

3.2 *Urban transport developments over the last few decades*

3.2.1 Over the last few decades, a huge change has taken place in cities, with LPT facing fiercer competition.

- Cars have long ceased to be a luxury; instead, they have become widely available and increasingly comfortable consumer durables; at the same time, the EESC would point out that 40 % of households in the EU do not have a car or do not wish to have one.
- A very influential lobby has developed around cars and accompanying economic sectors.
- Travelling by car is very convenient: a car is practically always to hand, getting to one's destination does not involve any changes, while the increasing tendency to air-conditioning in cars means that one is to all effects and purposes protected from the weather; thus, cars have many advantages over LPT, and are a lot more comfortable.

- Undoubtedly the growth in traffic has a lot to do with the division of roles between various urban districts; people tend to live in one area of town (or even out of town), work in another, do their shopping somewhere else, and spend their leisure time in yet another area. This tendency is clearly illustrated by the emergence of shopping centres on the edge of cities.
- For many years, considerable investment was made in cities to meet the growing needs of the car: roads were widened, multi-storey car parks were built, and technical systems were put in place in an effort to keep pace with the constant growth in traffic.
- At the same time, many large cities (such as Hamburg, West Berlin or Nantes) got rid of their trams; LPT systems as well as the needs of cyclists or pedestrians were neglected in many metropolitan areas.
- In most cities, there was not enough investment in LPT or in pedestrian and cycling infrastructure to develop attractive alternatives to driving.
- Urban and regional transport systems are often insufficiently coordinated or interconnected; equally, in many cities the lack of inter connections means that the only way of getting by public transport from one part of town or suburb to another is via the city centre, which is unattractive in terms of speed compared to driving.

3.2.2 Of course, the EESC is aware that there are no universal solutions which are equally valid for all European cities; different cities and regions develop in different ways. Over the last few years or even decades, some cities have focused very intensively on supporting LPT systems as well as cyclists and pedestrians. For example, Brussels is clearly very different from Amsterdam or Münster in terms of cycling infrastructure, and this is reflected in the share of bicycles in total traffic. New tram routes in Freiburg, Mulhouse and recently Paris, as well as other cities, have persuaded many motorists to switch.

3.2.3 There are also a few positive examples here and there in the new Member States of municipalities successfully overcoming the transition and placing a positive emphasis on LPT. The city of Krakow in Poland is undeniably one such example (7). A visit to Krakow by the study group in charge of drafting this opinion made this abundantly clear. In Krakow, independent transport planners and environmental groups succeeded in convincing the city council to modernise and improve LPT, working within very tight financial constraints. Maintaining, modernising and to some extent expanding a fasci-

(7) Measures in Krakow were supported by the Caravelle programme as part of the Commission's Civitas initiative.

natingly dense tram network, purchasing new trams, modernising the bus fleet and bus stops, beginning work on routes where LPT has priority, creating separate bus and tram lanes, together with coherent efforts to transform and partially re-orient LPT management and operations have begun to bear fruit. Cost recovery is approaching 90 %, well above average levels. This figures could even be improved, but for the significant losses in revenue facing municipal transport companies due to the central government's decision to reduce fares for certain groups of passengers (school children, students, pensioners, the disabled, etc.) without providing compensation for the resulting loss in revenue.

3.2.4 Of course, the EESC is not opposed to reduced fares for such passengers, but it does feel that transport companies should not be saddled with the resulting costs.

3.2.5 However, analysis of Krakow's success also highlights the problems faced by municipalities as well as LPT operators: a frequent lack of awareness in political circles (unfortunately this applies at all hierarchical levels), the social status of various transport modes (cars are perceived as modern, whereas LPT is old-fashioned, and is used by people with limited financial resources, who cannot afford a car), neglect of the technical impact of urban development on transport, and insufficient coordination between urban transport and transport in the surrounding areas.

3.2.6 In some cities there have been clear signs of at least a partial change in attitude, with investment in more environmental modes of transport, a development which the EESC welcomes. The Committee feels it should emphasise that, given the scarcity of public funding and the serious negative impact of traffic in city centres, the time when equal support could be given to all forms of transport has gone. In keeping with the ideas that were put forward almost ten years ago in the document on 'citizens' networks', the role of the car in cities needs to be curtailed; this will not only involve huge efforts to make LPT and the cycling and pedestrian infrastructure more attractive, but also disincentives to driving. There is neither money nor space enough to develop infrastructure for both cars and LPT.

3.2.7 Thus, only by clearly prioritising objectives, with precedence for LPT, walking and cycling over car infrastructure, can living and environmental conditions be improved in metropolitan areas. In policy-making and planning processes as well as in financing, LPT concerns should therefore be taken into consideration before decisions are taken on zoning plans and

on establishing other transport links.

3.2.8 The measures local authorities should take are so varied that an exhaustive list would go beyond the scope of an EESC opinion. Making LPT more attractive is not simply a matter of qualitatively and quantitatively improved services in terms of frequent departures, speed, cleanliness, safety, information, etc.; availability and accessibility (especially important for persons with disabilities, mothers with children, etc.) should be incorporated as essential elements of planning. Particular attention should be paid to accessibility with a view to providing attractive intermodal connections that enable all users to travel seamlessly from one locality to another. Affordable ticket prices have a significant effect on how people choose to travel. Political decision-makers should be provided with even more specific, practical ideas than is currently the case on how to achieve the required improvements in quality. Other measures to achieve a modal shift include fewer (and expensive) parking spaces in city centres compensated by more and cheaper parking at local rail and tram termini, as well as separate bus and tram lanes — which obviously should mean that less space is available for cars. (When drawing up plans to cut back on parking spaces, care should be taken to ensure the continued availability of spaces meant specifically for people with severely reduced mobility who cannot get about without using their own specially adapted cars.) London and Stockholm (following a popular vote) have begun to levy charges on drivers entering city centres (or using particular routes), and the results have been good. Madrid and some other European cities are considering such an option.

3.2.9 For example, most of the revenue from congestion charges in London is invested in the city's bus network. This measure alone has resulted in substantially improved public transport, as well as lower greenhouse gas emissions (down by 10 %), energy consumption (-20 %) and nitrogen oxide and particle emissions (-16 %) ⁽⁸⁾

3.2.10 However, despite such examples of good practice — which have been promoted and documented through initiatives such as the EU's Civitas Project — and widespread awareness of them, the overall trend has unfortunately not been towards a genuine renewal of urban transport policy. Day after day, western European cities are paying a high price for their transport policy mistakes; and now, it is the countries of Central and Eastern Europe which are in the course of repeating those very mistakes.

3.2.11 In the EESC's view, top priority for any urban planning or transport policy should be, first, to prevent traffic 'arising', or at least to limit it; a second priority should be

meeting or enabling the meeting of mobility needs wherever possible through environmental means of transport such as LPT, cycling or walking.

3.2.12 For this to happen, a wide-ranging mix of planning and organisational measures must be taken together with the appropriate investment decisions. There are many individual examples in European cities to show that sustainable urban transport planning can work, and that it enhances urban living conditions without undermining economic performance. However, it is also clear that many cities have so far failed to take such measures, due to a lack of expertise or to other political priorities.

3.2.13 The EESC would recommend that the Commission, the Council, and in particular the Committee of the Regions investigate the reasons why some cities have succeeded in progressing towards sustainable urban transport, whereas in others the situation continues to deteriorate. What is clear to the EESC is that this is not just a matter of money, but also to a very large extent of political awareness and of decisions taken in the fields of transport and housing policy. Working on this is at least as important as the compilation and dissemination of best practice.

3.3 The questions posed by the German presidency

3.3.1 Coordinating the planning of transport and housing structures (how can housing and LPT networks be developed in step with one another?)

3.3.1.1 There can be no doubt that in most cases there is a need for more effective coordination of planning. Clearly, transport and housing structures are mutually interdependent; this correlation has been well known for a long time. Hence, zoning and land-use planning, which are essentially municipal competences, are factors determining the type and volume of future traffic. In future, better coordination of regional and land-use planning should promote housing which is more closely geared to reducing traffic, while preventing uncontrolled development and the siting of industrial and commercial premises on the outskirts, at the expense of city centres.

3.3.1.2 Transport connections — for example by means of efficient LPT networks — make new and existing housing and business districts significantly more attractive. It is relatively straightforward to measure the impact in terms of changing land prices. However, such connections are also essential in order to prevent excessive new environmental impacts.

⁽⁸⁾ See UITP (FN2).

3.3.1.3 For the EESC, there can be no doubt that not only metropolitan areas but also all other urban areas must pay more attention than hitherto to 'inward development', with the emphasis on using inner city sites before turning to new sites on the outskirts or outside cities. This approach is consistent with the objectives of the EU's soil strategy.

3.3.1.4 In order to regenerate urban living areas, it is important to develop transport-efficient, concentrated, multi-use housing structures with the requisite shopping and business facilities, and also to accept and develop much slower-moving motor vehicle traffic adapted to other road users. This requires the development of comprehensive traffic-calming measures, together with the development of 'play streets' in which cyclists and pedestrians have priority over motor vehicles, and of pedestrian zones. Socially and culturally enhanced urban areas with decentralised shopping and leisure facilities are particularly effective in reducing traffic.

3.3.2 Ensuring effective and attractive local public transport in order to relieve the pressure on urban areas arising from private transport (regulating markets, funding, customer satisfaction)

3.3.2.1 It will only become possible to ease the pressure arising from private transport on urban areas if travellers have access to attractive and efficient LPT systems. 'Attractive' and 'efficient' in this context means ensuring that the quantity and quality of services are such as to make travelling as simple and pleasant as possible.

3.3.2.2 In such an opinion the Committee cannot be expected to enumerate the full range of necessary measures relating to market regulation, financing and customer satisfaction. However, the attractiveness of transport modes is clearly determined not only by the quantity and quality of services, but also by price. Politicians have often announced their intentions to internalise the external costs of transport; doing so would obviously enhance the competitive position of LPT.

3.3.2.3 With public transport competing with cars, customers will only opt for LPT more often if it offers good value for money in the sense of providing high-quality services at a reasonable price. The only way for this to happen is by constantly making LPT more efficient. Optimising efficiency will also enable higher levels of cost recovery. However, full recovery of LPT investment and operating costs from fares cannot be a political objective, as it is a one-sided approach to measuring running costs which does not reflect internalisation of the external costs of urban traffic. The EESC therefore considers it extremely important that policy finally comes round to reflecting the time cost of transport and inevitably this would

include the internalisation of external costs. Politicians have often announced their intentions to internalise the external costs of transport; doing so would obviously enhance the competitive position of LPT.

3.3.2.4 Infrastructure decisions taken at national level (e.g. highways used for local and regional transport in competition with LPT) and fiscal measures (transport subsidies, fuel taxes, green taxes to finance public transport, etc.) together with EU policies (e.g. in relation to trans-European networks) are factors which significantly affect choices as regards means of transport and therefore the prospects for developing financially viable and customer-oriented LPT with a dense network and frequent services.

3.3.2.5 Ensuring effective and attractive LPT and easing the burden on urban areas arising from private motor vehicle transport (as distinct from private transport by bike and on foot, which is to be encouraged) and road haulage requires integrated spatial and traffic planning; such planning should take the various types and purposes of transport into account and evaluate them in regional cooperation with outlying areas. Once objectives have been prioritised in a coordinated way and strategies have been worked out accordingly, a wide range of measures should be implemented through a process of political decision-making and communication. For this to happen, it is important to integrate planning and financing competences. In order to regenerate urban living areas, it is important to develop transport-efficient, concentrated, multi-use housing structures with the requisite shopping and business facilities, and also to accept and develop slow-moving transport.

3.3.2.6 To ensure attractive and convenient links between urban transport networks and individual traffic — whether long-distance or from the surrounding countryside — economical and convenient parking facilities should be provided at suitable transport interchanges on the outskirts (Park and Ride) (see also point 3.2.8).

3.3.2.7 As a guiding measure to prevent traffic and promote a modal shift, the EESC would like to see gradual upwards alignment of EU fuel taxation, thus ensuring uniform conditions for competition and creating financing sources for LPT.

3.3.3 Encouraging people to cycle and walk

3.3.3.1 In terms of the number of trips (as opposed to the distance covered), one in three journeys are entirely covered on foot or by bicycle, which clearly reflects the key role of cycle and pedestrian traffic in European cities. On the other hand, over half of all journeys of less than 5 kilometres are done by car, even though this distance could often be covered more

quickly by bicycle. By making LPT stops more easily accessible and improving parking and lift sharing options, even longer distances could be covered in city centres using a combination of environmentally friendly transport modes, bringing about a change in the modal split. (The issue of promoting cross-border cycle traffic at European level is covered in a separate opinion on Promotion of cross-border cycle transport TEN/277, R/CESE 148/2007.)

3.3.3.2 As a means of public transport, 'Citybike' makes it possible to cycle throughout the city. 'Citybikes' can be hired from public bike terminals in the city and returned to any terminal. All that is required is to log in, for example by using a credit card. Hire charges should be very reasonable.

3.3.3.3 Cycling and walking are not only extremely environmental, but also healthy. Given the high healthcare costs arising in our society from a lack of exercise, there are also very strong health policy reasons for promoting cycling and walking.

3.3.3.4 It is readily apparent that appropriate, high-quality infrastructure must be in place for this to happen. Cycling infrastructure includes not only urban cycle paths, but also secure bike parking facilities and other services (e.g. the option of taking bikes on LPT and trains). The best example in Europe of how to develop cycling infrastructure is probably the Netherlands. In view of this, the question we need to ask is not so much what municipalities can do, but why they have not yet managed to use and implement relatively cheap options to make cycling and walking more attractive.

3.3.3.5 Above all, it is urban areas which are most in need of improved residential and visiting conditions and where the implementation of EU directives on air quality and environmental noise is longest overdue; it is here that the promotion of cycling and walking is of particular relevance. In comparing the modal split in various European metropolitan and urban areas, it becomes clear that the state of cycling and pedestrian infrastructure together with the accompanying measures to promote such transport and enhance its image are of crucial relevance to ensuring that it accounts for a high proportion of everyday trips: such measures include expanding traffic-restricted and traffic-free zones, dense networks, right of way for cyclists and pedestrians at crossings and traffic lights, making pavements wider, road signs, visiting and resting facilities, bike stands and 'bike stations', publicity campaigns ('walk to school' days, 'cycle to work' competitions for commuters, car-free days, the possibility of transporting bikes on LPT). It is also helpful to appoint a local government officer with specific responsibility for cycle paths and footpaths.

3.3.4 Using modern information, communication and control technologies

3.3.4.1 Transport telematics can help to bring about a modal shift to LPT and ensure better use of existing capacities, thus making transport safer and reducing its environmental impact. However, environmental concerns and modal shift have not in the past played a major part in the development and use of transport telematics. The EESC is concerned to note that millions of euros of research and development grants and other funding in this field have tended to focus more on keeping motor vehicle traffic moving, without any easing of pressure on the environment. In addition, releasing additional capacity through a more even flow of traffic has done nothing to curb the building of new roads or the development of the existing road network. Shifting car transport in congested conditions to LPT does not help to ensure a more even load on public transport systems, and therefore, from the perspective of LPT, it has more of a counter-productive effect.

3.3.4.2 The EESC is in favour of prioritising the use of transport telematics in LPT to provide comprehensive transport and passenger information. The Committee also feels that transport telematics has potential in terms of managing fleets of vehicles and urban logistics (ensuring that vehicles do not travel empty, and combining individual trips). At the same time, telematic systems could be used as part of integrated transport planning to achieve greater efficiency by preventing the expansion of existing infrastructures and new building. Generally speaking, using telematics in the field of transport only makes sense if it translates into fewer trips by motor vehicles.

3.3.5 Reducing urban pollution

3.3.5.1 The pressures on the urban environment from traffic — whether moving or at a standstill — such as fine particulate matter, noise and land use can only be reduced by means of the proposed measures to give clear priority to the environmental alliance of cycling, walking and LPT, enabling implementation of the relevant EU directives on health and on making cities more attractive. Important and useful as they often are, technical measures such as soot filters will not suffice to reduce the pressures on the urban environment. Local authorities will not be able to avoid making structural changes to transport policy.

4. The Committee's proposals

Meaningful development of LPT is only possible if the European Commission, Member States and local actors take coordinated action to develop an active public transport policy, which will also involve questioning the dominance of the car.

Calls for action at EU level

4.1 The Commission should revise the rules for allocating funding for regional development measures. The EESC proposes to make it obligatory to dedicate a defined, high proportion of transport investments from the ERDF to public transport projects, as in the case of the Cohesion Fund.

4.2 Until such time as the actual costs incurred are covered by road pricing charges and other charges, there is no justification for seeking to fully recoup the costs involved in maintaining railway lines.

4.3 The internalisation of external costs in the transport sector, together with measures to guide choice as regards means of transport by using the price mechanism (motor-vehicle taxation, fuel taxes, parking charges, road pricing charges) are essential basic conditions for bringing a halt to the downward trend with regard to public transport and bringing about a sea change aimed at extending the supply of services, achieving integration, boosting demand and enhancing the level of cost recovery in the public transport sector. The EESC has repeatedly advocated the internalisation of external costs and the Commission has made pronouncements along these lines on numerous occasions. No action has, however, been taken. Among other things, in its planned Green Paper on urban transport the Commission should finally adopt an appropriate position and take action without delay.

4.4 The EESC asks the Commission to formulate a concrete EU support programme, along the lines of the Marco Polo Programme, for promoting the shifting of traffic away from private motor vehicle transport and towards public transport; among other things, such a support programme could be used to finance pilot projects for futuristic local and regional public passenger transport, particularly in the CEECs. Such pilot projects should be introduced on routes having a large pool of potential passengers which has hitherto remained untapped and they should involve modernising infrastructure (including new building work where advisable), modernising rolling stock, introducing attractive timetables and bringing about an optimal level of integration with other local and regional public passenger transport services. Pilot initiatives in cities should also receive support.

4.5 It would also be worthwhile to introduce a specific EU support programme to promote mobility and urban development/regional planning. Under the proposed programme, pilot projects could be promoted which do not lead to random, uncontrolled development but rather serve to promote existing settlement areas and the development of a graduated system of central areas, and define settlement axes, which could then be opened up, in practice, through the provision of attractive local passenger rail transport or LPT services.

4.6 With a view to improving basic statistical data, the EESC also recommends the introduction of a reporting obligation in respect of selected public transport parameters in the individual Member States and the systematic dissemination of examples of best practice in public transport. The European Local Transport Information Service (ELTIS), together with its internet portal (www.eltis.org), an initiative launched by the European Commission, provide a good basis for implementing the abovementioned proposals. The cases listed by ELTIS as examples of individual measures should be systematically extended by setting out examples from the new Member States and the candidate states.

4.7 The European Commission and the Council should consider making it compulsory for local authorities to draw up sustainable urban transport plans, with a binding objective of a modal shift to environmentally friendly transport (local public transport, cycling, walking). Such plans should comply with minimum European requirements, which remain to be established. In the event of municipalities failing to draw up such plans, they should be barred from receiving support from Community funds.

Calls for action by the Member States

4.8 The EESC calls on the new Member States to take on their responsibility for local passenger rail transport and LPT, and to support it, for example by means of legislation on financing municipal transport. They must not let municipalities down in terms of financial and organisational support.

4.9 It is unacceptable that operators have to bear the financial burden arising from — however enlightened — social policy decisions (such as reduced fares for socially disadvantaged groups). The EESC feels that this represents a irresponsible attitude on the part of governments towards LPT.

4.10 The Member States should be aware of their obligation to contribute financially to the social services which they require transport enterprises to provide (such as lower fares for school children, pensioners, persons with disabilities, etc.).

4.11 Member States should press ahead with the internalisation of the external costs arising from private motor vehicles, so that the resulting revenue can be used for large-scale development of public transport services, thus encouraging a modal shift.

4.12 If necessary, Member States could work together with the European Commission to disseminate best practice as widely as possible in promoting positive development of LPT. Although lack of money is one of the problems faced by LPT, it is not the only one; in the absence of awareness, new ideas or relevant benchmarks, even large sums of money will not always help.

Calls for action by the municipalities

4.13 Ensuring effective and attractive LPT and easing the burden on urban areas arising from private motor vehicle transport and road haulage requires integrated spatial and traffic planning, which on the one hand is geared to preventing traffic and on the other emphasises environmental transport modes. To this end, it is essential to take the various types and purposes of transport into account and evaluate them in regional cooperation with outlying areas.

4.14 Once objectives have been prioritised in a coordinated way and strategies have been worked out accordingly, a wide range of measures should be implemented by municipalities through a process of political decision-making and communication.

4.15 Local authorities should set themselves goals clearly defining the means and the extent to which they intend to increase the share of LPT and the environmental alliance of cycling and walking, with a reduction in absolute terms of private motor vehicle transport. For this to happen, it is important to integrate planning and financing competences.

4.16 Forward-looking public transport planning as part of municipal services of general interest must also take into account land acquisition policies e.g. for public transport routes and stations.

4.17 Involving citizens and user groups in planning processes is very important for successful public transport systems. The EESC therefore recommends that local authorities closely involve local people in developing their local public transport systems.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Promotion of cross-border cycle transport

(2007/C 168/18)

In a letter dated 7 November 2006, the German Federal Ministry of Transport, in the context of the German EU Presidency, asked the EESC, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on *The promotion of cross-border cycle transport*.

On 21 November 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 435th plenary session, held on 25 and 26 April 2007 (meeting of 25 April), and adopted the following opinion by 128 votes to two, with eight abstentions.

1. Conclusions

1.1 There is (still) no European cycling policy. The European Commission does support, by means of subsidy programmes, research, development and the implementation of projects as part of policy on sustainable mobility and energy use.

1.2 The EESC recommends that cycling be integrated into transport and infrastructure policy in general and in particular be given substantial attention in the forthcoming Green Paper on urban transport.

1.3 In Europe every train, including high-speed international trains, should be obliged to make space available for transporting, among other things, bicycles.

1.4 *Minimum* quality standards should be introduced for cycling infrastructure built with the aid of European subsidies.

1.5 The EESC recommends that EU subsidy budgets also be made available for the development and maintenance of cycling infrastructure. Good-quality infrastructure already exists in some European cities and countries.

1.6 The European Commission should start and/or continue to subsidise the exchange of information, good practices and public awareness campaigns for cycling and should require cycling policy (for example, intermodality between bicycle and public transport) to be integrated into all transport projects which it subsidises.

1.7 Encouragement should also be given at European level to the drawing-up and implementation of adequate safety regulations covering both cyclists and their bicycles as well as cycling infrastructure and other traffic.

1.8 Cycling policy must also be integrated into the further development of European policy in the fields of spatial planning (including urban development policy), the environment, the economy, health, training and education.

1.9 The European Commission must properly organise the monitoring and collection of data on cycling in Europe and encourage the harmonisation of research methods.

1.10 The European Commission must continue to subsidise the creation of Euro Velo Routes so that a complete European Network of Cycle Routes, a TEN (Trans-European Network) for cycling, comes into existence.

1.11 It is recommended that a European organisation, subsidised by the European Commission, should take over the administrative and secretariat role for the Euro Velo projects and the various completed Euro Velo routes. This is to ensure continued maintenance of the infrastructure and the central provision of information to cyclists.

2. Introduction

2.1 The German Federal Ministry of Transport, in the context of the German EU Presidency, asked the EESC to draw up an exploratory opinion on cross-border cycle transport. The Ministry raises three questions.

2.2 This exploratory opinion first examines the current state of play on cycling policy in the EU (ministerial question No 3), with the focus on cycling as a mode of transport in daily life. It then discusses the possibilities for improving cross-border infrastructure for cycle transport (ministerial question No 2) and European cooperation on extending the route network (ministerial question No 1). Cycle tourism is a central focus in relation to the last two questions.

3. The state of play on cycling policy in the EU

3.1 Until now cycling policy has scarcely been a separate topic. In the past, cycling has come up for discussion at European level mainly in the context of environmental issues after the environmental movement in particular called for a better cycling policy because of the detrimental effects of increasing

road traffic. Thus, in a 12-point programme⁽¹⁾, the EU Commissioner for the Environment, Ritt Bjerregaard, called on local authorities in Europe to adopt a cycling-friendly policy.

3.2 The 2001 Transport White Paper and its 2006 Mid-term review focuses on other modes of transport. The reaction of the European Parliament⁽²⁾ to the White Paper does, however, include a call to the European Commission to invest more in improving access to public transport for cyclists.

3.3 In his speech at the 2005 Euro Velo-City conference in Dublin the Commissioner for Transport, Jacques Barrot, emphasised that, despite the application of the subsidiarity principle, the European Commission had a role to play in promoting bicycle use across Europe. Cycling could play a greater role in attaining the proposed objective of re-balancing the modes of transport. The Commissioner sees the European Commission as having a role to play: funding programmes, improving road safety and information to decision-makers, and cooperation.

3.4 The European Commission supports the CIVITAS (City VITALity Sustainability) Initiative in the context of research and development. Up till now projects aimed at a more sustainable urban transport system have been implemented in 36 cities in 17 countries. One of the eight categories of integrated solutions drawn up relates to the promotion of a less car-intensive lifestyle and more use of bicycles⁽³⁾. In the Intelligent Energy-Europe Programme the European Commission supports STEER projects aimed at promoting sustainable energy use in transport. Two projects focus on the exchange of information in the field of cycling policy⁽⁴⁾.

3.5 In the Green Paper Promoting healthy diets and physical activity: a European dimension for the prevention of overweight, obesity and chronic diseases, ⁽⁵⁾ the European Commission calls for answers to the questions: How can public policies ensure that daily physical activity is built into daily routines and what measures, for instance in the planning of residential areas, are required for the development of an environment that can encourage physical activity?

3.6 Many answers to these questions have already been worked out in the 'cycling world'. Experts are linking cycling more and more with health, and not just because it can contribute to a healthy amount of daily physical activity. In the context of environmental policy, cycling can also help reduce

⁽¹⁾ European Commission, DG XI: 'Cycling: the way ahead for towns and cities', Luxembourg, 1999.

⁽²⁾ Resolution of 12 February 2003 — EP Committee on Regional Policy, Transport and Tourism, Rapporteur: Juan de Dios Izquierdo Collado, 9 December 2002. REPORT on the Commission White Paper 'European transport policy for 2010: time to decide', FINAL A5-0444/2002; <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A5-2002-0444+0+DOC+WORD+VO//EN&language=EN>.

⁽³⁾ See www.civitas-initiative.org.

⁽⁴⁾ See [www.http//ec.europa/energy/intelligent/projects/steer_en.htm#policy](http://ec.europa/energy/intelligent/projects/steer_en.htm#policy).

⁽⁵⁾ COM(2005) 637 final.

the particle content of the air in urban areas, and yet the poor image of air quality in urban areas is actually discouraging people from cycling.

3.7 With the development of increasingly integrated mobility management, increased attention has also been paid to the advantages that the bicycle offers in solving traffic congestion. In addition to daily journeys between home and work, it appears that social-recreational traffic also plays a large part in causing congestion. Other factors include economies of scale (such as mergers of hospitals, and large out-of-town shopping centres) and the longer distances arising from this. Cycling is in danger of becoming less attractive.

3.8 A frequent problem is that new or expanded infrastructure cuts across existing or planned cycle routes. This creates insurmountable or troublesome obstacles for cyclists, also for the recreational cyclist who is, as it were, confined to his residential area or town by major transport infrastructure. This problem needs attention and solutions must be found when new infrastructure, especially road and rail, is built. Wherever it is technically possible, a cycle path should also be constructed at the same time as such new infrastructure.

3.9 It should also be mentioned in this connection that instruments such as minimum quality standards should be introduced for cycling infrastructure built using European subsidies. In order to create a pleasant living environment, cities can use good, comfortable and safe cycling infrastructure, including cycle routes and parking facilities for bicycles in the inner city, as incentives.

3.10 Within Europe the Netherlands is regarded as the leading country for cycling and thus as a model for other countries. The Netherlands owes this reputation not just to the highest rate of cycling mobility in Europe, but also to the Bicycle Masterplan (1990 — 1997). Other European countries have followed the Dutch model and have been persuaded by the Dutch government's attention and commitment (including financial) to a good cycling policy.

3.11 The Dutch Bicycle Masterplan clearly demonstrated, by thinking in terms of journeys, that a good cycling policy must not only ensure good (comfortable, fast and safe) cycle paths, but also pay attention to the ability to park bicycles safely and conveniently in or outside the home, at the station, at public transport interconnections and bus stops and at the final destination.

3.12 A few years ago, the European Conference of Ministers of Transport (ECMT) commissioned a survey on national

transport policy in the ECMT member states ⁽⁶⁾. It appears from this survey that only a few countries do not have any national policy for cycling ⁽⁷⁾. Of course, the scope, status and impact of the national policy differ in the various countries. The average proportion of the total number of journeys made by bicycle in Europe is, according to the ECMT, 5 %. But countries such as Denmark (18 %) and the Netherlands (27 %) prove that a much greater share is possible ⁽⁸⁾.

3.13 These differences at national level, with further differences at local level, show that bicycle use can be influenced by government policy. The main growth potential lies in people switching from private car use to cycling for trips of up to 5 to 8 km. In Europe cars are used for more than half of these short trips. Even for trips of less than 2 km car use is still 30 % ⁽⁹⁾.

3.14 The main aim of cycling policy is to encourage people to make short journeys by bicycle. But attention is now also being paid to longer-distance travel; consideration is being given to fast, direct, long-distance cycle paths in metropolitan areas.

3.15 The growth potential of bicycle use for short distances is the basis for calculations of the contribution that a good cycling policy can make to combating climate change. According to recent calculations, for example, short journeys by car (< 7.5 km) account for about 6 % of total emissions from cars ⁽¹⁰⁾.

3.16 The bicycle, whether owned, borrowed or hired, can contribute to greater use of public transport. The bicycle extends the radius around the station, bus stop or home within which the traveller can reach a stop or vice versa without a car within minutes.

3.17 The differences between the various European countries regarding the proportion of journeys made by bicycle cannot be explained by purely social, geographical, climatic and cultural circumstances, although they naturally play a role ⁽¹¹⁾. A significant factor in cycling countries appears to be the important role of associations which work to promote a good cycling policy. They are often responsible for initiatives that lead to national strategies.

⁽⁶⁾ ECMT, National Policies to Promote Cycling, (Implementing sustainable urban travel policies: moving ahead), OECD Publications Service, 2004.

⁽⁷⁾ ECMT, National Policies to Promote Cycling, p. 43.

⁽⁸⁾ ECMT, National Policies to Promote Cycling, p. 20.

⁽⁹⁾ ECMT, National Policies to Promote Cycling, p. 24.

⁽¹⁰⁾ See <http://www.fietsersbond.nl/urlsearchresults.asp?itemnumber=1>.

⁽¹¹⁾ Research carried out in the Netherlands over the past few years suggests that immigrants (including second-generation immigrants) from, for example, Morocco, on average cycle substantially less than the native Dutch. See 'Het fietsgebruik van allochtonen nader belicht', Fietsberaad publication number 11a, November 2006. See: <http://www.fietsberaad.nl>.

3.18 Monitoring and assessment of cycling policy at European level are unfortunately hindered by the lack of useful and accessible statistics. Not only the associations but also the ECMT argue for better gathering of data on cycling policy and bicycle use⁽¹²⁾. The decision no longer to include important statistics on the use of bicycles in the Statistical Pocketbook 'EU Energy and transport in Figures' was greeted with incredulity.

3.19 Whereas GPS navigation systems for cars are now quite common, navigation systems covering all cycle routes have been more difficult to launch because digital maps generally do not cover cycle routes, which have not been listed or digitalised. However, considerable progress is being made in this field in cycling countries, such as the availability of cycle route planners on the Internet⁽¹³⁾.

3.20 The European bicycle manufacturing and spare parts' industry has an estimated turnover of EUR 8 500 000 000 and employs (directly or indirectly) approximately 130 000 people. To this figure must be added the more than 25 000 shops and distributors and their staff⁽¹⁴⁾. This still does not take into consideration high-tech research. The economic importance of cycle tourism is growing, especially in economically disadvantaged regions where small-scale businesses along the long-distance routes are profiting from cycle tourism⁽¹⁵⁾.

3.21 Up to now there has been no European policy on cycling. The Green Paper on urban transport that the European Commission is preparing will — according to the Commission — also address cycling. This offers an excellent opportunity to compensate for the lack of a European cycling policy and its integration into other policy areas by starting to include cycling in the Green Paper as an important form of urban transport.

3.22 The exploratory opinion 'Transport in urban and metropolitan areas' — TEN/276, CESE 273/2007 — also examines the coordination of the planning of transport and housing structures (point 3.3) in addition to encouraging people to cycle and walk (point 3.3.3). The integration of cycling policy into land-use planning should be developed.

4. Improvement of cross-border cycling infrastructure

4.1 Problems arise in cross-border cycle transport within Europe, especially when the cyclist wishes to take his own bicycle abroad with him using international high-speed trains, which are an important infrastructure component for cycle tourists. In Europe it is usually impossible to transport bicycles on such trains, however.

⁽¹²⁾ See ECMT, National Policies to Promote Cycling, p. 24.

⁽¹³⁾ For examples, see: www.radroutenplaner.nrw.de and <http://www.fietserbond.nl/fietsrouteplanner>.

⁽¹⁴⁾ According to an estimate for 2003 by COLIBI (Association of the European bicycle industry) and COLIPED (Association of the European Two-Wheeler Parts' and Accessories' Industry).

⁽¹⁵⁾ Source: Presentation by Les Lumsdon at the final conference of the North Sea Cycle Route, 9 November 2006, on tourism, economic regeneration and European subsidies; see: <http://www.northsea-cycle.com> and http://www.uclan.ac.uk/facs/lbs/research/institutes_and_centres/transport/docs/Northseacycleconf.doc.

4.2 While cycle tourism is growing and is being specifically promoted by the European Commission and national and regional authorities as a sustainable and, especially for economically weaker regions, important form of tourism, cyclists wishing to travel by train to their holiday destination or the starting point of their international cycling holiday are likely to encounter serious problems. Whereas airlines are happy to transport bicycles, and facilities for transporting bicycles on ferries are good (although routes for cyclists to and from ports and signposting are not always satisfactory), rail operators refuse to allow them onto international high-speed trains.

4.3 A solution to this problem in cross-border cycle transport is in sight, however, following the European Parliament's vote in January 2007⁽¹⁶⁾, carried by a large majority to require all trains in Europe to have a multifunctional section for wheelchairs, skis and bicycles, for example. It is recommended that every train in Europe, including international high-speed trains, be obliged to make available space for transporting bicycles.

4.4 Road safety for cyclists differs greatly in European countries. This is above all a result of the lack of a specific cycling infrastructure in countries where cyclists have to share the road with cars and lorries travelling at 50kph, 80kph or even higher speeds. This discourages people from cycling. Encouragement should also be given at European level to the drawing-up and implementation of adequate safety regulations covering both cyclists and their bicycles as well as cycling infrastructure and other traffic.

4.5 Also the quality of the existing infrastructure varies. Cycle tourists are less likely to go to countries which they consider unsafe if they are used to safer infrastructure at home. It is recommended that *minimum* quality standards (for example, width of cycle paths, also for other non-standard bicycles⁽¹⁷⁾; signposting) be introduced for cycling infrastructure built with the aid of European subsidies, and that subsidy budgets be made available for the establishment of cycling infrastructure of the kind which has already proved effective in some European cities and countries.

4.6 Although the great differences in the proportion of journeys made by bicycle in the various European countries and cities are also a consequence of social, geographical, climatic and cultural differences, the main reason is differences in transport policy. Therefore the exchange of information, good practices and public awareness campaigns for cycling is of great importance. It is recommended that the European Commission

⁽¹⁶⁾ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0005+0+DOC+XML+V0//EN>.

⁽¹⁷⁾ For example: tandems, delivery tricycles, aerodynamic reclining bicycles and three-wheeled covered bicycles.

should start and/or continue to subsidise this exchange of information, good practices and public awareness campaigns and that an integrated cycling policy (for example intermodality between bicycle and public transport) be made mandatory in all transport projects subsidised by the European Commission.

4.7 Cycling is a popular activity which can be promoted, as part of a healthy and sustainable lifestyle, by integrating cycling policy into policy areas other than just transport. It is recommended that cycling policy be integrated into the further development of European policy not only in transport and infrastructure policy but also in the fields of spatial planning (including urban development policy), the environment, the economy, health, training and education. It is also recommended that the European Commission should properly organise the monitoring of and collection of data on cycling in Europe and encourage the standardisation of research methods.

5. European cooperation on the extension of the EuroVelo route network

5.1 EuroVelo is a project initiated by the European Cyclists' Federation (ECF) in 1995 ⁽¹⁸⁾. The goal is to develop 12 international long-distance cycle routes across Europe, both within and outside the EU Member States. The total length of the proposed routes is 66 000 km. The routes are largely based on existing local and regional routes. The continental perspective of the project and the vision of a pan-European network of cycle routes have proved a major asset since the start of the project.

5.2 This has inspired local, regional and national authorities to cooperate on establishing international long-distance cycle routes. Last year EuroVelo 6, from the Atlantic Ocean to the Black Sea, was opened. INTERREG funds have played a major role in the establishment of these routes. That also applies to the North Sea Cycle Route which was completed as an INTERREG project at the end of 2006 and is considered by the ECF as EuroVelo 12.

5.3 The idea behind Euro Velo is to develop and maintain a recognised Trans-European Cycle Route Network as a TEN (Trans-European Network), comparable to the rail and road network. Obviously this is desirable not so much as part of European transport policy but rather for the benefit of tourism and regional development in Europe. In addition to long-term management, route coordination and information, another

major task is of course the further development of the network. The publication in 2002 of guidelines on all major aspects of the establishment of a Euro Velo route has proved of great value in preventing disinvestment. The European Commission should continue subsidising the establishment of Euro Velo routes with a view to the development of a complete Euro Cycle Routes Network, a TEN for bicycles.

5.4 Discussions between the partners of the North Sea Cycle Group on ways of ensuring the future continuity of the route, its marketing and cooperation between the large number of project partners (approximately 70 regions in eight countries) have not yet produced a conclusion. This question is also of importance with regard to other international long-distance cycle routes set up with project funding (often 50 % EU money), where no solution has been found for the management of cooperation and joint marketing.

5.5 One much discussed possible solution to the problem, following the pattern of organisations at national level, is to entrust a European organisation such as the European Cyclists' Federation (ECF) with the management, route coordination and administration of a Route once the work on infrastructure and signposting is complete. According to the ECF, the long-term maintenance of the quality of routes, once complete, is a major issue that needs to be solved at an international, European level. A European organisation should take over the administrative and secretariat role for the Euro Velo projects and the various completed Euro Velo routes. This is to ensure continued maintenance of the infrastructure (including signposting) and the central provision of information to cyclists (including information on where help may be obtained in the event of a breakdown or emergency). As with many European initiatives and cooperation projects, EU financial support will be needed.

5.6 Despite its limited resources, the ECF has itself stepped up its efforts on behalf of the EuroVelo project in order to work out and implement a solution to this problem. This includes cooperating on the further development of a system of signposting for the Euro Velo 6 project that is unambiguous but can be applied and adapted in all countries, and pressing for recognition of this signposting system by the UNECE ⁽¹⁹⁾. Formal recognition should be given to the signposting system drawn up by the ECF in the framework of the Euro Velo 6 partner group and its implementation should be encouraged.

Brussels, 25 April 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁸⁾ See http://www.ecf.com/14_1.

⁽¹⁹⁾ See <http://www.unece.org/trans/main/welcwp1.html>.