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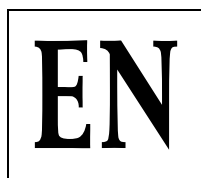
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III

(Preparatory Acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

439th PLENARY SESSION HELD ON 24 AND 25 OCTOBER 2007

Opinion of the European Economic and Social Committee on the 'Green Paper on the European Research Area — New Perspectives'

COM(2007) 161 final

(2008/C 44/01)

On 4 April 2007 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the *Green Paper on the European Research Area — New Perspectives*.

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 4 October 2007. The rapporteur was **Mr Wolf**.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 107 votes, with 2 abstentions.

1. Summary and recommendations

1.1 The Committee sees an urgent need to substantially step up current measures to promote research and development (R&D) in Europe, to improve the framework for R&D and to ensure adequate funding.

As well as effective Community, national and business-backed R&D programmes, we need a European internal market for research and development in order to better harness and release the potential — either available now or still to be cultivated — within the European Union. This is what is meant by the European Research Area.

1.2 The Committee therefore welcomes the Commission's intention to strengthen and expand the European Research Area. The objectives defined and proposals made are broadly correct and worthy of support, but they need to be supplemented and in some cases clarified or corrected.

1.3 The Committee endorses the objective of creating an attractive European labour market for researchers which also provides for and rewards mobility. The most important issues here are contract conditions, attractive salaries, social security cover that is portable across Europe, and family integrity. The Member States in particular are very deficient in this respect. The Committee therefore calls on them above all and on the relevant social partners to correct these deficiencies and especially to also offer young researchers attractive career prospects

that can compete with alternative career opportunities for top-flight academics. This will ensure that more young people will again be prepared to invest energy and time in a very difficult, demanding and selective course of study and thus help to avert the looming shortage of qualified science and technology experts in Europe.

1.4 The Committee supports the European Council's Barcelona objective. However, it has now been decided that the Community will contribute only around 2 % (i.e. just one fiftieth) of the total investment in research and development aimed for under the Barcelona objective. This means that Member States carry by far the biggest political responsibility for achieving the Barcelona objective, and industry by far the biggest economic responsibility. The Committee's recommendations are therefore addressed in particular to the Council, the Parliament and the Member States, urging them to take all the necessary steps to again make Europe the global leader in research and development and to put in place the requisite measures needed to achieve this goal.

1.5 The Committee reiterates its recommendation that the European Community should raise its contribution to the total target R&D spending to at least 3 %, in order to boost the multiplier effect of Community research funding on required research investment by the Member States and industry. In addition, moneys from the Structural Funds are to be used for R&D

infrastructure measures, and funding measures through the EIB stepped up. This recommendation has become even more compelling in view of the very serious and long-underrated energy and climate issues to be faced.

1.6 The Committee supports the objective of creating world-class science and technology infrastructure, but this must be backed up by long-term, reliable funding. The success and purpose of this investment is contingent on the involvement of the relevant institutes and university groups in the Member States being involved, and on committed participation of industry in technology projects. Such networking is the only way to create a complete system and produce value added for Europe.

1.7 The Committee supports the objective of strengthening research institutions — and their umbrella organisations — as the main initiators and backers of research and development. These institutions must be able to plan for the longer term, and have adequate facilities and decision-making powers. This requires greater autonomy in the use of financial resources, a sufficiently large share of basic funding, whole-project funding, the possibility of carrying resources over to the following year, the reduction of progress-hampering red tape for scientists involved in research and teaching, incentives and the promotion of high-quality work through extra research funding based on competitive tendering.

1.8 The Committee sees Joint Technology Initiatives and technology platforms as important instruments for creating technological innovation in strategically important research areas. These require public-private sector partnerships and joint research programmes, and small and medium-sized enterprises (SMEs) should also be involved as appropriate. The Knowledge and Innovation Communities (KICs) of the European Technology Institute (ETI) that are to be set up should draw on experience gained with these. Experience with ERA-Net and CORNET, as well as the EUREKA clusters, could also be valuable here.

1.9 The Committee endorses the goal of opening the European Research Area to the world. But the crucial criterion here is its attractiveness: this task can only be considered to have been accomplished when the current lamentable 'brain drain' has been halted, not just in quantitative but also in qualitative terms, i.e. in respect of the world's highest performing and most successful researchers. But in order to achieve this, all the key factors must be right: job position, facilities, working conditions, political situation, career development prospects and autonomy, personal income and social recognition.

1.10 The Committee favours the *open coordination* method, whereby Member States' strategic goals and policies are evaluated and their experience compared in order to ensure coherence and optimise European research policy. In contrast, any

detailed top-down *coordination* of European research in a bid to secure general standardisation and penetrating research organisations and companies must be rejected. The Commission should therefore avoid the impression that its aim is to introduce central management of European research. It is a question of achieving a proper balance between the Community framework, Member State autonomy, and institutional and individual initiatives and planning ability. Only a plurality of methods, approaches and choice of issues can in each case ensure the best outcomes, procedures and innovations.

1.11 The Committee repeats its admonitions to cut red tape. The Committee therefore recommends that *Reducing red tape* be included as a further major policy aim in the Commission's future agenda. This means developing ways, in collaboration with the Member States and research bodies, to simplify overregulation and the deluge of European, national, regional and institutional reporting requirements, application procedures, reviews, evaluations, authorisation arrangements, etc. and reduce them to what is strictly necessary. The competitive promotion of excellence will initially increase the amount of red tape that will be required of researchers. This makes it all the more important to find an acceptable solution through reduction and simplification overall. Fear of individuals making mistakes should not lead to overregulation and obstructions for everyone.

1.12 The Committee believes it is essential that funding bodies, especially the Commission, involve staff with proven scientific expertise, who are familiar with the particular features and 'community' of the scientific area in question — and maintain their knowledge over the long term (making regular job rotation counterproductive).

1.13 The Committee recommends that the European Research Area should be complemented by a *European Knowledge Area* designed to create a European knowledge-based society. This will require a solid and broad education for all citizens, and additional high-level specialised training for scientists and engineers. Hence there is also the reference to appropriate 'knowledge management'. Research and development build on existing knowledge to create new knowledge.

1.14 The Committee recommends that clear and comprehensible rules be developed to manage the wide range of Community instruments for promoting and coordinating R&D. This includes a summary list (and instructions for use) of all instruments and measures available to the Commission for promoting and coordinating R&D objectives. This should also show whether, among the growing plethora of instruments, the purpose of each is adequately defined and the instruments properly separated, and whether they can be easily understood and applied both by potential users and by Commission staff or whether they need to be reorganised.

1.15 Many of the issues addressed in the Green Paper must be considered individually. For these and other relevant aspects, the reader is referred to the full text of this opinion.

2. Commission communication

2.1 The background to this Commission communication is the earlier debate about and adoption of the Seventh Framework Programme for Research and Technological Development — which has now come into effect — the research areas selected for it (so-called specific programmes), the instruments available and the participation rules. In its communication, the Commission is therefore no longer concerned with the content of research, but solely with the strategic objectives of the European Research Area.

2.2 Following a brief account of the background to the Green Paper, the Commission summarises the tasks and objectives of the European Research Area, which are discussed, examined and adjusted to take account of new developments in the light of the current situation. The communication takes as its premise the importance of European research and development for the Lisbon strategy, as well as the question of R&D competitiveness at a global level.

2.3 The following specific tasks and objectives are identified:

- **an adequate flow of competent researchers** with high levels of mobility between institutions, disciplines, sectors and countries;
- **world-class research infrastructures**, integrated, networked and accessible to research teams from across Europe and the world, notably thanks to new generations of electronic communication infrastructures;
- **excellent research institutions** engaged in effective public-private cooperation and partnerships, forming the core of research and innovation 'clusters' including 'virtual research communities', mostly specialised in interdisciplinary areas and attracting a critical mass of human and financial resources;
- **effective knowledge-sharing**, notably between public research and industry, as well as with the public at large;
- **well-coordinated research programmes and priorities** (national, regional and European);
- **a wide opening** of the European Research Area to the world.

2.4 The paper gives a résumé of what has been achieved so far and, on this basis, proposes future measures to consolidate

and further expand the ERA. The current EU Research Framework Programme was explicitly designed by the Commission to support such measures. Its funding has been substantially increased, although by less than the European Commission had proposed (and indeed less than the Committee had recommended). New initiatives launched in connection with the 7th Framework Programme (2007-2013), such as the European Research Council, will have an important impact on the European research landscape. The future European Institute of Technology could also help to create world-class knowledge and innovation communities.

2.5 At the same time the Commission has pointed to shortcomings that should be overcome, for example (in brief):

- Career opportunities for researchers are still limited.
- Businesses often find it difficult to work with research institutions.
- National and regional research funding is still largely uncoordinated.
- Reforms undertaken at national level often lack a European perspective and coherence.

2.6 Other aspects of the Green Paper are addressed in the Committee's comments below.

2.7 In order to stimulate a wide debate on the Green Paper, the Commission has included 35 specific questions in the text. The answers expected from Parliament, the Council, the EESC, the Committee of the Regions and the Member States, as well as researchers and research institutes, are to be incorporated into proposals for measures during 2008. Answers to many of these questions are implicitly provided in point 3 below, while some specific issues are addressed in point 4.

3. General Committee comments

3.1 **Importance of scientific excellence.** As the Committee has observed on several occasions ⁽¹⁾ top performance in science and technology, and their conversion into a competitive economic force, are essential preconditions so as not to jeopardise our future global position and the European social model.

There is therefore an urgent need to substantially step up measures in favour of research and development in Europe, to set the political priorities required for this, and to improve the necessary framework and establish the financial prerequisites. It is important to apply the principle of competition based on criteria of excellence. The Committee has on a number of occasions given its views on the rules for the requisite state aid ⁽²⁾.

⁽¹⁾ OJ C 256, 27.10.2007.

OJ C 325, 30.12.2006, p. 16.

⁽²⁾ OJ C 325, 30.12.2006, p. 16.

3.2 European internal market for research and development. In addition to effective Community, national and industry-based research and development programmes, we need a European internal market for research and development, in order to better harness and release the potential — either available now or still to be cultivated — within the European Union. This is what is meant by the **European Research Area**.

3.3 Overall endorsement. The Committee therefore welcomes the Commission's stated intention to consolidate, strengthen and further expand the European Research Area (and thus press ahead with what has been a broadly favourable development). It also notes that important aspects of its previous recommendations are reflected in the text ⁽³⁾. The objectives defined by the Commission are the right ones, and its proposals are generally considered to be suitable and worthy of support, but they need to be supplemented and in some cases clarified or corrected.

3.4 Current situation

3.4.1 The scientific community. The European Organisation for Nuclear Research (CERN) ⁽⁴⁾ was set up over 50 years ago. This independent effort of the international scientific community — i.e. a project mounted by leading international scientists ⁽⁵⁾ — received the support it needed from key policymakers in Europe. Thus a first-class European laboratory was set up, something that individual countries would have been unable or unwilling to finance and use on their own. For similar reasons, other transnational European organisations were later set up, such as the ECMWF, EMBO, ESRF, ESO, ESA and ILL ⁽⁶⁾.

3.4.2 European Community. The Treaty setting up the European Atomic Energy Community (Euratom), which was signed on 25 March 1957, is one of the three treaties establishing the European Communities. This was the starting-point for the European Community's involvement in the sphere of research and development ⁽⁷⁾. With the entry into force of the

⁽³⁾ OJ C 110, 30.4.2004, p. 3.
OJ C 110, 30.4.2004, p. 98.
OJ C 157, 28.6.2005.
OJ C 65, 17.3.2006.
OJ C 185, 8.8.2006.
OJ C 309, 16.12.2006.
OJ C 325, 30.12.2006.

⁽⁴⁾ Since this title is misleading (CERN's activities extend beyond nuclear research), it is nowadays often known as the European Laboratory for Particle Physics, which gives a better description of its current work.

⁽⁵⁾ The terms 'scientist' and 'engineer' as used by the Committee are gender-neutral. The Committee wishes here to reiterate its often-stated commitment to full gender equality in research and development (cf. point 3.16.2).

⁽⁶⁾ ILL: Institut Laue-Langevin
ECMWF: European Centre for Medium-Range Weather Forecasts
ESRF: European Synchrotron Radiation Facility
ESO: European Southern Observatory
EMBO: European Molecular Biology Organisation
ESA: European Space Agency
See also <http://www.euroforum.org>.

⁽⁷⁾ For a more detailed account, see CORDIS Focus Newsletter No 279 of June 2007.

first R&D Framework Programme in 1986, the foundation was laid for a broad Community research policy with more far-reaching objectives than Euratom. With the decision taken in 2000, when drawing up the Lisbon strategy, to establish a European Research Area, Europe's policymakers affirmed their intention to create a formal framework for European research. The European Research Area was to become an emblematic project whose rationale and objectives were geared towards the Lisbon strategy.

3.4.3 Barcelona objective. The Committee has repeatedly said that it supports the Barcelona objective formulated five years ago by the European Council as a follow-on from the Lisbon strategy. This requires that the Union's total R&D expenditure should be increased so as to reach almost 3 % of GDP by 2010. Two-thirds of the required investment was to come from the private sector. However, it has now been decided that the Community will contribute only around 2 % (i.e. just one fiftieth) of the total investment in research and development aimed for under the Barcelona objective.

3.5 Political commitment of the Member States. This means that Member States carry by far the biggest political responsibility for achieving the Barcelona objective, and industry and the private sector by far the biggest economic responsibility. The recommendations and calls of the Committee are therefore addressed in particular to the Council, the Parliament and the Member States, urging them to take all the urgently necessary steps and to support the targets set out in the Green Paper, in order to make Europe the global leader in research and development again, first by realising the Barcelona objective, and by also taking all other measures needed to achieve this goal.

3.6 Better use of the multiplier effect of Community support for research. Community funding for research is also very important, however, because it not only acts as an integrating and coordinating factor but above all also has a multiplier effect on the research investment provided by the Member States and industry. The strength of this multiplier effect should therefore be substantially enhanced, so that the Member States and industry can finally make the full contribution that is required to achieve the as yet unmet Barcelona objective. Europe must become aware that it was once the leading area for research and innovation and aim to revive that tradition.

3.6.1 Increasing the Community contribution. The Committee has in the past noted ⁽⁸⁾ that the current R&D budget is not sufficient to use this multiplier effect. It therefore repeats its urgent recommendation that the Community contribution to total target R&D spending in the European Research Area, which is currently well under 2 %, be increased to at least 3 % at the impending budget revision in 2008. It also

⁽⁸⁾ OJ C 325, 30.12.2006.

recommends allocating a substantial amount of resources from the Structural Funds to R&D-related infrastructure measures ⁽⁹⁾ ⁽¹⁰⁾, as well as radically increasing support from the EIB.

3.6.2 Urgent need for a policy decision. A statistical bulletin just published by the Commission ⁽¹¹⁾ on the current state of European research and its funding compared with that of international competitors confirms the extreme urgency of translating the Committee's above-mentioned recommendation into a policy decision. The matter is further complicated by the very serious and long-underrated energy and climate issues to be faced.

3.7 Critical mass, pooling of resources and expertise, European value added. The Community should address and fund primarily those research tasks and projects critical for science and technology progress that individual Member States are not prepared or economically able to support, or whose impact is substantially increased through a Community process and a networked Europe-wide approach. This will result in significant added value compared with the efforts of individual Member States.

3.8 Infrastructure and excellent research institutions. In many particularly relevant areas of research, costly infrastructure and large apparatus are essential to securing fundamentally new findings and technological progress, and they provide technological development (at the pre-competitive stage) with novel options for improvements and innovation. The Committee therefore considers the objective cited in the Green Paper of *Developing world-class research infrastructures* to be extremely important. Such infrastructures are the basis and catalyst for top-level research. They are a major factor in attracting the best scientists and engineers, and are thus a prime means of achieving another important objective that should be endorsed, namely the *creation of excellent research institutions* which draw attention to the emblems *European research* and *European Research Area*.

3.8.1 ESFRI ⁽¹²⁾ list. The Committee therefore welcomes the *ESFRI list*, which was drawn up by the Member States and the Commission, and has been commended and endorsed by the Council ⁽¹³⁾. The Committee also notes that the primary involvement of the Member States here will have to be complemented by a stepped-up, reliable and sustained effort on the part of the

⁽⁹⁾ The Committee also welcomes the similar recommendation of the European Research Advisory Board, EURAB: http://ec.europa.eu/research/eurab/index_en.html.

⁽¹⁰⁾ Here, too, the Committee calls in particular on the Member States to take the necessary policy decisions.

⁽¹¹⁾ European Commission: Key Figures 2007 on Science, Technology and Innovation — Towards a European knowledge area. Monday 11 June 2007.

⁽¹²⁾ ESFRI: European Strategy Forum on Research Infrastructures. <http://cordis.europa.eu/esfri/>.

⁽¹³⁾ Competition Council (Internal Market, Industry and Research) of 21 and 22 May 2007.

Commission, since the political will to achieve exceptional pioneering work in science and technology is especially visible in this area. The Committee therefore emphatically endorses the consistent pursuit of the 'road map' and substantial financial involvement of the Community in building and maintaining these facilities over the long term. It draws attention to the importance of proper contract arrangements to make facilities accessible and attractive to partners or users from the whole of the European Research Area, and also supports the efforts of partnerships or participation from outside Europe ⁽¹⁴⁾.

3.8.2 Steady funding. It is particularly important that funding — especially for projects conceived as long-term ventures because of the high levels of investment involved — should be steady and reliable until the objectives have been achieved, provided they meet the criterion of scientific excellence. In this area in particular, substantial fluctuations, uncertainties or even interruptions in financing not only waste costly financial investment and science and technology development work but also break down networks that have been developed, and destroy both international cooperation and trust in future commitments. This is also detrimental to the European labour market for scientists and engineers.

3.8.3 Involvement of universities and institutes. For this substantial investment in infrastructure projects to be effective, and for high-level research to expand as necessary, it is essential that the relevant university groups, institutes and research bodies based in the Member States be involved in a responsible capacity in developing and using the test facilities concerned: such networking is the only way to create a single system and secure European value added. Thus it is also necessary to provide adequate funding for such networking and to ensure that the *cooperation* and *ideas* elements of the programmes are given sufficient resources, in particular for travel and onsite visits and for communication systems and equipment. The Committee would also stress the key importance of promoting mobility.

3.8.4 Unhindered mobility. The Committee endorses the aim of ensuring unhindered mobility within the European Research Area between Member States, organisations and the private and public sectors. Mobility not only fosters career development, the pooling of knowledge and technical experience, but also generally broadens horizons, enhances good judgment and encourages cultural understanding. This is why shortcomings and unsound measures that are still obstacles to unhindered mobility must be rectified or eliminated. These include problems between Member States, insufficient recognition/portability of acquired social entitlements, as well as tax disadvantages or the strain involved in families having to relocate.

⁽¹⁴⁾ For instance, the ITER project.

3.8.5 **Situation in the new Member States.** However, care must be taken and incentives worked out to ensure that the desirable mobility within Europe for researchers from the new Member States does not lead to a long-term intra-European 'brain drain'. The Committee has already pointed out in an earlier opinion that the creation of attractive research institutes in the new Member States is particularly important for this very reason.

3.9 **Appreciation of the European Research Area.** Efficient and successful international cooperation, especially on large-scale European Community projects, creates a feeling of team spirit between those involved, which enhances appreciation of the European Research Area and Europe's image.

3.10 **Own initiatives and scientific conferences.** CERN and the development of the European fusion research institutes are examples of both the will and ability of the scientific community to seek and find international partners on their own initiative, and to obtain international funding from governments of third countries. This is also predicated on the provision of funding for especially relevant science and technology conferences in Europe, and grants for younger European scientists in particular to take part in international conferences.

3.10.1 **Science and technology associations — civil society organisations.** Specialist conferences are the main forum for publicising and evaluating findings, pooling knowledge and ideas, launching cooperation initiatives and developing new or improved concepts. Such conferences are generally organised by science and technology associations⁽¹⁵⁾, which are typical civil society organisations. The Committee therefore recommends that there should be greater awareness and recognition of their value and that their efforts to disseminate knowledge, evaluate findings and coordinate research should be drawn on more often and encouraged.

3.11 **Framework programmes.** The Committee considers the Community R&D Framework Programme and the framework programme of the European Atomic Energy Community to be the main Community instruments for realising the European Research Area.

As an adjunct to the specific programmes relating to *infrastructure* and *ideas*, key incentives for coordinated cooperation (see point 3.13) are also generated in particular by the *cooperation*

⁽¹⁵⁾ For example the European Physical Society, the European Federation of National Engineering Associations, the European Federation of Chemical Engineering, the European Academies (EASAC, ALEA, IAP), etc. Many of these also belong to umbrella organisations, such as the Initiative for Science in Europe (ISE).

and *people* programmes and related funding. Adequate implementation of these programmes is thus a substantial element in creating a cross-border, synergistic identity for the *European research* and the *European Research Area*.

3.11.1 **Basic research and applications.** It is significant that basic research has been explicitly included and its crucial importance in progress and innovation recognised. This creates the need for a **balance** between the objectives of promoting basic research on the one hand, and applied and product- and process-oriented research on the other. As the Committee has often noted⁽¹⁶⁾, there are no sharp dividing lines between these areas, but rather many interactions: they influence each other.

3.11.2 **Joint Technology Initiatives, technology platforms and the ETI.** The Committee draws attention to the special role played by Joint Technology Initiatives and technology platforms, which serve to create partnerships in strategic research areas between the public and private sectors and enable joint research programmes to be conducted. The Committee recommends that experience gained with these be drawn on when setting up the new **Knowledge and Innovation Communities (KICs)** of the European Technology Institute (ETI). Experience with ERA-Net projects and EUREKA clusters could also be valuable.

3.11.3 **SMEs.** Adequate involvement of small and medium-sized enterprises (SMEs) is particularly important in public-private partnerships, and in business partnerships too. The Committee welcomes the Commission's considerable efforts in this area to date and its desire to continue these in the future. The CORNET (Collective Research Networking) project⁽¹⁷⁾, launched through ERA-Net, can also be helpful here.

3.11.4 **Withholding of data.** Free dissemination of data on new findings was and still is one of the keys to the success of modern science (cf. point 4.4.2, **Open Access**). Withholding of data raises problems, not only in relation to intellectual property issues but above all regarding the stage of development of novel/innovative technologies at which withholding data, for reasons of free-market competition⁽¹⁸⁾, hinders the necessary exchange of knowledge and further cooperation with and between business partners. The Committee recommends that the Commission should examine this important question in detail, because it determines the success of cooperation, especially cooperation between the public and private sectors.

⁽¹⁶⁾ OJ C 325, 30.12.2006 (point 4.6 of the EESC opinion).

⁽¹⁷⁾ See <http://www.cornet-era.net>, as well as CORDIS focus, Supplement No 24 June 2007.

⁽¹⁸⁾ And, if no patent grace period has been granted, so as not to forfeit the possibility of later applying for a patent.

3.12 Strengthening research institutions. The Committee supports the very important goal of strengthening research institutions — and their umbrella organisations — as the main initiators and backers of research and development. These institutions coordinate, plan and conduct research, and the working environment, latitude of action, and research style that develop there determine the reputation and success of each body. These organisations must therefore be able to plan for the longer term, and have adequate facilities and decision-making powers. This requires greater autonomy in the use of financial resources, a sufficiently high share of basic public funding (typically at least 75-80 %), whole-project funding, the possibility of carrying resources over to the following year, reduction of red tape for scientists, incentives and promotion of high-quality work through adequate long-term extra funding based on competitive tendering and performance.

3.13 Open coordination. Key factors in encouraging bilateral *open coordination* and evaluation of research policies and strategic goals between the Member States are the tried-and-tested European-level decision-making processes relating to Commission research policy initiatives and the consultative phases involved in preparing them. The Committee also considers complementary coordinating measures with and between the Member States and the regions on specific priorities or infrastructure projects to be important and sensible in order to improve coherence and optimise European research policy. Coordination is therefore also desirable when setting up European Intergovernmental Research Organisations for large projects and infrastructure (see point 3.8). The Commission also exercises a coordinating role through the support measures under the Seventh Framework Programme (see point 3.11).

3.14 Avoiding excessive coordination. On the other hand, any top-down *detailed coordination* of European research as an end in itself, or with the objective of a general standardisation affecting individual projects and penetrating research organisations or companies, cannot be accepted. This might be based on the explicit intention of avoiding duplication⁽¹⁹⁾ and fragmentation, for instance, but it would reduce the required diversity of research approaches and methods (see in particular point 4.7.1) and generate a negative attitude among the researchers, institutions and businesses involved.

⁽¹⁹⁾ In its opinion on *Science, society and the citizen in Europe* (CES 724/2001), the Committee noted (point 4.7.5): 'Because of the need for proof of reproducibility, parallel or repeated experiments by other research groups, generally using modified techniques or procedures, are often categorised as duplication of research. This is in fact an essential element of scientific method and progress. It is a guarantee against errors or even falsification.'

The Commission should certainly avoid the impression that its aim is to introduce central management of European research; this would further fuel the existing concern of the general public⁽²⁰⁾ in the Member States about excessive centralisation in Brussels. It is much more a question of achieving a proper balance between the Community framework, autonomous decision-making by the Member States, and institutional and individual initiatives and planning ability.

3.14.1 Plurality of methods, approaches and choice of issues. Only a plurality of methods, approaches and choice of issues can ensure the best outcomes, procedures and innovations in each case. Plurality is not wasteful, but is a necessary means of optimising and making progress in the search for new knowledge and techniques. The Committee recommends that the European Research Council in particular be consulted about this important issue of remits.

3.15 Another objective: cutting red tape. The Committee nevertheless repeats its previous pleas that the Commission should include *reducing red tape* as another major objective in the future political agenda of the European Research Area. Ways must be developed with the Member States and research bodies to simplify overregulation and the deluge of European and national institutional reporting requirements, application procedures, reviews, evaluations, authorisation arrangements, etc. and if necessary condense and reduce them to what is strictly necessary. Competition to promote excellence, secure funding etc. — which is supported by the Committee — will initially increase the amount of red tape that will be required of researchers because of administrative and approval procedures. This makes it all the more important to find an acceptable solution through a reduction and simplification of all these processes. The Committee has already⁽²¹⁾ commented that fear of individuals making mistakes or behaving wrongly should not lead to overregulation and obstructions for everyone. The same principle should apply to the *modus operandi* of funding bodies and researchers.

3.16 Attractive employment and better career opportunities. The Committee endorses the important goal of creating an attractive labour market for researchers. This means ensuring that contracts, social security arrangements and family integrity are arranged and improved in such a way that researchers do not feel that advantage is being taken of their idealism, e. g. because of low pay, protracted contract negotiations and excessive uncertainty about their future career development. They might then come to the conclusion that their investment in very demanding, specialised training would not be rewarded by a successful career in Europe.

⁽²⁰⁾ Cf. Lüder Gerken and Roman Herzog, 'Europe's World', summer 2007 issue.

⁽²¹⁾ OJ C 256, 27.10.2007.

3.16.1 Deficiencies in the Member States. Deficiencies in the Member States are a particular problem, and mistakes can still be seen ⁽²³⁾. The Committee therefore urges in particular the Member States and the social partners in each country to rectify these deficiencies and especially to also offer young scientists attractive career opportunities with prospects for advancement, opportunities that can compete with those of alternative career paths for top-flight academics. This is the only way to ensure that more young people with the right talents are prepared to invest energy and time in a demanding and selective course of study and thus help to avert the looming shortage of science and technology experts — and graduates with the right qualifications — in Europe.

3.16.2 Gender equality. The Committee reiterates its commitment to equal opportunities and equal treatment of men and women. We need the best talents of both — what counts is ability and performance. (The terms 'scientist', 'researcher' and 'engineer' are gender-neutral.)

3.16.3 Mobility between institutions, disciplines, sectors and countries. The Committee also endorses the objective set out in the Green Paper of improving mobility between institutions, disciplines, sectors and countries. It points to its above recommendations in this regard, and also to its earlier recommendation to create an attractive grant (sabbatical) system for personnel exchanges between academia and industry.

3.16.4 Family integrity. The Committee has many times mentioned a particularly important aspect of promoting mobility, namely facilitating and promoting family integrity. Important concerns here are the career of the spouse (e.g. in the case of dual-career couples), suitable schools for children and help with moving house (reimbursement of costs, taxes).

3.17 A wide opening of the European Research Area to the world. The Green Paper mentions opening the European Research Area to the world as a very important objective. The Committee fully supports this objective. Achieving this goal will be a crucial test of the Lisbon strategy's success.

3.17.1 Attractiveness is the key. However, the key factor here — signifying more than a formal opening in principle, which has already been achieved in many respects — is the attractiveness of the European Research Area: invitations to leading international researchers are the first step required; the challenge then is to actually get them to come and, in the case

⁽²³⁾ For example, the new public services wage agreement in Germany strongly discourages mobility.

of European scientists working outside Europe, to ensure their eventual return.

3.17.2 Overcoming the 'brain drain' problem. This task will not have been achieved until the current lamentable 'brain drain' has been halted, not just in quantitative but also in qualitative terms, i.e. in respect of the highest performing and most successful scientists and engineers. But in order to achieve this all the key factors must be right: job position, facilities, working conditions, a stable situation, career development possibilities and autonomy, personal income (including social benefits) and social recognition.

3.18 Building on achievements. Despite the persistent lacunae and the work that is still to be done, the Committee is pleased to see that efforts so far in European research and the European Research Area are showing initial signs of success and generally point in the right direction. It is therefore important to continue that progress through ongoing and rapid growth in Europe's R&D capacity, underpinned by competition-based funding policy, networking and the impact thereof on integration and, in particular, through the creation of an attractive and stable environment and appropriate career opportunities without overregulation and centralisation. **The European Research Area must be a concept with worldwide reach.**

3.19 European Knowledge Area. The Committee has noted on a number of previous occasions that the European Research Area should be complemented by a 'European Knowledge Area' ⁽²³⁾. A key reason is the goal of creating a European knowledge-based society, which presupposes a solid education for all citizens and the high-level specialised training also required for scientists and engineers. Lifelong and independent learning are also very important. Since this opinion concerns the European Research Area, the Committee would also point to the need for appropriate 'knowledge management', to ensure that knowledge acquired is recorded, organised, disseminated, accessible and conserved. Research and development build on existing knowledge in order to create new knowledge.

3.19.1 Knowledge management and technology. Knowledge management is also important for the safe application ⁽²⁴⁾ of technical procedures, so as to ensure optimum and secure use, minimise risk and not endanger the population. In this area the Commission should also take appropriate measures in the future, in collaboration with the relevant international organisations, and promote the necessary research programmes.

⁽²³⁾ Cf. in particular the EESC opinion on 'Investment in Knowledge and Innovation', INT/325 (OJ C 256, 27.10.2007).

⁽²⁴⁾ Cf. for example the Proceedings of the International Conference on Knowledge Management in Nuclear Facilities, June 2007.

3.19.2 **Textbooks and review papers.** Good textbooks, general review papers and manuals are important in maintaining, explaining and organising knowledge, and especially for high-quality training. Experience, effort and time, and freedom from other work, is required in order to produce these. The Committee recommends that such activity be included in the list of tasks that should receive funding, especially since this onerous work generally does not produce any commercial gain for the authors.

4. Specific comments on the questions posed in the Green Paper

The Committee will now offer some specific comments on the 35 questions posed in the Green Paper, insofar as these issues were not dealt with in point 3 above. For reasons of brevity most of these questions are not recapitulated in detail, but the reader is referred to the Green Paper.

4.1 Questions 1-3: **Elements of the European Research Area vision:** the basic precondition is an open social attitude to research and development which understands and respects the key importance of R&D for welfare, competitiveness, progress and culture. It is also important that there should be adequate communication between different disciplines, especially between the arts and the sciences; this should include efforts to agree on methodological principles. This is also a prerequisite for creating the necessary framework and setting priorities at all policy levels. In addition, the Commission and the Member States can do more than they have done in the past to encourage exchanges of experience between the scientific community and civil society in general, and to publicise the European Research Area, through symposiums and conferences. The media should also play a key role, but the emphasis should be on providing information rather than opinion-forming. The Committee supports the Commission's concern to ensure *an open discussion and further steps*.

4.2 Questions 8 and 10: **PhD candidates.** Action must first be taken with respect to young scientists who have completed their first degree, i.e. PhD candidates. These are not students or trainees⁽²⁵⁾ but essential contributors to research and teaching. Research and teaching in themselves, together with reading the appropriate literature, and taking part in conferences, seminars and summer schools, are the best form of further training. But participation must also be strongly promoted and made possible. Initiative and autonomy must be encouraged and rewarded; these qualities will not develop in response to a teaching-based approach.

4.3 Question 12 *et seq.*: The basis should be ETI and its Knowledge and Innovation Communities, which can be instructive.

⁽²⁵⁾ The objective of a doctoral thesis is to demonstrate independent scientific activity.

4.3.1 Question 18: First, information should be gathered from specific cases. Risk and liability issues — e.g. where a partner drops out — should be clarified.

4.3.2 Question 19: The first step is to draw on the experience of research bodies in the Member States with existing 'virtual institutes'. A bottom-up approach should also be favoured.

4.3.3 Question 20: (i): Proposals should be gathered from the institutions concerned.

4.3.4 Question 20: (ii): **No objectively measurable criteria.** The Committee has very strong reservations here, as there is a risk that emphasis would be placed on quantitative criteria that are supposed to be objectively measurable, and such criteria are virtually non-existent in research⁽²⁶⁾. Such criteria may well be useful in the case of product-oriented development, but in research they would promote short-termism and sloppiness (jockeying for funding). Even in industry, research institutes have scope for longer-term and basic research, whose importance is indeed evidenced by the most successful labs⁽²⁷⁾, but such research is not easy to justify on the basis of prescribed assessment procedures based primarily on 'quantitatively measurable' criteria. The Committee also refers the reader to comments in previous opinions⁽²⁸⁾.

4.4 Question 21: **Sharing knowledge: raw data.** This is a difficult and delicate question. (At what point in the investigation chain are 'raw data' produced? Their accuracy often still has to be checked or evaluated by the person who conducted the original study.) This has implications for the relationship of trust between individual researchers⁽²⁹⁾. There is no mention of issues relating to how experiments are conducted or to interpersonal factors (team spirit, competition, priorities, etc.) among researchers. It is helpful to provide incentives to share knowledge directly. The key factor is the reproducibility of findings. The Committee strongly advises against a prescriptive approach, especially at European level; recommendations would be useful in certain cases on the minimum length of time for keeping raw data and who should be responsible for this. In addition (see also point 3.19.1 above), there is the question of general 'knowledge management', in order to ensure that knowledge is not lost. It might also be appropriate for the European Research Council to address this question.

⁽²⁶⁾ See for instance 'Erwägen, Wissen, Ethik' (EWE), 18/2007 series, issue No 1, p. 12, Chapter 3.4 (ISSN 1610-3696).

⁽²⁷⁾ For example, BELL's cosmic microwave background radiation, and IBM's high-temperature superconductors.

⁽²⁸⁾ See, for example, point 7.5 of OJ C 256, 27.10.2007.

⁽²⁹⁾ In basic research, it concerns above all the priority of a discovery or idea; in applications it also concerns patent issues.

4.4.1 Returning to question 21: **Problems of access to information and data-sharing.** Yet another problem is addressed here, namely that of free and rapid access to data that has already been published in the specialist journals of academic publishers. Because of the current interpretation of copyright, there is no free access to online libraries and copies may no longer be sent electronically, thereby drastically restricting swift access to important science and technology literature archives and radically hindering scientific knowledge-sharing and progress.

4.4.2 **Open access.** The Committee thus urges the Commission all the more to address this question and seek new and better solutions. One possibility would be 'open access' information systems⁽³⁰⁾, e.g. in recognised open-access technical journals with peer review (see below).

4.4.3 Question 23: **Grace period.** The Committee has on several occasions called for a grace period in order to reduce the tension between publishing as quickly as possible (researchers are judged on the basis of their publications) and applying first for a patent.

4.5 Questions 25-29: **Optimising research programmes and priorities.** Generally speaking the experience with ERA-Net should be brought to bear here.

4.5.1 Question 25: **Evaluation principles.** The question of common — presumably meaning harmonised — principles for peer review, quality assurance and evaluation is a difficult one, since, on the one hand, there is no perfect evaluation procedure, only better or less good ones and, on the other hand, research bodies have different approaches, at least as far as the details are concerned, which means that the (relative) effectiveness of different procedures must be taken on board as a criterion. Thus, at this point too, the Committee has reservations in principle about any intended harmonisation. It is true that peer review is undoubtedly the best procedure⁽³¹⁾, but its quality and efficacy depend very much on the details⁽³²⁾. Above all it is important to avoid cutting corners, which easily happens with the ongoing and multiple evaluations that are nowadays often required. Hence the principle of less frequent but more thorough evaluations.

⁽³⁰⁾ See <http://www.open-access.net/RMK>.

⁽³¹⁾ On the other hand, the more innovative (atypical) procedures, ideas, measures or models are, the less feasible it is even for peer review to provide an accurate assessment. This makes it all the more important for there to be a plurality of competing approaches and methods (see point 3.14.1).

⁽³²⁾ This issue is discussed in a number of articles in 'Forschung und Lehre' (German Association of University Professors and Lecturers), 6/07, ISSN 0945-5604: www.forschung-und-lehre.de.

4.5.2 Again (but not exclusively) relating to question 25: **Staff with expertise.** In particular it is absolutely essential that funding bodies, including the Commission, involve staff with proven scientific expertise, who are familiar with the particular features, peers and 'community' of the scientific area in question — also on the basis of previous research activity — and maintain their knowledge over the long term (making regular job rotation counterproductive). The principle that fear of individuals making mistakes should not lead to overregulation and obstructions for everyone also applies here. The example of highly successful research bodies should be followed.

4.5.3 Question 26: **Simplification.** Further simplifying the relevant rules and procedures in order to remove excessive red tape for researchers has often been mentioned as an objective. However, the Committee is aware that its general call for plurality and a 'bottom-up' approach could be seen as conflicting somewhat with the call for simplification and removal of excessive red tape. It therefore endorses a coordinated approach (see also point 3.15) involving joint evaluation for all projects in which the Community and its funding programmes are, or are likely to be, substantially involved. The European Research Council should be consulted about the choice of evaluation procedures.

4.5.4 Question 29: **Membership of intergovernmental research organisations.** The meaning of 'membership' must be clarified. Membership of consultative bodies is useful as, of course, is membership of the relevant oversight bodies, if these are co-financed by the Community. However, the Committee would definitely advise against membership of executive bodies.

4.6 Questions 30 and 31: **Opening to the world: international cooperation in science and technology.** The Committee fully supports the objective relating to research policy. As far as instruments are concerned, a distinction must be made between programmes that require large-scale equipment such as accelerators, nuclear fusion plants, satellites and wind tunnels, and programmes that are spread over a number of centres or share equipment. The experience of existing cases should be drawn on as far as possible, although there is a risk of generalising and therefore glossing over the differences between individual cases. Generally speaking the Committee believes that effective mechanisms or precedents already exist here, obviating the need for additional instruments.

4.7 **General comment on the Commission's questions.** The questions posed by the Commission give the impression that it is continually seeking general rules that are intended to be valid for all individual cases arising in the Member States. The Committee would have serious reservations about such an approach (see point 3.14.1).

4.7.1 **Autonomy and a 'bottom-up' approach rather than standardisation.** This means that any efforts tending towards excessive standardisation should be rejected. Standardisation prevents best practice from first being empirically established through competition — which the 'bottom-up' principle basically allows — between different procedures, methods and cultural approaches, and thus also prevents the advantages of gradual progression from being tapped. This is the only way to identify which approach is particularly effective, deserves further funding and can serve as an example.

4.7.2 **Existing mechanisms are adequate.** Existing mechanisms at both the policymaking and programme and project levels already provide sufficient and reasonable scope in this regard. Further measures and rules can also be introduced or adapted later, if there is a well-founded specific need.

4.8 **Existing Community instruments for promoting and coordinating R&D.** On the other hand, the Committee recommends that general, clear and comprehensible rules should be developed to manage the wide range of Community instruments for promoting and coordinating R&D. It would be very helpful if the Commission listed and described (i.e. provided comprehensible instructions for use for) **all** the instruments and measures available to it for promoting and coordinating R&D objectives. This would also show whether, among the growing plethora of instruments, the purpose of each one is adequately defined and the instruments properly separated, and whether they can be easily understood by potential users and Commission staff or need to be overhauled to make them clearer.

Brussels, 24 October 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 Regulation setting up the Innovative Medicines Initiative Joint Undertaking'

COM(2007) 241 *final* — 2007/0089 (CNS)

(2008/C 44/02)

On 11 June 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2007. The rapporteur was Mr Dantin.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 118 votes to two, with two abstentions.

1. Conclusions and recommendations

1.1 The pharmaceutical industry is quite rightly considered as a key strategic sector, and its products are crucial to the health and well-being of European citizens. It is also important from the point of view of employment.

1.2 In the light of this situation, and of the decline of pharmaceutical research in Europe, the decision to set up the IMI JU (Innovative Medicines Initiative Joint Undertaking) is very much justified. The Committee welcomes and supports this decision, in particular because it involves a genuine partnership between the public and private sectors.

1.3 The key aspects on which the role of the IMI JU should be focused include the following:

- improving the prediction of the safety and the efficacy of new drugs, especially in the early development phases before clinical trials begin;
- tackling the waste of resources caused by the current duplication of research efforts, both in the private and public sector, through the use of jointly developed knowledge management systems;
- bridging skills gaps by providing training to ensure that the skills of professionals match those required by the pharmaceutical research sector;
- providing a focal point for developing the required synergies by enabling cooperation between research initiated by the IMI JU and national and European activities, thus contributing to the establishment of the European Research Area in this sector.

1.4 The EESC welcomes the wide-ranging consultation that preceded the drafting of this regulation and supports the proposal that an annual report on the results of the IMI JU be submitted. However, the Committee regrets the absence of a detailed assessment of the operation and the results achieved by the former European Technology Platforms.

1.5 In the light of the multiple financing system that has been set up and of the significant volume of Community resources involved, the EESC believes that it would be appropriate to better define the use and allocation of the end products of the research in question, in particular as regards intellectual property and the issue of patents.

1.6 The EESC believes that it would be helpful to think about mechanisms conducive to returns on European investments. Similarly, it would be desirable to provide for the profits generated by research to be assigned to investments located within the EU.

2. Introduction

2.1 The purpose of the proposed regulation under review is to launch the very first public-private partnerships in the area of R&D. It defines one of the first two Joint Technology Initiatives (JTI). This involves innovative medicines ⁽¹⁾.

2.2 The aim of JTIs is to allow industry, research organisations, Member States and the Commission to pool some or all of their resources into selected research programmes.

2.3 Unlike the traditional strategy, which involves providing public funding for projects on a case-by-case basis, JTIs involve large-scale research programmes with shared strategic research goals. This new approach is expected to create a critical mass for European research and innovation, consolidate the scientific community in key strategic areas, and harmonise the funding of projects so that research findings can be put to use more quickly. JTIs are aimed at key areas where the current instruments have neither the scale nor the speed to keep Europe ahead of global competition. These are areas where national, European and private funding of research could bring significant added value, inter alia by stimulating an increase in private R&D expenditure.

2.4 The JTI on the Innovative Medicines Initiative (IMI) seeks to support the development of new knowledge, new instruments and new methods that will facilitate the faster supply of safer and more effective medicines.

⁽¹⁾ Another JTI involves embedded computing systems. This is covered by opinion INT/364.

2.5 Thanks to an innovative financing method, the IMI should help to increase private investment in R&D, speed up the transfer of knowledge between universities and businesses, and facilitate the participation of SMEs in European research.

3. Background

3.1 Over the last ten to fifteen years, pharmaceutical research in Europe has gradually been falling behind. Whilst investment in R&D increased by a factor of 4,6 between 1990 and 2005 in the USA, the equivalent factor in Europe was just 2,8. Businesses are increasingly transferring their cutting-edge research units to countries outside the European Union, mainly the United States and, more recently, in Asia.

3.1.1 This situation could have grave consequences for European competitiveness, as innovation and cutting-edge technologies are among the keys to long-term economic growth. This was one of the main reasons behind the decision to create a JTI on innovative medicines.

3.2 Whereas governments draw up their plans at national level, industry has a global vision. Large countries such as the United States and China have a unified investment strategy that enables businesses to better plan and attract resources. In Europe, national governments do not coordinate their R&D investment and pharmaceutical companies must expend resources adapting their activities to local circumstances.

3.3 A Community legislative act could establish a targeted, coherent R&D programme that could draw on all the sources of R&D investment (public and private) at European level and thus create a more favourable environment for the European Union. This is the purpose of the regulation under review.

4. The Commission's proposal

4.1 The proposed regulation setting up the Innovative Medicines Initiative Joint Undertaking [COM(2007) 241] arises out of the provisions of the 7th Framework Programme (FP7) covered by Decision 1982/2006/EEC. This provides for a Community contribution towards the creation of long-term public-private partnerships at European level in the area of research.

4.2 These partnerships take the form of Joint Technology Initiatives (JTIs) and arise from the work of the former European Technology Platforms (ETPs).

4.3 The Council, in its Decision No 971/2006/EEC on the Specific Programme 'Cooperation', emphasised the need to set up public-private partnerships and identified six areas in which the creation of joint technology initiatives is appropriate with a view to relaunching European research. These are:

- Hydrogen and fuel cells
- Aeronautics and air transport ⁽²⁾
- Innovative medicines
- Embedded computing systems ⁽³⁾
- Nanoelectronics ⁽⁴⁾
- GMES (global monitoring for environment and security).

4.4 Within the context of this general strategy, the regulation proposed by COM(2007) 241 under review provides for the implementation of the **Joint Technology Initiative on Innovative Medicines (IMI JTI)** by means of the establishment of an **Innovative Medicines Initiative Joint Undertaking (IMI JU)**.

4.5 In accordance with the Commission's aims, the establishment of an Innovative Medicines Initiative Joint Undertaking is expected to facilitate the involvement of stakeholders who are not currently able to carry out costly and complex research programmes (universities, SMEs, hospitals, public authorities, etc.).

4.6 The IMI JU will be founded as a joint undertaking, its founder members being the European Community represented by the Commission and the EFPIA (European Federation of Pharmaceutical Industries and Associations), and set up as a Community body by a Council Regulation under Treaty Article 171. The Member States and the countries involved in the 7th Framework Programme will be able to join it, as will any legal entity involved in R&D, provided that it makes a financial contribution.

4.7 This programme will benefit from a budget of EUR 2 billion, to be invested over a period of seven years, split equally between the Commission (resources from the 7th Framework Programme in accordance with the provisions of Article 54 of Council Regulation 1605/2002) and the businesses that belong to the EFPIA, who will provide most of the staff, equipment, consumables, etc.

4.8 The IMI JU will support research activities conducted in the Member States and in the countries associated with FP7. The entire Community contribution of one billion euro will be set aside for small and medium-sized enterprises and universities for applied pharmaceutical research. The participating large enterprises will invest an equal sum by bearing the costs of their part of the research and by involving SMEs and universities in this.

⁽²⁾ INT/369.

⁽³⁾ INT/364.

⁽⁴⁾ INT/370.

4.9 The IMI joint undertaking is to be considered as an international body with a legal personality within the meaning of Article 2 of Directive 2004/17/EEC and Article 15 of Directive 2004/18/EEC. Its seat will be in Brussels and its activities will cease in December 2017. This period may be extended by the Council.

5. General comments

5.1 The pharmaceutical industry is quite rightly considered, in the report entitled *Creating an innovative Europe*, as a key strategic sector, and its products are crucial to the health and well-being of European citizens. In essence, the effective and proper use of pharmaceutical products helps to improve quality of life.

5.2 The pharmaceutical industry also provides a lot of jobs in Europe. In 2004, this sector employed 612 000 people, 103 000 of whom were highly skilled in scientific research.

Role of the IMI JU

5.3 The main justification for the establishment of the IMI JU is the need to address Europe's decline in the area of pharmaceutical research and to reverse this trend, which was already observed in the Commission Communication dated 1 July 2003 entitled *A Stronger European-based Pharmaceutical Industry for the Benefit of the Patient — A Call for Action*.

5.4 To achieve this, changes in the traditional methods of bilateral cooperation are necessary. A new approach at European level is now needed, bringing about direct cooperation between universities, relevant SMEs, public bodies and the pharmaceutical industry in connection with the financial provisions set out in the 7th Framework Programme.

5.5 The key aspects on which the role of the IMI JU should be focused are as follows:

- improving the prediction of the safety and the efficacy of new drugs, especially in the early development phases before clinical trials begin;
- tackling the waste of resources caused by the current duplication of research efforts, both in the private and public sector, through the use of jointly developed knowledge management systems;
- bridging skills gaps by providing training to ensure that the skills of professionals match those required by the pharmaceutical research sector;
- providing a focal point for developing the required synergies by enabling cooperation between research initiated by the IMI JU and national and European activities, thus contributing to the establishment of the European Research Area in this sector.

6. Specific comments

6.1 The EESC is pleased to note the wide-ranging consultation that preceded the drafting of this regulation and supports the implementation of appropriate training programmes aimed at providing the necessary skills in a sector that is crucial to the European economy and to citizens' quality of life.

6.2 As stated under point 4.2, JTIs arise out of the work of the former European Technology Platforms (ETPs). However, these latter rarely achieved their stated aim of strategically relaunching research in Europe. The creation of JTIs is based on this acknowledgement of partial failure regarding the role of the ETPs, which was essentially to make a key contribution to industry in the area of competitiveness.

6.2.1 In the light of this, the EESC regrets the absence from the Commission proposal of a more detailed outline of the work previously carried out by the European Technology Platforms (ETPs); there is no assessment, the results are not mentioned, and there are no bibliographical references.

6.2.2 For this reason, with regard to the JTIs, the EESC welcomes the proposal that an annual report, giving an assessment of the results and progress achieved, be submitted.

6.3 That said, the EESC welcomes the creation of the joint undertaking for the innovative medicines initiative. In general terms, it has the necessary features for relaunching pharmaceutical research in Europe thanks to a genuine partnership

between the public and private sectors. This initiative is consistent with the aims of the Lisbon strategy, which provides for the investment of 3 % of GDP in R&D activities, two-thirds of which are to come from the private sector.

6.3.1 However, in the light of the multiple financing system that has been set up and of the significant volume of Community resources involved, the EESC believes that it would be appropriate to better define the use and allocation of the end products of the research in question. To this end, the issue of patents and intellectual property as defined in the regulation and its appendix, which limits itself to setting out principles, ought to be more precise and more explicit, lest it become a sticking point in the smooth implementation of the IMI JI.

6.3.2 Most of the large pharmaceutical companies that operate in Europe have a global dimension. Here too, because of the significant Community funding, it would be appropriate to think about mechanisms that promote a return on European investment. From this perspective, whilst taking care not to create barriers to the use of innovative medicines in non-EU countries, the regulation could contain provisions for all of the phases of research and the production of molecules based on such research to take place within the EU. Similarly, it would be desirable for these same provisions to state that the profits generated by research funded by the IMI JI should be assigned to investments located within the EU.

Brussels, 24 October 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 Regulation on the establishment of the “ARTEMIS Joint Undertaking” to implement a Joint Technology Initiative in Embedded Computing Systems’

COM(2007) 243 final — 2007/0088 (CNS)

(2008/C 44/03)

On 11 June 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2007. The rapporteur was Mr Dantin.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 127 votes to two, with three abstentions.

1. Conclusions and recommendations

1.1 The EESC broadly supports the Commission's strategy. It believes that relaunching investment in R&D is an appropriate way of giving European businesses a stable frame of reference by means of a new instrument that makes it possible to overcome the current fragmentation of Community financing and avoids a wide range of thinly-spread programmes that made it almost impossible to evaluate results.

1.2 The EESC welcomes the proposal that an annual report on ARTEMIS' results be produced. However, the Committee regrets the absence of a detailed assessment of the operation and the results achieved by the former European Technology Platforms.

1.3 The EESC considers that the ARTEMIS joint undertaking, which is based on a public-private partnership, represents a strong basis for the creation of a European research area and a major contribution to the competitiveness of European businesses.

1.4 In supporting the proposal under consideration, the EESC stresses the importance of the innovative strategy that is being proposed in terms of investments, pooling the resources of the EU, businesses, different Member States, and participating R&D bodies.

1.5 In the light of this innovative collaborative structure, which may become complicated when it comes to using the products of the research to be carried out, the EESC welcomes the importance and the detail accorded to intellectual property in Article 24 of the joint undertaking's statutes.

1.6 Finally, the Committee considers the following to be necessary:

- a genuine simplification of procedures, not least because of the negative impact that red tape had on previous R&D programmes;

- an information programme aimed at encouraging the necessary funding to be released;

- the establishment of appropriate vocational training programmes to ensure that the skills of workers match the jobs created by ARTEMIS, with the aim of creating the necessary conditions for providing the industrial leadership in this strategic sector.

2. Introduction

2.1 The purpose of the proposed Council Regulation under review is to launch the very first public-private partnerships in the area of R&D. It defines one of the first two Joint Technology Initiatives (JTI). This involves embedded computing systems ⁽¹⁾.

2.2 The general aim of JTIs is to allow industry, research organisations, Member States and the Commission to pool some or all of their resources into selected research programmes.

2.3 Unlike the traditional strategy, which involves providing public funding for projects on a case-by-case basis, JTIs involve large-scale research programmes with shared strategic research goals. This new approach is expected to create a critical mass for European research and innovation, consolidate the scientific community in key strategic areas, and harmonise the funding of projects so that research findings can be put to use more quickly.

2.4 This proposal provides the legal framework establishing ARTEMIS, the JTI on embedded computing systems.

⁽¹⁾ The other JTI involves innovative medicines. This is covered by opinion INT/363.

2.5 The ARTEMIS JTI involves invisible computers (integrated systems) that make numerous machines work, from cars and planes to phones, and from energy networks to various domestic appliances such as washing machines, televisions, etc.

2.6 Forecasts suggest that there will be more than 16 billion integrated processors in the world by 2010, and more than 40 billion by 2020. In 2010, this unseen hardware and software will represent 30 to 40 % of the value of new products: in consumer electronics (41 %), telecommunications (37 %), cars (36 %) and healthcare equipment (33 %).

2.7 The ARTEMIS budget dedicated to research will total EUR 2,7 billion over seven years. 60 % of this is to come from industry, EUR 410 million from the Commission, and EUR 800 million from Member State programmes.

3. Background

3.1 Information and communication technologies (ICT) are of fundamental economic and social importance and play a key role in the implementation of the revised Lisbon strategy, which emphasises that knowledge and innovation in the EU help to stimulate growth and jobs.

3.2 At global level, whilst total R&D expenditure is expected to rise by around 170 % over the next ten years, that on embedded systems is expected to increase by 225 %, thus rising from EUR 58 billion in 2002 to EUR 132 billion in 2015 ⁽²⁾.

3.3 In the EU, R&D on ICT represents about 18 % of total R&D expenditure, whereas the figure in the United States is 34 % and in Japan, 35 % ⁽³⁾. Expenditure per inhabitant is around EUR 80, whereas the figure is EUR 350 in the United States and EUR 400 in Japan. Research into embedded systems is a major part of ICT research. In Europe, it represents EUR 380 million of public funds and more than 50 % of businesses' budget for research into information and communication technologies.

3.4 If the EU is to continue to be a player in this sector with great development potential, the EU must increase its investment in this strategic area and make better use of it, rather than relying on a research structure that fragments effort and leads to duplication. EU businesses do not currently have a framework to facilitate the development of the necessary technologies and enabling standards.

3.4.1 In general terms, progress is held back by a lack of coordination of businesses' R&D goals, duplication, and sub-optimal use of limited research funding.

⁽²⁾ Software Intensive Systems in the Future, IDATE/TNO, 2005.

⁽³⁾ Commission Communication *i2010 — An information society for growth and jobs*, European Commission, 2005.

3.4.2 The Commission proposal seeks to change this environment.

4. The Commission's proposal

4.1 The decision on the establishment of the ARTEMIS Joint Undertaking set out in COM(2007) 243 final is based on Decision 1982/2006/EEC on the 7th Framework Programme, which provides for a Community contribution towards the establishment of long-term public-private partnerships at European level in the area of scientific research.

4.2 These partnerships take the form of Joint Technology Initiatives (JTI) and arise from the work of the former European Technology Platforms (ETP).

4.3 The Commission, in its Decision No 971/2006/EEC on the Specific Programme 'Cooperation' ⁽⁴⁾, emphasised the need to set up public-private partnerships and identified six areas in which the creation of joint technology initiatives is appropriate with a view to relaunching European research. These are:

- Hydrogen cells and fuel cells
- Aeronautics and air transport ⁽⁵⁾
- Innovative medicines ⁽⁶⁾
- Embedded computing systems
- Nanoelectronics ⁽⁷⁾
- GMES (global monitoring for environment and security).

4.4 Within the context of this general strategy, the regulation contained in proposal COM(2007) 243 under review provides for the implementation of a Council Regulation on the establishment of the ARTEMIS Joint Undertaking to implement a Joint Technology Initiative in embedded computing systems.

4.5 The choice of an undertaking addressing the key theme of the 'embedding of intelligence' is part of a strategic area including the automotive sector, domestic appliances, communications equipment, control systems and office equipment.

4.6 In these sectors, it is expected that the already considerable importance of embedded systems for controlling appliances will increase significantly over the next five years: embedded systems' share of the value of finished goods is expected to reach between 35 and 40 %, and their total number is expected to be 16 billion in 2010 and more than 40 billion in 2020.

⁽⁴⁾ OJ L 400, 30.12.2006, p. 1.

⁽⁵⁾ INT/369.

⁽⁶⁾ INT/363.

⁽⁷⁾ INT/370.

4.7 The main reason for setting up a JTI is the desire to create a European research and development programme that will help the European economy to become a world leader in embedded computing systems, which are essential innovations in key sectors for the competitiveness and the development of European businesses.

4.8 The role of an initiative such as ARTEMIS is, according to the Commission, essential to avoid a repeat of what has happened to the European personal computing and internet sector, where production moved away from Europe (to the United States, Japan, and elsewhere) precisely because of the lack of investment in research and innovation.

4.9 The establishment of an ARTEMIS JTI follows a wide-ranging consultation of the relevant stakeholders and a series of major initiatives and conferences at Community level. The aims and objectives of this initiative have been subjected to the prior scrutiny of academia and business, which have brought their expertise in the area of embedded systems to bear on the proposal. The Member States have recognised that the Community level is the only one capable of meeting the challenges of the future.

4.10 Legal basis

The proposal consists of a Council Regulation with the statutes of the joint undertaking in an appendix. It is based in Article 171 of the Treaty. The joint undertaking is to be a Community body, and although its budget falls under Article 185 of Council Regulation 1605/2002, it will have to take account of the specifics of this initiative in that it involves public-private partnerships with a large private-sector contribution at least equal to that of the public sector.

4.11 Composition

The founder-members of the joint technology initiative (JTI) are to be the European Community, represented by the Commission, the Member States who have announced their intention to participate in the JTI, and ARTEMISIA (an association representing a large number of companies from the relevant sector and other R&D organisations). The statutes set out a list of bodies that can subsequently become members of the ARTEMIS Joint Undertaking, *inter alia* the countries associated with FP7 that are not EU members, and any other legal entity able to make a contribution to the goals of the ARTEMIS joint undertaking.

4.12 Funding

The operating costs of the ARTEMIS Joint Undertaking set out in Article 4 are to be borne by the following contributions:

- a financial contribution from ARTEMISIA of up to EUR 20 million or up to 1 % of the overall costs of projects, but not exceeding EUR 30 million;
- a financial contribution from the Community of up to EUR 10 million;
- in-kind contributions from ARTEMIS Member States.

The R&D activities for the period ending on 31 December 2017 shall be supported by the following contributions:

- a financial contribution from the Community of up to EUR 410 million;
- contributions from ARTEMIS Member States, paid directly to research and development organisations participating in R&D projects;
- in-kind contributions from research and development organisations.

4.12.1 For the period ending on 31 December 2013, the Commission's maximum contribution is to be EUR 420 million. These funds are to be provided from the Specific Programme 'Cooperation' implementing the Seventh Framework Programme for research and technological development, according to the provisions of Article 54(2) of Council Regulation No 1605/2002. In 2008, 42,5 million are to be committed.

4.12.2 This considerable investment is justified by the fact that the future results of ARTEMIS in the areas concerned will also be important benchmarks for Community policy across the board, *inter alia* regarding the environment, transport, energy and the internal market. They will also make a tangible contribution to the achievement of the Lisbon competitiveness goals and the Barcelona goals as regards research expenditure. The proposed initiative is part of an ambitious Community strategy which includes, among other things, the proposal to create a European Institute of Technology (EIT).

4.13 Intellectual Property

ARTEMIS is to adopt rules governing the dissemination of research results which ensure that, where appropriate, intellectual property generated in R&D activities is protected, and that research results are used and disseminated. Article 24 of the undertaking's statutes sets out this principle in more detail.

4.14 According to the Commission, the establishment of the ARTEMIS Joint Undertaking will offer the Community the following objective benefits:

- Integration of national efforts by pursuing common objectives identified at European level, which will help to build a European Research Area in embedded computing systems
- More flexible use of Member States' resources

- Leverage effect of the Community's financial contribution on R&D effort (national and private)
- High programme efficiency and elimination of the weaknesses of previous programmes
- Economic efficiency by reducing the time-to-project
- Improvement of the EU's economic competitiveness thanks to shorter time-to-market for research results.

5. General comments

5.1 The EESC broadly supports the Commission's strategy. It believes that relaunching investment in R&D is an appropriate way of giving European businesses a stable frame of reference by means of a new instrument that makes it possible to overcome the current fragmentation of Community financing and avoids a wide range of thinly-spread programmes that made it almost impossible to evaluate results.

5.2 However, as stated under point 4.2, JTIs arise out of the work of the former European Technology Platforms (ETPs). However, these latter rarely achieved their stated aim of strategically relaunching research in Europe, not least because the stakeholders were insufficiently empowered. The creation of JTIs is based on this acknowledgement of partial failure regarding the role of the ETPs, which was essentially to make a key contribution to industry in the area of competitiveness.

5.2.1 In the light of this, the EESC regrets the absence from the Commission proposal of a more detailed outline of the work previously carried out by the European Technology Platforms (ETPs): there is no assessment, the results are not mentioned, and there are no bibliographical references.

5.2.2 For this reason, with regard to the JTIs, the EESC welcomes the proposal that an annual report, giving an assessment of the results and progress achieved, be submitted.

5.3 The EESC considers that the ARTEMIS joint undertaking, which is based on a public-private partnership, represents a strong basis for the creation of a European research area and a key contribution to the competitiveness of European businesses.

5.4 The future availability of increasingly intelligent systems could make a significant contribution to the production of ever more secure products, whilst at the same time stimulating the

provision of high-level training and qualifications and, by extension, the creation and development of jobs.

5.5 In giving a favourable opinion on the proposal under review, the EESC would first of all like to highlight the importance of the innovative strategy that is proposed with regard to investment.

5.5.1 For the first time involving research and development programmes, resources are to be made available not only by the Community and businesses — which is unusual — represented by ARTEMISIA, but also by the various Member States and participating research organisations.

5.5.2 In the light of this innovative collaborative structure, which may become complicated when it comes to using the products of the research to be carried out, the EESC welcomes the importance and the detail accorded to intellectual property in Article 24 of the joint undertaking's statutes.

5.6 However, to achieve its aims and to maximise the potential that this new instrument offers, the EESC considers the following to be necessary:

- a genuine simplification of procedures at every stage of the various R&D activities, from the selection of activities to the distribution of results, by giving ARTEMIS the main responsibility for these tasks. The administrative complexity and the uncertainty over funding and institutional references were some of the causes of the past failures of previous R&D programmes;
- a wide-ranging information programme on the opportunities provided by the ARTEMIS undertaking, *inter alia* on its ability to mobilise the necessary economic resources in the light of the new forms of financing;
- the establishment of appropriate vocational training programmes to create a highly-skilled workforce with the knowledge needed for the R&D supported by ARTEMIS, which will be highly strategic for the EU's industrial future. These high-level qualifications will provide the technical skills needed for the R&D jobs that will be created, will serve to slow the brain drain, and will provide one of the necessary conditions for providing the industrial leadership in these strategic sectors for the European Union.

Brussels, 24 October 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 Regulation setting up the Clean Sky Joint Undertaking'

COM(2007) 315 final — 2007/0118 (CNS)

(2008/C 44/04)

On 11 July 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

On 10 July 2007, the Bureau of the European Economic and Social Committee decided to ask the Section for the Single Market, Production and Consumption to carry out the work on the subject.

In view of the urgency of the matter, at its 439th plenary session held on 24 and 25 October 2007 (meeting of 25 October), the European Economic and Social Committee appointed Mr Dantin as its rapporteur-general and adopted the following opinion by 97 votes in favour, with three abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the decision on setting up the Clean Sky Joint Undertaking. It considers that this approach to relaunching investment in R&D by means of public/private financing has the potential to give European businesses a stable frame of reference and making it possible to overcome the current fragmentation of Community financing and coordinate research, which is often too widely dispersed, thereby helping to make it more effective.

1.2 It welcomes the choice of this sector, which, at the same time as tying in with the Lisbon strategy, gives a new impetus to a technically innovative industry which generates large numbers of highly skilled jobs, and also contributes to much-needed progress in terms of environmental protection.

1.3 In welcoming the proposal under discussion, the EESC wishes firstly to emphasise the importance for the EU of the proposed strategy in terms of promoting investment and coordinating research. In so doing, the Committee feels that the strategy strongly supports the creation of a European research area and significantly contributes to the competitiveness of European businesses in the sector.

1.4 However, in view of the multiplicity of sources of funding, the number of stakeholders, and the substantial Community resources involved, it is clear that the use and ownership of the final products of the research should be better defined, particularly with regard to intellectual property rights and patents.

1.5 Finally, the Committee's feels that the following measures are necessary:

- genuine simplification of procedures, particularly in view of the negative impact of red tape on the previous R&D programmes. As these procedures are currently being worked out, the Committee will pay close attention to the

need to enable all parties to participate in the choice of objectives and analysis of final results;

- an information campaign to help mobilise the requisite economic resources;
- the establishment of appropriate vocational training programmes to ensure that the skills of workers match the jobs created by Clean Sky, with the aim of creating the necessary conditions for providing industrial leadership in this strategic sector.

2. Introduction

2.1 The purpose of the proposed Council Regulation is to launch one of the very first public-private partnerships in the area of R&D. It defines one of the first Joint Technology Initiatives (JTIs). This initiative is the field of aeronautics and air transport and is entitled 'CLEAN SKY'.

2.2 The general aim of JTIs is to allow industry, research organisations, Member States and the Commission to pool some or all of their resources into selected research programmes.

2.3 Unlike the traditional strategy, which involves providing public funding for projects on a case-by-case basis, JTIs involve large-scale research programmes with shared strategic research goals. This new approach is expected to create a critical mass for European research and innovation, consolidate the scientific community in key strategic areas, and harmonise the funding of projects so that research findings can be put to use more quickly. JTIs are aimed at key areas where the current instruments have neither the scale nor the speed to keep Europe ahead of global competition. These are areas where national, European and private funding of research could bring significant added value, inter alia by stimulating an increase in private R&D expenditure.

2.4 The main purpose of the JTI in the field of aeronautics and air transport, known as 'Clean Sky', is to speed up the development of clean air transport technologies in the EU so that they can be brought into operation as quickly as possible. In addition to the requirement of maintaining the sector's competitiveness, these technologies should also help to achieve strategic European environmental and social priorities, in combination with sustainable economic growth.

3. Context and general considerations

3.1 Given that air traffic is forecast to double over the next twenty years, and that the development of an environment-friendly transport system for both passengers and freight is an essential element in ensuring European economic and social growth, the programme is necessary and justified.

3.2 The decision to act at European level seems appropriate, given that action by stakeholders at Member State level is not so well supported in terms of economic resources and scientific know-how.

3.3 It is crucial for Member States to participate directly, both in order to mobilise financing and because numerous decisions will continue to be taken at national level, with regard both to calls for participation in programmes, ongoing monitoring of all phases of programmes and evaluation of results.

3.4 The aeronautical sector will soon be facing major challenges, such as the environmental impact, which could hold back its development.

3.5 Limiting the impact of aviation on climate change and reducing noise pollution are absolute priorities. In view of this, achieving the reductions envisaged by Community legislation requires major technological changes to be implemented in the near future. (In its Strategic Research Agenda, the European Technology Platform for Aeronautics — ACARE — has set the objectives for 2020 of reducing CO₂ emissions by 50 %, NO_x emissions by 80 % and noise pollution by 50 %).

3.6 The European aeronautics industry, which currently provides three million jobs in Europe, is also facing fierce competition as a result of the public investment carried out in other geographical areas, and the United States in particular, where the resources allocated to research in this sector are three times higher than those currently available in Europe.

3.7 Public investment is also important given that the sector is characterised by a slow return on investment, with potential scope for market failure on account of lack of investment in aeronautical R&D.

3.8 The choice of aeronautics and air transport in the Specific Programme 'Cooperation' (cf. point 4.3) is motivated by a concern to improve the health and quality of life of present and future generations by reducing the environmental impact of aircraft, improving air quality at local level and limiting noise in areas surrounding airports, as well as improving travelling conditions for passengers.

4. The Commission's proposal

4.1 The proposed Regulation setting up the Clean Sky Joint Undertaking [COM(2007) 315] arises out of the provisions of the 7th Framework Programme (FP7) covered by Decision 1982/2006/EEC. This provides for a Community contribution towards the establishment of long-term public-private partnerships at European level in the area of research.

4.2 These partnerships take the form of Joint Technology Initiatives (JTI) and arise from the work of the former European Technology Platforms (ETP).

4.3 The Council, in its Decision No 971/2006/EEC on the Specific Programme 'Cooperation', emphasised the need to set up public-private partnerships and identified six areas in which the creation of joint technology initiatives is appropriate with a view to relaunching European research. These are:

— Hydrogen cells and fuel cells;

— **Aeronautics and air transport;**

— Innovative medicines ⁽¹⁾;

— Embedded computing systems ⁽²⁾;

— Nanoelectronics ⁽³⁾;

— GMES (global monitoring for environment and security).

4.4 In the context of this general strategy, the Regulation proposed in COM(2007) 315 final provides for the implementation of the Joint Technology Initiative (JTI) on aeronautics and air transport by means of setting up a Clean Sky Joint Undertaking.

4.5 The objectives of the Clean Sky Joint Undertaking are explained clearly and in detail in Article 3 of the Statutes set out in the Annex to the Regulation under discussion. These objectives cover a wide and ambitious range of activities, summarised in Article 3 of the Regulation:

— accelerating in the EU the development of clean Air Transport technologies for earliest possible deployment;

⁽¹⁾ CESE 1184/2007 (INT/363).

⁽²⁾ CESE 1185/2007 (INT/364).

⁽³⁾ R/CESE 1199/2007 (INT/370).

- creating a radically innovative Air Transport System based on advanced technologies, with the target of reducing the environmental impact of air transport through reduction of noise and gaseous emissions, and improvement of the fuel economy of aircraft.

4.5.1 Clean Sky therefore ensures integration and coordination of various research activities while tapping into economies of scale. It will be developed around six technological fields referred to as Integrated Technology Demonstrators (ITDs), namely:

- smart fixed wing aircraft;
- green regional aircraft;
- green rotorcraft;
- green and sustainable engine;
- systems for green operations;
- eco-design.

The technological objectives for each ITD have already been set.

4.6 The Clean Sky joint undertaking is to be considered as an international body with a legal personality within the meaning of Article 22 of Directive 2004/17/EC and Article 15 of Directive 2004/18/EC. Its seat will be in Brussels and its activities will cease in December 2017, unless extended by Council decision.

4.7 Legal basis

4.7.1 The proposal consists of a Council Regulation with the statutes of the joint undertaking in an annex. It is based on Article 171 of the Treaty. The joint undertaking is to be a Community body, and although its budget falls under Article 185 of Council Regulation 1605/2002, it will have to take account of the specifics of this initiative in that it involves public-private partnerships with a large private-sector contribution at least equal to that of the public sector.

4.8 Members

The following are to be founding members of the Clean Sky Joint Undertaking:

- the European Community represented by the Commission;
- 12 ITD leaders and up to 74 Associates, subject to the membership rules set out in Article 2 of the Statutes in the Annex to the Regulation under discussion;
- any public or private entity established in a Member State or in a country associated to the Seventh Framework Programme may apply to become a member of the joint

undertaking, provided that: as ITD Leaders, they commit themselves to contribute resources proportional to and consistent with the overall JTI activities; as Associates, their commitment is proportional to the budget of the ITD they participate in and consistent with the ITD requirements.

4.9 Sources of financing

4.9.1 The running cost of the Clean Sky Joint Undertaking are to be shared equally in cash between on the one hand the European Community, and on the other hand the rest of the Members, each side contributing 50 %.

4.9.2 The maximum Community contribution to the Clean Sky Joint Undertaking covering running costs and research activities is EUR 800 million, paid from the budget appropriation allocated to the Theme 'Transport' of the Specific Programme 'Cooperation' implementing the Seventh Framework Programme according to the provisions of Article 54 of Council Regulation No 1605/2002.

5. General and specific comments

5.1 The Committee welcomes the decision on setting up the Clean Sky Joint Undertaking arising out of the provisions of the 7th Framework Programme. It believes that relaunching investment in R&D is an appropriate way of giving European businesses a stable frame of reference in the form of a new instrument that makes it possible to overcome the current fragmentation of Community financing and avoids a wide range of thinly-spread programmes that made it almost impossible to evaluate results.

5.2 The initiative is consistent with EU policies and objectives and ties in with the approach set out in the Lisbon strategy with its emphasis on knowledge and innovation in the Community supporting growth and employment. It includes measures relating to the EU Emission Trading Scheme (ETS) and should be conducive to major progress in implementing the Strategic Research Agenda of ACARE on the environment.

5.3 The EESC considers that the Clean Sky undertaking, which like the other JTIs arising from the Seventh Framework Programme is based on a public-private partnership, provides a solid basis for the creation of a European research area and a major contribution to the competitiveness of European businesses.

5.4 In welcoming the proposal under discussion, the EESC must firstly underline the importance for the EU of the strategy being proposed for investment and coordination of research.

5.5 However, in the light of the multiple financing system that has been set up and of the significant volume of Community resources involved, the EESC believes that it would be appropriate to better define the use and allocation of the end products of the research in question. To this end, the issue of patents and intellectual property as defined in Article 20 of the regulation, which limits itself to setting out principles, ought to be more precise and more explicit, lest it become a sticking point in the implementation and running of the Clean Sky JTI.

5.6 However, to achieve its aims and to maximise the potential that this new instrument offers, the EESC considers the following to be necessary:

- a genuine simplification of procedures at every stage of the various R&D activities, from the selection of activities to the distribution of results, by giving Clean Sky the main responsibility for these tasks. Administrative complexity and the uncertainty over funding and institutional references were

some of the causes of the past failures of previous R&D programmes;

- a wide-ranging information programme on the opportunities provided by the Clean Sky undertaking, inter alia on its ability to mobilise the necessary economic resources in the light of the new forms of financing;
- the establishment of appropriate vocational training programmes to create a highly-skilled workforce with the knowledge needed for the R&D supported by Clean Sky, which will be highly strategic for the EU's industrial future. These high-level qualifications will provide the technical skills needed for the R&D jobs that will be created, will serve to slow the brain drain, and will provide one of the necessary conditions for ensuring leadership in these sectors, which are of strategic importance from both an industrial and an environmental perspective.

Brussels, 25 October 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 Regulation setting up the ENIAC Joint Undertaking'

COM(2007) 356 *final* — 2007/0089 (CNS)

(2008/C 44/05)

On 10 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

On 10 July 2007, the Bureau of the European Economic and Social Committee decided to ask the Section for the Single Market, Production and Consumption to carry out the work on the subject.

In view of the urgency of the matter, at its 439th plenary session held on 24 and 25 October 2007 (meeting of 25 October), the European Economic and Social Committee appointed Mr Dantin as its rapporteur-general and adopted the following opinion by 106 votes in favour, with one abstention.

1. Conclusions and recommendations

1.1 The Committee welcomes the decision on setting up the ENIAC joint undertaking ⁽¹⁾.

1.1.1 It considers that this approach to relaunching investment in R&D by means of public/private financing has the potential to give European businesses a stable frame of reference

and making it possible to overcome the current fragmentation of Community financing and coordinate research, which is often too widely dispersed, thereby helping to make it more effective.

1.2 It welcomes the choice of this sector. This is a technically innovative branch of industry, with strong potential for the future and as a source of highly skilled jobs, and developing it will directly contribute to achieving the Lisbon objectives on competitiveness and the Barcelona objectives on percentage of GDP allocated to research, and also to other Community policies, for example on the environment, transport, energy and health.

⁽¹⁾ ENIAC = European Nanoelectronic Initiative Advisory Council. ENIAC was also the first computer manufactured using electronic components (1945-1946).

1.3 In welcoming the proposal under discussion, the EESC wishes firstly to underline the importance for the EU of the strategy being proposed for investment and coordination of research. In so doing, the Committee feels that the strategy strongly supports the creation of a European research area and significantly contributes to the competitiveness of European businesses in the sector.

1.4 In the light of this innovative collaborative structure, which may become complicated when it comes to using the products of the research to be carried out by ENIAC and their industrial application phase, the EESC appreciates the attention which has been paid to intellectual property rules.

1.5 The Committee is pleased to note that particular attention has been paid to the risk of nanoelectronic manufacturing relocating to other parts of the world. The EESC supports the idea of a specialised sectoral approach.

1.6 Finally, to maximise the potential that this new instrument offers, the EESC considers the following to be necessary:

- a genuine simplification of procedures, not least because of the negative impact that red tape had on previous R&D programmes. As these procedures are currently being worked out, the Committee will pay close attention to the need to enable all parties to participate in the choice of objectives and analysis of final results;
- an information campaign to help mobilise the requisite economic resources;
- the establishment of appropriate vocational training programmes to ensure that the skills of workers match the jobs created by ENIAC, with the aim of creating the necessary conditions for providing industrial leadership in this strategic sector.

2. Introduction

2.1 The purpose of the proposed Regulation is to launch one of the very first public-private partnerships in the area of R&D. It defines one of the first Joint Technology Initiatives (JTI). This initiative is the field of nanotechnologies and is entitled ENIAC.

2.2 The general aim of JTIs is to allow industry, Member States and the Commission to pool some or all of their resources into selected research programmes.

2.3 Unlike the traditional strategy, which involves providing public funding for projects on a case-by-case basis, JTIs involve large-scale research programmes with shared strategic research

goals. This new approach is expected to create a critical mass for European research and innovation, consolidate the scientific community in key strategic areas, and harmonise the funding of projects so that research findings can be put to use more quickly. JTIs are aimed at key areas where the current instruments have neither the scale nor the speed to keep Europe ahead of global competition. These are areas where national, European and private funding of research could bring significant added value, inter alia by stimulating an increase in private R&D expenditure.

2.4 The main purpose of the JTI in the field of nanoelectronics, known as ENIAC, is to contribute to the development of key competences for nanoelectronics in order to strengthen European competitiveness. To this end, the proposal under review lays down the legal framework establishing ENIAC.

3. Context and general considerations

3.1 With constant growth in the numbers of electronic components in innovative hi-tech products, the nanotechnology sector is of strategic importance for European competitiveness and industrial growth.

3.2 This sector produces equipment which is essential for major industries in a wide variety of fields such as telecommunications, consumer products, multimedia services, education, transport, healthcare, security and the environment.

3.3 An average annual growth rate of 15 % is forecast for the market for the industrial nanotechnology sector (which apart from direct manufacturers also comprises suppliers of manufacturing instruments and materials). In order to maintain such a high growth rate, close attention needs to be paid to the sector.

3.4 A Community-wide initiative must therefore seek to preserve and strengthen global leadership in the relevant sectors, by means of R&D programmes that can achieve the necessary objectives for industrial exploitation, at the same time as pursuing more ambitious technological objectives, aiming for increased competitiveness, and creating highly skilled new jobs.

3.5 The choice of a public-private joint undertaking should make it possible to substantially improve the quality of R&D in the sector. This is vital to overcome the current fragmentation of research programmes in the various Member States which are unable to reach critical mass and lack the necessary resources to fund appropriate programmes.

3.6 The choice of a European dimension appears to be essential, given that it is the only option for meeting the major challenges facing the nanotechnology sector.

3.7 In addition, reaffirming the Community dimension should enable simpler administration and less red tape, with a single Community procedure replacing various national procedures and reducing the time needed to obtain a R&D contract compared to the current situation at Community level (see EUREKA); this would also avoid differences between evaluation and monitoring procedures.

3.8 Setting up a public-private undertaking which directly involves Member States and companies from the relevant sectors is an innovative step compared to the current procedures for participating in Community R&D programmes. Besides, the considerable financial resources which the programmes proposes to allocate at Community level will enable critical economic mass to be achieved, which is essential if the ambitious objectives set by the programme are to be achieved.

3.9 The participation of Member States and companies, and their direct involvement by means of contributing at least of 50 % of research-linked expenditure, will have a multiplier effect in the form of an impetus for new financing and a strong contribution to the development of a European research area.

3.10 It is essential for Member States to participate directly, not only in order to mobilise investment but also — and mainly — because decisions will continue to be taken at national level, for example on calls for proposals and ongoing direct monitoring of all phases of the process.

3.11 Direct participation by industry is also essential in that the results of this ambitious R&D programme could help to achieve important and relevant objectives relating to the competitiveness of European industry in the sector, and consequently have a beneficial impact on employment in the sector.

4. Coherence

4.1 The starting point for research programmes is the Seventh Framework Programme (FP7). This programme is based on a strong awareness that relaunching investment in R&D is vital for a competitive and dynamic economy.

4.2 Setting up a ENIAC JTI joint undertaking will directly contribute to achieving the Lisbon objectives on competitiveness

and the Barcelona objectives on research expenditure. It will contribute indirectly to other Community policies, e.g. on the environment, transport, energy and health.

4.3 The main frame of reference underpinning the ENIAC JTI is provided by 'Nanosciences and nanotechnologies: an action plan for Europe 2005-2009' [COM(2005) 243 final] and the work of the Scientific Committee on Emerging and Newly Identified Health Risks (SCENHIR).

5. The Commission's proposal

5.1 The decision on the establishment of the ENIAC joint undertaking described in COM(2007) 356 final is based on Decision 1982/2006/EEC on the 7th Framework Programme, which provides for a Community contribution towards the establishment of long-term public-private partnerships at European level in the area of scientific research.

5.2 These partnerships take the form of Joint Technology Initiatives (JTI) and arise from the work of the former European Technology Platforms (ETP).

5.3 The Commission, in its Decision No 971/2006/EEC on the Specific Programme 'Cooperation' ⁽²⁾, emphasised the need to set up public-private partnerships and identified six areas in which the creation of joint technology initiatives is appropriate with a view to relaunching European research. These are:

- Hydrogen cells and fuel cells;
- Aeronautics and air transport ⁽³⁾;
- Innovative medicines ⁽⁴⁾;
- Embedded computing systems ⁽⁵⁾;
- **Nanoelectronics**;
- GMES (global monitoring for environment and security).

5.4 In the context of this general strategy, the Regulation proposed in COM(2007) 356 final provides for the setting up of an ENIAC joint undertaking in the field of nanoelectronics.

5.5 The ENIAC joint undertaking is to be considered as an international body with a legal personality within the meaning of Article 22 of Directive 2004/17/EC and Article 15 of Directive 2004/18/EC. Its seat will be in Brussels and its activities will cease in December 2017, unless extended by Council decision.

⁽²⁾ OJ L 400, 30.12.2006, p. 1.

⁽³⁾ INT/369.

⁽⁴⁾ INT/363.

⁽⁵⁾ INT/364.

5.6 Legal basis

The proposal consists of a Council Regulation with the statutes of the joint undertaking in an annex. It is based on Article 171 of the Treaty. The joint undertaking is to be a Community body, and although its budget falls under Article 185 of Council Regulation 1605/2002, it will have to take account of the specifics of this initiative in that it involves public-private partnerships with a large private-sector contribution equal to that of the public sector.

5.7 Membership

The founder members of the joint technology initiative (ENIAC JTI) are to be the European Community, represented by the Commission, and AENEAS, an association representing companies and other R&D organisations. The statutes set out a list of bodies that can subsequently become members of the ENIAC joint undertaking, inter alia the countries associated with FP7 that are not EU members, and any other legal entity able to make a contribution to the goals of the ENIAC joint undertaking.

5.8 Funding

5.8.1 The operating costs of the ENIAC joint undertaking set out in Article 4 are to be borne by the following contributions:

- a financial contribution from ENIAC of up to EUR 20 million or up to 1 % of the overall costs of projects, but not exceeding EUR 30 million per year;
- a financial contribution from the Community of up to EUR 10 million;
- in-kind contributions from ENIAC Member States.

The R&D activities of the ENIAC joint undertaking for the period ending on 31 December 2017 are to be supported by the following contributions:

- a financial contribution from the Community of up to EUR 440 million;
- financial contributions from ENIAC Member States amounting in total to at least 1,8 times the Community's financial contribution;
- in-kind contributions by R&D organisations participating in projects, the total of which is to be equal to or greater than the contribution of public authorities.

5.8.2 For the period ending on 31 December 2013, the Commission's maximum contribution is to be EUR 450 million. These funds are to be provided from the Specific Programme 'Cooperation' implementing the Seventh Framework Programme for research and technological development, according to the provisions of Article 54(2) of Council Regulation No 1605/2002.

5.9 Objectives

According to the Commission, setting up the ENIAC joint undertaking is intended to achieve the following objectives:

- to define and implement a 'Research Agenda' for the development of key competences for nanoelectronics in order to strengthen the competitiveness and sustainability of European businesses, and allow the emergence of new markets;
- to support the implementation of R&D activities by awarding funding to participants in selected projects;
- to promote a public-private partnership aimed at mobilising and pooling Community, national and private efforts, and fostering collaboration between the public and private sectors;
- to ensure the efficiency and durability of the joint technology initiative on nanoelectronics;
- to achieve synergy and coordination of European R&D efforts including the progressive integration in the ENIAC joint undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (Eureka).

6. General and specific comments

6.1 The Committee welcomes the decision on setting up the ENIAC joint undertaking and the accompanying draft regulation. In welcoming the proposal under discussion, the EESC wishes firstly to underline the importance for the EU of the strategy being proposed for investment and coordination of research.

6.2 As the Committee has already stated in its opinions on other regulations arising from Council decision 971/2006/EEC on the Specific Programme 'Cooperation', it believes that relaunching investment in R&D is an appropriate way of giving European businesses a stable frame of reference that makes it possible to overcome the current fragmentation of Community financing and avoids a wide range of thinly-spread programmes.

6.3 The initiative is consistent with EU policies and objectives and ties in with the approach set out in the Lisbon strategy with its emphasis on knowledge and innovation in the Community supporting growth and employment. Nanotechnology plays a vital role in that it has become a driver for innovation in numerous sectors of strategic importance for EU development and growth (mobile communications, transport, computing, automating manufacture, healthcare, etc.). The joint undertaking could be a tool enabling Europe to maintain or even enhance its

capacity to design and manufacture products complying with its own standards on quality, sustainability and environmental protection. Setting up such an undertaking provides a solid basis for the creation of a European research area and a major contribution to the competitiveness of European businesses.

6.4 The Committee is pleased to note that, in the impact analysis accompanying the draft regulation on this JTI, particular attention has been paid to the risk of nanoelectronic manufacturing relocating to other parts of the world. This is important in that such manufacture offers strong added value in terms of generating growth and employment at the same time as earning a partial return on the funds which the EU proposes to invest in developing this sector. In view of this the EESC supports the idea of a specialised sectoral approach to support this key industry.

6.5 In the light of this innovative collaborative structure, which may become complicated when it comes to using the products of the research to be carried out by ENIAC and their industrial application phase, the EESC appreciates the attention which has been paid to the definition of intellectual property rules set out in Article 23 of the Statute. At the same time, it is pleased that the action plan relating to the regulation pays close attention to health and safety issues.

Brussels, 25 October 2007.

6.6 To achieve the aims of the joint undertaking and to maximise the potential that this new instrument offers, the Committee considers the following to be necessary:

- a genuine simplification of procedures at every stage of the various R&D activities, from the selection of activities to the distribution of results, by giving ENIAC the main responsibility for these tasks. Administrative complexity and the uncertainty over funding and institutional references were some of the causes of the past failures of previous R&D programmes;
- a wide-ranging information programme on the opportunities provided by the ENIAC undertaking, inter alia on its ability to mobilise the necessary economic resources in the light of the new forms of financing;
- the establishment of appropriate vocational training programmes to create a highly-skilled workforce with the knowledge needed for the R&D supported by ENIAC, which will be highly strategic for the EU's industrial future. These high-level qualifications will provide the technical skills needed for the R&D jobs that will be created, will serve to slow the brain drain, and will provide one of the necessary conditions for ensuring industrial leadership in these strategic sectors for the European Union.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange'

COM(2007) 303 final — 2007/0113 (COD)

(2008/C 44/06)

On 28 June 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2007. The rapporteur was **Mr Pegado Liz**.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 129 votes to three, with one abstention.

1. Gist of the opinion

1.1 Following up its opinions on the Green Paper on the Community *acquis* ⁽¹⁾ and on the Commission communication on the implementation of the directive on distance contracts ⁽²⁾, the EESC supports the Commission's initiative to carry out a revision of Directive 94/47/EC ⁽³⁾ of 26 October 1994 in the form proposed, taking on board the Committee's comments and recommendations ⁽⁴⁾.

1.2 The EESC broadly agrees with the thrust of the Commission proposal as regards extending the directive's scope, defining and clarifying the nature of new products, strengthening requirements for pre-contractual and contractual information, standardising the withdrawal period and prohibiting any payment, for any reason whatsoever, during this period.

1.3 The Committee welcomes the light-handed approach of this proposal, giving Member States the option of taking further steps to protect consumers, in line with the principles set out in the Treaty. The EESC considers, however, that according to the Commission's own rationale, as expressed in its Green Paper on the Review of the Community *Acquis*, if any area justifies maximum harmonisation, it is precisely this one, because of the unique nature of the right in question and because of the major discrepancies at national level in the design and specific characteristics of its multifaceted legal nature, which has extremely divergent consequences in the different national legal systems, specifically as regards the minimum and maximum duration and the annulment, invalidation, termination or cancellation of contracts.

⁽¹⁾ OJ C 256, 27.10.2007, rapporteur: Mr Adams.

⁽²⁾ OJ C 175, 27.7.2007, rapporteur: Mr Pegado Liz.

⁽³⁾ Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (OJ L 280, 29.10.1994, p. 83) — EESC opinion: OJ C 108, 19.4.1993, p. 1.

⁽⁴⁾ Proposal for a Directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange, COM(2007) 303 final, 7.6.2007.

1.4 The Committee, therefore, regrets that although the Commission acknowledges that most of the problems occurring in this sector are frequently cross-border in nature and consequently cannot be solved properly by Member States on their own, due to the differences in national legislation, it ultimately does no more than address a limited number of aspects relating to these rights. Once again, an entire range of situations is left to the discretion of the Member States and this does almost nothing to remedy the problems listed in the proposal.

1.5 Furthermore, although the EESC agrees with the adoption of a system of 'minimum harmonisation', it considers, in line with other Community institutions ⁽⁵⁾, that the bar for measures protecting consumers' rights has been set too low. Experience shows that the vast majority of Member States have not made use of this clause and have on the contrary, adopted a literal approach ⁽⁶⁾. Consequently, an appropriate level of consumer protection has not been achieved and the EESC thus calls on the Commission, with due respect for the principle of subsidiarity, to regulate other, equally important aspects in the proposal, taking as its premise a higher level of consumer protection.

1.6 The Committee therefore suggests that improvements be made to a number of provisions concerning the legal system applying to the rights in question, the content of the main contract and its relationship with complementary contracts, specifically for non-linked credit, in order to enhance and guarantee adequate consumer protection.

⁽⁵⁾ The 1999 Report on the Application of Directive 94/47/EC of the European Parliament and Council of 26 October 1994, SEC(1999) 1795 final, and the 2002 European Parliament report in RR\470922EN.doc, EP 298.410.

⁽⁶⁾ Denmark, Finland, the Netherlands, Ireland, Italy, Luxembourg, Sweden, Germany and Austria.

1.7 As in previous opinions ⁽⁷⁾, the EESC also wishes to highlight the importance of providing contracting parties — particularly less well-informed consumers — with proper information. The EESC thus considers that it would be useful not to exclude the possibility of Member States adopting proportionate and dissuasive criminal sanctions for practices that seriously infringe the rights set out in the directive, the basic features of which would have to be properly detailed.

1.8 The Committee urges the Commission to carry out a detailed analysis of the responses it received to its Consultation Paper ⁽⁸⁾, in particular as regards the Member States consulted through this document that were not covered in the report ⁽⁹⁾ on the application of the directive, which covered only 15 Member States. The Commission should also scrutinise the Comparative Analysis, which covers 25 Member States ⁽¹⁰⁾, focusing on the differences between the Member States.

1.9 Specifically, the EESC proposes a range of amendments ⁽¹¹⁾ and puts forward a number of recommendations aimed at improving legal aspects of the proposal and at consolidating and harmonising ideas, concepts or practices already contained in other directives, specifically in the Unfair Commercial Practices Directive ⁽¹²⁾. These need to be taken into account in order to promote consumer security and confidence in this type of contract, which is so often underpinned by aggressive marketing and sales campaigns ⁽¹³⁾.

2. Gist of the Proposal for a Directive

2.1 The Commission proposes a revision of Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis. The proposal follows the Council conclusions of 13 April 2000 on its report on the application of the directive ⁽¹⁴⁾ and the recommendations

⁽⁷⁾ Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the implementation of Directive 1997/7/EC of the European Parliament and of the Council of 20 May 1997 on the Protection of Consumers in respect of Distance Contracts (OJ C 175, 27.7.2007).

⁽⁸⁾ Consultation Paper Review of the Timeshare Directive, in ec.europa.eu/consumers/cons_int/safe_shop/timeshare/consultation_paper_010606_en-doc_.

⁽⁹⁾ Report on the Application of Directive 94/47/EC of the European Parliament and Council of 26 October 1994, SEC(1999) 1795 final.

⁽¹⁰⁾ 'Comparative Analysis D. Timeshare Directive' (94/47) drafted by Hans Schulte-Noke, Andreas Borge and Sandra Fischer in Consumer Law Compendium.

⁽¹¹⁾ In particular, Articles 2(1)(g), 3(2) and (4), 4(1), (2) and (3), 5(1), (5) and (6), 8 and 9, and Annex I(1), Annex III(f) and Annex IV(d).

⁽¹²⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') OJ L 149, 11.6.2005, p. 22. EESC opinion: OJ C 108, 30.4.2004, p. 81.

⁽¹³⁾ As, in fact, was stated both in the EESC opinion on the proposal for a Council Directive concerning the protection of purchasers in contracts relating to the utilization of immovable property on a timeshare basis, rapporteur: Manuel Atáide Ferreira (OJ C 108, 19.4.1993, p. 1), and in the EESC opinion on the Community Action Plan to assist Tourism, rapporteur: L. Cunha, Co-rapporteur G. Frandi (OJ C 49, 24.2.1992).

⁽¹⁴⁾ SEC(1999) 1795 final.

made by the European Parliament in its resolution of 4 July 2002 ⁽¹⁵⁾.

2.2 Since the Commission Communication on Consumer Policy Strategy for 2002-2006 ⁽¹⁶⁾, a revision of this directive has been planned and forms part of what is known as the 'consumer *acquis communautaire*', set out in the Green Paper on the matter ⁽¹⁷⁾.

2.3 Turning to situations causing problems for the directive's application, the Commission considers that market developments in the sector have brought a considerable number of new products which, whilst involving the use of holiday accommodation, do not fall within the directive's scope.

2.4 The report drawn up by the Commission in 1999 on the Application of Directive 94/47/EC of the European Parliament and Council ⁽¹⁸⁾, already highlighted countless shortcomings in the directive's transposal, and its conclusions were adopted by the Council in April 2000 ⁽¹⁹⁾, setting out a range of factors that should be taken into account in any revision of the directive.

2.5 The 2001 opinion of the European Parliament's Committee on the Environment, Public Health and Consumer Policy ⁽²⁰⁾ also highlighted the 'lowest acceptable level of consumer protection measures' set out in the directive.

2.6 In turn, the European Parliament's resolution of 4 July 2002 recommended that the Commission adopt measures to guarantee a high level of consumer protection.

2.7 For these reasons, the Commission considers that revising this directive on its own is an 'urgent matter', and even a 'priority' due to the 'problems faced by consumers, in particular in relation to resale and the new products', which are 'similarly marketed and economically broadly similar to timeshare', such as 'holiday discount clubs and ... resale contracts'.

⁽¹⁵⁾ European Parliament resolution on the monitoring of Community policy on the protection of purchasers of the right to use immovable properties on a timeshare basis (Directive 94/47/EC) (doc. P5_TA(2002)0369, OJ C 271 E, 12.11.2003, p. 578).

⁽¹⁶⁾ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — Consumer Policy Strategy 2002-2006 [COM(2002) 0208 final], (OJ C 137, 8.6.2002, p. 2). EESC opinion: OJ C 95, 23.4.2003, p. 1.

⁽¹⁷⁾ COM(2006) 744 final. EESC opinion: OJ C 256, 27.10.2007.

⁽¹⁸⁾ SEC(1999) 1795 final.

⁽¹⁹⁾ Consumers Affairs Council, Luxembourg, 13 April 2000.

⁽²⁰⁾ EP 298.410 RR|470922EN.doc.

2.8 Amongst the main justifications for this, the Commission highlights the need to update the requirements for pre-contractual and contractual information, to standardise arrangements for banning deposits or advance payments during the withdrawal period, to harmonise the withdrawal period and to consider the possibility of introducing criminal sanctions.

2.9 The main parties concerned were consulted at meetings held between 2004 and 2006.

2.10 Having received a number of timeshare-related complaints, in particular concerning new products such as holiday clubs, discount tourist contracts and exchange and resale contracts, the Commission then published a consultation paper⁽²¹⁾. These issues were also discussed at the meeting of the standing working group of Member States' experts on the Review of the *Acquis*, in March 2006.

2.11 The proposed revision is included in the Commission programme for modernising and simplifying the Community *acquis*⁽²²⁾.

2.12 The Commission considers that the legal basis for this proposal should remain confined to Article 95 of the Treaty (completion of the internal market) and that, in line with the principle of subsidiarity, it should not comment on the legal nature of timeshare rights, respecting the Member States' different views on the matter.

2.13 The Commission emphasises the cross-border aspects of the problem, and in fact considers that 'The [...] majority of consumer complaints are of a cross-border nature'. However, it only targets those aspects it considers to be 'most problematic, and hence necessitating Community action', leaving all other aspects to national legislation. Indeed, it has removed any reference to the rights to cancel or terminate a contract (which were covered by Directive 94/47/EC), even when these are linked to the right of withdrawal.

3. Main comments on the proposal

3.1 General

3.1.1 The EESC welcomes the Commission initiative but notes its tardiness, given that the problems were detected as long ago as 1999 and thus solutions to them could have been found some considerable time ago.

⁽²¹⁾ Consultation Paper Review of the Timeshare Directive, in ec.europa.eu/consumers/cons_int/safe_shop/timeshare/consultation_paper_010606_en.doc.

⁽²²⁾ COM(2006) 629 final.

3.1.2 The EESC also wishes to point out that some of the issues referred to in this document were already raised in its opinion of 24 February 1993⁽²³⁾ when the directive was being drawn up.

3.1.3 The Committee considers that the legal basis should be Article 153 of the Treaty rather than Article 95, because this is not a matter that concerns the single market alone; it is also an issue of consumer protection.

3.1.4 The EESC agrees with extending the scope of the proposal to cover certain movable properties, in order to address the constant new developments in the market effectively.

3.1.5 The Committee endorses the proposal's amendments to existing definitions⁽²⁴⁾, because they are more appropriate to the new products now being marketed in this sector.

3.1.6 The EESC supports the retention of the ban on any payment or type of deposit, because this ban is an effective means of enabling consumers to exercise their right to withdraw from a contract, without any economic pressure being exerted on them. It also considers that extending the provisions to third parties will satisfactorily cover exchange and resale contracts.

3.1.7 The Committee welcomes extension of the cooling-off period to 14 days, thus standardising deadlines for this process, although it would prefer this deadline to be counted in working days rather than calendar days, as it has stated in earlier opinions⁽²⁵⁾. It is worth pointing out that when the Council adopted Directive 97/7/EC, it issued a statement calling on the Commission to look into the possibility of harmonising the methods for calculating the cooling-off period contained in the consumer protection directives.

3.1.8 As stated in earlier opinions⁽²⁶⁾, and without prejudice to the third paragraph of Article 1 of the proposal, the EESC considers it crucial that the Commission provide a more detailed definition of the nature, limitations and effects of the rights of withdrawal, termination and cancellation. Otherwise, the sought-after approximation of legislation will not be achieved because each Member State will adopt its own regulations, with inevitable detrimental consequences for developing cross-border relations.

⁽²³⁾ OJ C 108, 19.4.1993, p. 1.

⁽²⁴⁾ Amending 'purchaser' to 'consumer'.

⁽²⁵⁾ OJ C 175, 27.7.2007, rapporteur: Mr Pegado Liz, on the Protection of Consumers in respect of Distance Contracts.

⁽²⁶⁾ See previous footnote.

3.1.9 As the aim of this directive is to approximate national legislation on this type of right, the EESC considers that, in contrast with recital 4 of the proposal and despite the differences that exist between the different countries, the Commission should go further, by determining the legal nature ⁽²⁷⁾ of these rights, in other words, whether they are real rights (*in rem*) or credit-related rights. Otherwise, this proposal will not help to solve the problems detected. It should thus set down the basic requirements for complying with the right and, in particular, if it takes the form of a real right (*in rem*), the inevitable consequences for registration.

3.1.9.1 The EESC therefore calls on the Commission to establish a definition of the legal nature of timeshare rights, whether these take the form of a real right (*in rem*) or a right relating to a personal obligation (the right to a service), with the inevitable consequences for the applicable principles of the Brussels Regulation and the Rome I Regulation. Unless this is done, the much-desired harmonisation and the confidence of consumers and traders will not be attained. In fact, in its opinion referred to above ⁽²⁸⁾, the EESC has already contributed to this definition by stating that the timeshare contract 'is a real right (*in rem*) or a personal right (*in personam*). It is not a tenancy right, since tenancy rights do not entail a transfer. The transferred right applies to an undivided item — an undivided apartment — and takes on (or can take on) the nature of a real property right'.

3.1.10 Without prejudice to the legal form taken by this right, which could be 'sui generis' — or indeed, for this very reason — the EESC agrees with the proposal's identification of some of its key aspects: the coverage of both movable and immovable property, together with the right to use accommodation (implying an overnight stay), against payment of a 'consideration', for a minimum duration of one year.

3.1.11 In addition to the products already listed in Article 2, the Committee calls on the Commission to lay down a clause (containing a definition of key aspects) to facilitate adaptation to any product that might in future ⁽²⁹⁾ be placed on the market after the entry into force of the directive and which cannot meet the requirements set out in these definitions of new products.

3.1.12 The EESC considers that the possibility of consumers having to reimburse or pay any sum for having exercised the right of withdrawal in due time clearly undermines this right,

⁽²⁷⁾ Ruling of Portugal's Supreme Court of Justice, 4.3.2004.

⁽²⁸⁾ EESC opinion on Directive 94/47/EC, rapporteur: Mr Ataíde Ferreira (OJ C 108, 19.4.1993, p. 1).

⁽²⁹⁾ As in the case of Portuguese law, for example (Art. 45(3) of Decree-Law 180/99 of 22/05) which states that: 'the tourist accommodation rights referred to in the previous article specifically include the rights of obligation set out in contracts for holiday discount cards and clubs and tourist or other similar cards'.

which is based on the idea that the consumer does not have to give any reason or pay any amount whatsoever. Articles 5(5) and 5(6) of the proposal should thus be deleted.

3.1.13 The Committee draws the Commission's attention to the reference made to the recently adopted Unfair Commercial Practices Directive ⁽³⁰⁾, with which it agrees. The Committee points out, however, that Articles 14 and 15 of that directive make no reference to the directive currently in force and nor is any such reference provided for in the proposal now under consideration.

3.1.14 Although it agrees with the principle of minimum harmonisation, the EESC considers that the proposed directive is more restrictive than the one currently in force, in that whilst providing for the possibility that Member States can adopt measures affording greater protection to consumers' rights, it only does so for the right of withdrawal (concerning the starting point, modalities and effect of exercising this right). Article 11 of the directive in force ⁽³¹⁾, however, enables this option to be used more widely. The EESC thus calls on the Commission to retain a similar provision.

3.1.15 The Committee considers that the Commission should provide for an effective system of sanctions, aimed not only at deterring practices that infringe the obligations set out in the directive, but also for reasons of legal certainty and security ⁽³²⁾. The Committee supports the possibility that, within the framework previously defined by the Commission ⁽³³⁾, the Member States and not the Commission might introduce criminal sanctions that are proportionate but sufficient to deter particularly serious abusive practices.

3.1.16 The EESC agrees with the inclusion of a regular review clause — absent from the current directive — to prevent it from rapidly becoming obsolete.

3.1.17 Although cases have been brought against some Member States ⁽³⁴⁾ for having transposed some of the directive's provisions incorrectly, the EESC is surprised to note the Commission's failure to act, in particular as regards non-compliance with the deadline for transposing the directive (30 April 1997). Only two Member States ⁽³⁵⁾ met this deadline. The Committee thus calls on the Commission, where the new directive is concerned, to be less easy-going on such flagrant breaches in the implementation of Community law.

⁽³⁰⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 (OJ L 149, 11.6.2005, p. 22. EESC opinion: OJ C 108, 30.4.2004, p. 81).

⁽³¹⁾ Article 11 of Directive 94/47/EC — 'This Directive shall not prevent Member States from adopting or maintaining provisions which are more favourable as regards the protection of purchasers in the field in question, without prejudice to their obligations under the Treaty.'

⁽³²⁾ The 1999 report on the application of Directive 94/47/EC observed an extremely varied range of sanctions in the different Member States for breaching the same obligation, including financial penalties, the contract being rendered null and void, extension of the cooling-off period, suspension of activity and attendant publicity, etc.

⁽³³⁾ OJ C 256, 27.10.2007 and Draft Opinion CESE 867/2007 fin, the rapporteur for both of which is Mr Retureau, on criminal measures in the field of intellectual property and the environment.

⁽³⁴⁾ Spain, Sweden, Luxembourg and Ireland.

⁽³⁵⁾ The United Kingdom and the Federal Republic of Germany.

3.2 *Specific comments*

3.2.1 The EESC considers that the definition given in Article 2(1)(g), tying in with the provisions of Article 7, is too restrictive, because what characterises the ancillary nature of contracts is the complementarity between them. It is therefore complementarity rather than subordination that should be considered, because most contracts with linked credit in particular are extrinsic combinations of contracts which, due to their legal nature, are legally separate and as such do not fit the definition now being proposed.

3.2.2 The Committee disagrees with the wording of Article 3(2), in particular as regards written information, which will only be given to a consumer 'requesting' it and 'where applicable'. As this article concerns pre-contractual information, on the basis of which a consumer will form his or her decision to sign the contract, the EESC considers that the provision of such written information should be compulsory, and urges the Commission to include this stipulation.

3.2.3 The Committee calls on the Commission to replace Articles 3(4) and 4(1) and paragraphs (l) of Annex I, (f) of Annex III and d) of Annex IV with provisions similar to those contained in Article 4 of the current directive⁽³⁶⁾, which affords greater protection to consumers. Not only does it make the provision of information in the language of the consumer's Member State compulsory; it also requires a certified translation into the language of the Member State in which the property is located, specifically for issues relating to any registration requirements.

3.2.3.1 In fact, the EESC can foresee the widespread adoption by traders of standard contracts in which consumers are restricted to confirming the language selected, without any freedom to assert their choice or to negotiate; this could seriously harm their economic interests.

3.2.4 The Committee calls on the Commission to amend the wording of Article 4(2), specifically by deleting the phrase 'unless the parties expressly agree otherwise', given that this is significant information that should not be left to the discretion of the parties concerned. Past experience has shown that the inclusion of this phrase will cause traders unilaterally to propose standard contracts which the consumer has no choice but to accept.

3.2.4.1 For reasons of legal certainty and security, the EESC also considers that the Commission should clarify/standardise

⁽³⁶⁾ Which states that:

'The Member States shall make provision in their legislation to ensure that:

— [...] the contract and the document referred to in Article 3(1) are drawn up in the language or one of the languages of the Member State in which the purchaser is resident or in the language or one of the languages of the Member State of which he is national, [...] at the purchaser's option. The Member State in which the purchaser is resident may, however, require that the contract be drawn up in all cases in at least its language or language [...]

— and — the vendor provides the purchaser with a certified translation of the contract in the language or one of the languages of the Member State in which the immovable property is situated.'

the type of 'circumstances beyond the trader's control' that will form an integral part of the contract under the terms of Article 4(2).

3.2.4.2 Also concerning this article, the Committee urges the Commission to lay down the method of communicating this information, which should be provided in an appropriate, objective and clear manner⁽³⁷⁾, and should also be printed in letters of a size that makes the text easy to read⁽³⁸⁾.

3.2.5 The Committee suggests that the Commission clarify the phrase 'the trader shall explicitly draw the consumer's attention' in Article 4(3), because its specific legal meaning is unclear.

3.2.6 If Article 5(1) is to be understood as providing for two periods for exercising the right of withdrawal, then the EESC calls on the Commission to lay down only one provision giving the consumer the right to withdraw up to 14 days after signing the final contract, if this has been preceded by an earlier binding contract, provided that the property has not been used in the meantime.

3.2.7 As it has in previous opinions, the Committee urges the Commission to define the nature of the communication informing of the right of withdrawal, so as to ensure that both parties have proof that the information has been conveyed. In fact, the wording used in the current directive is more appropriate⁽³⁹⁾.

3.2.8 The EESC considers that the heading of Article 8 should be replaced by the phrase 'mandatory nature of the rights' given that the purpose of this article is not to establish the imperative nature of the directive but to ensure that those rights are not excluded or restricted, irrespective of which legislation applies.

3.2.9 As regards judicial and administrative redress, the Committee considers the provisions contained in Articles 11 and 12 of the Unfair Commercial Practices Directive⁽⁴⁰⁾ to be more appropriate, because they are more wide-ranging and comprehensive. The Committee therefore calls on the Commission to replace Article 9 of its proposal with rules similar to those.

⁽³⁷⁾ As stated, for example, in Article 8 of the Portuguese Law on Consumer Protection.

⁽³⁸⁾ As stated, for example, in the Ruling of the Lisbon Court of Appeal, 3.5.2001.

⁽³⁹⁾ 'by a means which can be proved'.

⁽⁴⁰⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 (OJ L 149, 11.6.2005, p. 22. EESC opinion, OJ C 108, 30.4.2004, p. 81).

3.2.10 The EESC wishes to draw the Commission's attention to the wording of the various language versions of its proposal because there are matters that require more careful translation ⁽⁴¹⁾.

4. Issues not covered by the proposal

4.1 The EESC considers that, in addition to the omissions already referred to above, the proposal overlooks other issues that might warrant consideration in a revision of the directive.

This applies specifically to:

- a) the system of burden of proof;
- b) preventing the risk of non-compliance or limited compliance with the contract;
- c) establishing a restriction on the use of timeshare (accommodation) contracts to buildings and parts of buildings used for tourist or leisure activities ⁽⁴²⁾, thus contributing to higher quality and avoiding the misuse of such contracts in the property sector;
- d) establishing rules on licensing and authorisation to operate in this sector, with applicants having to prove their technical and financial capacity;

- e) establishing a system of financial guarantees to safeguard against potential insolvency or bankruptcy, as in other Community instruments ⁽⁴³⁾, and not only in relation to immovable property under construction;
- f) establishing a system of prior registration in the country in which the business is marketed and/or in the Member State in which the company's head office is located ⁽⁴⁴⁾;
- g) establishing a European-level system of certification for traders in this field and at the same time ensuring the existence of an early-warning system between Member States, aimed at reporting infringements that could result in loss of certification and at informing consumers ⁽⁴⁵⁾;
- h) establishing in the Annexes the requirement to provide information on any charges and obligations, to prevent consumers from losing their right, for example, in the event of foreclosure of a mortgage ⁽⁴⁶⁾;
- i) establishing in Annex II consumers' right to inspect a property, should this be an immovable property, in order to ensure that it complies with the building plans;
- j) establishing the protection of personal data when the rights are transferred to third parties.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁴¹⁾ In the Portuguese version, this applies to Article 2(b), which is meaningless, to Annex I(j), which says exactly the opposite of what it should say and to Article 7(1), in which the word 'dissolvido' should be replaced by 'resolvido', for obvious reasons, both in the interests of legal accuracy and to be consistent with the heading.

⁽⁴²⁾ See the EESC opinion on Directive 94/47/EC, OJ C 108, 19.4.1993, p. 1.

⁽⁴³⁾ Directive 90/314/EEC of the Council, of 13 June 1990, on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59). EESC opinion: OJ C 102, 24.4.1989, p. 27.

⁽⁴⁴⁾ EESC opinion on Directive 94/47/EC, OJ C 108, 19.4.1993, p. 1.

⁽⁴⁵⁾ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006, on services in the internal market (OJ L 376, 27.12.2006, p. 36). EESC opinion: OJ C 221, 8.9.2005, p. 113.

⁽⁴⁶⁾ EESC opinion on Directive 94/47/EC, OJ C 108, 19.4.1993, p. 1.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on non-automatic weighing instruments' (Codified version)

COM(2007) 446 *final* — 2007/0164 (COD)

(2008/C 44/07)

On 5 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 439th plenary session of 24 and 25 October 2007 (meeting of 24 October), by 153 votes in favour with 2 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 24 October 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 rear registration plate lamps for motor vehicles and their trailers' (Codified version)

COM(2007) 451 *final* — 2007/0162 (COD)

(2008/C 44/08)

On 5 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 439th plenary session of 24 and 25 October 2007 (meeting of 24 October), by 144 votes to 1 with 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 24 October 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 the suppression of radio interference produced by agricultural or forestry tractors (electromagnetic compatibility)' (Codified version)

COM(2007) 462 *final* — 2007/0166 (COD)

(2008/C 44/09)

On 5 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 439th plenary session of 24 and 25 October 2007 (meeting of 24 October), by 153 votes to 1 with 8 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 24 October 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 Biofuels Progress Report Report on the progress made in the use of biofuels and other renewable fuels in the Member States of the European Union'

COM(2006) 845 *final*

(2008/C 44/10)

On 10 January 2007 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 September 2007. The rapporteur was Mr Iozia.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 142 votes to 13 with eight abstentions.

1. Conclusions and recommendations

1.1 The Committee takes issues relating to energy efficiency, climate change and reducing greenhouse gas emissions very seriously, and in general agrees with the conclusions of the Spring European Council of 8 and 9 March, drawing attention to the three pillars of the Energy Policy for Europe:

— increasing security of supply;

— ensuring the competitiveness of European economies and the availability of affordable energy;

— promoting environmental sustainability and combating climate change.

1.2 In its Biofuels Progress Report, the Commission points out that without mandatory objectives, it will be impossible to achieve a satisfactory level of biofuels use. It argues that the target of a 5,75 % market share by 2010 is not realistic and that

consequently, in order to meet the requirements laid down by the Council, an objective of 10 % by 2020 — considered by the Commission to be achievable — should be set, using the possibility offered by Article 4(2) of Directive 2003/30/EC, known as the 'review clause'. Strangely enough, the Commission points to the benefits of a scenario in which use of biofuels stands at 14 %, although the declared objective is 10 % — the communication indulges in a display of window-dressing, suggesting unrealistic results.

1.3 The use of first-generation biofuels, however, entails many difficulties, and they do not fully meet European aims. The production costs are high, as are the environmental costs, they take cereals away from human and animal consumption and, as argued by the FAO, they are in part responsible for increasing cereal prices on world markets.

1.4 The use of biofuels therefore raises ethical issues, such as food-fuel competition, which the Commission seems to minimise. The Committee underlines the need for closer cooperation with global institutions and agencies working in the sphere of agriculture and food, such as the FAO and the WFP (World Food Programme).

1.5 Neither the Commission document nor the attached impact study mention some serious difficulties.

Particular attention should be given to the following problems concerning biodiesel:

- limited productivity,
- high cost (EUR 0,4-0,7/L),
- stability problems (presence of oxygenated groups), resulting in storage problems.

Ethanol, in turn, is affected by the following problems:

- limited productivity (albeit less than for biodiesel),
- high consumption of water and fertilisers,
- unsuitability for transit through existing pipelines for oil-based fuels (corrosion problems).

1.6 The Committee emphasises the need for the social, environmental and economic impact of the development of biofuels, together with the related technical issues, to be carefully assessed. The specific question arises of the biofuel yield from raw materials: 1 tonne of beet yields some 400 litres of bioethanol (approximately 1 500 Mcal). Given the energy required to convert biomass into biofuel, this ratio appears uneconomic and inefficient. It would be far more efficient to use biomass directly to produce electrical energy or heating, or for maritime or urban public transport.

1.7 The Committee points out that, from a strictly environmental point of view, thought needs to be given to risks of

deforestation and those arising from the storage of raw materials. The related biological and biochemical issues must be clearly and carefully examined.

1.8 The Committee would also raise an issue of 'scientific ethics'. Planet Earth is an open system, inexorably declining towards a point of equilibrium which will signal its end. It is the responsibility of scientists to slow this downward trend, and it is the responsibility of politics to facilitate the necessary work and studies.

1.9 The Committee recommends that a serious analysis be carried out to find out if the chemical processes of combustion involving molecules other than hydrocarbons may cause the formation and development of free radicals responsible for oxidative stress, which is considered to be a pathological state preliminary to more serious illnesses. This recommendation is justified by the lack of data available in this area.

1.10 The Committee considers special care and protection of the soil to be essential. It must be protected, as it protects us. The progressive contraction and deterioration of the water-bearing strata is caused by misguided exploitation policies and impoverishment of the soil. Crop rotation should be guaranteed in order to facilitate soil recovery.

1.11 The Committee urges the Commission and all the European institutions to focus closely on water consumption in the production of biofuels. Among the many harmful effects of climate change, shrinking water resources may reach crisis proportions in some regions. Recent IWMI studies have calculated that a minimum of 1 000 litres, and possibly as much as 4 000 litres of water are needed to produce one litre of biofuel, depending on the type of product and the area of production.

1.12 Apart from these concerns, which could be alleviated if monitoring and certification measures were to be adopted covering biofuels production methods, in part by means of product traceability, the Committee believes that further support should be given to research and development of second- and even third-generation biofuels such as biobutanol. Biobutanol has low vapour pressure and shows tolerance to water contamination in petrol blends, facilitating its use in existing petrol resupply and distribution channels. Biobutanol can be mixed with petrol in higher concentrations than existing biofuels, with no need to modify vehicles. Furthermore, it offers higher fuel economies than petrol-ethanol blends, thus improving energy efficiency and reducing consumption per litre. The new generation fuels provide high energy yields and low environmental costs by using refuse and biochemistry to facilitate natural processes for breaking down cellulose, which are complex and costly.

1.13 The Committee also believes that the development of biofuels could provide the European economy with opportunities, and thereby help to achieve the objectives of the Lisbon agenda. The 7th Framework Programme specifically provides for this type of action, but better synergies are needed between the various stakeholders: farm producers and the processing industry, but also environmental and local area conservation associations, and workers' organisations, who have a growing interest in combining sustainable development with ever-more advanced models for corporate social responsibility.

1.14 The opportunities that the farming sector detects in the development of biofuels should be encouraged, insofar as farmers also undertake to help protect primary environmental assets and safeguard shared resources, such as water and food for human and animal consumption. It is the task of farmers' associations to keep rural communities informed about any rules devised by the international community to govern the production and sale of biofuels. The dissemination of certification, traceability and conformity control practices are all topics on which the various agricultural organisations are expected to offer vital input, both at European level and nationally and locally. The Committee is willing to cooperate with national ESCs — which have previously expressed a lively interest, and are providing input for some of the Committee's own opinions — in this area and in others regarding energy efficiency, reducing greenhouse gas emissions and climate change.

1.15 On the question of tax treatment, it is clear that the range of candidates for public assistance is endless — especially as regards duties on biofuels and assistance for farmers, for the car industry in sustaining the necessary research expenditure, for consumers regarding the work required on vehicles not designed to use biofuels, and for biofuel manufacturers. Germany has recently cut its tax incentives significantly, triggering an immediate fall in consumption, and equally prompt protests from industry. Investment requires certainty and stability, but the biofuels markets are still virtually non-existent. Any aid granted, however, must not serve to distort competition.

1.16 The transport sector, for its part, is not subject to the emissions quotas system. The Committee suggests that the Commission examine the possibility of extending the emissions certificates system to transport, as they may provide a further spur to enhance efficiency in the search for new solutions to reduce harmful emissions. The Committee is preparing a working hypothesis in a specific exploratory opinion, requested by Commission vice-president Barrot.

1.17 The Committee agrees with the EP resolution on a strategy for biomass and biofuels, which calls on the Commis-

sion to introduce a mandatory and comprehensive certification scheme allowing the sustainable production of biofuels at all stages, and to support the development and use of the Global Monitoring for Environment and Security (GMES) system to monitor land use in the production of bioethanol so as to prevent the destruction of rainforests and other negative impacts on the environment.

1.18 In view of the problems identified in this opinion, the Committee urges the Commission to keep the 10 % target under continuing review, and to be ready to bring forward proposals to modify it if the problems cannot be resolved in a satisfactory and sustainable way.

2. The Commission communication

2.1 The Commission introduces its *Report on the progress made in the use of biofuels* by emphasising the fact that, for the 2005-2020 period, an increase in greenhouse gas emissions (in this case only CO₂) of 77 million tonnes per annum is expected in the transport sector alone, accounting for more than 60 % of the total increase in emissions, which is expected to reach 126 million tonnes per annum.

2.2 Another key factor highlighted is transport's almost complete dependence on oil imports, which is the energy source presenting the most acute security of supply challenge. Such dependence would diminish if the use of biofuels were to increase significantly.

2.3 The benefits of developing biofuels in terms of reduced greenhouse gases will not be felt if, for example, existing crops are converted or land rich in biodiversity (such as rainforest) is used.

2.4 The market share of biofuels was 0,3 % in 2001, and only five Member States had any experience in their use. While not laying down any obligations, Directive 2003/30/EC set a target for 2010 of a 5,75 % share of the market for petrol and diesel in transport, with an interim target of 2 % for 2005.

2.5 Article 4(2) of the directive contains a review clause enabling the Commission to submit proposals for mandatory national targets in the event of significant and unjustified slippage with respect to the 2 % target.

2.6 The Common Agricultural Policy has a key role to play, especially since the 2003 reform. By decoupling the payments made to farmers from the crops produced, the reform has allowed set-aside land to be switched to non-food crops, frequently for the production of biofuels.

2.7 A premium for 'energy crops' will be paid in 2007, combined with policies to promote the production of wood energy and support for renewable energies under rural development policy ⁽¹⁾.

2.8 The use of biofuels has grown significantly, but only two Member States reached the targets set, the overall result being 1 % in 2005 — 1,6 % for biodiesel and 0,4 % for ethanol. On this basis, the Commission concludes that the 5,75 % target for 2010 will not be achieved.

2.9 Experience shows that positive results have been achieved through both tax incentive policies, with no limits on the amounts eligible, and by obliging suppliers to put a specified percentage of biofuels on the market. The Commission considers that obligations represent the most effective approach.

2.10 The Commission states in its communication that: 'There is a pressing need for the Union to send a clear signal of its determination to reduce its dependence on oil use in transport'. It views biofuels as the only practical means of insuring against high oil prices.

2.11 This signal must be in the form of legally binding targets if it is to carry any weight with the oil producers, who sell 300 million tonnes of oil on the EU market in the transport sector alone.

2.12 The strategy most likely to succeed is to promote joint research and technological development in the 27 Member States. A 10 % market share by 2020 would be a realistic target.

2.13 A clear legal framework, with the minimum administrative burden, setting intermediate objectives — e.g. for 2015 — is essential if vehicle manufacturers are to be able to adapt their design processes.

2.14 In analysing the economic and environmental impact, a number of scenarios are presented in connection, on the one hand, with the evolution of oil prices, imports and the competitiveness of agricultural prices and, on the other, with the development of new technologies that might spur the growth of 'second-generation' biofuels, helping to reduce the environmental cost.

2.15 In cost terms, an assumed increase in the use of biofuels to reach 14 % would generate additional costs of between EUR 11,5 and 17,2 billion in 2020 with an oil price around the USD 48/barrel mark, and between EUR 5,2 and 11,4 billion at USD 70/barrel. The break-even points for biodiesel and bioethanol lie in the EUR 69-76/barrel and

EUR 63-85/barrel ranges respectively (USD 92,76-102,18/barrel and USD 84,76-114,28/barrel, at an exchange rate on 25 May 2007 of USD 1,3444 to the Euro).

2.16 The reduced cost of storing reserves — still working on the 14 % in 2020 hypothesis — would produce savings of up to EUR 1 billion (EUR 720 million with the 10 % scenario). A supply mix from third countries and Member States represents the best solution, together with the desirable arrival on the market of second-generation biofuels.

2.17 This scenario would have positive effects on employment, creating 144 000 more jobs (100 000 under the 10 % scenario) if bioethanol production is primarily domestic, and would also boost Community GDP (growth of 0,23 %). Lastly, the positive effects of research, particularly into second-generation biofuels, could sustain competitiveness in the renewable energy sector.

2.18 Using the 'well-to-wheel' method, the Commission calculates that employing the optimum, most economically advantageous techniques, a reduction in greenhouse gas emissions of 35-50 % could be achieved. Ethanol produced from sugar cane in Brazil cuts these emissions by 90 %, and biodiesel from palm oil and soya leads to savings of 50 % and 30 % respectively. The production of second-generation biofuels should bring about savings of 90 %. The 14 % scenario should result in savings in greenhouse gas emissions of around 101-103 million tonnes CO₂eq per year (or 71-75 mT CO₂eq under the 10 % scenario).

2.19 In the communication, a 14 % share is reckoned to be manageable from the environmental impact point of view, provided that production is not from inappropriate land such as rainforest or habitats of high environmental value.

2.20 The Commission concludes its review by maintaining that greater biofuel use will bring substantial greenhouse gas emission benefits, and that security of supply will increase. A targeted incentives/support policy should neutralise the risks of using land with high biodiversity value or bad systems for biofuel production, by encouraging the use of second-generation processes.

2.21 The following will be needed in order to achieve these objectives:

⁽¹⁾ So far the figures are the same as for last year, with no increase, and recently the Commission expressed doubts as to whether the premium would be maintained in 2008.

— a review of the diesel standard (EN 590) and probably the petrol standard (EN 228) to make it easier to blend biofuels with fossil fuels;

- introduction of (low-cost) adaptations to new vehicles;
- development of BTL (biomass to liquid) technologies;
- introduction of wood farming and rapeseed cultivation;
- constant monitoring of the environmental impact.

2.22 Lastly, the Commission proposes to revise the biofuels directive, to set a 10 % minimum standard for the share of biofuels in 2020, and to assure the use of efficient and environment-friendly biofuels.

3. Biofuels: a few technical points

3.1 Biodiesel is obtained by crushing rape, soya and sunflower seeds, and by a transesterification reaction which results in the original alcohol components (glycerol) being replaced with methyl alcohol (methanol). Bioethanol is an alcohol (ethanol or ethylic alcohol) obtained through a fermentation process using various agricultural products rich in carbohydrates and sugars such as cereals (maize, sorghum, wheat, barley), sugar crops (beet and cane), fruit, potatoes and marcs. Products obtained by the chemical combination of molecules of biological origin with molecules of fossil origin are also considered to be biofuels. The main example of this is provided by ETBE, ethyl tertiary butyl ether, obtained by a bioethanol and isobutene reaction.

3.2 Ethanol has the qualities of an excellent fuel: it has a high octane count and can be blended (E5, E10) without requiring major adjustments to engines, although specific engines are necessary for more substantial use (E85).

3.3 The main difficulties in the use of ethanol arise from blending with petrol. Even at low ethanol percentages, vapour pressure rises significantly (approximately 10 kPa) as do, consequently, evaporate emissions. Ethanol's affinity for water can lead to problems with the product's final quality. Blends of ordinary hydrocarbon petrols with petrols containing ethanol should be avoided: a separate logistics and distribution chain should be used for the latter.

3.4 Blends of biodiesel and conventional diesel can be used in diesel engines. In European countries, a blend of up to 5 % (B5) is widely used in standard quality diesel, with no compatibility problems having arisen. Fuels with a high biodiesel content (more than 8-10 %) may cause problems for vehicles with engine seals made of incompatible polymer materials. The most serious difficulties arise in particulates and fine dust filters, which require major and costly modifications. For this reason,

some manufacturers have already adjusted their vehicle specifications, while others restrict their guarantee cover to B5 blends. Because of their hygroscopic characteristics, detergency and low storage stability, high-percentage blends may require special measures to be taken for vehicles and product distribution systems.

3.5 The Commission convincingly addresses the need to promote the development of biofuels with greater determination. Realistically, it does not consider that it will in the future be possible to replace current petrol production (1,2 billion tonnes worldwide in 2004) with biofuels (46 million tonnes in 2005, of which 3 million in the EU, as shown in the table below), but aims at a minimum biofuels share of at least 10 % in addition to existing fuels in a little more than 13 years, to be achieved through a directive and individual targets for each Member State.

2005	Litres, millions
USA	16 130
Brazil	15 990
China	3 800
India	1 700
EU	2 900
Others	5 480

3.6 Hydrogen, which is already being used — at least experimentally — as an energy vector by some European car manufacturers, is still produced essentially by electrolysis, or by extraction from natural gas or other fossil fuels. This would not produce any greenhouse gas reductions. In spite of the recent development of research geared to producing hydrogen from biomass, sometimes with the use of biotechnologies or renewable sources, the potential widespread use and marketing of hydrogen-fuelled cars is also determined by the high cost of the fuel cells. For hydrogen to become an economically practicable alternative energy source, production costs must be brought down. Current research at the University of New South Wales has set out to meet this aim by using individual ceramic solar panels made of titanium oxide. Titanium is a highly popular option in the solar hydrogen field: it has the right semiconductor characteristics and is water-resistant. In its natural, unmodified state, however, it is not yet efficient enough.

4. General comments

A few difficulties

4.1 While demonstrating the possible benefits, the Commission avoids drawing attention to the problems and difficulties involved in developing biofuels, although some warnings do occasionally emerge. In contrast, the Committee believes that the Commission's proposal must be closely and carefully analysed so that by resolving one problem, further more serious ones are not created, and to prevent only the 'pros' being highlighted to the exclusion of the 'cons'. It is rather strange that the unrealistic scenario of a 14 % share by 2020 is used in order to emphasise the benefits of the proposal! The benefits in the event of the 10 % target being met would objectively be more modest.

4.2 Neither the Commission document nor the attached impact study identify any serious difficulties. For instance, the disposal of the waste matter from biofuel production should be modernised and reviewed in the light of new biofuel cell systems and production-related electronic technologies.

4.3 Attention is drawn to the following aspects concerning biodiesel:

- limited productivity;
- high cost (EUR 0,4-0,7/L);
- stability problems (presence of oxygenated groups), resulting in storage difficulties.

4.4 And for bioethanol:

- limited productivity (albeit less than for biodiesel);
- high consumption of water and fertilisers;
- unsuitability for transit through existing pipelines for oil-based fuels (corrosion problems).

The benefits, meanwhile, include the possibility to increase the crop cycle, alternating traditional human and animal food crops with other specific crops destined for biomass and energy production. This must be developed with an eye to regional crops. In any case, European crops are subject to regulations regarding soil protection and the use of fertilisers.

4.5 Biofuels need the right crops, grown on a large scale. This entails sacrificing other crops that are necessary in order to meet the requirement on the part of the poorer countries for foodstuffs at the lowest possible cost. The possibility of using cellulose to produce biofuels is interesting, but it should be pointed out that production requires chemical and physical pretreatment (a sort of explosion of its mass) to make it reactive to bioprocessing. The issue of residues and of the catalysts used also needs to be highlighted, as they complicate the question of waste disposal downstream of the processing.

4.6 For large-scale use, glycerol — unrefined, pure or blended with other fuels — may be envisaged. The disadvantages of this alternative need to be set out: the cost of glycerol if used pure, the cost of processing if used unrefined, its low calorific yield and, in all cases, the need to break down the toxic substances formed during combustion (mainly acrolein, also known as acrylic aldehyde).

4.7 Another approach could be based on genetic modification of certain organisms best placed to render certain crops particularly suitable for bioprocessing, with high yields and consequently low energy consumption during production. Genetic engineering could also be applied to modify organisms which can make it easier to use cellulose.

4.8 From the technical point of view, there is also the question of the biofuel yield from raw materials: 1 tonne of beet yields some 400 litres of bioethanol (approximately 1 500 Mcal). Is this figure sufficient to justify an overall positive assessment, given the possible environmental risks and disadvantages resulting from the adoption of this type of energy?

4.9 A further aspect not to be underestimated concerns the extraction processes and their selectivity, and the fermentation processes which are relatively costly if carried out with maximum attention to the quality of the finished product. Moreover, the possible presence of impurities in the fuel could, when used, give rise to higher economic losses in connection with secondary reactions, the quality of the fuel obtained, and the characteristics of the waste and residues produced.

Environmental protection

4.10 From a strictly environmental point of view, thought needs to be given to risks of deforestation (as is currently the case in Malaysia and Indonesia, due to palm oil production, and in Malawi and Uganda on account of the development of *jatropha*, in areas intended for food production or particularly valuable rainforest zones) and those arising from the storage of raw materials. The related biological and biochemical issues must be clearly and carefully examined.

4.11 There is also an 'ethical' aspect which needs to be further assessed: competition between food and fuel. The prices of high-grade raw materials such as wheat, maize and rice are rising inexorably as a result of the growing demand from biofuel 'distilleries' (FAO and WFP 2007 Report). In Mexico, the price of *tortillas* has risen by 60 %, sparking public unrest and protests. Since the beginning of the year, in China, the rising price of soya has driven meat prices up by 43 % and egg prices up by 16 %. The prices of maize and oats have risen by 40 % and 20 % respectively. In India, cereal prices have increased by

10 %, with wheat rising by 11 %. According to the US Department of Agriculture, the United States too will see price rises of 10 % for poultry, 21 % for eggs and 14 % for milk. If, in the future, the fuel value of cereals exceeds their food value, the market will turn to the energy economy — and food prices will rise with oil prices, increasing the risk of food shortages, even in Europe.

4.12 The growth of production plants (in the United States alone, 79 plants are under construction, in addition to the 116 currently in operation) will trigger an exponential increase in cereals consumption, estimated by the EPI (Earth Policy Institute) at some 139 million tonnes, twice the US Department of Agriculture's forecast. Since yields stand at 110 gallons (416,19 litres) of ethanol per tonne of maize (slightly more than four full tanks for an SUV), the issue assumes truly worrying proportions.

4.13 In a recent opinion ⁽²⁾, the Committee also stressed the need to safeguard biodiversity, especially the rainforest, which not only constitutes the habitat of fauna which would otherwise inevitably disappear, but also represents the planet's only and last 'lung'. The intensive cultivation of sugar cane in Brazil and palm trees in Malaysia and Indonesia, which every day sacrifices hundreds of hectares of forest to single-crop farming, must be stopped.

4.14 There is also an issue of 'scientific ethics'. Planet Earth is an open system, inexorably declining towards a point of equilibrium which will signal its end. It is the responsibility of scientists to slow this downward trend, and it is the responsibility of politics to facilitate the necessary work and studies.

4.15 The costs — not only economic, but also environmental and health-related — must be clearly identified. Serious efforts are needed to evaluate and study the impact accurately.

4.16 With regard to the chemical processes of combustion involving molecules other than hydrocarbons, a careful examination should be made of the possible formation and development of free radicals as a result of oxidative stress in the processes (free radicals are one of the main causes of oncological pathologies). No reliable data on their possible increase as a result of biofuels production are available.

4.17 Care and protection of the soil is crucial. It must be protected, as it protects us. The progressive contraction and deterioration of the water-bearing strata is caused by misguided exploitation policies and impoverishment of the soil. Crop rotation should be guaranteed in order to facilitate soil recovery.

⁽²⁾ 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* — OJ C 97, 28.4.2007.

Food security

4.18 The 33rd session of the FAO's Committee on World Food Security, held in Rome from 7 to 10 May 2007, gives over a major chapter (point 45) to this issue, stating that: 'Bioenergy offers both opportunities and risks for each of the four dimensions of food security: availability, access, stability and utilisation. The food security implications of bioenergy will be shaped by the scale and type of system under consideration, by the structure of commodity and energy markets, and by policy choices in the areas of agriculture, energy, environment and trade. Technological change in the bioenergy sector is occurring rapidly and represents an additional major source of uncertainty regarding food security'.

4.19 In the same report, the FAO emphasises that 'the most prominent feature of the food and feed markets in 2006 has been the surge in prices of cereals, in particular wheat and maize, which, by November, had reached levels not seen for a decade. Poor harvests in key producing countries associated with a fast growing demand for biofuel production have been the main drivers of the grain markets. Supply constraints also have dominated the rice economy'.

4.20 China too has recently taken steps to reduce the production of ethanol from maize, as reported by Asia Times Online on 21 December 2006. 'In China the first thing is to provide food for its 1,3 billion people, and after that, we will support biofuel production' declared Wang Xiaobing, an Agriculture Ministry official.

4.21 On 20 July 2007, the Italian newspaper *La Repubblica* published an article entitled 'Biofuel vs. spaghetti war'. Pasta prices are set to rise by 20 % owing to a biofuel maize boom. The price of durum wheat, the main ingredient in Italian pasta, has risen by more than 30 % as farmers shift to maize crops for bioethanol. At the Chicago exchange the price of a bushel (27 kg) of wheat shot up from USD 3,6404 on 3 April to USD 5,64 on 14 June. Italians are likely to feel the effect of these price changes keenly as they are the world's biggest consumers (28 kg per capita a year) and producers (3.2 million tonnes) of durum wheat.

Water

4.22 Water consumption in biofuels production is another aspect not receiving enough attention. The most recent research by the International Water Management Institute (IWMI), published on 10 May 2007, shows that, in Sri Lanka for example, 1-4 000 litres of water are needed to produce one litre of ethanol, depending on the type of plant and production techniques used. In Brazil, it is calculated that 2 200 litres of water are required for one litre of ethanol, while in India — where

rainfall is not abundant and irrigation must be used — the same litre of ethanol needs 3 500 litres of irrigation water! These figures have been confirmed by the UNESCO-IHE Institute for Water Education in Delft, which is working with the local university, founded in 2003, and also by recent studies conducted by the University of Colorado agrarian studies faculty, which is developing a special maize strain that needs less water. These data can also be viewed on the following website: www.waterfootprint.org.

4.23 In Europe, those worst affected by water problems are the southern regions. They have suffered water shortages for many years and, with temperature rises and resulting evaporation, these difficulties are set to continue, while for now at least the northern regions do not appear to be concerned.

The cost

4.24 The following table (presented by Mr Mario Marchionna of the ENI at a recent seminar held by AIDIC — the Italian Association of Chemical Engineering) compares the cost of fossil fuels and biofuels, for equivalent energy.

Cost comparison of biofuel components

(equivalent energy value)

Reference price: Brent = 70 (56) \$/bl

Fuel	Equivalent €¢/lt
<u>Petrol</u> ⁽¹⁾	39 (31)
<u>Bioethanol</u>	
EU	75
Brazil	39
US	47
Italy (Val Padana)	70-75
<u>Diesel</u> ⁽²⁾	46 (37)
<u>Biodiesel</u>	
EU	78
Malaysia	48
US	60
Italy	78

⁽¹⁾ Platt's Mediterranean CIF High is used for petrol.

⁽²⁾ Platt's Mediterranean CIF High is used for diesel.

4.25 The Commission estimates that 18 million ha of arable land would be needed in order to produce the necessary biofuels within the EU to reach the 10 % target by 2020:

- 7 million ha of uncultivated land,
- 7 million ha by converting land used for cereal crops with export subsidies,
- 4 million ha to be taken out of agricultural use.

Benefits for poor countries?

4.26 The Commission states that developing the use of biofuels will bring significant benefits, especially to the developing countries, which can step up their production geared to exports. African farmers, however, are expressing concern about the economic return on the investments made so far. The 10 May 2007 issue of *African Agriculture*, raises some serious questions in an article on *Is jatropha excitement a mirage?* (the jatropha is a bush yielding oilseeds that are toxic to humans but produce reasonable-quality biodiesel, and that do not require special care).

4.27 African environmental associations are also making their voices heard, as reported in the *East African Business Week* (an online journal produced by Kenya's leading publishing group, Nation Media Group) of 7 May 2007. Deforestation is increasing by 2,2 % yearly, compared to a world average of 0,2 % — at this rate the country will have no forest left by 2040. A group of civil society activists has set up the 'Save Mabira' coalition, named for a forest that the Ugandan government has decided to hand over to the Sugar Corporation of Uganda Ltd to increase the amount of land for sugar cane cultivation, earmarked for bioethanol. Some 7 100 ha, or one quarter of the virgin forest, the biggest in the country, will be sacrificed to produce a few tonnes of bioethanol, that might even end up being used in eco-friendly buses in Europe!

4.28 The Commission has virtually nothing to say in this regard, simply mentioning in passing that both the use of food crops and the use of land of high nature-related value must be countered in some way, relying on deterrent economic policies to solve the problem. It is frankly difficult to detect any sign of courage on the Commission's part here. The Committee is highly concerned at the environmental risks arising from the proliferation of GMO crops which, if used for these purposes, might seem to be more acceptable. The risk of GMO propagation is real, and their use can only be assessed once all the scientific research into their possible dangers has been completed; in any case, the EU's remaining biodiversity must be preserved.

4.29 The Committee considers it essential to step up cooperation with international bodies concerned with combating hunger in the world, especially the FAO and WFP (World Food Programme), and regrets that in its impact assessment, the Commission decided not to enter into contact with these international agencies, which are carrying out serious work on the

subject without obscuring all the problems and risks arising from the development of biofuels, especially in terms of consumption of water resources.

The European Council

4.30 The Committee notes the conclusions of the Spring Council of 8 and 9 March 2007, which devoted considerable attention to the Energy Policy for Europe (EPE), whose three main objectives are to:

- increase security of supply;
- ensure the competitiveness of European economies and the availability of affordable energy;
- promote environmental sustainability and combat climate change.

4.31 The European Council supports and adopts the Commission's proposals on energy in general, and on biofuels in particular, although the wording used with respect to the 10 % obligation leaves considerable room for doubt: 'The binding character of this target is appropriate subject to production being sustainable, second-generation biofuels becoming commercially available and the Fuel Quality Directive being amended accordingly to allow for adequate levels of blending'.

4.32 It will be extremely important to understand how these provisos may be used effectively by the Member States. In particular, reference to the market availability of second-generation biofuels currently seems problematic. It would be extremely costly to convert existing first-generation biofuel-producing plants, those in an advanced phase of construction and those planned for the coming years, as their processes are very different to those necessary for second-generation fuels. If these fuels are not available, the Council decision will not be binding. As regards sustainability, additional European legislation will be required alongside the existing directives to ensure that biomass production responds strictly to fixed requirements and that biofuel crops are not in competition with human and animal food crops. As for the necessary changes to the directive on fuel quality, the procedure is somewhat complex and will require the full attention of the standards bodies, the CEN in particular, to analyse the problems relating to technical specifications.

Second-generation biofuels

4.33 For second-generation biofuels, a number of solutions for ethanol production are already possible, through both a biological fermentation and distillation process, and a thermochemical biomass gasification process to obtain syngas (H₂ and CO) which, through fermentation, produces ethanol and generates energy via a combined cycle or cogeneration. An initial production plant, with a capacity of 180 000 tonnes/annum will begin operating this year in Porvoo, Finland, with another planned for the end of 2008 at the same location. These processes, however, give very low and in some cases negative

energy yields. This has led to research on the development of photochemical production processes, using sunlight as an energy source and appropriate catalysts able to improve properties. Biobutanol provides one possible solution for new generation biofuels. It has low vapour pressure and also tolerance to water contamination in petrol blends, facilitating its use in existing petrol supply and distribution channels. Bioethanol can be mixed with petrol in higher concentrations than existing biofuels, without the need to modify vehicles. It also offers higher fuel savings than petrol-ethanol blends, thus improving energy efficiency and reducing consumption per litre. Biobutanol can be produced using bioethanol plants.

4.34 The 7th Framework Programme has earmarked substantial resources for the development of these technologies, which offer a range of interesting characteristics and produce 'clean' biofuels:

- they do not contain sulphur, aromatics or polycyclics;
- they are stable;
- emissions are very low;
- they have a very high cetane number (85-100);
- they exceed the low-temperature thresholds for the use of some types of biofuels;
- they can be added in very high proportions to normal diesel (up to 60 %);
- their technical characteristics have already been defined and included in the list of biofuels in Article 2(2) of Directive 2003/30/EC.

The Committee believes that Europe has to allocate more financial resources to second-generation biofuel research.

5. Specific comments

5.1 The Committee endorses the objectives of the EPE: if they are to be achieved, funding will have to be found for the necessary investment, bringing in the European financial institutions.

5.2 The Committee believes that particular attention should focus on research in the biofuels sector, especially for second-generation fuels, without sacrificing other possibilities such as those produced by the development of solar hydrogen or biomass processing.

5.3 The Committee recommends that special attention be paid to respect for biodiversity and the use of exclusively non-food crops for biofuels, in order to prevent the risk of competition between food and fuel when millions of human beings still lack sufficient food and are starving to death. The conclusions of the above-mentioned FAO report point out that 'As many as 854 million people worldwide still remain undernourished,

reflecting the insufficient progress towards the World Food Summit target and the Millennium Development Goals. While many countries, especially in Sub-Saharan Africa show potential for reducing their numbers of hungry people, this figure still remains threatened by increasing food prices, potentially tighter grain markets, conflict, disease and climate change'. According to American researchers Ford Runge and Benjamin Senauer of the University of Minnesota, food cereal price changes give reason to believe that, rather than falling to 600 million in 2025 as predicted, the number of people going hungry in the world will double, reaching 1 200 million.

5.4 With a view to achieving the objectives of environmental protection, reduced greenhouse gas emissions, optimised energy consumption, the use of alternative energies, energy autonomy and security of energy supply, the Committee suggests special treatment (tax and administrative incentives, etc.) for those products which make the most substantial contribution to these objectives.

5.5 The Committee considers that at their current stage, the existing technologies demand very heavy consumption of energy, water and land (yields per hectare are such that if one third of the entire land surface of Italy were to be devoted to rapeseed cultivation, the amount of biodiesel obtained would only be enough to replace 10 % of Italy's total oil consumption, and 40 % of diesel consumption for vehicles).

5.6 The Committee believes that the proposal for a new directive should be accompanied by a major and wide-reaching process of economic, environmental and social assessment which, at least at the present stage, does not appear to be structured in a way commensurate with the importance of the issue.

5.7 If the fight against pollution is not to be in vain, it is essential to secure biofuels using 'zero-mile' domestic agricultural products. They should not be transported from distant countries, with the consequent consumption of fossil fuels. The difficulties in recuperating energy from agrifood residues arise from their widespread distribution, requiring costly transport to processing centres, and from their significant water content implying high volumes for processing. For these reasons, biomass of this kind should preferably be processed in situ.

5.8 The Committee believes support should be given to research into biofuel cell technologies, i.e. biofuel cells that use biocatalysts to convert chemical energy into electricity. This energy-producing process enables the recovery of all the elec-

trons accumulated during the photosynthesis process by the plant from which the biomass is taken (24 electrons for every molecule of glucose oxidised to CO₂ and water).

5.9 The Committee agrees with the views of the European Parliament which, in the recitals of its resolution on a strategy for biomass and biofuels, adopted in Strasbourg on 14 December 2006, pointed out that 'the transport sector is responsible for more than 20 % of greenhouse gas emissions although this sector is not included in the emissions trading system ...'. The Committee therefore recommends that the Commission envisage extending the application of the 'white certificates' scheme to the vehicle sector.

5.10 In the same resolution, the European Parliament 'asks the Commission to introduce a mandatory and comprehensive certification scheme allowing the sustainable production of biofuels at all stages, including standards for the cultivation and processing phases, as well as for the overall life-cycle greenhouse gas balance, applicable to biofuels both produced within, and imported into, the European Union', and 'to support the development and use of the Global Monitoring for Environment and Security (GMES) system to monitor land use in the production of bioethanol so as to prevent the destruction of rainforests and other negative impacts on the environment'. The Committee agrees with and supports the European Parliament's proposals.

5.11 The Committee points out that the vehicle fleet of some of the recent Member States is highly obsolete, being made up of the least efficient used vehicles from the rich markets. Per capita income in these countries is rather low, as is also the case for major sectors of the population in the higher per capita income countries. Consequently, it is not practicable to consider imposing obligations and costs on these European citizens, for whom the private car may be an essential work tool.

5.12 The Committee believes that, at this stage, biofuels can lend support to the fuels market, provided production is closely monitored in order to avoid the environmental and social risks set out in the present opinion, but cannot provide a structural answer to the market's demands. In view of the potential problems identified in this opinion, the Committee believes that the Commission should keep the 10 % target under continuing review, and be ready to propose modifications to it if the problems cannot be satisfactorily overcome in a sustainable way.

Brussels, 24 October 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 — Results of the review of the Community Strategy to reduce CO₂ emissions from passenger cars and light-commercial vehicles'

COM(2007) 19 final

(2008/C 44/11)

On 7 February 2007 the Commission decided to consult the European Economic and Social Committee, under Article 175 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 October 2007. The rapporteur was Mr Ranocchiaro.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 142 votes to one with two abstentions.

1. Summary and recommendations

1.1 The EESC supports the European Commission's initiative aimed at reviewing the Community strategy for reducing CO₂ emissions from road traffic.

1.2 The Commission's proposal, which the Council plans to confirm, is to cut CO₂ emissions from passenger cars to 130 g/km by 2012, by means of technological improvements to motor vehicles. A further reduction of 10 g/km should be achieved, if technically possible, thanks to alternative technologies and greater use of biofuels, to reach the overall objective of 120 g/km by 2012.

1.3 The EESC believes that this ambitious initiative will only succeed if it is conducted using diverse, balanced measures, and a timeframe that takes into account the need for manufacturers to adapt the chosen technologies to all the models they produce, a complex operation with varying costs. In other words, when it comes to CO₂ emissions, improvements in passenger car performance must be reconciled with the manufacturers' capacity to apply them both economically and technologically and with the spending capacity of potential buyers.

1.4 In the light of these factors, while underlining the need to urge car manufacturers to make more rapid progress towards further reductions in consumption and emissions, the EESC also points to the need to press ahead with efforts to introduce the most socially, economically and environmentally effective legislative framework possible.

1.5 The EESC therefore recommends commissioning a full and detailed impact assessment, to establish the costs/benefits of the various options, ranging from work on vehicle technology to other possible instruments: adjustments to infrastructure, alternative fuels, tax incentives, information through various forms of education for eco-driving (needed most of all in large

urban areas⁽¹⁾) and guiding demand by means of taxation targeting CO₂ emissions. The EESC also feels that among future measures, consideration should be given to the use of low rolling resistance tyres which, according to industry data, can reduce consumption by 3-4 %. The Commission's suggestion to introduce tyre pressure monitoring systems is a step in the same direction.

1.6 An intelligent and considered combination of all the measures available might enable the CO₂ reduction targets to be reached, without putting a brake on the renewal of the car fleet, by containing and sharing out the financial burden and avoiding penalising potential buyers of new cars.

1.7 The EESC also hopes that the impact of the legislative instrument chosen will be as neutral as possible when it comes to competition between manufacturers, not imposing binding limits on the models they can put on the market, but rather guiding consumer demand towards lower emission models. The CO₂ reduction targets must correlate with the existing differences within the product ranges, using those parameters judged to be most informative and proportionate to their CO₂ emissions.

1.8 It is extremely important that the parameters chosen act as an instrument to guide consumers towards types of vehicle that respond to their real needs, avoiding consumption and emission levels that go beyond their everyday needs.

1.9 In this respect, the EESC is concerned at the Commission's plan to introduce legislation for light commercial vehicles. The consumption, and thus CO₂ levels, of these vehicles, designed for professional use, are examined carefully by potential buyers as they have a significant impact on business costs.

⁽¹⁾ See opinion OJ C 168, 20.7.2007, *Transport in urban and metropolitan areas*.

As a result, the vehicles currently on the market are already adopting the most efficient solutions — the almost exclusive use of diesel engines. In any case, before a decision is taken, the EESC recommends that the Commission conduct an impact assessment based on an up-to-date survey of light commercial vehicle emissions, something that is not currently available.

1.10 Lastly, the EESC believes that the Member States should develop activities in a wider range of areas than in the past (roads, intelligent traffic lights, etc.), not least by buying environmentally-sound vehicles for their own public transport fleets and committing themselves to both building infrastructure networks that can give access to the distribution of fuels of a lower environmental impact, such as natural gas, and facilitating the purchase of vehicles using natural gas or LPG, a matter on which the EESC has already expressed its view in previous opinions ^(?).

2. Introduction

2.1 In 1995, a Community strategy to reduce CO₂ emissions was introduced, including measures addressing supply from vehicle manufacturers and demand from consumers.

2.2 More specifically on the supply side, European manufacturers entered into a voluntary agreement aimed at reducing average CO₂ emissions from cars to 140 g/km by 2008. Japanese and Korean manufacturers made the same commitment the following year, to be achieved by 2009.

2.3 On the demand side, the European Commission's strategy simultaneously provided for consumer information on CO₂ emissions, to help them choose wisely, together with targeted use of car taxes.

2.4 In practice, significant improvements have been achieved on the supply side, although they are not by themselves enough to meet the objective set, as the contribution of the other two instruments — information/guidance and tax — has been lacking. The Commission acknowledges this, admitting in its communication that '... improvements in car technology have delivered the bulk of the reductions' in CO₂ emissions.

2.5 Average CO₂ emissions fell approximately 13 % from 186 g/km to 161 g/km between 1995 and 2004, and 30 % of

the fleet placed on the market in 2004 had emissions of less than 140 g/km.

2.6 On the other hand, during the same period consumer preference has shifted towards larger, heavier, more powerful cars, on account of both the perception that they are safer and the considerable population movement away from urban centres. In consequence, information labelling has had little impact on consumer choices.

2.7 The other instrument for shaping demand, targeted taxation to reduce CO₂ emissions, does not yet possess a European dimension ^(?), being restricted to national initiatives in less than half the Member States. In some cases, the measures taken have had a paradoxically negative impact on reducing emissions. One such example is the increased tax on diesel, which has slowed the shift to diesel that has taken place over recent years in many Member States having larger numbers of diesel vehicles.

2.8 In conclusion, due to both external factors hindering the reduction process launched with the review of car technologies in the wake of the voluntary agreements, and the failure to make use of the other planned instruments, the objectives set for 2008/2009 do not seem to be feasible. The Commission has therefore decided to review the strategy and has published the communication under examination by the EESC, laying down guidelines to be followed by a specific legislative proposal by the end of the first half of 2008.

3. The Communication from the European Commission

3.1 In the communication, the Commission proposes to reach the EU objective of 120 g/km by 2012. This is to be achieved through a combination of EU and Member State action.

3.2 To this end, the Commission will propose a legislative framework by mid-2008, focusing on mandatory reductions in CO₂ emissions to achieve the average new car fleet objective of 130 g/km by means of improvements in vehicle motor technology.

3.3 A further reduction of 10 g/km, or equivalent if technically possible, is to be achieved by other technological improvements and by increased use of biofuels, specifically:

a) setting minimum efficiency requirements for air-conditioning systems;

^(?) Opinion of the European Economic and Social Committee on *The development and promotion of alternative fuels for road transport in the European Union*, OJ C 195, 18.8.2006, p. 75.

^(?) The draft directive on car-related tax in the EU, COM(2005) 261, which provided for a restructuring of car-related tax based wholly or partially on CO₂ emissions, was not approved.

- b) compulsory fitting of accurate tyre pressure monitoring systems;
- c) setting maximum tyre rolling resistance limits in the EU for tyres fitted on passenger cars and light commercial vehicles;
- d) use of gear shift indicators, taking into account the extent to which such devices are used by consumers in real driving conditions;
- e) fuel efficiency progress in light commercial vehicles (vans) with the objective of reaching 175 g/km CO₂ by 2012 and 160 g/km CO₂ by 2015;
- f) increased use of biofuels maximising environmental performance.

3.4 The Commission agrees that the legislative framework implementing the average new car fleet target will need to be designed so as to ensure competitively neutral and socially equitable and sustainable reduction targets which reflect the diversity of European car manufacturers and avoid any unjustified distortion of competition between automobile manufacturers.

3.5 In this regard, the Commission encourages Member States to adapt their car taxation policies so as to promote the purchase of fuel-efficient cars throughout the EU and help manufacturers comply with the upcoming fuel efficiency framework.

3.6 The Commission also suggests the introduction of taxes differentiated over the whole range of cars on the market, so as to gradually induce a switch towards relatively less emitting cars, as an efficient way to reduce compliance costs for manufacturers.

3.7 The role of fiscal incentives is mentioned as a powerful way of encouraging people to buy the cleanest light-duty vehicle classes on the market; similar emphasis is placed on the need to improve the effectiveness of information for potential buyers on vehicle consumption (the Commission is to adopt a proposal to amend Directive 1999/94/EC on labelling in 2007).

3.8 Lastly, the Commission points to the need for the Member States to promote eco-driving through training and/or awareness campaigns with the aim of reducing emissions.

3.9 Manufacturers are also invited to sign up before mid-2007 to a voluntary agreement on good practice regarding

car marketing and advertising, aimed at promoting sustainable consumption patterns.

4. General comments

4.1 The EESC fully agrees that there is a need to review the Community strategy to reduce CO₂ emissions generated by road traffic, which account for some 20 % of overall emissions.

4.2 The EESC would also point to the complexity of this review, which should aim to achieve further CO₂ emission reductions without undermining the competitiveness of the vehicle sector, which is operating on an extremely competitive world market.

4.3 It should be borne in mind that in Europe alone, the car industry employs 2 million people directly and another 10 million indirectly. The industry accounts for 3,5 % of European GDP, with net exports worth EUR 33,5 billion and — last but not least — the Member States receive EUR 365 billion annually in car taxes.

4.4 Indeed, in its CARS 21 (*) communication, the Commission has sought to outline industrial policy in the automotive sector, which 'plays a substantial role in the European economy'.

The CARS 21 communication is the Commission's response to the final report and recommendations drawn up in December 2005 by the CARS 21 High Level Group, which comprised representatives of industry and the main components of civil society, as well as of the Commission. The document highlights that attaining ambitious objectives in complex areas, such as the reduction of CO₂ emissions while not damaging industrial competitiveness or employment, demands an integrated approach aimed at drawing together the contributions of all stakeholders to pursue a single objective of general interest.

4.5 The EESC shares the concerns voiced regarding the potentially excessive impact on industrial costs of decisions that might directly or indirectly jeopardise employment levels in the industry by encouraging strategic choices entailing the possibility of industrial relocation outside the EU.

4.6 In the light of these considerations, the EESC agrees that car manufacturers should be urged to make more rapid progress towards further reductions in consumption and emissions, but also points to the need to press ahead with efforts to introduce the most socially, economically and environmentally effective legislative framework possible for reducing CO₂ emissions.

(*) A Competitive Automotive Regulatory Framework for the 21st Century, COM(2007) 22 final, 7 February 2007. The EESC has drafted an opinion on this subject (rapporteur: Mr Davoust).

4.6.1 The EESC would make the following recommendations with a view to securing the best results from future Community legislation on reducing CO₂ emissions from road traffic:

- **Infrastructure and tyres:** upgrading of road infrastructure is justified, since better road surfaces reduce friction and noise pollution, and increase road practicability. In addition, the introduction of advanced electronic traffic management (ETM) systems to reduce congestion and redundant stops at traffic lights can make a significant contribution to reducing CO₂ emissions. With the same aim, the use of low rolling resistance tyres produces proven benefits, reducing consumption by some 3-4 %; the Commission's suggestion to introduce tyre pressure monitoring systems is a move in the same direction.
- **Alternative fuels:** principally biofuels, also mentioned in the CARS 21 final report. Once the technical feasibility and environmental and social impact of first-generation biofuels ⁽⁵⁾ have been checked (pending the introduction of second-generation, lower impact, biofuels), they could, together with other alternative fuels coming into use in Europe (natural gas, in the medium term, biogas, and hopefully in the long term, hydrogen), become a decisive factor for reducing CO₂ emissions.
- **Training, information and guidance:** training initiatives for the entire motor vehicle commercial and distribution chain should be promoted and supported, in order to steer buyers' choices towards lower CO₂ emission options, with full understanding of the facts. Direct means should also be used to influence buyers through taxation tied to CO₂ emissions and incentives for eco-driving.

4.6.2 All these measures would also have the effect of not undermining the process of renewing the current car fleet, by spreading the financial burden of reducing the level of CO₂ emissions. The EESC would point out in passing that according to the ECCP ⁽⁶⁾, the potential reduction of CO₂ emissions from eco-driving could amount to 50 million tonnes in Europe by 2010 (2006-2010), and a joint TNO/IEEP ⁽⁷⁾ study claims that eco-driving is not only feasible, but is both effective and measurable.

4.6.3 On the other hand, the average sale price of a car would rise by approximately EUR 3 600 if the 120 g/km target were to be reached through car technology alone. Additionally, the same sources ⁽⁸⁾ indicate that in order to reach 130 g/km, the additional cost to purchasers would in any case be substantial, around the EUR 2 500 mark.

⁽⁵⁾ Opinion TEN/286 *Progress in the use of biofuels*, under discussion.

⁽⁶⁾ European Climate Change Programme. As part of the ECCP, the Commission's consultant, TNO, has estimated the costs and CO₂ emissions reduction potential of the various possible measures.

⁽⁷⁾ IEPP: Institute for European Environmental Policy — TNO Consultancy.

⁽⁸⁾ See footnote 6.

4.6.4 As it takes Europe 12 years on average to replace its car fleet, as noted by the Commission, it is clear that price increases on that scale would further slow the car replacement cycle. It also is clear that such increases would have a social impact, making it even harder for the more disadvantaged sectors of society to buy a car.

4.7 Lastly, the EESC disagrees with the Commission's position that complementary technologies would bring about a reduction in CO₂ emissions of 10 g/km, since the ability of biofuels to penetrate the market is still uncertain, and it cannot be assumed that they will contribute the expected 5 g/km. In the EESC's view, it is essential to introduce a raft of measures that can be monitored with certainty, as is the case, for example, with eco-driving and infrastructure.

5. Specific comments

5.1 In keeping with the general comments above, and also in the light of the current parliamentary debate, the EESC hopes that the future legislative instrument will not compromise the ability of consumers to buy new cars, in order to ensure that the car fleet is renewed, and also that it will succeed in strongly directing demand towards lower emission models.

5.2 In the absence of a full and detailed impact assessment to highlight the costs/benefits of the various options, the EESC reserves the right to draw up an opinion at a later stage on appropriate and feasible limits in terms of reduction of CO₂ emissions, but recommends at this juncture that the planned legislative instrument should take account of the fact that the car production cycle is famously complex, requiring a lead time ⁽⁹⁾ of anything up to seven years.

5.3 In view of the time needed to prepare legislation in the co-decision process, the EESC reckons that the final text laying down the requirements to be met will not be ready before 2009. Given the earlier comments regarding the sector's typical industrial cycles, the first practicable date would be 2015, to coincide with the entry into force of the EURO 6 regulation on the reduction of pollutants that, as in the case of CO₂, require structural modifications to cars.

5.4 There is a danger that the 2012 target date is technically impracticable and could have distinctly negative effects on the competitiveness of the European car industry and its contribution to employment.

⁽⁹⁾ The time needed for the industry to implement any new requirement involving changes to vehicle structures.

5.5 The EESC is, as of now, in favour of a legislative instrument which is neutral in terms of competition between manufacturers, meaning not imposing binding limits on the models they can put on the market, but rather guiding consumer demand towards lower emission models; the CO₂ reductions called for must match the existing differences within the product range, using those parameters judged to be most informative and proportionate to their CO₂ emissions.

5.6 In this regard, it is felt that the parameter to be selected must ensure that contributions in emissions reduction terms from the various segments and the inevitable ensuing vehicle cost increases should not be such as to erode affordability, so that customers can buy a new vehicle in keeping with their own spending power.

5.6.1 One possible parameter would be vehicle weight (as suggested by ACEA, the European Automobile Manufacturers' Association), as this directly affects the level of CO₂ emissions. The EESC recalls that vehicle weight rose by 32 kg between 1996 and 2005, reflected in a relative increase in CO₂ emissions of 6,6 g/km. Weight is to be used as a benchmark in Japan's CO₂ emissions strategy. In 2006, the country set a target of 138 g/km to be achieved by 2015. ACEA supports this parameter, as it represents a step towards harmonisation of CO₂ policies across the world.

5.6.2 It should also be pointed out that discussions are currently taking place on other parameters that could be used to identify and differentiate product ranges. Of particular note is the proposal by EP rapporteur, MEP Chris Davies, which refers to the vehicle's 'footprint' (the area occupied by the car, calculated using wheelbase and track width ⁽¹⁰⁾).

5.6.3 The EESC, meanwhile, considers that adopting, for example, box volume (vehicle length × width × height) as a parameter could be useful and appropriate, as a possible tool for guiding consumers towards vehicle types meeting their real needs and without redundant CO₂ emissions caused by a practical need/vehicle size mismatch. In other words, a person needing an SUV (sport utility vehicle) that can carry more passengers and more weight will be willing to pay more because a vehicle of this type is really necessary, whereas a person without these requirements will be more attracted to a lower segment.

5.7 The same European Parliament rapporteur, MEP Chris Davies, has proposed establishing a 'Carbon Allowance Reduction System' (CARS) setting penalties and credits for exceeding or coming below the limits set. The EESC believes that introducing a CO₂ allowance-swapping system is not practicable in a market restricted to the automobile sector.

⁽¹⁰⁾ WHEELBASE: distance between front and rear axles; TRACK WIDTH: distance between tyres.

In view of the ambitious objectives, there is no realistic prospect of sufficient volumes of allowances for exchange being built up to ensure that the system would work.

5.7.1 In contrast, the EESC considers the application of an 'open' emissions trading system (i.e. permitting trading with other sectors) to be possible, offering the advantage of guaranteeing an overall reduction in CO₂ emissions with an appropriate degree of flexibility, while setting limits on possible purchases for vehicle manufacturers. The EESC therefore advocates an open system, the economic implications of which will have to be defined and identified in the light of changes within the emissions market between now and 2015, underlining the need to prevent such economic implications putting the affordability for final customers at risk.

5.8 Turning to the communication's call for a code of good practice regarding car marketing and advertising, the EESC points out that almost all the Member States already have — usually very stringent — agreements on how to define rules in this area. In general terms, however, the EESC favours harmonising these rules and consequently is not opposed to drawing up a European code of good practice as suggested to vehicle manufacturers by the Commission.

5.9 The EESC also notes that in its communication, the Commission also states its intention to prepare a legislative instrument to reduce CO₂ emissions from light commercial vehicles.

5.9.1 It seems to the EESC that light commercial vehicles (category N1 and related passenger transport vehicles) do not require an intervention of this kind, since they are designed for commercial purposes and, consequently, consumption and CO₂ emissions are already a deciding factor for buyers, as they have a major impact on business costs. As a result, the vehicles currently on the market are already adopting the most efficient solutions — the almost exclusive use of diesel engines.

5.9.2 In any case, before a decision is taken, the EESC recommends that the Commission conduct an impact assessment based on an up-to-date survey of light commercial vehicle emissions, something that is not currently available.

5.9.3 Applying g/km targets on commercial vehicles, without precise knowledge of the relevant data, also brings the risk of reducing the carrying capacity of individual vehicles, with the ensuing inefficiency requiring either a greater number of vehicles to transport the same loads, or larger, higher category vehicles, thereby increasing overall emissions.

5.10 The EESC also believes that the subject of CO₂ emissions from cars and light duty vehicles should be assessed comprehensively, taking into account the entire life cycle of vehicles, from production processes to use and disposal. In the light of the above, the EESC would also stress the need to coordinate and secure coherence between legislative and regulatory initiatives relating to the motor vehicle industry with an impact on CO₂ emissions so as to preclude contradictions causing delays in their implementation.

5.11 The EESC believes that future research framework programmes must give priority as a matter of urgency to projects aimed at finding technically feasible and economically sustainable ways of reducing global CO₂ emissions (not only in relation to transport), taking into account the real impact of the entire life cycles of various sources of emissions. The EESC is

convinced that research projects should work across a broad spectrum with a view to identifying short-, medium- and long-term solutions with affordability — for both manufacturers and final customers — as a constant objective, in order to facilitate the renewal of the vehicle fleet in the interests of sustainable mobility.

5.12 Lastly, the EESC believes that the Member States should develop activities in a wider range of areas than in the past (roads, intelligent traffic lights, etc.), not least by buying environmentally-sound vehicles for their own public transport fleets and committing themselves to both building infrastructure networks that can give access to the distribution of fuels of a lower environmental impact, such as natural gas, and facilitating the purchase of vehicles using natural gas or LPG.

Brussels, 24 October 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 2003/54/EC as regards the application of certain provisions to Estonia’

COM(2007) 411 *final* — 2007/0141 (COD)

(2008/C 44/12)

On 17 September 2007 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 abovementioned proposal.

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 439th plenary session of 24 and 25 October 2007 (meeting of 24 October 2007) by 150 votes to 2 and 8 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 24 October 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 decision of the European Parliament and of the Council on the selection and authorisation of systems providing mobile satellite services (MSS)'

COM(2007) 480 final — 2007/0174 (COD)

(2008/C 44/13)

On 7 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

On 25 September 2007 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 Opran as rapporteur-general at its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October), and adopted the following opinion by 119 votes with 3 abstentions.

1. Conclusions

1.1 The EESC endorses the proposal for a decision of the European Parliament and of the Council on the selection and authorisation of systems providing mobile satellite services and recommends that it be immediately adopted and brought into effect.

1.2 The EESC strongly supports the main objective of the proposal, as set down in Title 1, Article 1(1), to create a single, Community-coordinated procedure for the selection and authorisation by Member States of mobile satellite communications systems.

1.3 The EESC considers that this decision must be immediately adopted, owing to:

- a. the natural capability of satellite communications systems to cover large parts of Europe and several EU Member States at the same time;
- b. the relatively limited amount of radio spectrum made available for such communications;
- c. the diverging selection and authorisation solutions in effect at national level in the Member States;
- d. the current reduced effective use of the available radio spectrum.

1.4 The EESC stresses that the creation and use of satellite communication systems constitute, due to the nature of the area that they cover, major initiatives for the expansion of the European space industry and development of specific applications in the field of communications, and are fully in line with the Lisbon Strategy to promote sustainable development, including by directly helping to create new jobs in the context of enhanced competitiveness.

1.5 The EESC is pleased to note that, beneficially for this proposal, the EU possesses significant technical resources in this area: three of the world's biggest satellite systems operators are European, and satellite communications account for 40 % of current revenues in the European space sector.

1.6 The EESC welcomes the consensus obtained by the Commission in promoting this proposal, which gained the support of all the interested parties consulted, even during the drafting phase: the satellite industry, telecommunications network operators, the European Space Agency and Member States' national regulatory bodies.

1.7 In parallel, the EESC notes that the decision — in its current, final form — fairly resolves the diverging opinions expressed during the consultation phase, concerning: selection methods and criteria, the need for greater national flexibility with regard to the length of time needed to obtain authorisation and the validity period thereof, and closer coordination of national authorisation procedures.

1.8 The EESC recommends that the decision be adopted in its proposed form, bearing in mind that with regard to the methodology for implementing the provisions on selection and authorisation, regulations must be set down to protect the individual interests of citizens and ensure the privacy of users of terminal equipment for satellite systems.

2. Introduction

2.1 The creation and implementation of a pan-European communications system based on satellite technologies constitute an innovative alternative platform for various types of telecommunications and broadcasting/multicasting services, regardless of the location of end users, such as high-speed

Internet/intranet access, mobile multimedia, public protection and non-military crisis management (natural or humanitarian disasters), law and order and security, fleet management applications, remote medical assistance, etc.

2.2 The system is designed in such a way as to help develop the internal market, boost competitiveness by increasing the availability of pan-European services, encourage effective investment, particularly by introducing innovative services to provide communication capabilities to outlying terrestrial areas and maritime space.

2.3 In the case of pan-European systems, in particular, it is necessary to set up Community procedures for selecting operators of mobile satellite communications systems, and to establish certain provisions regarding nationally coordinated authorisation of the selected operators. By harmonising selection criteria for mobile satellite communication systems, a uniform policy can be applied at EU level in this field. The selection by different Member States of different operators of mobile communications systems using different satellites could lead to complex fields of interference or even endanger the smooth running of the system overall, if an operator were allocated different radio frequencies in different Member States. Owing to these potential dangers, and with a view to ensuring a consistent authorisation approach in the different Member States, the provisions on synchronised assignment of radio spectrum and on harmonised authorisation conditions should be established at Community level, without prejudice to specific national conditions compatible with Community law.

2.4 Satellite communications are an important aspect of the internal market; they cross national borders and are thus susceptible to international regulation, taking into consideration their important contribution to achieving European Union objectives to expand geographical coverage of broadband.

3. Proposal of the European Parliament and of the Council

3.1 The decision, proposed **on the legal basis of Article 95 TEC**, sets down the necessary legal framework for the selection and authorisation of mobile satellite communications services. Such selection would have to be made in line with the general objectives and pursuant to a competitive selection procedure described in the proposal and would involve the Commission, assisted by the Communications Committee. The authorisation (rights to use radio spectrum) of selected operators would be granted at national level subject to a minimum set of harmonised conditions laid down in the proposal.

4. General comments

4.1 The Commission proposes that the decision be implemented based on the evaluation of the following points:

- operators of mobile satellite systems should be selected through a Community procedure;
- the selected operators of mobile satellite systems should be authorised by Member States;
- the selected operators of complementary ground components of mobile satellite systems should be authorised by Member States.

4.2 The EESC understands that the selection and authorisation of the first 2-3 mobile satellite system operators that will provide pan-European services using the 2 GHz radio spectrum will be completed by the end of 2008 or early 2009.

4.3 The EESC considers that the deadline for rolling out pan-European mobile satellite services for private and commercial clients, including high-speed Internet access, mobile multimedia, public protection, internal security and defence, should not exceed the first quarter of 2011.

4.4 The EESC believes that the implementation and rollout of European global positioning systems should be dealt with as an absolute priority by the Commission.

4.4.1 With regard to this important subject, the Committee regrets that the European satellite navigation programmes GALILEO and EGNOS are running five years behind their original schedule and are facing many problems, and urges the Commission to find solutions to overcome the current situation.

4.4.2 An increasing number of modern economic activities rely on positioning data linked to the use of a high-precision time base.

4.4.3 The EESC stresses that the completion of the GALILEO satellite system will make a clear contribution to the implementation of a high number of Community policies in various fields, including transport management, transport of hazardous goods, emergency services, maritime and inland navigation, air transport, civil protection and humanitarian missions, farming, fisheries and environmental monitoring, defence and internal security problems, financial-banking services with the protection of transaction security.

5. Specific comments

5.1 The proposal for a decision of the European Parliament and of the Council on the selection and authorisation of systems providing mobile satellite services (MSS) puts forward, in Titles I ('Objective, scope and definitions'), II ('Selection procedure') and III ('Authorisation'), various procedures and initiatives with a view to meeting the objectives of the project.

5.2 The EESC recommends that the decision be adopted in its proposed form, bearing in mind that at the same time, procedures should be established regarding the primary assignment of the radio spectrum used by mobile satellite services in

geographical areas where different communications systems coexist which can generate harmful interference.

5.3 The EESC considers that Commission Decision 2007/98/EC of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services will contribute significantly to the achievement of the objectives of the proposal. In this context, in addition to the requirement that 'Member States [...] make these frequency bands available to systems providing mobile satellite services in the Community as of 1 July 2007', procedures should be specified for monitoring and assessing the transposition of these measures.

Brussels, 25 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the 'Adaptation to the regulatory procedure with scrutiny Proposal for a directive of the European Parliament and of the Council amending Directive 95/50/EC as regards the implementing powers conferred on the Commission'

COM(2007) 509 *final* — 2007/0184 (COD)

(2008/C 44/14)

On 25 September 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 439th plenary session of 24 and 25 October 2007 (meeting of 24 October) by 153 votes in favour and 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 24 October 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 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council Directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC'

COM(2007) 18 final — 2007/0019 (COD)

(2008/C 44/15)

On 14 March 2007 the Council decided to consult the European Economic and Social Committee, under Articles 95 and 175 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 July 2007. The rapporteur was Mr Osborn.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October 2007), the European Economic and Social Committee adopted the following opinion by 74 votes and 3 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) strongly supports the Union's plans to tackle climate change by reducing greenhouse gas (GHG) emissions. In the transport sector the Committee believes that action must start at the fundamental level of tackling the pressures that have led to a continuous growth of traffic of all kinds over many years.

1.2 The Committee also believes that there is still substantial scope for improving energy efficiency in the performance of all kinds of transport. The Committee deplors the apparent weakening of the Commission's original intentions in relation to efficiency of car engines, thus relieving the pressure on the car industry to achieve higher standards.

1.3 The Committee endorses in principle the expansion of biofuels in the Union. It believes however that the overall CO₂ impact of biofuels needs very careful assessment, and that the pace and balance of expansion needs to be kept under review.

1.4 Specifically, the European Commission should specify how it expects to achieve the target for 10 % use of biofuels by 2020 bearing in mind the conditions attached to the achievement of that target by the Council, and should be prepared to modify the approach if it appears to be less effective in carbon reduction than has been hoped, or is having other undesirable effects on the structure of world agriculture or on biodiversity.

1.5 The EESC accepts that it is nevertheless appropriate that the fuel specification rules should be altered as proposed in the present Directive so as to enable a new high biofuel petrol to be

produced and marketed, provided that concerns about potential pollution impacts are met.

1.6 The Committee strongly supports the proposal to require the fuel industry to monitor and report the life-cycle GHG emissions from the fuels it places on the market, and that they should be required to reduce those emissions by 1 % per annum from 2010 to 2020. The Committee sees a strong case for this to be operated at European level, rather than being left to the Member States.

1.7 The Committee supports the minor changes to sulphur content of fuels that are proposed. It suggests that the two stage reduction of sulphur emissions proposed in the case of inland waterways, be revised to a one stage reduction to the final figure (10 ppm sulphur content) so as to avoid the possibility of boat owners having to make two separate modifications to their vessels.

2. Introduction

2.1 The Fuel Quality Directive 98/70/EC (and subsequent amending Directives) contains the environmental fuel quality specifications for petrol and diesel fuels in the Community with the main focus on limiting the sulphur content, and, for petrol, the lead and aromatics content. It also sets a sulphur limit for gas oil used for Non-Road Mobile Machinery.

2.2 Directive 1999/32/EC of the Council, amending Council Directive 93/12/EC, establishes sulphur limits for certain liquid fuels and specifically refers to the fuel used in inland waterway vessels.

2.3 The present proposal would alter the permitted specifications so as to allow a new grade of high biofuel petroleum to be introduced containing up to 10 % ethanol. It would also impose some minor further tightening of the sulphur levels permitted in fuels.

3. Key EU developments

3.1 The Community has lately committed itself to achieve Greenhouse Gas emission targets of reductions of 20 % below 1990 levels by 2020.

3.2 Inland transport currently accounts for almost 20 % of these emissions and needs to play its part in delivering these reductions. The Commission has tackled one aspect of GHG emissions from transport through the adoption of a comprehensive new strategy to reduce carbon dioxide emissions from new cars and vans sold in the European Union. This will enable the EU to reach its long-established objective of limiting average CO₂ emissions from new cars to 120 grams per km by 2012.

3.3 On the fuels side, the EU biofuels directive (2003/30/EC) aims to make a further contribution to reducing net CO₂ emissions by promoting the use in transport of fuels made from biomass, as well as other renewable fuels. The Community Strategy on Biofuels has been further elaborated in the Commission's Communication — An EU Strategy for Biofuels on which the Committee has adopted an opinion on 24 October 2007.

3.4 In March 2007 the Council set a 10 % binding minimum target to be achieved by all Member States for the share of biofuels in overall EU transport petrol and diesel consumption by 2020, to be introduced in a cost-efficient way.

3.5 The present Directive is intended to support that strategy. The principal change is to permit higher levels of ethanol to be blended in a new grade of petrol for motorists so as to allow for the rapid expansion of biofuels mandated by the Council.

4. General comments

4.1 The European Union has rightly taken a leadership role in the world on the issue of climate change, and has adopted stringent targets for reduction in GHG emissions for 2012 and 2020.

4.2 The EESC fully supports the targets and the Commission's general approach to establishing a comprehensive programme of action. It believes however that in the transport

sector there is some danger of establishing the wrong order of priorities.

4.3 In the transport sector the Committee believes that action must start at the fundamental level of tackling the pressures that have led to a continuous growth of traffic of all kinds over the past two centuries. The European Sustainable Development Strategy adopted by the Council in 2006 has committed the Union to the objective of decoupling the growth of the economy from growth in transport. That should be the highest priority task. The Committee once again urges the Commission to put in hand a fundamental integrated review of how to bring this about.

4.4 Another priority should be to require much improved fuel efficiency from cars and other vehicles. The proposal to establish a limit of 120 grams of CO₂ emissions per kilometre is a useful step. The Committee believes that it should be possible to proceed further and faster on this issue, and that it would have been better to stick to the original proposal to require motor manufacturers to meet this target. The Committee looks to the Commission to push harder in this direction.

4.5 As to biofuels the Committee agrees that they may have some useful part to play. But it feels that greater account must be taken of the environmental, social, agricultural and employment impacts involved both in Europe and across the world. The Committee is currently working on a separate opinion on this issue.

4.6 The growth of biofuel crops may be a useful form of land use, provided that they do not displace other uses that are as good or better in terms of greenhouse gas reduction. European agricultural practices meet high environmental standards thanks to cross compliance, and in principle the cross compliance regime may be capable of being developed into a tool for ensuring that biocrops are grown in an optimal way from a carbon efficiency point of view. It will however be essential to compare and contrast the transport and refinery processes involved in producing biofuels and traditional fuels. The overall CO₂ impact of biofuels needs very careful assessment and may not be positive in all cases.

4.7 More broadly a massive expansion of biofuel crops in Europe and other parts of the world could have other major impacts on food production, protection of forests and biodiversity and other matter which also need to be carefully assessed. This question too will be examined in detail in a separate opinion.

4.8 In the Committee's view the optimal pathway for development of the biomass and biofuels market requires continued monitoring, and it will be important that measures of support for the development of this market whether in this directive or in other measures should allow the market to find the optimal pathway towards the most efficient and carbon-mitigation effective solutions.

4.9 In view of these reservations about the scale and pace of development of biofuels the Committee believes that the Commission and the Union should keep the target for 10 % use of biofuels by 2020 under review, and be prepared to modify it if necessary.

4.10 The Committee approaches the present Directive from this general perspective. The Committee does not in principal oppose amending the fuel quality Directive so as to permit the blending of appropriate biofuels. But it thinks that great care should be taken to ensure that blending biofuels into petrol does not result in other adverse environmental effects such as the release of more harmful VOCs. It is also important that the calculations of expected impacts on net CO₂ emissions should be very carefully carried out, taking full account of a full life cycle analysis, case by case, so as to optimise the potential for CO₂ gains.

5. Specific comments

5.1 *Expansion of biofuels*

5.1.1 The Committee accepts that some expansion of biofuels is likely to be needed. It is appropriate therefore that the fuel specification rules should be altered as proposed in the directive so as to enable a new high biofuel petrol to be produced and marketed, provided that potentially polluting side effects are dealt with.

5.1.2 The Committee calls for further action on the proposal to relax the limits on vapour pressure so as to allow higher pressures in the new high biofuel petroleum. Higher pressures will lead to greater volatility of the petroleum, with greater release of undesirable VOCs both at the petrol pump and through evaporation and permeation from tanks and other parts of vehicles. This problem can be considerably mitigated by appropriate technical measures.

5.1.3 The Committee suggests that the Commission should examine this aspect further before implementing the Directive. Some commentators have suggested that it might be possible to make more use of biofuels without requiring higher pressure levels. Alternatively the higher permitted levels should be coupled with further measures in regard to petrol pumps (as

already envisaged by the Commission) and to restricting the use of permeable elements in engine design so as to ensure that net VOC emissions do not increase when biofuels are introduced more extensively.

5.2 *Monitoring of Lifecycle Greenhouse Gas (GHG) Emissions*

5.2.1 The Committee strongly supports the proposal to require the fuel industry to monitor and report the life-cycle GHG emissions from the fuels it places on the market, and that they should be required to reduce those emissions by 1 % per annum from 2010 to 2020. Although the fuel industry has improved its own performance in terms of energy efficiency in recent years there is still room for substantial improvement. There is still far too much flaring of gas at well heads. This wastes a valuable resource and gives rise to millions of tons of carbon emissions and other pollution. Refinery operations and pipeline transmission and transport within the fuel sector also vary greatly in their energy efficiency and their levels of leakage and waste; much could be done to improve standards throughout the industry to those of the best operators.

5.2.2 The monitoring requirement proposed on the fuel industry is cast in such a way that the progressive introduction of biofuels into the energy mix can count as a contribution towards the overall target for emission reductions by the industry. The Committee backs a strategy designed to harness the potential benefits of biofuels for the environment, the market and jobs and thus secure optimum CO₂ reduction overall, but it is concerned that the current proposal may lead fuel companies to neglect opportunities for improving energy efficiency in their own operations in favour of over-rapid expansion of biofuels.

5.2.3 If the proposal does go forward a number of points need to be made. It will be critically important to ensure that the lifecycle analysis of biofuels and oil products is thoroughly carried out and is not treated in a formulaic way. Different types and sources of biofuels will have very different impacts on the overall CO₂ balance. Generally speaking, biofuels perform better than fossil fuels in life cycle CO₂ terms. The European Union should take steps to foster optimum solutions.

5.2.4 If the CO₂ benefits are to be properly realised each source used must have its own analysis and assessment, since different biofuel applications have different carbon impacts.

5.2.5 The proposal rightly endorses the use of biomass for biofuel production or for power production. This should result in the continued positive development of the biomass market.

5.2.6 The proposed directive says nothing about standards of monitoring and how the requirements are to be monitored and enforced. Given that most of the firms involved are operating on a global basis, and will need to have a consistent approach adopted to the requirements imposed on them the Committee sees a strong case for the standards and the monitoring and enforcement to be operated at European level, rather than being left to inconsistent interpretation and enforcement amongst the Member States.

5.3 Sulphur in fuels

5.3.1 The Committee supports the proposed confirmation of the mandatory date of 2009 for achieving a maximum of 10 ppm sulphur in diesel. It also supports the proposed reduc-

tions in the maximum sulphur content of gas oils intended for use by non-road mobile machinery and agricultural and forestry tractors. These proposals bring the sulphur requirements into line with those already adopted for road vehicles and will help to ensure that sulphur and particulate pollution is further abated.

5.3.2 In the case of inland waterways the Commission has proposed a two stage reduction of sulphur emissions. The Committee suggests that it might be better to consider a one stage reduction to the final figure, so as to avoid the possibility of boat owners having to make two separate modifications to their vessels. It might also be appropriate to consider some relief for historic or heritage vessels that will not readily be capable of the necessary modifications.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'Compensation payments for disadvantaged areas beyond 2010'

(2008/C 44/16)

On 16 February 2007 the plenary assembly of the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Compensation payments for disadvantaged areas beyond 2010*.

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 1 October 2007. The rapporteur was Mr Kienle.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 143 votes in favour with three abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee believes that areas with natural handicaps require and deserve special attention in both the public and political arenas. This also applies, without exception, to the 'other disadvantaged areas (intermediate zones)' considered in this opinion.

1.2 The EESC regards compensation, which is funded jointly by the EU and Member States, as an indispensable tool for preserving the cultivated landscape and agriculture in areas which are particularly sensitive from an economic, environmental and also social point of view.

1.3 The purpose of compensation goes well beyond the preservation of traditional forms of farming. The most impor-

tant approach towards disadvantaged areas should still be to offset the economic disadvantages suffered by farmers.

1.4 For the forthcoming European Commission discussion about redefining eligible areas, the EESC recommends that the EU set out a framework and alternative methods for the classification of areas. The choice of system for classifying and establishing areas should continue to be the responsibility of Member States and regions.

1.5 The EESC points out that the granting of payments must become more reliable over time. In the event of any changes in eligible areas, structural discontinuities must be avoided.

1.6 The EESC believes that the terms like 'disadvantaged areas' and 'compensation' are very difficult to explain to the public and that it would be a good idea to replace them.

2. Reason for opinion and background information

2.1 As specified by the Council, in 2008 the European Commission is to present a proposal for a revised classification of so-called 'other disadvantaged areas (intermediate zones)', to be implemented in 2010.

2.2 On 13 September 2006 the European Economic and Social Committee adopted an own-initiative opinion on *The future outlook for agriculture in areas with specific natural handicaps* ⁽¹⁾. The opinion focused specifically on upland, island and outermost areas, but not 'other disadvantaged areas (intermediate zones)' and 'areas with specific handicaps (small areas)'.

2.3 The EESC therefore made it clear that it intended to deal with these areas in a further opinion — the present one. This own-initiative opinion therefore contributes to the discussion about a possible redefinition of disadvantaged areas.

2.4 The need for a review of the classification of areas is also based on a report by the European Court of Auditors (Special report No 4/2003). Critical comments in the report related to the following points in particular: Member States use a broad range of different indicators to classify a disadvantaged area; there is not enough reliable information on the impact of measures taken; 'good agricultural practice' is not applied uniformly. The key conclusions of the Court of Auditors focus on the classification of 'other disadvantaged areas' and on compensation issues.

2.5 In November 2006, the Directorate-General for Agriculture of the European Commission presented an evaluation report from the Institute for European Environmental Policy (IEEP) on compensation in disadvantaged areas.

3. General comments

3.1 For the European Economic and Social Committee, areas with natural handicaps represent a key element of the 'European agricultural model'. Areas with natural handicaps require special attention in both the public and political arenas, so that specific measures can be taken that are geared to the real needs of these areas.

3.2 Classification of 'disadvantaged areas' should identify those areas in which use of land for agricultural purposes is under threat because of the handicaps imposed by local condi-

tions. This is based on the knowledge that sustainable agricultural use is an important requirement for creating attractive rural areas. Under the multifunctionality principle, the farmer works not only for his own account but also for the public good by preserving and maintaining the landscape.

3.3 The EESC notes that the term 'disadvantaged areas' is ambiguous because often it refers to regions with especially rich and varied countryside and landscapes and people with particular skills and traditions. However, often this potential cannot be harnessed economically owing to especially difficult local conditions. Furthermore, in many cases farmers do not have sufficient economic alternatives either within or outside agriculture.

3.4 The EESC considers compensation for disadvantaged areas to be a unique and indispensable tool for preserving the cultivated landscape and agriculture in areas which are particularly sensitive from an economic, environmental and also social point of view. The purpose of compensation is to exploit the significant potential of attractive cultivated landscapes in Europe by promoting active, market-oriented agriculture. The purpose of compensation thus goes well beyond the preservation of traditional forms of farming. The most important approach towards disadvantaged areas should still be to offset the economic disadvantages suffered by farmers in areas with particularly difficult farming conditions. In addition, since 2007 compensation has been linked to observing rules on food safety and environmental and animal protection (cross compliance).

3.5 Since 1975 a comprehensive European system for classifying disadvantaged areas has been developed, which began with upland areas. There are now three types of disadvantaged areas: (1) upland areas; (2) other disadvantaged areas (intermediate zones); and (3) areas with specific handicaps (small areas). In the case of types (2) and (3), there are major differences and variations between Member States with respect both to classification and to the amount of the payments granted. The considerable financial resources allocated for compensation have been very successful in maintaining agricultural activity, particularly in sensitive rural areas.

3.6 The EESC believes that compensation for disadvantaged areas should form an integral part of the rural development programmes (the EAFRD, pursuant to Regulation (EC) No 1698/2005). The fact that compensation for disadvantaged areas is funded jointly by the EU and Member States underlines the need for a sensible mix of uniform EU rules and flexibility at national or regional level in working out the details of these measures.

⁽¹⁾ OJ C 318 of 23 December 2006, p. 93.

3.7 The EESC recalls that in 2005 a Commission working document entitled *Methodology for redefining other disadvantaged areas (intermediate zones)* was widely misunderstood and rejected in the Member States. The main issue at the time was the attempt to establish a single central definition for disadvantaged areas using percentage of grassland and crop yields as criteria but without the possibility of factoring in regional conditions. Serious concerns and counter-arguments against this approach must be taken into account in future discussions.

3.8 The IEEP evaluation report of November 2006 points out that compensation should be viewed in combination with the single payment scheme and with agri-environmental measures. At the same time, the report recommends a stronger role for compensation as a means of offsetting local farming handicaps. The amount of compensation granted should be more in line with the nature of the handicaps being offset.

3.9 The EESC would point out that the IEEP evaluation report makes no reference whatsoever to the risk of 'overcompensation' mooted by the European Court of Auditors. Although compensation reduces the considerable income gap between farmers in disadvantaged and non-disadvantaged areas, it does not completely close this gap. Depending on the Member State concerned, experts estimate that compensation contributes between 10 % and 50 % of farming incomes.

3.10 The EESC believes that compensation for disadvantaged areas makes a very important contribution to the continuation of farming in low-yield areas, and in areas with a low population density. The survival of farms depends first and foremost on income from agricultural production and the sale of produce, on income from diversification, and on CAP measures. In order to offer prospects particularly to young farmers taking on farms in disadvantaged areas, compensation must be a reliable policy instrument over the long term.

3.11 To make the role of this measure stand out more clearly, the EESC believes that the system of compensation for disadvantaged areas should evolve more separately from agri-environmental measures. Furthermore, in the medium term it should be made clear how compensation in areas with environmental restrictions is to be further developed. According to the EESC, the limited application of these measures, which was mentioned in the IEEP evaluation report, also stems from the fact that many Member States or regions give priority to agri-environmental measures in these areas.

Observations on the redefinition of eligible areas

3.12 The EESC believes that the following points should be taken into account in redefining areas eligible for compensation in disadvantaged areas:

3.12.1 Compensation for disadvantaged areas should continue to be focused on maintaining dynamic agricultural activity adapted to local circumstances, also in areas with difficult farming conditions.

3.12.2 In view of the discussion so far, the forthcoming review should remain limited to 'other disadvantaged areas (intermediate zones)'. Since upland areas in particular are classified on an objective basis, the European Commission should once again explicitly state the intended scope of the review of disadvantaged areas, not least to prevent uncertainty amongst farmers.

3.12.3 Disadvantaged areas should be classified using objective and clear criteria but within a framework that allows for local conditions in each Member State to be fully taken into account.

3.12.4 Experience from the 2005 attempt to review compensation shows that a central approach is not suitable for classifying disadvantaged areas, chiefly because there is no single European system for classifying the productivity of agricultural land.

3.12.5 A subsidiarity-based approach is therefore recommended: the EU should establish the framework and alternative methods for classifying areas. The choice of system for classifying and identifying areas should continue to be the responsibility of Member States or regions. The cooperative procedures currently used by the European Commission and Member States should continue.

3.12.6 When classifying areas, Member States or regions should first use natural, geographical and/or climate-related farming handicaps as criteria. Socio-economic criteria can then be added under certain circumstances, if they reflect social or structural problems affecting farming in a particular region (e.g. high migration, substantial ageing of the regional population or agricultural workforce, very limited access to public infrastructure, low population density). Furthermore, it should be considered to what extent areas in the vicinity of airports, oil reserves, waste disposal sites, military installations and safety zones around high tension power lines are taken into consideration.

On the other hand, the use of socio-economic criteria, for example in regions with high value added from tourism, must not lead to a situation whereby agricultural land with farming handicaps is no longer classified as a disadvantaged area.

3.12.7 Promoting and training human capital is a key issue affecting business location, also and especially in disadvantaged areas. Member States must therefore ensure that, when developing support policies, training and guidance measures complement area-based support measures in a way that is beneficial for rural areas.

3.12.8 The European Commission, Member States and regions are asked to demonstrate more effectively the contribution of compensation for disadvantaged areas towards achieving the desired goal of maintaining an active agricultural sector and an attractive landscape. No such review has yet taken place and it should be introduced.

3.12.9 The European Commission should continue to assess the extent to which climate change can have an impact on disadvantaged areas.

Observations on granting compensation to disadvantaged areas

3.13 The European Commission has yet to make it clear whether, in addition to the classification of disadvantaged areas, the review of compensation is to propose other changes, e.g. to the way compensation is granted.

If this is the Commission's intention, then the EESC considers that the following should be taken into consideration:

3.13.1 Granting compensation in the form of an area payment is a good idea in principle, but in duly justified cases it should be possible to introduce a scheme for livestock farming if this is a normal way of preserving farming in the region in question (e.g. cattle or sheep farming in grassland areas).

3.13.2 As far as granting compensation is concerned, we should also aim to achieve a sensible combination consisting of a European framework and national or regional rules, so that sufficient consideration can be given to local conditions.

3.13.3 Even if the blanket accusation of 'overcompensation' can be disproved by examining farmers' accounts, internal differentiation in the granting of compensation still seems necessary. If the amount of compensation per hectare exceeds a specific minimum amount, the Member States or regions should grade the level of compensation according to the degree of disadvantage.

3.13.4 In order to ensure a sustainable future for farms, the granting of payments must become more reliable over time. In some Member States, payments vary considerably from year to year depending on the national budgetary situation.

3.14 The EESC points out that possible changes to eligible areas are associated with considerable risks to the structure of agriculture and preservation of the cultivated landscape. A risk and impact assessment should be carried out for areas that might lose funding. Farmers will generally find it very difficult to offset a loss of compensation through other measures, such as stepping up production. For this reason, in addition to adequate transition periods, hardship clauses should also be provided for in order to avoid structural discontinuities in farming.

3.15 The EESC points out that the term 'disadvantaged areas' is very difficult to explain to the public. 'Disadvantaged areas' may be particularly valuable and beautiful cultivated landscapes, which are characterised by being especially difficult to farm. The people in disadvantaged areas are often particularly proud of their history, traditions and the natural beauty of 'their' region — a source of great potential for regional development. Unfortunately, the term 'compensation for disadvantaged areas' does nothing whatsoever to help people identify with 'their' region. Consideration should be given to whether 'disadvantaged areas' can be replaced with another term that better reflects their potential and their specific features. This could help increase acceptance of compensation for disadvantaged areas.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'Health check of the CAP and its future after 2013'

(2008/C 44/17)

On 10 May 2007 the European Commission wrote to the president of the European Economic and Social Committee, Mr Dimitriadis, under Article 262 of the Treaty establishing the European Community, to request an opinion on *Health check of the CAP and its future after 2013*.

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 1 October 2007. The rapporteur was Mr Kienle.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October), the European Economic and Social Committee adopted the following opinion by 116 votes to two with six abstentions.

1. Summary and conclusions

1.1 The European Economic and Social Committee welcomes the fact that the European Commission has at an early stage asked it to draft an exploratory opinion on the health check of the Common Agricultural Policy and its future after 2013.

1.2 The 2003 reform of the CAP was a major paradigm shift. Regulation of agricultural markets through intervention was greatly reduced, the linkage of direct payments to production is now the exception, and, despite the enlargement of the EU, financial expenditure on the CAP has fallen. The EU has thus done more for the further liberalisation of international agricultural trade than any of its competitors.

1.3 Not only farmers, but also food processing businesses are currently going through a tough period of transition. The EESC believes that there is a great deal of willingness to respond in an entrepreneurial and market-oriented manner to the new conditions, provided that the promises made during the reforms are kept and sufficient legal and planning certainty is provided. This is all the more true at a time when there is strong worldwide demand for foodstuffs and renewable energy sources and the importance of food security is being reassessed.

1.4 The EESC considers it right that the simplification of the administrative rules applying to subsidies and the implementation of the cross-compliance requirements, along with a review of the need to adapt existing provisions to future requirements (see point 6.3), are seen as the main priority for the health check.

1.5 In connection with the debate about the future of the CAP after 2013, the EESC considers an adaptation of its aims (Article 33 of the EC Treaty) to today's circumstances and challenges to be necessary.

1.6 The EU is committed to the European agricultural model and to multifunctionality. The EESC points out that this cannot easily be squared with ever greater liberalisation, especially since European society's expectations of agriculture remain high.

1.7 The liberalisation of agricultural trade is likely to cause considerable volatility and instability in agricultural markets. Climate change is having a similar effect. Therefore, the EU will continue in the future to need instruments for stabilising agricultural markets. However, the EESC also calls for alternative systems to be discussed and developed.

1.8 It is generally expected that the quota arrangements for milk will expire on 31 March 2015. However, the EESC points out that many naturally disadvantaged regions rely on milk production. Timely proposals for safeguarding production in these areas therefore need to be drawn up.

1.9 The EESC would also draw attention to its current opinion on Compensation payments for disadvantaged areas beyond 2010 ⁽¹⁾, which deals with the need for targeted support for naturally disadvantaged regions.

1.10 The EESC is convinced that direct farm payments will continue to be essential in the future. If direct payments are to receive and maintain public acceptance, the EU must be able to explain their purpose.

1.11 The second pillar (rural development policy) is even more significant for ensuring the multifunctionality of agriculture. The EESC therefore advocates more substantial funding for the second pillar. Examples demonstrate that targeted support can lead to the creation or the protection of jobs in agriculture and rural areas.

2. Introduction

2.1 In 2007 the EU can proudly look back on 50 years of successful European integration. Since the entry into force of the Rome Treaty on 1 January 1958 the Common Agricultural Policy (CAP) has been an important part of this unprecedented development. Agriculture is still the only fully harmonised Community policy area.

⁽¹⁾ NAT/356.

2.2 It is therefore encouraging that a majority of EU citizens feel positive about agriculture and the CAP, as a representative poll clearly shows⁽²⁾. Advantage should be taken of this prevailing favourable mood to convince the public that the resources provided by the CAP are invested well for the benefit of society. Politicians should deliver not just the relevant measures and programmes, but good arguments to go with them.

2.3 The agricultural reform of 2003 (which has since been complemented by reforms in other markets) transformed the CAP to a much greater extent than any preceding reforms.

2.3.1 The rationale for the reform was that it would make agriculture more market-oriented and competitive. It was also intended to make the CAP more easily defensible in WTO negotiations, while better responding to changes in public expectations of agricultural production.

2.4 A point frequently made by policy-makers was that once completed, the agricultural reforms would restore planning certainty regarding CAP instruments for farmers and downstream businesses (processing and distribution). The EESC has repeatedly drawn attention to the importance of this requirement.

2.5 In December 2005, when the EU budget for 2007-2013 was agreed on, the European Council tasked the European Commission with conducting a review in 2008/09 of expenditure and revenue covering all aspects of Community policies.

2.5.1 Even before this, a 'health check' of CAP reform measures has been envisaged. According to the Commission, the aim is not to launch a new reform process, but to consider to what extent the objectives of the CAP have been met, and to what extent adjustments are needed.

2.6 A broad-based debate is already to be launched in autumn 2007. The Commission plans to issue a communication containing specific proposals on 20 November. The relevant legislative proposals are planned for the first half of 2008⁽³⁾. Separate from the health check, a discussion is envisaged on the direction which development of the CAP should take post-2013.

⁽²⁾ Eurobarometer 276, 'Europeans, Agriculture and the Common Agricultural Policy — 2006' (http://ec.europa.eu/agriculture/survey/index_en.htm). 88 % of those surveyed agreed that agriculture and rural areas are important for the future of Europe, 49 % were in favour of decoupling, and a higher percentage (45 %) felt that the budget share of the CAP was at the right level than that it was too high (16 %) or not high enough (15 %). 58 % of those surveyed felt that funding for agriculture should remain at the same level (32 %) or increase (26 %).

⁽³⁾ Speech by Commissioner Fischler Boel on 7 May 2007 in the European Parliament (SPEECH/07/288).

3. The 2003 CAP reform: a radical change

3.1 Following the changes to the CAP which had already been decided as part of Agenda 2000, the agricultural reform of June 2003 brought about a radical change.

3.1.1 Single farm payments are being decoupled from production. 'Decoupling' is the heart of the reform. So far, 85 % of payments have been decoupled.

3.1.2 Direct payments ('single farm payments') have been tied to compliance with particular environmental, food safety, animal health, plant health and animal welfare standards ('cross-compliance').

3.1.3 Regulation of agricultural markets in the form of market intervention, storage and export subsidies has been greatly reduced.

3.1.4 The remaining quantity guidance measures, such as production quotas, are to be gradually phased out.

3.1.5 In spite of enlargement and a wider remit, CAP expenditure for the 2007-2013 period will be down by 7.8 % compared to 2006.

3.2 As a result, the EESC notes that at 43.6 % in 2008 the share of the CAP in the EU's total budget (the Commission's preliminary draft budget) will, for the first time, no longer be the largest budget heading. It should also be remembered that in 1997 market support measures still amounted to EUR 35 billion, or 85 % of funding for agriculture. In 2007, only EUR 5,7 billion (13 %) has been allocated. A ceiling of EUR 1 billion has been set for export subsidies, compared with EUR 6 billion in 1997⁽⁴⁾.

3.3 Cuts in CAP expenditure at the same time as an increase in the number of beneficiaries (mainly due to enlargement) mean that various measures may experience cutbacks.

3.4 The need for the EU to strengthen its position in defending the European agricultural model in WTO negotiations was an important consideration for the Commission in reforming the CAP. The reform of the CAP was a huge first step for the EU. The Commission emphasises that the offers which have been tabled so far in the WTO Doha Round are consistent with the 2003 CAP reform. However, there are differing views on this point.

⁽⁴⁾ Source: European Commission, budget plans.

3.5 The EESC is concerned to note that the CAP is increasingly drifting apart. Differences in national implementation of the CAP have grown considerably as a result of the 2003 reform. However, this also affects competition in the internal market.

4. European agriculture is adapting to changed circumstances

4.1 Under the decisions taken by the European Council on the EU budget in 2003 and 2005, the CAP has been incorporated into the EU's overall financial framework. There are clear political objectives, which will apply until 2013. Farmers now need time to adjust to the changes.

4.2 As a result of cuts in institutional prices and market-support measures, and also of the further opening-up of markets to imports, production prices in the EU-15 fell in real terms over the 2000-2005 period ⁽⁵⁾.

4.3 The Commission has linked decoupling to expectations not only of achieving more stable incomes ⁽⁶⁾ but also of an improvement in farmers' income situation ⁽⁷⁾. However, income trends in 2005 and 2006 do not yet bear out such expectations. That said, incomes can be expected to increase in 2007, not least due to the current increase in world market prices for agricultural raw materials.

4.4 In its opinion on the 2003 CAP review ⁽⁸⁾, the EESC pointed out that proving adherence to cross-compliance standards would mean a sharp rise in farms' own expenditure, including on documentation. Costly investments are also often necessary, for example in livestock farming. Experience already suggests that some farmers with smaller and economically weaker farms are unwilling or feel unable to take on the necessary commitments, and are therefore obliged to give up farming.

4.5 Decoupled direct payments should enable farmers to make the best use of market opportunities. In many cases, adapting to markets requires investments, sometimes of large amounts of capital, or, in some cases, very little financial investment, but a lot of advisory support. Subsidies are available for restructuring and investments under the second pillar. The willingness of agriculture, and above all of those taking on farms in the future, to adapt to altered conditions and to make the necessary investments depends in large part on the reliability of policies.

⁽⁵⁾ EuroStat 'producer price indices': plant products — 9,3 %, animal products — 15,8 %.

⁽⁶⁾ DG AGRI, Memo/03/10.

⁽⁷⁾ Mid-Term Review of the Common Agricultural Policy, COM(2002) 394.

⁽⁸⁾ OJ C 208, 3.9.2003, p. 64 — NAT/178.

5. European agriculture must make good use of its potential

5.1 Over the last few months, there have been major changes in global agricultural markets as a result of strong global demand for foodstuffs as well as for regrowing raw materials (produced in the agricultural and forestry sectors) and renewable energies. This should open up more opportunities for farmers to cultivate and sell their crops. European agriculture, as well as agriculture in developing countries, will benefit significantly from this. However, the EESC considers it particularly important that the increased use of production potential in agriculture and forestry should take account of sustainability and environmental considerations. The EESC also points out that there are considerable risks associated with the much greater market volatility that is to be expected.

5.2 Tapping into existing potential means less dependence as regards supplies of everyday necessities. It can also significantly help to boost value added in rural areas and create employment in all stages of production, processing and distribution.

5.3 For many years, the availability of cheap fossil fuel supplies was seen as an advantage. Since then, heavy dependence and steep price rises have led to critical reflection on the possible implications for major products used in people's daily lives. There is a new awareness of the importance of secure supplies, of both energy and food. This will become greater as it becomes clear that these cannot be guaranteed by imports alone.

5.4 The UN's global climate report confirms what scientists have already warned of, in terms of the consequences of global warming. Even if global warming can be somewhat slowed down, serious consequences such as increasingly extreme weather conditions, droughts and water shortages are to be expected. Agriculture and forestry in many countries will be particularly hard hit.

5.5 The EESC welcomes stronger awareness of the problem in the EU, reflected e.g. in the Berlin Declaration on the 50th anniversary of the signing of the Rome Treaties. In the EESC's view, the heads of states' or governments' avowed intention to play a 'leading role' in combating poverty and hunger, and 'jointly to lead the way in ... climate protection' is to be supported by all possible means. Agriculture in the EU-15 has reduced its share of greenhouse gas emissions by 16 % over the 1990-2004 period ⁽⁹⁾, but pressures remain for further cuts.

⁽⁹⁾ EEA Report No 9/2006 'Greenhouse gas emission trends and projections in Europe 2006'.

5.6 The need to achieve massive cuts in CO₂ emissions must also bring about a rethink of how goods such as agricultural products are supplied. Strong transport growth is one of the main reasons for rising CO₂ emissions. Even with energy prices rising considerably, environmentally questionable imports (e.g. apples and asparagus flown in from South America) will only come under limited economic pressure. More attention must be urgently paid to improving supplies of foodstuffs and energy which do not involve long journeys. There are many successful examples which show that this can be done, to the benefit both of the environment and employment in rural areas.

5.7 The decision taken in Brussels in March 2007 by the heads of state or government to require that 20 % of EU energy come from renewable sources by 2020 is an important step towards cutting CO₂ emissions. This objective can only be achieved if greater use is made of biomass. On many occasions, the EESC has made it clear that farmers and forest owners are willing and able to supply significantly greater quantities of biomass raw materials. Various studies show that increased productivity and use of uncultivated land would have significant potential ⁽¹⁰⁾.

5.7.1 Set-aside has proved valuable as an instrument for relieving the pressure on cereals markets. However, circumstances have changed due to the 2003 reform and the need for agricultural raw materials for biofuel production. The EESC therefore supports the plans to do away with set-aside. However, it must be ensured that there are no environmentally adverse effects or that these are offset. The Commission should submit studies and proposals on this as soon as possible.

6. Health check

6.1 The decisions on CAP reform and the agreement on the EU budget for 2007-2013 (Financial Perspectives) also laid down requirements for the review of the policy. The planned review of CAP reform was dubbed a 'health check'. The communication on this subject is expected to be published on 20 November 2007, and the relevant legislative proposals in Spring 2008. The EESC will be consulted.

6.2 The EESC points out that the European Council, both in December 2002 and in the decisions on the 2005 Financial Perspectives, set objectives whereby the EU agricultural budget is valid until 2013, as are the agricultural policy measures. This was certainly a response to the fact that the way the previous

⁽¹⁰⁾ Communication from the Commission — An EU Strategy for Biofuels; SEC(2006) 142
Nachhaltige Biomassenutzungsstrategien im europäischen Kontext (Strategies for sustainable use of biomass in a European context) (Institut für Energetik und Umwelt, Leipzig)
How much bioenergy can Europe produce without harming the environment? (European Environment Agency, EEA Report No 7/2006).

mid-term review was handled was widely seen as a breach of trust — whilst what was announced was a review, what was actually adopted was the most sweeping reform in the history of the CAP.

6.3 The health check should be a review of the extent to which the aims of the CAP reform are being achieved. The main concern should be to identify needs for adaptation of existing legislation, enabling

- easier and more straightforward implementation, and
- removal of obstacles to targeted implementation of reform measures which have already been agreed on.

The EESC feels that the entire value added chain should be taken into account, including production, processing and distribution.

6.4 In the EESC's view, the priorities for the health check should be a thorough review of the administrative rules for farm subsidies and the implementation of cross-compliance. The signs that the Commission has thus far given point towards such tangible simplifications. However, if cross-compliance is not to remain a constant bone of contention, it is important to secure farmers' support for it.

6.5 Doubts are expressed among farmers as to whether the health check will include attempts at substantial reforms, for example in the system of decoupled direct payments or market organisation arrangements which have already been reformed. The EESC can only suggest that such doubts be removed by clear statements from the Commission.

6.6 At the time of the 2003 CAP reform, farmers were reassured that they could rely on the new conditions arising from the reform staying in place up to and including 2013. In principle, this should apply to all reform measures.

6.7 However, the EESC supports the Commission's concern to arrive in good time at a comprehensive position on the measures needed for the CAP's future post-2013. For example, this applies to both expiry of the milk quota system on 31 March 2015 and dealing with the consequences of scrapping export subsidies. It is equally necessary to set out in a credible manner, before the discussions on the next Financial Perspectives begin, why a functioning, properly-funded CAP will still be necessary, in the interests of the EU as a whole, even after 2013.

6.8 The EESC also draws attention to the expectations of the new Member States that the instruments of the CAP will fully apply there after 2013. The health check provides an opportunity to examine whether more needs to be done about this.

7. Comments on the future of the CAP

7.1 The CAP is based on the objectives set out in Article 33 of the EC Treaty: to ensure a fair standard of living for the agricultural community, to stabilise markets, to assure the availability of supplies, to ensure that supplies reach consumers at reasonable prices, and to increase agricultural productivity.

7.1.1 Subsequent Treaty provisions on environmental protection, consumer protection and cohesion have also played a key role in shaping the CAP.

7.1.2 The EESC advocates adapting the aims of the CAP set out in the EC Treaty to today's changed realities. It is of key importance that the aims of the CAP tie in with the multifunctional role of European agriculture, while meeting the new challenges.

7.1.3 Up till now, the CAP has played an essential and decisive role in the successful European integration process. Moves towards renationalisation of key CAP elements are not a helpful response to the new challenges facing European agriculture. Increasing globalisation and the likely consequences of climate change call for even more joint action.

7.1.4 The ongoing conflict between objectives which European agriculture is experiencing (see EESC opinion on *The Future of the CAP* ⁽¹⁾) will intensify: on the one hand, production has to meet high standards, and on the other, farms are expected to be internationally competitive.

7.1.5 Further liberalisation of agricultural markets (WTO, bilateral agreements) means even stronger competition. The rise in extreme weather conditions exposes agricultural production to greater uncertainty. However, society still expects to enjoy secure supplies of high-quality and safe food, while calling for careful management of natural resources, a sensitive approach to animals and the preservation of beautiful countryside. Meeting all of these requirements is a constant challenge for the CAP, as they are only partially addressed by the market, if at all.

7.2 *The European agricultural model — commitment and reality*

7.2.1 The European agricultural model is part of Europe's independent approach to social and economic policy. Even if economic conditions are changing, farmers should be in a position to sustainably fulfil the multifunctional tasks which society expects of them.

7.2.2 In its opinion on *A policy to consolidate the European agricultural model* ⁽¹²⁾, the EESC emphasised that there was no contradiction between preserving the European agricultural model and the need to adapt European agriculture to changing economic conditions. It also emphasised that the EU must continue to have the necessary room for manoeuvre in agricultural policy, even after the WTO trade negotiations.

7.2.3 The commitment to the European agricultural model remains in place. The unanimous Declaration of Intent made by agricultural ministers in Luxembourg in 1997 is particularly impressive. According to this, European agriculture should be:

- sustainable and competitive;
- capable of maintaining the countryside and conserving nature;
- capable of making a key contribution to the vitality of rural life;
- able to respond to consumer concerns and demands regarding food quality and safety, environmental protection and animal welfare.

It is equally important to refer to the Luxembourg European Council that took place the same year, which stated that 'European agriculture must, as an economic sector, be versatile, sustainable, competitive and spread throughout European territory, including regions with specific problems'.

7.2.4 However, the EESC is concerned to note a widening discrepancy between, on the one hand, commitments to the European agricultural model or to the multifunctionality of European agriculture, and, on the other, the day-to-day reality of European farming.

7.2.5 The enlargements in 2004 and 2007 further diversified the range of farm structures and production conditions. There is even greater diversity, and even less of uniformity in agriculture. In the EESC's view this is not a threat to the European agricultural model as the necessary basis for ensuring the multifunctional nature of European farming.

7.2.6 In the EESC's view, the European agricultural model's future prospects will be good only if a balance can be struck between economic, social and environmental concerns. As the EESC opinion on *The future of the CAP* has already noted, it is illusory to want to have an agricultural sector which:

- can produce under (often distorted) world market conditions (as far as possible without financial support);

⁽¹⁾ OJ C 125, 27.5.2002, pp. 87-99 — NAT/122.

⁽¹²⁾ OJ C 368, 20.12.1999, pp. 76-86 — NAT/028.

- and at the same time meets all the production expectations (in terms of quality, safety, protection of natural resources, animal welfare, etc.) while coping with European costs;
- and also secures a modern and attractive labour market that helps protect employees and is marked by high standards of employment, safety, and basic and further training.

7.2.7 For the EESC it is clear that wide-ranging liberalisation measures resulting from WTO and bilateral trade agreements are stepping up competitive pressure. Stringent EU rules and standards usually entail agricultural production and processing costs from which third-country competitors are exempt, besides the cost advantages which they enjoy. These circumstances are clearly at odds with the multifunctional role of European agriculture and are issues of crucial relevance when setting the future course of the CAP or endowing it with instruments.

7.3 Key CAP instruments will still be needed in future

7.3.1 The objectives set out in Article 33 of the EC Treaty impose an obligation to act. As the past few years have shown, we can expect weather conditions to become increasingly extreme throughout the world. This development strongly influences agricultural production and is likely to cause increased market volatility. It is therefore all the more important to consider which instruments should be kept and/or developed further.

7.3.2 The EESC would emphasise that CAP reforms in 2003 did not by any means envisage doing away with key elements of the CAP over the next few years. It is unlikely that competition in the European agricultural sector or society's expectations of agriculture will change over the next five years to such an extent that the reasons behind the CAP and its instruments cease to be relevant. On the contrary, the CAP will face new challenges.

7.3.3 This is particularly true of rural development policy (second pillar). The EESC has repeatedly called for this to be adequately funded. However, the measures under the second pillar cannot replace the first pillar measures for market stabilisation and the direct payments. The latter will continue to have an important role in the CAP beyond 2013. Similarly, the EESC would be against using rural development funds (second pillar) for measures relating to risk and crisis management (see COM(2005) 74 final).

7.3.4 The EESC reiterates its position that the necessary financial resources must be made available for the performance of Community tasks. It is therefore all the more important, in preparation for the debate to be held in 2009 on the future EU budget, to ensure that the public understands the future demands that will be placed on an effective Common Agricultural Policy.

7.3.5 The EESC has repeatedly called for a well-functioning CAP. Calls for the abolition of the CAP will remain confined to a few outsiders. However, it is important to counter moves towards renationalisation of key CAP elements, which are rightly perceived as exclusive Community responsibilities.

7.4 Common market organisations

7.4.1 Experience shows that agricultural markets are particularly vulnerable to price fluctuations. Large fluctuations often send the wrong signals, resulting in huge losses which are not in the long-term interests of consumers either.

7.4.2 The EESC feels that the arguments for stabilising agricultural markets presented by distinguished agricultural economists in the 1997 study commissioned by the European Commission ('Towards a common agricultural and rural policy for Europe' ⁽¹³⁾) will be all the more pertinent in future:

- a high degree of risk given the dependence of agriculture on weather;
- a spatially-diffused, atomistic structure of many small businesses, which have a high proportion of immobile assets and land, which restricts freedom of manoeuvre;
- fairly rigid dependence on seasonally and biologically determined development and growth processes;
- the responsibility to regularly supply products consumed every day.

7.4.3 These reasons for market stabilisation measures have not become obsolete as a result of developments on international agricultural markets since then. On the contrary, we can expect new challenges. The EESC therefore recommends that in future all steps towards liberalisation or removal of existing market stabilisation instruments be closely considered, with sufficiently in-depth analysis of possible repercussions.

7.4.4 The agricultural reforms of 1999 and 2003 represented significant steps towards liberalisation of the common market organisations: institutional prices (e.g. intervention and target prices) were cut, intervention rules were done away with, warehousing surcharges were reduced and production-linked direct payments were decoupled. This reform process was continued in 2004 with tobacco, olives, cotton, hops, in 2005 with sugar, and in 2007 with fruit and vegetables. Market organisation arrangements for wine are currently being discussed.

⁽¹³⁾ European Economy No 5/97.

7.4.5 If the WTO Doha Round were concluded, a new situation for EU agricultural markets would arise. This would apply even if the agreement was based on the concessions which have already been made, e.g. abolition of export subsidies by 2013, and cuts of between 35 % and 60 % to remaining tariffs. According to the Commission's calculation, these concessions would cost European agriculture about EUR 20 billion.

7.4.6 In future, the commitment to multifunctionality and the obligations arising from Article 33 of the EC Treaty will, the EESC believes, continue to require measures which can:

- counter the risks of increasing instability on agricultural markets;
- guarantee that setting high standards for production is not rendered meaningless by allowing imports which do not comply with EU requirements;
- and help to ensure that a wide range of foodstuffs continues to be available in the future.

7.4.7 The EESC would point out that for many years, EU markets have been some of the most open in the world. The EU is also by far the most open market for imports from developing and emerging countries. These countries export more agricultural products to the EU at either low or zero tariffs than to the USA, Canada, Japan, Australia and New Zealand combined. Discussion is needed of agricultural and food imports produced and processed under conditions which would be unacceptable in European society.

7.4.8 In the EESC's opinion, Community preference and effective instruments for market-relief measures, for example in the form of warehousing, should still be available in future, if market developments so require. Warehousing also helps to prepare for crises. No convincing alternatives enabling farmers to protect themselves against volatile agricultural markets have yet been found. The EESC calls for possible models, based on experiences in certain countries such as the USA and Canada and tailored to European circumstances, to be discussed. We must ensure that the EU continues to produce high quality safe food and this will only be possible if farmers receive an income that enables them and encourages them to stay farming.

7.4.9 The EU has not yet succeeded in including the negotiation of 'non-trade concerns' (environmental and social standards, animal welfare) in the WTO Doha Round. The EESC expects the Commission to exert greater pressure for this to happen in the current WTO talks. Direct payments alone will not suffice to guarantee high standards of production in the long term. So long as major differences in production conditions and standards remain in international competition, an

adequate degree of external protection is indispensable. Such protection must not be undermined by short-term policies; for example, there is a danger of this happening with the EU's latest offer to ACP countries (zero tariffs on imports). In future, the EU should make further trade concessions for agricultural products — particularly under bilateral agreements — conditional on those products complying with minimum standards.

7.4.10 Recent restrictive use of the 'export subsidy' market instrument shows clearly what the proposals to scrap such subsidies could mean in future critical market situations. The EESC expects the Commission to finally conduct a comprehensive analysis of the potential repercussions of scrapping export subsidies on the EU agricultural system.

7.4.11 Greater awareness of rigorous standards at all stages of the food production process could help to boost sales revenue. In future, this factor will become increasingly important for European agriculture. The EESC is in favour of making effective use of EU funding to support information and advertising campaigns. It is equally vital for the Commission to adopt a strong position in WTO talks on adequate protection of geographical indications in product labelling.

7.4.12 In its opinion on *The future of the CAP*, the EESC discussed the subject of controlling supply in detail. It noted that quantity-regulation measures can play an important role. However, there is no doubt that milk quotas have been increasingly undermined over the last few years.

7.4.13 In 2002 a Commission study⁽¹⁴⁾ pointed out that the phasing out of milk quotas in the EU-15 would cut farmers' incomes by more than EUR 7 billion. The amount of milk would increase by 12 % and prices would fall by 35 %. There would be substantial shifts within the industry and regionally in milk production. Until it is clear how these changes can be compensated for, no final decisions should be taken on milk production quotas.

7.4.14 According to the decision of the Agricultural Council of the EU on CAP reform, milk quotas will expire in 2015. The Commission is opposed to any backtracking on this decision; nor is there any likelihood of a qualified majority in favour of extension in the Agricultural Council. Given the importance of milk production, including for the maintenance of agricultural activity in numerous disadvantaged areas, a clear picture of the implications and inevitable consequences of an end to the quota system is needed. The EESC therefore feels that there is an urgent need to draw up a programme for regions which would be especially hard-hit by an end to the milk quota system in order to ensure continued production there.

⁽¹⁴⁾ SEC(2002) 789, Commission working document 'Report on milk quotas'.

7.4.15 In general terms, without farm and livestock production, many naturally disadvantaged regions run the risk of losing their economic viability. The EESC therefore feels that an in-depth study should be carried out, by region and by sector, of the future of farming after 2013, so that the challenges and changes that the sector will face can be addressed with a degree of certainty.

7.5 Direct farm payments

7.5.1 Since the 1992 CAP reform, direct payments have become a central and indispensable instrument of the policy, not least since market revenues alone are in many cases not enough to ensure an acceptable standard of living and continued farming. In doing so, they have taken account of the fact that farms

- no longer cover their costs for sales of many products as a result of falling prices;
- by cultivating farmland in compliance with strict production requirements, often work with much higher costs than in equivalent production outside the EU, and provide services in the public interest, in line with society's expectations;
- are compensated for natural handicaps in disadvantaged regions.

7.5.2 The EESC considers a function-oriented approach to direct payments and long-term protection for these CAP instruments to be indispensable for the future. In order to secure general acceptance, any type of direct payment must be sufficiently justified.

7.5.3 The EESC would therefore like a clear distinction to be made between the various types of direct payment. The direct payments introduced in 1992 as a result of price cuts will in future have a function as a payment for services which are not covered by market prices. They have a different function to those paid under specific environmental programmes, which are to continue in future to reward special environmental services via the second pillar, or to those which are intended to offset natural handicaps (compensatory allowances).

7.5.4 These direct payments, which have to a large extent been decoupled since the 2003 CAP reform, currently play a key role in ensuring the multifunctionality of European agriculture, and the EESC sees the importance of this role increasing in the future. Compliance with strict production requirements, e.g. due to environmental, animal welfare or food safety considerations, results in costs which many competitors from third countries are exempt from. Society expects such standards to be met; however, under the existing competition conditions, these tasks are insufficiently rewarded by the market. In the EESC's view, providing compensation through appropriate direct payments, currently in the form of the single farm payment, must remain a clear task of the first pillar.

7.5.5 Previous production-linked subsidies have already been 85 % decoupled, in the form of the 'single farm payment', which is conditional on meeting with cross-compliance requirements. The EESC is pleased that the Commission has put forward proposals to overcome the difficulties which have occurred in practice.

7.5.6 For the future, it is vital that neither the basic idea of these payments nor their amount are questioned and that an adequate financial basis remains in place. It is important to be able to provide society with good and sufficient justification of such payments. Only in this way can agricultural payments be maintained at their present level after 2013.

7.6 Rural development policy

7.6.1 90 % of the EU's land area is countryside, with most land being used for agriculture and forestry. According to Eurostat, the food production chain accounts for just 15 % of value added in the EU, but is the third largest source of employment.

7.6.2 The Commission's newsletter on 'Putting rural development to work for jobs and growth' (March 2006) noted that without the CAP, many rural areas of Europe would face major economic, social and environmental problems. It emphasised that rural development measures, in particular, can play a significant role in fostering and maintaining prosperity in rural areas. The EESC would refer to its opinion on 'Rural Development/EAFRD' ⁽¹⁵⁾ which, among other things, makes the following point: 'to ensure the economic and social sustainability of these areas, it is necessary to take into account the contribution of the Common Agricultural Policy's two pillars to the maintenance and creation of employment in all the EU's regions, particularly through the development of competitive agricultural or non-agricultural activity, based on innovation'.

7.6.3 The EESC finds the results of the 'Study on Employment in Rural Areas' carried out at the Commission's request (May 2006) alarming. The study assumes that the number of people working in agriculture will drop over the 2000-2014 period by about 4-5 million in the EU-15, and by an additional 3-6 million in the new Member States (including Romania and Bulgaria).

7.6.4 The EESC would emphasise that developing a comprehensive rural development policy requires a cross-sectoral approach. In view of its theme-based programming, second pillar promotion of rural development has its own role to play and thus cannot be a substitute for other instruments to develop and strengthen rural areas. The EU's employment strategy is indivisible and must encompass job retention and creation in agriculture and forestry.

⁽¹⁵⁾ OJ C 234, 22.9.2005, pp. 32-40 — NAT/256.

7.6.5 The EESC calls attention to a new study by the environmental foundation Euronatur entitled *Work and income in and from agriculture*. Using the Hohenlohe region as an example, evidence is produced that, despite internationalised agricultural markets, increased competition and concentrated processing, it is possible not only to preserve jobs in agriculture, but also to create new ones through diversification in production and marketing. The targeted use of subsidies can have a significant economic and structural impact on employment in rural areas.

7.6.6 The EU's rural development policy is directly linked to the CAP and can be seen as an instrument for supporting agriculture and forestry. The EESC feels that the sustainability of this approach and consistent implementation of both pillars of the CAP are important objectives. Strengthening competitiveness, recognising the environmental achievements of agriculture and forestry, and serving as a bridge to improved rural structures are strategic elements which are indispensable in complementing first-pillar CAP instruments.

7.6.7 In formal terms, rural development funding is distinct from the first pillar in that it has its own fund, thus emphasising the importance of the policy, which has been revamped as part of the reform. The results of negotiations on the 2007-2013 financial perspective have led to inadequate funding of the second pillar, something which the EESC has criticised in several opinions. The EESC takes the view that the different functions of the CAP must be preserved. Any further modulation of first pillar direct payments must respect this requirement. If this entails the transfer of funds from the first to the second pillar, it should be a condition that these funds support measures to

ensure the multifunctionality of agriculture. This will do a great deal to help employment in rural areas.

7.6.8 The EESC advocates a substantial increase in funding for measures under the second pillar after 2013. It is also in favour of making targeted use right now of current savings on export subsidies and other market-relief measures generated by the market situation for projects to support rural areas.

7.6.9 The EESC calls on the Commission to clarify the exact distinction between the European Agricultural Fund for Rural Development (EAFRD) and the European Regional Development Fund (ERDF). The EESC is concerned that the second pillar is increasingly used to fund every imaginable type of investment.

7.6.10 The EESC is very pleased that Axis 3 of the EAFRD Regulation can also be used to finance measures from non-agricultural and forestry sectors, but feels that these should have an identifiable — and not merely theoretical — connection to primary production. The EESC does not endorse proposals to finance e.g. the installation of cabling for broadband services or the GALILEO Project, which could be covered using conventional regional development funds.

7.6.11 The EESC feels that the following consideration should be taken into account when implementing rural development measures: in view of differing requirements in each Member State, there should be a certain degree of flexibility, in keeping with the subsidiarity principle. The related national co-financing of the programmes is a key element of the shared responsibility for appropriate implementation of the individual measures.

Brussels, 25 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'Climate Change and the Lisbon Strategy'

(2008/C 44/18)

On 25-26 April 2007 the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an opinion on *Climate Change and the Lisbon Strategy*.

The Section for Agriculture, Rural Development and the Environment (The Sustainable Development Observatory), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 October 2007. The rapporteur was Mr Ehnmark.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion unanimously.

1. Conclusions

1.1 Climate change has become our meeting with destiny. Climate change is not only a threat to welfare, but also to our very survival. It is a truly global threat, and it is accelerating, as emissions continue to increase.

1.2 Scientists tell us that we have a time envelope of 10-15 years in which to stem those emission increases. The conclusion is obvious: there is no time for idleness.

1.3 The European and Social Committee (EESC) urgently asks the European Commission to launch programmes and measures to implement the ambitious objectives set out by the European Council in March this year. Citizens are waiting for clear signals on priorities and measures. Europe should take the lead in implementation, not only in planning.

1.4 Mitigating climate change requires an extremely broad-ranging and sustained effort. As climate change will have effects on virtually all parts of society, both the public and private sectors will have to take responsibility.

1.5 The EESC underlines the need for transparent measures, making it possible for citizens to both follow and be inspired. Measures have to be planned and implemented in a bottom-up approach.

1.6 The EESC underlines the need for sustained efforts in communication and consultation with citizens and local communities.

1.7 The EESC strongly recommends that the Lisbon Strategy for competitiveness and jobs include a major effort against climate change. The Lisbon Strategy already contains a commitment to sustainable development. Now is the time to integrate the fight against climate change.

1.8 Using the Lisbon Strategy as a tool — and making the Strategy 'green', means that the EU can use an existing structure, with a well-established methodology and a well-functioning system of coordination. The EU has to maximise efficiency and use existing synergies whenever possible.

1.9 The EESC presents a map for integrating climate change issues into the Lisbon Strategy. Of particular importance is the capacity of the Lisbon Strategy to achieve broad consensus around common objectives and measures.

1.10 The EESC underlines the necessity to developing a number of integrated guidelines for fighting climate change, to be included in the Lisbon Strategy. As with other guidelines in the Strategy, these will be subject to the same assessment and comparison procedures, including the open method of coordination.

1.11 Climate change may accentuate current social distortions and gaps, in both the EU and in other parts of the world. Climate change is a major test for our capacity for solidarity. The objective must be to manage adaptation and achieve mitigation without causing unemployment and social distortion. The fight must not lead to increasing numbers of citizens living in poverty. The EESC underlines the importance of a continued Lisbon Strategy that combines competitiveness, social cohesion, and action against climate change.

1.12 Financing the fight against climate change must be built on combined private and public resources. The European Investment Bank has a key role to play in this respect. The EU's own budget should highlight where resources are directed to measures against climate change. The EESC strongly recommends that the Commission develops instruments for producing a 'green' GDP.

1.13 Fighting climate change can generate positive competitive effects. Global markets are searching for new, energy-saving solutions, for example, in the transport arena. Investments in research and development should be upgraded. Lifelong learning is more essential than ever.

1.14 The work ahead can be described as a test of our participatory democracy. Citizens expect to be consulted. The social partners have an extremely important role to play in this as the bridges between citizens and governments. Social dialogue at all levels is a key instrument. Organised civil society will have an essential role, not least in the area of social economy.

1.15 The EESC will remain heavily committed to the fight against climate change. The EESC is ready to make concrete contributions, as it is already doing for the Lisbon Strategy. The EESC will work in the spirit of solidarity between peoples and generations, internally to the EU, and externally.

1.16 The fight ahead will require a dedicated and responsive political leadership.

2. A vigorous climate change programme from the EU

2.1 The European Council, in March this year, adopted a vigorous and ambitious programme for fighting climate change. The Action Plan included a target of 20 percent renewables in the EU energy mix, a 20 percent reduction in greenhouse gases (GHG) by the year 2020 (and up to a 30 percent reduction under some conditions), and the long-term objective of reducing GHG emissions in the EU by 60-80 percent by the year 2050. Moreover, the EU decided to increase energy efficiency within the EU by 20 percent by 2020. With this Action Plan, the EU has taken a lead, globally speaking, in the efforts to fight climate change.

2.2 The European Council was less clear concerning the instruments for implementing the objectives. The European Commission was asked to provide proposals for future decisions. In addition, the Commission launched a public consultation on how to adapt to climate change.

2.3 The sense of urgency has been highlighted in a number of statements. For example, Commission President José Manuel Barroso stated earlier this year that the EU must continue to lead in the fight against climate change and to provide an incentive for others to follow: 'The leadership comes with the EU's commitment to cut emissions by at least 20 percent by 2020; the incentive by making clear that we will go further if others join us. It is, after all, global warming, not European warming'.

2.4 'The Commission's proposals on energy and climate change form a central part of the Lisbon Agenda for Growth and Jobs', stated Mr Barroso. The Lisbon Strategy, decided in 2000, established the objective of making the EU 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'. Energy policy was defined in 2006 by the European Council as one of the Lisbon Strategy's four priority areas. No 11 of the integrated guidelines for growth and jobs, for the present three-year period, also recommends to the Member States to make use of the potential of renewable energies and energy efficiency for growth, jobs and competitiveness.

2.5 The EU has to find a balance between competitiveness, cohesion and the rapidly growing threats from climate change. The purpose of this opinion is to explore where synergies and conflicts exist — or could exist — in the fight against climate change.

2.6 The costs for returning GHG emissions to current levels in 2030 have recently been estimated to be over USD 200 billion ⁽¹⁾. In a recent report by the United Nations Framework Convention on Climate Change the distribution of costs is the following:

- Industry: USD 38 billion
- Buildings, mainly insulation: USD 50 billion
- Transportation: USD 90 billion
- Waste: USD 1 billion
- Agriculture: USD 30 billion
- Forestry: USD 20 billion
- Technology research: USD 35-45 billion.

The figures indicate the need for effective management and coordination. To this (as the Stern Review pointed out last year) should be added the high costs of doing nothing. In fact, the longer we wait, the more expensive the work will be.

2.7 Financing the work ahead is a major challenge. The EESC calls on the European Commission to launch consultations with public and private stakeholders in order to establish priorities. The European Investment Bank as well as the Structural Funds have a key role to play in financing solutions.

⁽¹⁾ United Nations Framework Convention on Climate Change (UNFCCC): Analysis of existing and planned investment and financial flows relevant to the development of effective and appropriate international response to climate change.

2.8 The Lisbon Strategy will next be reviewed by the European Council in March 2008 with the new planning period stretching to 2011. The review is an opportunity to highlight synergies.

3. The core challenge: realising potential synergies

3.1 The Lisbon Strategy has been a key tool for promoting common objectives between the 27 Member States. This is an achievement in itself. Climate change introduces a number of new policy issues to the European agenda. The potential for synergy effects is considerable.

3.2 From the outset, the knowledge-based society was seen as one of the key foundations of the Lisbon Strategy.

3.3 Innovation policies, support for innovation centres, and new initiatives for promoting the transfer of knowledge from research to products are part of the Lisbon Strategy and of the EU programme against climate change. In the fast growing market for energy-efficient products, Europe is in a leading position in many areas. However, in the manufacturing industry sector, Europe may be vulnerable to competition from foreign producers with emphasis on small and fuel-efficient cars. Further expansion of the service sector, commensurate to the introduction of ambitious measures against climate change, will be important.

3.4 Climate protection is also about energy policy. Europe must speak with one voice when it comes to its foreign energy policy. By acting together, it has a negotiating power whose interests — climate protection, energy security, affordable energy — cannot be ignored.

3.5 Climate change may accentuate current social distortions and gaps. Ambitious education policies will help to avoid such developments.

3.6 The repercussions of climate change policies on employment will emerge as one of the crucial issues. The ambition must be to manage adaptation and mitigation without causing widespread unemployment. The changing industrialised landscape will create a wider demand for lifelong learning and will necessarily engender changes in the organisation of labour, jobs and income.

3.7 Firm support from local communities is needed for a successful fight against climate change. Projects to create carbon-neutral villages attract much interest. There is a substantial need for exchanges of experience. The demand for building low-energy houses will grow, as will the demand for renovation and insulation of houses.

3.8 Agriculture also has a role to play both in the arena of climate change and in the context of the Lisbon strategy, not only as an economic activity affected by climatic changes but also as a sector with the potential to help mitigate the impact of those changes. It is important — now more than ever — to encourage agricultural researchers to continue their quest for ways to cut farm inputs and modify soil techniques while at the same time maintaining optimum yield, and also to ensure the future availability of new plant varieties that are better suited to climatic changes. Attention should also focus on the whole aspect of non-food primary agricultural production. Provision should be made for ongoing training appropriate to the sector.

3.9 The use of Structural Funds will be influenced by climate problems such as desertification and rising sea levels. Another factor is people living in peripheral areas where rising energy prices will create very real problems. Maintaining living conditions is an issue where the networks created within the Lisbon Strategy can make a valuable contribution in the form of the exchange of experiences.

3.10 The examples given all indicate the scope and urgency of using the opportunities for coordinated actions between the Lisbon Strategy and the European Climate Change Programme.

4. Towards a new definition of growth

4.1 It is important both in economic terms but also from a climate change perspective that measures under the Lisbon Strategy goal of 'sustainable growth' be adopted. The new Lisbon Strategy's three-year programme should therefore carefully examine the definition of 'growth'. Growth that is carbon-neutral, or even has a positive carbon balance should be promoted.

4.2 The Committee has pointed out on several occasions that growth can no longer be seen in purely quantitative terms; rather, a new concept of growth is needed, which puts qualitative objectives based on sustainability criteria first. These sustainability criteria of course include a decoupling from growth in GHG emissions. It therefore reiterates its call upon the Commission and the Council:

— to determine whether or not there is a clash between the sustainable development strategy and the fight against climate change on the one hand, and the Lisbon Strategy on the other, particularly as regards the use of GDP as an indicator of social welfare and economic prosperity; and

— to indicate the requisite features of any new ‘prosperity indicator’ more in line with sustainability principles — which could be called for example ‘smart growth’ or ‘green GDP’.

5. Transport — an area of conflict?

5.1 The conflict of objectives is particularly acute in the transport sector. The Lisbon Strategy emphasises the importance of adequate transport corridors and networks of transport means. The result is that a great deal of work has focused on expanding road transport. But this is completely in conflict with climate change mitigation.

5.2 In the context of the present economic growth in the EU countries, the volume of road transport is increasing swiftly; some calculations indicate a growth of up to 40 percent in the period up to 2020. The increasing volumes of air transport add to this. For the moment, the growth in transport has not been decoupled from an increase in GHG emissions, and there is no ‘silver bullet’ in sight. Biofuels will not be able to replace fossil fuels in the near future and likely technical improvements in fuel and motor efficiency alone will most probably not be able to compensate for the projected increase in transport volume.

5.3 The new three-year plan for the Lisbon Strategy should approach the transport issues also from a climate change perspective. The objective should be that the EU must have an adequate transport system — but that transport systems will have to give more consideration to their effects on the climate. The fact that goods transport by rail is only marginally increasing is a very serious warning signal. This was further emphasised last year in the Transport White Paper, where the focus was on road and air transport and not on rail and internal waterways. Looking at the Structural Funds, it is obvious that considerable resources are spent in a way that does not lead to a decrease in GHG emissions, but rather the opposite.

5.4 In the perspective of the next 20-50 years (a timespan used by the European Council on climate change issues) Europe will have to find transport structures that are both effective and climate supportive. Why are there, to take one example, no provisions for transporting more urgent goods via TGV?

5.5 Increasing road transport volume also means that aging lorries — with ‘dirty’ engines — are kept running, even though they emit large amounts of GHG. The Commission should initiate consultation on methods for modernising old lorry fleets — and, ultimately, for the phasing out of outdated and inefficient vehicles. Moreover, measures have to be taken on the demand side. Incentives have to be put into place in order to reduce the overall amount of transport and to switch to more sustainable transport modes.

6. A road-map for integrating climate change issues and the Lisbon Strategy

6.1 The objectives set for EU work on climate change will require considerable input from many institutions and stakeholders. It stands to reason that the working methods and experiences of the Lisbon Strategy should be utilised.

6.2 Above all, it will be of paramount importance that the Lisbon Strategy, with its three-pillar work approach, integrates the climate change objectives into its operational programme with a view to accelerating progress in priority areas.

6.3 A road-map for an integrated EU effort to mitigate climate change, and to adapt to it, would include the following points:

6.4 The European Commission should review present programmes in order to highlight climate change issues in the present budget. In the next budget period, significant resources will have to be reoriented to fighting climate change. It is, however, likely that some resources will have to be transferred already in the present budget period. It must be underlined that the key responsibility for mitigation and adaptation lies at the national level.

6.5 The European Commission will present legislative proposals on renewables and emissions by early December. This will make it possible for the European Council to take necessary decisions in March 2008, in the context of identifying guidelines for the next three-year period of the Lisbon Strategy. This will be a crucial opportunity for promoting a joint implementation.

6.6 It is particularly important that the European Commission should be able to establish the necessary coordination between its units and services. The EESC has previously, on a number of occasions, stressed that internal coordination in the Commission is of extreme importance.

6.7 On the basis of Commission proposals and Council decisions, a major information and communication effort should be launched, with the objective of raising citizens’ awareness and of promoting initiatives at local and regional level.

6.8 In the light of the forthcoming proposals on renewables and emission reductions, the EESC emphasises the importance of close and continuous dialogue with the social partners and organised civil society. The EESC recommends that the social dialogue be used as one of many forums for information and consultation. It is imperative that organised civil society should also be involved in the deliberations.

6.9 To sum up some of the particular proposals for the road map ahead, the following points should be made:

- assessment of operational objectives for three-year periods;
- integrating climate change issues into the broad policy guidelines, in economic and social fields;
- inclusion of climate change issues in the annual national reform programmes on progress on the Strategy;
- involvement of stakeholders, particularly at national and local level;
- comparative reports by the Commission on progress made;
- widening of the use of the Open Method of Coordination to include climate change issues;
- active involvement of the mass media and stakeholder organisations in providing citizens with up-to-date information on progress made;
- targeted support for innovative projects, particularly local communities in the development of carbon neutral platforms (cf. examples from the UK).

6.10 Possible examples for benchmarking climate issues in the Lisbon Strategy:

- increasing the percentage of rail and internal waterway transport by two percent each year;
- increasing the use of energy-saving lamps in public buildings by a certain percentage each year;
- initiating school information-communication days for all pupils, one day per year.

Brussels, 24 October 2007.

7. Role of the social partners and organised civil society

7.1 Climate change and the Lisbon Strategy are together major challenges for the Union. It is imperative that actions and programmes are drafted and decided on from the bottom-up, not the other way around. Social partners and organised civil society must be integrated in the work.

7.2 The EESC will be ready to make a contribution with its network of stakeholders.

8. The need for political leadership

8.1 The European Council has taken a rigorous decision on objectives for reducing the emissions of greenhouse gases.

8.2 What this will mean, in more practical terms, for our societies and our citizens' everyday lives, is one of the big issues ahead. What kind of society do we want? How can the European Social Model adapt to the multiple challenges that climate change will bring? How will the Model be able to manage parallel demands for competitiveness, social cohesion and sustainable development in a globalised environment? These should be themes for the continued debate on what kind of a society citizens want.

8.3 In a number of opinions in recent years, the EESC has underlined the need for political leadership in the work on climate change and sustainable development. This demand is no less important today.

8.4 Climate change is coming rapidly. There is some anxiety among citizens. What is needed now is a constructive political leadership, not only at European and national level, but very much also at municipal and local level.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'Credit and social exclusion in an affluent society'

(2008/C 44/19)

On 16 February 2007, the European Economic and Social Committee, under Rule 29 (2) of its Rules of Procedure, decided to draft an opinion on *Credit and social exclusion in an affluent society*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2007. The rapporteur was **Mr Pegado Liz**.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October 2007), the European Economic and Social Committee adopted the following opinion by 59 votes to 0 with 1 abstentions.

1. Conclusions and recommendations

1.1 In the absence of any Community guidance in this area, the various Member States have developed their own national legal systems for preventing individuals and families from falling into over-indebtedness, processing the cases of those who do, helping them get out of debt and providing them with support.

1.2 Faced with the worrying growth of this phenomenon in recent decades and taking particular account of the European Union's enlargement and the recent deterioration in the situation globally, the EESC — which has been closely following developments in this area for quite some time, as well as the social consequences of over-indebtedness in terms of exclusion, social justice and obstacles to the completion of the internal market — has decided to reopen public debate on this matter with civil society and the other Community institutions. The Committee's intention is to identify and implement Community measures aimed at precisely defining, monitoring and dealing with the problem in all its different aspects — social, economic and legal.

1.3 The diversity of the systems established in the countries that have developed them, not just in Europe but also in the rest of the world, together with the fact that some countries do not have any such systems, is encouraging the development of 'unequal' opportunities, creating social injustice on the one hand, and distortions in the move towards completion of the internal market on the other; all of this warrants urgent, proportionate action by the European Union, for which the necessary legal basis exists in primary law.

1.4 This opinion reviews the main issues raised by the phenomenon of over-indebtedness, weighs up the solutions found at national level, describes the difficulties encountered and errors detected, assesses the overall scale of the problem and reflects on gaps in knowledge and shortcomings in the methods used. The opinion also seeks to identify approaches and pinpoint areas for possible action at Community level.

1.5 The opinion even goes so far as to suggest that a European Indebtedness Observatory be set up to monitor develop-

ments in the phenomenon at European level, providing a forum for dialogue between all the parties concerned, and proposing and coordinating measures to prevent and limit it, then assessing the impact thereof.

1.6 The Committee is aware, however, that coordinating steps of this nature and scope can only be achieved if the Commission, European Parliament and Council — in close dialogue with organised civil society, representing the bulk of those concerned by the issue (families, workers, consumers, financial institutions, etc.) — decide to make this a priority for action.

1.7 Recent indications of the Commission's thinking on this matter are therefore to be welcomed and it is strongly recommended that the necessary follow-up be given in terms of basic research, consultations and legislative and other relevant proposals, starting with the publication of a Green Paper defining and identifying the terms of the issue and giving a voice to all the parties concerned, by means of extensive public consultation.

1.8 Furthermore, the EESC calls on the European Parliament and the Council to take on board the major concerns that this opinion attempts to address on behalf of civil society and make them a priority in their respective political agendas.

2. Introduction

2.1 Credit has undeniably enabled people in Europe to improve their quality of life and access essential goods and services which would otherwise have been beyond their reach or only affordable after a considerable length of time, such as their own homes or means of transport. Nevertheless, if the conditions under which credit is provided are not sustainable — if serious employment problems arise, the monthly burden of debt exceeds a reasonable proportion of available monthly income, too many loans have been taken out or there are no savings to help tide people over times when they have no income — credit can lead to situations of over-indebtedness.

2.2 In fact, the problem of over-indebtedness and its social consequences is not new. Its origins might even be glimpsed as far back as times of Classical Antiquity, more specifically the agrarian crisis suffered by Greece in the VIth century BC and Solon's measures (594/593 BC), first of all to write off the debts of farming small-holders who had been reduced to slavery and sold off, and then to free these people and reintegrate them into Athenian society and productive life as free citizens ⁽¹⁾.

2.3 However, there is no doubt that nowadays this phenomenon is becoming increasingly widespread and assuming worrying proportions. People are becoming more aware of it as a social problem in a society hallmarked by sharp contrasts, where discrepancies continue to grow and solidarity is much less in evidence.

2.4 It is against this background that the question of banking exclusion is to be seen, denoting the marginalisation of those who, for various reasons, are prevented from having access to basic financial services ⁽²⁾.

2.5 This opinion seeks to pinpoint the main causes of this problem, its scale, the remedies most frequently brought to bear and the reasons for seeking a solution at Community level.

3. Scale of the problem

3.1 Social exclusion and banking exclusion

3.1.1 According to the Eurobarometer Report of February 2007 ⁽³⁾, around 25 % of Europeans feel that they are at risk of sliding into poverty and 62 % believe that this is something that could happen to anyone, at any time of life.

3.1.2 Data from the European Commission's 2007 Joint Report on Social Protection and Social Inclusion indicate that in 2004, 16 % of the EU15 population lived below the poverty line, which is set at 60 % of the average income of each country ⁽⁴⁾.

⁽¹⁾ As referred to by Aristotle in his treatise on the 'Constitution of Athens' (in part 6 in particular, which states: 'As soon as he was at the head of affairs, Solon liberated the people once and for all, by prohibiting all loans on the security of the debtor's person: and in addition he made laws by which he cancelled all debts, public and private. This measure is commonly called the *Seisachtheia*, since thereby the people had their loads removed from them' [translated by Sir Frederick G. Kenyon] and whose 'identity' of situations will have influenced the fascinating contribution by Udo Reifner entitled 'Renting a slave — European Contract Law in the Credit Society' at the conference on private law and the various cultures of Europe, held at the University of Helsinki on 27 August 2006. Note that imprisonment for debtors still applied in most European countries until the XXth century.

⁽²⁾ On this subject, see the recent contribution by Georges Gloukoviezzoff entitled 'From Financial Exclusion to Overindebtedness: The Paradox of Difficulties for People on Low Incomes?' in 'New Frontiers in Banking Services', Luisa Anferloni, Maria Debora Braga and Emanuele Maria Carluccio, Springer.

⁽³⁾ Cf. Special Eurobarometer 273, *European Social Reality*, 2007.

⁽⁴⁾ 2007 Joint Report on Social Protection and Social Inclusion, adopted by the Council on 22.2.2007 (COM(2007) 13 final of 19.1.2007).

3.1.3 In qualitative terms, poverty corresponds to a lack or inadequacy of material resources for meeting the vital needs of an individual; this is the most visible aspect of social exclusion, which pushes the individual back out to the margins of society, thus generating feelings of rejection and self-exclusion.

3.1.4 The extent and form of social exclusion depend, in each country, on a number of variables such as the social security system, the way the labour market operates, the justice system and informal solidarity networks. Immigrants, ethnic minorities, the elderly, children under 15, people on low incomes with few educational qualifications, people with disabilities and the unemployed are the most vulnerable to poverty and social exclusion.

3.1.5 In most European countries, consumer trends indicate a relative fall in spending on foodstuffs, drink, tobacco, clothing and footwear, and a relative rise in expenditure on housing, transport and communication, health services, culture and other goods and services such as health care, tourism and hotel and catering services ⁽⁵⁾.

3.1.5.1 This new distribution in household spending tends to be reflected in the use of credit. Consumer credit in the broad sense of the term, which includes the purchase of both consumer goods and housing, is nowadays closely linked to new patterns of consumption and closely follows the ups and downs of developments in these patterns. Thus, the increased share of spending on domestic utilities, transport and travel ⁽⁶⁾ frequently involves payment by credit.

3.1.5.2 Another factor encouraging the increase in consumer credit is the fact that a) the latter has lost its negative connotations of poverty and guilt in respect of the way that people lead their lives or manage their businesses, mainly in countries where people are predominantly catholic, as compared to protestant, in upbringing, and b) it has become quite common, especially in the big cities. Pushy, systematic advertising by financial bodies to attract new clients is encouraging more people to take out loans. In addition, consumer credit confers status and makes it easier to camouflage people's social background, allowing them to adopt a lifestyle characteristic of a class higher than their own. For many families, credit is a common way of managing a household budget (especially using credit cards), where the risks are known; however not enough information is provided on these risks or on the effective solutions to the problem, and even the extent of the risks has not yet been properly quantified.

⁽⁵⁾ Cf. Eurostat — *Les nouveaux consommateurs* (The new consumers), Larrousse 1998.

⁽⁶⁾ Whilst not overlooking the considerable differences between these three, even in terms of fundamental rights.

3.1.6 These determining social and cultural factors are also underpinned by economic and social ones such as the sharp drop in interest rates over last decade, the fact that people have a lower propensity to save and persistently low unemployment rates, all combined with economic growth (despite the crisis of the late nineties which nonetheless did not assume the same proportions as previous such crises). On top of this has come deregulation, which targeted the whole of the credit market from the late seventies and early eighties onwards ⁽⁷⁾, triggering a rapid expansion in the scale and number of credit providers, including some not subject to monitoring and financial supervision, together with an increase in competition between them, all leading to a depersonalisation of the bank-customer relationship.

3.1.7 These factors together have all meant that European society is becoming increasingly dependent on credit being granted for people's key needs to be met. The growing extent of indebtedness in most Member States clearly illustrates this fact ⁽⁸⁾.

3.1.8 If credit is taken out on a sustainable basis — where there are no serious employment problems, where the share of monthly debt payments as part of monthly disposable income is not excessive, where the number of loans taken out is not high and where there are some savings to tide people over occasional periods without income — it can help people improve their quality of life and allow them access to essential goods and services which they could not otherwise afford, or only after a long time, such as housing and private cars.

3.1.9 Nevertheless, the prospect of something going wrong in private or family life, causing financial commitments not to be met at a particular moment, is a risk run by everyone signing a credit contract. Thus, normal, controlled indebtedness can for a variety of reasons become uncontrolled over-indebtedness.

3.2 Concept and measure of over-indebtedness

3.2.1 Over-indebtedness refers to situations where the debtor is unable to pay all his debts on a long-term basis, or where there is a serious risk that this might be the case when the debts fall due ⁽⁹⁾. Nevertheless, the precise terms of this concept vary

⁽⁷⁾ This only occurred in the new accession countries in the 1990s.

⁽⁸⁾ Cf. The data set out in the Bank of France Bulletin No 144, December 2005. URL: http://www.banque-france.fr/fr/publications/telechar/bulletin/etu144_1.pdf;

⁽⁹⁾ The exemplary definition by Udo REIFNER states: 'Over indebtedness means being objectively unable to pay; more precisely, the relevant income after deduction of living expenses is no longer sufficient to meet the repayment of debts when they fall due' (in 'Consumer Lending and Over Indebtedness among German Households').

considerably from country to country in the EU, and its definition at European level is still lacking ⁽¹⁰⁾. The recent European Commission initiative to commission a study on this subject is therefore to be welcomed ⁽¹¹⁾.

3.2.2 Not only is the concept in itself ambiguous and its definition not straightforward, there are also several different ways to measure over-indebtedness. Thus, in a study commissioned by the European Commission ⁽¹²⁾, there were three different formulas or models devised for measuring over-indebtedness: the administrative model ⁽¹³⁾, subjective model ⁽¹⁴⁾ and objective model ⁽¹⁵⁾.

3.2.3 One of the main difficulties in assessing the scale of over-indebtedness in Europe relates to the lack of reliable statistics, and the fact that is impossible to draw comparisons with existing data, given the different methods, concepts and time periods applied. This is one area to which the Commission

⁽¹⁰⁾ The concept of over-indebtedness underlying the highly diverse legislative initiatives is above all derived from the legal rules setting the access conditions to any debt restructuring procedure, be it extrajudicial or judicial. Thus, for example, French law allows access to *debtors acting in good faith who are clearly unable to meet the whole of their professional debts due or falling due* (Article L.331-2 of the *Code de la Consommation*). Likewise, Finnish law (1993) *considers debtors to be over-indebted or insolvent when they are not in a position to pay their debts when they fall due, where this is a permanent situation and not only accidental or temporary*. Other countries, however, limit their definition to a series of procedural and personal requirements for access to schemes for dealing with over-indebtedness, without risking a definition thereof. Such is the situation in Belgian law (Law of 5 July 1998, amended by the Law of 19 April 2002) and North American law (*Bankruptcy Code*, revised in 2005).

⁽¹¹⁾ 'Common operational European definition of over-indebtedness (Contract No VC/2006/0308, of 19.12.2006)', financed by the European Commission, DG Employment, Social Affairs and Equal Opportunities and conducted by the European Savings Observatory.

⁽¹²⁾ 'Study of the Problem of Consumer Indebtedness: Statistical Aspects (contract No B5-1000/00/000197)', carried out by OCR Macro for DG SANCO.

⁽¹³⁾ The *administrative model*: the measure of over-indebtedness is given by official statistics referring to formal procedures for dealing with such cases. This option leaves out a part of the actual situation, since not all debtors in difficulty make use of official, legal proceedings. Moreover, the variety of legal solutions in place in the different countries of Europe make it impossible to draw exact comparisons between them.

⁽¹⁴⁾ The *subjective model* is based on individuals' or families' perceptions of their financial solvency. Families consider themselves to be over-indebted when they state that they have major difficulties in paying all their debts or are already unable to do so. The criterion in this model is also difficult to apply in practice, compromising the comparability of data. An increasing number of people are drawing attention to the fact that people's judgement is clouded by *overoptimism, underestimation of risk and hyperbolic discount* when assessing financial sustainability and deciding about whether or not to use credit to make payments.

⁽¹⁵⁾ The *objective model* uses the economic and financial situation of households as a measure of inability to pay, i.e. the relation between total debt and net salary or between total debt and net salary and assets together. This is the formula generally used by financial institutions and also by some national legal systems. Although this is not without its problems, such as knowing to what extent the debtor's behaviour, honesty and good faith should have an influence on access to a system for settling and writing off debts, this is one criterion which enables comparisons to be drawn and which may provide a basis for devising a common legal concept of over-indebtedness.

should devote more attention, carrying out the studies needed to obtain and process reliable, comparative data.

4. Main causes of over-indebtedness

4.1 The numerous sociological studies carried out in the various Member States have pinpointed the following main causes of over-indebtedness:

- a) unemployment and deteriorating work conditions;
- b) changes in the structure of households as a consequence of, for example, divorce, death of a spouse, unplanned child, unexpected support needed for older people or invalids, illness or accident;
- c) failed attempt at self-employment, collapse of a small family business for which personal guarantees have been put up;
- d) advertising and marketing campaigns pushing people to consume, offering easy credit and encouraging people to gamble, play the stock market and boost their status;
- e) higher interest rates, the negative effect of which is felt above all in long-term loans, such as mortgages;
- f) bad household budget management;
- g) deliberate concealment by customers of information that would enable financial institutions to assess their solvency;
- h) excessive use of credit cards, revolving credit and types of personal credit extended by financial companies, with high interest rates;
- i) credit obtained on the informal market, above all by people with low incomes, at usurious interest rates;
- j) credit used to pay for other loans, creating a snowball effect;
- k) the fact that socially isolated disabled people and people with limited cognitive skills can easily fall prey to aggressive lenders;
- l) The unwillingness of certain financial institutions to renegotiate debt repayment with less well-off consumers who find themselves in financial difficulties.

Sociological analysis of the phenomenon thus indicates that there is a predominance of passive causes, although it should be pointed out that in some countries, bad financial management has also been recognised as being at the root of the problem ⁽¹⁶⁾. This suggests that individuals encounter difficulties in managing their budgets in a careful, sustainable fashion ⁽¹⁷⁾.

4.2 Financial exclusion is normally reflected in difficult or denied access to the basic financial services market, namely for opening a current account, using electronic means of payment, being able to make bank transfers and taking out insurance for credit protection.

4.3 Such financial exclusion includes, *a fortiori*, difficult or denied access to low-cost loans enabling the purchase of essential goods and services for a family household (house, domestic appliances, transport and education), a self-employment start-up, or the management of a small one-person or family business.

4.4 Nowadays, access to a bank account, to certain forms of credit and electronic transfers between accounts is an essential pre-condition for accessing key goods and services. Employment, a small business, a house to live in, house fittings, transport, information and even food, clothing and leisure all require access to credit and banks — the latter thus bearing a special social responsibility for providing something almost akin to a public service.

4.5 It is here that the line becomes blurred between a growing and increasingly impoverished middle class and those who are definitively excluded, homeless, beggars, and those dependent on charity. It is precisely at this threshold of poverty that the prevention of over-indebtedness makes sense, together with ways to deal with and recover from it, and also to prevent those who are socially and economically surviving or recoverable from falling irreparably into a cycle of poverty and social exclusion.

5. Prevention of over-indebtedness and ways of dealing with it

5.1 Prevention

In national systems, the emphasis tends to be on measures to prevent over-indebtedness, including:

⁽¹⁶⁾ Bank of France figures for 2004 estimate that 73 % of over-indebtedness files submitted to the Commissions for Over-indebtedness are rooted in passive causes.

⁽¹⁷⁾ On the factors affecting over-indebtedness, see the EESC Information Report of 26.6.2000, entitled 'Household over-indebtedness' (rapporteur: Mr Ataíde Ferreira) in which the subject was examined extensively.

- a) **More complete and widely available information** on financial services in general, their costs and the way in which they operate.
- b) **Financial education**, included from an early stage in school curricula and other areas of education and training, such as *lifelong learning processes* reflecting the needs and skills of the individuals it aims to assist, which can be varied throughout life cycles and in keeping with the culture, values system, socio-demographic and economic characteristics, consumer standards and indebtedness of those concerned. It is worth highlighting the fact that in some Member States, the 'media' and in particular television, with its public service remit, have — with the cooperation of consumers' associations and the financial institutions themselves — broadcast programmes to raise awareness of the issues of credit and indebtedness, often at peak viewing hours. Moreover, adult education structures, like those provided in some countries by family education centres, should be used.
- c) **The creation or extension of financial advice networks** that help people to a) manage their budget in a balanced way, b) choose the best options for financing their purchases ensuring that the balance of information is not skewed towards the financial institutions and c) draw up sustainable repayment plans by means of simulations before credit is granted.
- d) **Incentives to save** (such as tax breaks and social and educational incentives), which would be a household's first line of defence when faced with financial difficulties. Such incentives could also act as a counterbalance to aggressive publicity advertising credit.
- e) **The use of credit scoring systems**, whether these are credit institutions' own systems or contracted out to specialist companies, in order to assess clients' credit risks. This enables the lender to gauge the risk of insolvency by assessing a whole series of variables and setting objective limits for individual and household debt ⁽¹⁸⁾.
- f) **The guarantee of proper pensions**, early retirement provision and other social benefits for people outside the labour market, incorporated into effective social security schemes

⁽¹⁸⁾ Whilst this is an important risk-management instrument for financial institutions, there is a need for greater transparency in the content of scoring systems and for these to be combined with subjective means of analysis so that an accurate, realistic assessment can be made of debtors' ability to repay and so that decisions are not based solely on automated models. There is also a need for the variables of the mathematical model to be monitored by the relevant public authorities. In addition, consideration should be given to the possibility of giving debtors access to their credit reports, as happens in countries such as the USA and the United Kingdom, so that individuals can see how to improve their credit rating.

by the public authorities, as an essential condition for ensuring that those unable to access private **pension funds** are not excluded from society ⁽¹⁹⁾.

- g) **Access to basic insurance** for securing credit as a means of protecting against financial risk ⁽²⁰⁾.
- h) **Social credit, microcredit and affordable credit**

Schemes such as microcredit, credit unions, savings banks, the German and Dutch social funds, post office banking and social credit are, alongside other schemes starting up in the Member States, examples to bear in mind for people at risk of exclusion who are seeking affordable credit. Microcredit, for example, has helped finance small businesses and self-employment, enabling some of the unemployed to re-enter the labour market and start some economic activity again. It is recommended that the financial institutions provide specialist assistance (in management, accounting, commerce, etc.) to help the beneficiaries of microcredit to manage their activity, a practice already being adopted in a number of cases ⁽²¹⁾.

- i) **Responsible lending**, which requires credit institutions to pay greater attention to the needs and situations of their individual borrowers, to find the financial instrument most appropriate to each one's circumstances, and even to deny further credit where there is imminent risk of over-indebtedness ⁽²²⁾.

⁽¹⁹⁾ Furthermore, it is essential to prevent financial practices which seek to misuse the pensions of the most dependent members of society by using pensions as guarantees for loans that are disproportionately high in relation to their means to repay them. In Brazil, for example, a type of credit targeting the elderly, known as 'crédito consignado' [a loan granted against income], was set up in 2004. This special type of credit is deducted from pensions at source, up to a maximum of 30 % of the pension's total value. The fact that the interest rates offered are lower than those available on the market does enable pensioners to access credit; however this appears to be causing financial difficulties for people on the lowest pensions, causing them to default on other repayments and depriving them of sufficient resources to meet their basic needs.

⁽²⁰⁾ Insurance plays an ambivalent role in relation to social exclusion. Compulsory life insurance can exclude people with health problems from the credit market, but a life insurance policy can also prevent someone who unexpectedly falls ill from losing their insured assets and thus sliding into poverty and exclusion.

⁽²¹⁾ In France and Belgium, consumer microcredit (known as social microcredit) is being used in an experimental scheme by a number of banking networks, in partnership with relevant associations. To date, the experiment has been reasonably successful but it is still too early to be able to make a definitive assessment. To be highlighted in the case of Belgium is the experience of Credal, a Belgian social credit cooperative, created under a public/private partnership between the Walloon Regional government and a number of financial institutions.

⁽²²⁾ See for example the 'Protocollo sullo sviluppo sostenibile e compatibile del sistema bancario' signed on 16 June 2004 in Rome between the 'Associazione Bancaria Italiana' and the 'Federazione Autonoma Lavoratori del Credito e del Risparmio Italiani (Falcri)', the 'Federazione Italiana Bancari e Assicurativi (Fiba-Cisl)', the 'Federazione Italiana Sindacale Lavoratori Assicurazioni e Credito (Fisac-Cgil)', the 'Uil Credito, Esattorie e Assicurazioni (Uil C.A.)'.

j) **Credit history files**

The use of databases containing either customers' entire financial histories (positive credit history files) or just their repayment problems (negative credit history files) helps credit institutions ascertain customers' levels of indebtedness and provide a sounder basis on which to grant loans. This is despite the acknowledged risks, in particular relating to positive credit history files, in terms of privacy protection, and the fact that such files provide no help where there is passive indebtedness, a) since it is impossible to predict what might cause similar situations in the future and b) because they take no account of other, non-financial debts (for example, debts relating to essential services and the payment of taxes).

- k) **Self- and co-regulation**, leading to the establishment of **Codes of Conduct** by financial bodies, specifically in partnership with consumer protection organisations, can help prevent some abusive practices and instil a more socially responsible approach on the part of credit institutions. This type of measure is also useful for improving the monitoring of debt collection agencies' activities, helping to regulate the way in which debtors are dealt with, as a complement to a rigorous, effectively implemented legislative framework.

l) **Prevention of abusive credit practices**

Some national authorities, consumer protection organisations, other NGOs and the credit institutions themselves have agreed rules and procedures to prevent the use of a number of predatory and usurious practices that threaten the most disadvantaged members of society. These practices include, for example, extremely high interest rates on credit granted over the telephone or mobile telephone, credit contracts, of which the customer is unaware, tied to contracts for a specific purchase, sale, or the provision of services, the granting of credit to acquire stock market shares, sometimes involving shares issued by the same bank as the one granting the loan, draconian penalty clauses, credit cards and store cards providing easy access to credit, the demand for surety and at the same time personal guarantees (collateral) for low-value consumer credit contracts, incomplete or not fully accurate information and advertising targeting young people. In addition to the beneficial aspects of responsible credit provision, measures of this nature help

reduce distortions in competition on the market and promote social responsibility amongst credit institutions.

m) **Monitoring advertisements for credit**

Although advertising is a legitimate strategy for promoting financial products, the way in which these products are advertised calls for close monitoring by the public authorities. The content, vehicles and techniques of advertising should be subject to strict, harmonised regulation that does not leave consumers with the idea that credit is risk-free, easily accessible and without cost. Schemes for self- and co-regulation and good business practice should also be encouraged in this field. These schemes should give borrowers complete clarity as to the conditions of the loan and place a particular responsibility on lenders towards people who, because of mental impairment, are not in a position to appreciate the consequences of entering into a debt agreement.

5.2 *Dealing with debtors and debt recovery*

The two most common models of dealing with insolvent debtors and of recovering debt are:

5.2.1 **The fresh start model**, which originated in North America and has been adopted in some European countries, is based on the principles of immediately liquidating a debtor's non-exempt assets and writing off unpaid debts, except those that cannot legally be written off. This model is based on the concept of limited debtor liability, on sharing risk with the creditors, on the need to return the debtor as quickly as possible to economic activity and consumption, and on clearly not stigmatising the bankrupt individual ⁽²³⁾.

5.2.2 **The re-education model**, used in some European countries, is based on the idea that the debtor has failed and should be helped, but not simply be exonerated of the duty to fulfil his or her obligations (*pacta sunt servanda*). This model, based on the idea of the 'guilt' of the bankrupt individual — whether the failure results from a lack of foresight or from plain negligence — centres on the renegotiation of debts with the creditors, with the aim of securing agreement on a general repayment plan. This plan can be negotiated through the courts or extrajudicially; what is important is the role played by the debt advisory and mediation services ⁽²⁴⁾.

⁽²³⁾ For a detailed critical description of this model, see the work of Karen Gross, who is well-known in Europe, in particular 'Failure and Forgiveness. Rebalancing the bankruptcy system', New Haven, Yale University Press (1997).

⁽²⁴⁾ Some legal systems, such as those in France and Belgium, have reformed their laws on managing the over-indebtedness of individuals to incorporate alternative solutions based on asset liquidation. In the most serious cases, where the repayment plan does not present a solution, liquidation is possible, followed by debt forgiveness. Nevertheless, unlike in US law, debt forgiveness is never immediate. The debtor must complete a probationary period, during which he must set aside part of his income to pay off the outstanding debt. Only then, and only if the debtor has demonstrated honest behaviour and good faith, can the debt be written off. Exceptionally, in France, a debt can be written off as soon as court proceedings begin, if the judge considers that there is no hope of the individual's situation improving, even though this procedure has been little used to date.

6. Why a Community-level approach is needed

6.1 Background

6.1.1 This is not the first time that the issue of over-indebtedness has been addressed at Community level or even from a Community perspective, within the EU institutions. On 13 July 1992, in its resolution on future priorities for the development of a consumer protection policy, the Council considered studying over-indebtedness as a priority for the first time. Since then, however, although the phenomenon of over-indebtedness has been becoming increasingly serious in the various Member States, resulting in most of them adopting specific legislative and administrative measures to deal with it, the question of a Community-level approach has been all but forgotten.

In May 1999, the EESC decided to reopen the debate on the issue, first drawing up an information report on 'Household over-indebtedness', followed by an own-initiative opinion on the same subject in 2002; the reader is referred to the comments and recommendations contained therein ⁽²⁵⁾.

6.1.2 In fact, while the Committee was drawing up these documents, the Luxembourg Consumer Affairs Council of 13 April 2000 took a fresh look at the issue and drew the Commission's and Member States' attention to the need for Community harmonisation in this field. Following this, the Council adopted its Resolution on consumer credit and indebtedness ⁽²⁶⁾, in which, noting the rapid growth of the phenomenon, it urged the Commission to take steps to plug the gaps in information on the real extent of over-indebtedness in Europe and to examine thoroughly the possibility of harmonising measures to prevent and deal with cases of over-indebtedness ⁽²⁷⁾.

6.1.3 It should be pointed out that the Commission has not to date fulfilled its brief from the Council. It only mentioned the issue of responsible credit provision ⁽²⁸⁾ briefly in its initial proposal to review the Consumer Credit Directive (2002) ⁽²⁹⁾. These references disappeared, however, from its final version (2005) ⁽³⁰⁾, confirmed under the German presidency ⁽³¹⁾. This situation suggests that in the field of consumer credit, it will be difficult for the Commission ever to adopt any new measures to prevent or even deal with over-indebtedness ⁽³²⁾.

⁽²⁵⁾ These papers were both drawn up by the former Committee member Manuel Ataíde Ferreira.

⁽²⁶⁾ Resolution of 26 November 2001, in OJ C 364, 20 December 2001.

⁽²⁷⁾ The minutes of this Consumer Affairs Council of 26 November 2001 state that Ministers considered, amongst other observations and recommendations, that '*divergences as regards both the preventive and the social, legal and economic treatment of over-indebtedness in the Member States could therefore give rise to considerable disparities both between European consumers and between credit-providers*' and thus that '*(...) consideration could be given at Community level to complementing the measures to promote the development of cross-frontier credit with measures to prevent over-indebtedness throughout the one credit cycle*'.

⁽²⁸⁾ In terms that are highly debateable, as the EESC stated in its opinion on that proposal (CES 918/2003, 17 July 2003): rapporteur, Mr Pegado Liz. See also '*La prevención del sobreendeudamiento en la propuesta de directiva sobre el crédito e los consumidores*' [*Preventing overindebtedness in the proposed directive on credit and consumers*] by Manuel Angel, López Sánchez, in '*Liber Amicorum Jean Calais Auloy*', p. 62.

⁽²⁹⁾ COM(2002) 443 final, 11 September 2002.

⁽³⁰⁾ COM(2005) 483 final/2, 23 November 2005.

⁽³¹⁾ It is, however, worth highlighting some initiatives for public debate promoted by different Community institutions, including the Commission, on the issue. These include: a public hearing held in Stockholm with the support of the Swedish presidency on 18 June 2000; a major conference held on 2 July 2001 in cooperation with the *Consiglio Nazionale dei Consumatori e degli Utenti* [Italian National Council for Consumers and Users] (CNCU) on '*Competition rules in the EU and banking systems in conflict*', at which the Director at the Financial Services Directorate, DG SANCO, presented the approaches adopted in the proposal for the new consumer credit directive and over-indebtedness problems at Community level; on 4 July 2001, DG SANCO organised a hearing of government experts in Brussels to discuss proposed changes to the consumer credit directive, at which various aspects of preventing over-indebtedness were highlighted; during the Belgian presidency a major seminar was held in Charleroi on 13 and 14 November 2001 on the theme of '*Consumer credit and Community harmonisation*', at which the Belgian Minister for the Economy and Scientific Research in particular raised the social and economic aspects of the issue, stressing the link with the development of financial services and cross-border trade in the internal market. A European Commission expert also gave a presentation on the broad guidelines for the review of the consumer credit directive, in which certain concerns about consumer information relate to preventing over-indebtedness; and the '*Conference on consumer over-indebtedness: protection mechanisms in Europe*', promoted by the PSOE [Spanish Socialist Workers' Party] and by the Socialist Group in the EP, in Madrid on 29 November 2002.

⁽³²⁾ Curiously, in other texts such as the Commission Proposal on the SEPA (*Single Euro Payments Area*), a number of concerns are expressed with regard to preventing over-indebtedness.

6.1.4 Recent references in some Commission documents, albeit few and far between, and even in statements by the Commission President, do appear, however, to express a possible shift towards paying closer attention to the phenomenon ⁽³³⁾.

6.1.5 In view of its importance, particular reference should be made to the Council of Europe Resolution adopted by European Ministers of Justice on 8 April 2005, on '*seeking legal solutions to debt problems in a credit society*' ⁽³⁴⁾, which, whilst expressing concern at the '*easy access to credit that can in some cases result in the over-indebtedness of households creating social exclusion of individuals and their families*', clearly opens the way to preparing '*an appropriate instrument defining legislative and administrative measures, and proposing practical remedies*' ⁽³⁵⁾.

6.1.6 Furthermore, renewed awareness of the problem appears to have been stimulated by recent academic studies ⁽³⁶⁾ and others specifically requested by the Commission ⁽³⁷⁾, having been the subject of recent public remarks by certain Heads of State and ministers from some Member States ⁽³⁸⁾.

6.2 The possibilities, need and opportunity for Community-level action

6.2.1 The EESC has long argued and is now again stating that Community-level action in this field is not only possible and desirable, but is actually necessary and even urgent.

6.2.2 The EESC is not unaware that, under the terms of the Treaty and following the failure to adopt the constitutional text ⁽³⁹⁾, the purely social aspects of over-indebtedness as a cause of social exclusion do not fall within the EU's specific remit.

6.2.2.1 Nevertheless, various provisions of the Treaties on European Union and establishing the European Community stipulate both shared powers and actions and measures to back up and encourage Member States' policies in this area ⁽⁴⁰⁾, which it is up to the Commission to secure and develop.

6.2.2.2 It should be added that some areas for potential action at Community level are now covered by the third pillar, coming under cooperation in judicial matters ⁽⁴¹⁾.

⁽³³⁾ See in particular, the Eurobarometer survey published late 2006, the Communication entitled '*A Citizens' agenda*' adopted by the Council in July 2006 and the Commission Communication on the Joint Report on Social Protection and Social Inclusion 2007 (COM(2007) 13 final, of 19 January 2007).

⁽³⁴⁾ Adopted at the Council of Europe's 26th Conference of European Ministers of Justice, held in Helsinki on 7 and 8 April 2005.

⁽³⁵⁾ As a follow-up to the well-drafted '*Report on Legal Solutions to Debt Problems in Credit Societies*' by the Council of Europe's Bureau of the European Committee on Legal Co-operation, of 11 October 2005 (CDCJ-BU(2005) 11 rev.).

⁽³⁶⁾ The academic world appears to be particularly interested in the issue of consumer credit and over-indebtedness, as demonstrated by the recent scientific meeting held in Berlin from 25 to 28 July by the Law and Society Association, which was attended by a group of researchers from Europe, America (both North and South), Asia and Australia, who discussed, in the course of 8 sessions, various aspects relating to these matters.

⁽³⁷⁾ See '*Consumer Over-indebtedness and Consumer Law in the European Union*', Udo Reifner, Johanna Kiesilainen, Nic Huls and Helga Springener (Contract No. B5-1000/02/000353, for DG SANCO Sept. 2003); '*Study of the problem of Consumer Indebtedness: Statistical Aspects*', ORC Macro (Contract No B5-1000/00/000197, for DG SANCO, 2001); '*Credit Consumption and Debt Accumulation among Low Income Consumers: Key consequences and Intervention Strategies*' Deirdre O'Loughlin (Nov. 2006); '*Exclusion and its links to finance: banking exclusion of individuals*' Report produced by the Centre Walras, Georges Gloukoviezoff; '*EC Consumer Law Compendium: Comparative Analysis*', 2006, (contract No 17.020100/04/389299) drawn up by Hans Schulte-Nölke, of the University of Bielefeld for the European Commission; '*Financial education & better access to adequate financial services*', carried out by ASB Schuldnerberatungen (Austria), in cooperation with the GP-Forschungsgruppe: Institut für Grundlagen-und Programmforschung (Germany), the Association for the Promotion of Financial Education SKEF (Poland) and L' Observatoire du Crédit et de l'Endettement (Belgium) — the project was co-financed by DG Employment and Social Affairs (September 2005-September 2007).

⁽³⁸⁾ See, for example, recent speeches by Tony Blair, Stephen Timms and Ruth Kelly in September 2006.

⁽³⁹⁾ In fact, Article I(3) of the draft Constitutional Treaty states that one of the Union's aims shall be to '*combat social exclusion and discrimination, and ... promote social justice and protection ...*'.

⁽⁴⁰⁾ Particular emphasis should be placed on the concepts set out in Articles 2 and 34 of the EU Treaty and Articles 2, 3, 136, 137 and 153 of the Treaty of Rome, as amended by the Treaty of Amsterdam. Attention should also be paid to the integrated open method of coordination (OMC) introduced in 2006, aimed at enhancing the EU's capacity to support Member States' efforts to ensure greater social cohesion in Europe.

⁽⁴¹⁾ See Articles 65 and 67 of the Treaty and the already extensive role of measures adopted to define a European judicial area.

6.2.2.3 Lastly, it is the completion of the internal market itself, now unequivocally geared to the general public and consumers ⁽⁴²⁾, which requires and warrants the harmonisation of certain aspects relating to over-indebtedness, and its social repercussions, prevention and management at Community level, as a means of preventing distortions in competition and obstacles to the smooth operation of the market.

6.3 Main areas of activity at Community level

6.3.1 A single concept of over-indebtedness

6.3.1.1 Steps to achieve harmonisation should primarily involve defining the concept and qualitative and quantitative parameters of the phenomenon in order to secure full information and proper observation of the underlying social circumstances, in identical terms throughout Europe — and ideally, throughout the world — based on the compilation and processing of comparable statistical data, which will help define an economic framework for quantifying this data.

6.3.1.2 On the basis of this conceptual and methodological definition, the Commission should sponsor a study covering the entire Community area, contributing to an assessment of the economic and social aspects of over-indebtedness ⁽⁴³⁾.

6.3.2 Prevention and containment

6.3.2.1 The Commission should also draw up independent, harmonised legislation for measures that plan for, prevent and limit the impact of this phenomenon.

There should, in particular, be laws on:

- a) exhaustive pre-contractual and contractual information and after-sales follow-up;

⁽⁴²⁾ Clearly demonstrated in the excellent Interim report to the 2007 Spring European Council, the Commission communication entitled 'A single market for citizens' (COM(2007) 60 final, 21 February 2007), and in various speeches and interviews given recently by the Commission President himself.

⁽⁴³⁾ Data on the situation in Europe are somewhat out of date, referring to the study published in 2001 by OCR Macro, as mentioned above. Nevertheless, several Member States acknowledge that the number of families affected by over-indebtedness has increased significantly in recent years. Data on the situation in Germany indicate that in 1989, only 3,5 % of families experienced serious financial difficulties, whilst in 2005, 8,1 % of German households were over-indebted (In France, the number of cases brought before the French Commissions for Over-indebtedness increased at a rate of 6 % per year between 2002 and 2006, when 866 213 cases were heard. In Scotland, also in 2004, more than 3 000 cases of insolvency were declared. In Sweden, despite the fact that the annual economic growth rate is one of the highest in the EU, the number of over-indebtedness cases rose in 2005 by 13,6 % compared to 2004 and by 30,7 % compared to 2003. The exception would appear to be Belgium, where a well-designed, well-implemented system appears to be yielding results, with the assistance of recent changes to legislation (the Law and Royal Decree of 1 April 2007, amending the Law of 24 March 2003 and the Royal Decree of 7 September 2003, on basic banking services). In the USA in 2005, more than 1 600 000 cases of bankruptcy were declared. In Australia, 81 % of the bankruptcy cases brought before the courts in 2005/2006 concerned individuals. In 2006, 106 629 cases of bankruptcy (either liquidation or proposals) were heard by Canadian courts.

- b) joint responsibility in credit provision, based on
 - i) acceptance by the applicant of the obligation to inform the credit provider truthfully about his/her situation and
 - ii) acceptance by the provider of the obligation to do everything within his/her power to compile an accurate assessment and give the applicant sound advice ⁽⁴⁴⁾;
- c) the possibility of cost-free credit transfers;
- d) the monitoring of advertising, marketing and commercial communications on consumer credit;
- e) 'credit scoring' parameters and a ban on entirely automated decisions;
- f) the guarantee of a basic banking service and that bank accounts will be universal and transferable and that accounts will be accessible via electronic means (debit cards);
- g) the definition of parameters for microcredit and other types of social credit and the promotion of 'alternative' financial institutions geared specifically to these sectors;
- h) identification and sanctioning of unfair commercial practices and of abusive clauses relating specifically to credit provision;
 - i) the right to withdraw from a contract;
 - j) delimitation of the requirement for collateral personal guarantees;
 - k) rules on commissions;
 - l) regulations governing credit brokers;
- m) strengthening the powers and supervisory measures available to the national authorities responsible for financial services in this area; and
- n) establishing parameters for defining what constitutes usury;
- o) adding a provision to the Consumer Credit Directive obliging banks to reply to complaints by a specified deadline.

In addition, in the long term, laws should be drawn up on the following aspects:

- a) a standard social insurance scheme;
- b) the guarantee of sustainable pensions schemes and their standard use in all Member States (possible definition of a '28th scheme');
- c) the definition of a system of single credit history files which fully respects personal data protection requirements and stipulates who can access the file and the purpose for which the information is intended (limited to the granting of credit).

⁽⁴⁴⁾ Good examples of this include Sections 79 to 81 of South Africa's National Credit Act No 34/2005.

6.3.2.2 At the same time, the Commission should encourage good practice in this field, promoting the adoption of European Codes of Conduct, in a system of self- or co-regulation, as part of a well-defined, effectively implemented coercive legal system.

6.3.2.3 The Commission should also, at its own initiative or in cooperation with the Member States, set up specific information programmes, educational measures focusing on the practical aspects of credit use and projects for providing support and advice in this area, making use of 'pilot project' instruments that have yielded such positive results in other areas ⁽⁴⁵⁾.

6.3.2.4 Lastly, the EESC suggests that a European Indebtedness Observatory be set up to work together with existing national bodies and others established in the Member States, to provide a forum for dialogue between all parties concerned, analyse developments in the phenomenon at European level and propose and provide back-up for the most appropriate prevention initiatives, subsequently assessing the impact thereof. The EESC here and now offers to house this observatory within its own institutional framework, at least until it becomes an independent body.

6.3.3 Dealing with debtors and recovery of assets

6.3.3.1 Given the diversity of systems set up at national level, which have varying origins, principles and methods ⁽⁴⁶⁾, the Commission's efforts should primarily focus not on attempts to secure harmonisation, but rather on defining a reference framework and a set of fundamental principles that should be guaranteed by all procedural law systems covering prosecution for unpaid debt or debt recovery from individuals, encouraging the adoption of these principles and enforcing recognition thereof.

6.3.3.2 The most important of these fundamental principles are:

- rapid solutions accessible to the parties concerned at little or no cost, which do not hinder access to credit or stigmatise debtors and their families;
- measures which take account of creditors' legitimate interests, but also of their responsibilities as regards household indebtedness;

- solutions favouring consensus and the conclusion of voluntary out-of-court payment agreements which make it easier for debtors to hold on, wherever possible, to assets essential to their family's wellbeing, such as the home;
- flexible measures enabling debtors to opt, in the most serious cases, to liquidate their attachable assets, with the forgiveness of unpaid debts taking due account of the situation of third parties who have stood guarantee for the debtors;
- specialist monitoring of debtors throughout the process of implementing post-bankruptcy payment plans, in order to prevent the same problems re-occurring and help debtors change their patterns of consumption and indebtedness, so that they can make a genuinely fresh start.

6.3.3.3 All of this work should, however, be opened up to involve the stakeholders and their representatives. It is suggested, therefore, that prior public consultation be held by means of the publication of a Green Paper defining the terms of the matter in hand, quantifying it at European level, analysing the different means and systems for preventing, monitoring and remedying situations of over-indebtedness and concluding with an outline for integrated action at Community level between the various Directorates-General concerned and also involving the authorities and civil society organisations in the various Member States and at Community level ⁽⁴⁷⁾.

7. Public hearing

7.1 On 25 July 2007, the EESC held a public hearing on the subject of this opinion, attended by a number of guest participants who are specialists in this field.

7.2 On the basis of the opinions expressed at a very well-attended session which produced a number of extremely useful papers, there was clearly considerable support for the aims of this opinion, which takes on board many of the suggestions made at the event.

Brussels, 25 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁴⁵⁾ There are, for example, cases of mediation and extrajudicial consumer dispute settlement projects which paved the way for the different networks currently in place in Europe; one of the most relevant of these to the matter in hand is 'Consumer DebtNet', established in 1994 and currently being redesigned under the name 'European Consumer Debt Net (ECDN)'.

⁽⁴⁶⁾ Moreover, some Member States, such as Portugal, still have no appropriate system for this purpose.

⁽⁴⁷⁾ In fact, the 2000 EESC information report referred to above concluded by recommending that the Commission 'make an initial move in this direction by immediately preparing a Green Paper on Household Over-indebtedness in Europe, incorporating available research into the issue, providing an up-to-date picture of legal arrangements and statistical data from the Member States and the applicant countries, working towards a single definition of over-indebtedness, and defining its preferred approach to achieve the objectives identified in the present information report'.

Opinion of the European Economic and Social Committee on 'Entrepreneurship mindsets and the Lisbon Agenda'

(2008/C 44/20)

On 16 February 2007 the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on *Entrepreneurship mindsets and the Lisbon Agenda*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2007. The rapporteur was Ms Sharma and the co-rapporteur was Mr Olsson.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October 2007), the European Economic and Social Committee adopted the following opinion by 109 votes to three with five abstentions.

1. Conclusions and Recommendations

1.1 Entrepreneurship in its broadest sense, which can stimulate and encourage innovative and creative mindsets, should be highlighted in the Lisbon Agenda as one of the key tools to generate more growth and better jobs as well as to achieve social cohesion and combat social exclusion.

In our global society, it is crucial that the entrepreneurial mindset is both nurtured and developed at macro, meso and micro level, providing a holistic approach while respecting the specific character of each level.

1.2 Education and training across all ages and abilities must stimulate the creativity and potential of all individuals. The EESC supports transfer of good practice and highlights the examples of the Norwegian Government Strategy ⁽¹⁾, and Junior Achievement Young Enterprise (JA-YE) for entrepreneurship in education and training as valuable models which could inspire other countries.

1.3 Public and private actors should be mobilised to develop the entrepreneurial mindset in its broadest sense; within communities, organisations and individuals.

1.4 The European Commission should develop a framework for reviewing progress and disseminating best practice, as well as promoting the value of the entrepreneurial mindset to EU citizens in the context of the Lisbon Agenda. Exchange of best practice is important and progress could be monitored through annual 'stock-taking' conferences.

1.5 The social partners should consider the benefits of fostering an entrepreneurial mindset as one of the factors which may lead to more and better jobs. They should intensify their

efforts and strengthen social dialogue to find common ground for holistic action.

1.6 The social economy and non-governmental organisations' role in developing the entrepreneurial mindset for societal purposes and social innovations must be promoted. The specific role of these enterprises should be recognised at European level in the new Employment guidelines for 2008-10.

1.7 The EESC supports the DG Employment, Social Affairs and Equal Opportunities initiative to launch an 'Inclusive Entrepreneurship Strategy' and intends to participate in it actively.

1.8 Positive role models and activities within the Media and the image they convey of business, entrepreneurs as well as of educational strategies that promote creativity and innovation are crucial to shape a Europe with an entrepreneurial mindset. To shape a Europe with an entrepreneurial mindset it is crucial that the media also publicises examples of activities that create a positive image of schools and/or educational strategies that promote the development of creativity and the foundations of innovative behaviour, as well as a positive image of businesses and entrepreneurs operating in this spirit.

1.9 Entrepreneurial mindsets must be mainstreamed into as many EU policies and programs as possible if it is to have an impact on the Lisbon goals.

1.10 The EESC would encourage Commissioner Figel and Commissioner Verheugen in a joint venture of DG Education and Culture and DG Enterprise and Industry to promote the benefits and value of the entrepreneurial mindset skills and attitudes in the context of the Lisbon Agenda by making 2009 as the 'Year of Creativity, Innovation, and the Entrepreneurial Mindset'.

⁽¹⁾ 'See opportunities and make them work!' — Strategy for entrepreneurship in education 2004-2008, Strategy Plan, Ministry of Trade and Industry, Ministry of Education and Research, Ministry of Local Government and Regional Development.

2. Introduction

2.1 This own initiative opinion will focus on the need to foster an entrepreneurial mindset in its broadest sense as one of the key factor for social and economic development and thereby on how human capital and creativity can contribute to the Lisbon goals.

2.2 The European Commission has defined entrepreneurship as follows:

'Entrepreneurship refers to an individual's ability to turn ideas into action. It includes creativity, innovation and risk taking, as well as the ability to plan and manage projects in order to achieve objectives. This supports everyone in day to day life at home and in society, employees in being aware of the context of their work and being able to seize opportunities, and is a foundation for more specific skills and knowledge needed by entrepreneurs establishing social or commercial activity' ⁽²⁾.

2.3 According to the Lisbon Agenda it is the aim of the EU 'to become the most competitive and dynamic knowledge-based economy in the world', most importantly 'capable of sustainable economic growth with more and better jobs and greater social cohesion'.

2.4 Despite huge efforts to achieve the Lisbon objectives, much more requires to be done. The promotion and application of entrepreneurial mindsets at societal, community, organisational and individual level plays one of the central roles of driving forward European growth and competitiveness, together with its social and environmental sustainability.

2.5 In February 2005, the Commission ⁽³⁾ proposed a new start for the Lisbon Strategy focusing the European Union's efforts on two principal tasks: delivering stronger, lasting growth and providing more and better jobs. Among other actions the Strategy stresses the importance of promoting a more entrepreneurial culture and of creating a supportive environment for SMEs including through entrepreneurship education and training at the appropriate level of education. Communication and media as well as the creative industry in general should also play an important role in promoting entrepreneurship and in encouraging people to decide for an entrepreneurial career in particular women and young people ⁽⁴⁾.

⁽²⁾ 'Proposal for a Recommendation of the European Parliament and of the Council on key competences for lifelong learning' COM(2005) 548. Annex point 7.

⁽³⁾ 'Communication to the Spring European Council — Working together for growth and jobs — A new start for the Lisbon Strategy', COM(2005) 24.

⁽⁴⁾ 'Presidency Conclusions', Brussels European Council 23/24 March 2006, paragraph 31.

The entrepreneurial mindset is about important basic skills and attitudes that can be stimulated through life long learning to support all three elements of the Lisbon strategy:

- 1) To develop Europe and its regions to become a more attractive investment and employment market.
- 2) Prioritise knowledge and innovation.
- 3) Create more and improved employment opportunities.

2.6 This opinion follows upon a large number of important EESC opinions that have focused on different aspects on entrepreneurship, particularly 'Fostering Entrepreneurial Mindsets through education and Learning' ⁽⁵⁾ and most recently the opinions on Business potential, especially of SMEs to underpin the Lisbon strategy and Entrepreneurship and on Employability ⁽⁶⁾.

2.7 Additionally, the Committee has elaborated several opinions on the Lisbon strategy and the value of innovation and creativity, key criterion of the entrepreneurial mindset, are highlighted as an essential competence to fulfil the Lisbon goals. The latest opinions also point out the same ⁽⁷⁾.

2.8 This opinion will expand on the previous ones by focusing on the added value to society of an innovative, creative and entrepreneurial mindset and how this can be promoted by different actors. It is essential that these skills and attitudes are stimulated from an early age to release the potentials of all individuals, and be continued through the life long learning process that begins at primary school while always respecting the general development of the personality of very young pupils.

2.9 The opinion should also be seen in the context and focus of the Programme of the present President of the Committee: 'Entrepreneurship with a human face', where entrepreneurship is seen as the progress of the society as much as of the economy and innovation rather than simply seeking profit. In this context the EESC President envisages that the Committee will organise a conference scheduled for 2008 and entitled 'Entrepreneurship with a Human Face'.

⁽⁵⁾ See the EESC Opinion of 19.7.2006 on 'Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', rapporteur Ms Jerneck (OJ C 309, 16.12.2006).

⁽⁶⁾ See the EESC Opinion on 'Business potential, especially of SMEs (Lisbon Strategy)', (own initiative opinion), INT/324, rapporteur Ms Faes, and 'Employability and entrepreneurship — The role of civil society, the social partners and regional and local bodies from a gender perspective', (exploratory opinion), SOC/273, rapporteur Mr Pariza Castaños.

⁽⁷⁾ See the EESC opinions on:
 — 'Business potential, especially of SMEs (Lisbon Strategy)' (own initiative opinion), INT/324, rapporteur Ms Faes
 — 'Investment in Knowledge and Innovation (Lisbon Strategy)' (own-initiative opinion), INT/325, rapporteur Mr Wolf
 — 'Employment of priority categories (Lisbon Strategy)' (own initiative opinion) SOC/251, rapporteur Mr Greif
 — 'The definition of an energy policy for Europe (Lisbon strategy)' (own-initiative opinion) TEN/263, rapporteur Ms Sirkeinen.

3. General remarks

3.1 The EESC takes note of the definition of Entrepreneurship as referenced by the European Commission and wants to underline on one hand its broad approach and on the other the need to mobilise public and private actors for it to become a reality if the Lisbon goals are to be achieved.

3.2 Entrepreneurship must be looked at from a broader perspective than the traditional viewpoint of individuals creating and developing businesses for economic purposes and profit.

3.3 Inventiveness, creativity and innovation at group, enterprise or society level does not come down to the simple sum of the entrepreneurship mindset of the individuals they consist of. Therefore the levels of development of entrepreneurship should be differentiated.

3.4 Social and other driving forces behind entrepreneurship must be fully recognised. The entrepreneurial mindset is a societal phenomenon 'enacted on all scenes of human life'. Thus it is an all-embracing cultural concept about social processes and actions driven by human beings for individual, societal and economic purposes. Looking at entrepreneurship in this way will foster human and social capital, which is of utmost importance for an innovative society and economic competitiveness, together with greater integration of disparate groups.

3.5 Education must support this perspective by stimulating an entrepreneurial mindset and more of an entrepreneurial culture.

3.6 The social partners should intensify their efforts to find common ground for holistic actions to promote creativity, innovation and an entrepreneurial mindset that will lead to more and better jobs. To inform about and strengthen social dialogue should be natural part of their involvement.

3.7 The European Commission has highlighted the essential knowledge, skills and attitudes related to the competence of an entrepreneurial mindset ⁽⁸⁾.

1) 'Necessary knowledge includes available opportunities for personal, professional and/or business activities, including "bigger picture" issues that provide the context in which people live and work, such as a broad understanding of the workings of the economy, and the opportunities and chal-

lenges facing an employer or organisation. Individuals should also be aware of the ethical position of enterprises, and how they can be a force for good for example through fair trade or through social enterprise'.

2) 'Skills relate to proactive project management (involving skills such as planning, organising, managing, leadership and delegation, analysing, communicating, de-briefing and evaluating and recording), and the ability to work both as an individual and collaboratively in teams. The judgement to identify one's strengths and weaknesses, and to assess and take risks as and when warranted is essential'.

3) 'An entrepreneurial attitude is characterised by initiative, pro-activity, independence and innovation in personal and social life, as much as at work. It also includes motivation and determination to meet objectives, whether it concerns personal goals or aims held in common with others, and/or at work'.

3.8 The EESC would add the individual's knowledge and understanding of the value of corporate social responsibility and entrepreneurial activities — not always for profit purposes — displayed by business as a means to support community capacity building, integration of vulnerable groups into the labour market and other societal objectives. However it is essential to create the appropriate conditions and skills for these groups to develop their entrepreneurial mindset.

3.9 An innovative and creative mindset is needed for the purposes of creating more and better jobs, achieving social cohesion, combating social exclusion to meet the challenges of globalisation, an ageing population, protection of the environment and stimulation of knowledge. It is therefore highly relevant to the Lisbon agenda.

3.10 Studies conclude that statistically there is a significant connection between entrepreneurship and economic growth and that it leads to a dynamic employment market with lower unemployment ⁽⁹⁾. Entrepreneurship is also particularly important for minority groups outside of the labour market.

3.11 However in order to realise this positive correlation it is important that entrepreneurship is stimulated and channelled into a sustainable process of wealth and job creation.

⁽⁹⁾ See:

- The Global Entrepreneurship Monitor (GEM) 2004
- 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', COM(2006) 33
- 'The Challenge to Inspire: Enterprise Education for Young People', Fourth Session of the Team of Specialists on Entrepreneurship in Poverty Alleviation: Youth Entrepreneurship. Athayde, R. 2004, Genève: United Nations.

⁽⁸⁾ 'Proposal for a Recommendation of the European Parliament and of the Council on key competences for lifelong learning' COM(2005) 548.

4. Specific remarks

4.1 Entrepreneurial mindset in education

4.1.1 The EESC reiterates its support for the key points for fostering entrepreneurship that was defined during 2006 ⁽¹⁰⁾:

- 1) Early start, with the basis for entrepreneurial training and education.
- 2) Supplementary entrepreneurial programmes within the national curriculum from primary school to higher education.
- 3) Positive and effective cooperation between schools/universities, businesses and governmental bodies.
- 4) Involvement of teachers benefits their personal development.
- 5) The drawing up of educational programmes for entrepreneurship should involve both employers and employees.
- 6) Strong involvement and presence of civil society in the learning process.
- 7) The importance of female entrepreneurs must be taken into account in schools with the aim of fostering a positive balance between women and men.
- 8) Entrepreneurship must be fostered equally amongst disabled persons and other disadvantaged groups.

Greater knowledge transfer between educational establishments, including higher and further education, to share information and streamline programmes aimed at university students.

4.1.2 The overarching responsibility for entrepreneurship in education rests with the educational institutions.

⁽¹⁰⁾ See:

- the 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', COM(2006) 33
- the EESC Opinion of 19.7.2006 on 'Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', rapporteur Ms Jerneck (OJ C 309, 16.12.2006)
- the conclusions from the Conference on 'Entrepreneurship Education in Europe: Fostering Entrepreneurial Mindsets through Education and Learning' — an initiative of the European Commission jointly organised with the Norwegian government, Oslo, 26-27 October 2006.

4.1.3 Entrepreneurship training in education can be summarised as:

- Primary Schools — help students to have more faith in themselves, through making and accepting responsibility, exploring their creativity through trial and error and learning about the resources of their local community.
- Lower Secondary School — students develop core skills such as decision making, ability to work in a team, problem solving and establishing networks.
- Upper Secondary School — learning through doing and applying practice and theory whilst incorporating resources, finances, environment, ethics and working-life relationships can be developed by establishing youth enterprises.
- Higher education — developing products, identifying business opportunities, customer and market relationships, creativity and innovation are all part of business planning and establishing and running a company.

4.1.4 The EESC also wants to highlight some conclusions from different studies, which conclude that education in entrepreneurship:

- contributes to a more entrepreneurial culture;
- is a strategy to develop young people's entrepreneurial qualities, competence and attitudes towards entrepreneurship ⁽¹¹⁾;
- can develop young people's creativity, ability to work as a team, sense of responsibility and self confidence ⁽¹²⁾;

⁽¹¹⁾ See:

- 'Entreprenørskap som strategi for regional utvikling', Spilling, O., Roppen, J., Sanness, A., Simonsen, B., Steinsli, J. og Støylen, A. 2002, BI Discussion Paper 7/2002. Lillehammer: BI
- 'Helping to create an entrepreneurial culture — A guide on good practices in promoting entrepreneurial attitudes and skills through education', European Commission 2004
http://ec.europa.eu/enterprise/entrepreneurship/support_measures/training_education/doc/entrepreneurial_culture_en.pdf.

⁽¹²⁾ See:

- 'Helping to create an entrepreneurial culture — A guide on good practices in promoting entrepreneurial attitudes and skills through education', European Commission 2004.
http://ec.europa.eu/enterprise/entrepreneurship/support_measures/training_education/doc/entrepreneurial_culture_en.pdf
- 'Entreprenørskapsopplæring i skolen. Hovedkonklusjoner fra 3 års følgeforskning av Ungt Entreprenørskaps program: Program for nyskaping og entreprenørskap i opplæring og utdanning i Norge (2001-2005)', Johansen, V. and Eide, T. 2006, <http://www.ostforsk.no/notater/pdf/132006.pdf>
- 'Erfaringer fra deltakelse i studentbedrift. Hvordan opplevde de tiden som etablerer av Studentbedrift og hva skjedde etterpå?', Johansen, V. and Eide, T. 2006, <http://www.ostforsk.no/notater/pdf/162006.pdf>.

— leads students to more frequently become entrepreneurs ⁽¹³⁾.

4.1.5 The EESC regrets that the Youth in Action programme ⁽¹⁴⁾ makes no reference to entrepreneurship. Entrepreneurial mindsets and entrepreneurship will play a key role in developing and improving career opportunities for the youth of tomorrow. It is therefore imperative that its value is mainstreamed into as many EU policies and programmes as possible.

4.2 Society's case for entrepreneurial mindsets

4.2.1 A broad approach to entrepreneurship makes it possible to develop the creativity of all people, including the most underprivileged. The creativity and potential in everyone therefore has to be recognised and promoted. An entrepreneurial mindset can be seen as a force for individual empowerment, generating collective purpose and social change. Europe must fully take advantage of the creativity of workers and citizens to encourage a culture that will make Europe both social and competitive. Citizens' participation in society will be enhanced by the spirit of entrepreneurship.

4.2.2 If programmes are to be effective it is essential that all stakeholders are involved in the process of entrepreneurship education. A successful example where civil society actors have worked together to achieve the objectives of enterprise education is the Norwegian Strategy. In the example attached ⁽¹⁵⁾ the Norwegian Government, both Education and Enterprise Ministries, worked very closely with JA-YE ⁽¹⁶⁾ as well as the social partners from local to national level, utilising the combined skills and commitment of employers, trade unions, public administration and also parents.

4.2.3 An entrepreneurial mindset within the public sector with the intention of delivering more user-friendly and effective services must be encouraged. But this cannot be achieved by introducing market philosophies and mechanisms alone. These have to be offset by the public sector goal of pursuing the general interests of citizens and possibilities for workers to increase the quality of work by releasing their entrepreneurial spirit in new forms of organisations.

⁽¹³⁾ See:

- 'Hva hendte siden? Ungdomsbedrifter i den videregående skolen', Luktavsslimo, M. 2003. NTF-notat 1/2003. Steinkjer: Trøndelag Forskning og utvikling AS.
- 'Ungdomsbedrifter og entreprenørskap — 2005', Haugum, M. 2005. NTF-notat 4/2005. Steinkjer: Trøndelag Forskning og utvikling AS.
- 'Entrepreneurship in Education: The Practice in OECD Countries', Stevenson, L. 2005, document at the conference 'Fostering Entrepreneurship — The Role of Higher Education', Italy: 2005.
- 'Erfaringer fra deltakelse i studentbedrift. Hvordan opplevde de tiden som etablerer av Studentbedrift og hva skjedde etterpå?', Johansen, V. and Eide, T. 2006, <http://www.ostforsk.no/notater/pdf/162006.pdf>

⁽¹⁴⁾ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_327/l_32720061124en00300044.pdf.

⁽¹⁵⁾ See Appendix 1, document from Junior Achievement Young Enterprise (JA-YE) Norway.

⁽¹⁶⁾ Junior Achievement Young Enterprise (JA-YE) Norway, <http://www.ja.org/near/nations/norway.shtml>, www: <http://www.ue.no>.

4.2.4 DG Employment has suggested a strategy for 'Inclusive Entrepreneurship' ⁽¹⁷⁾, which takes up the broad approach and will follow up the particular strand of inclusive entrepreneurship and social enterprise of the Equal programme within the new structural funds 2007-2013. The EESC supports this initiative and intends to participate in it actively but underlines that it must be supported by a permanent structure within DG Employment endowed with appropriate financial resources.

4.2.5 The EESC wishes to pick up on its suggestion made in its earlier opinion ⁽¹⁸⁾ with the promotion of the European Year of Entrepreneurship for 2009. However, as the EESC now understands 2009 is to be set aside for the Year of Innovation and Creativity by DG Education, it would therefore suggest and encourage the Commission in a joint venture of DG Education and DG Enterprise to also promote the benefits and value of the entrepreneurial mindset skills and attitudes in the context of the Lisbon Agenda by making 2009 as the 'Year of Creativity, Innovation, and the Entrepreneurial Mindset'.

4.3 Business case for the entrepreneurial mindset

4.3.1 According to the European Commission ⁽¹⁹⁾ encouraging new business is a central factor in creating employment opportunities and improving competitiveness and growth throughout Europe.

4.3.2 Entrepreneurial qualities such as creativity, ability to work in a team and self confidence are important in an employment market where job changes are common, where business is frequently undergoing organisational changes and where there is rapid technology development. Employers are always looking for flexible, innovative, decisive and adaptable workers ⁽²⁰⁾.

4.3.3 Female entrepreneurs in business and those considering self-employment face particular barriers — economic, practical, social and cultural as a result of long term unfounded discrimination. Through equal participation in education and community programmes to encourage entrepreneurial activity these barriers can be reduced, leading to not only more woman owned businesses but additional to gender equality in the workplace.

⁽¹⁷⁾ Intervention by the General Director M. van der Pas at the EQUAL Policy Forum Entrepreneurship organised by the German EU Presidency, Hannover, 5.6.2007.

⁽¹⁸⁾ See the EESC Opinion of 19.7.2006 on 'Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', rapporteur Ms Jerneck (OJ C 309, 16.12.2006).

⁽¹⁹⁾ 'Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning', COM(2006) 33.

⁽²⁰⁾ 'The Challenge to Inspire: Enterprise Education for Young People', Fourth Session of the Team of Specialists on Entrepreneurship in Poverty Alleviation: Youth Entrepreneurship. Athayde, R. 2004, Genève: United Nations.

4.3.4 Entrepreneurs are motivated by a wide range of ambitions, such as financial gain, independence, or job satisfaction. Whatever their motivation, it is essential that potential and existing entrepreneurs recognise the social responsibilities that are integral to business ownership ⁽²¹⁾.

4.3.5 New migrants, critical to any economy, provide a workforce and entrepreneurial base for economic activity. These individuals are entrepreneurial (by virtue of migration) but are also most likely to work in the informal sector. The challenge is to integrate these individuals into the workplace through economic integration and recognition of their entrepreneurial activities. This subsequently leads to greater acceptance of diverse communities and more effective integration.

4.4 *Entrepreneurial mindsets in the context of Employee representation*

4.4.1 Modern working patterns encourage engagement in the economy and allow people to switch between employment and self-employment. Entrepreneurship should be viewed therefore as a long or short term option, encouraging more people to consider business owner-management as a positive option. Bureaucratic procedures should be minimised to allow this flexibility, however the authorities must ensure that facilitating interchange between these various work statuses is not abused. It is important that employees and the unemployed, are not cajoled or compelled into self-employment or that less scrupulous employers are not allowed to relinquish their responsibilities to employees.

4.4.2 An important aspect of fostering an entrepreneurial mindset inside the enterprise is to stimulate innovative ways of organising work, good management and flexible working time arrangements in accordance with the needs of both enterprises and employees ⁽²²⁾.

4.4.3 Therefore a culture of independence and responsibility must be developed at the workplace. Greater participation of employees in defining and enhancing the quality of work are prerequisites for such a culture of independence. In this context it should be noted that most business entrepreneurs were originally employees.

⁽²¹⁾ See the EESC Opinion of 15.9.2004, 'Communication from the Commission to the Council and the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Action Plan: The European agenda for Entrepreneurship', rapporteur Mr Butters (OJ C 74, 23.3.2005).

⁽²²⁾ See the current EESC opinion on 'Promoting sustainable productivity in the European workplace' (own-initiative opinion), rapporteur Ms Kurki (SOC/266).

4.4.4 With a demographic shift towards an aging population in Europe, an environment which enables opportunities for transfer of skills, management capabilities and business ownership must be provided for Europe's highly talented older generation ⁽²³⁾.

4.5 *Entrepreneurial mindsets and capacity building through the Social economy, NGOs and social enterprises*

4.5.1 The specific role and characteristics of the social economy has been high lighted in other EESC opinions ⁽²⁴⁾. Social economy enterprises are fundamental to entrepreneurial pluralism and economic diversity.

4.5.2 The role of entrepreneurship in the non-profit sector has been highlighted in recent research. It has been clearly shown that this sector is based on an entrepreneurial mindset. The entrepreneurial process is linked to group dynamics and social movements of different kinds ⁽²⁵⁾.

4.5.3 Dedicated social/societal entrepreneurs act to find innovative solutions to problems related to major issues like environmental challenges, poverty, human rights, social exclusion, education and culture through organised activities offering new ideas for wide-scale change. Democracy and solidarity are values that underpin these initiatives.

4.5.4 Socially responsible entrepreneurship supports sustainable development, democracy and citizen participation, involvement of workers in enterprises, combating social exclusion and revitalising local communities. Additionally, they promote an entrepreneurship culture for women, young people, immigrants and ethnic minorities.

4.5.5 Social enterprises have a particular role in the social and professional integration of groups on the margins of the labour market. They often provide tailor-made paths of integration into the labour market for the most disadvantaged persons, a task which they, on the basis of their approach, are better suited to than other actors. As a result of their focus on empowerment of the individual through personal responsibility they have a good record on social integration.

⁽²³⁾ See the EESC Opinion of 15.9.2004, 'Communication from the Commission to the Council and the European Parliament, the European Economic and Social Committee and the Committee of the Regions — Action Plan: The European agenda for Entrepreneurship', rapporteur Mr Butters (OJ C 074, 23.3.2005).

⁽²⁴⁾ See the EESC opinions of:
— 27.10.2004 on 'Ability of SMEs and social economy enterprises to adapt to changes imposed by economic growth' (exploratory opinion), rapporteur Ms Fusco
— 1.4.2004 on 'Economic diversification in the accession countries — role of SMEs and social economy enterprises', rapporteur Ms Fusco, co-rapporteur Mr Glorieux.

⁽²⁵⁾ Gawell 2004 'Entrepreneurial Process in Civil Society'.

4.5.6 The notion of social enterprise continues to spread in Europe. The specific role of these enterprises should be recognised at European level in the new Employment guidelines for 2008-10.

4.6 *Role of the media*

4.6.1 The media have an important role to play in promoting the image of small business and micro-enterprises, of specialised trades, services and traditional and craft activities and their role in society. Additionally it should highlight best practices and the effects of an entrepreneurial mindset on growth and jobs.

4.6.2 Greater emphasis on diverse nature of businesses and entrepreneurship, and the use of positive role models, particularly from those in under represented fields, women, ethnicity, disability and migrants, needs to be highlighted further in a wide varieties of media

The media should pass on role models and activities that convey a positive image of schools and educational strategies promoting creativity and the prerequisites of innovation.

4.6.3 More recently in some Member States, television programmes have raised awareness of entrepreneurship and the value of new ideas. Two examples from the UK are Dragons Den, where entrepreneurs and inventors pitch their ideas to a team of funders on The Apprentice where a leading business personality searches for his 'apprentice' (BBC). Both programmes have raised students' interest in starting their own businesses as well as demonstrating how an idea is turned into an enterprise.

4.6.4 Promotion and profile of events such as those listed below, would also raise awareness of the benefits of entrepreneurship and its impact on society:

- Entrepreneurship in Education European Summit, organised by JA-YE Europe 5-7 September 2006
- Conference on 'Entrepreneurship Education in Europe: Fostering Entrepreneurial Mindsets through Education and Learning' — an initiative of the European Commission jointly organised with the Norwegian government, Oslo, 26-27 October 2006
- European Enterprise Awards (new Annual Competition launched by the Commission, which recognises and rewards initiatives to support entrepreneurship).

Brussels, 25 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on 'EU immigration and cooperation policy with countries of origin to foster development'

(2008/C 44/21)

On 16 February 2007 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on *EU immigration and cooperation policy with countries of origin to foster development*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2007. The rapporteur was Mr Pariza Castaños.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October), the European Economic and Social Committee adopted the following opinion by 94 votes in favour, with six abstentions.

1. Introduction

1.1 Since 2006, a new approach to migration and migration policy has been emerging, particularly in the light of the UN High-Level Dialogue on International Migration and Development ⁽¹⁾. By analysing the links between migration and development, a new way of observing migrations been conceived which takes into account the interests of the countries of origin, overriding the view reigning in Europe whereby migration policy was defined only in terms of the needs and interests of the host countries.

1.2 Prior to the UN High-Level Dialogue on International Migration and Development, the final report of the Global Commission on International Migration (GCIM) was published (October 2005), in which the groundwork was already being laid for a multidimensional approach to international migration, paying particular attention to the development of the countries of origin. This document was followed by a considerable amount of work and meetings within the UN and other international frameworks.

1.3 The EU has participated in this debate, and has taken steps to consider migration policy in connection with development cooperation policy. In 2002, the European Commission issued a communication on migration and relations with third countries ⁽²⁾ which painted a broad picture of the migration issue, recommending that it not be reduced to the fight against irregular immigration, but that it take into account the benefits and objectives of the anti-poverty campaign. The communication referred, inter alia, to the importance of remittances, 'brain drain' resulting from recruitment by rich countries (including the EU) and the return of migrants, while taking into consideration the development objectives of the countries of origin.

1.4 Similarly, the 2004 regulation establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS) ⁽³⁾ included the possibility of financing migration management initiatives that would

take the interests of the countries of origin into account (the regulation aimed above all to fund initiatives against irregular immigration).

1.5 However, the document on this subject with the broadest approach to date has been the Commission's communication on the link between migration and development, issued at the end of 2005 ⁽⁴⁾. This communication follows on from that issued in 2002, but focuses more on the links between migration and development (leaving out other aspects such as the fight against irregular immigration). It develops new areas such as remittances, the strengthening of the role of diaspora organisations for development, 'brain circulation' (and the reduction of the negative impact of brain drain), etc.

1.6 In addition to this communication, a Commission document was also specifically drawn up in the light of its participation in the UN High-Level Dialogue on International Migration and Development ⁽⁵⁾.

1.7 A new communication from the Commission ⁽⁶⁾ has fleshed out this perspective, proposing policies for circular migration and mobility partnerships between the EU and third countries. The EESC's views are set out in point 11 of the present opinion.

1.8 The European Parliament has also drawn up an opinion ⁽⁷⁾, which covers the same issues as the Commission's communications but is more incisive in its proposals. It criticises 'select migration' policies because they encourage the brain drain, and proposes specific measures for the return of the most highly skilled migrants, such as the development of programmes to cover the wage differentials for those who do want to return to their country, and measures to ensure the transfer of pension and social security rights to returnees. It also refers to 'brain circulation', advocates co-development policies, proposes measures for remittances, etc.

⁽¹⁾ 14 and 15 September 2006.

⁽²⁾ COM(2002) 703, December 2002.

⁽³⁾ Regulation (EC) 491/2004 of 10 March 2004.

⁽⁴⁾ COM(2005) 390 of 1 November 2005.

⁽⁵⁾ COM(2006) 409 of 14 July 2006.

⁽⁶⁾ COM(2007) 248 final of 16 May 2007.

⁽⁷⁾ 2005/2244(INI).

1.9 In this opinion and the own-initiative opinion on *Migration and Development: opportunities and challenges* ⁽⁸⁾, the EESC is making a new contribution to EU migration policy by adding a new dimension: cooperation with countries of origin in order to boost their development.

2. The global dimension of unemployment, poverty and inequality ⁽⁹⁾

2.1 In recent decades there has been an unprecedented rise in material wealth and prosperity throughout the world (at least in terms of GDP growth). However, this prosperity has been distributed very unevenly, for many countries and hundreds of millions of people have seen no part of this increased wealth.

2.2 Increased GDP does not accurately reflect a society's actual development level. The UNDP Human Development Index ⁽¹⁰⁾ aims to provide a more comprehensive definition of development, which goes beyond GDP to include life expectancy and education levels. However, it does not comprise other potentially relevant indicators, such as respect for human rights, democracy, access to decent employment or equality.

2.3 An overriding issue is the lack of employment or other access to means of sustenance. Unemployment is commonly a key 'push' factor motivating people to move where better opportunities can be found. The world's population of 6,7 billion in 2006 is growing by about 75 million every year, mostly in developing countries. The ILO report, *Global Employment Trends 2007*, estimated the world's labour force in 2006 at around 2,9 billion people ⁽¹¹⁾. In the same year, there were an estimated 195,2 million unemployed, about 6,3 % of the total global labour force. The number of 'working poor' — or persons living on the equivalent of USD 2 per day or less — has continued to grow, reaching 1,37 billion in 2007 ⁽¹²⁾.

2.4 The plight of farmers in developing countries is a powerful economic factor behind international migration — now and in the future. In 2000, about 43 % of the world's workers were employed in agriculture, and in poorer countries they are usually worse off than urban dwellers. This is partly the result of, among other things, public policy often reflecting structural adjustment packages that have pushed countries to

'modernise' agricultural production to make it more export-oriented, and the consequent undermining of the position of small farmers through the increasing liberalisation of trade, who have been pushed out of farming or into chronic 'underemployment', or into rural out-migration. Indeed, between 1980 and 1999 the urban share of the population rose from 32 to 41 % in low- and middle-income countries ⁽¹³⁾.

2.5 It must be stressed that there is no automatic correlation between income and human development. Countries with lower revenues than others may have a higher score on the human development index ⁽¹⁴⁾, owing to adequate public policies or the absence of conflict.

2.6 In today's globalised world, the countries at either end of the human development index are Norway and Niger. People living in Norway are 40 times richer than those in Niger, live twice as long and have five times the schooling rate.

2.7 An analysis of human development trends since the 1970s shows that most countries have improved their human development index, with the sole exception of sub-Saharan Africa, which has 28 of the 31 countries with the lowest human development levels.

2.8 The following figures are also worth noting:

- In the last three decades, average life expectancy at birth has increased by seven years in developed countries and nine years in developing countries. The only exception is sub-Saharan Africa, where life expectancy is lower than it was 30 years ago; it has dropped by 20 years in Botswana and 13 in Zambia.
- Infant mortality rates are decreasing faster in developed countries than in developing countries.
- In the context of a global knowledge-based economy, the average length of schooling for a child in a wealthy country is over 15 years; in Burkina Faso it is under four years. In less developed countries, 20 % of children do not finish their primary education; in Chad, Malawi and Rwanda, this figure climbs to over 40 %.
- In Latin America, despite the more positive trends of late, there are still serious problems of poverty and of inequality in wealth distribution.

⁽⁸⁾ EESC own-initiative opinion of ... 2007 on *Migration and Development: opportunities and challenges*, rapporteur: Mr Sharma (REX/236) — CESE 673/2007.

⁽⁹⁾ Data obtained from the *Human Development Report 2006*, United Nations Development Programme (UNDP), and *A fair globalization — Creating opportunities for all*, World Commission on the Social Dimension of Globalization (backed by the ILO) (2004).

⁽¹⁰⁾ The most recent Human Development Report was published in 2006 (referring to data from 2004).

⁽¹¹⁾ ILO, *Global Employment Trends*, 2002 (Geneva).

⁽¹²⁾ ILO report, *Key Indicators of the Labour Market* (KILM).

⁽¹³⁾ *Ibid.*

⁽¹⁴⁾ Most recent Human Development Report.

2.9 Poverty has decreased in the world ⁽¹⁵⁾, but this is largely due to the development experienced by China and India in recent years. The poorest 20 % of the population only enjoys 1,5 % of the world's income, with daily revenues of less than USD 1,40. The global population receives only 5 % of the world's income, and lives on less than USD 2 per day. Meanwhile, 90 % of OECD inhabitants fall within the 20 % of the global population with the highest income. At the other end of the scale, 50 % of the inhabitants of sub-Saharan Africa are among the poorest 20 %. The income (not including assets) of the world's 500 richest people is higher than the total income of the 416 million poorest people in the world.

2.10 Poverty, unemployment and inequality are features shared by countries from which emigration stems. The absence of decent employment, economic crisis, lack of development prospects, disasters and disease, wars, the corruption and inefficiency of some governments, and the lack of freedom and democratic institutions drive many people to abandon their countries in search of new horizons and better opportunities. In its 2005 report for the UN, the Global Commission on International Migration stated that many of the large-scale migration flows, which were unwelcome and difficult to manage, were the result of structural problems and lack of sustainable development in numerous countries.

2.11 Moreover, the criminal networks implicated in people-trafficking take advantage of this situation to grow rich on irregular immigration. It is therefore important that appropriate concerted action is taken against such ruthless criminal networks that are taking advantage of the plight of innocent people. It is also equally important that effective border controls, including maritime borders, are properly coordinated between countries of transit and destination.

2.12 The promotion of peace and democracy, of economic and social growth and human development and the campaign against poverty and inequality can significantly help to reduce unwanted emigration.

2.13 However, it is not the poorest who emigrate, for emigration is unattainable for the most disadvantaged people. Emigrants are those with a certain level of (personal or family) income, a higher level of education, greater enthusiasm and better physical condition, most often young people. Emigration, at least initially, contributes to the loss of human capital from the countries of origin.

2.14 In some — though not all — cases, poverty and lack of opportunities are the motivating factors for many emigrants to Europe. The EU must actively cooperate in combating poverty in the countries of origin, and in implementing a comprehensive approach to immigration policy.

2.15 The EESC proposes that the European Union and Member States promote a fresh political drive to meet the Millennium Development Goals, agreed seven years ago at the

⁽¹⁵⁾ United Nations Development Programme, 2006 Human Development Report.

UN and which must be achieved by 2015, and which should be pursued in tandem with the drive for decent work promoted by the ILO.

2.16 Progress has been slow and the international community is not meeting the necessary political commitments; for example, few Member States are meeting the commitment to allocate 0,7 % of their GDP to development aid. The interim assessment carried out by the UN Secretary-General in 2007 ⁽¹⁶⁾ is disappointing, progress has been limited and development aid even fell by 5,1 % between 2005 and 2006.

2.17 The Committee proposes that the European Commission adopt a precise agenda to promote the eight millennium goals:

- eradicate hunger: reduce extreme poverty by half, in other words reduce by half the proportion of people living on less than one dollar a day;
- universal education: guarantee primary education for all children;
- equality: eliminate gender disparity and empower women;
- child mortality: reduce by two thirds the mortality rate among children under five;
- maternal health: reduce by three quarters the mortality rate amongst pregnant women;
- pandemics: halt and begin to reverse the spread of diseases such as malaria and Aids;
- sustainability: reduce by half the proportion of people without access to drinking water and sanitation;
- trade: establish a multilateral trading system while combating corruption and promoting good governance.

3. Trade and development

3.1 From various angles, the opening-up of trade is linked with economic growth, development, job creation and reduced poverty. The clearest example can be seen in the negotiations currently being held in the World Trade Organisation (WTO). The current round of negotiations (the Doha Round) has been dubbed the Development Round. Sharing the same aim are the Economic Partnership Agreements (EPA), which were negotiated as an integral part of the Cotonou agreement between the EU and ACP countries, and the European Commission's recent communication *Towards an EU Aid for Trade strategy* ⁽¹⁷⁾.

⁽¹⁶⁾ See the 2007 United Nations report on its website: www.un.org.

⁽¹⁷⁾ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *Towards an EU Aid for Trade strategy — the Commission's contribution* COM(2007) 163.

3.2 In some instances, the opening-up of trade is linked with the development of the poorest countries and the reduction of unwanted immigration. In other instances, emigration is seen as a consequence of developed countries protecting their markets from the products of developing countries.

3.3 It is useful to consider how the promotion of trade can help to reduce poverty in the world. The EESC believes that one key reference is the recent joint study conducted by the International Labour Organization and the WTO, *Trade and employment: Challenges for policy research* (March 2007).

3.4 In the last decade, global poverty has decreased as trade barriers have been significantly reduced. However, this decrease has occurred mostly in China and India, and has been limited to certain regions and social sectors. The experiences of countries that have opened up their economies have been varied. Countries which based their development on textile exports have not significantly reduced poverty; in other countries, only the informal economy has grown. In Asia, wage differences have decreased between skilled and unskilled workers, while in Latin America, they have increased ⁽¹⁸⁾.

3.5 The EESC believes that, contrary to what is thought by the elites governing certain developing countries, there is no contradiction between development and human rights. Studies ⁽¹⁹⁾ have shown that international investment and exports increase in countries which democratise their political systems, promote labour rights and improve social protection. Complying with the international standards of the ILO on promoting decent work, and supporting dialogue with the social partners and with civil society organisations are examples of good governance which the Committee endorses.

3.6 Furthermore, the opening up of markets by industrialised nations can help boost development, although this does not always have a positive impact on all countries, for only those countries with a certain level of development — with strong national markets, efficient export infrastructures and stable political systems — are able to benefit from the reduction in customs and non-customs barriers in order to increase development and cut poverty.

3.7 The effects of globalisation on development differ from country to country, depending on the policies they apply: greater democracy and respect for human rights, and improvements in education, healthcare, infrastructure and employment policies are policies that drive growth and reduce poverty and social inequalities.

3.8 The EESC believes that the EU, within the framework of the WTO negotiations, should facilitate the increase of international trade (particularly between the EU, Africa and Latin America) and the extension of democracy and human rights in the world.

3.9 The EU has association agreements with a variety of countries around the world: Euromed, ACP, Russia and our eastern neighbours, Mercosur, the Andean Community, China, India, etc. Through its opinions and joint committees, the EESC seeks to ensure that such agreements extend beyond trade issues to cover a range of social aspects.

4. Development cooperation

4.1 In the context of development cooperation, the EU should support recipient countries' implementation of public education and employment policies, in cooperation with the social partners and civil society organisations. These policies are key to development, together with the promotion of peace and good government.

4.2 Until now, the EU's development cooperation policies have focused little on the role of migration as a factor to combat poverty.

4.3 Official Development Assistance is based on the principles of social justice and redistribution of wealth. Development cooperation policy aims to combat poverty and allow every person to lead a life of dignity. Although it does not directly aim to boost or control migratory movements, the fight against poverty and inequality is one way to help reduce the underlying causes of forced emigration ⁽²⁰⁾.

4.4 It is unacceptable for development aid policy to be used as an instrument of pressure in international negotiations on migration, as it was by some leaders at the Seville European Council.

4.5 The EESC believes that the EU could promote the involvement of diaspora communities in cooperation projects, as they could make a significant contribution when it comes to the drafting of proposals and assessment of results, often carried out by experts from donor countries with only a partial knowledge of the recipient areas.

4.6 Democracy and human rights, education and training, promoting the empowerment of women, healthcare and the environment are the priority goals of EU cooperation. The EESC believes that the reinforcement and promotion of civil society organisations is also very important.

⁽¹⁸⁾ Report quoted by the ILO and WTO.

⁽¹⁹⁾ Independent Evaluation Group of the World Bank, *Annual Review of Development Effectiveness 2006. Getting results*, and OECD studies on trade and labour.

⁽²⁰⁾ Oxfam — Intermón: *Migraciones y desarrollo: el papel de la cooperación* ('Migration and development: the role of cooperation'), Estudios, No 8 (2001).

4.7 EU aid could be provided for the creation of networks and joint committees between social partners and civil society organisations from the source and host countries. For example, awareness-raising is an important part of development cooperation policies. The public in the European host countries should be informed about the culture and working, living, social and political conditions of countries from which migration stems.

5. A European immigration policy in cooperation with the countries of origin

5.1 It is surprising that EU Member States have yet to ratify the *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, which was adopted by the General Assembly of the United Nations in Resolution 45/158 of 18 December 1990 and which has been in force since 1 July 2003. The EESC⁽²¹⁾ once again proposes that the EU and its Member States ratify the Convention. In line with the objectives of the Tampere and Hague European Councils, the Committee believes that respect for human rights and equal treatment should form the basis of the European immigration policy.

5.2 The EESC proposes that the Commission, the Parliament and the EU Council promote, within the framework of external policy, an **international legal framework for migration**, on the basis of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This international legal framework should include:

- the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
- the Convention on the Elimination of all Forms of Racial Discrimination (CERD);
- the Convention on the Rights of the Child (CRC);
- the ILO conventions on migrant workers (C 97 and C 143);
- the ILO Declaration on Fundamental Principles and Rights at Work;
- the ILO Multilateral Framework on Labour Migration;
- the Durban Declaration and Programme of Action of the 2001 United Nations World Conference against Racism.

5.3 Immigration policies have hitherto focused on aspects which are appropriate, and have received the EESC's support,

but which are geared to the interests of European nations only as receiving countries: combating irregular immigration and trafficking in human beings, meeting the needs of our labour markets and economic development; this is how social or identity problems are viewed and admissions policies for attracting (highly skilled) immigrants while rejecting others are defined. On the basis of these considerations, Europeans set up immigration policies which may be more open or more restrictive, but always focus exclusively on the effects of immigration on European societies.

5.4 However, the EU and most of its Member States have very active development cooperation policies, and Europe also has neighbourhood and association agreements with many countries around the world. Yet these policies have previously been implemented without adequate links to immigration policy, as though they were separate entities, under the misguided idea that migration policy is possible without the cooperation of the countries of origin.

5.5 Many studies have been carried out on the effects of migrations on developing countries. Every report leads to the general conclusion that the contribution of migrants is positive for the economic and social development of the countries of origin but that, for some countries, there are also negative effects. The positive effects include the importance of remittances, while the brain drain and the loss of human resources are among the negative ones.

5.6 The EESC supports a new approach for European policies: immigration policy should be managed in cooperation with the countries of origin, so that migration can be a factor for their development. This would require the review of many aspects of these policies, including those relating to admission criteria and the possibilities for mobility of immigrants.

6. Migration is positive for both countries of origin and host countries

6.1 The benefits deriving from immigration for the receiving countries have been set out at length in other EESC opinions. In the case of the European countries, immigration has successfully met labour market needs generated by demographic change⁽²²⁾. Immigrants occupy posts unfilled by local workers, and contribute to economic development, job creation and social progress. As pointed out in the UN Secretary-General's report marking the High-level Dialogue on International Migration and Development, '*... migrants ... maintain viable economic activities that, in their absence, would be outsourced. By enlarging the labour force and*

⁽²¹⁾ EESC own-initiative opinion of 30 June 2004 on the *International Convention for Migratory Workers* (rapporteur: Mr Pariza Castaños) (OJ C 302 of 7.12.2004).

⁽²²⁾ See the EESC opinion of 9 June 2005 on the *Green paper on an EU approach to managing economic migration* (rapporteur: Mr Pariza Castaños), OJ C 286 of 17.11.2005.

the pool of consumers and by contributing their entrepreneurial capacities, migrants boost economic growth in receiving countries' ⁽²³⁾. Furthermore, the Committee has proposed that the EU strengthens integration policies ⁽²⁴⁾. Migration can be beneficial for all: for migrants themselves, for the host societies and for the countries of origin.

6.2 For developing countries, emigration enables excess labour to be evacuated, thereby reducing unemployment, and acts as a major mechanism for alleviating poverty given the scale of the remittances sent by emigrants to their families. Moreover, when they return, migrants play an increasingly important role as economic catalysts, becoming employers or promoting small businesses, and transmitting new skills and technologies. But there are also harmful effects, such as the loss of the most highly-trained and enterprising young people.

6.3 The EESC proposes that the positive effects be maximised, and the negative ones minimised, by means of cooperation with the countries of origin. This is one of the challenges of our times. The final report of the Global Commission on International Migration stressed that today's challenge was to formulate policies that maximise the positive impact of migration on countries of origin while limiting its negative consequences. It also argued that migration must form part of national, regional and global development strategies and that, to achieve this objective, the receiving countries must clearly acknowledge that migration is beneficial for them too ⁽²⁵⁾.

6.4 Migration cannot be a catalyst for development in a way that is isolated from other political, economic and social factors. For this reason, the EESC believes that the EU should adopt a new approach to immigration and development policy, in cooperation with countries of origin, promoting development through structural change which fosters democracy and good governance, helps reduce inequality, and improves human capital and the infrastructure necessary for sustainable development.

7. The benefits of remittances

7.1 Remittances are the personal resources of immigrants, but for some countries of origin they have taken on major importance as a source of income. The figures speak for themselves: in 2005 the developing nations received remittances totalling some USD 167 billion (compared to estimates from the same source of 69 billion in 1990). The UN Secretary-General has confirmed that in 2006 emigrants sent

264 billion dollars home. This is almost four times the volume of official development aid. In some countries, it also outstrips foreign investment.

7.2 Remittances provide uninterrupted, stable support for family maintenance. It is immigrants and their families who carry out most of these international money transfers. In Europe, between 60 % and 70 % of immigrants send money to their families. They are mostly converted into direct consumption, although not only of tangible products: a significant proportion of remittances is spent on education and health, enhancing human capital as a consequence. The economies of the places to which remittances are sent benefit from increased consumption and investment in small businesses. The increased amounts of money in circulation also foster the development of the financial sector. Income in European currencies also contributes to the financial balance of the countries of origin.

7.3 Problems as well as benefits can however arise: the price of some consumer goods may rise, increasing hardship for families not receiving remittances; certain crops and production sectors (the less profitable ones) are abandoned, as are some jobs, because the income they generate is very small compared to that from remittances.

7.4 These problems must be taken into account, although the Global Commission on International Migration concludes that, overall, migration is a major plus factor for developing countries: *'Remittances that are transferred formally can provide an important source of foreign exchange to recipient countries, boost the capacity of the financial sector, help to attract subsequent investment and provide some leverage for sovereign loans'* ⁽²⁶⁾.

7.5 Informal channels for transfers should be limited, since they involve higher costs and risks. Informal networks are often created as a result of the absence of competitive financial institutions in more remote areas. The EESC believes that in order to maximise the benefits for the countries of origin, the cost of financial intermediation in remittances should be lowered. These costs are often excessive, and are not in line with the cost of other international economic transactions. Experts calculate that the costs vary considerably from one region to another; for example, transfers from Spain to Latin America and the Caribbean cost 2 %, but between 8 % and 10 % from Europe to the majority of countries in Africa. European financial sector authorities and supervisors should urge European banks to act ethically and in a socially responsible manner in order to reduce the

⁽²³⁾ See United Nations document A/60/871, 2006: *International migration and development. Report of the Secretary-General* <http://www.un.org/Docs/journal/asp/ws.asp?m=A/60/871>.

⁽²⁴⁾ EESC own-initiative opinion of 21 March 2002 on *Immigration, Integration and the Role of Civil Society Organisations* (rapporteur: Mr Pariza Castaños, co-rapporteur: Mr Melicias (OJ C 125, 27.5.2002) and the EESC own-initiative opinion of 13 September 2006 on *Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations* (rapporteur: Mr Pariza Castaños (OJ C 318, 23.12.2006)) and the conference on integration, organised in conjunction with the European Commission, and held in September 2002.

⁽²⁵⁾ See Global Commission on International Migration, 2005: *Migration in an interconnected world: New directions for action*, <http://www.gcim.org/en/>.

⁽²⁶⁾ Idem.

cost of remittances. The efficiency of banks in the countries of origin also needs to be increased, as their structures and the guarantees they offer are often insufficient. Europe should promote agreements between the financial sectors on each side, mediated by governments and international organisations, with a view to reducing the final cost of transfers. Banks can promote systems of good practice through social responsibility agreements.

7.6 The Commission has announced it is to prepare a directive requiring financial service providers to display more transparency regarding the commission they charge their customers. The directive should be very strict with regard to remittances, in order to put an end to the present excesses. Furthermore, financial system regulators should be vigilant, ensuring that inappropriate exchange rates are not applied to transactions, which unfairly increase the final cost of remittances.

7.7 The EESC proposes that remittances be used to promote investment in economic and social activities. In cooperation with the local authorities, the banks can build up new credit systems linked to remittances in order to fund economic activity and entrepreneurial initiatives. To this end, the financial sector needs to be equipped with proper structures and sufficient liquidity.

7.8 Spending on education and health are the major investments of families that receive remittances. Financial, insurance and credit instruments linked to remittances must be promoted with a view to raising achievement in the fields of education and health.

8. Diasporas as transnational networks

8.1 International migration has increased significantly over recent decades, against a backdrop of globalisation. The number of migrants has risen sharply ⁽²⁷⁾, the number of countries of departure has grown, together with the number of receiving countries and those which are countries of origin and host countries at the same time. This upsurge in migration has been facilitated by cheaper transport and communications. International travel is now easier (apart from border controls), even between the most remote parts of the world.

8.2 Cheaper travel, especially air travel, combined with today's telephone and electronic communications, is opening the doors for unprecedented communication and links between people, and between migrants' places of origin and destinations. People who emigrate and spread out over a range of destina-

tions can now network much more closely and easily than in the past.

8.3 Migrants' networks are playing an increasingly important role in migration processes: such networks help people to decide on their own migration plans, they facilitate travel and transit, and make arrival in the country of destination easier, together with access to housing and job-seeking.

8.4 Emigrants promote businesses in their places of origin. Many of the businesses that immigrants set up in host countries, for example, import products from their countries of origin, encouraging production and marketing. Increasing travel boosts their transport businesses. When migrants attain an economically-strong position in their country of destination, they frequently make direct investments in their country of origin: many businesses are built up in this way in certain regions of China and in the IT sector in India and Pakistan. Furthermore, many immigrants promote economic activities and business in Africa and Latin America.

8.5 Multinational companies are increasingly employing people of immigrant origin to introduce their businesses to the countries of origin. A large number of European multinational companies recruit their managers and technical staff from among immigrants, with a view to internationalising their activities.

8.6 Diasporas, organised into transnational networks, can also help to ensure that a portion of remittances are channelled into economic activities and entrepreneurial projects. The EU's cooperation policies can cooperate with migrants' networks, as such networks provide opportunities to channel aid effectively and amplify the investment capacity of the diaspora communities.

8.7 In some places migrant diasporas, acting as networks, invest in their countries of origin. Some projects can serve as a model: one such is the 'three for one' programme in Mexico, under which associations of migrants from the same area invest in projects to develop their place of origin, with each dollar they send being matched by another from each level of government — federal, state and municipal ⁽²⁸⁾.

8.8 The EU must support transnational diaspora networks as a way of fostering the development of the countries of origin. Network associations from a single town of origin can together channel amounts of investment that can be multiplied by European and national contributions.

⁽²⁷⁾ There were 155 million migrants in 1990; this figure had risen to 191 million by 2005.

⁽²⁸⁾ See United Nations A/60/871, *op cit*.

8.9 The European Commission and Member States, in cooperation with countries of origin and civil society organisations, must promote favourable conditions enabling diasporas to optimise the impact of their activities on development. The EESC proposes that a portion of EU and Member State public funds be channelled to development activities promoted by diaspora communities. Public-private cooperation is key to the success of economic and social activities. Some examples of good practice:

8.9.1 IntEnt, which is based in the Netherlands, has over the past ten years supported almost 2000 entrepreneurs from the diasporas of Surinam, Ghana, Morocco, the West Indies and Turkey, providing EUR 12.5 million to create 200 businesses, which have employed 840 persons in these countries of origin.

8.9.2 Established in Marseilles in 1986, *Migrations & Développement* supports various Moroccan immigrant organisations (including young French people of Moroccan origin) in order to harness support for their places of origin in Morocco. Thousands of immigrants of the diaspora have contributed financially to various projects, and 300 of them were directly involved in the implementation, benefiting more than 50 000 persons in Morocco.

8.9.3 Diaspora organisations in the United Kingdom have been at the forefront of the RemitAid⁽²⁹⁾ campaign for tax relief on collective remittances sent to develop countries of origin. RemitAid provides support for the development initiatives of diasporas through a joint fund comprising tax refunds from remittances (similar to the gift aid scheme which provides tax relief for charitable donations in the UK).

8.9.4 The Philippine organisation for migration and development (Philcomdev) is a recently formed network of organisations for emigrants and their families, NGOs, cooperatives, trade unions, microfinance organisations, social enterprises, networks in the Philippines and abroad, which are active in the area of migration and development in their country.

8.10 Using European development aid, support should also be given to exports to Europe of products from the countries of origin, and they should be channelled through fair-trade systems by diaspora networks.

8.11 The EESC also proposes that direct investment, by both individual migrants and their associations, be supported. Investment in, for example, tourism or agriculture can generate major development opportunities in many places of origin. Credits, granted to migrants or diaspora associations for commercial or

direct investment projects in the country of origin, represent a form of support that European countries should step up through their cooperation policies.

9. Return and greater possibilities for movement, as a way of recovering human capital

9.1 Some international migrants are skilled or highly qualified workers. This 'brain drain' is one of the most harmful effects of migration for the developing countries. Not all countries of origin experience its impact in the same way, but it is nothing less than a disaster for some. As indicated in the SOPEMI report, between 33 % and 55 % of the best-educated people from Angola, Burundi, Ghana, Kenya, Mauritius, Mozambique, Sierra Leone, Tanzania and Uganda are living in OECD countries⁽³⁰⁾. In Africa, the health sector is one of the worst affected, along with education.

9.2 The effect of emigration of graduates and highly-skilled workers is less negative in some countries of origin. The departure, for example, of highly specialised information technology workers from India and Pakistan, has not had any harmful repercussions, since these countries have a very robust educational and training system for computer specialists, of whom there is no shortage.

9.3 When not on a large scale, the brain drain may even be of benefit to countries of origin as a certain degree of return and movement is constantly in play, bringing in new know-how, technologies and business ventures. This is what is happening in countries such as Brazil or India. In very many countries, however, the brain drain entails an irreplaceable loss of specialists and qualified professionals.

9.4 The brain drain is advantageous to the European host countries. Immigration legislation has been amended in certain European countries since 2002 in order to facilitate the entry of highly skilled workers.

9.5 The European Union too intends to promote a policy of selective immigration: the Policy Plan on Legal Migration⁽³¹⁾ proposes a specific directive on the entry of highly skilled workers, to be presented by the Commission in September and on which the Committee will draw up an opinion. There are however no plans to draw up a general directive on entry. In spite of the criticisms levelled by the EESC and the European Parliament⁽³²⁾, such 'selective immigration' policies are set to spread throughout Europe, at the risk of worsening the difficulties experienced by some countries. The Committee however believes that this legislation should be of benefit to all: to the countries of origin, the host countries, and immigrants themselves.

⁽³⁰⁾ See SOPEMI 2005, OECD.

⁽³¹⁾ COM(2005) 669 final of 21 December 2005.

⁽³²⁾ 2005/2244(INI) and EESC opinion of 9 June 2005 on the *Green Paper on an EU approach to managing economic migration* (rapporteur: Mr Pariza Castaños (OJ C 286, 17.11.2005)).

⁽²⁹⁾ See www.remitaid.org.

9.6 Consistency between migration and development cooperation policies requires the host countries to deal with the brain drain issue firmly and decisively. The first aspect for consideration in this regard is that the problems which, in the countries of origin, trigger the departure of skilled workers, could be turned into benefits if the workers concerned return with new know-how of use to companies, the economies or the public services of their countries. Returned migrants can serve as a vector not only for transfer of know-how and technology, but also for investment.

9.7 Seen in this light, encouraging migrants to return will help the development of the countries of origin. Return must be entirely voluntary, once the conditions are right for workers to continue their occupation in their country of origin. The challenge is therefore to create such conditions.

9.8 If skilled workers are to be encouraged to return voluntarily, such a move must not entail the loss of their work and residence permits in Europe (or of any new citizenship they may have acquired). This is the only way to bring about circular migration.

9.9 Return can also be promoted by transferring returnees' social entitlements to their countries of origin. It must be ensured that the transfer of pensions and social security entitlements, including healthcare, works properly. The UN Secretary-General's report on international migration and development described the vast majority of international migrants as facing obstacles in transferring their pensions; although many bilateral agreements have been concluded, it proposed devising an international framework offering more certainty. ILO Convention No 157 concerning the establishment of an international system for the maintenance of rights in social security (1982), has only been ratified by three countries (Spain, the Philippines and Sweden)⁽³³⁾. The Committee proposes that the other Member States ratify ILO Convention No 157.

9.10 Programmes need to be adopted, by means of European cooperation development policies, to prevent brain drain and to facilitate the voluntary return of skilled workers, and to invest in skills-intensive sectors and activities in the countries of origin.

9.11 The EESC agrees with the Commission's proposal that the Member States should draw up codes of practice for managing the entry of highly skilled migrants, in cooperation with the countries of origin.

9.12 The EU must play a very active part in training young people in immigrants' countries of origin. These countries lose a

large part of their best-trained human capital, which is harnessed by European companies. Training cooperation is a fair way of compensating these countries, which can thus in the future count on the human capital they need for their development.

9.13 The EESC emphasises the importance of agreements and associations with countries of origin, which European universities, hospitals, companies and technology and research centres could conclude with the countries of origin, the aim being for some very highly skilled workers to work in their countries of origin, with pay, social rights and occupational resources comparable to those in Europe.

10. A migrants' entry policy in keeping with development aims: allowing entry contributes to development

10.1 The European Union and its Member States should adjust their entry policies to allow legal immigration by means of flexible and transparent procedures. In its opinion on the Commission's Green Paper⁽³⁴⁾, the EESC argued that there was a need for open policies on the entry of both highly skilled and less skilled workers. While understanding the position adopted by some governments, the Committee has also proposed that Member States end the transitional period which limits the freedom of the citizens of some new Member States to reside and work in their countries.

10.2 Irregular immigration must be reduced through policies with an internal European focus, such as combating the employment of irregular immigrants by means of Community legislation⁽³⁵⁾, which the Committee will examine in another opinion currently being drawn up, border controls and combating human trafficking, and cooperation with countries of origin and transit. The EU must show support for the countries of southern Europe, sharing the costs they incur in having to manage the massive influx of irregular immigrants and carry out numerous sea rescue operations and reception activities and provide humanitarian assistance. Under exceptional circumstances, it will also be essential that the legal situation of many people 'without papers' in the EU is regularised, people who are the victims of labour exploitation and who are unable to participate in integration policies.

10.3 As a part of more flexible entry policies, temporary migration systems and circular migration should be promoted, for both highly skilled and less skilled workers.

⁽³⁴⁾ See the EESC opinion of 10 December 2003 on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the regions on immigration, integration and employment* (rapporteur: Mr Pariza Castaños), OJ C 80 of 30.3.2003.

⁽³⁵⁾ See the draft directive of 16 May 2007 on *Minimum penalties for employers who employ irregular immigrants* (COM(2007) 249 final).

⁽³³⁾ See United Nations A/60/871, *op cit*.

10.4 If a temporary immigration system is to be realistic, Community legislation must offer highly flexible short-term permits, combined with return arrangements and guarantees of further employment in subsequent years. In this way, many immigrants will use legal channels, and will not remain in Europe under irregular conditions when their residence permits expire.

10.5 The EESC urges the EU and the Member States to agree circular migration procedures with the countries of origin, to promote migration mobility through flexible, transparent procedures. Such agreements must be balanced, serving the interests of both parties so that immigration can also be a factor for development in the countries of origin.

10.6 Temporary entry arrangements which include training commitments and recognition of vocational qualifications may also be useful, since temporary immigrants working in Europe would be able to enhance their qualifications and, after returning, boost job opportunities and contribute to the economic and social development of their countries.

10.7 The current inflexibility of legislation in Europe is a major barrier to circular migration. In order to facilitate migrant mobility, return and business initiatives in the countries of origin, European immigration laws must allow the right to permanent residence to be kept over the long term.

10.8 To this end, the EESC proposes that the Directive on long-term resident status be amended to extend the period that residents can keep their permanent rights from the current one year to three years. In its opinion ⁽³⁶⁾, the EESC argued that a year (or two years, as in the Commission's original proposal) was too short a period for many immigrants to take up the challenge of returning to their place of origin based on career plans.

10.9 At a time when the EU is promoting a global focus for immigration policy, and in view to consistency between immigration and development policies, all individuals who are long-term residents in a Member State must be able to return to their countries of origin without losing their residence rights for at least five years.

11. Promoting circular migration and mobility partnerships

11.1 In May, the European Commission published an important communication ⁽³⁷⁾ on circular migration and mobility partnerships between the European Union and third countries. Although this is an own-initiative opinion, it also represents an EESC contribution to the debate initiated by the Commission.

⁽³⁶⁾ See the EESC opinion of 17 October 2001 on the *Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents* (rapporteur: Mr Pariza Castaños), OJ C 36 of 8.2.2002.

⁽³⁷⁾ *On circular migration and mobility partnerships between the European Union and third countries*, COM(2007) 248 final.

Certain sections of the opinion contain EESC proposals on questions raised by the Commission in its communication.

11.2 The Communication is divided into two parts: the first sets out the advantages of developing mobility partnerships with third countries, and the second looks more specifically at circular migration.

11.3 The Committee supports the proposal to establish **mobility partnerships**, so that the EU and the Member States provide opportunities for legal immigration through flexible and transparent procedures. The partnerships are based on agreements signed by immigrants' countries of origin and EU Member States.

11.4 Countries of origin are required to make the same commitments as those asked in relation to combating irregular immigration, which are very precise (readmission, border controls, security of travel documents, combating migrant smuggling and human trafficking, etc.). It is important that such countries honour their international obligations under the Cotonou Agreement, in particular the provisions of Article 13. The Committee believes that certain countries with 'weak' government will have great difficulty meeting these conditions, and therefore proposes that mobility partnerships be flexibly adapted to suit the situation of each country of origin.

11.5 Types of agreement for the Member States may include the following four.

11.5.1 The first are those offering improved opportunities for legal migration, while respecting the principle of Community preference for EU citizens, which the Committee endorses. The EESC supports the idea of several Member States (reinforced cooperation) making a consolidated offer to countries of origin, as an EU offer in the form of quotas and instruments to match European job markets.

11.5.2 The second type of agreement involves the European Commission and the Member States providing technical and financial assistance to manage legal migration flows. The Committee believes that Community funding available under the thematic programme on migration and asylum will be inadequate, and therefore proposes to the Commission, the Parliament and the Council that this funding should be significantly increased in the future.

11.5.3 Thirdly, the Committee shares the view that mobility partnerships, by agreement with the countries of origin, can be used to discourage immigration from certain sectors in order to avoid a brain drain (among health professionals in certain European countries, for example). The agreements should favour circular migration and the return of temporary immigrants.

11.5.4 Under the fourth type of partnership, the EU and the Member States will improve procedures for issuing short-stay visas. In a number of opinions, the EESC has pointed to the need to improve the organisation of consular services in the EU Member States and countries of origin. The Commission delegations should cooperate with the Member States on migration matters, and the EURES network should be used to identify existing employment offers in the EU. The Committee endorses the Commission's proposal to enhance cooperation between several Member States by opening common visa application centres, to strengthen common consular instructions in order to issue multiple-entry visas for third-country nationals who need to travel frequently, and to facilitate the issue of visas for certain categories of person defined in the mobility agreements.

11.6 The Commission is in favour of facilitating **circular migration**. The EESC considers that current immigration legislation is very rigid and not satisfactory either for immigrants, the countries of origin, or the European host countries. In various opinions the EESC has recommended more flexible rules in order to facilitate circular migration systems that would respect individual preferences. The fundamental rights of immigrants must be fully protected, especially social and employment rights, and a person's right to live with their family.

11.7 The Commission proposes two types of circular migration: (1) migration of third-country nationals settled in the EU, so that they can develop activities in their country of origin while retaining their right to residence in a Member State, and (2) circular migration for people residing in a third country, so that they can come to the EU for work, study or training, or all three, on condition that when their permit expires they return to their country of origin, with the possibility of returning to the EU under simplified admission procedures.

11.8 The Committee believes that a system of circular migration can be developed only when migrants, temporary or otherwise, who have returned to their country of origin, have the option of returning legally to the European country in which they were residing. Strengthening circular migration means above all introducing measures to ensure that return to the European country is flexible.

11.9 The EESC agrees with the Commission's proposal to develop an EU legislative framework facilitating circular migration. This will entail changing some existing Directives and agreeing on appropriate criteria for drawing up the new Directives provided for under the legislative programme, including those discussed below.

11.9.1 Proposal for a Directive on the admission of highly skilled immigrants: the Committee endorses the Commission's proposal to further facilitate admission procedures for people who have already resided legally in the EU for a certain length

of time (for highly qualified work, study or other forms of training).

11.9.2 Proposal for a Directive on the admission of seasonal migrants: the Committee recommends that a multi-annual residence/work permit be created for seasonal migrants, allowing them to come back for five years in succession, which may be extended for a further five years, to do seasonal work.

11.9.3 Proposal for a Directive on the admission of remunerated trainees: the Committee considers that making it easier for nationals from third countries to come to Europe for a period of training, which will help to promote circulation of expertise and knowledge transfer, is a positive factor for their training and their country's development. To enhance circularity, the proposal could make it possible for former trainees to return for limited periods (1-5 years) in order to improve their qualifications.

11.9.4 The EESC suggests that the Commission should promote some changes to various existing Directives in favour of circular migration. Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents currently stipulates that, as a general rule, long-term residents shall no longer be entitled to long-term resident status in the event of absence from Community territory for a period of 12 consecutive months. The Commission is proposing to extend this period to two or three years, and the Committee considers five years to be a more appropriate length of time.

11.9.5 Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research: the Committee agrees that these Directives should be amended to introduce multiple-entry residence permits allowing the holder to leave EU territory for long periods without losing his or her right of residence. It would also make sense to convert the optional provisions of these Directives, which allow Member States to provide simplified or fast-track admission procedures for persons who have formerly worked as researchers or studied in the EU, into a right for such persons to have access to quick procedures, provided they subsequently return to their home country at the end of their permit. The Committee also favours linking the two Directives, by allowing easier admission as a researcher (with fewer conditions attached) to non-EU nationals who have previously been admitted as students and who, after their studies, duly returned to their country of origin. This concept might be extended to allow students to apply for admission as researchers while still residing in the Member State where they are studying, provided the application is submitted before their study permit expires.

11.10 The EESC believes it is necessary to ensure that circular migration meets its objectives and brings long-term benefits through incentives to promote circularity, guarantee a successful return, evaluate the application of procedures and reduce the risk of a brain drain through cooperation with third countries.

11.11 Circulation of expertise requires resolution of one of the main problems facing many immigrants in Europe, namely non-recognition of educational and occupational qualifications. Mobility of such people between their countries of origin and the host countries will improve when qualifications are recognised in Europe. The Committee proposes that, in spite of the real difficulties, progress be made in negotiating agreements on the recognition of qualifications between the EU and the countries of origin of the bulk of migration flows.

11.12 For a system of circular migration to work it is also necessary to guarantee the pension and social security rights acquired by immigrants. This will entail negotiating mutual agreements between EU Member States and countries of origin, and ratifying ILO Convention No 157.

11.13 The Committee proposes that the EU should put forward these chapters in the future mobility partnerships, in order to facilitate the recognition of vocational qualifications and offer guarantees on pension rights.

Brussels, 25 October 2007.

12. Global Forum on Migration and Development

12.1 On 10 July the Global Forum on Migration and Development was held in Brussels, chaired by UN Secretary-General Ban Ki-Moon. More than 800 delegates from 140 countries took part, continuing the United Nations summit of 2006.

12.2 The EESC took part in the Civil Society Day on 9 July, represented by the rapporteur for this opinion. The conclusions of the forum, which the Committee broadly endorses, can be found on the conference website⁽³⁸⁾. Next year the Global Forum will take place in Manila, and should be attended by the Committee.

12.3 The Committee encourages the governments of the European Union and the Commission to actively pursue their efforts through the United Nations to ensure that the issue of migration features prominently on the international agenda, so that the human rights of migrants are guaranteed under an international legislative framework and that shared administration of migration processes between countries of origin and host countries supports global economic and social development.

12.4 The Committee addresses the question of circular migration for the first time in the present opinion: future opinions will examine it further.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽³⁸⁾ The conclusions are available in English (at http://smooz.gfmd-civil-society.org/gfmd/files/Final_CSD.pdf) and Spanish (at http://smooz.gfmd-civil-society.org/gfmd/files/Final_CSD_espanol.pdf).

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work'

COM(2007) 46 final — 2007/0020 (COD)

(2008/C 44/22)

On 19 March 2007, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2007. The rapporteur was Mr Retureau.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October 2007), the European Economic and Social Committee adopted the following opinion by 77 votes to four, with two abstentions.

1. Summary of the opinion

1.1 The Committee supports the proposed Regulation and its legal basis; the proposal complies with the principles of subsidiarity and proportionality, whilst allowing for the collection of statistics that are useful to the implementation of the Community strategy on health and safety at work, for which a clear legal framework has become necessary.

1.2 It stresses the importance of common definitions and systems for recognition, not least because of the mobility of workers, as regards:

- occupational accidents and commuting accidents;
- occupational illnesses caused by working conditions and/or substances;
- partial or permanent incapacity and invalidity caused by work-related accidents and illnesses, and the working days lost.

1.3 When collating statistics as to the number of people involved in each type of incident, the Committee believes that it would be helpful to take account of the gender and age of the victims and, as far as possible, the nature of their contractual relationship. Particular attention should be paid to the confidentiality of personal data collected.

1.4 The Committee believes that cooperation with the ILO and the WHO should be developed. In the Committee's view, the proposed regulation constitutes one of the most useful means of bringing about convergence of the nature of the definitions and data to be recorded, and the methods of collecting and analysing these data.

2. Commission proposal

2.1 This Regulation is only focused on statistical activities developed under article 285 of the Treaty establishing the European Community. Its aim is not on policy developments for the

two areas of public health and health and safety at work, which are carried out respectively under articles 152 and 137 of the Treaty.

2.2 The production of Community statistics is governed by the rules set out in Council Regulation (EC) No 322/97 of 17 February 1997, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ⁽¹⁾.

2.3 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽²⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 ⁽³⁾ making it applicable to the Community institutions and bodies allow the processing of personal data on health for reasons of substantial public interest subject to provision of appropriate safeguards.

2.4 The Community and national political actions and strategies in the areas of public health and health and safety at work constitute a substantial public interest and the provisions of the Council Regulations (EC) No 322/97 and (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality ⁽⁴⁾ to the Statistical Office of the European Communities (Eurostat) provide the appropriate safeguards for the protection of individuals in the case of the production of Community statistics on public health and health and safety at work.

⁽¹⁾ OJ L 52, 22.2.1997, p. 61. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997R0322:EN:HTML> Regulation amended by Regulation (EC) No 1882/2003 of the European Parliament and the Council (OJ L 284, 31.10.2003, p. 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:284:0001:0053:EN:PDF>).

⁽²⁾ OJ L 281, 23.11.1995, p. 31. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML>. Directive amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ OJ L 8, 12.1.2001, p. 1. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:EN:PDF>.

⁽⁴⁾ OJ L 151, 15.6.1990, p. 1. Regulation most recently amended by Regulation (EC) 322/97: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990R1588:EN:HTML>.

2.5 Actually, Decision No 1786/2002/EC of the European Parliament and of the Council of 23 September 2002 adopting a programme of Community action in the field of public health 2003-2008 ⁽⁵⁾, the Council Resolution of 3 June 2002 on a new Community strategy on health and safety at work 2002-2006 ⁽⁶⁾ and the Commission Communication of 20 April 2004 on 'modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the "open method of coordination" ⁽⁷⁾, require a high standard statistical information system for assessing achievements of policies and developing and monitoring further actions in both areas. This will be continued and developed under successor programmes and strategies.

2.6 In its non-legislative communication SEC(2007) 214, 215, 216 ⁽⁸⁾ *Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*, the Commission stresses that health and safety at work deserve to be a top priority on the Community political agenda; the health and safety of workers is key to increasing productivity and competitiveness of businesses, and helps make social security systems viable by reducing the costs arising out of accidents and illnesses. The idea is to make well-being at work a tangible reality for citizens, thus helping to implement the citizens' agenda adopted on 10 May 2006.

2.7 Until now, statistical data collections were carried out on the basis of 'gentlemen agreements' with the Member States in the framework of the five years Community Statistical Programmes (currently Decision 2367/2002/EC of the European Parliament and Council of 16 December 2002 on the Community statistical programme 2003 to 2007 ⁽⁹⁾) and its annual components.

2.8 In particular in the area of public health statistics, the developments and implementations in the three strands (causes of deaths, health care and health interview surveys, disability and morbidity) are steered and organised according to a partnership structure between Eurostat, together with leading countries (currently United Kingdom as general coordinator and respective domain leaders from Estonia, Luxembourg and Denmark), and Member States. In this framework, a lot of methodological work, including preparation of guidelines, has been already achieved and the implementation of data collections has started.

2.9 However, the current situation is characterised by the following limitations. First, for data collection already implemented, though a certain increase in data quality and comparability has been achieved, Member States should be given a firm basis for implementation.

2.10 A legal framework would allow a consolidation of the progress towards better quality and comparability standards for all related routine data collections. It will ensure a better sustainability and stability of the European requirements for the medium term and would give clear targets in terms of standards to be achieved for comparability at EU level.

2.11 Moreover, a high majority of the new Member States stated that they would not be able to comply with the EU requirements in the areas of public health and health and safety at work without a European legal framework.

2.12 Finally, all Member States need a clearer view on the time schedule and milestones for the implementation of the new statistical tools, currently being developed, and of the actions being prepared for quality improvement. The proposed regulation will be an appropriate framework for drawing up detailed roadmaps in the various areas and strands of health and safety statistics.

2.13 This is why the Commission (Eurostat) considers it is necessary now to give a firm basis through providing a basic legal act in the areas of public health and health and safety at work statistics. The domains covered by the proposal for a European Parliament and Council Regulation relate to ongoing activities and developments carried out together with the Member States in the relevant groups of Eurostat or, in the area of public health, of the Partnership on public health statistics. The main goal is to give a consolidated and firm basis for collections already implemented or which methodology is currently being developed or implementation prepared.

2.14 The Programme of Community action in the field of public health (2003-2008) ⁽¹⁰⁾, stated that the statistical element of the information system on public health will be developed, in collaboration with Member States, using as necessary the Community statistical programme to promote synergy and avoid duplication.

2.15 The amended proposal for a Decision of the European Parliament and of the Council establishing a second programme of Community action in the field of health 2007-2013 ⁽¹¹⁾ stated that the existing work to develop an EU health monitoring system shall be expanded, using the Community Statistical Programme as necessary. For its part, the Community

⁽⁵⁾ OJ L 271, 9.10.2002, p. 1.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:271:0001:0011:EN:PDF>

⁽⁶⁾ OJ L 161, 5.7.2002, p. 1.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:161:0001:0004:EN:PDF>

⁽⁷⁾ COM(2004) 304 final, 20.4.2004.

⁽⁸⁾ SEC(2007) 214, 21.2.2007.

⁽⁹⁾ OJ L 358, 31.12.2002, p. 1. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:358:0001:0027:EN:PDF> Decision amended by decision No 787/2004/EC of the European Parliament and the Council (OJ L 138, 30.4.2004, p. 12, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_138/l_13820040430en00120016.pdf).

⁽¹⁰⁾ See note 5.

⁽¹¹⁾ COM(2006) 234 final, 24.5.2006.

strategy on health and safety at work 2002-2006 ⁽¹²⁾ called on the Commission and the Member States to step up work in hand on harmonisation of statistics on accidents at work and occupational illnesses, so as to have available comparable data from which to make an objective assessment of the impact and effectiveness of the measures taken under the Community strategy.

3. The Committee's comments

3.1 The Committee supports the proposed Regulation and its legal basis; the proposal complies with the principles of subsidiarity and proportionality, whilst allowing for the collection of statistics that are useful to the implementation of the Community strategy on health and safety at work, for which a clear legal framework has become necessary.

3.2 It stresses the importance of common definitions and systems for recognition, not least because of the mobility of workers, as regards:

- occupational accidents (that take place at work) and commuting accidents (that take place on the way between the place of residence and the place of work, and during long breaks away from the place of work, such as lunch breaks), and where work involves travel (services);
- occupational illnesses caused by working conditions and/or substances encountered in the workplace (dust, chemicals,

vibrations, noise hazards, muscular, skeletal and periarticular complaints caused by heavy loads or repetitive strain, etc.);

- partial or permanent incapacity and invalidity caused by work-related accidents and illnesses, and the working days lost.

3.3 When collating statistics as to the number of people involved in each type of incident, the Committee believes that it would be helpful to take account of the gender and age of the victims, the sector of the economy involved, and, as far as possible, the nature of their contractual relationship with their workplace (permanent employment contract, atypical job, temporary agency work, self-employed). Particular attention should be paid to the confidentiality of personal data collected, in accordance with the relevant legislation.

3.4 The Committee believes that cooperation with the ILO and the WHO should be developed, as they can lead to worthwhile exchanges, both at a theoretical level (research into the causes of illnesses and accidents, ergonomics, and rehabilitation) and at methodological level concerning statistical methods and the collation of statistics.

3.5 In the Committee's view, the proposed regulation constitutes one of the most useful means of progressively bringing about convergence of the nature and the definitions of data to be recorded, and the methods of collecting and analysing these data so as to constantly improve their quality, their compatibility, and their comparability.

Brussels, 25 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹²⁾ See note 6.

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community

COM(2007) 159 final — 2007/0054 (COD)

(2008/C 44/23)

On 7 May 2007, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

On 24 April 2007, the Bureau of the European Economic and Social Committee instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

In view of the urgency of the matter, at its 439th plenary session, held on 24 and 25 October 2007 (meeting of 25 October), the European Economic and Social Committee appointed Mr Rodríguez García-Caro ⁽¹⁾ rapporteur-general and adopted this opinion by 64 votes in favour, with one abstention.

1. Conclusions

1.1 The European Economic and Social Committee endorses the amendments put forward in the Annexes to Regulation No 1408/71 and is convinced that these will help to improve the Regulation's content and benefit individuals in the EU who fall within its scope. This support applies most specifically to those changes that help to bring certain benefits into the field of coordination, meaning that they will no longer be exceptions or non-exportable rights.

1.2 As the representative of the social partners and organised civil society, the European Economic and Social Committee also wishes to highlight the slowness of the legislative process for the proposal for a Regulation implementing Regulation No 883/2004. The Committee would not be delivering this opinion if the Regulation referred to above had entered into force. The EESC, therefore, urges the European Parliament and the Council to speed up the decision-making process as much as possible and strive to ensure that the new coordination of social security systems enters into force as swiftly as can be achieved.

2. Introduction

2.1 Since its adoption in June 1971, Regulation No 1408/71 has been successively amended, which has adapted and updated its content. These amendments are due, amongst other things, to the legislative changes that have taken place in the Member States, the bilateral agreements adopted between Member States, consecutive rounds of EU enlargement and the adaptation of legislation to successive Court of Justice rulings on social security.

2.2 Since the EESC adopted its first opinion on this Regulation in January 1967 ⁽²⁾, the Committee, which is made up of

socio-economic stakeholders representing civil society, has, on an almost annual basis, delivered an opinion on all of the changes that have been made to the Regulation's articles or Annexes. The Committee has thus played an active role in developing a tool that is vitally important to guaranteeing the right to the free movement of workers in particular and of people in general, throughout all of the EU's Member States. This process ensured that the rights to certain benefits in the social security scheme remained in place when people moved across the EU's internal borders.

2.3 In 2004, the Regulation underwent the most major change in its history. With the aim of simplifying the text and improving its content and following a lengthy institutional debate, the European Parliament and the Council approved a new Regulation coordinating social security schemes ⁽³⁾ which, under the number 883/2004, is due to replace the text currently in force. Nevertheless and because its implementing Regulation has not yet been adopted, the new text on coordination has not entered into force, which means that Regulation No 1408/71 remains fully valid.

2.4 The Committee has delivered its corresponding Opinions on both Regulation No 883/2004 on the coordination of social security schemes ⁽⁴⁾, and the proposal for a Regulation adopting the implementing regulations ⁽⁵⁾. This last proposal is still slowly wending its way through the necessary procedures in the competent institutions.

2.5 Because it is a living and dynamic text, Regulation No 1408/71 should incorporate the different amendments that the Member States make to their national legislation, to ensure that they are reflected in the Regulation and therefore do not damage the rights of people moving within the European

⁽¹⁾ Subject to the approval of the plenary assembly.

⁽²⁾ OJ C 64, 5.4.1967.

⁽³⁾ OJ L 166, 30.4.2004.

⁽⁴⁾ EESC Opinion of 27 January 2000 on coordination of social security systems; rapporteur: Mr Rodríguez García-Caro (OJ C 75, 15.3.2000).

⁽⁵⁾ EESC opinion of 26 October 2006 on the coordination of social security systems — implementing regulations; rapporteur: Mr Greif (OJ C 324, 30.12.2006).

Union. Ultimately, these amendments are intended to update and improve the coordination of social security systems, making it easier to implement Community legislation.

2.6 In legal terms, the proposal involves the derogation from and modification of some of the provisions contained in the Annexes to the Regulation and is also applicable to the European Economic Area.

3. Content of the proposal

3.1 The proposal for a Regulation affects only some of the Annexes to Regulation 1408/71, and thus does not concern the main body of the text, which remains unchanged.

3.2 The amendments that have been made reflect the proposals put forward by the following Member States: Austria, Denmark, France, the Netherlands, Hungary, Ireland and Poland. With the exception of France, all of the amendments are the result of changes to national legislation.

3.3 The changes affect the following Annexes and States:

3.3.1 Annex I Part I, which defines the terms 'employed persons' or 'self-employed persons' where these cannot be determined from the national legislation. This annex is amended as the result of legislative changes in Ireland.

3.3.2 Annex I Part II, which defines the term 'family members' where national legislation does not enable a distinction to be drawn between family members and other persons. This also affects Ireland for the reason given above.

3.3.3 Annex II Part I, which defines the special schemes for self-employed persons excluded from the scope of the Regulation. The paragraph on France is reworded for reasons concerning complementary insurance.

3.3.4 Annex II Part II, which defines special childbirth or adoption allowances excluded from the scope of the Regulation. Where Poland is concerned, the wording is amended to make the supplement to the childbirth allowance subject to coordination.

3.3.5 Annex IIa, which lists non-contributory and, therefore, non-exportable benefits. This again affects Ireland because of changes to national legislation.

3.3.6 Annex III Part A, which lists the provisions of agreements which continue to apply, despite the existence of Regulation (EEC) No 1408/71. This applies to agreements between Hungary and Germany and Austria, as the result of changes to Hungarian pension law.

3.3.7 Annex IV, Part A, which lists the legislations referred to in the Regulation, under which the amount of invalidity benefits is independent of the length of periods of insurance. This also

affects Ireland and the Netherlands as the result of changes to their legislation.

3.3.8 Annex IV, Part C, which lists the cases where the double calculation of benefit may be waived, as this will never lead to a higher result. The heading 'Hungary' is withdrawn, because that country is no longer affected by this factor, as the result of changes to national legislation. The text is also reworded in a way that affects Austria as the result of changes in its legislation on pensions.

3.3.9 Annex VI, which sets out special procedures for applying the legislation of certain Member States. As the result of changes to national legislation, this affects the texts inserted by Denmark, the Netherlands and Austria.

3.3.10 Annex VIII, which lists the schemes under which orphans are granted family benefits or supplementary or special benefits. This affects Ireland, as the result of the changes to its legislation referred to above.

4. Comments

4.1 At its plenary session held on 13 and 14 December 2006, the European Economic and Social Committee adopted an Opinion on other amendments made to Regulation No 1408/71 ⁽⁶⁾. In that opinion, the Committee expressed its hope that this would be the last set of amendments it would have to issue an opinion on and that the new implementing regulation for Regulation No 883/2004 would be adopted without further delay. Six months on, new amendments have been made to the Annexes to Regulation No 1408/71, because the implementing regulation has still not been adopted.

4.2 Nevertheless, the EESC wishes to express its support for the amendments made to the Regulation's annexes, and is convinced that these will help to improve the text and ultimately be of direct benefit to those EU citizens falling within its scope. The Committee therefore wishes to state its agreement most specifically with those changes that bring certain benefits into the sphere of coordination, taking them out of the annexes listing exceptions to the general implementation of benefits.

4.3 The European Institutions are currently discussing a number of proposals for regulations, all concerning the coordination of social security systems. Firstly, the Council is now studying chapter by chapter the proposal for a Regulation for implementing Regulation No 883/2004, on which the EESC has already delivered its opinion, and will continue to study it during the Portuguese presidency, whilst in the European Parliament, the proposal is now at first reading. Secondly, the proposal for a Regulation to set down the content of Annex XI of Regulation 883/2004 is being discussed in a process similar to the one referred to above, with the EESC having issued its

⁽⁶⁾ EESC Opinion of 13 December 2006 on Amendments to Regulation 1408/71; rapporteur: Mr Rodríguez García-Caro (OJ C 325, 30.12.2006).

corresponding opinion ⁽⁷⁾. Account should therefore be taken of the fact that, when the Regulation on coordination was adopted, a number of its annexes became redundant due to the adoption of successive regulations. The final proposal under discussion is the proposal for a Regulation amending Regulation No 1408/71 — the subject of this opinion.

4.4 Objectively speaking and in relation to the previous point, the current situation is one of legislative stagnation, in which amendments to an all but out-of-date regulation are still being adopted, annexes are still required for the new coordinating regulation, which should have already entered into force and the adoption process for the new implementing regulation is an unhappy reminder of the slow progress that beset decision-making on the Regulation on coordination. For all of the above reasons, the EESC once again urges the European Parliament and the Council to make the procedures for the definitive adoption of both regulations more flexible. By way of a reminder, it should be pointed out that, as long ago as 1992, the Edinburgh European Council acknowledged the need to carry out a general review of legislation with a view to simplifying the rules on coordination. Fifteen years have passed since that statement was made and the same — non-simplified — laws are still being used.

Brussels, 25 October 2007.

4.5 The complexity of the laws on the coordination of social security systems means that the public by and large struggles to understand them and is unaware of its rights in this area. It would therefore be useful, taking the opportunity provided by this opinion, to emphasise the need for national authorities to develop efficient means of sending the people of their Member States clear and concise messages informing them of their social security-related rights when they travel within the EU for whatever reason. This lack of information is even more striking in the context of short trips, whether for leisure or work purposes, in which any acute health problem can cause people serious difficulties, because they do not know their rights and the procedures they have to follow in order to receive immediate treatment.

4.6 Following on from this approach and supporting the assertion made in point 4.5. of the Opinion on Annex XI of Regulation 883/2004 referred to above, the EESC should draw up an own-initiative opinion to determine what problems exist in the EU in the provision of health care to individuals moving within Europe and what proposals should be made to ensure that the coordination mechanisms work properly.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽⁷⁾ EESC opinion of 14 March 2007 on The coordination of social security systems — Annex XI, rapporteur: Mr Greif (OJ C 161, 13.7.2007).

Opinion of the European Economic and Social Committee on 'Elder abuse'

(2008/C 44/24)

In a letter dated 16 May 2007, the vice-president of the European Commission, Ms Margot Wallström asked the European Economic and Social Committee under Article 262 of the Treaty establishing the European Community to draw up an opinion on *Elder abuse*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2007. The rapporteur was Ms Heinisch.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 144 votes in favour, with three abstentions.

1. Conclusions and recommendations

1.1 Article 25 of the Charter of Fundamental Rights of the European Union (adopted in Nice on 7 December 2000) recognises and respects the rights of older people to lead a life of dignity and independence and to participate in social and cultural life. In Europe, the number of people aged 65 and over is increasing significantly. The challenge of the future will be to tackle this demographic change in an affirmative way, eschewing any sense of old age being a burden on society or posing a threat to the individual.

1.2 Part of this challenge includes tackling elder abuse — a much-neglected issue that still tends to be trivialised and pushed into the background. Particular risks are faced by older people who are dependent on care and/or are isolated within their own homes or resident in care facilities. The Committee would therefore urge the EU Council presidencies to address the issue of elder abuse, particularly within a care setting.

The above comments are addressed to the EU Council presidencies, the European Commission and Member State governments.

1.3 The onus for preventing elder abuse lies mainly with the Member States. However, as this is a phenomenon prevalent in every Member State, the Committee feels that a pan-European strategy is needed.

— Since elder abuse is a breach of human rights and a violation of the Charter of Fundamental Rights of the European Union, the Committee would ask the Commission to draw on existing treaty arrangements to put in place a comprehensive strategy to prevent abuse of this kind.

— This pan-European strategy must be underpinned by an EU-wide study of elder abuse, particularly within a care setting.

This report should seek to take stock of the current position, setting out prevalence rates and providing information on the various kinds of abuse involved, as well as causes and risk factors. The study should cover care provided both at home and within an institutional setting.

— The study should seek to correlate the scale of risk facing older people — along with their legal position and the options open to them for assistance and support — with the provisions in place to tackle child abuse.

— In the interests of protecting older people in the Member States, the study should also assess the stage reached in the implementation of the Charter of Fundamental Rights of the European Union.

The above comments are addressed to the European Parliament and the European Commission; Directorate-General for Employment, Social Affairs and Equal Opportunities.

1.4 Elder abuse, particularly within a care setting, can only be effectively prevented by action at the appropriate national level. Thus, to combat abuse of this kind and as part of moves to forge a pan-European strategy, a national action plan must be drawn up — and the requisite funding made available — in each Member State. The national action plans should take particular account of the following points:

— It is essential to break the taboo of elder abuse in a care setting by raising public awareness, for instance through information and education campaigns, of the plight both of those who are dependent on care and those who provide it.

— General guidelines and appropriate legal bases should be established that are consistent with the Charter of Fundamental Rights of the European Union.

- National reports are needed on the prevention of elder abuse in a care setting, whether provided at home or in a care facility. These reports should also include information as to whether (minimum) binding care standards are in place in the Member States, whether formal monitoring arrangements have been introduced and how successful such moves are in protecting older people cared for at home or within an institutional setting.
- Steps must be taken to improve the information available to individuals and institutions directly involved in care, to boost their scope for action and to enhance cooperation. This also includes appropriate training and other initiatives for professional groups particularly concerned by the issue, for instance medical staff, carers and the police, and the establishment of rights for care facility staff to report abuse.
- A broad-based, readily accessible and (also) confidential advisory service should be set up for all actual and potential stakeholders in order to fill any gaps in information about care issues at an early stage in the process.
- Arrangements must be made to provide respite for family carers and advice and support for professional carers.
- Networks should be established for cooperation, training and systematic exchanges of information among all players and institutions directly involved in care.

The above comments are addressed to the Member States.

1.5 The Committee considers that a national and EU-wide exchange of good practice procedures and models is absolutely vital both to securing quality assurance and to promoting the development of care standards.

The above comments are addressed to the Member States and the EUCPN.

2. Background

2.1 Age and the risk of abuse

2.1.1 Demographic projections indicate that the number of people in Europe aged 65 and over is set to increase significantly by 2050 (by 58 million, or 77 %). That increase will, in relative terms, be most marked among the very old (people aged 80 and over). This trend has an impact on daily life in many fields and poses particular challenges in virtually all policy areas.

2.1.2 Demographic developments are one (but not the only) factor making it all the more urgent to tackle the issue of elder abuse, as this is a much-neglected issue that still tends to be trivialised and pushed into the background. As a result, the empirical data available on the issue to date are inadequate and patchy.

2.1.3 Crime statistics indicate that men and women aged 60 and over face a substantially lower risk of violence than younger people and, in victim surveys, reports of having experienced violence are much less frequent among older than among younger people. Crime statistics and victim surveys are, however, ill-suited to registering and highlighting the specific threats of violence to which older people are exposed.

2.1.4 This is especially true for the risks of abuse run by older people in their close social circle from people they know and trust and on whom they might well even be dependent. Over the past few decades, scientists, policymakers and grass-roots players have become alive to this area as one that harbours considerable levels of violence. The focus, however, has primarily been on children and women as victims ⁽¹⁾, with little consideration given to the abuse of older people.

2.1.5 According to a definition established by the group *Action on Elder Abuse* that has been taken on board by the World Health Organisation (WHO) and has also gained currency in research circles and among policymakers, elder abuse is deemed to be a single or repeated act or lack of appropriate action which causes harm or distress to an older person ⁽²⁾.

2.1.6 Available data indicate that older people are frequently subject to sometimes extreme abuse, but that, apart from some exceptional cases, such abuse remains hidden from view ⁽³⁾. Findings of a representative survey conducted in 2006 in England, Scotland, Wales and Northern Ireland of over 2 000 people aged 66 and over living in private households

⁽¹⁾ On that point, see the EESC own-initiative opinion of 16.3.2006 on *Domestic violence against women* (OJ C 110, 9.5.2006) and the additional opinion of 14.12.2006 on *Children as indirect victims of domestic violence* (OJ C 325, 30.12.2006), rapporteur for both opinions: Ms Heinisch.

⁽²⁾ Toronto Declaration on the global prevention of elder abuse: 'Elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. It can be of various forms: physical, psychological/emotional, sexual, financial or simply reflect intentional or unintentional neglect.' (WHO 2002) (http://www.who.int/ageing/projects/elder_abuse/alc_toronto_declaration_en.pdf); Action on Elder Abuse (www.elderabuse.org.uk).

⁽³⁾ An international symposium held in Cologne in May 2006 under the patronage of European Commissioner for Employment, Social Affairs and Equal Opportunities, Mr Vladimír Špidla, reports a prevalence rate of between 5 % and 20 % for violence against older people in the various countries (Report on the symposium on *Violence and grave neglect against the elders under domestic and institutional care conditions* in the periodical *forum kriminalprävention* 4/2006 and 1/2007).

(including sheltered housing) ⁽⁴⁾ show that, overall, 2,6 % of those questioned reported that they had experienced mistreatment involving a family member, friend, or care worker during the past year. That figure rises to 4 % if the prevalence of mistreatment is broadened to include incidents involving neighbours and acquaintances. The predominant type of mistreatment reported was neglect, followed by financial abuse, psychological and physical abuse and (least frequently) sexual abuse. Women are more likely to say that they have experienced mistreatment than men. These findings are comparable with those in other Western societies and are broadly consonant with the observed incidence of domestic violence. A 2004 study on the situation in Spain concluded that the abuse of older people is almost as prevalent as that of children.

2.2 Elder abuse in a care setting

2.2.1 The term 'care' has a broad meaning, ranging from help and support in the home to intensive care (in hospital).

2.2.2 Particular risks are faced by older people who are dependent on care and/or are isolated within their own homes or resident in care facilities. This exploratory opinion thus focuses on the circumstances faced by such older people, the specific risks to which they are exposed and the scope available for prevention and intervention.

2.2.3 Apart from the very oldest age group, it is still a minority of older people who require care. At the end of 2003, figures for Germany revealed care dependency of 1,6 % for 60-64 year-olds, 9,8 % for 75-79 year-olds, but 60,4 % for 90-94 year-olds ⁽⁵⁾. Projections indicate not only that the sheer number of older people is set to rise (see above), but also, and above all, that, of these older people, more will be infirm and dependent on care. Indeed, the number of those dependent on care is expected to rise by between 116 % and 136 %, while an ever sharper increase — of anything from 138 % to 160 % — is expected in the numbers of care home residents. The risks inherent in being dependent on support and care are set to rise, particularly among the very old (those aged 80 and over) ⁽⁶⁾.

2.2.4 The mistreatment of older people in a care setting is seen as a gerontological issue and includes not only the physical abuse of those dependent on care, but also any action or lack of

action that has a serious negative impact on the life and well-being of older people ⁽⁷⁾. Types of abuse include ⁽⁸⁾:

- direct physical violence (beating, shaking, pinching, the use of physical restraints, mechanical immobilisation, removal of physical aids, etc.);
- indirect physical violence (unauthorised administration of medication, such as sedatives, etc.);
- sexual abuse (disregard for an individual's boundaries of modesty, non-consensual sexual contacts, etc.);
- emotional or mental violence (verbal aggression, disrespectful behaviour, ignoring the client, emotional coldness, social isolation, the threat of physical or other forms of violence or abuse, insulting or humiliating treatment, etc.);
- financial or other kinds of material exploitation (unauthorised access to assets, sale of property without consent, attempts to cajole or force someone into gifting money, theft of money and valuables, extortion, targeting of older people by profiteers, etc.);
- neglect (failure to provide requisite day-to-day support and sanitary and general care, especially lack of proper nutrition and hydration, the development of bedsores — decubitus ulcers — in bedridden patients as a result of poor care, etc.);
- threats of abandonment or of being put in a home;
- abuse of older people by enlisting them as test patients without their consent or against their will.

2.2.5 Older people may suffer abuse when being cared for both at home and in an institutional setting. There are no reliable data as to the prevalence of violence against care-dependent people in Europe. Little information is available on the phenomenon — hidden but generally deemed to be widespread — of neglect, abuse and violence against older people in a care setting.

2.2.5.1 Where care is provided at home, available studies estimate the percentage of cases where recipients experience violence at between 5 % and 25 % ⁽⁹⁾.

⁽⁴⁾ UK Study of Abuse and Neglect of Older People (June 2007) (www.natcen.ac.uk).

⁽⁵⁾ German Federal Statistical Office (2005): 2003 care statistics — nationwide findings, Wiesbaden, Germany.

⁽⁶⁾ North Rhine-Westphalia Crime Prevention Council, Germany (2006): *Gefahren für alte Menschen in der Pflege (Risks for older people in a care setting)*.

⁽⁷⁾ This definition is consistent with the Toronto Declaration on the global prevention of elder abuse (WHO 2002, see footnote 2).

⁽⁸⁾ North Rhine-Westphalia Crime Prevention Council (see footnote 6), Toronto Declaration (see footnote 2) and the UK study (see footnote 4).

⁽⁹⁾ Görgen, Thomas (2005a): *Nahraumgewalt im Alter. Opferisiken und Optionen für gewaltpräventives Handeln (Violence against older people from within their own close circle: victim risks and scope for preventive action)* in the periodical *forum kriminalprävention* 3/2005, pp.13-16. Data on individual European countries may be found in Walentich/Wilms/Walter (2005): *Gewalt gegen ältere Menschen in der häuslichen und institutionellen Pflege (Violence against older people in a domestic or institutional care setting)* in the periodical *Bewährungshilfe* 2/2005, pp. 166-182.

2.2.5.2 In a German study ⁽¹⁰⁾ on the abuse and neglect of older people living in residential or nursing homes, over 70 % of care staff questioned indicated that they themselves had resorted to violence or to other problematic behaviour, had failed to take action when action was needed, or had witnessed such conduct in other care staff ⁽¹¹⁾.

2.3 Recognising abuse in a care setting

2.3.1 In practice, abuse is often difficult to spot. The main reasons for this include the tremendous sense of shame felt by the victims; dependence on the support, care and attention of the abuser and the resultant fear of reprisals or of making the situation worse; a practical inability to express the experience of having been abused because of illness, particularly organic brain deterioration; and uncertainty as to how to deal with situations where abuse is suspected.

2.4 Care provision at home

2.4.1 The vast majority of older people still live at home on a day-day basis. Care-dependent older people are looked after at home in many European countries. In Germany, for instance, this is true in some two thirds of cases, with only 7 % or so of those aged 65 and over living in care facilities. Family care is provided mainly by spouses, followed by daughters and daughters-in-law. The vast majority of such care provision is abuse-free, but abuse does still happen (see point 2.2.5.1 above).

2.4.2 Care in the home brings with it a number of strains, not least for the health, wellbeing and social contacts of those providing that care. Families sometimes have to sacrifice a great deal to look after older relatives. The problem is exacerbated by a lack of proper preparation for the care situation and poor support during the care period. Caring for older people who suffer from dementia presents a particular strain.

2.4.3 However, abuse perpetrated during care in the home is caused not only by the excessive strain on carers but also by a range of risk factors. These include the status of the relationship before the start of the care-dependency, substance addiction and mental imbalance of the carer, a sense of social isolation and inadequate social support, but also aggressive behaviour on the part of the care recipient ⁽¹²⁾.

⁽¹⁰⁾ Gørgen, Thomas (2005b): 'As if I just didn't exist' — Elder abuse and neglect in nursing homes. In: M. Cain & A. Wahidin (eds): *Ageing, crime and society*.

⁽¹¹⁾ Information on the prevalence of individual types of violence such as restraints on free movement or the misuse of psychopharmaceutical drugs may be found in Rolf Hirsch (2005): *Aspekte zur Gewalt gegen alte Menschen in Deutschland (Aspects of violence against old people in Germany)* in the periodical *Bewährungshilfe* 2/2005, pp. 149-165.

⁽¹²⁾ Gørgen 2005a (see footnote 9).

2.5 Institutional care

2.5.1 Although, as things stand, only a small percentage of older people requiring care are looked after in an institutional setting, the number of people resident in nursing homes is set to increase significantly, particularly among the very old (see point 2.2.3 above). Even today, there is a trend away from care provided at home to care provided in facilities or by outpatient care services.

2.5.2 The vast majority of nursing homes are abuse-free. This is particularly true of homes that are officially recognised and monitored in the Member States and that scrupulously comply with the health provisions applicable in the country concerned.

2.5.3 Some nursing homes, however, do have a poor reputation. No systematic studies have been carried out into abuse in care facilities but checks made, for instance, by the medical services of health insurance companies, do indicate that nursing home abuse is not an isolated phenomenon ⁽¹³⁾.

2.5.3.1 Problems encountered include actual harm caused by poor care provision and shortcomings in areas such as nutrition and hydration. Other problems include the prescription of excessive doses of psychopharmaceutical drugs, major failings in the handling of medicines, and measures to restrict free movement.

2.5.4 Instead of being geared to the needs of their residents, poorly-run nursing homes are often marked by neglect and indifference. Rigid timetables often run counter to the need for self-determination and independence among nursing home residents.

2.5.5 It is not only those dependent on care who suffer because care workers are short of time and overworked: such conditions also sow discontent among carers themselves. The staffing situation in nursing homes is exacerbated by the numbers of people exiting the profession early and the lack of properly qualified applicants. Virtually no attempts are being made to boost the attractiveness of jobs in the elder care sector.

2.6 EESC analysis and proposals

2.6.1 The abuse of older people is unacceptable wherever and to whatever extent it occurs and must not be further neglected. The Committee urges the EU Council presidencies, the European Commission and national governments to take steps to address the causes of abuse so that the older population is protected whether they remain at home or are in an institutional setting.

⁽¹³⁾ In 2007, the medical service of the German health insurance bodies published a second report on standards in outpatient and residential care, indicating that 10 % of the care home residents surveyed had suffered impaired health — and had thus been exposed to inadequate care (<http://presseportal.de/pm/57869>).

2.6.2 The EESC proposals therefore home in on the following areas:

2.6.2.1 Human rights

— Article 25 of the Charter of Fundamental Rights of the European Union (adopted at Nice on 7 December 2000) recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

— To achieve this, the Committee feels it is vital to take a new view of ageing. Greater attention should be paid to discrimination against older people, as this is often the cause of the mistreatment of older, care-dependent people. The challenge should, however, be to integrate older people into society and to consider their care as a shared task.

— The Committee stresses that older people have the right to live wherever they choose without the fear of harm and that discrimination against older people is unacceptable. The Charter of Fundamental Rights should apply for the protection of older people in whatever setting they live.

— The Committee stresses the importance of older people having the choice as to where they wish to live in relation to the amount of support they require. The Committee therefore urges national governments to develop a range of accommodation and support which is appropriate to individuals remaining at home, sheltered accommodation, residential care or long-term nursing care.

— Older people must have the ability to report incidents or concerns and be safeguarded in doing so. This equally applies to relatives and other carers who must have channels through which to take their concerns without fear of retribution for their relative or consequences for their own position or job security. There must be confidence that all reports will be sensitively and effectively resolved.

2.6.2.2 Improving data and the need for research

— The Committee proposes that further in-depth, EU-wide research be conducted to assess the extent of elder abuse in order to take into account the following:

— to establish the prevalence rates of elder abuse in general and what constitutes the abuse experienced in a domestic and institutional setting;

— the causes of abuse with a particular emphasis on the stresses experienced by family carers and the support they receive;

— to what extent the Charter of Fundamental Rights is implemented in respect of protecting older people;

— to what extent Member States have standards for the care of older people in place and how they are monitored and inspected.

2.6.2.3 Breaking the taboo and raising awareness

— The Committee urges national governments to take action to raise awareness of elder abuse through national media campaigns backed by practical support provided by statutory and voluntary agencies to break the taboo of elder abuse wherever it occurs.

— The Committee recognises that the media can play an influential role in changing public awareness and stresses that it should take a well-informed and constructive stance.

2.6.2.4 Information, education, training and prevention

— The Committee urges that national governments take steps to:

— improve the information available to older people and their relatives on elder abuse;

— ensure that professional carers are able to safely report incidents of elder abuse and are provided with sufficient advice and support;

— ensure that there is sufficient training on the recognition of abuse and the mechanisms for tackling it for all those in the medical and care professions, including the police;

— ensure that health and social services networks are enabled to provide emergency reception centres, support groups and independent, confidential telephone advisory services;

— ensure that family carers are provided with sufficient information on the symptoms and progression of illness, such as dementia, to ensure that there is a strong understanding of the extent to which care could be required and to provide sufficient support, including training;

- ensure that family carers have access to appropriate day care, respite care and medical support to alleviate the stress of potentially 24 hour care;
- ensure that family members are supported to take time out of work to provide care with no detriment to their job prospects and that this should apply equally to men and women;
- ICT products and services (information and communication technologies) will make it possible for many older people to live in their preferred location for longer and thus maintain their independence and a high quality of life. ICT can help them in day-to-day matters and may also, where required, be used to monitor their health and activities, thus reducing the need for institutionalised care. ICT will make older people safer, and will also provide them with access to social, medical and emergency services and thus ensure that they can continue to live largely independent, autonomous and dignified lives.

Brussels, 24 October 2007.

2.6.2.5 Building up networks

- The Committee urges national governments to establish multi-agency networks to ensure co-operation, training and systematic exchanges of information ⁽¹⁴⁾.

2.6.2.6 Formal care monitoring

- The Committee calls upon Member States to establish high-level monitoring and inspection services to ensure high-quality services for older people based on clearly set-out and publicly available standards of care and that such bodies have the authority to take remedial action, the results of which should publicly be made available.

2.6.2.7 Increasing the detection of abuse

- The Committee stresses the importance of increasing the detection of elder abuse in a sensitive manner whether in a domestic or institutional setting, involving the appropriate agencies. There must be confidence that any abuse reported will be acted upon and change adopted. It should be recognised that the force of police or judicial action could be part of the process.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹⁴⁾ Examples include the Bonn-based initiative to combat elder abuse (*Bonner Initiative gegen Gewalt im Alter — Handeln statt Misshandeln e.V.*) which in 2006 published the information leaflet *Alte Menschen in Not — Wir können helfen (Old people in need — We can help)*. The International Network for the Prevention of Elder Abuse (www.inpea.net) also provides information on this and other initiatives.

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Directive amending Directive 2003/96/EC as regards the adjustment of special tax arrangements for gas oil used as motor fuel for commercial purposes and the coordination of taxation of unleaded petrol and gas oil used as motor fuel’

COM(2007) 52 final — 2007/0023 (CNS)

(2008/C 44/25)

On 19 April 2007 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 93 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 October 2007. The rapporteur was Mr Burani.

At its 439th plenary session, on 24 October 2007, the European Economic and Social Committee adopted the following opinion by 151 votes to none with four abstentions.

1. Gist of the proposal for a directive

1.1 This proposal amends Directive 2003/96/EC⁽¹⁾ (the ETD) on tax arrangements for gas oil used as motor fuel, applicable in all countries of the European Union. In practice, it introduces a **gradual increase in minimum excise duties for gas oil** in order to align them (the term used in the directive is ‘coordination’) with **taxation on petrol**: EUR 380 per 1 000 litres for both types of fuel as from 1 January 2014. The deadline has been extended for Member States not benefiting from transition periods.

1.2 A number of distinctions, derogations and temporal and regulatory adjustments have been made within this general framework. A first distinction is made between ‘**commercial gas oil**’ (used by trucks of over 7,5 tonnes and coaches)⁽²⁾ and ‘**non-commercial gas oil**’ (which, in the absence of further details, may be presumed to refer to gas oil used for all other types of vehicle). Member States are authorised to **apply a lower tax rate for commercial gas oil**, provided that they comply with the minimum Community levels set out in the directive, and that the excise duty is not below the national level in force on 1 January 2003. Under no circumstance **may the tax on non-commercial gas oil and petrol be lower than the tax on commercial gas oil**.

1.3 Taxation for commercial gas oil may however be below the national level in force on 1 January 2003, provided that the Member State wishing to apply this measure introduces, or has already introduced, **a system of road user charges**. Nevertheless, this is only permitted in cases where the combination of

the reduced rate and the road user charges is broadly equivalent to — but not below — the national level in force on 1 January 2003.

1.4 Another option for allowing a lower tax on commercial gas oil is to apply **separate levels of taxation for commercial gas oil** by introducing (or retaining) a **non-discriminatory refund mechanism** that enables all operators who have used gas oil in that Member State to have access to refunding under conditions which are equal, transparent and simple.

1.5 The harmonisation ‘roadmap’ for the taxation of petrol and gas oil provides for:

— in the case of petrol, a tax of EUR 359 per 1 000 litres from 1 January 2004, and of **EUR 380 from 1 January 2014**;

— in the case of gas oil, a graduated increase in tax: EUR 302 from 1 January 2004, EUR 330 from 1 January 2010, EUR 359 from 1 January 2012 and finally **EUR 380 from 1 January 2014**.

1.6 However, there are several **derogations**. These can be summed up as follows:

— the transition period ends in 2016 for countries already benefiting from derogations up to 2012 (SP, AT, BE, LU, PT, EL, PL); they may apply duties of:

— EUR 302 until 1 January 2007, to reach EUR 330 by 1 January 2012, EUR 359 by 1 January 2014, and the uniform level of EUR 380 by 1 January 2016;

⁽¹⁾ Council Directive of 27 October 2003 on restructuring the Community framework for the taxation of energy products and electricity, referred to as the Energy Tax Directive (ETD).

⁽²⁾ A more precise and detailed definition can be found in Article 7(3) of the ETD.

— the transition period ends in 2017 for countries enjoying derogations up to 2013 (LV and LT), with other arrangements for BG and RO.

2. General comments

2.1 One of the aims of the proposal is to reduce the distortions of competition on the market resulting from differences in the pump price of fuel, and commercial gas oil in particular, in the Member States. These differences are often considerable. On 18 May 2007, a litre of gas oil cost EUR 0,82 in Latvia; EUR 1,41 in the United Kingdom; EUR 1,12 in Germany; EUR 0,90 in Luxembourg; EUR 1,18 in Italy; and EUR 0,98 in Austria. Seen from the perspective of tax harmonisation, the Commission's proposal would therefore appear to be justified.

2.2 The precise reason for the Commission's decision to present the proposal cannot be fully appreciated without comparing the proposal with the directive it seeks to amend, i. e. Directive 2003/96/EC of 27 October 2003 (Energy Tax Directive or ETD). Emphasis is placed on **commercial gas oil** ⁽³⁾ because it is believed to impact on the cost of haulage. The Commission therefore considers non-commercial gas oil and petrol to be less important even though distortions at borders are sometimes quite significant.

2.2.1 The action taken with regard to commercial gas oil is in line with the transport policy white paper, but, according to the Commission, will also contribute indirectly to reducing the differences between non-commercial gas oil and petrol, by aligning the minimum levels of taxation.

2.3 The ETD permits Member States to **decouple the prices of commercial and non-commercial gas oil** by means of a refund mechanism. This has undoubted advantages for road hauliers from countries with high levels of taxation, but is a cumbersome procedure from an administrative point of view and expensive both for the tax authorities and for firms. Moreover, the procedures involved in accessing this facility have caused more problems than they have solved. Existing provisions regarding road user charges (retained in the proposal) are supplemented by an additional requirement according to which the **national level of taxation** in force for gas oil on 1 January 2003 has to be **at least twice as high as the minimum level of taxation** applicable on 1 January 2004. In practice, very few countries (including the United Kingdom) meet this requirement. The only possible solution for other countries was (and remains) to **increase the rate applied to non-commercial gas oil**. This option is obviously unpopular. Ultimately, the differences have not been reduced and high-taxing countries have had no way of reducing differences vis-à-vis other countries. The current proposal simplifies this process, and makes it accessible to a greater number of Member States. However, the concept remains essentially unchanged.

⁽³⁾ The term 'commercial gas oil' refers to gas oil used for road haulage, and in particular to trucks of over 7,5 tonnes.

2.4 In this context, the EESC notes that alongside excise duties, all Member States have several **other taxes and duties**, which raise the total tax rate to 85 % — and above, in some cases — of the pump price. Excise duty represents between 30 and 60 % of the price of fuel. The difference can be attributed to VAT and other duties (usually local) which the Commission cannot influence. Ultimately, even after the harmonisation to be achieved in 2016, a number of non-harmonised duties will remain. Furthermore, the industrial price of gas oil is lower than the industrial price of petrol. As a result, unless speculation enters the equation — something that bears monitoring — **the pump prices of petrol and gas oil will continue to vary, and the differences between countries will remain, albeit (possibly) to a lesser extent than at present**. Neither the ETD nor the present proposal will contribute appreciably towards creating a level playing field for competition.

2.5 As a result, the proposal's scope with regard to competition is fairly limited, always bearing in mind that the Commission has no authority to impact on other fuel-price components. Nevertheless, even in this light, the proposal seems incomplete. It would be appropriate to consider adopting a **maximum excise rate** as well. This measure would make it possible over time to discourage the shifting of consumption from one country to another. The EESC has supported this approach in the past, and more recently in its opinion on the approximation of the rates of excise duty on alcohol ⁽⁴⁾ — a subject whose treatment bears a number of similarities to the present proposal.

2.5.1 Basing itself on the studies available to it, the Commission has discarded this solution on the grounds that imposing a ceiling would indeed limit the Member States' fiscal sovereignty. The EESC would argue that, applying that reasoning, even the obligation to impose minimum levels could be viewed as a violation of sovereignty.

2.6 Despite these limitations, the Commission's proposal represents a step towards harmonisation, if viewed **purely in terms of taxation and creating a level playing field for competition**. From this angle, the Commission is merely fulfilling a requirement of the Lisbon strategy. As a side effect, an increase in gas oil excise duties could assist in combating the well-known practice of **'fuel tourism'**, i.e. buying fuel in the countries with the lowest prices. The most common example is Luxembourg but it is common practice in all border areas with significant price differentials. Nevertheless, Luxembourg remains the most obvious example since its annual gas oil consumption in 2004 amounted to 4 500 litres per capita, compared with 750 in neighbouring Belgium ⁽⁵⁾. The EESC certainly agrees that the reasoning behind these considerations is sound, but would point out that the comparison of per capita consumption figures is based on a significant difference in the number of inhabitants: 10,5 million in Belgium and 460 thousand in Luxembourg.

⁽⁴⁾ OJ C 175, 27.7.2007 on the 'Approximation of the rates of excise duty on alcohol'.

⁽⁵⁾ Source: Eurostat, IEA.

2.7 Basing itself on this fact, and backed by research, the Commission argues that many hauliers make **detours in order to fill up at the cheaper service stations**. The additional distance driven (millions of kilometres!) produces an increase in fuel consumption and a corresponding increase in pollution. Eliminating incentives to resort to '**fuel tourism**' would eliminate detours and result in a corresponding reduction in pollution. This is an appealing and undoubtedly popular theory, but it is not entirely in line with reality, at least in the case of the example cited. A mere glance at a map will reveal that Luxembourg is an *unavoidable transit country* for a substantial proportion of North-South and East-West traffic (in northern Europe). Those who might intend to make a detour in order to fill up more cheaply must bear in mind that in addition to the time wasted, the fuel used and any toll charges they may have to pay over the additional distance, they will have to face **hours queuing at the service station** ⁽⁶⁾ and heavy traffic, especially at certain times of the day. Nevertheless, scenarios similar to the ones envisaged by the Commission may exist, especially in Member States on the EU's borders.

2.8 Generally speaking, the reduction in 'fuel tourism' seems to have been over-estimated. **Time is of key importance** when calculating transport costs. Economies on fuel costs must be weighed against higher wage costs and late deliveries. A forty-five minute delay vis-à-vis forecast arrival time often means missing the scheduled loading or unloading date, and hence adding an overnight stay. Although **fuel tourism** by trucks in transit on *pre-established routes* is a significant factor, the EESC believes that *detours* justified by savings on the price of filling up, have been somewhat over-estimated, at least in the case of trucks. Different conclusions might emerge from an analysis of all traffic resulting from fuel tourism. However, this would raise other considerations, as will be demonstrated below.

2.8.1 The EESC would like to draw the decision makers' attention to the fact that the **possible overall reduction in pollution** caused by the decreased incentives to fuel tourism may have been **significantly over-estimated**.

3. Comments on the proposal's relevance

3.1 The EESC can only welcome the proposal to harmonise excise duties, if it is viewed as a fiscal measure designed to establish a level playing field for competition; it falls within the Commission's remit and is consistent with the Lisbon strategy. The Committee must, however, express reservations on various related issues, some of which cast considerable doubt on the wisdom of adopting the proposed measures.

3.2 The Commission states that the differences in gas oil prices applied by different EU countries create **distortions of competition on haulage markets**, pointing out that fuel represents on average between 20 and 30 % of the running costs of a business. According to a French Transport Ministry study

quoted by the Commission, 'two thirds of the variations observed between 1997 and 2001 can be attributed to three factors: tax differences on gas oil, differences in corporate tax and the evolution of salaries between two given countries. Tax differences for gas oil appear to be the main factor explaining by itself 40 % of the market share variations observed' ⁽⁷⁾.

3.2.1 While the data and the econometric studies consulted by the Commission are not in question, it should nevertheless be noted that the considerable cost divergence between the various countries (and particularly with the newest Member States) means that the **relative impact of fuel costs** as a factor in those differences is shrinking. Essentially the accession of the new countries may have increased the variations, but the relative value of the 'fuel' factor has fallen. In such circumstances, the directive's ability to create more uniform conditions for competition would fail to meet expectations. The Commission does not share this view, believing that fuel costs have come to play an important role in competition distortion between old and new Member States. The EESC notes that, if this is the case, serious thought is needed regarding the wisdom of increasing the costs for growing economies.

3.2.2 Even if it were possible to attain a levelling out of fuel costs, which is not the case owing to additional duties that differ from one country to another (see point 2.4), non-fuel haulage costs are many and substantial and none of them could be harmonised, in the near future at least. In addition to the three elements mentioned in the French study, there is the cost of vehicles (with differences of up to 20 %), road taxes, insurance, the price of buildings and equipment, and others. In view of all these differences, the contribution that harmonising excise duties on gas oil can make to reducing disparities in competition becomes somewhat modest.

3.2.3 The proposal's explanatory memorandum does not mention the impact that an increase in fuel costs would have on **public and private passenger transport businesses and on tourism in general**. The econometric research quoted in the accompanying document (SEC(2007)170/2, pp. 24 and 26) would suggest that while commercial transport may not feel the increase in fuel costs in quantitative terms, private transport would reduce slightly in volume (less than 1 % over 23 years), with a corresponding reduction in pollution. The Commission has carried out serious econometric studies which estimate that fuel costs would increase by 0,10 % to 1,1 % over time, and that this would be absorbed by the inflation rate. This is a soothing theory, but does not take into account the difference between **the real and perceived inflation rate**. Moreover, a well-known multiplier effect on the market means that increases in costs, however slight, will cause disproportionate price increases. Fuel prices are at the base of the price pyramid. An

⁽⁶⁾ There are only four service stations on Luxembourg's motorways, two for each direction.

⁽⁷⁾ Proposal for a Directive, 'General context', page 3.

increase in oil taxes will affect the prices of all commodities and services resulting in higher community inflation rates, as well as in a decrease of mobility, loss of jobs and decrease in turnover.

3.2.3.1 With respect to taxation, the Commission notes that **energy taxation** in general (and excise duties in the specific case of fuels) **has fallen** due to inflation since the turn of the century, both as a percentage of GDP and compared with total tax revenue. The proposal to increase excise duties would therefore simply amount to an **adjustment of tax revenue** to take into account the presumed rate of inflation (at a rate of 2,2 %) from now until 2017. This makes perfect sense from a tax point of view, but for road hauliers and the general public it would represent an **increase in fuel costs additional to the overall cost of inflation**.

3.2.4 The **refund mechanism**, which according to the Commission is not intended to benefit hauliers as such, but rather to create a level playing field for competition, is a solution that some Member States have already adopted, but, as previously stated, it is cumbersome for firms as well as for the tax authorities themselves. Even setting aside its earlier criticisms, the EESC wonders whether the proposed solution is consistent with the simplification of administrative procedures cited by the Council as a factor for growth.

3.2.5 Further doubts are raised by the measure underpinning the refund mechanism, whereby taxation may be below the specified level (see point 2.3) if the Member State introduces, or has already introduced, **road user charges for heavy vehicles** (or in more explicit terms: tolls or tax discs). Both approaches would result in a **clear loss for the tax authorities**: tolls and tax discs are to the advantage of motorway operators or other government budget headings. In short, the moderating effect **would not benefit the hauliers** (tolls will balance out the lower increases in taxation) **or the tax authorities**. Worse still, the introduction of or increase in tolls would affect all other road users unless separate levels of taxation or special tax discs were introduced, which would create administrative complications that would be even more of a burden on transit vehicles from other Member States.

3.2.6 Extremely complicated procedures to administrate taxes are generating corruption and fraud. They are breaking the basic principle of the market economy imposing two prices for the same product.

3.3 The EESC wishes to make a more general point of some importance. The proposed measures are to be phased in over a **seven-year period**, and in some Member States, over a ten-year period. There is no sign of improvement in the international situation regarding the price, quantity and supply of crude oil. Under these circumstances, a programmed increase in fuel costs seems **ill-advised and could have a negative impact on transport costs within the European Union**. Nor would it bring real benefits in terms of the fight against pollution given that, according to the Commission itself, fuel consumption is not set

to decrease (the subject of detours from set routes has already been discussed when considering fuel tourism).

3.4 Precisely because we are referring to the future, one important aspect to bear in mind is the growing introduction of **alternative fuels**, which are being generally promoted as viable alternatives to conventional fuels from an environmental perspective and as a means of reducing Europe's dependence on external energy sources. An increase in conventional fuel prices might **encourage research into and the production of alternative fuels, but only if the uniform fiscal policy to be adopted is already known**. The various countries do not currently take a uniform approach, although there is a general consensus on the need to encourage this type of production. In other words, the Commission and governments should go beyond general words of encouragement and make it clear whether they intend to adopt uniform **fiscal and non-fiscal** policies on biofuels and whether they would then treat them as useful 'competitors' with traditional fuels, or whether alternative fuels will be treated in the same way as other fuels and taxed in the same way. The automotive industry and the market should not be left with uncertainty.

3.4.1 Liquid gas, nowadays used mainly for private vehicles and public transport, but which in future could be used commercially following technological innovations, is yet another matter. These fuels enjoy a favourable tax regime in certain countries. At present, their consumption is marginal. However, as in the case of biofuels, the market may develop and, at any event, cannot be left in the dark. **Electric traction** is even more marginal: even if its use seems unlikely to expand beyond certain strict limits, it would still be advisable for the Commission to analyse what fiscal policy to adopt for *all* alternative fuels.

3.5 Finally, the picture would not be complete if it did not include **globalisation**. Irrespective of considerations relating to internal competition, the European Union should focus more attention on **its competitiveness vis-à-vis the most industrialised and emerging countries**. As previously stated, the average pump price of fuel in the EU is much higher than in most other countries. A measure designed to reduce — with uncertain consequences — internal competition, but which would result in an overall increase in costs, would defeat the more important objective of improving our already precarious competitive position.

3.5.1 The increase in the taxation level of gas oil in the future period has its positive and negative sides and effects. But if we look at the balance, negative effects definitely prevail. The increase in the levels of taxes on gas oil will result in losing competitiveness and jobs. In the long-run the draft proposal will reduce and threaten EU economic potential and will pose an obstacle to the achievement of cohesion — one of the main objectives of the EU — because of the decreased mobility of people.

4. Conclusions

4.1 The draft directive is in line with EU policies on **equal conditions for competition**, and as such cannot be opposed. It should be borne in mind however that **this solution does not deliver fundamental value**, inasmuch as the difference in haulage companies' costs in the various countries will remain substantial owing to differences in other charges over which the Commission has no power.

4.2 The Commission focuses closely on the **fight against pollution** as a collateral but important effect of reducing the 'fuel tourism' phenomenon. The EESC considers that this effect has been largely over-estimated. While on the one hand demand for fuels will remain unchanged, even now detours from normal routes to take advantage of reduced prices are not a critical factor.

4.2.1 As a consequence 'fuel tourism' will expand and spread, turning from an internal problem of the EU (Germany, France and Belgium) into an external problem (for Austria, Hungary, Slovenia, Estonia, Lithuania, Poland, Romania, Bulgaria and Greece).

4.3 The tax revenue benefits for Member States, meanwhile, would be considerable. For the 2007-2030 period, the Commission has estimated them at EUR 35,6 billion for the 25-member EU. This is a significant figure, which will strengthen and expand the redistributive role of the administration and explains the positive reaction of the tax authorities in many Member States. However, it also offers self-evident proof of the burden of costs that would fall on companies and consumers in contradiction with the EU policy for red-tape reduction.

4.4 In conclusion, **the proposal for a directive seems justified — subject to a number of reservations expressed by the EESC — in terms of tax harmonisation, competition principles and reducing pollution**. However, the EESC believes that **the legislators' final decision should be taken only**

once proper consideration has been given to the knock-on effects and consequences for various EU policies, in application of the principle of proportionality. More specifically, the following points should be carefully considered:

- the generalised increase in costs (especially in the case of the most recent Member States), and the need to curb inflation;
- the consequences for industrial policies of levelling out the prices of gas oil and petrol, and the possible shift of consumer preference from gas oil vehicles to petrol vehicles or vice versa;
- uniform fiscal policies for **all** road transport fuels or potential fuels;
- conditions in peripheral regions, where incoming and outgoing haulage costs constitute a significant barrier to growth and employment. The competitive position of some of these regions vis-à-vis non-EU border countries should be studied;
- the impact of increased costs on the **external competitiveness** of the EU vis-à-vis competitors such as the USA in particular where fuel costs and taxes on companies are considerably lower;
- the consequences in terms of **employment**: while there are currently complaints that haulage companies in certain countries suffer from competition with others, the adoption of the directive — if it has the decisive effect predicted by the Commission, which the EESC doubts — could have the opposite effect in the future;
- the effects on the **overall productivity and efficiency of the road transport sector**, which in the EESC's view may be neutral at best;
- the compatibility of the non-discriminatory refund system with administrative simplification policies.

Brussels, 24 October 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 Directive amending Directive 2006/112/EEC with regard to certain temporary provisions concerning rates of value added tax’

COM(2007) 381 final — SEC(2007) 910

(2008/C 44/26)

On 27 July 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 October 2007. The rapporteur was Mr Burani.

At its 439th plenary session, held on 24-25 October 2007 (meeting of 24 October), the European Economic and Social Committee adopted the following opinion by 154 votes, *nem. con.*, with four abstentions.

Conclusions and recommendations

Reasons

1. Gist of the proposal

1.1 The Commission has launched a broad debate on the use of reduced VAT rates, starting by publishing a Communication to the Council and the European Parliament ⁽¹⁾. The main aim of this exercise is to pave the way for a new directive seeking sustainable, durable global solutions regarding **reduced rates**. ‘Reduced rates’ are rates below the customary VAT rate (15 %).

1.2 In the Communication published on the same day as the proposal, the Commission states that ‘Considerable time will be needed in order to identify the suitable way forward’. Meanwhile, the issue arises of **temporary derogations granted to the Member States which have recently joined the EU**. These derogations expire at various different points between June 2007 and 1 January 2010 (Articles 123-130 of the VAT Directive) ⁽²⁾. The simplest solution, adopted in the Commission proposal, is to propose that they be **extended** until the end of 2010, although the extension would not be general but **limited to certain goods or services**. Thus, the end of these derogations would fall together with the expiry of the minimum of 15 % for the standard rate and the end of the experiment on the application of reduced VAT rates to certain labour-intensive services.

1.3 The extension is granted for **labour-intensive services** (housing sector, restaurants etc.) and, where some countries are concerned, for goods which are of **particular social importance** (food, specialist periodicals and books, pharmaceutical products etc.). The reason for this is that the reduced VAT rate

will in all probability continue to apply to all the countries after new rules have been drawn up as well. Derogations which conflict with the smooth functioning of the internal market are not extended (agricultural inputs).

1.4 Coal and energy for heating, in particular, are **excluded** from the extension. The exceptions laid down in the various Acts of Accession are coming to an end (in 2007 or 2008) and no extensions are provided for. Moreover, taxation on energy sources is a separate issue which is currently being discussed; when solutions are found, they should apply across the board.

2. General comments

2.1 Directive 2006/112/EC laid down for **Member States which joined the EU before 2001** a series of **derogations** ⁽³⁾. These derogations are **open-ended** or, to be more specific, apply until the entry into force of the “**definitive system**” for intra-Community transactions’. As things stand, on the basis of experience, a definitive system is not likely to be introduced in the short or medium terms. **The exemptions granted to the ‘old’ Member States could thus be extended almost indefinitely**, while the ‘new’ Member States would be penalised by the expiry of the terms negotiated when the Acts of Accession were adopted. Moreover, some Member States are allowed to apply reduced rates to locally supplied services ⁽⁴⁾ until the end of 2010, while this opportunity does not exist for the others. This situation is untenable.

2.2 The proposal is a transitional solution which will **enable the Member States which have recently joined the EU to operate on an essentially level playing field** with the other

⁽¹⁾ COM(2007) 380 final of 5.7.2007.

⁽²⁾ Council Directive 2006/112/EC of 28.11.2006.

⁽³⁾ Articles 109 to 122 of the VAT directive.

⁽⁴⁾ See Annex IV to the VAT directive.

Member States, at least until 31 December 2010. The Commission hopes that, by that date, the Council will have adopted the **new directive** bringing order to all exemptions across the board, as called for in the Communication.

3. Specific comments

3.1 The EESC congratulates the Commission on its work: both the **proposal for a directive, which it endorses unreservedly**, and the publication of a Communication announcing the definition of an 'exemption' structure which is consistent with the principles of the single market and the Lisbon Strategy.

Brussels, 24 October 2007.

The EESC will issue a specific opinion on the Communication, to make a constructive contribution to the debate.

3.2 Previous experience would suggest that the general interest of reaching swift consensus on the proposal might take second place to defending particular interests and policies: the EESC hopes that this fear will prove unfounded. In terms of technical accuracy the proposal cannot be criticised: as the decision-making process progresses, only the political aspects will play a role. The EESC draws the decision-makers' attention to the needs of the market and the public, which require transparent, fair laws to be adopted without delay.

The President

of the European Economic and Social Committee

Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on Croatia on the road to accession

(2008/C 44/27)

On 16 February 2007 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on: *Croatia on the road to accession*.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 October 2007. The rapporteur was Ms Anne-Marie Sigmund.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October 2007), the European Economic and Social Committee adopted the following opinion by 155 votes to two with four abstentions.

1. Introduction

1.1 On 20 April 2004, the Commission issued a positive opinion on Croatia's application for accession to the European Union; on 20 December 2004, the European Council decided to open accession negotiations in March 2005, which were then postponed to October 2005.

1.2 The joint screening process was successfully completed in October 2006, and bilateral accession negotiations were able to begin. Substantial progress has been made on the political and economic criteria and on transposing the *acquis*.

1.3 The Committee welcomes the speedy progress of the negotiations and the broad-based participation of Croatian civil

society in this process but stresses that the contribution of all the representative civil society organisations concerned is needed, and in particular the comprehensive involvement of the social partners in the negotiation of all the relevant chapters. In this context, the Committee refers to its opinion of 31 March 2004 and the arguments put forward in point 5.5, which continue to be valid and which it now reiterates ⁽¹⁾.

1.4 This opinion will refrain from making another analysis of existing statistical material, but will instead concentrate on assessing the situation of organised civil society in Croatia, assessing its foundations, opportunities and challenges.

⁽¹⁾ EESC opinion of 31.3.2004 on *Croatia's Application for EU membership* (rapporteur Mr Strasser), point 5.5: *If the Croatian economy is to successfully cope with the conditions applying in the EU's internal market, it is essential that the necessary reforms, liberalisation measures and adjustments to comply with EU law receive the support of civil society. Key prerequisites in this context are that the Croatian population is kept adequately informed of the importance and the impact of Croatia's integration into the EU and that representative civil society organisations are involved in the political decision-making processes.* (OJ C 112, 30.4.2004, p.68).

2. General comments on the role of civil society

2.1 The history of the emergence of organised civil society in the 'old' Member States is very different from the formation of civil society activities in the 'new' Member States, whose situation applies by analogy to Croatia: whilst in the first case, civil society initiatives arose within countries out of demand and/or needs, or to defend particular interests in accordance with the bottom-up principle, there was civil society involvement in the second group of states to highlight ideas or concerns, but in most cases first and foremost against the over-powerful state. (This does not apply, however, to the social partners, as in their case the representation of interests always took priority.) It is also because of these origins that all these countries needed to a greater or lesser extent to catch up in areas that are key to civil society activity such as trust, solidarity, transparency and autonomy.

2.2 Since 1999 the Committee has been concerned with describing organised civil society and formulating definitions⁽²⁾. A significant finding arising from the Committee's analysis of the situation and role of civil society in Croatia is the fact that, partly for historical reasons, the social partners, in their capacity as representatives of employers and workers, form the 'hardcore' of the civil society players. Alongside the representation of interests, a common feature of all representatives of organised civil society is their commitment to the common good, which distinguishes them clearly from lobbyists, who also represent interests. The Committee considers this complex and open definition of organised civil society to be of particular significance in relation to Croatia, as the Committee has noted that in some cases civil society tends to be equated in Croatia with NGOs. The Committee would sound a warning against the use of this definition, which it considers incomplete, as it would from the outset by definition exclude the social partners from any form of participation in civil society activity.

2.3 Apart from representing interests, the field of activity of the representatives of organised civil society also includes participation in the process of shaping public opinion and policies in the broadest sense. In addition to numerous practical forms of participation, the social and civil dialogues, however, are the most important expressions of participatory democracy. Whereas its very field of activity means that the social dialogue is restricted to the social partners and cannot be extended, all representatives of organised civil society can take part in the civil dialogue, providing they meet the necessary criteria of representativeness. While the social dialogue can be clearly described, there is still no corresponding definition of the civil dialogue. Perhaps the closest approximation we have to a definition of the civil dialogue is that of Jürgen Habermas, who describes it an element of participatory democracy, an interactive discourse into which normative content can flow. By analogy with the social dialogue, civil dialogue can take place both vertically, between the state and organised civil society, and

horizontally, between the organised civil society players themselves. The Committee stresses the importance of drawing a distinction between the concepts of social and civil dialogue. Civil dialogue complements the social dialogue, but does not replace it.

At European level the European Economic and Social Committee is the institutional representative of organised civil society in the Member States. It is thus the 'home of civil dialogue', but not the forum for social dialogue.

2.4 The Committee considers the issue of representativeness of civil society actors to be particularly important, as it goes hand in hand with their democratic legitimacy. It is therefore not enough to represent a sufficient number of the affected or interested parties, i.e. be quantitatively representative; a civil society organisation must also — indeed first and foremost — be qualitatively representative, i.e. be able, by virtue of its specialist knowledge, experience and specific skills, to play a constructive part in events. Amongst the other qualitative criteria for recognising a civil society organisation, elements such as transparency, democratic decision-making structures, sustainability, economic independence and autonomy are especially important, particularly in young democracies. The Committee has commented in a number of opinions both on the composition of organised civil society and on the representativeness of its representatives, and has drawn up a list of civil society players as well as a list of representativeness criteria⁽³⁾.

3. Current state of play

3.1 The socio-economic situation in Croatia

3.1.1 The economic situation in Croatia is stable, although it varies significantly from region to region. The steady trend of economic growth at the rate of about 4,8 % that has been witnessed over recent years (2002-2006) is projected to remain about the same in the two years to come. Attention should be drawn, however to the continuing high level of disparity in regional economic development. Average consumer price inflation reached 3,2 % in 2006, which represents a 0,8 % increase since 2002, but overall price stability has been maintained. There have also been negative developments, however, in relation to the trade deficit and external indebtedness, as well as a growing budget deficit. In order to tackle indebtedness, the goal of increasing investment and public-private partnerships is gaining ground in Croatia.

⁽²⁾ EESC opinion of 22.9.1999 on *The role and contribution of civil society organisations in the building of Europe* (Rapporteur: Ms Sigmund) (OJ C 329, 17.11.1999, p.30).

EESC opinion of 25.4.2001 on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* (rapporteurs: Ms Sigmund and Mr Rodriguez Garcia Caro) OJ C 193, 10.7.2001, p.117).

EESC opinion of 14.2.2006 on *The representativeness of European civil society organisations in civil dialogue* (rapporteur: Mr Olsson) (OJ C 88, 11.4.2006, p. 41).

⁽²⁾ *The role and contribution of civil society organisations in the building of Europe*.

The Committee would also point out in this connection that government measures are needed, not only for EU accession but also in the longer term as a signal of the country's willingness to meet the convergence criteria for accession to the third stage of European monetary union.

3.1.2 With regard to the social situation, there is, despite laudable progress over the last few years, still work to be done, e.g. in tackling labour market problems:

- the rate of long-term unemployment is well above the EU average and overall the employment rate is relatively low. This creates an unfavourable ratio between employed persons and people receiving social benefits;
- the harmonised unemployment rate (based on the labour force survey) is on a stable downward trend; it reached 11,2 % in the first quarter of this year, down from 11,8 % in the first half of 2006;
- the rate of youth employment is very low;
- declining formal unemployment is counterbalanced by a high rate of informal employment;
- there is a potential/foreseeable danger of new jobs being increasingly poorly paid and insecure.

Action is also needed to address the still relatively low level of average household incomes.

3.1.3 A report by the European Foundation for the Improvement of Living and Working Conditions, based in Dublin (*), paints a picture of the social situation in Croatia and contains the following recommendations: *'Regionally balanced economic development is needed to sustain growth and create good-quality jobs; the focus on employment policy needs to shift from income support to training to encourage the unemployed into work; affordable housing needs to be provided for families who cannot afford private sector housing; incentives need to be given to enable children and young people to enrol and stay in school; and more affordable childcare is required to boost women's labour market participation and help parents balance work and family life. The overall policy message is that promoting living standards and social inclusion should be defined as a priority across all areas of policymaking and implementation, thus ensuring a multi-dimensional and holistic approach to preventing and reducing poverty, inequality and social exclusion'*.

3.1.4 There are numerous initiatives promoting small and medium-sized enterprise growth. These initiatives emanate from

(*) *Quality of life in Croatia: key findings from national research*, Dublin, 2007.

the Croatian government, but also from the activities of national and international donors and civil society.

The Committee considers it important to create a favourable environment for business –especially for SMEs, which are drivers of growth and job creation, notably in disadvantaged regions. In this context, the Committee welcomes the increasing activity of the association for SMEs operating within the Croatian Employers' Association (HUP).

3.1.5 The Committee considers agriculture to be a key area of the accession negotiations. Most agricultural production takes place on small family farms of an average size of 2.4 ha, which together account for some 80 % of agricultural land and livestock. Much agricultural land is still unusable because of war damage (e.g. mines). In some cases there are unresolved property ownership issues. Croatian agriculture is at present uncompetitive and is in the throes of change. Clearly there is a need for comprehensive reform of Croatian agricultural policy, e.g. in connection with EU accession. The agriculture ministry has launched corresponding strategic development projects, which aim to boost the competitiveness of domestic production. There has also been progress in implementing rural development, quality and organic farming programmes. There is still a need for a comprehensive food safety strategy.

Suitable structures are also urgently needed to implement the common agricultural policy and to introduce the politically independent representation of interests, which is needed not only for political reasons (ensuring the right to a voice) but also for practical reasons (assistance with the administration of Community funds under the pre-accession strategy during the accession phase, and participation in their administration and distribution after enlargement).

3.1.6 An aging population as a characteristic process in all European countries means a challenge in shaping public social security policies. Demographic change is also a problem for Croatia, although average life expectancy in Croatia — particularly when compared to the 'old' Member States — is lower than in many other European states. The Croatian social security system is not equipped to react to an aging population. Reforms of social security have been subject to a strong influence from international financial institutions.

Moreover, the representation of the interests of the older sections of the population in the political arena is a relatively new phenomenon in the Republic of Croatia.

3.1.7 There is a small level of migration into and out of the Republic of Croatia, with immigration almost three times the emigration level. However, both immigration and emigration are tending to decrease and do not represent an important statistical factor.

3.2 *The political situation in Croatia*

3.2.1 The Committee believes that the forthcoming parliamentary elections (November 2007) will not affect the stable political situation in Croatia. Even though the opinion polls show different results, not clearly indicating the possible outcome of the elections, the pro-EU stance of all the major political parties is a factor preventing any possible shift of the present European orientation in Croatian politics. The overall objective of the political parties is to join the European Union by 2009.

3.2.2 Several reforms of the public sector are being undertaken at present. Public administration reform with the goal of promoting more efficient and competent public administration is being pursued in parallel with the reform of the judiciary, aiming at doing away with a backlog of cases and promoting the rule of law paradigm.

3.2.3 In line with internal and external evaluations, the fight against corruption is placed high on the agenda for accession to the European Union. Criminal procedures initiated by the state authorities are more and more being supplemented by civil society calls for transparency and legality in political party financing, public procurement procedures, access to information and avoidance of conflicts of interest. These efforts are being hindered by a lack of trust in institutions, but a generalised publicity campaign is sure to give results in the mid-term.

Here, organised civil society continues to play an important role and contributes to the fight against corruption. In relation to that, the partnership project 'Development of Local Civil Initiatives through Capacity Building on Several Levels' resulted in ten associations from eight Croatian Cities gathering in a multidisciplinary network called 'BURA'.

3.2.4 The protection of minorities requires further efforts. These efforts should encompass promotion and protection of minority rights and lead to the practical integration of minorities. In this context, the Committee welcomes the fact that the Croatian government's 2007 employment plan makes specific reference to, and implements, the right of national minorities to equal treatment in employment in the civil service. In this regard the 2007 elections for councils of national minorities should also be mentioned. The results achieved with the Roma minority regarding their integration into schooling show a

pattern of success. In addition to minority rights, specific understanding is still needed for the integration or return of refugees and internally displaced persons, as well as for the resettlement of returning refugees, with the aim of physical as well as societal reconstruction. In principle, however, it can be said that useful steps have been taken in the right direction.

3.3 *Organised civil society in Croatia*

3.3.1 The legal framework for civil society in Croatia arises primarily from the following sources:

- The Associations Act provides the overall framework for civil society associations and represents a relatively good legal environment covering the majority of civil society actors ⁽⁵⁾.
- The Labour Act regulates the establishment and functioning (including the framework for collective bargaining) of trade unions and their associations, and employers' organisations and their associations.
- The Volunteer Act regulates the notion, principles, conditions and practice of volunteering as a possible way of providing volunteer work also in civil society organisations as organisers of volunteering.
- The Endowments and Foundations Act ⁽⁶⁾ represents an important source, especially in the field of financing civil society.
- Additional sources include the Institutions Act, the Social Welfare Act, and a range of laws and regulations in the field of financing, taxation and humanitarian work, also related to civil society. The representatives of employers and employees also have an important role to play here, in addition to their role as social partners.

3.3.2 A change in Croatian civil society can also be observed in the activities of NGOs. With the previous predominant orientation of civil society towards the protection and promotion of human rights and humanitarian work, today there is a shift towards the realisation of social policy and social rights.

⁽⁵⁾ According to available data, some 27 000 civic associations are registered in Croatia.

⁽⁶⁾ At this moment there are about 90 foundations in the country.

Also environmental organisations have demonstrated a capability to act jointly, through the creation of formal and informal networks, gathered around specific actions.

A tendency towards stronger networking and organisational grouping is noticeable as well with the youth organisations, disabled persons' associations and women's organisations.

The Croatian consumer protection organisations are trying to assert consumer rights. But the human and financial resources are not sufficient to deal with consumer protection, consumer information and lobbying on behalf of consumers in a sustained way.

3.3.3 In the context of civil society activities in Croatia, the dialogue between the social partners at various levels merits particular attention.

The institutional framework for a tripartite social dialogue (employers and trade unions as partners of government) is formally well developed through the Croatian Economic and Social Council. So far, however, it has produced few concrete results. One of the reasons for this is the still not completely resolved problem of the fragmentation of interest groups, not only on the employees' side. The Committee considers that further consolidation of interests at the level of the various organisations would be desirable, also in the interests of the representativeness of individual associations. Another cause can be found in the practical arrangements: thus, for example, the deadlines for submission of opinions by the social partners are usually too short (in most cases only 3-4 days), and there is no feedback as to why specific proposals have not been taken up.

An autonomous, bipartite social dialogue does already exist at company level. At this level it creates the most implications for relationships between both workers and employers and trade unions and employers, in the form of numerous collective agreements and also through the works council track. But autonomous bipartite social dialogue still has a great deal of unrealised potential related to resolving the issue of trade union representativeness with a single employer and establishing the representation on the workers' side in collective bargaining. Additionally, in SMEs there is a relatively low level of interest representation and organisation of workers.

At sectoral level social dialogue is mostly absent. The reason for this is very much influenced by the still not fully resolved issue of establishing representativeness of both workers and employers and the problems of establishing the scope of sectors and branches as bargaining units. Bearing in mind the importance of sectoral bargaining on influencing the conditions of the overall economic situation, the development of social dialogue should be focused at this level.

Since the social dialogue is still mainly conducted by the government through a tripartite social dialogue, the main focus is put on tripartite consultations. But without the development of an autonomous bipartite relations system at national and sectoral level and without emphasising sectoral collective bargaining, it will be difficult to develop a well-structured and balanced system of industrial relations. In this regard also the statistics of

collective bargaining coverage and membership should be made public.

3.3.4 As in many European countries, in Croatia there is a lack of understanding of the various forms of civil dialogue. Although the Croatian government has already set up useful, operational conditions for the civil dialogue, this is only a beginning. On very few occasions up until now has there been a broad civil society consensus on particular issues, with strong representation of interests. However, support for the draft Access to Public Information Act, and ecological issues relating to the Družhba Adria project and the LGN terminal in the Adriatic, provide encouragement for the future.

3.3.5 The Committee stresses in this connection that a structured civil dialogue, as a complement to social dialogue, is an essential aspect of participatory democracy. It should not, however, be restricted to the opportunity for consultation but must, above all — in accordance with the bottom-up principle which is inherent in civil society action — guarantee the right of participation.

3.3.6 The existing institutional framework in Croatia for creating a modern form of participatory democracy is very promising in its approach.

3.3.6.1 **The Croatian government's Office for Cooperation with NGOs**, set up in 1998, was the first public body to be charged with building structured cooperation between the state and civil society. This office now also manages the not inconsiderable subsidies for Croatian civil society (HRK 85,94 million), proposes legislative solutions for the sector, and coordinates the activities of national, regional and local actors. In 2006, total financial support amounting to HRK 321 626 823.06 (about EUR 44,1 million) was granted to civil society organisations in Croatia.

The office is also in charge of supervision and implementation of the National Strategy for the Creation of an Enabling Environment for Civil Society Development (adopted in July 2006).

The Strategy defines the situation and goals in ten areas of civil society:

- value-based relations between the state and civil society;
- social cohesion and integration;
- citizen's participation in the creation of public policies;
- education for democratic citizenship and human rights;
- legal framework for action and development of civil society;
- institutional framework to support the development of civil society;
- system of financing to support the development of civil society;
- regional development;
- development of volunteering, philanthropy and establishment of foundations;
- development of civil society in the international context.

The operational plan adopted by the government on 1 February 2007 provides for specific measures for the period 2007-2011 and also lists the institutions responsible.

3.3.6.2 The Council for the Development of Civil Society was set up in 2002 and is a cross-sector consultative body for the Croatian government; its job is to come up with strategies for developing civil society and for monitoring the implementation of the government's programmes for cooperation with the sector. The council is a joint body, with ten representatives of the relevant government offices and ten representatives of organised civil society, assisted by three experts. The mandate of the Council's second session officially ended in July 2006, though it was prolonged by the Government till 1 February 2007. On the occasion of the new constitution assembly of the Council, held on 16 February 2007, a new president of the Council was appointed. Five sessions of the Council were held in the first half of July 2007.

3.3.6.3 The National Foundation for Civil Society Development was established in 2003 by the Croatian Parliament and acts outside the structures of national and local government. The main activities of the Foundation include the provision of financial and expert support to programmes promoting sustainability of non-profit-organisations, inter-sectional cooperation, civic initiatives, volunteering etc. The Foundation is financed from the state budget, from income collected through official lotteries, but also from foreign donors (e.g. the European Commission). The management of this innovative instrument includes, in equal proportions, the representatives of national government, organised civil society and experts in the field.

4. Analysis:

An initial assessment leads to the following conclusions: 4.1

The Committee recognises and applauds Croatia's efforts to continue the accession negotiations without delay and believes that the environment is favourable to this pace being kept up throughout the campaigning for the elections in Autumn 2007. However, the Committee points out that the measures to be taken in terms of legislation, but also in administrative reform, must be as simple, clear and above all sustainable as possible. The Committee considers the initiative of the Croatian government aimed at introducing the 'one stop shop' system for registering companies in Croatia to be an important step in this direction. The Committee particularly welcomes the implementation of the Hitrorez project, which aims at reducing inefficient and outdated laws and regulations and proposes to wipe out as many as 420 regulations connected with the business sector. It will need to be ensured, however, that these legislative measures to not lead to the dismantling of employee protection rights and that, above all, the existing guarantees of social and collective human rights are maintained. The Committee also believes

that clearer and simpler regulations are an extra tool in the battle against corruption and that, with this package of measures, Croatia could serve as an example for the region.

Further simplification of legal procedures will also be required. New legislative measures should not, however, derogate from laws that have not been adapted, as this would have negative effects, such as undesirable legal uncertainty, in the first, sensitive stage of membership.

The Committee considers the length of court procedures to be a problem requiring solution. The socially weaker parties to disputes are often placed at a disadvantage or deterred from bringing actions by procedures which can in some cases last for years. The establishment of specialised labour and arbitration courts would go some way towards solving the problem in the area of employment disputes by shortening and simplifying procedures.

The area of land acquisition also seems to require measures aimed at ensuring more transparency so as to give foreign investors the required planning security. The process of digitalisation and on-line availability of (land) registers in Croatia launched by the Croatian government is a major step towards the achievement of this goal.

4.2 In this context, the Committee recognises Croatia's particularly difficult position: as well as preparing for accession, the country is in the process of dealing with the consequences of the 'homeland war'.

4.3 The Committee believes that the formal fulfilment of the accession criteria should not be the sole purpose of the accession negotiations. Particularly in the final phase of the pre-accession period, the active role and contribution of qualitatively and quantitatively representative civil society actors will play a significant part in preparing Croatia's citizens for accession. After accession, these representatives of civil society organisations will, both within the framework of the existing social dialogue and as stakeholders in civil dialogue, do much to help ensure that the standards set by the transposed Community *acquis* are implemented and/or applied across the board. It should also be pointed out that strong and effective civil society organisations have an important role to play in implementing the Community *acquis* and in monitoring, particularly in period immediately following Croatia's accession to the EU. An equally important role will fall to them in the administrative sphere, e.g. in managing Community funding. In some areas (e.g. SMEs, the professions, agriculture) there is a lack of long-term, horizontal structures which meet these requirements. Strengthening civil society players who meet all the representativeness criteria is thus not only an objective to be pursued in the context of the accession negotiations but also a measure which will have positive effects, particularly after Croatia's EU accession.

5. Final comments

5.1 The Croatian government has set itself the goal of meeting the criteria for EU accession by 2009. The Committee is determined, within the limits of its competences, to support Croatia strongly in this.

In the last two accession rounds the Committee has accumulated valuable experience, which it would now like to put to practical use in the current enlargement discussions with Croatia, in the interests of both parties and for their mutual benefit.

5.2 The Committee considers that this cooperation should be as pragmatic and unbureaucratic as possible, focusing on the issue. It must be based on the shared belief that organised civil society is not only an important consultative partner in the process of shaping opinions and policy during the accession round, but that it will also have a vital and continuing role to play after enlargement. Efficient civil society organisations which meet the essential qualitative and quantitative representativeness criteria are essential for breathing life into the participatory element of a modern democracy. They will be essential to Croatia, as a new EU Member State, in the implementation and practical application of the country's adapted legislation. The Committee offers its assistance and cooperation in tackling

these current and future tasks. This could take the following form:

- sectoral meetings with representatives of Croatian organised civil society for the purpose of sharing information, views and experience;
- participation of EESC members in seminars or other initiatives under the IPA (Instrument for Pre-Accession Assistance);
- cooperation with the organisers of the Croatian information and communication campaign on accession, cooperation on drawing up case studies, which will illustrate the consequences of accession for specific groups in a transparent and easily understandable way. It goes without saying that this should not be limited to the rational aspect, but that the emotional side must also be addressed. Experience shows that hostile attitudes in the pre-accession phase are often caused by fears based on ignorance. Including Committee members in relevant information campaigns also has the advantage that members of the Committee come from organisations that are in many cases comparable to Croatian civil society organisations. They are therefore credible and can communicate on the same level as the target group.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS
